

Meeting – March 28, 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

Ensley

ZBA2019-00020

Request: Special Exception
Applicant: Joe Young
Owner: Macedonia Missionary Baptist
Site Address: 1400 Avenue H
Zip Code: 35218
Description: Special exception to allow off-site parking for a place of worship Title 1, Chapter 4, Article III, Section 4.E.3
Property Zoned: R3 Single Family District
Parcel Information: Parcel #012200311045001000, NE ¼ of Section 31, Township 18 S, Range 3 W

Special Exception

The applicant is requesting a special exception to allow off-site parking for Macedonia Missionary Baptist Church in order to build a new parking lot. The church currently has 2 existing parking lots with 28 and 47 spaces. The new proposed lot would provide another 63 off-street parking spaces for a total of 138. The church provided information that showed the number of seats in the sanctuary to be 652. Based on the member of seats, the required parking would be 109.

Neighborhood

The Ensley Neighborhood Association met on March 21st and voted 13-0 in support of the request.

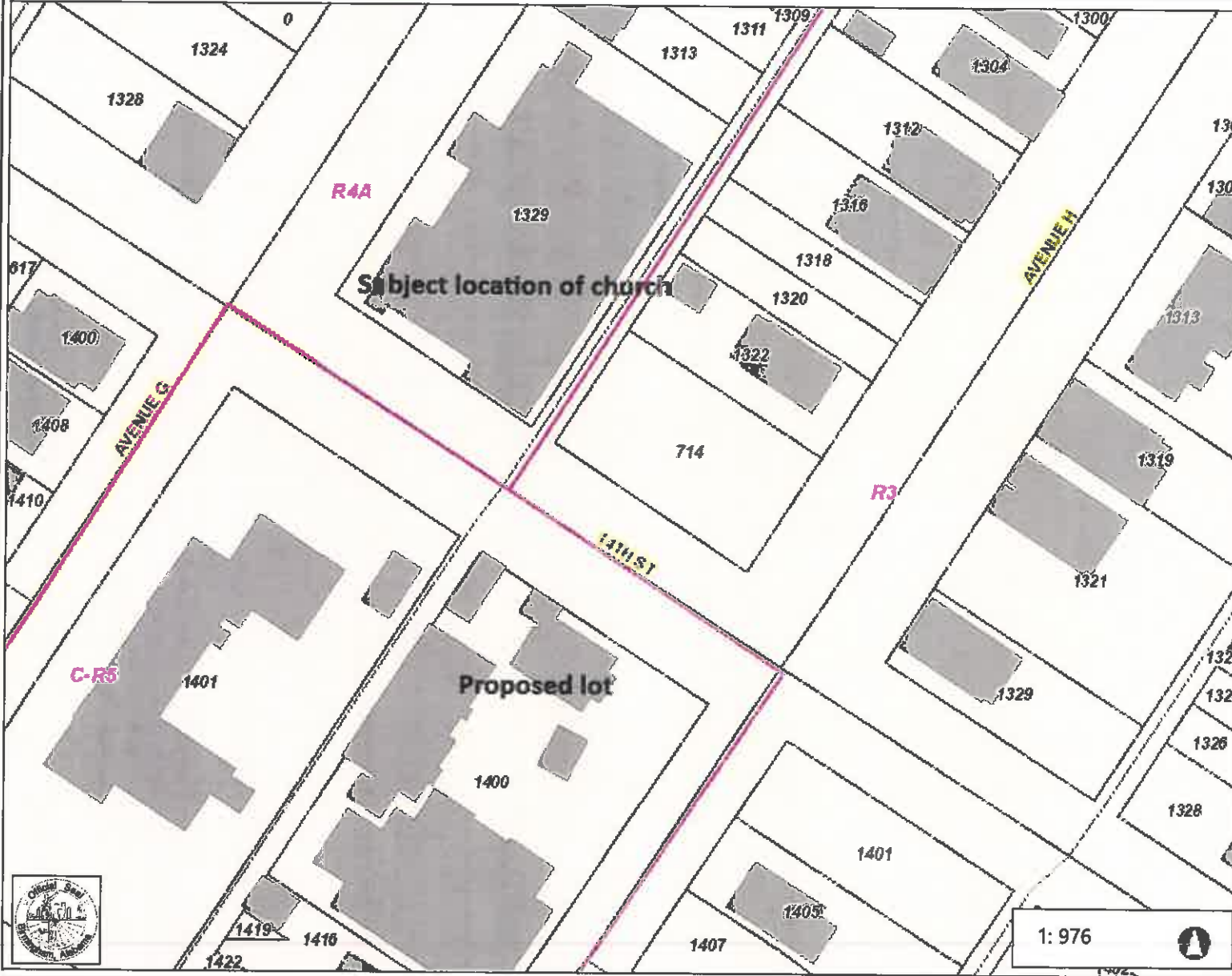
Applicant's Justification

The applicant stated the proposed new parking is needed to support the church's congregation and the new parking would help ease parking congestion on the streets surrounding the church.

Staff Recommendation

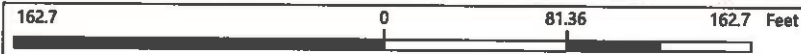
The applicant must meet the off-site parking requirements for places of worship. Staff has concerns that the proposal does not meet standard B that states the amount of off-site parking should not exceed the actual needs of the place of worship. The required parking for this church is 109 spaces. With the addition of the proposed lot the church would be providing 138 spaces. Therefore, staff believes this request has some merit for approval. 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.
3. Approval based on site plan as submitted.



Legend

- Centerline Labels
- Zoning Case 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)

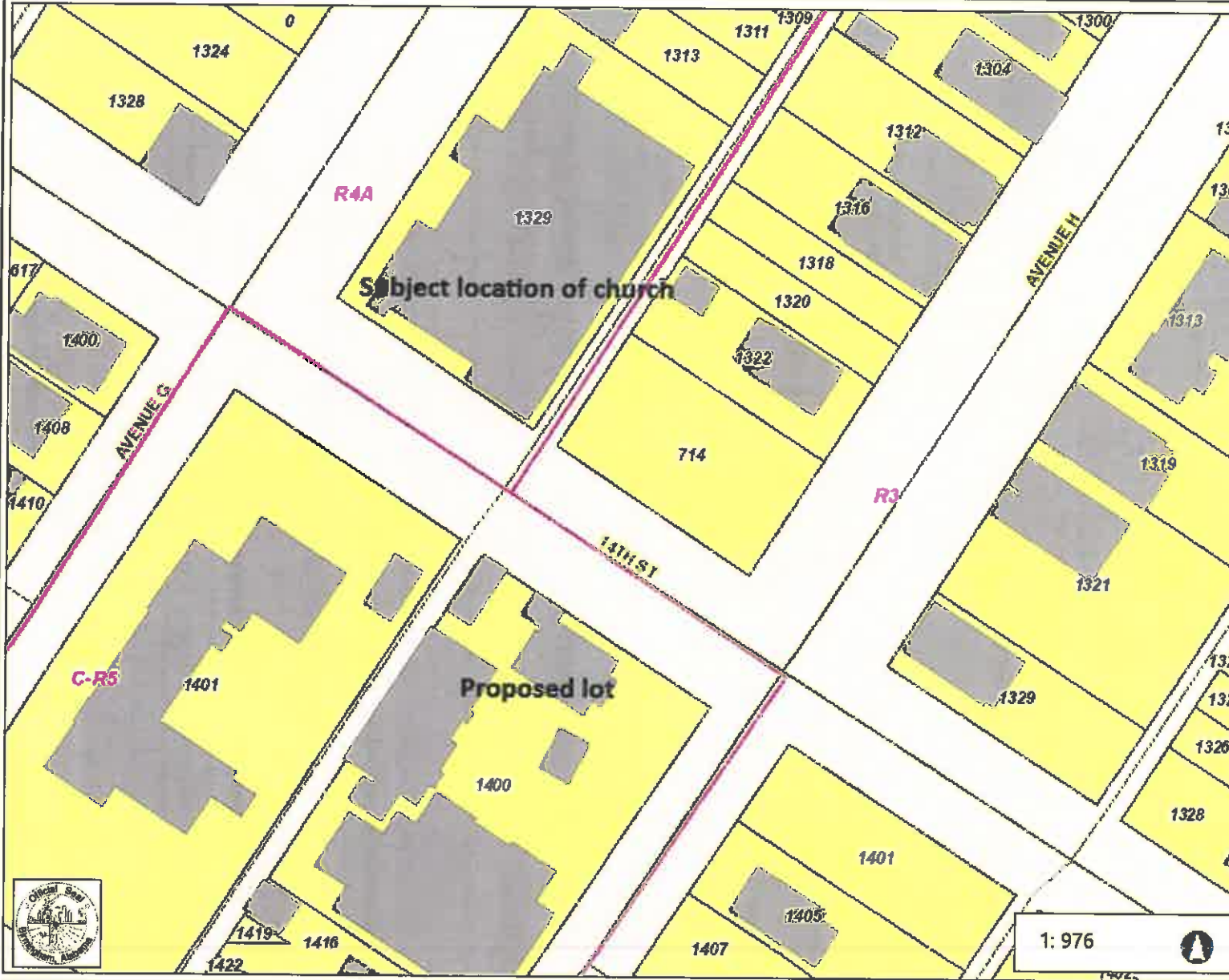
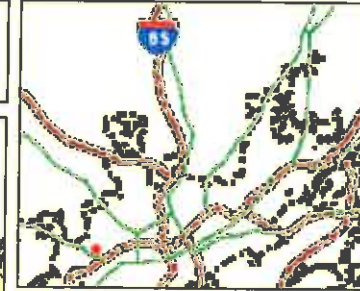


1: 976



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Notes



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 - Residential-Low
 - Residential-Medium
 - Residential-High
 - Neighborhood Commercial
 - General Commercial
 - MXU-Low



1: 976



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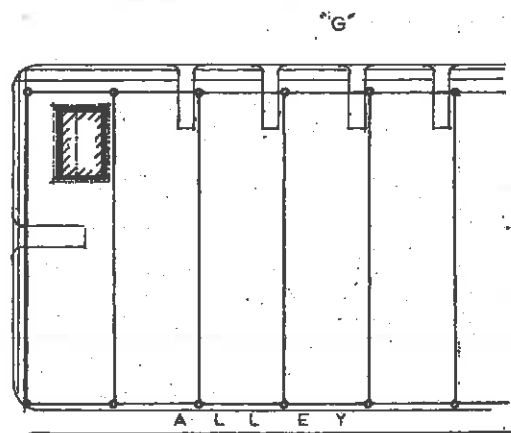
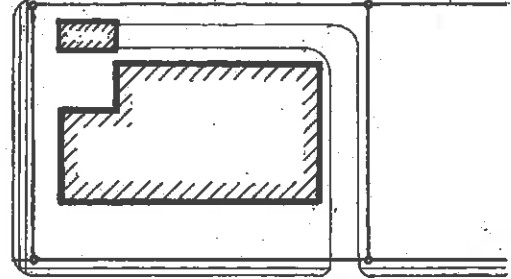
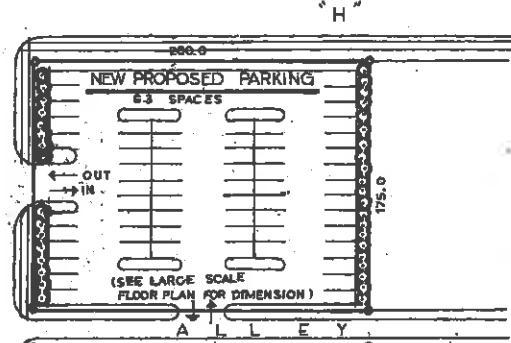
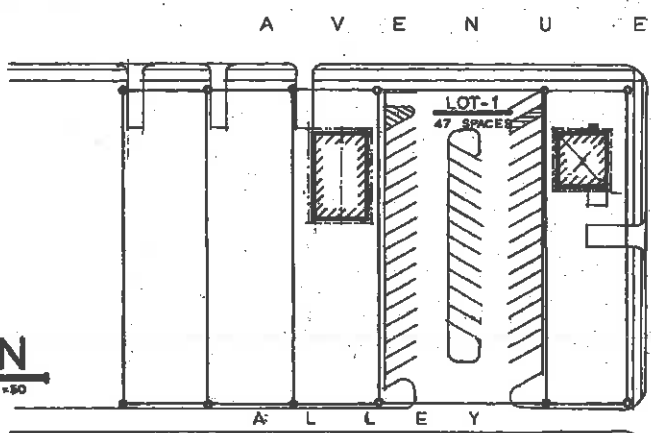
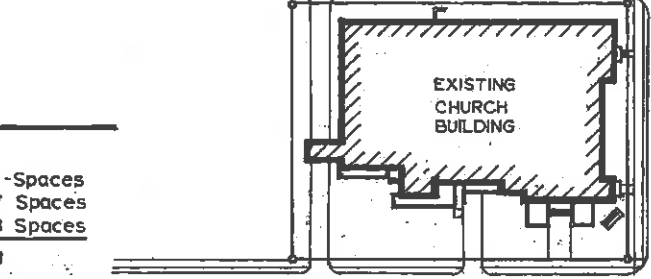
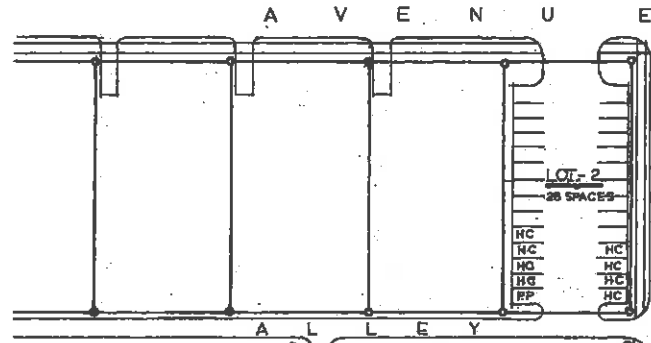
EXISTING PARKING LOTS AND PROPOSED NEW PARKING LOT

for
MACEDONIA MISSIONARY BAPTIST

1329 Avenue H Ensley Al. 35218

PARKING LEGEND

- EXISTING PARKING LOT-1 — 28 Spaces
- EXISTING PARKING LOT 2 — 47 Spaces
- NEW PROPOSED PARKING — 63 Spaces
- TOTAL PARKING SPACES — 138



14th STREET

SITE PLAN
SCALE: 1"=50'

ZBA2019-00020



Title 1 – Zoning Ordinance
Chapter 4: Land Use Development Standards
Permitted by Special Exception

- D. **Cemetery.** In the D-1, D-2, D-3, D-4, D-5, D-6 and MXD districts a special exception may be granted by the Board provided that the following conditions are met:
1. The minimum site area shall be ten acres. Cemeteries accessory to a religious institution shall be on a one-acre lot, minimum.
 2. For cemetery developments of twenty-five acres or greater, primary access shall be from a collector or arterial street.
 3. Where the perimeter of a cemetery abuts a dwelling zone district or district permitting dwelling use, a landscape buffer yard shall be required per Chapter 6, Article I, Section 6, Item I of this Ordinance.
 4. The following accessory uses shall be permitted: mausoleums, columbariums, chapels, and other facilities incidental to the cemetery use.
- E. **Place of Worship.** To ensure compatibility with nearby dwelling uses, in the D-1, D-2, D-3, D-4, MU-L, and C-1 districts, a special exception may be granted by the Board provided that the following conditions are met:
1. On the effective date of the Ordinance codified in this Title a pre-existing place of worship, in the dwelling districts listed above, shall be a legal non-conforming use. They may expand if a special exception is granted by the Board subject to demonstrating compliance with the general provisions of Chapter 4, Article III, Section 2 and the off-site parking requirements of Chapter 5 of this Ordinance.
 2. Any Place of Worship constructed after the effective date of the Ordinance codified in this Title shall be subject to the following standards.
 - a. **Minimum Site Size.** Land area shall be provided at the rate of .005 acre for every seat in the sanctuary/assembly area. In areas considered by the board of zoning appeals to be predominately developed, and where assembling land to satisfy this site size standard is not practical, the Board may waive the minimum site size requirement, based on a determination that the proposed facility can be designed and operated in a manner which will not adversely impact abutting properties or the surrounding neighborhood.
 - b. Screening and buffering in the form of a landscape buffer yard shall separate all structures and parking areas from all abutting property zoned for dwellings pursuant to Buffering Standard B, Chapter 6 of this Ordinance.
 - c. A cemetery, including columbariums, may be permitted by the board as an accessory use to a religious institution.
 3. **If Off-Site Parking is requested, approval of an off-site parking lot shall be contingent upon a demonstration that the following standards have been met:**

Title 1 – Zoning Ordinance
Chapter 4: Land Use Development Standards
Permitted by Special Exception

- a. The appellant shall demonstrate by a parking plan, reviewed by the Director, that the minimum number of parking spaces required by Chapter 5, of this Ordinance cannot be developed on the same lot containing the place of worship;
 - b. The amount of off-site parking shall not exceed the actual needs of the place of worship as demonstrated by the parking plan;
 - c. There shall be no vacant property that is owned by the applicant adjacent to the place of worship on the same block face;
 - d. The off-site parking area shall abut a street upon which the lot of the place of worship abuts and at least a portion of the off-site parking area shall be opposite the zone lot containing the place of worship;
 - e. Vehicular access shall be restricted to a street upon which the lot of the place of worship abuts;
 - f. All off-site parking spaces shall be within 200 feet of the lot boundary of the place of worship;
 - g. On any given block, off-site parking associated with a place of worship shall be limited to a contiguous area;
 - h. All lighting shall be shielded so that substantially all directly emitted light falls within the property. No illumination in excess of one-half foot candle shall be permitted across the boundary of any dwelling property or a public street or alley. The parking area shall only be illuminated when in use.
4. Where structures abut dwelling districts, there shall be a minimum setback of 25 feet.
 5. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.
- F. **Elementary or Middle School.** To ensure compatibility with nearby dwelling uses, in the D-1, D-2, D-3, D-4, MU-L and C-1 districts, a special exception may be granted by the Board provided that the following conditions are met:
1. Screening and buffering in the form of a landscape buffer yard Standard “A” per Chapter 6, Article III, Section 6 of this Ordinance, shall separate all structures and parking areas from all abutting property zoned for dwellings.
 2. Where school structures and outdoor activity grounds abut dwelling districts, there shall be a minimum setback of 25 feet.
 3. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

Forest Park

ZBA2019-00021

Request: Variance
Applicant: Andreas Uehlin
Owner: Andreas Uehlin
Site Address: 4401 7th Ave S
Zip Code: 35222
Description: Variance to allow a home to have a 5 FT rear setback (for an attached garage) instead of the required 25 FT pursuant to Title 2, Chapter 1, Article I, Section 4, Subsection 3
Property Zoned: R3 Single Family District
Parcel Information: Parcel #012300294025026000, SE ¼ of Section 29, Township 17 S, Range 2 W

Variance

The applicant is requesting a variance to allow a home to have a 5 FT rear setback to allow for a garage addition. The current garage was built at the requested setback in 1928. The proposed addition would expand the size of the garage and attach it to the home requiring the variance for the setback for the home since it will all be one structure.

Neighborhood

The applicant was scheduled to attend the Forest Park Neighborhood Association on April 2nd. Staff has yet to receive feedback from the neighborhood.

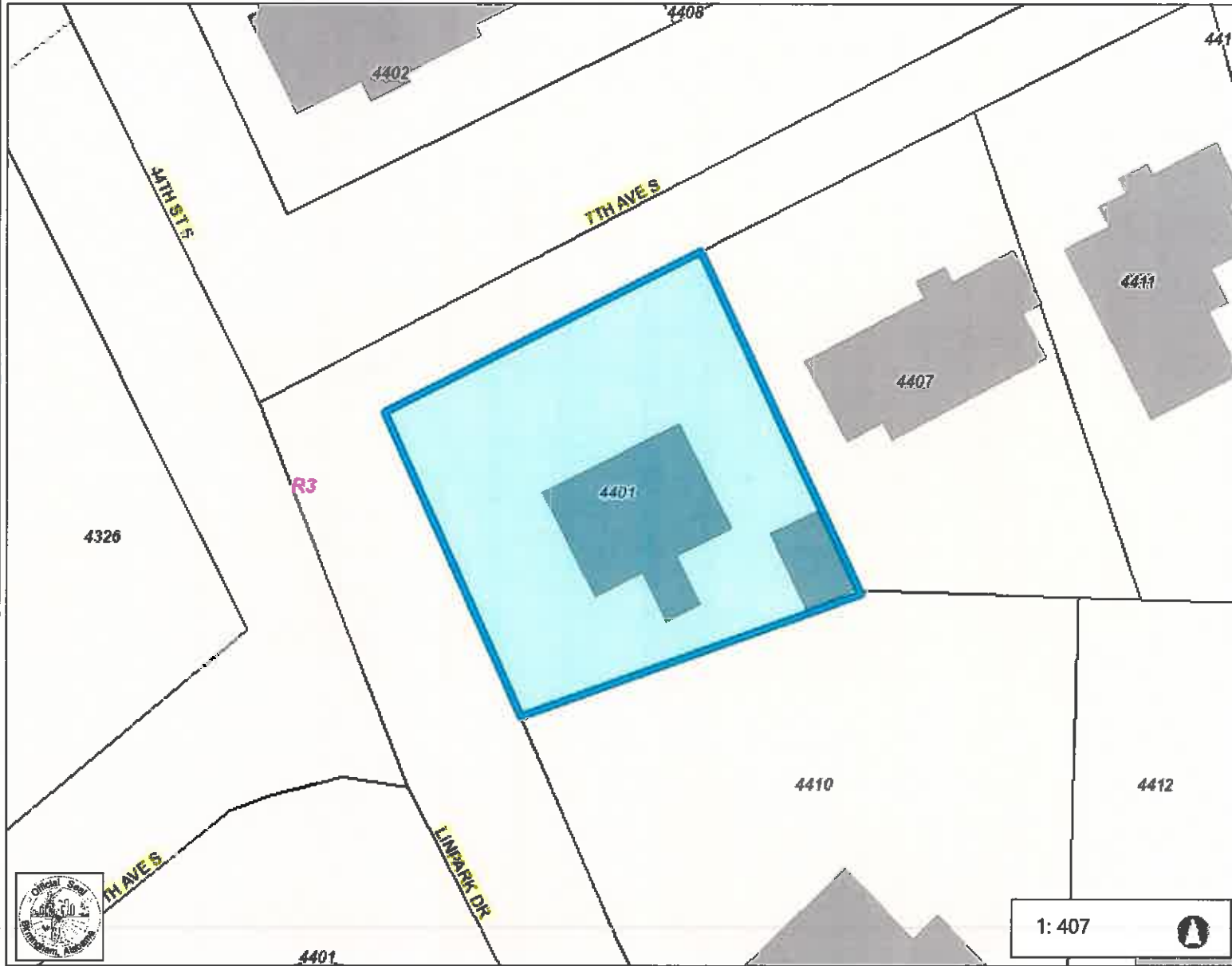
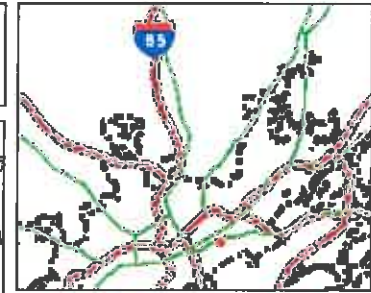
Applicant's Justification

The applicant stated that the existing detached garage was built in 1928. The proposed garage would use the same footprint on the rear and left side, but would widen the garage from 10 FT to 18 FT and extend the front to attach to the house. The applicant also stated that the existing garage is too narrow to park any car in. The applicant stated that safety is another reason for the proposal as he was robbed and assaulted in his driveway as his car was broken into. The attached garage would provide some protection. Finally the applicant stated that the existing garage has significant water damage and rot and is in need of significant repairs.

Staff Recommendation

Staff believes that the applicant has provided sufficient evidence to support the request. The proposed garage would not encroach into the setback more than the existing garage that has been there since 1928. Therefore, staff believes this request does have merit for approval and as such, should be **GRANTED** subject to the following conditions:

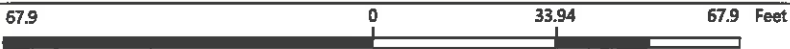
1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Applicant must obtain all permits associated with the approval of this request within two years from the date of approval.
3. Approval based on site plan as submitted.



Legend

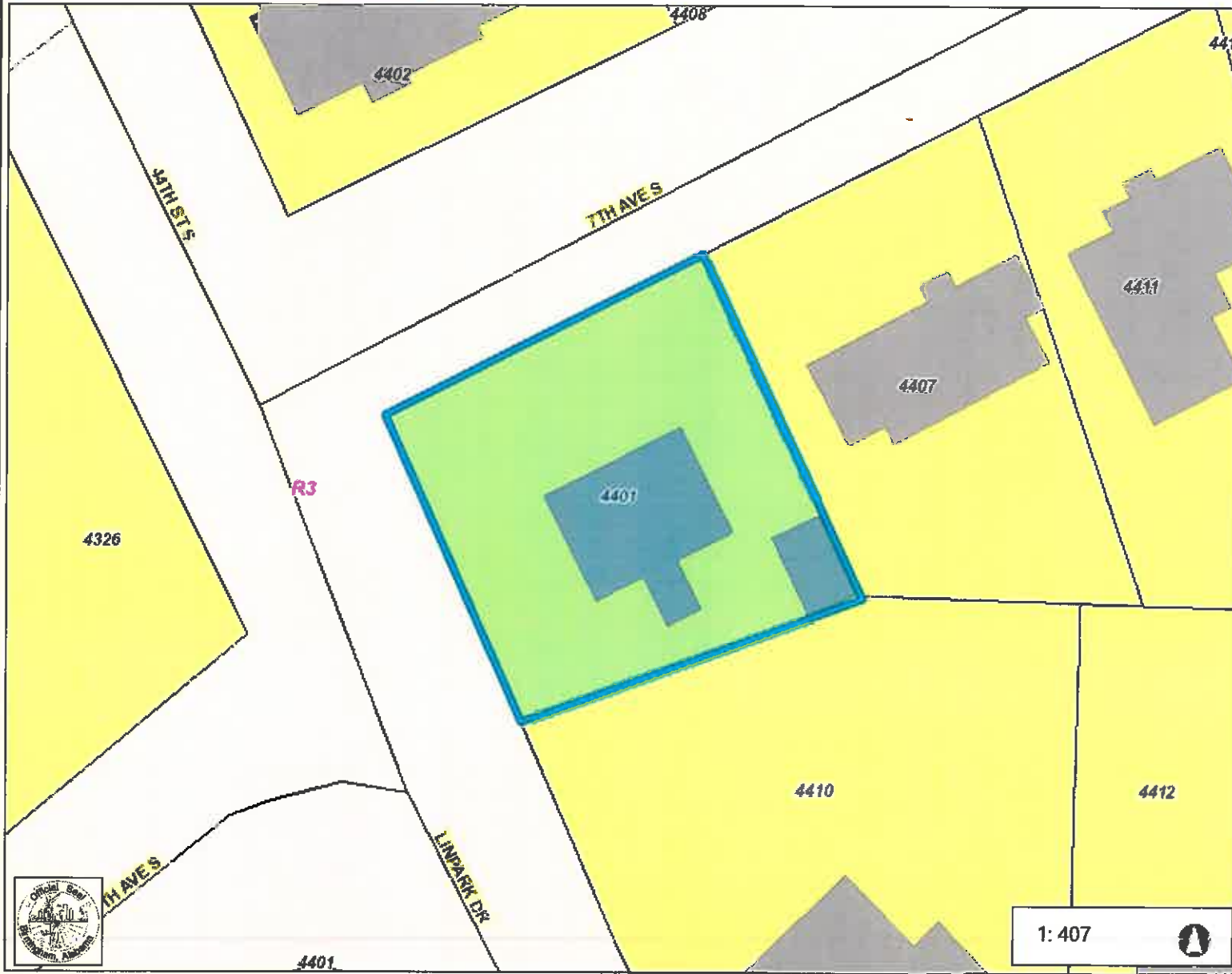
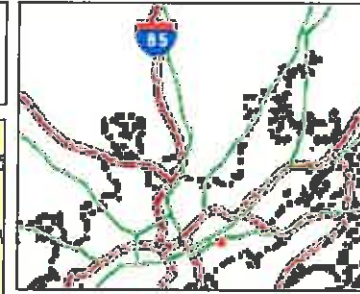
- Centerline Labels
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- Airport
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Notes



1: 407

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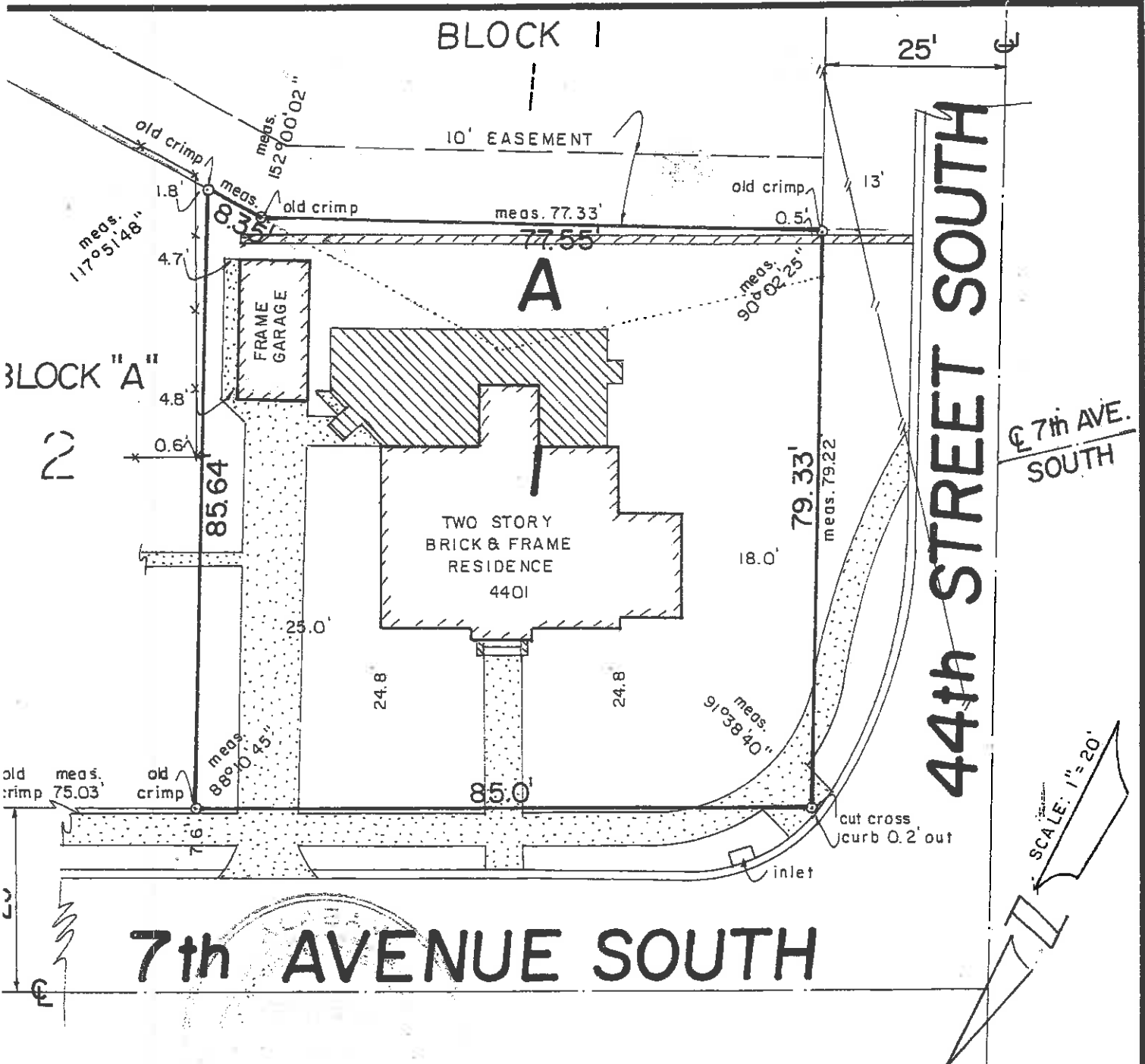
Legend

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 - General Commercial
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 - MXU-Medium



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Notes



7th AVE. SOUTH

44th STREET SOUTH

SCALE: 1" = 20'

STATE OF ALABAMA
JEFFERSON COUNTY

AS-BUILT SURVEY

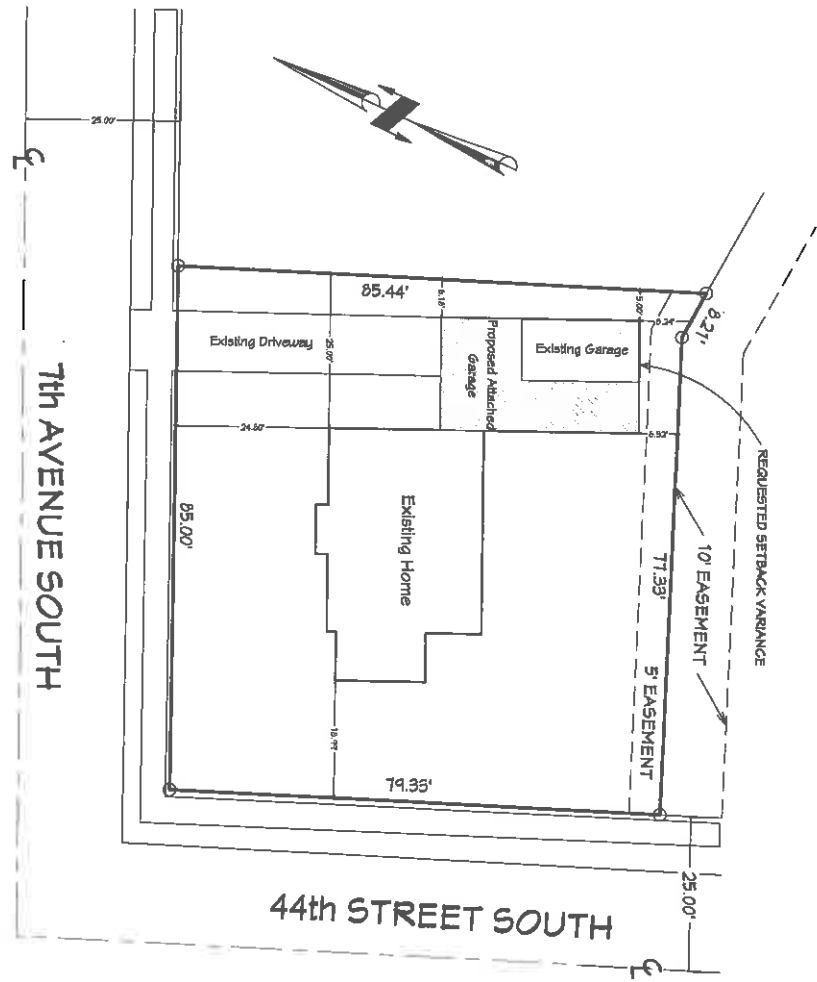
* LOT A, BLOCK I, LINWOOD ADDITION TO FOREST PARK - FIRST SECTOR -, AS RECORDED IN MB. 39, PG. 65

I, Laurence D. Weygand, a registered Engineer-Land Surveyor, certify that I have surveyed Lot, Block "A" FORESTDALE as recorded in Map Volume . . . 15 . . . Page 4, *MB 39* in the office of the Judge of Probate, Jefferson County, Alabama; that there are no rights-of-way, easements, or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve premises only) or structures or supports therefor, including poles, anchors and guy wires, on or over said premises except as shown; that I have consulted the Federal Insurance Administration "Flood Hazard Boundary Map" and found that this property is not located in "a special flood hazard area", that there are no encroachments on said lot except as shown; that improvements are located as shown above; that this survey meets the minimum technical standards for surveys as required by the State of Alabama (using 14" long #5 iron rebars); and that the correct address is as follows: . . . 4401 . . . 7TH AVENUE SOUTH; according to my survey of: *JUNE 11, 1999*

Laurence D. Weygand
Laurence D. Weygand, Reg. P.E. & L.S. #10373
169 Oxmoor Road, Birmingham, AL 35209
PH: 942-0086 FAX: 942-0087

Survey invalid if not sealed in red.
Flood Zone "X"
Community Panel No.: 01073C 0319E

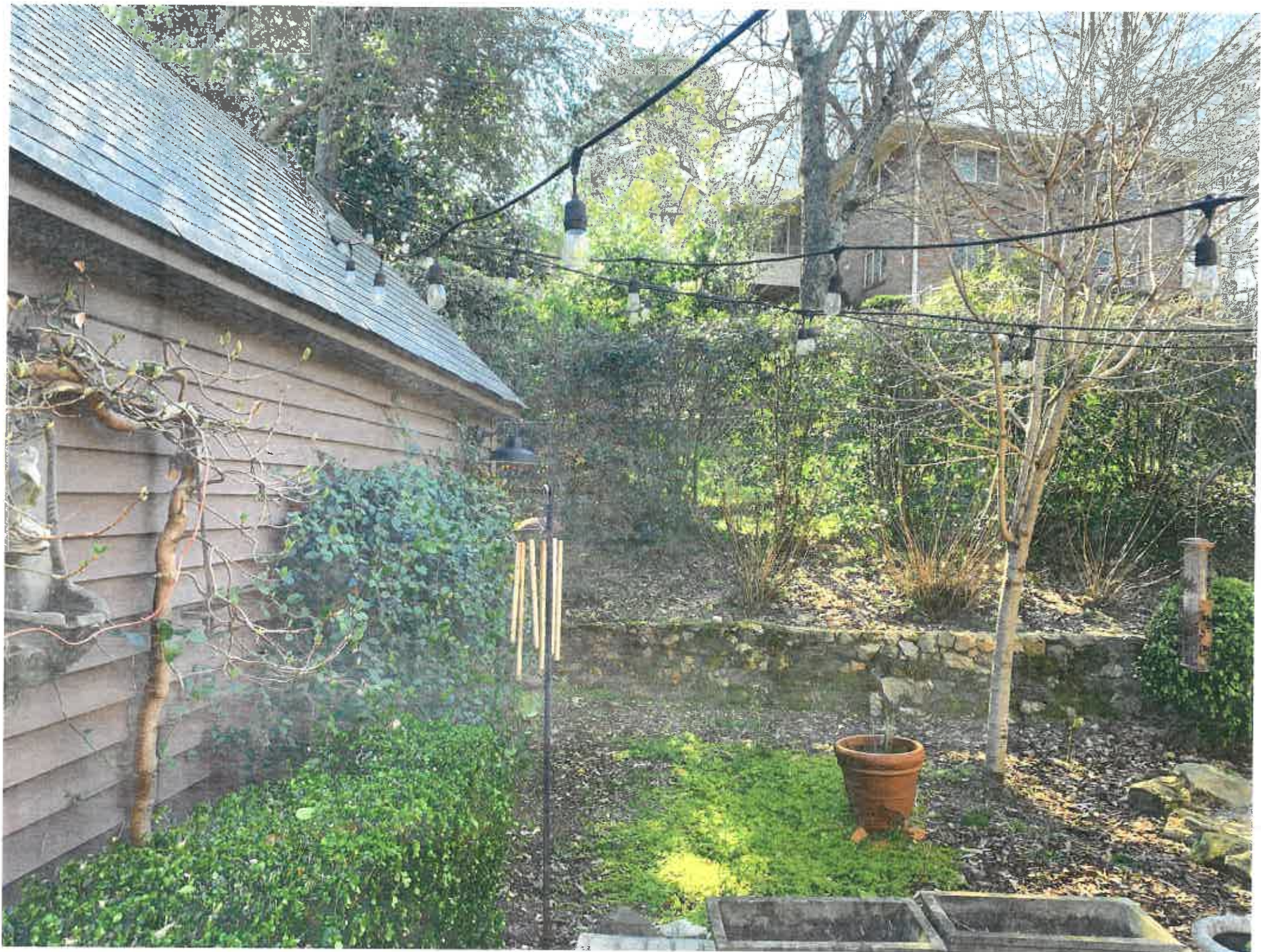
BAILEY
Order No. *58011*



DATE: 1/27/2019 SCALE: 1" = 20'	DRAWING PROVIDED BY: Andrew Lehini (Homeowner) 4401 7th Ave South Birmingham, AL 35222 (205) 910-5061	PROJECT DESCRIPTION: Garage Setback Variance 4401 7th Ave South Birmingham, AL 35222	SHEET TITLE: SITE PLAN
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March 8, 2019

Re: Setback variance request for 4401 7th Ave South, Birmingham AL35222

To whom it may concern,

I am requesting a rear setback variance to build an attached garage in place of an existing detached garage. I would like to use the same footprint on the rear and left side of the existing garage, but widen the garage inward from 10' to 18', and extend the front of the garage to attach to the house. I am requesting the variance for the following reasons:

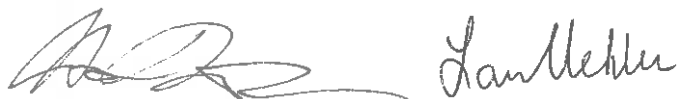
- Inability to park any car in the existing garage, it is too narrow. The garage was built in 1928, and is suited for cars of that era.
- Safety – I was robbed and assaulted in my driveway as my car was broken into (Birmingham PD case#2018-243052). My wife and I both work on-call and come and go at all hours; we would like an attached garage to protect our property and ourselves.
- The existing garage has significant water damage/rot and termite damage to the walls, joists, and rafters. Water seeps into the base during rain, and damages contents on the floor. It is in need of major repair.

Additional points about the requested variance:

- The neighboring properties do not have any structures within at least 50 feet of requested setback variance.
- The neighboring property directly behind the requested setback variance is on a hill, at a higher elevation. Their sight/view/light would be unobstructed.
- The proposed variance will reduce the amount of cars parked on the street since we would park them in the garage.

Thank you very much for your consideration in this matter.

Respectfully,



Andreas and Lauren Uehlin

4401 7th Ave South

Birmingham, AL 35222

(205) 910-5061

Southside

ZBA2019-00022

Request: Modification
Applicant: Neill Crook
Owner: Robert Crook
Site Address: 2900 4th Ave S
Zip Code: 35233
Description: Modification to allow 0 off street parking spaces instead of the required 17 off street parking spaces pursuant to Title 1, Chapter 9, Article VI, Section 6.A.3
Property Zoned: M1 Light Industrial District
Parcel Information: Parcel #012300312009004000, NW ¼ of Section 31, Township 17 S, Range 2 W

Modification

The applicant is requesting a modification to allow 0 off-street parking spaces instead of the required 17 off-street parking spaces for a new bar. The proposed structure will be 1,872 SF. The subject location sits on one leased lot that is situated on a larger parcel.

Neighborhood

The applicant met with the Southside Neighborhood Association, but staff has yet to receive anything from the neighborhood regarding the outcome of that meeting.

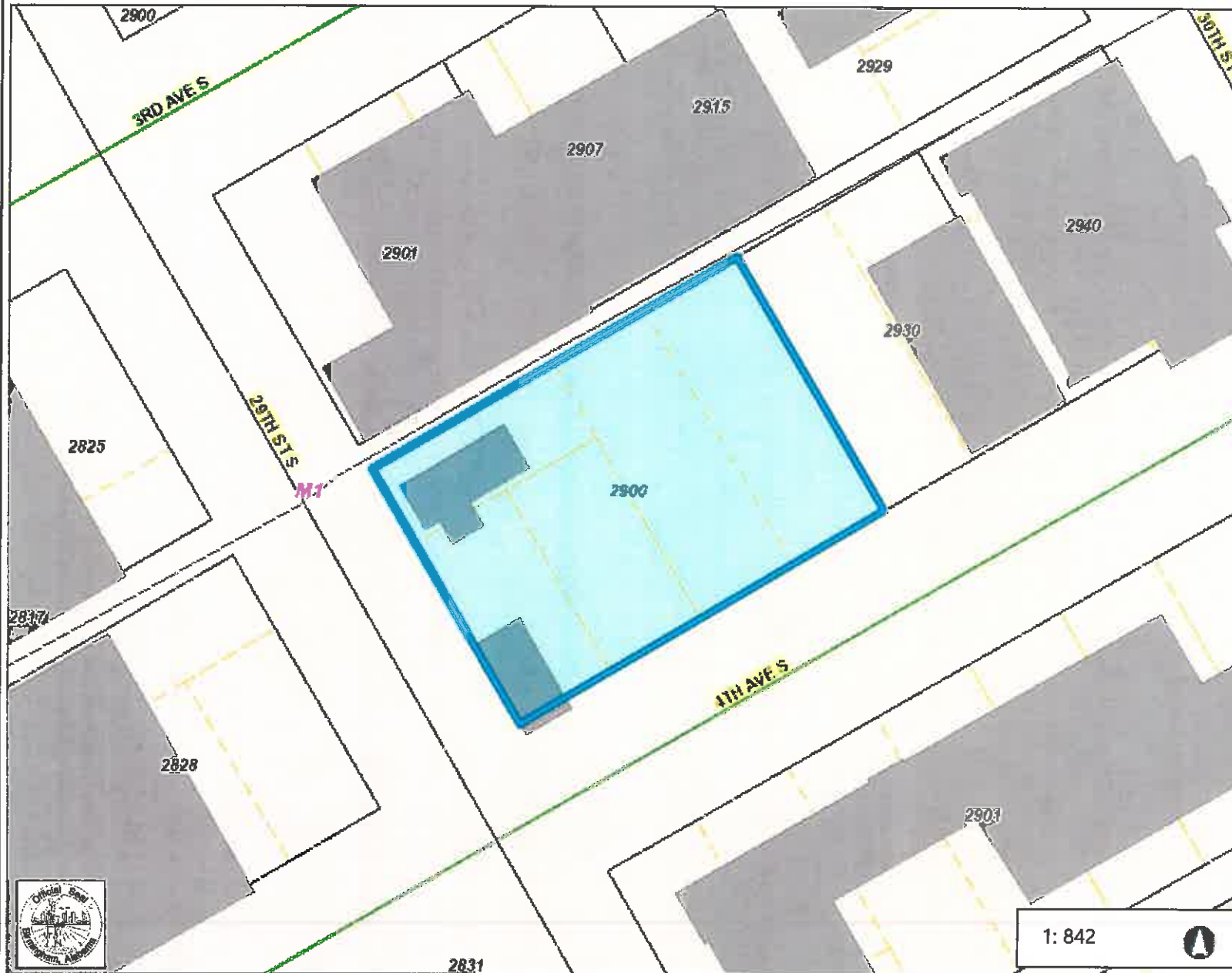
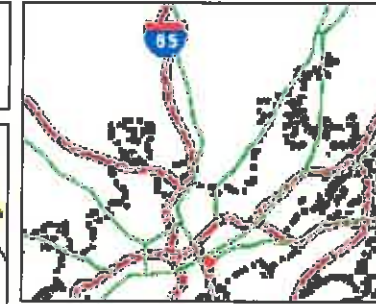
Applicant's Justification

The applicant stated that the leased lot is limited in size and off-street parking cannot be provided on the site. The applicant submitted documentation showing an estimated 313 on-street spaces exist within 1,320 feet of the site.

Staff Recommendation

Staff believes that the applicant's request for 0 off-street parking spaces is a self-imposed hardship. Staff believes that the proposal could have been designed in a way to allow for at least a portion of the required parking. Therefore, staff believes this request does not have merit for approval and as such, 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.
3. Approval based on site plan as submitted.



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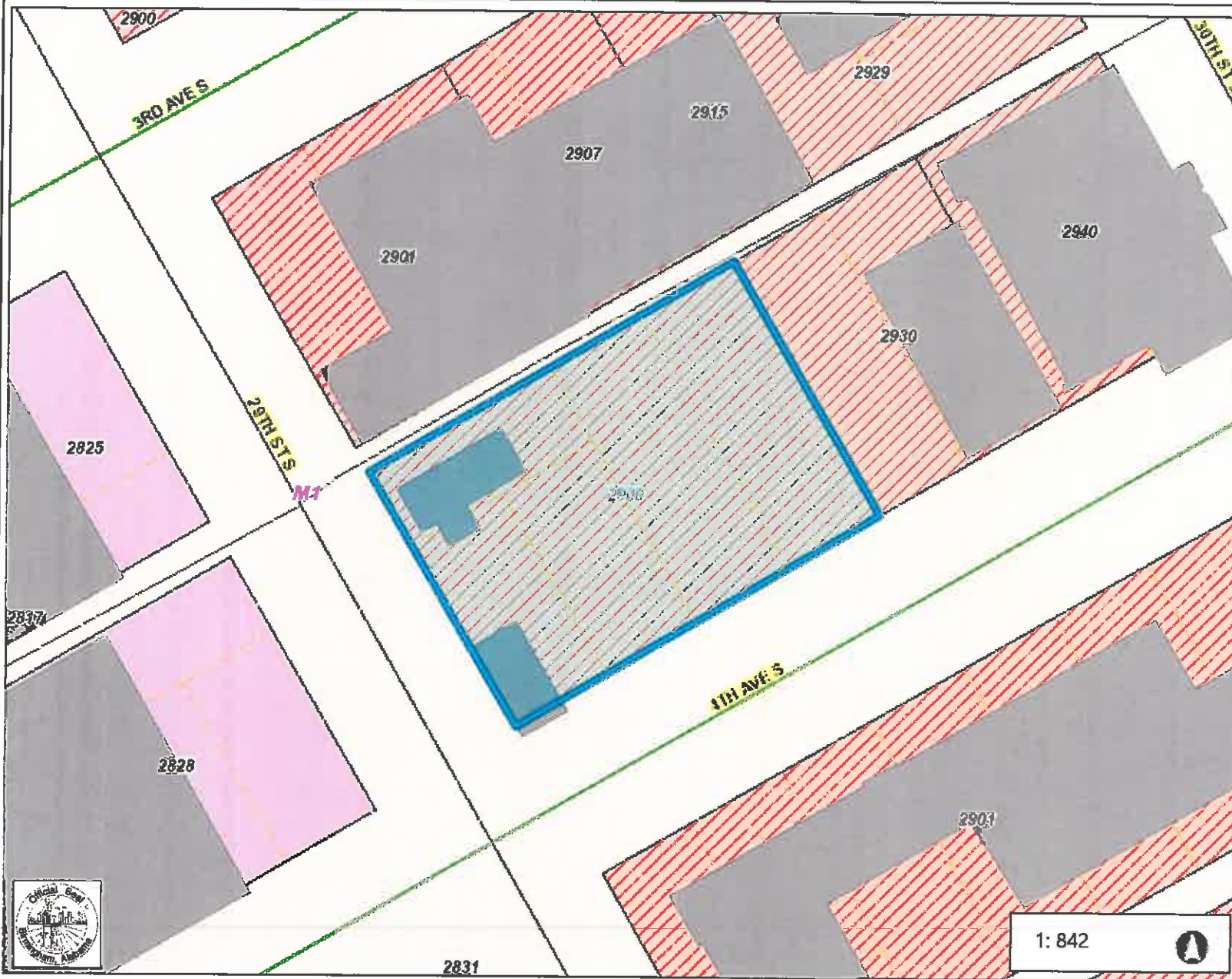


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140.3 0 70.13 140.3 Feet

Notes



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 - General Commercial
 - MXU-Low



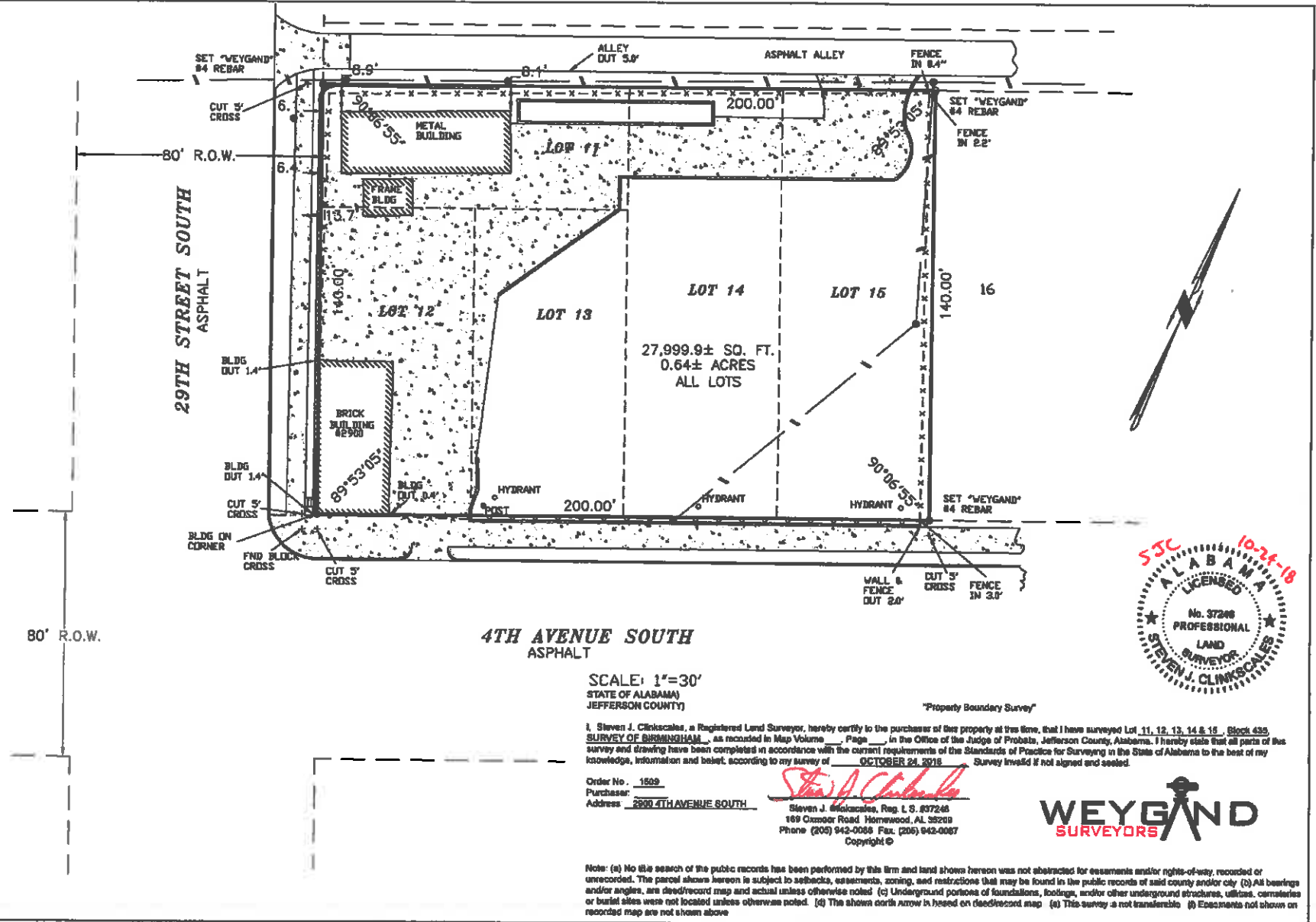
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Notes

LEGEND

- ASP ASPHALT
- BLDG BUILDING
- CALC CALCULATED
- MEAS MEASURED
- CH CHORD
- LONG LONG CHORD
- DEFLECTION
- DELTA DELTA
- EASEMENT EASEMENT
- HW HEADWALL
- MIN MINIMUM
- MH MANHOLE
- OH OVERHANG
- POB POB
- RADIUS
- R.O.W. RIGHT OF WAY
- SAN SANITARY
- STM STORM
- UTIL UTILITY
- AC ACRES
- S.F. SQUARE FEET
- CENTERLINE
- A/C AIR CONDITIONER
- POLE
- ANCHOR
- FENCE
- OVERHEAD UTILITY WIRE
- PAVT PAVEMENT
- W/ WITH
- TAN TANGENT
- RES RESIDENCE
- LIGHT
- COVERED
- DECK
- CONCRETE
- WALL
- COLUMN



4TH AVENUE SOUTH ASPHALT

SCALE: 1"=30'
STATE OF ALABAMA
JEFFERSON COUNTY

"Property Boundary Survey"

I, Steven J. Clinkscapes, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 11, 12, 13, 14 & 15, Block 435, SURVEY OF BIRMINGHAM, as recoded in Map Volume _____ Page _____ in the Office of the Judge of Probate, Jefferson County, Alabama. I hereby state that all parts of this survey and showing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief, according to my survey of OCTOBER 24, 2018. Survey Invalid if not signed and sealed.

Order No. 1509
Purchaser:
Address: 2800 4TH AVENUE SOUTH

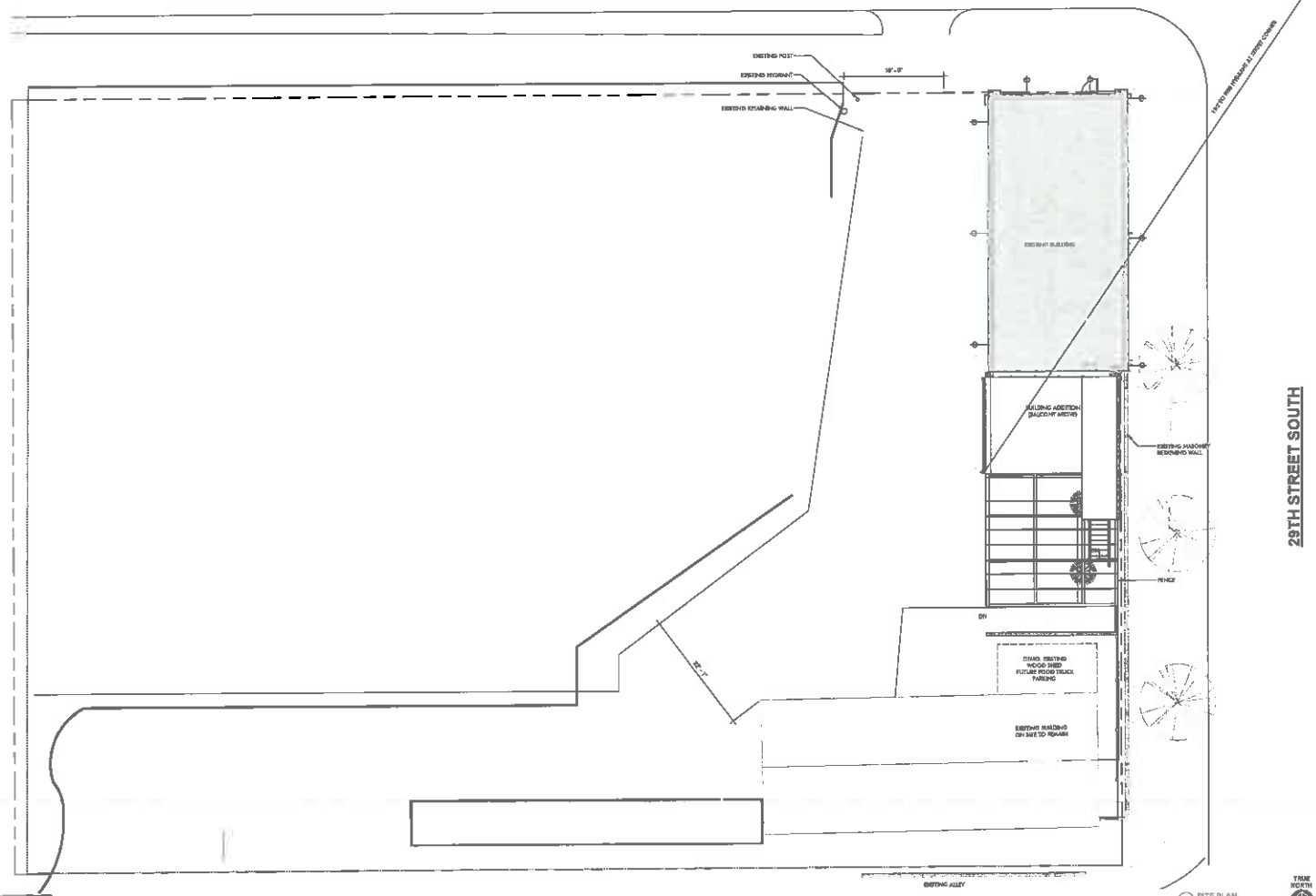
Steven J. Clinkscapes
Steven J. Clinkscapes, Reg. L.S. #37246
169 Osborn Road, Homewood, AL 35209
Phone (205) 942-0086 Fax: (205) 942-0087
Copyright ©



Note: (a) No title search of the public records has been performed by this firm and land shown hereon was not abstracted for easements and/or rights-of-way, recorded or unrecorded. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the public records of said county and/or city. (b) All bearings and/or angles, are dead/refered map and actual unless otherwise noted. (c) Underground portions of foundations, footings, and/or other underground structures, utilities, cisterns or buried sites were not located unless otherwise noted. (d) The shown north arrow is based on dead/refered map. (e) This survey is not transferable. (f) Easements not shown on recorded map are not shown above.

4TH AVENUE SOUTH

29TH STREET SOUTH



MAYAHUEL
2900 4TH AVE S
BIRMINGHAM, AL 35233

DATE:
 03/07/2019

REVISIONS	BY	DATE
1	DR	03/07/2019

JOB NUMBER:
 18184

SHEET NUMBER:
A1.0

1 SITE PLAN
 1/8" = 1'-0"



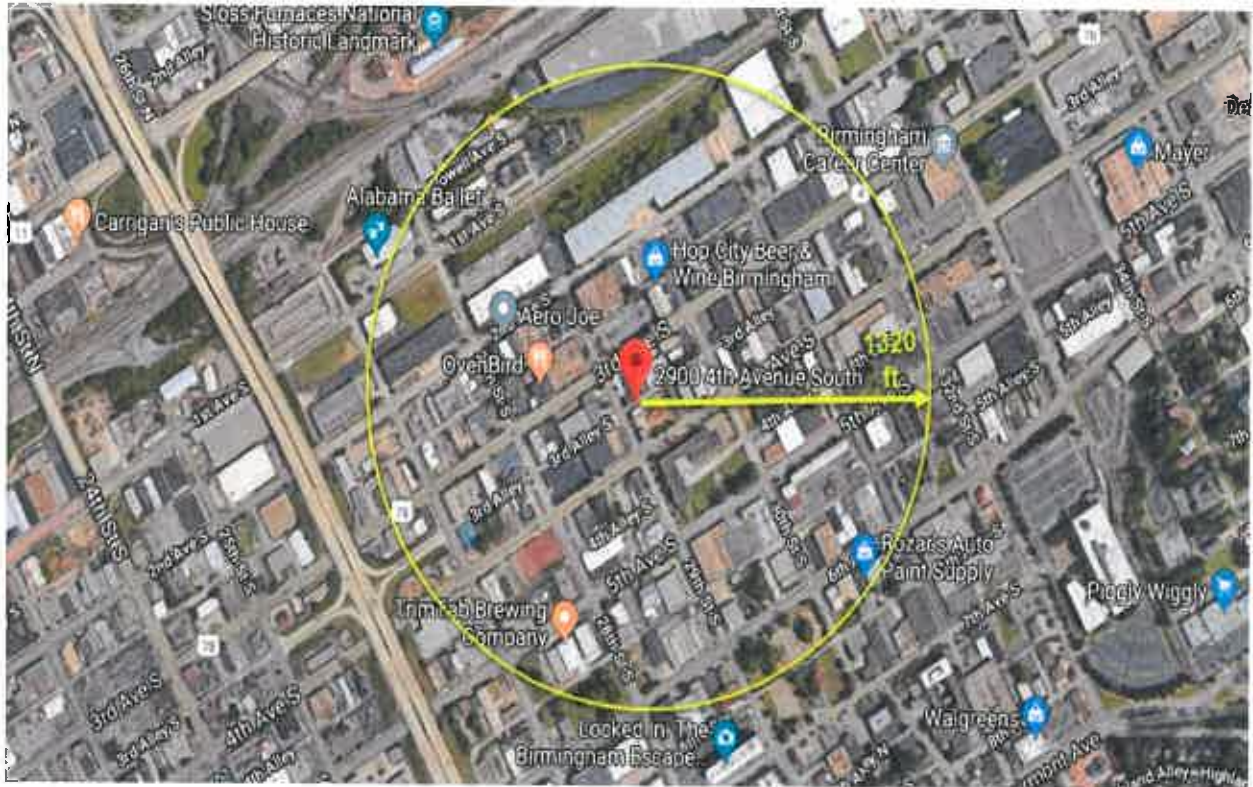
ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

ZBA2019-00022



Parking Modification Request

2900 4TH Ave S, Birmingham, AL 35233



Estimated on-street parking in a quarter-mile: **313**

- 4th Avenue S.; 27th St to 32th St: 70
- 3rd Avenue S.; 27th St to 32th St: 52
- 2nd Avenue S.; 27th St to 32th St: 112
- 5th Avenue S.; 27th St to 32th St: 9
- 28th Street; 2nd Ave S. to 5th Ave S.: 10
- 29th Street; 2nd Ave S. to 5th Ave S.: 40
- 30th Street; 2nd Ave S. to 5th Ave S.: 20

Note: This estimation excludes parking along 1st Ave. S. and 6th Ave. S. although they are inside the quarter mile radius. This estimation also excludes the lot with 91 parking spots that is designated for Pepper Place. Furthermore, there is a Birmingham Max bus stop directly across the street from the property that runs the route 17 (Eastwood-Walmart).

Central Park

ZBA2019-00023

Request: Special Exception
Applicant: Susan Standberry
Owner: Senior Housing Services
Site Address: 1517 Bessemer Rd
Zip Code: 35208
Description: Special exception to allow the transfer of ownership of a Communal Living Facility pursuant to Title 1, Chapter 4, Article III, Section 3.C
Property Zoned: QB1 Qualified Neighborhood Business District
Parcel Information: Parcel #012900074015004000, SE ¼ of Section 07, Township 18 S, Range 3 W

Special Exception

The applicant is requesting a special exception to allow the transfer of ownership for a communal living facility.

Neighborhood

Staff has yet to receive any feedback from the Central Park Neighborhood Association.

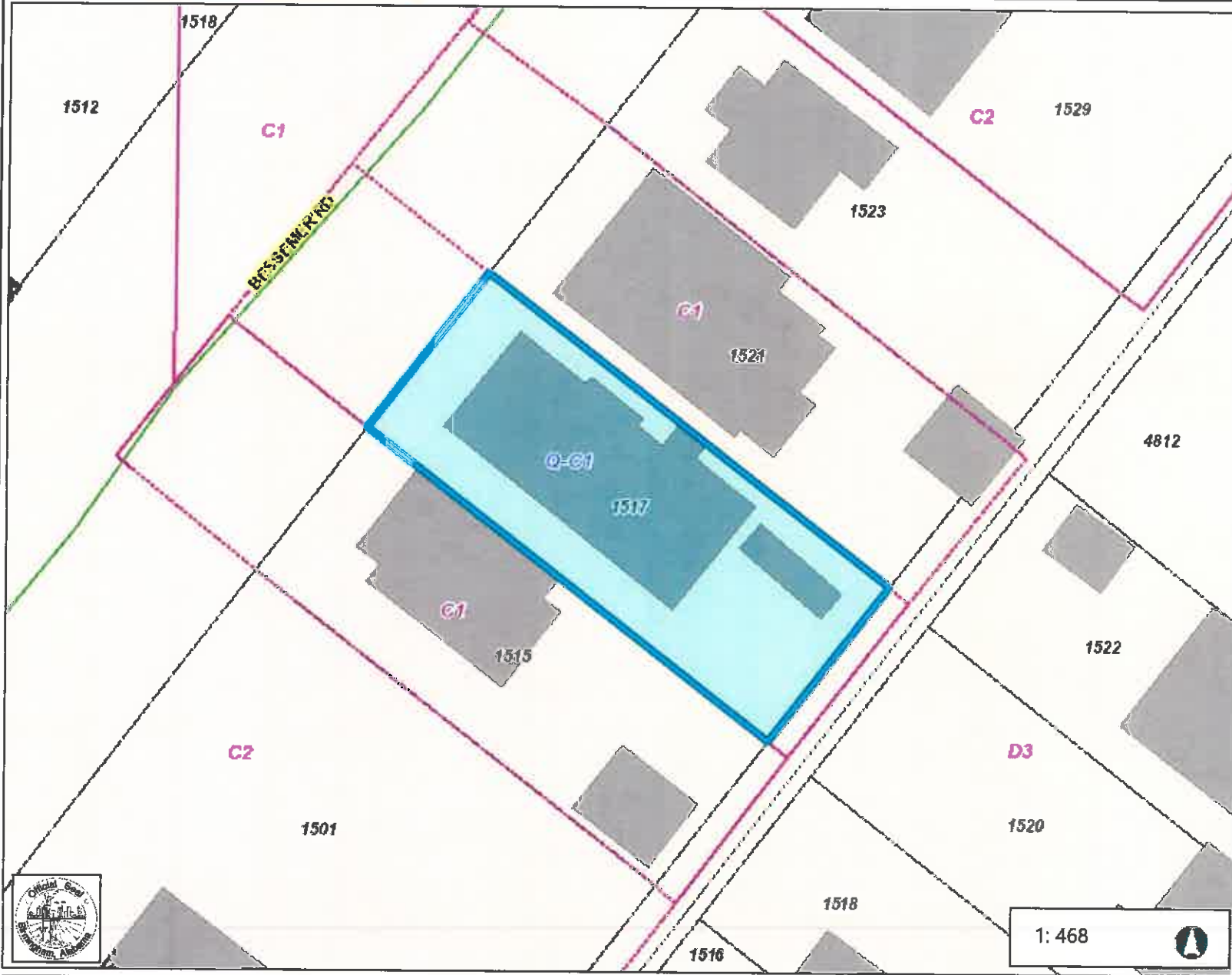
Applicant's Justification

The applicant stated that the request would not harm the public welfare or neighboring properties.

Staff Recommendation

Staff believes that the applicant has provided sufficient evidence to support the request. 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.
3. Approval based on site plan as submitted.



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



78.0 0 38.98 78.0 Feet

1: 468





Legend

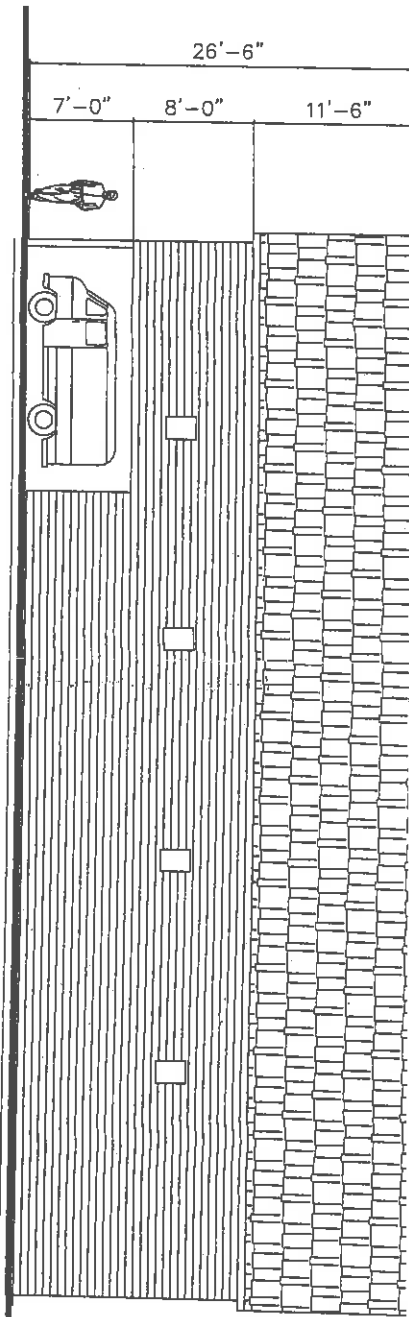
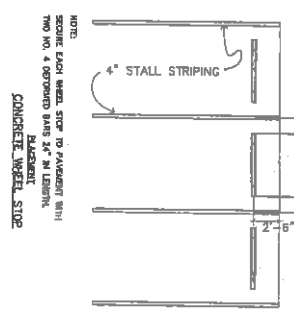
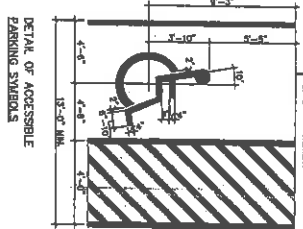
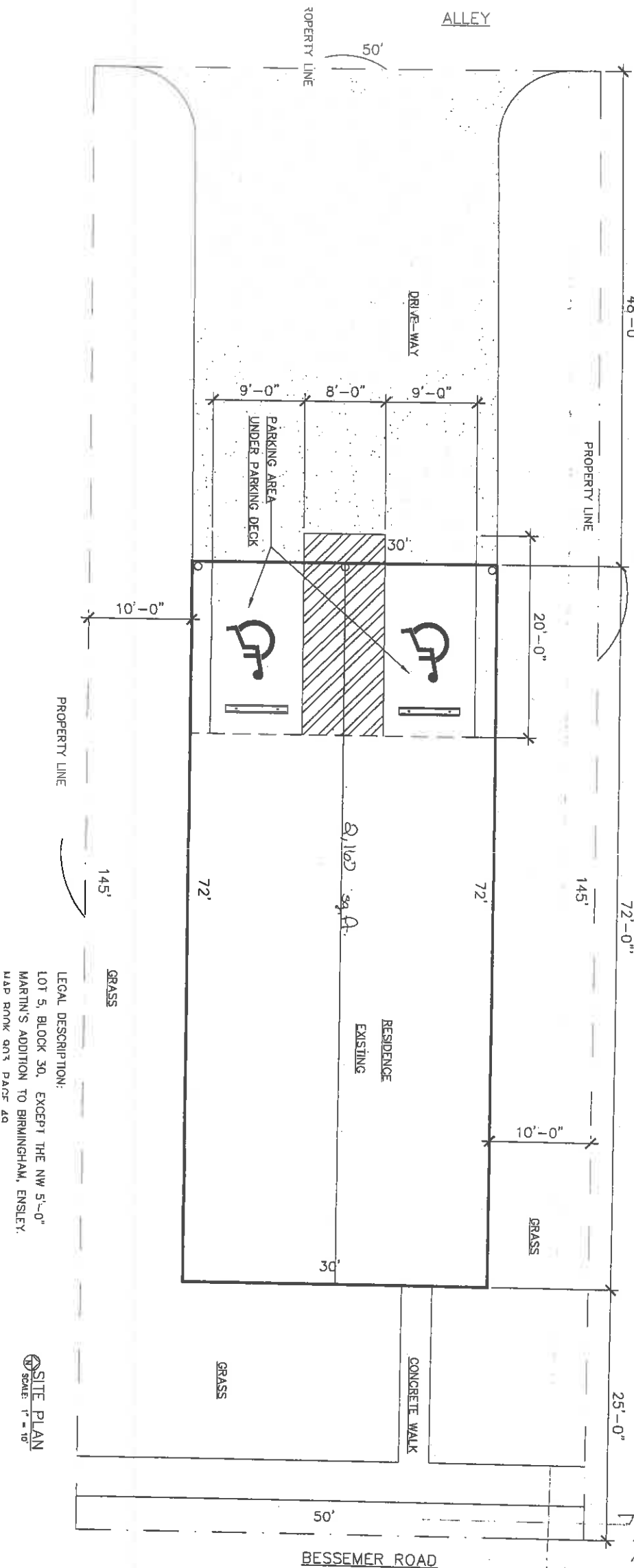
- Centerline Labels
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- State Highways
- US Highways
- Interstates
 - Limited Access
 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Adopted LandUse Plan
 - Residential-Low
 - Residential-Medium
 - Residential-High
 - Neighborhood Commercial
 - General Commercial
 - MXU-Low
 - MXU-Medium



1: 468

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes



EAST ELEVATION
SCALE: 1" = 10'

ok
J. Jones, Jr. Engineering
10-2-06

LEGAL DESCRIPTION:
LOT 5, BLOCK 30, EXCEPT THE NW 5'-0"
MARTIN'S ADDITION TO BIRMINGHAM, ENSLEY,
MAP BOOK 903 PAGE 40

SITE PLAN
SCALE: 1" = 10'

PROJECT
The Proposed TOTAL CARE COMMUNAL LIVING FACILITY
117 BESSEMER ROAD BIRMINGHAM, AL 35208
Mr. Neomphia Xavier Rankin, Owner

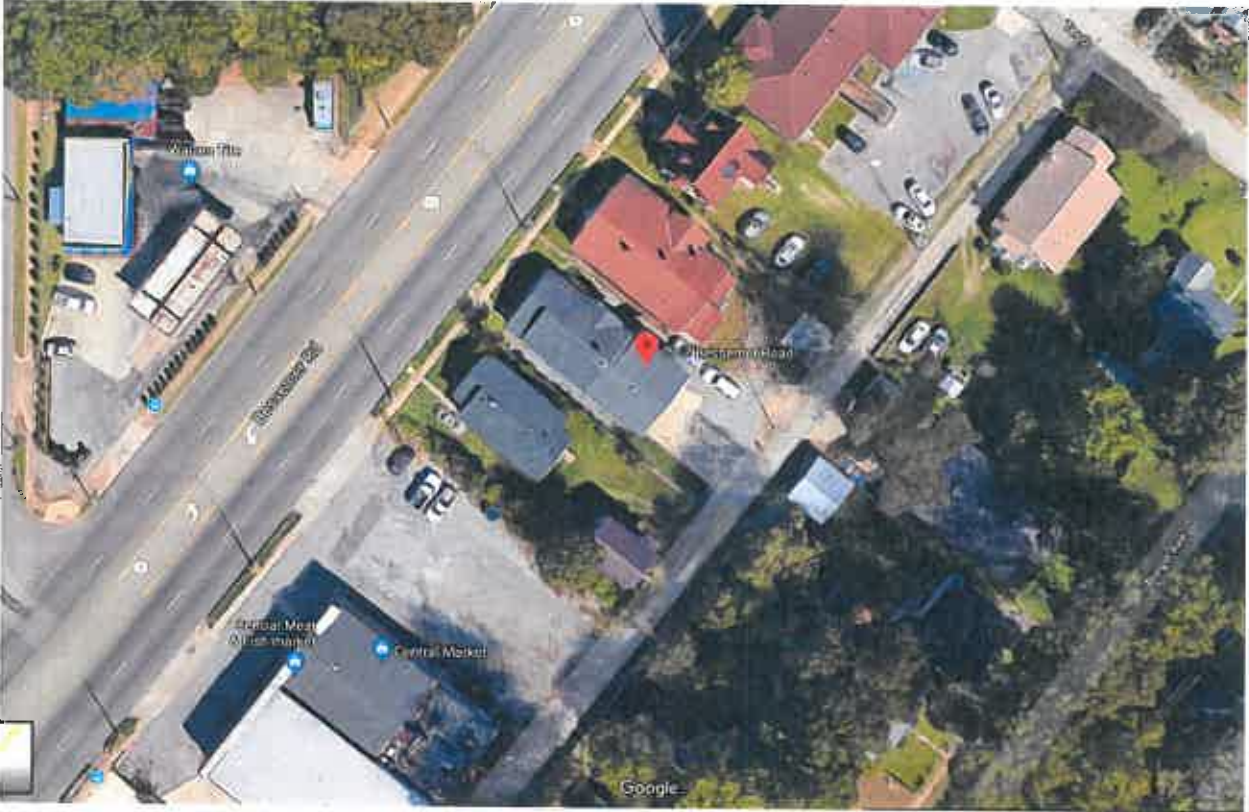


David Jones, Jr., LLC, Architect
8120 9th AVENUE SOUTH
BIRMINGHAM, AL 35206
Phone: (205) 541-0678
E-MAIL: djarcht@bellsouth.net



PROJECT NO. **COM0600**
DRAWN BY: JAM
DATE: 25 AUGUST
REVISED:
SHEET NO. **S1** OF **1**

ZBA2019-00023



Killough Springs

ZBA2019-00025

Request: Appeal
Applicant: Michael Odom
Owner: Calvary Resurrection Christian Church
Site Address: 356 Killough Springs Rd
Zip Code: 35215
Description: An application to appeal the Director's decision regarding an illuminated digital sign for a church in a residential district pursuant to Title I, Chapter 3, Article II, Section 2.
Property Zoned: R2 Single Family District
Parcel Information: Parcel #011300251012018000, NE ¼ of Section 25, Township 16 S, Range 2 W

Appeal

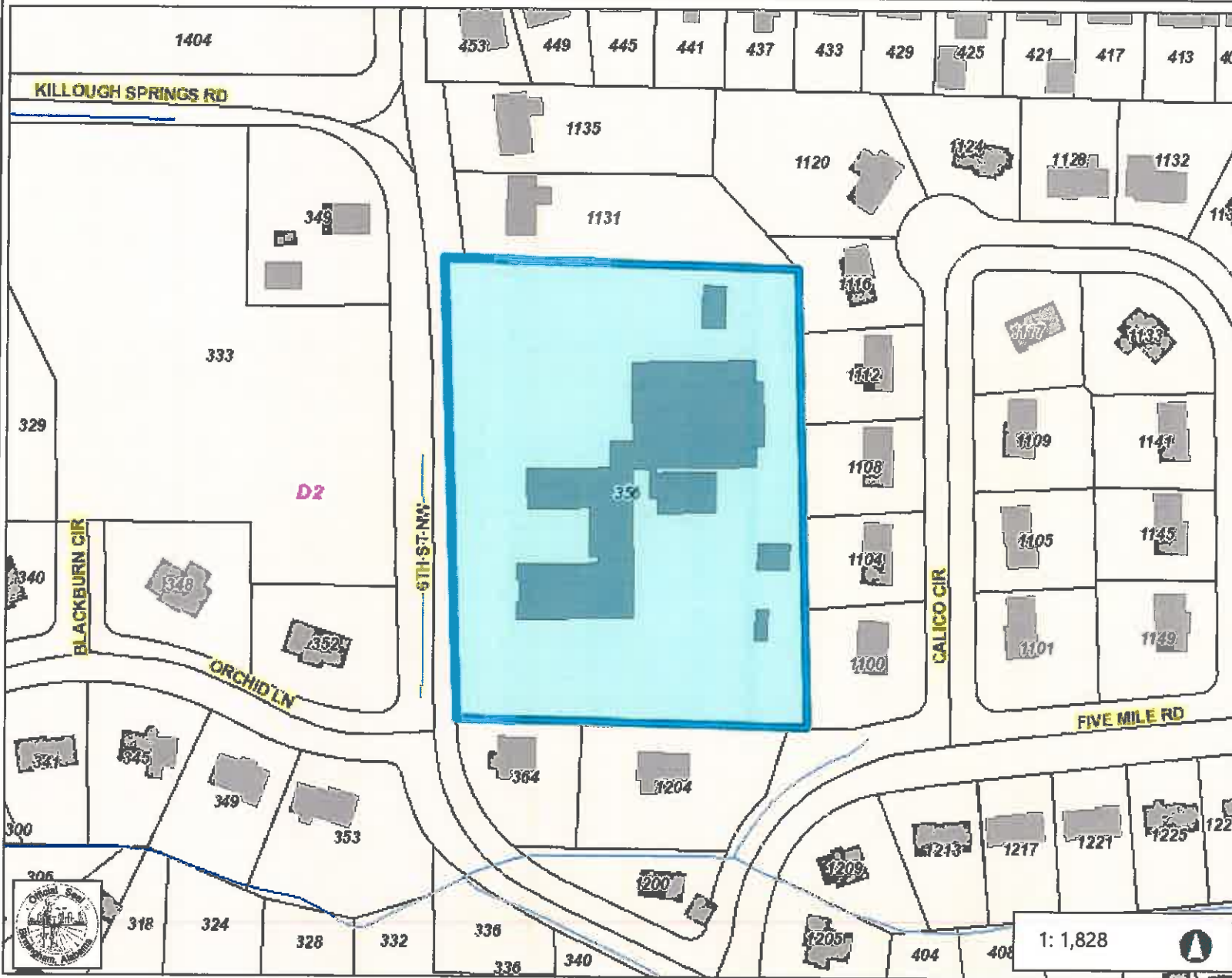
The applicant is appealing the Director's decision regarding an illuminated digital church sign. The church requested an interpretation of a video of the proposed sign to determine whether or not it was animated or illuminated with intermittent light.

Applicant's Justification

The applicant stated that contrary to the Director's interpretation the sign will not be "dynamic", "animated", nor "illuminated with intermittent light".

Staff Recommendation

Staff agrees with the Director's interpretation. Therefore, staff believes this request does not have merit for approval and as such, should be **DENIED**.



Legend

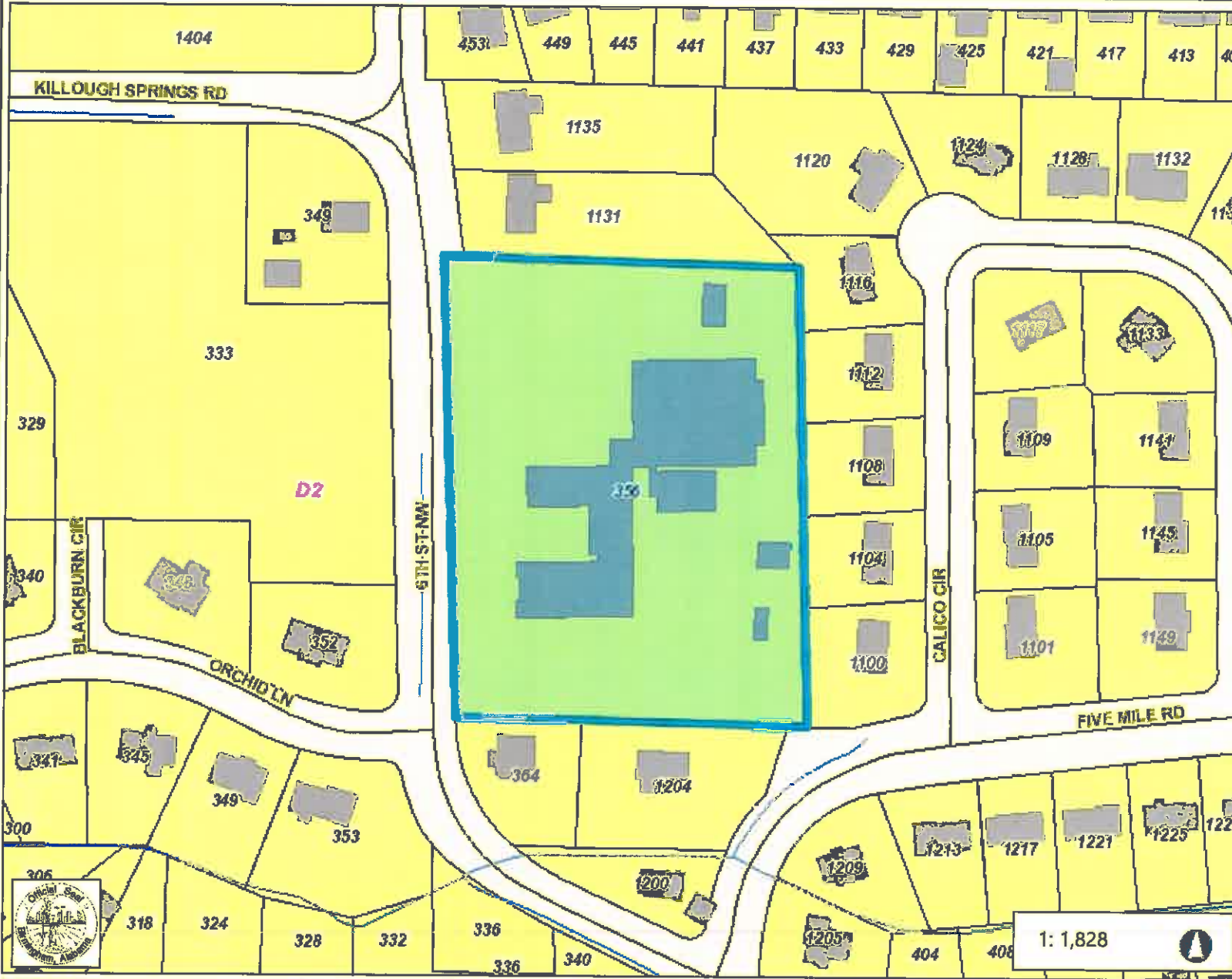
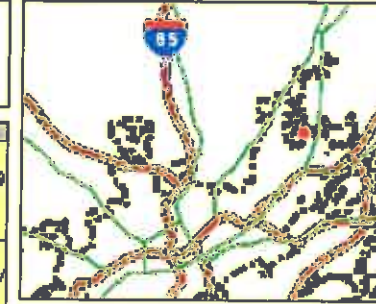
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- Hydrology Areas
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- City Parks
- Airport
- City Limits (solid)

1: 1,828



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 - General Commercial
 - MXU-Low
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1: 1,828



CITY OF BIRMINGHAM

DEPARTMENT OF PLANNING, ENGINEERING & PERMITS

PUTTING PEOPLE FIRST

February 22, 2019

Handall L. Woodfin
Mayor

Edwin Revelle
Director

Fred F. Hawkins
Deputy Director

Denise P. Bell
Deputy Director

Christopher Hatcher
Deputy Director

Darren L. Whitt
Deputy Director

Pastor George Matthews II
Calvary Resurrection Christian Church
365 Killough Springs Rd
Birmingham, AL 35215

Re: Request for Interpretation of Sign Regulations in Residentially Zoned Districts

Pastor Matthews,

This letter is in response to your request made on February 13, 2019 for an interpretation of the City of Birmingham's sign regulations in residentially zoned districts relative to a video of a proposed sign submitted by Ms. Tonya Lusain on January 11, 2019. The City's Zoning Ordinance in Title 1, Chapter 4, Article V, Section 11, Subsection 7.F states that:

"F. A church or public building in any residential zone district may have one bulletin board or one sign, located on the same lot as the main structure, said bulletin board or sign not to exceed 27 square feet in area nor be animated or illuminated with intermittent light."

In addition, Title 1, Chapter 4, Article V, Section 11, Subsection 2.3 in the Zoning Ordinance defines illuminated signs as such:

"3. Illuminated Signs. A sign illuminated by the following types of lighting.

- a. **Indirect.** A sign reflecting light from a separate outside source aimed toward it.
- b. **Direct.** A sign emitting light from a source within or affixed to the sign face, and beaming outward from it.
- c. **Intermittent.** A sign containing any flashing light, including arrangements that spell messages, simulate motion or form various symbols or images.

Upon review of your submittal, it is our opinion that the video of the proposed digital sign clearly shows a dynamic/non-static sign illuminated with intermittent lighting as defined by the City's Zoning Ordinance. This sign would be in direct conflict with the Zoning Ordinance and the intent to limit this particular type of sign in a residentially zoned district. Furthermore, it is our opinion that the intent of the Zoning Ordinance is such that it would prohibit the placement of any digital or electronic video display or message board sign in any residentially zoned district, particularly any sign capable of displaying words, symbols, figures, or images that can be electronically changed by remote or automatic means.

If you do not agree with this opinion or interpretation, you may file an appeal, in writing, to the Zoning Board of Adjustment (ZBA), no later than 15 days from the receipt of this letter, advising of and indicating the reasons for appealing this decision. Upon filing this appeal, you are required to file an application with the Planning Division of the Department of Planning, Engineering and Permits in order to officially enter the case on the docket of the next regularly scheduled ZBA meeting. You may call Tyler Slaten at 205-297-8003 to get details and instructions for filing an application for an appeal.

If you chose not to file an appeal of this decision to the ZBA or if you are unsuccessful with an

appeal to ZBA, if filed, Zoning Staff will continue to work with you to achieve compliance with the Zoning Ordinance. If you have any additional questions regarding this matter, please feel free to contact me anytime.

Best regards,



Edwin Revell
Director, Planning, Engineering and Permits

Cc: Katrina Thomas
Timothy Gambrel
Julie Barnard
Tyler Slaten
Kasandra Brundidge

March 18, 2019

Zoning Board of Adjustment
City of Birmingham
710 20th Street North
Room 210, City Hall
Birmingham, Alabama 35203

Re: Calvary Resurrection Christian Church
Appeal of Interpretation of Sign Regulations

Dear Board:

I represent Calvary Resurrection Christian Church ("Calvary") in its appeal of the interpretation of the City of Birmingham's sign regulations in residentially zoned districts made by the Director of the Department of Planning, Engineering & Permits (the "Director"). Please allow this letter to serve as Calvary's justification letter submitted in connection with its appeal of the Director's interpretation.

On January 11, 2019, Ms. Tonya Lusain submitted a video of a proposed digital sign on behalf of Calvary. Upon review of the submittal, the Director rendered an opinion "that the video of the proposed clearly shows a dynamic/non-static sign illuminated with intermittent lighting as defined by the City's Zoning Ordinance." Calvary respectfully disagrees with the Director's interpretation and asks this Board to reverse the Director's decision and find that the proposed sign is in conformance with the City's Zoning Ordinance.

The proposed sign is not animated or illuminated with intermittent light as defined by the Ordinance. Title 1, Chapter 4, Article V, Section 11, Subsection 7.f. allows a church in a residential zone to have one bulletin board or sign not to exceed 27 square feet in area and not to be "animated or illuminated with intermittent light."

The Director interpreted the Ordinance to not allow Calvary's proposed sign because the submittal showed "a dynamic/non-static sign illuminated with intermittent lighting." The Director's interpretation, however, is inconsistent with the definitions contained within the Ordinance. The Ordinance allows a sign on church property so long as it is neither "animated" nor "illuminated with intermittent light." The term "animated" is not defined in the Ordinance. According to Merriam-Webster, "animated" means "endowed with life or the qualities of life; full of movement and activity." Title 1, Chapter 4, Article V, Section 11, Subsection 2.3.c. defines an intermittent sign as, "A sign containing any flashing lights, including arrangements that spell messages, simulate motion or form various symbols or images." In addition, the Director's

2253136.1

Zoning Board of Adjustment
City of Birmingham
March 18, 2019
Page 2

interpretation includes a term not defined or otherwise used in the Ordinance: "dynamic." According to Merriam-Webster, "dynamic" means marked by usually continuous and productive activity or change."

Contrary to the Director's interpretation, Calvary's proposed sign will not be "dynamic," "animated," nor "illuminated with intermittent light." It will not contain flashing lights or intermittent lighting. The lights on the sign will not flash or simulate motion. The sign will not show videos or "continuous and productive activity or change." The Ordinance does not prohibit a sign just because its content may be changed remotely or electronically.

We believe the proposed sign is consistent with a plain reading of the Ordinance. Therefore, Calvary respectfully requests that the Board reverse the Director's interpretation and find that the proposed sign is in conformance with the City's Zoning Ordinance.

Sincerely,

McGlinchey Stafford



Michael B. Odom

MBO/mjf

ARTICLE I - RESIDENTIAL CLASSIFICATIONS

Section 1. E-1 Estate District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the E-1 Estate District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Single-family dwelling.
2. Nurseries or truck gardens; except, that no retail sales shall be made on the premises.
3. Noncommercial greenhouse; provided, that no greenhouse heating plant shall be operated within twenty-five feet of any lot line.
4. Publicly owned or operated park, playground or community building, museum, library or art gallery; provided that any building shall be located not less than twenty-five feet from any side lot line.
5. Church or other place of worship; provided that any building shall be located not less than twenty-five feet from any side lot line.
6. Public school, elementary or high, or a parochial or private school having a curriculum including the same courses ordinarily given in a public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than twenty-five feet from any side lot line.
7. Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.
8. Home occupations.
9. Accessory structures and uses, not including Accessory Use Child Care Centers.
10. A church or public building may have one bulletin board or one sign, located on the same lot as the main structure, said bulletin board or sign not to exceed 27 square feet in area nor to be animated or illuminated with intermittent light.
11. Temporary signs not exceeding a total of eight square feet in area located on the same lot pertaining to the lease, hire or sale of a building or premises.
12. A temporary sign not exceeding a total of eight square feet in area relating to the development, sale or lease of lots or houses in a subdivision containing not less than five lots, which sign shall not remain more than two years or after the sale of the last lot, whichever occurs first.
13. Family Day / Night Care Home.
14. Wireless communications facility, in accordance with Article VI, Section

Title 1 – Zoning Ordinance

Chapter 4: Land Use Development Standards

2. **Back-to-Back Signs.** Signs erected with faces oriented in opposite directions and separated by no more than four feet.
3. **Illuminated Sign.** A sign illuminated by the following types of lighting.
 - a. Indirect. A sign reflecting light from a separate outside source aimed toward it.
 - b. Direct. A sign emitting light from a source within or affixed to the sign face, and beaming outward from it.
 - c. Intermittent. A sign containing any flashing light, including arrangements that spell messages, simulate motion or form various symbols or images.
4. **Maintenance.** Any cleaning, painting, copy changes, poster panel replacement, or bulb replacement, which does not alter the basic design, structure, size or electrical service to the sign.
5. **Monument Sign.** A sign mounted on the ground in such a manner that the sign face is attached to the ground either directly or in a landscaped setting wherein the bottom edge of the sign face shall be less than four feet above the ground level.
6. **Off-Premise Sign.** Any sign which directs the attention of the general public to a business, service, product or activity not conducted, offered or sold as a major portion of business upon the premises where such sign is located. None of the following shall be deemed an Off-Premise Sign:
 - a. Directional and other official signs authorized by law.
 - b. Signs advertising the sale or lease of property upon which they are located.
 - c. On-Premise Signs.
7. **On-Premise Sign.** A permanent sign erected upon, and maintained in conjunction with the use of a specific parcel of property identifying the name of the place, persons or organizations occupying the premises or designating the principal use or activity or the principal product or service available on the premises.
8. **Pole Sign.** A permanent sign mounted on a pole or poles wherein the bottom edge of the sign shall be at least four feet above the ground level.
9. **Portable Sign.** Any sign, whether on its own trailer, wheels or otherwise, which is designed to be transported from one place to another. It is characteristic of a portable sign that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols.
10. **Product Advertising Sign.** A permanent sign erected and maintained in conjunction with the use of a specific parcel of property identifying the name of the place, persons or organization occupying the premises and designating a product or service available on the premises, which is not a principal use, activity, or product sold on the premises.