

Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Green Acres

Staff Planner Moton

ZBA2020-00024

CONTINUED

Request: Variance to allow a 5ft chain link fence in the required front yard area
Title 1 Chapter 4 Subsection 3.A.1 page 182
Applicant: Francisco Navarrete Escobar
Owner: Francisco Navarrete Escobar
Site Address: 1517 57th St EN
Zip Code: 35228
Description: The applicant is requesting to allow a 5ft chain link fence in the front yard area
Property Zoned: D-3 Single Family District
Parcel Information: Parcel #: 012900181007001000, NE of Section 18, Township 18 S, Range 3 W

Variance:

The applicant is requesting a variance to allow a 5ft chain link fence in the front yard.

Neighborhood Meeting:

The Green Acres Neighborhood Association chose not vote on this request.

Public Notices:

Public notices were mailed on July 29, 2020.

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet.

1. Physical Characteristics of the Property. The new fence that I built is 150 feet long and 5 feet high, my house is on a flat lot in a corner crossing on the right and left side. In the back there is a fence that was already there when I bought the house.
2. Unique Characteristics. The characteristics of the fence that I built is that the material I use is metal, so I consider that it does not affect the style of the neighborhood, on the contrary it can be seen that I am not trying to hide anything just with the possible care and security.
3. Hardship Not Self-Imposed. In no way has anything been self-imposed for the intention of obtaining the of the property at a better price but only the wellbeing of my family.
4. Financial Gain Not Only Basis. I do not intend to obtain a variance through a financial interest.
5. No Injury to Neighboring Property. I consider that the construction of this fence does not cause any injury or affect any light, air supply to the adjacent property.
6. No Harm to Public Welfare. I consider that the fence does not cause any problem to the public well-being, it does not even increase the road congestion, or there is no danger of fire or moral health, the only thing I want to add asking for prior permit, I did not intend breaking Birmingham City Rules.

Staff Analysis:

The subject property located at 1517 57th St is zoned D-3, Single Family District. The 5ft chain link fence is located in the front yards off of 57th St and Court O.
The applicant does not meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has not provided sufficient evidence to support the variance request. Therefore, staff believes the request has merit for denial and as such, should be **DENIED**.

PARCEL ID: 012900181007001000

SOURCE: TAX ASSESSOR RECORDS **TAX YEAR:** 2019

DATE: Tuesday, June 30, 2020 11:59:27 AM

OWNER: NEXT STEP INVESTMENTS LLC & SHO

ADDRESS: 2418 GREEN SPRINGS HWY #30

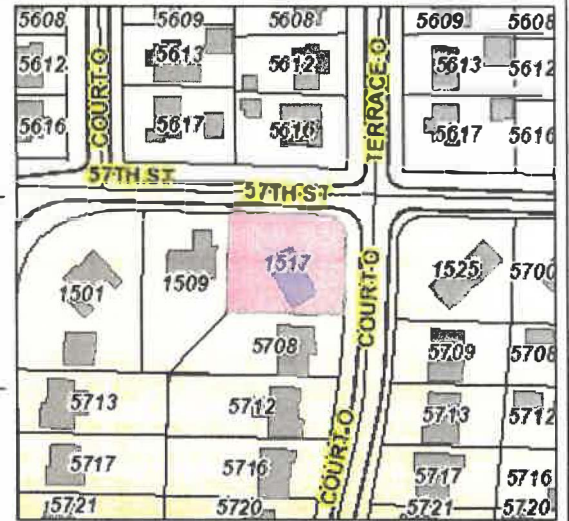
CITY/STATE: BIRMINGHAM AL

ZIP+4: 35209

SITE ADDR: 1517 57TH ST

CITY/STATE: BHAM, AL

ZIP: 35228



LAND: \$14,200.00

BLDG: \$59,800.00

OTHER: \$0.00

AREA: 10,900.56

ACRES: 0.25

SUBDIVISION INFORMATION:

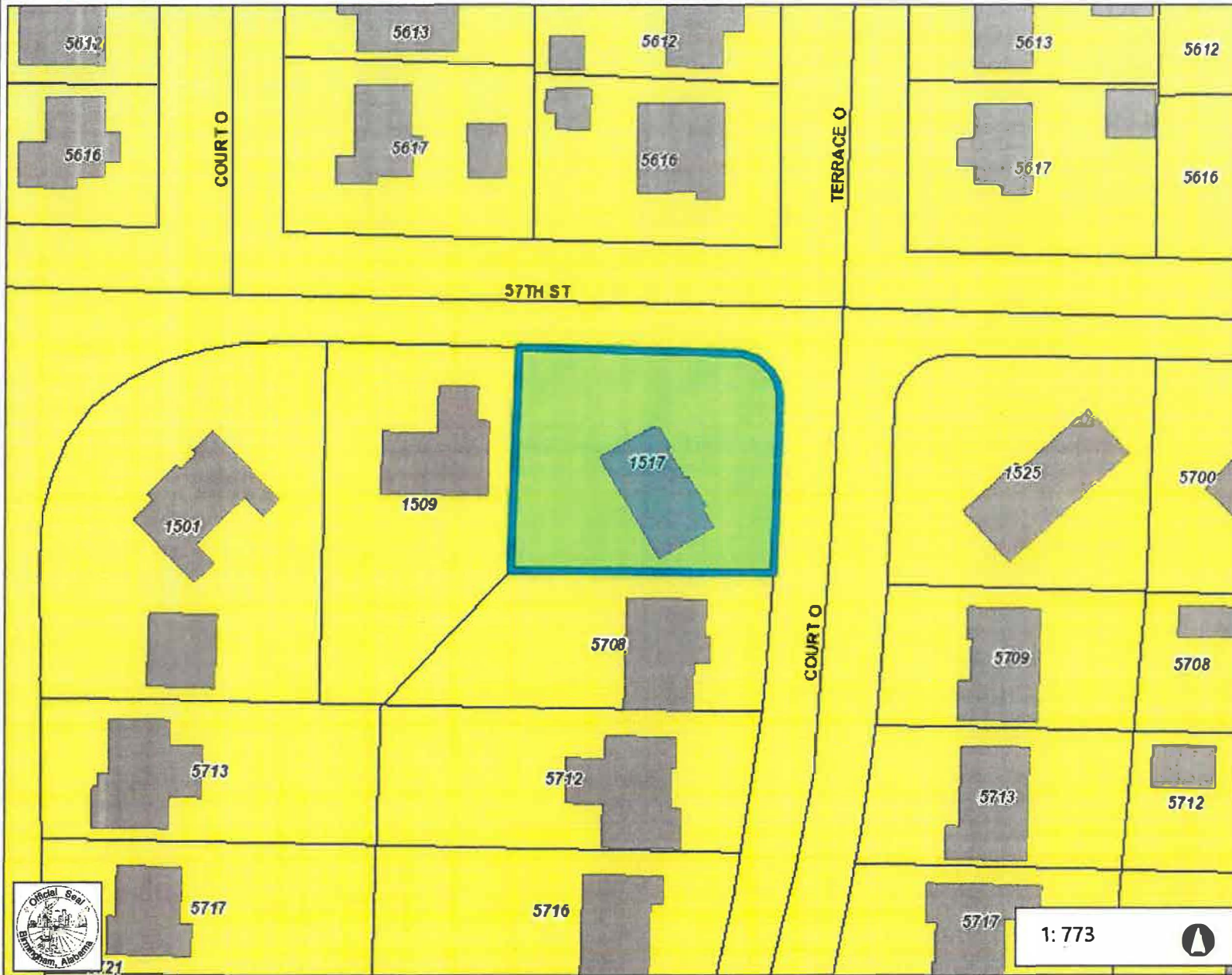
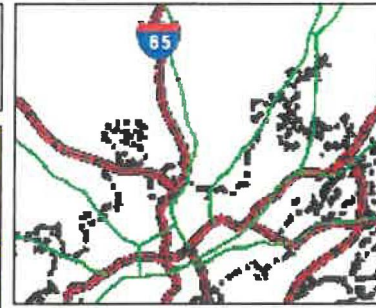
NAME PARK COURTS 2ND SECTOR

BLOCK: 1

LOT: 3

Section: 18-18-3W
Land Slide Zones: Not in Land Slide Zones
Historic Districts: Not in Historic Districts
Commercial Revitalization District: Not in Commercial Revitalization District
Fire District: Not in Fire District
Flood Zones: Not in Flood Zones
Tax Increment Financing District: Not in Tax Increment Financing District
Neighborhoods: Green Acres (206)
Communities: Five Points West (2)
Council Districts: District - 7 (Councilor: Wardine Alexander)
Zoning Outline: D3
Demolition Quadrants: DEM Quadrant - 2
Impaired Watersheds: Not in Impaired Watersheds
Strategic Opportunity Area: Not in Strategic Opportunity Area
RISE Focus Area: Not in RISE Focus Area
Tax Delinquent Property: Not in Tax Delinquent Property
EPA Superfund: Not in EPA Superfund
Opportunity Zones: Not in Opportunity Zones
Judicial Boundaries: JEFFERSON

Parcel mapping and description information is obtained from the Jefferson County Tax Assessor's Office. This site does not provide real-time information and may contain errors. All data should be verified with the official source. The City of Birmingham makes no warranty as to the accuracy of the data and assumes no responsibility for any errors. Data from the Tax Assessor's Office may not be available for all parcels.

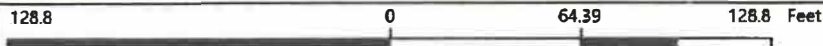


Legend

- Centerline Labels
- + Railroad
- Alleys
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- Arterials
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- State Highways
- US Highways
- Interstates
 - Limited Access
 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Zoning Shaded
 - R1; D1 - Single Family District - Cla
 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District

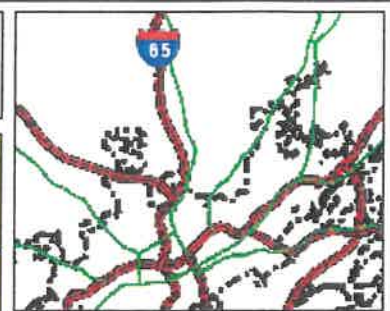


1: 773



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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

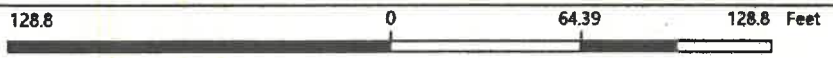


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- Adopted LandUse Plan
 - Residential-Low
 - Residential-Medium
 - Residential-High
 - Neighborhood Commercial
 - General Commercial
 - MXU-Low
 - MXU-Medium
 - MXU-High

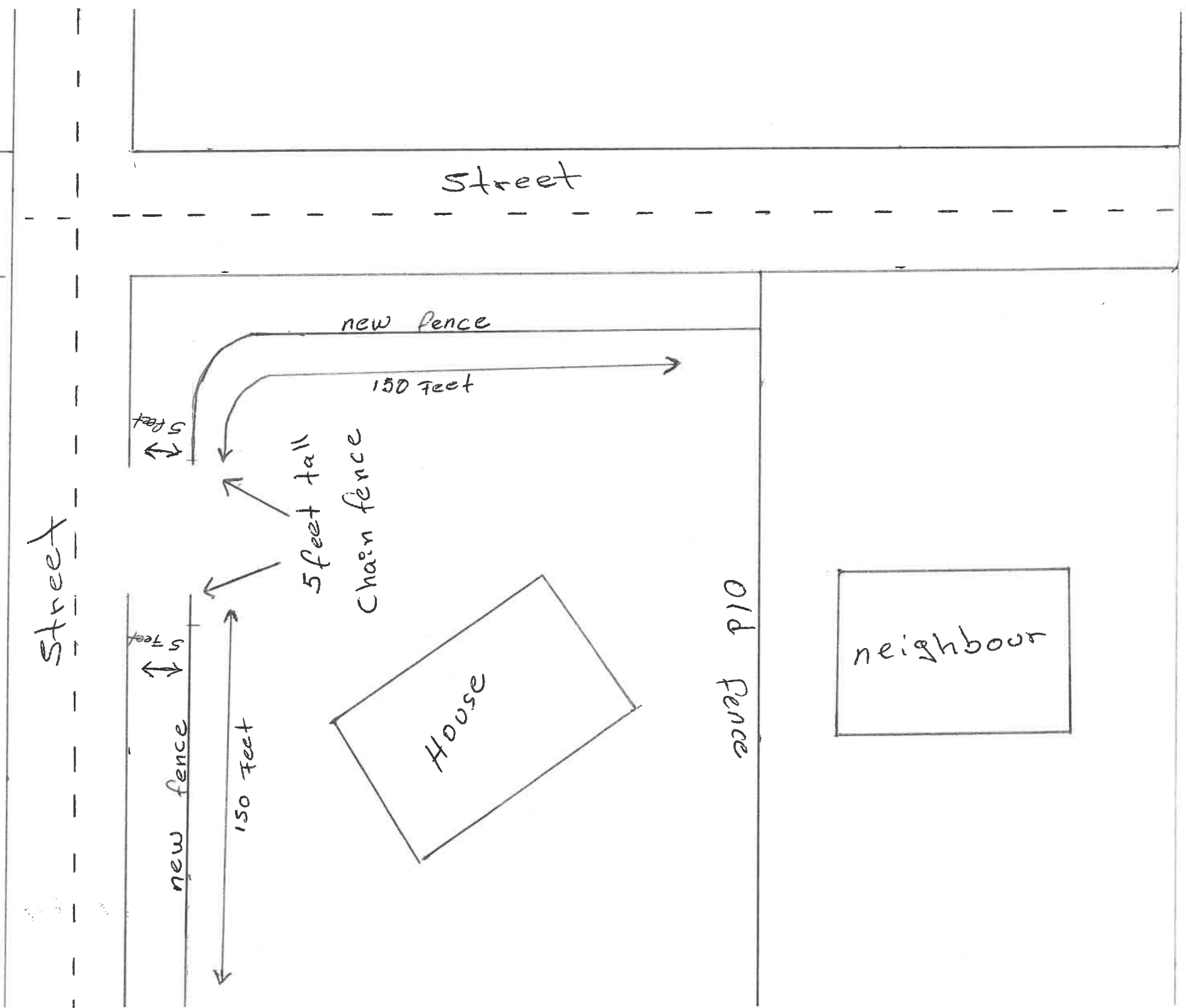


1: 773



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Notes







Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: North Birmingham Staff Planner Moton ZBA2020-00042

Request: Variance to allow a 90sqft sign instead of the 18sqft allowed pursuant Title 1, Chapter 4, Article V, Section 11, Subsection 7.1.a
Applicant: Juanita Graham
Owner: Mount Pilgrim Baptist
Site Address: 2500 35th Ave N
Zip Code: 35207
Description: The applicant is requesting to allow a 90sqft sign
Parcel Information: Parcel #: 012200144037007000, SE of Section 14, Township 17 S, Range 3 W

Variance:
Variance to allow a 90sqft sign instead of the 18sqft allowed.

Neighborhood Meeting:
The North Birmingham Neighborhood Association waiting on response.

Public Notices:
Public notices were mailed on September 15, 2020

Applicant's Justification:
The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet.

1. Physical & Unique Characteristics of the Property: The property is estimated at 80ft or more from the road, which makes it hard to notice.
2. Hardship Not Self-Imposed: Per the Fire Marshall Mr. Irby all literature on this building must be able to read from the street while driving by.
3. Financial Gain Not Only Basis: None
4. No Injury to Neighboring Property: There are vacant lots beside the building.
5. No Harm to Public Welfare: There is no harm due to the distance of any homes.

Staff Analysis:
The subject property located at 2500 35th Avenue N is zoned D-3, Single Family District. The subject property is Alabama Stem Education Early Childhood Learning Center daycare that is accessory structure to the Mount Pilgrim Baptist Church. This daycare sits about 82ft from the property line.

The applicant does not meet the requirement of the six variance standards.

Staff Recommendation
Staff believes the applicant has not provided sufficient evidence to support the variance request. Therefore, staff believes the request has merit for approval and as such, should **DENIED**.

PARCEL ID: 012200144037007000

SOURCE: TAX ASSESSOR RECORDS **TAX YEAR:** 2019

DATE: Friday, August 14, 2020 2:03:32 PM

OWNER: MOUNT PILGRIM BAPTIST DISTRICT

ADDRESS: 2500 35TH AVE N

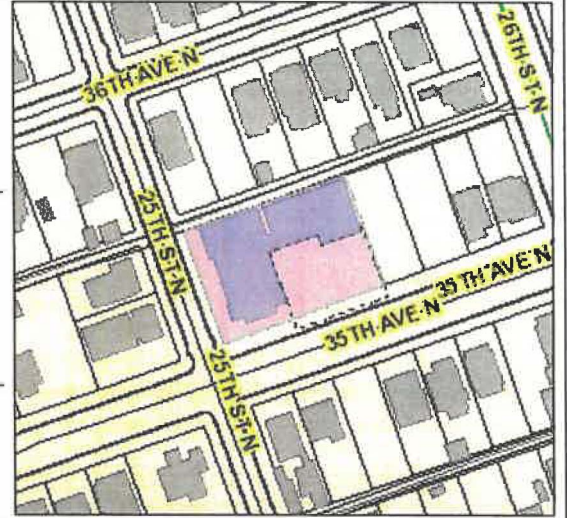
CITY/STATE: BIRMINGHAM AL

ZIP+4: 35207--2622

SITE ADDR: 2500 35TH AVE N

CITY/STATE: BHAM, AL

ZIP: 35207



LAND: \$20,400.00

BLDG: \$875,900.00

OTHER: \$0.00

AREA: 27,959.93

ACRES: 0.64

SUBDIVISION INFORMATION:

NAME PARK PLACE

BLOCK: 84

LOT:

:

Section: 14-17-3W

Land Slide Zones: Not in Land Slide Zones

Historic Districts: Not in Historic Districts

Commercial Revitalization District: Not in Commercial Revitalization District

Fire District: Not in Fire District

Flood Zones: Not in Flood Zones

Tax Increment Financing District: Not in Tax Increment Financing District

Neighborhoods: No. Bham (1106)

Communities: North Birmingham (11)

Council Districts: District - 9 (Councilor: John Hilliard)

Zoning Outline: D3

Demolition Quadrants: DEM Quadrant - 3

Impaired Watersheds: Impaired Watershed - Upper Village Creek

Strategic Opportunity Area: Not in Strategic Opportunity Area

RISE Focus Area: In RISE Focus Area

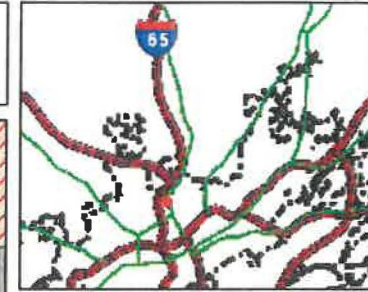
Tax Delinquent Property: Not in Tax Delinquent Property

EPA Superfund: Not in EPA Superfund

Opportunity Zones: In Opportunity Zones

Judicial Boundaries: JEFFERSON

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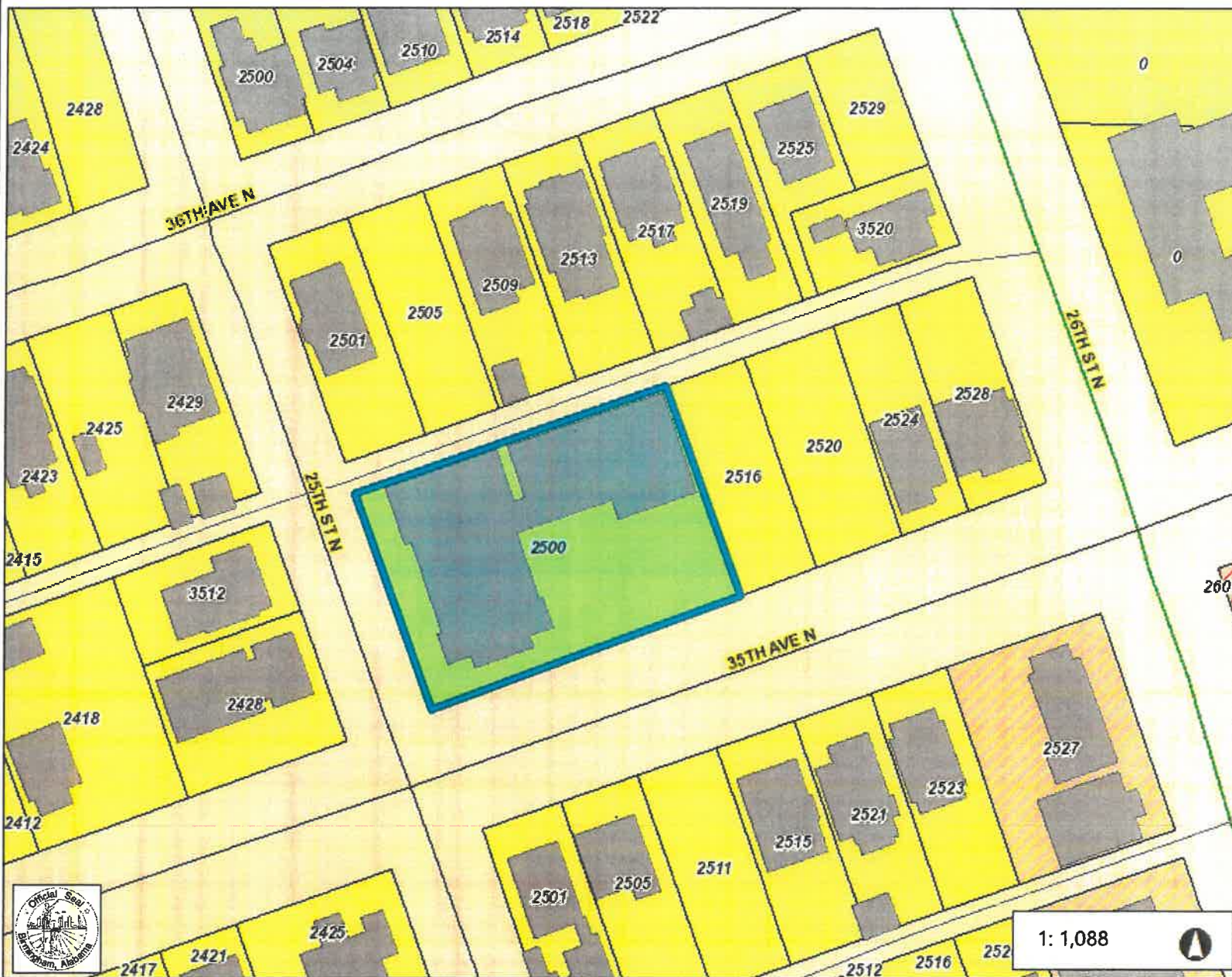
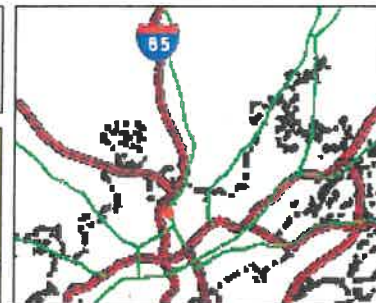


181.3 0 90.66 181.3 Feet

1: 1,088



Notes



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



1: 1,088



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Notes



1324 4th Avenue N. Bessemer, Ala. 35020
 (205)436-2107 alabamastemeducation@gmail.com
www.alabamastemeducation.org

Event: I approve of the Daycare Sign on the building!

Sign In Sheet

First Name	Last Name	Phone	Address
Juanita	Browning	205 2524696	2515 35 Ave North
Dejuan	Browning	205 2604985	2515 35 Ave North
Barbara	Jalisco	(205)201-444	2514 - 35th Ave North
Lorenzo	Jones	205 413 5096	2523 35 Ave North
Jamall	Hill		2501 35 Ave North
Galvin	Wetherspoon	205 5631737	2421 35 Ave North
Demo	Han	205 5026726	2411 35 Ave North
Robert	Funish		2401 - 34 Ave North
Willie	McGee	205-810-2457	34th 2409 Ave North
Noelie	Allen	205-228-9630	2417 34th Ave N
Keulak	Osburn	205 2521485	2421-34 Ave North
Virginia	Crenshaw	205 543 0675	2428-34th Avenue N
Veronica	Crenshaw	205 543 1319	2428-34th Avenue N
Elvira Jordan	Jordan		2428-34th Avenue N
Will	Wilson	205-777-7200	2428-34 Ave N
Annie McLean	McLean	205 211 1920	2504 35th Ave North
Robert	McLean		2517 35 Ave North
Richard	Allen		2512 35 Ave North
Delois	Merrett		2506 34 Ave North
James	Stanley		2113 35th Ave N
Leroy	Gibson		2113 35th Ave N



22ND STREET NORTH

Existing Building

21 parking spaces (9'x18')

playground area

6\"/>

OUT

IN

35TH AVENUE NORTH

ALABAMA STEM EDUCATION ECLC SITE PLAN

110"



ALABAMA STEM EDUCATION



EARLY CHILDHOOD LEARNING CENTER

205-436-2107

www.alabamastemeducation.org
alabamastemeducation@gmail.com

120"

Qty 1
single sided
dibond

103" wide window



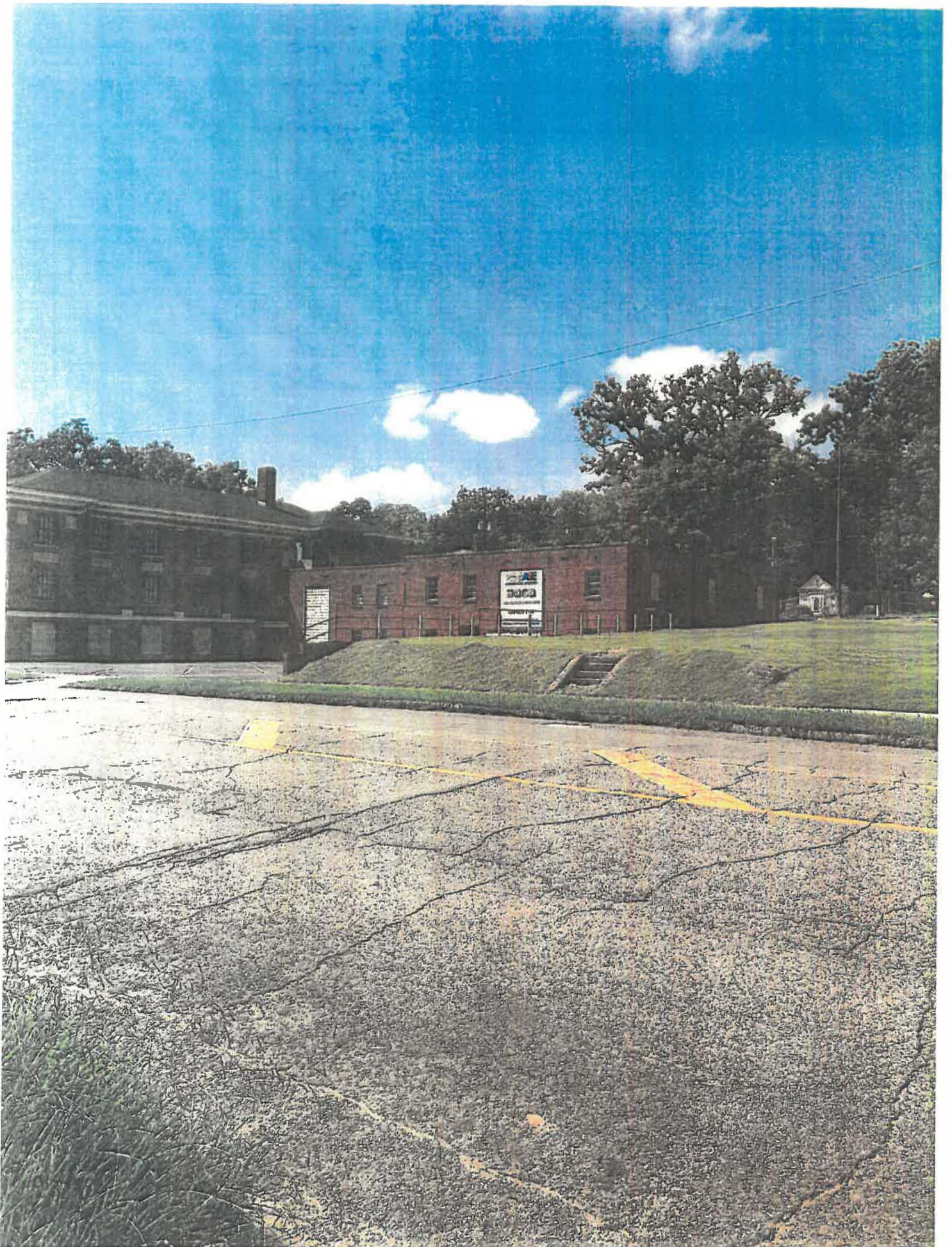














48"

ASE
ALABAMA STEM EDUCATION
ECLC
EARLY CHILDHOOD LEARNING CENTER
205-436-2107

96"

Qty 1
single sided
dibond

103" wide window

Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Redmont Park Staff Planner Moton ZBA2020-00045

Request: Variance to allow a 10ft rear yard setback instead of the required 25ft setback pursuant to Article VI, Title 1, Chapter 9, Section 4 and a variance to allow a 25ft front yard setback instead of the required established setback of approximately 60ft, in order to build two new single family residences pursuant to Article VI, Title 1, Chapter 9, Section 4

Applicant: William Perkinson
Owner: Henry & Miriam Little
Site Address: 4184 Highlands Cir
Zip Code: 35213
Description: Variance to allow a 10ft rear yard setback instead of the required 25ft setback and a variance to allow a 25ft front yard setback instead of the required established setback of approximately 60ft, in order to build two new single family residences

Property Zoned: R-3 Single Family District
Parcel Information: Parcel #: 012300324008015012, SE of Section 32, Township 17 S, Range 2 W

Variance:

Variance to allow a 10ft rear yard setback instead of the required 25ft setback and a variance to allow a 25ft front yard setback instead of the required established setback of approximately 60ft, in order to build two new single family residences

Neighborhood Meeting:

The Redmont Park Neighborhood Association voted in support of the request; there are citizen opposed to the request. **Please see attached.**

Public Notices:

Public notices were mailed on August 19, 2020

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet. **Please see attached.**

Staff Analysis:

The subject property located at 4184 Highlands Cir is zoned R-3, Single Family District. The applicant is requesting an extension of the variance granted per case number ZBA2017-00038. The applicant did complete condition 4, submission to the SUB committee to subdivide the current parcel into three (3) lots. You will see the recorded survey attached.

The applicant does meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has provided sufficient evidence to support the variance request. Therefore, staff believes the request has 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 a certificate of occupancy with the approval of this variance within 36 months from the date of approval.
3. Provide written approval recorded at the probate office from Traffic engineering of Adequate ingress and egress for the dwelling units.

William Perkinson
for Mr. & Mrs. Henry Little
4184 Highlands Circle
Birmingham, Al 35213

Dear Ms. Moton,

08/06/2020

I am the Applicant for this variance on behalf of the owners, Henry and Miriam Little. They are requesting a variance on two lots for a front setback of 25 feet off Morningside Drive and a rear setback of 10 feet. The Littles applied for and received this same variance 3 years ago. Unfortunately, due to health concerns and other issues, they were not able to move forward and that variance expired. Mr. Little is 81 years old and suffered from polio as a child. He is disabled and needs a home with no steps and more handicapped accessibility.

This property was once part of a much larger plot, Lot 12B of the Redmont Highlands subdivision, now called Highlands Circle. Three years ago, it was successfully subdivided into 3 lots, 12B-1, 12B-2 and 12B-3. The owners still live in their home on Highlands Circle, lot 12B-1. The back of the Little's house and some of the other houses on Highlands Circle back up to Morningside Drive and are set back 60 feet. Because the new lots came from the existing subdivision, they are required to have a front setback of 60 feet off Morningside Drive. The other houses in this neighborhood that front Morningside Drive and have a setback of 25 feet. We are asking for a variance that gives this property the same front setback of 25 feet.

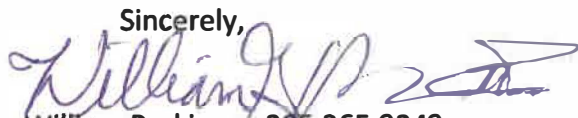
These two lots are situated 39 feet below the street level of the Highlands Circle neighborhood and are 20 feet above the parking lot for the adjacent property. The topography separates the lots from both pieces of land, visually they stand alone.

There is a 20-foot-wide sanitary sewer easement running through the property. Because of this easement, the build site must be pushed far back on the lot. The rear of the property faces the Morningside Condominiums, located in the City of Mountain Brook. The condominium building is over 100 feet from the proposed new construction. The condominium parking lot and a Mountain Brook city street are both located in the 100 foot separation. We are requesting a variance for a rear setback of 10 feet off of the rear property line.

The owners presented Birmingham Traffic and Engineering the site plan showing a shared common driveway for the property. They approved the common driveway with the caveat that it be located directly across from Timberlane Drive. This was for the safety of the owners and cross traffic when pulling in and out of their property.

Thank you for your time and consideration of this request for the 25-foot front setback and the rear 10-foot setback.

Sincerely,



William Perkinson 205.365.9249

Physical Characteristics of the Property.

The two lots are irregularly shaped, one is narrow and the other is shallow. There is a steep hill that forces the proposed build site to the rear of the property. The elevation change from the existing house on Highlands circle, down to the proposed building site, is 39 feet. Because the land was originally part of the Highlands Circle neighborhood and those houses have their back doors facing Morningside Drive, the proposed new construction is subject to a 60 feet front setback.

The owners are asking for a variance releasing them from the 60 feet setback and be treated like the neighboring houses on Morningside Drive, subject to a more customary 25 feet setback from the street.

Unique Characteristics.

The topography separates this piece of property from its neighbors on the left and right side, visually they stand alone.

There is a 60-foot elevation change between the existing construction on Highlands Circle and the Morningside Condominiums. These two lots are situated on a large flat area that was once part of the Birmingham Mineral Railway railroad bed. The build site is 40 feet below the street level of the Highlands Circle neighborhood and are 20 feet above the parking lot for the adjacent property.

The property has a 20 feet wide sanitary sewer easement running through it. This severely limits the build site to a small portion of the property. The owners are requesting a variance that will allow them to have a 10 feet rear setback. There is over 100 feet between the proposed new construction and the existing Morningside Condominiums and there is a 20 feet elevation change from the proposed build site down to the condominium.

Hardship Not Self-Imposed.

The property has a 20 foot wide sewer easement with a sewer main buried 12 feet deep running the length of the property. This produced a hardship during the planning and placement of the proposed new construction on the property because it severely limited the buildable footprint. If the 20 foot wide sewer easement were not present, these variance requests may not have been necessary. The presence of the sewer easement makes it impossible to build on the property without requesting these variances.

Financial Gain Not Only Basis.

The husband and wife owners of the property are 81 and 78, respectively. The husband had polio as a child and is disabled. They want to build a new home on their land that will better accommodate his handicap and their age-related special needs.

No Injury to Neighboring Property.

Granting a variance for this property will in no way impair the use or enjoyment of any neighboring property. The building site is 39 feet below the houses on Highlands Circle and 20 feet above the Morningside Condominiums which are located in the city of Mountain Brook. There are over 100' feet between the proposed new house and the condominium building. The topography isolates this property from the Highlands circle houses above and the condominiums below. There are no houses directly across the street from this property.

The neighboring property values will be increased by having two new houses valued at over \$600,000 apiece. These new houses will help to increase the property values of all the houses in this neighbor.

No Harm to Public Welfare.

The City of Birmingham Traffic and Engineering Department has approved the location of the proposed shared driveway for the two houses. The owners were asked to move the driveway to be directly across from Timberlane Drive so as to promote safety. Morningside Drive is wide at this section and has curbs and a sidewalk. The use of which will not be diminished by the proposed new houses.

ZONING BOARD OF ADJUSTMENT

CITY OF BIRMINGHAM


CASE NO.: ZBA2017-00038 Redmont Park
APPLICANT: WILLIAM PERKINSON
OWNER: HENRY & MIRIAM LITTLE
SUBJECT: Variance to allow a 10ft rear yard setback instead of the required 25ft setback pursuant to Article VI, Title 1, Chapter 9, Section 4 and a variance to allow a 25ft front yard setback instead of the required established setback of approximately 60ft, in order to build two new single family residences pursuant to Article VI, Title 1, Chapter 9, Section 4.
PREMISES: Located at 4184 HIGHLAND CIRCLE 35213; LOT 12-B RES PT REDMONT HIGHLANDS 163/33; and situated on Parcel #: 012300324008015012, SE ¼ of Section 32, Township 17 S, Range 2 W

BE IT RESOLVED by the Zoning Board of Adjustment of the City of Birmingham, Alabama, that the application of William Perkinson, applicant, representing Henry and Miriam Little, owners for a variance to allow a 10ft rear yard setback instead of the required 25ft setback pursuant to Article VI, Title 1, Chapter 9, Section 4 and a variance to allow a 25ft front yard setback instead of the required established setback of approximately 60ft, in order to build two new single family residences pursuant to Article VI, Title 1, Chapter 9, Section 4. for property located at 4184 Highland Circle 35213 situated on Parcel #: 012300324008015012, SE ¼ of Section 32, Township 17 S, Range 2 W according to the Surveyor's Certificate or drawing accompanying the application and marked, "RECEIVED JUNE 8, 2017," according to the Zoning Board of Adjustment, Case No. ZBA2017-00038 be, and the same hereby is **GRANTED** subject to:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Applicant must obtain a certificate of occupancy with the approval of this variance within two years from the date of approval.
3. Provide written approval from Traffic Engineering of adequate ingress and egress for the dwelling units.
4. Submission to the Subdivision Committee to subdivide the current parcel into three (3) lots.

I, W. Thomas Magee, Technical Advisor to the Zoning Board of Adjustment of the City of Birmingham, do hereby certify that the above is a true and correct copy of a Resolution duly adopted by the Zoning Board of Adjustment of the City of Birmingham at its meeting of June 8, 2017, and as same appears of record in the Official Minutes of said Board.

GIVEN UNDER MY HAND AND OFFICIAL SEAL of the Zoning Board of Adjustment of the City of Birmingham, on this day, June 9, 2017.


W. Thomas Magee
Chief Planner

CITY OF BIRMINGHAM
DEPARTMENT OF PLANNING, ENGINEERING & PERMITS

WILLIAM A. BELL, SR.
MAYOR

730 - 20TH STREET NORTH
ROOM 210 CITY HALL
BIRMINGHAM, ALABAMA 35203

ANDRE V. BITTAS
DIRECTOR

SUB2017-00039

Redmont Park

Description: A request for approval of a final plat resurveying 1 lot into 3 lots called RESURVEY LOT 12B REDMONT HIGHLANDS
Applicant: WILLIAM PERKINSON
Owner: HENRY & MIRIAM LITTLE
Premises/Geographic: 4184 HIGHLANDS CIRCLE
Parcel Information: 012300324008015012
Property Zoned: R3 Single Family District
Proposed Use: Residential Single Family Attached

BE IT RESOLVED by the Subdivision Committee that the hereinabove described Final Plat is hereby APPROVED subject to the applicant revising the Final Plat to show the location, width and purpose of any easements recommended by the City Engineer and the following:

- 1) Completion of all requirements relative to Fire Department access and sufficient hydrant installation and coverage
- 2) All sidewalks, driveways and curb cuts must be done in accordance with the guidelines set forth in Article 5 - Design Standards of the City of Birmingham Subdivision Regulations.

STATE OF ALABAMA
JEFFERSON COUNTY

I, W. Thomas Magee, Technical Advisor to the Birmingham Planning Commission, do hereby certify that the above is a true and correct copy of a Resolution duly adopted by the Subdivision Committee of the Birmingham Planning Commission at its meeting held 6/14/2017 and the same appears of record in the Official Minutes of said Committee.

GIVEN UNDER MY HAND AND OFFICAL SEAL of the Birmingham Planning Commission this day, June 16, 2017.



W. Thomas Magee
Chief Planner

PARCEL ID: 012300324008015012

SOURCE: TAX ASSESSOR RECORDS **TAX YEAR:** 2019

DATE: Friday, August 21, 2020 1:00:21 PM

OWNER: LITTLE HENRY H JR (D) & LITTLE

ADDRESS: 4184 HIGHLANDS CIR

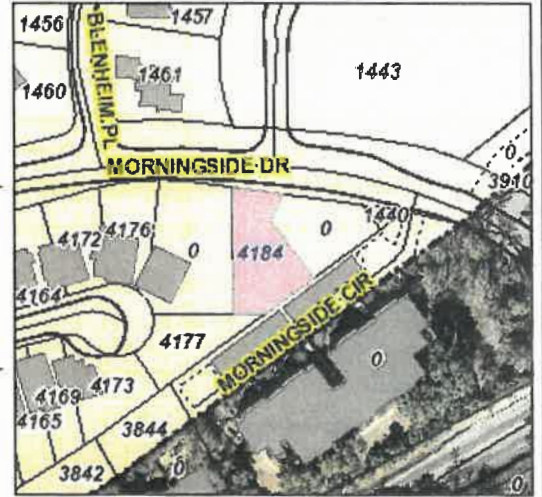
CITY/STATE: BIRMINGHAM AL

ZIP+4: 35213--2800

SITE ADDR: 4184 HIGHLANDS CIR

CITY/STATE: BHAM, AL

ZIP: 35213



LAND: \$174,300.00

BLDG: \$0.00

OTHER: \$0.00

AREA: 8,276.83

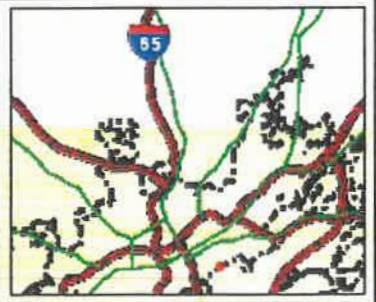
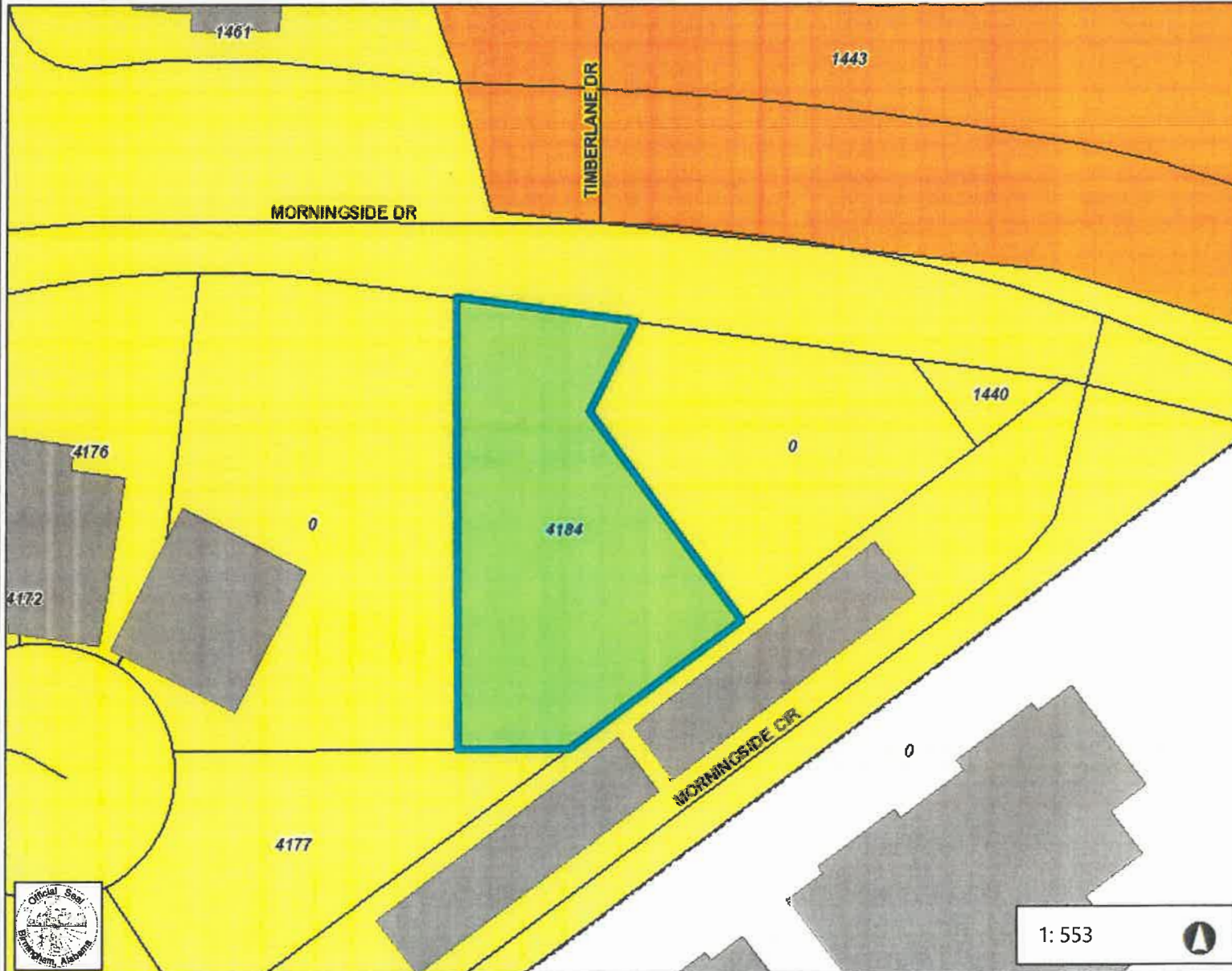
ACRES: 0.19

SUBDIVISION INFORMATION:

NAME REDMONT HIGHLANDS LOT12B	BLOCK:	LOT: 12B-
--------------------------------------	---------------	------------------

- Section:** 32-17-2W
- Land Slide Zones:** Not in Land Slide Zones
- Historic Districts:** Not in Historic Districts
- Commercial Revitalization District:** Not in Commercial Revitalization District
- Fire District:** Not in Fire District
- Flood Zones:** Not in Flood Zones
- Tax Increment Financing District:** Not in Tax Increment Financing District
- Neighborhoods:** Redmont Park (1403)
- Communities:** Red Mountain (14)
- Council Districts:** District - 3 (Councilor: Valerie A. Abbott)
- Zoning Outline:** R3
- Demolition Quadrants:** DEM Quadrant - 3
- Impaired Watersheds:** Impaired Watershed - Upper Shades Creek
- Strategic Opportunity Area:** Not in Strategic Opportunity Area
- RISE Focus Area:** Not in RISE Focus Area
- Tax Delinquent Property:** Not in Tax Delinquent Property
- EPA Superfund:** Not in EPA Superfund
- Opportunity Zones:** Not in Opportunity Zones
- Judicial Boundaries:** JEFFERSON

Parcel mapping and description information is obtained from the Jefferson County Tax Assessor's Office. This site does not provide real-time information and may contain errors. All data should be verified with the official source. The City of Birmingham makes no warranty as to the accuracy of the data and assumes no responsibility for any errors. Data from the Tax Assessor's Office may not be available for all parcels.

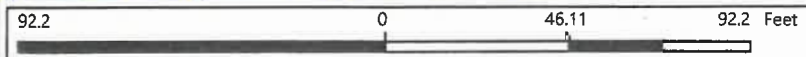


Legend

- Centerline Labels
- + Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
 - Limited Access
 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Zoning Shaded
 - R1; D1 - Single Family District - Cla
 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District

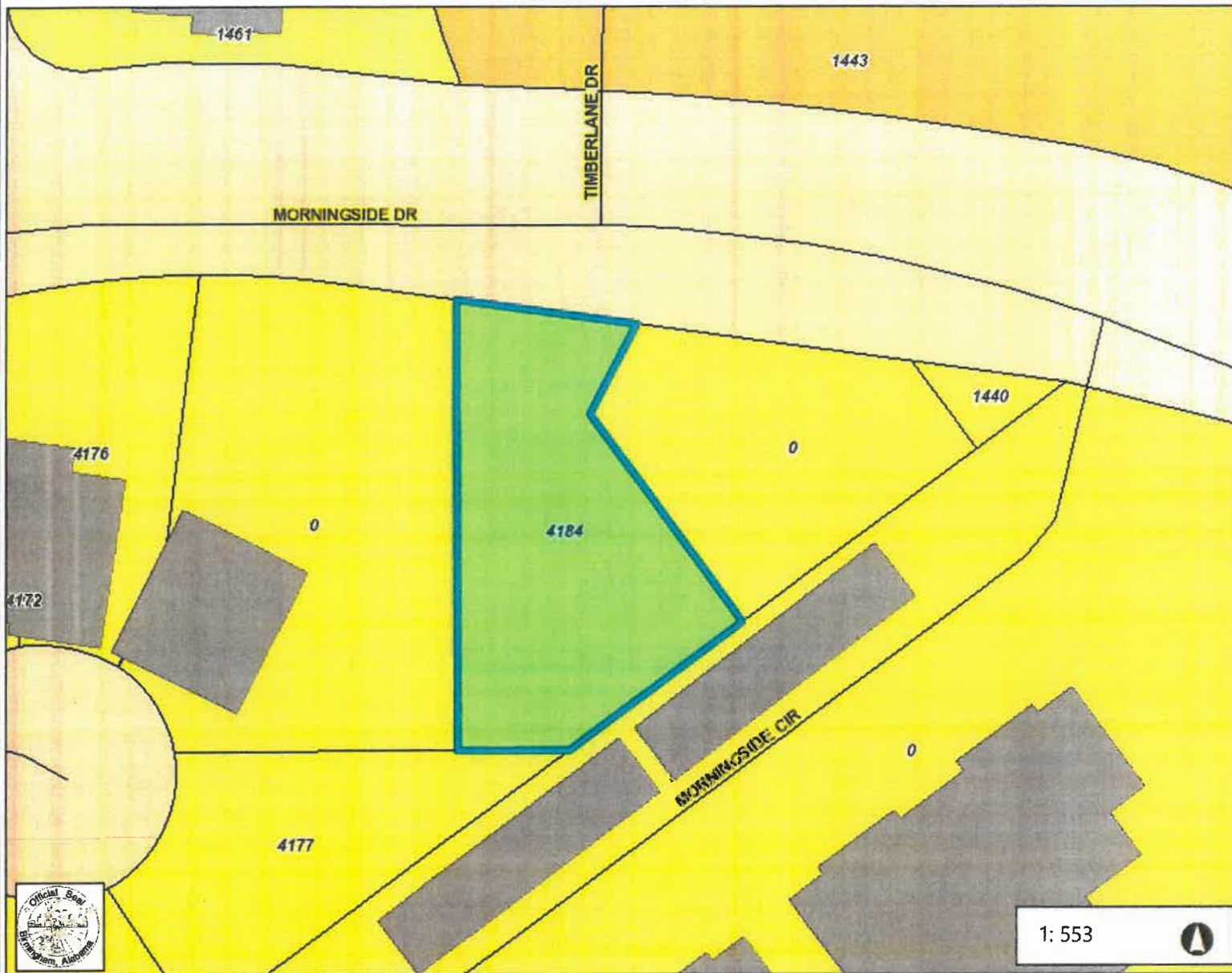
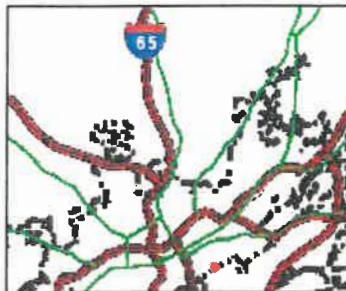


1: 553



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

Notes



Legend

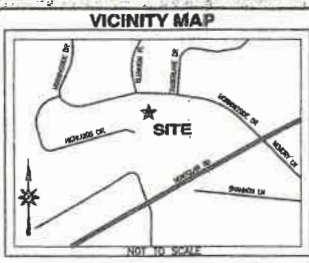
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- US Highways
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 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Adopted LandUse Plan
 - Residential-Low
 - Residential-Medium
 - Residential-High
 - Neighborhood Commercial
 - General Commercial
 - MXU-Low
 - MXU-Medium
 - MXU-High

Notes



92.2 0 46.11 92.2 Feet

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North arrow and bearings shown herein are based on Transverse Mercator Projection - Alabama West Zone - NAD 83 adjusted 2011. Using Global Positioning System (GPS) and derived by static observation, using Base Station, Registration: AL 30 CORS ASB, PD 082226, Combined Factor: 0.99995428, Convergence Factor: 10.21 20.8



STATE OF ALABAMA
JEFFERSON COUNTY
I, the undersigned, a Notary Public in and for said county and State, do hereby certify that David S. Shubert, whose name is signed to the foregoing certificate on Schedule B, and who is known to me, acknowledged before me on this date that, after having been duly informed of the contents of said certificate, he executed the same voluntarily with full authority thereto.
Given under my hand and seal this 22nd day of JUNE, 2017.
Michael W. Justice
Notary Public

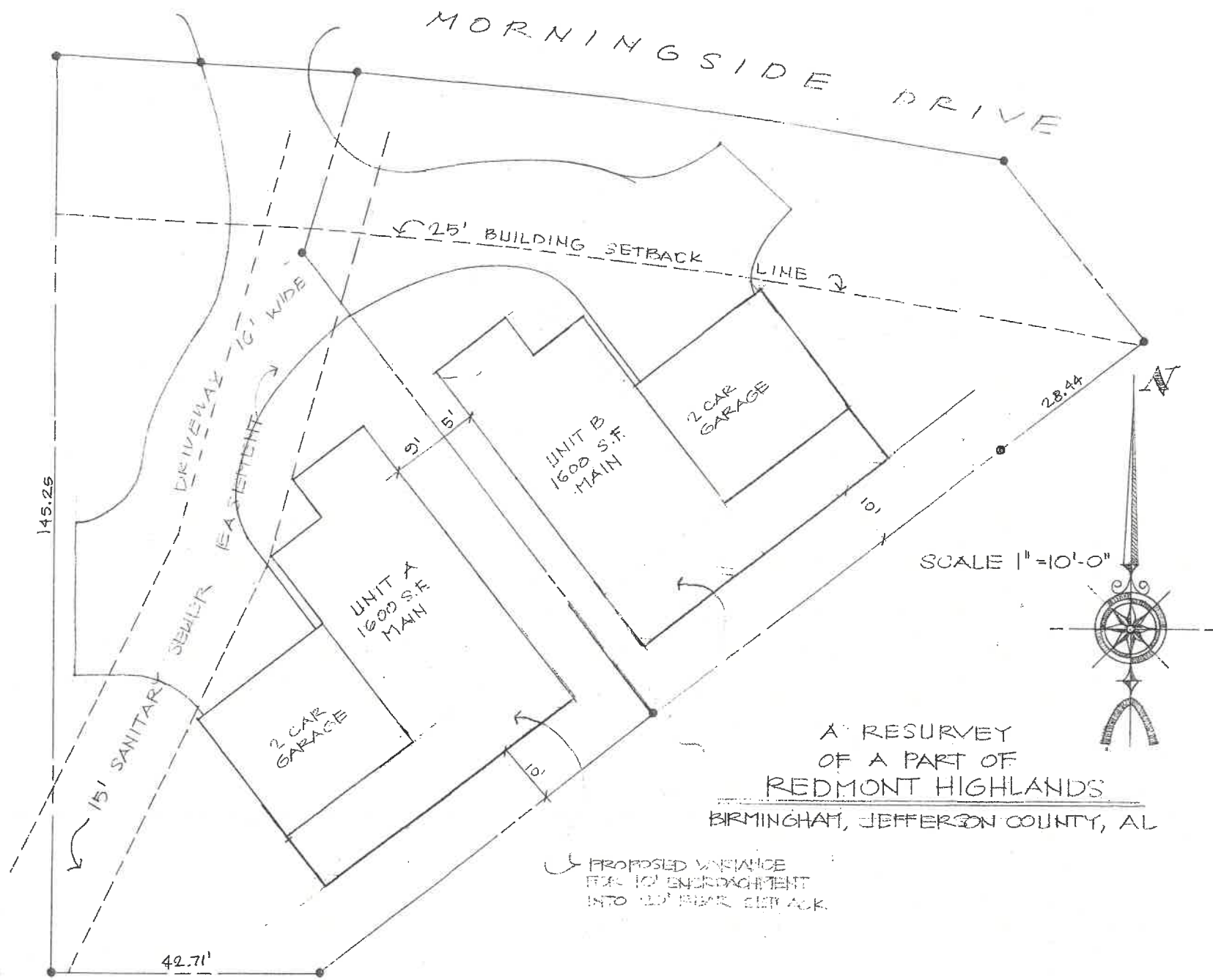


STATE OF ALABAMA
JEFFERSON COUNTY
I, the undersigned, David S. Shubert, a Professional Land Surveyor of the State of Alabama, do hereby certify that I have been duly informed of the contents of said certificate, he executed the same voluntarily with full authority thereto.
Given under my hand and seal this 22nd day of June, 2017.
David S. Shubert
Professional Land Surveyor

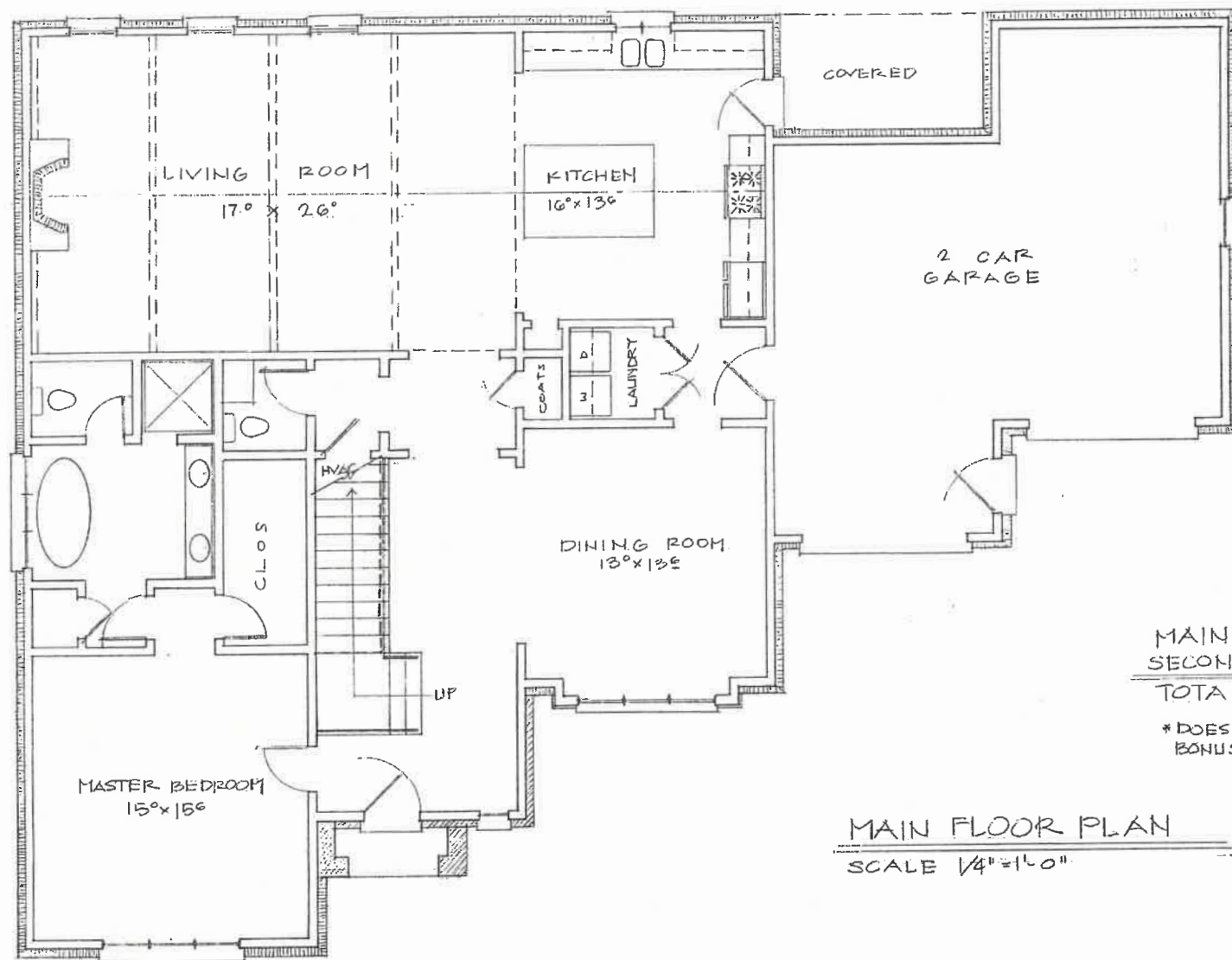


CURVE TABLE

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1+20.00	S 89° 57' 42" W	10.00	180.00	10.00
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16+60.00	S 89° 57' 42" W	10.00	180.00	10.00
16+70.00	S 89° 57' 4			



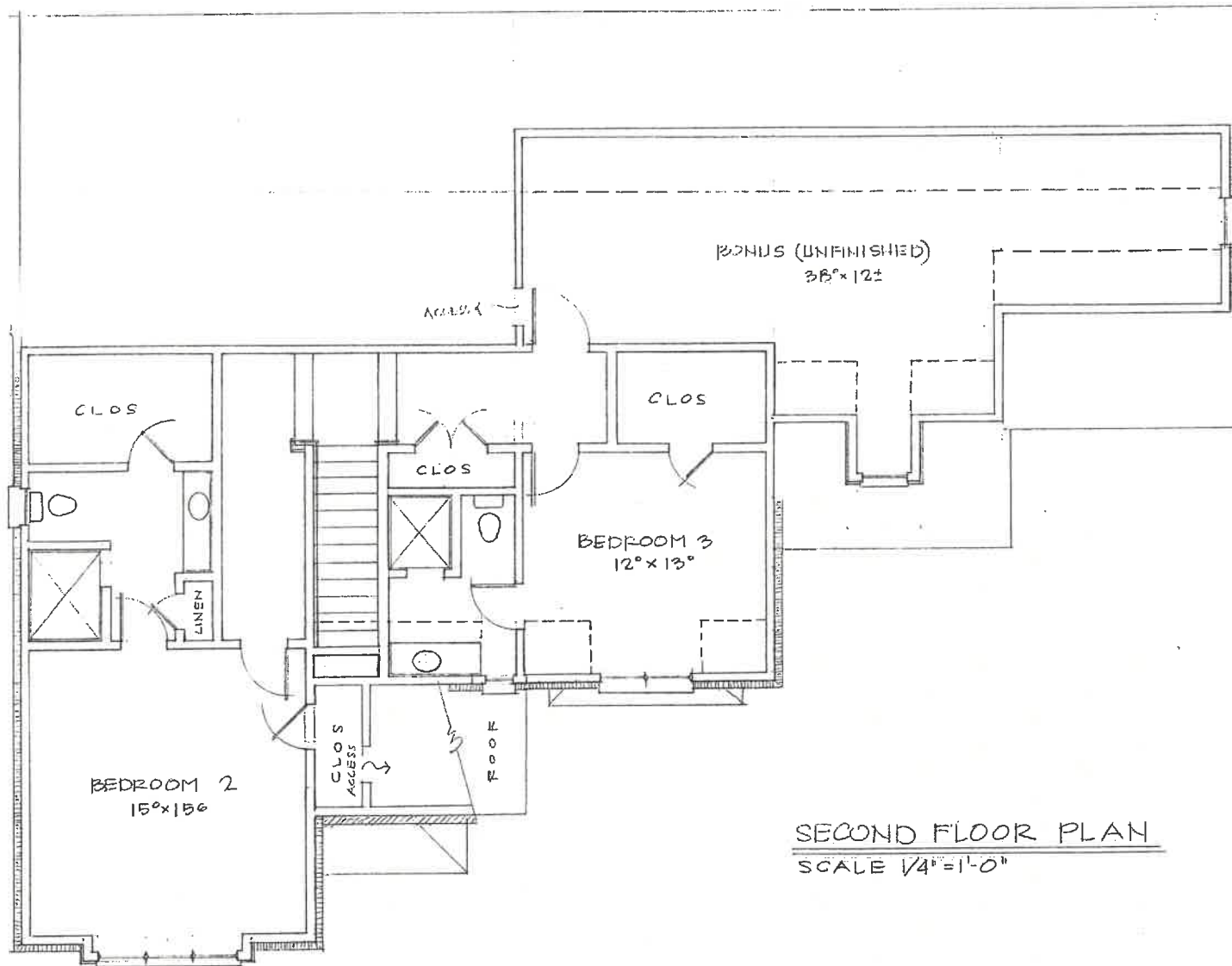




MAIN	APPROX 1,780 S.F.
SECOND	570 S.F.
TOTAL*	2,750 S.F.

* DOES NOT INCLUDE GARAGE OR BONUS ROOM

MAIN FLOOR PLAN
SCALE 1/4" = 1'-0"



SECOND FLOOR PLAN
SCALE 1/4"=1'-0"

MARGARET W. GRUBB
4173 HIGHLANDS CIRCLE
BIRMINGHAM, AL 35213
mwgrubb@msn.com

H – 205 591 8388 C – 205 422 9996

September 17, 2020

VIA EMAIL: Angelica.Moton@birminghamal.gov

City of Birmingham Zoning Board of Adjustment
c/o Angelica Moton, ZBA Planner
710 20th Street North, Room 220 City Hall
Birmingham, AL 35203

RE: Zoning Board of Adjustment Case #2020-00045
Public Hearing September 24, 2020 – 2:00PM

Gentlemen:

My name is Margaret Grubb and I along with my sister, Katherine G. Coleman, own the property located at 4177 Highlands Circle which is adjacent to the property requesting the variance, 4184 Highlands Circle. I wish to thank the Zoning Board of Adjustment for the opportunity to present my position on the above referenced Case #2020-00045.

As background, the Highlands Circle subdivision was created in 1988/89 by moving a portion of Red Mountain down and bringing in landfill to create thirty-two (32) single family residential lots. Only thirty-one (31) houses were built including mine at 4173 Highlands Circle. My lot, 4177, was not a buildable lot and was left vacant and where the storm drain was located to handle the water runoff from the street. This water runoff is deposited at the bottom of the lot in an open drainage ditch which flows behind my house at 4173 and the other houses on the southside of Highlands Circle; many of which have had foundation work.

The undeveloped land at the bottom of 4184 Highlands Circle, the proposed property to be developed, acts as an absorption point for all the water which naturally flows down Highlands Circle not funneled thru the storm drain as well as additional drainage coming from Red Mountain. If the variance for the property is approved and the two houses allowed to be built this land will no longer be available to absorb the water runoff and more water will flow onto my lots compromising the landfill where I am located.

Furthermore, about 30%+ of my property was clear-cut without my permission which I discovered when I had a sight line installed between 4177 and 4184 by Weygand Surveyors on Wednesday, September 9, 2020. Weygand had originally

surveyed 4177 Highlands Circle in July 2017. The encroachment on my property resulted in the loss of four trees which were cut down when the bottom of lot 4184 was cleared in 2017 after my survey was conducted. An aerial photograph of 4177 Highlands Circle is attached.

I do not think that enough consideration has been given by the city, the property owners, Miriam & Henry Little, or Mr. Perkinson to the ramifications of the drainage problems created by eliminating the undeveloped land located at the bottom of 4184 Highlands Circle. This is evidenced by the lack of respect for the natural bird sanctuary that was destroyed by clearing the land as well as the damage to my property. Therefore, I respectfully request the Zoning Board of Adjustment to deny the variance change.

Yours truly,

Margaret W. Grubb

Measure Details Print Share



4184
Parcel
County
City
Street
Parcel
District
Court
ESB
Street
Street
R

nces

**Variance Extension Request
ZBA2020-00045
of ZBA2017-00038**

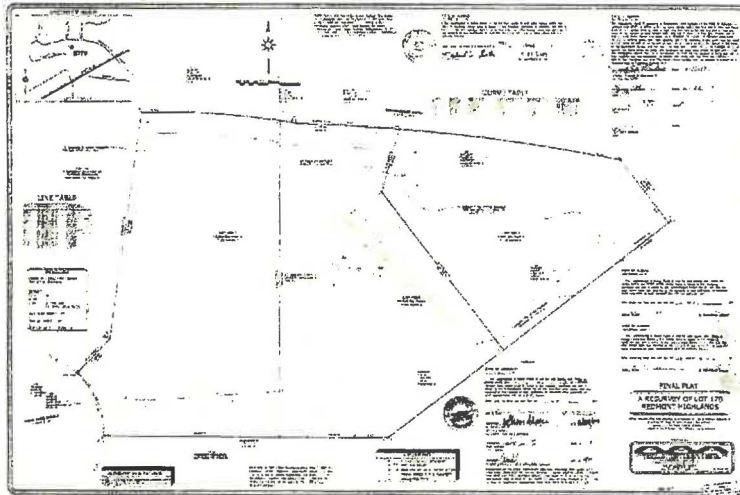
**Respectfully Request the Variance Extension to be
Denied by the Zoning Board of Adjustments.**

Kirk Epstein – Owner Unit 206 Morningside Circle

No Proper Notice Given

- The Condominium owners were not notified of the ZBA2017-00038 Hearing in 2017. According to the City of Birmingham City Code, and the Zoning Board of Adjustment Enabling Legislation, the adjacent landowners must be properly notified of variance hearings, which we were not.
- The Condominium Owners were not notified or aware of the Redmont Park Neighborhood meeting where ZBA2017-00038 and/or ZBA2020-00045 were presented in order to object to the variance request.

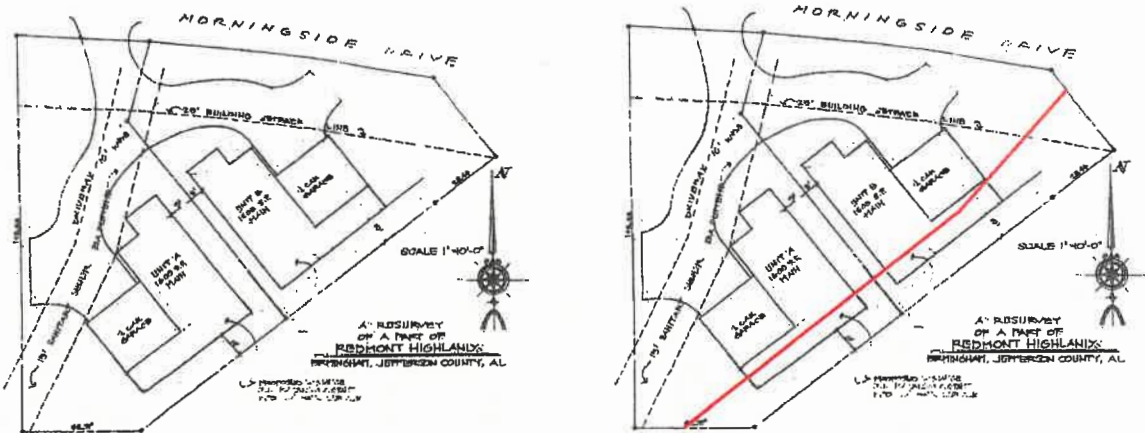
Survey Provided with 20' Sanitary Sewer Easement and Stormwater Easements.



Stormwater Concerns Stormwater Management

- The previous survey had on record several Stormwater Easements. The survey provided to the ZBA also has Stormwater Easements. However, the submitted Site Plan provided does not indicate the Stormwater Easements, or the Stormwater Infrastructure.
- Contrary to information provided in the previous ZBA Meeting held 9/10/2020, the Site Plan or changes to the Stormwater Easement, the Stormwater Culvert, the Stormwater Pipe, or changes to the topography of the soil or movement of surface water were not approved of by the Jefferson County Environmental Services.
- Stormwater Easements and infrastructure are under the purview of the City of Birmingham Stormwater Management.
- The City of Birmingham Stormwater Management did not review the resurvey or the proposed site plan of ZBA2017-00038 or of ZBA2020-00045.

The proposed Site Plan does not note the Stormwater Easements, the Stormwater Culvert or the Stormwater Pipe, and the Site Plan has not been reviewed by the City of Birmingham Stormwater Management.



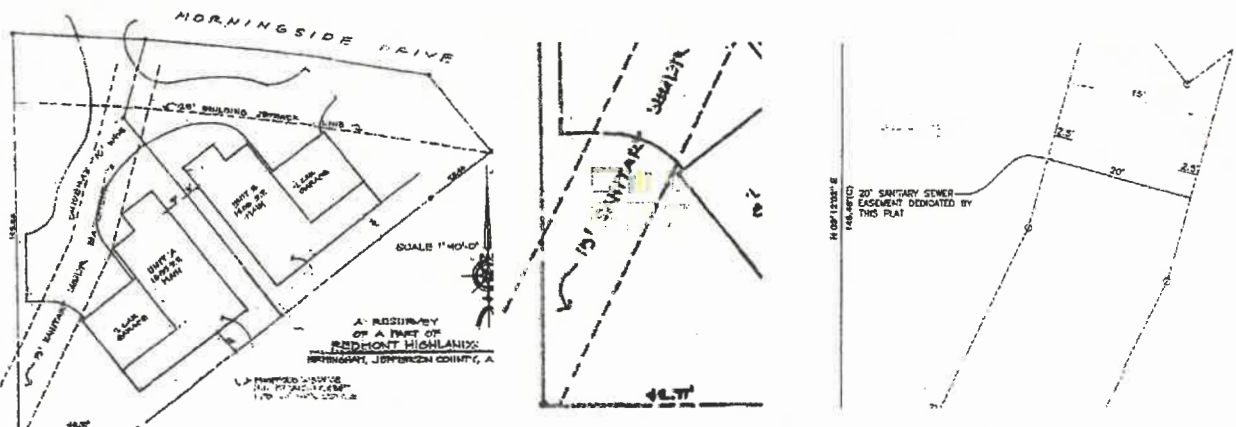
Stormwater Line and Dedicated Easement in footprint of proposed home construction.



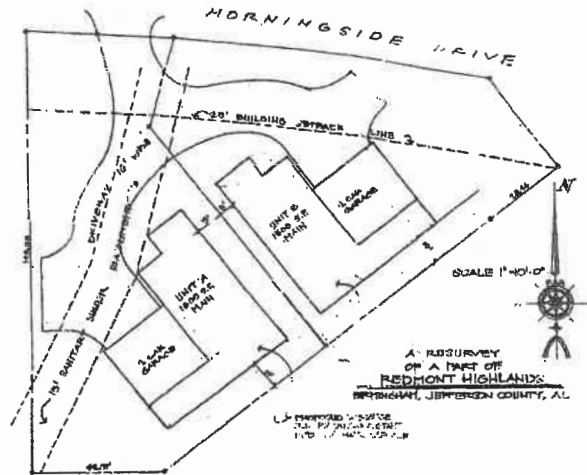
Stormwater Culvert and Dedicated Easement in footprint of proposed home construction.



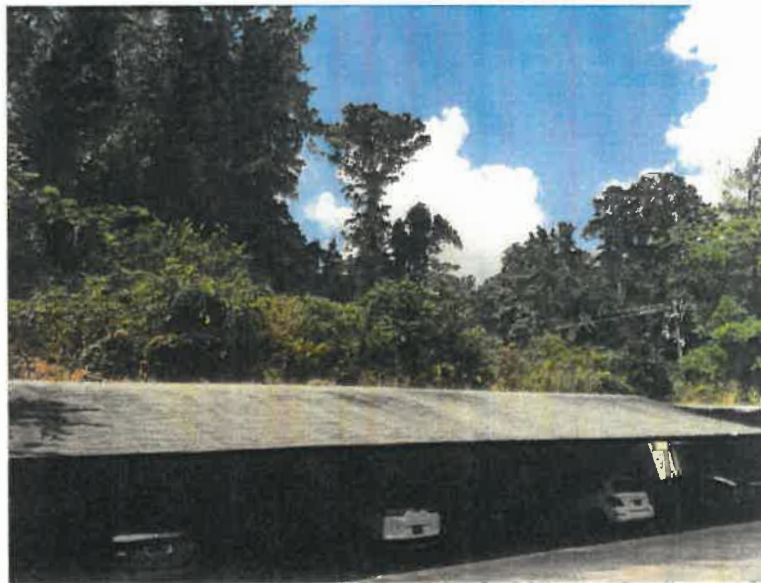
The proposed Site Plan has a 15' Sanitary Sewer Easement. However, the actual Sanitary Sewer Easement is 20'. According to Jefferson County Environmental Services, the Site Plan as presented is no longer valid.



The Proposed Permeable to Impermeable Surface Water Ratio at approximately 50% +/- will be Unacceptable and may cause water to buildup behind the retention wall or flow into the condominiums causing damage and unsafe conditions.



Condominium Retention Wall Concerns



The subject property and an adjacent lot (the Grubb's) appear to have been clear-cut and excavated sometime between 2016 and 2018. The City of Birmingham Stormwater Management does not have a record of reviewing a Permit for this action.

2016



2018

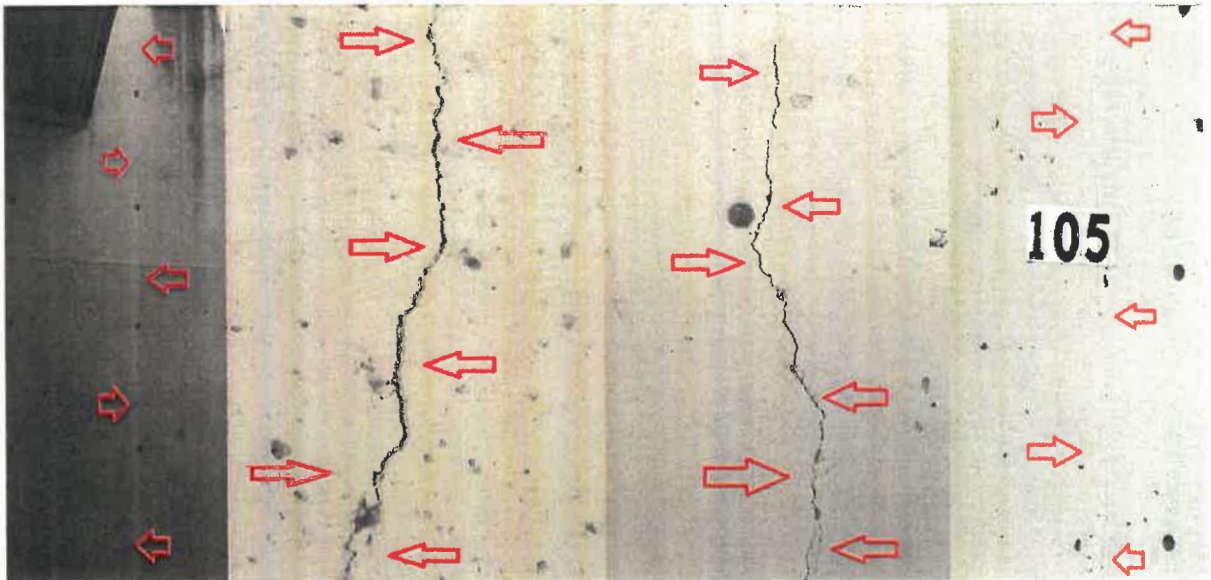


Rust Red Stained Discoloration to the Condominium Retaining Wall caused by sediment runoff after the trees and vegetation had been clear-cut and the soil exposed to rains emanating from the adjacent lots.



The Stormwater Sewer Line is between approximately 15' and 18' feet from the Condominium Retaining Wall. The Condominium Retaining wall supports the soil of the proposed building sites and the condominium wall has stress fractures and cracks. It is an unfair burden on the condominium to supply a wall that supports the Variance Requestor's residential project that may cause the retention wall to fail.

Small Sample of the Multiple Stress Cracks in the Condominium Retention Wall. Disturbing the soil and increased water pressure behind the Retention Wall may cause the wall to fail.



Unfair Increased Noise, decreased Privacy and decreased Property Values to the Condominium Owners due to the high elevation of the site with the requested close variance cause the sound to carry farther and louder. There will be no quiet privacy enjoyed by the condominium owners.



For the Reasons stated within this presentation, I humbly request the Variance Extension Request to be Denied by the Zoning Board of Adjustments.

**Respectfully,
Kirk Epstein**

To: The City of Birmingham Zoning Board of Adjustment

Re: Opposition to Requested Variance ZBA Matter# 2020-00045

Dear Sir or Madam:

The undersigned represent the individual condominium owners of the Morningside Condominiums located on Morningside Circle.

We hereby oppose the proposed variance requested in the matter before the ZBA, matter #2020-0045, which involves property adjacent to our homes and is seeking a variance on the required setbacks to the rear and front property lines on the adjacent property (the "Variance").

We do not consider the requested Variance to be compatible with our property, the existing neighborhood and community preferences. In short, the requested Variance fails to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community as required by Alabama law and the legal standards for granting variances set forth in the City of Birmingham's Zoning Ordinance do not exist in this matter.

Accordingly, we respectfully request that the ZBA deny the Variance in matter #2020-00045 set for hearing on September 24, 2020 and further request an opportunity to speak and be heard at such hearing.

Very Truly Yours

Karen Pierce
Signature
Karen Pierce
Printed Name
204 Morningside Circle
Address
Birmingham, AL 35213

Diana Abge
Signature
Diana Abge
Printed Name
204 Morningside Circle
Address

Kay Teschner
Signature
Kay Teschner
Printed Name
306 Morningside Cr
Address
35213

Wanda R. Strum
Signature
WANDA R. STRUM
Printed Name
304 Morningside Cir.
Address
35213

Jamie Teschner
Signature
Jamie Teschner
Printed Name
306 Morningside Cr
Address
35213

Doris Wagoner
Signature
Doris Wagoner
Printed Name
105 Morningside Circle
Address
35213

S Sheila Sugarman
Signature
SHEILA SUGERMAN
Printed Name
103 Morningside Circle
Address
Birmingham Al. 35213

Engina Greer POA for Kathleen Watkins
Signature
KATHleen Watkins
Printed Name
305 Morningside CR
Address
35213

Wayne Turner
Signature

WAYNE TURNER
Printed Name

307 Morningside Circle
Address
Bham, AL 35213

Virginia Z. Clark
Signature

Virginia Z. Clark
Printed Name

101 Morningside Cir.
Address

Virginia Z. Clark
Signature

Virginia Z. Clark
Printed Name

307 Morningside Circle
Address
Bham, AL 35213

Jane Henderson
Signature

Jane Henderson
Printed Name

104 Morningside Circle
Address
Bham 35213

Nancy Stephens
Signature

Nancy Stephens
Printed Name

102 Morningside Circle
Address

Ann Derby
Signature

Ann Derby
Printed Name

201 Morningside Circle
Address

Jean Padalino
Signature

Jean Padalino
Printed Name

205 Morningside Circle
Address

Jean Rich
Signature

Jean Rich
Printed Name

207 Morningside Circle
Address
Birmingham, AL 35213

Marjorie S Williams

Signature

MARJORIE WILLIAMS

Printed Name

203 MORNING-SIDE CIRCLE

Address

BIRMINGHAM, AL 35213

Bryna Martinez

Signature

Bryna Martinez

Printed Name

206 Morningside Circle

Address

Birmingham, AL 35213

Susan W Morrow

Signature

Susan W Morrow

Printed Name

303 Morningside Circle

Address

Birmingham, AL 35213

Signature

Printed Name

Address

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Printed Name

Address

MORNINGSIDE CONDOMINIUM ASSOCIATION MEMORANDUM IN OPPOSITION TO REQUEST FOR VARIANCE BEFORE BIRMINGHAM ZONING BOARD OF ADJUSTMENT CASE #2020-00045

TO: Calvin Abrams
Angelica Moton
Morris Newman
Gary Nash
Lenus Perkins
Henry Penick
Robert Littleton

INTRODUCTION:

The Morningside Condominium Association ("Morningside") submits this Memorandum opposing the petition for a variance before the Birmingham Zoning Board of Adjustment ("ZBA") in case #2020-00045 (the "Variance Request") and requests that the ZBA deny the Variance Request based upon the facts and information contained herein. This Memorandum is supported by a separate Petition of the individual Morningside Condominium owners also opposing the Variance Request.

FACTS:

Morningside Condominiums is a condominium complex located at 100 Morningside Circle in Birmingham, Al. The Morningside Condominiums and its parking lot are located directly adjacent to the property subject to the Variance Request (the "Property"). In the Variance Request, the Property at issue is elevated well above the Morningside Condominium's property (per the submission of the applicant to the ZBA, the elevation change down the Property to the proposed building site is 39 feet) which is typical of the topography in this area. Because of this slope between the 2 properties, there is an approximate 15 foot retaining wall between the 2 properties in order to protect the Morningside Condominiums' property from damaging water, mud and debris runoff (per the submission of the applicant to the ZBA, the proposed build site is 20 feet above the Morningside Condominium's parking lot).

The Variance Request provides that the current landowner sub-divided the Property into 3 new lots in 2017 and the applicant desires to build 2 residential homes on lots 12B-2 and 12B-3 and requests that 2 variances be granted, one to reduce the set-back line from 25 feet to 10 feet on the property line adjacent to the Morningside Condominiums and a second variance to reduce the set-back from 60 feet to 25 feet on the property line adjacent to Morningside Drive.

Morningside opposes the Variance Request for the following reasons:

1. The applicant' cannot establish the elements necessary under Alabama law and the Birmingham Zoning Ordinance to receive a variance;
2. The site plan showing the proposed homes submitted by the applicant as part of his Variance Request is defective in that the proposed development would encroach on the sanitary sewer easement and the storm water easement located on the Property; and
3. Granting the Variance Request would violate the Restrictive Covenants governing the Property.

Each of these reason are discussed in more detail below.

LEGAL ARGUMENT ESTABLISHING THAT THE VARIANCE REQUEST IS DUE TO BE DENIED:

A. THE APPLICANT CANNOT MEET THE REQUIREMENTS FOR A VARIANCE TO BE ISSUED

The Birmingham Zoning Ordinance requires strict application of zoning laws so the existing set-back lines are required to be enforced and not altered unless the applicant requesting a variance can show that such variance is not contrary to the public interest, will cause the applicant unnecessary hardship and the applicant can affirmatively prove that EACH of the following 6 requirements (the "Variance Requirements") are satisfied:

1. The 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;
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;
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;
4. Financial Gain Not Only Basis- Financial gain is not the sole basis for granting the variance;
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 with the area; and

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.

The applicant for the Variance Request states that the variance is needed due to the configuration of the lots making up the Property and due to a sanitary sewer easement (the "Easement") running through the applicable property. Specifically, the applicant states:

"There is a 20-foot-wide sanitary sewer easement running through the property. Because of this easement, the build site must be pushed far back on the lot. "

August 6, 2020 Submission of William Perkinson

The fact is that the applicant for the Variance Request simply cannot prove ANY of the required Variance Requirements necessary to justify the Variance Request, much less ALL of the Variance Requirements required by law and as such, the ZBA should deny the Variance Request.

Each of the required elements are discussed individually.

1. The Physical Characteristics of the Property – In applicant's submission addressing the elements for the Variance Request, the applicant states that the slope of the lots and the shape of the lots compromising the Property being "irregularly shaped" satisfy this first element. The applicant is simply wrong and does not tell the full story in his application.

It was the current landowner that sub-divided the Property in 2017 into what the applicant describes as "irregularly shaped" lots. That is, the current landowner caused and created the shape of the lots before the ZBA. As for the slope of the Property, driving through the area clearly shows that the Property is comparable to the properties in the surrounding area.

Notwithstanding the fact that the current landowner created the lots at issue, the applicant also claims that it is not just the physical characteristic of the property that is the issue. Rather, applicant also contends that one of the reasons he has submitted the Variance Request is because of the Easement that runs through the Property, the fact that the Property over the Easement cannot be developed and that this Easement requires the applicant to move the proposed development closer to the property line adjacent to the Morningside Condominium and over the existing set-back.

However, the Easement is not a physical characteristic of the Property but rather, an encumbrance that the owner of the Property agreed be placed on the Property and which the current owner bought subject to and with knowledge of its location. In fact, when the current landowner subdivided the Property in 2017, they appear to have actually increased the Easement from 15 to 20 feet.

Because the current landowner created the physical characteristics of the Property, created the existing 20 foot Easement and the Easement is NOT a physical characteristic of the Property, the applicant cannot establish this first Variance Requirement.

Additionally, the applicant has several other options rather than obtaining a variance to reduce the set-back requirements, namely:

a. The applicant could just reconfigure his proposed development so as to have only 1 residence on the Property or reduce the size of the 2 residences so as to comply with the existing set-back requirements; or

b. The applicant could pay to have the Easement relocated to run along the Property line as opposed to its current location which is through the middle of the Property.

2. Unique Characteristics Not Found in Properties in Other Areas – Contrary to applicant's assertion in its submission to the ZBA, the topography of the Property is comparable to the properties in the surrounding area, that is, the properties in the surrounding area also have slopes and varying elevations. In short, the Property is not unique from other properties in the area. Again, the applicant tries to equate the Easement with a property characteristic to satisfy this uniqueness element. As stated previously, the Easement is an encumbrance and not a property characteristic. Moreover, it is an encumbrance that was self-imposed by the owner of the Property and accepted by the current owner of the Property when it purchased the Property and subsequently sub-divided the Property. Because the Property is not unique, the applicant cannot establish this second Variance Requirement.

3. Hardship not Self-Imposed - The applicant, in his submission, lists the Easement as the hardship in an attempt to satisfy this element. What is telling is that the applicant does not address whether this hardship was self-imposed, and with good reason. This specific requirement provides that the hardship cannot have "... been created by the previous actions of any person having an interest in the property".

As stated previously, the current owner of the Property created the shapes of the lots in question through its sub-division in 2017. This sub-division plat also dedicated the 20 foot Easement at issue. It is clear that the alleged hardship was created by, and agreed to, by the owner of the Property, clearly someone with an "interest in the Property". Because the shape of the lots and the Easement, i.e. the hardship, was clearly caused by the owner of the Property, the applicant cannot satisfy this third Variance Requirement. To hold otherwise would allow a property owner to encumber his/her own property and then come before this ZBA claiming it as a hardship justifying a variance request.

4. Financial Gain Not The Only Basis – The applicant has submitted the Variance Request in order to build a residential structure on the 2 lots comprising the Property. The applicant in his submission attempts to establish that this development is not for financial gain by stating that the current landowners, a husband and wife, are 81 and 78, respectively, and that they want to build a new home to better accommodate the husband's handicap and both of their age related needs. However, this explanation by the applicant falls short for several reasons and does not satisfy this requirement.

a. These owners live in a house on a SEPARATE lot already which they could renovate to address their needs;

b. There is not 1 house proposed but 2 new homes. How does the existence of 2 new homes address a handicap and age related needs of this husband and wife?

c. The Conceptual Design submitted by the applicant in support of the Variance Request shows what appears to be a front elevation of a 2 story or a story and a half design for both houses. A design other than 1 story is clearly not in mind with a proposed homeowner facing a handicap and age related needs.

It is clear that the proposed development of the 2 lots making up the Property is not to address the landowners handicap and age related needs. Rather the proposed development is to sale the 2 homes on the open market, clearly for a Financial Gain and totally unrelated to the landowners needs. As such, the applicant fails to meet his burden and cannot establish this fourth Variance Requirement.

5. No Injury to Neighboring Property- The applicant in his Variance Request states that granting this Variance Request "will in no way impair the use or enjoyment of any neighboring property." First, the applicable standard is not whether it will impair the use of the neighboring property, but rather, whether it would cause injury to other property in the area. Granting this Variance Request will clearly cause injury to the Morningside Condominiums located adjacent to the Property.

When the variance request was approved in 2017 (without notice provided to Morningside as required for approval to be valid), the applicant cleared out some tress and underbrush from the Property. Just these actions alone caused additional water runoff, flooding and mud and debris to flow over the retaining wall onto the Morningside Condominium parking lot. Imagine the results from the full development as proposed by the applicant. Granting this Variance Request by reducing the building set-back from 25 feet to 10 feet will remove 15 feet of protective ground cover and vegetation that is necessary to absorb water and debris runoff in order to protect the Morningside Condominiums property. Without this natural 25 foot buffer, the water, mud and debris runoff will be changed from its normal pattern and flow to an increase in velocity and amounts right onto the Morningside Condominium property.

Additionally, there is a real concern on the status of the viability of the retaining wall as it currently stands if the Variance Request is granted. The retaining wall already has signs of cracking resulting from the stress of the Property. The proposed development with the Variance Request would only serve to put additional stress on the retaining wall.

The applicant has not submitted any reports addressing how the applicant would handle the increased runoff caused by his proposed development onto the Morningside Condominiums property nor the total impact of the additional stress placed on the existing retaining wall and what actions the applicant would take to ensure the retaining wall would be reinforced to ensure it could handle this additional development. The applicant's limited actions in 2017 caused damage to the Morningside Condominiums property. The full development proposed by the applicant would cause the Morningside Condominium owners to sustain even greater damages.

Because granting the Variance Request will cause injury to a Neighboring Property, the applicant cannot establish this fifth Variance Requirement.

6. No Harm to the Public Welfare- As shown in requirement 5 above, granting the Variance Request would cause injury to a Neighboring Property. When this additional run-off of water, mud and debris is directed onto the Morningside Condominium property it will eventually be directed elsewhere either to

other adjacent properties or into facilities that may not be equipped to handle the additional runoff. This clearly is against and likely to cause harm to the Public Welfare.

Because granting the Variance Request would cause harm to the Public Welfare, the applicant cannot establish this sixth Variance Requirement.

B. THE APPLICANT'S SITE PLAN IS DEFECTIVE

The Variance Request is also due to be denied because the proposed development submitted by Applicant is defective in that the proposed homes would still encroach upon the Easement even with the Variance Request granted and would also encroach on a Storm Water Easement running through the Property. Attached hereto as Exhibit "A" is a subdivision plat filed by the current landowner and recorded on July 5, 2017 in the probate records of Jefferson County, Alabama (the "Plat") showing the location and width of each these 2 easements on the Property.

1. Encroachment onto the Easement- The site plan showing the proposed homes on lots 12B-2 and 12B-3 submitted to the ZBA shows the Easement as a 15 foot sanitary sewer easement with the Easement line abutting against the proposed home on Lot 12B-2. As shown on the Plat, the Easement is actually 20 feet, not 15 feet, so the home proposed on Lot 12B-2 would encroach onto the Easement by several feet.

2. Encroachment onto Storm Water Easement- As shown on the Plat, there currently exists a Storm Water Easement running along the property line with the Morningside Condominiums to Morningside Drive. This Storm Water Easement ranges from 16.58-18.05 feet in width from this property line. The applicant fails to show the location of this Storm Water Easement on his site plan showing the proposed homes on lots 12B-2 and 12B-3. Because the applicant seeks to have these homes 10 feet from the property line, both of these homes would encroach onto the Storm Water Easement by 6.5 feet in some locations and potentially up to 8 feet in certain locations.

The site plan submitted by applicant is defective due to the proposed homes encroaching upon not only the Easement but the Storm Water Easement as well. Granting the Variance Request would actually serve to create these encroachments, and as such, this Variance Request is due to be denied.

C. GRANTING THE VARIANCE REQUEST WOULD VIOLATE RESTRICTIVE COVENANTS APPLICABLE TO THE PROPERTY

There are certain Restrictive Covenants recorded in Real Volume 3332 Page 614 in the Probate Records of Jefferson County, Alabama (the "Covenants"), a copy of which is attached hereto as Exhibit "B". The Covenants provide that it covers the property set forth in Map Book 152 Page 60 in the Probate Records of Jefferson County, Alabama (the "Map"), a copy of which is attached hereto as Exhibit "C". The Map shows the Property subject to the Variance Request as Lot 13. The Map further shows a total of 32 lots making up the subdivision.

Granting the applicants Variance Request would violate the Covenants governing the Property for several reasons.

1. Ingress and egress from Morningside Drive is not permitted under the Covenants- one of the requirements imposed by the ZBA for granting the Variance Request is for the applicant to provide written approval of ingress and egress for the dwelling units. Applicant attempts to satisfy this requirement by showing on the Plat a driveway to Lot 12B-2 and to Lot 12B-3 **from Morningside Drive**. This access from Morningside Drive violates the specific restrictions in the Covenants.

Section 2 of the Covenants provides, in pertinent part, as follows:

"INGRESS AND EGRESS RESTRICTION. There shall be permitted no ingress and egress to and from any lot directly from Morningside Drive. No lot which borders Morningside Drive shall be improved with any driveways or other means of access to or from any such lot directly from Morningside Drive."

The applicants submitted site plan and plat showing access to the proposed development from Morningside Drive violates the express terms of the Covenants and is not permitted.

2. The applicants subdivision of the Property into lots 12B-1, 12B-2 and 12B-3 violated the Covenants- The Property is shown on the Map as one of the 32 lots. It is clear that the Property was subdivided into 3 separate lots in 2017. It appears that this subdivision was done without reviewing the Covenants as this subdivision appears to violate the explicit terms of the Covenants and was not proper.

Section 4 of the Covenants provides, in pertinent part, as follows:

"SUBDIVISION. The property may never be subdivided into more than 32 individual single family lots. "

Before the applicant's subdivision of the Property, the Map shows that there were already 32 lots included in the subdivision. By subdividing the Property from 1 to 3 lots, it appears that the applicant increased the number of lots in the subdivision above the 32 cap in violation of the Covenants, a violation that appears to continue today.

The ZBA cannot grant the Variance Request without promoting the violation of the Covenants by the applicant. In fact, the applicant appears to be in violation of the Covenants today due to his prior subdivision, and if this is in fact true, then the subdivision needs to be reversed and the Property subdivided back into one lot.

CONCLUSION:

The ZBA should deny the Variance Request set forth in Case #2020-00045. A variance is only to be given in unique circumstances and an applicant requesting the variance must establish EACH OF THE 6 REQUIREMENTS set forth in the Birmingham Zoning Ordinance. The unique circumstance simply do not exist to grant the Variance Requested and in fact, the applicant cannot establish ANY of the Requirements for a variance in the Birmingham Zoning Ordinance. Moreover, the site plan submitted by the applicant is defective and granting the Variance Request would only serve to allow the petitioner's

development to encroach onto recorded easements located on the Property. Finally, granting the Variance Request would only allow the applicant to violate the Covenants governing the Property.

Based on the forgoing, Morningside respectfully requests that the Variance Request set forth in Case #2020-00045 BE DENIED.

M 201826

Exhibit 3

23560

3932 PAGE 614

STATE OF ALABAMA }
JEFFERSON COUNTY }

RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants is made and entered into on this the 12th day of February, 1988 by Redmont Estates Group, a joint venture, hereinafter referred to as "Declarant".

WITNESSETH:

Declarant is the owner of all lots in Redmont Highlands, the map or plat of which is recorded in Map Book 152 at page 60 in the Office of the Judge of Probate of Jefferson County, Alabama. Said property may sometimes hereafter be referred to as the "property". Declarant has determined to impose certain covenants and conditions upon the property which shall be binding upon the property and any lots into which the property might be subdivided (the "lots") and the subsequent owners and occupants thereof. The purpose of this instrument is to more particularly set forth said covenants.

Now, therefore, Declarant hereby covenants and declares that the property shall from henceforth be subject to the declarations, covenants, restrictions and conditions as follows:

1. DETACHED RESIDENTIAL USE. Each lot located within the property shall be restricted to detached single family residential

use. No lot or combination of lots may be used for townhouses, condominiums, or other forms of attached dwellings.

2. INGRESS AND EGRESS RESTRICTION. There shall be permitted no ingress and egress to and from any lot directly from Morningside Drive. No lot which borders Morningside Drive shall be improved with any driveways or other means of access to or from any such lot directly from Morningside Drive. No portion of the property or any lot located within the property may be used in any manner which would permit ingress to or egress from that certain parcel of land which joins the property on the western boundary of the property.

3. BUFFER AREAS. Each lot which borders Morningside Drive shall be subject to a ten (10) foot wide undisturbed buffer area across any such lot along its common boundary line with Morningside Drive which shall be in addition to the area included in the right-of-way for Morningside Drive. Said ten (10) foot buffer area may be improved with utilities but may not be graded or otherwise disturbed or improved with any structures and shall be planted, to the extent to which the terrain and topography of said buffer area will permit, with a stand of pine trees for the purpose of providing an additional visual buffer of the view of the Morningside Drive to any such lot. The ten (10) foot buffer areas along Morningside Drive as described in this paragraph shall be initially planted with a total of approximately 500 pine trees. Provided, Declarant shall be entitled to construct within said buffer area, on the two lots which are located at the intersection of Morningside Drive and Highland Circle, decorative entrance

markers. There shall be maintained an undisturbed ten (10) foot wide buffer area along the most northerly boundary line of the property. There shall also be maintained a fifteen (15) foot wide undisturbed buffer area along the westerly boundary line of the property.

4. SUBDIVISION. The property may never be subdivided into more than 32 individual single family lots. The location of the streets and lots to be included in such subdivision shall be as approved by the Subdivision Committee of the Birmingham Planning Commission and may not be altered except that the exact location of the lines between adjoining lots may be changed as might become necessary because of the topography of the land (subject to the approval of said Committee) and that any two or more lots may be combined to create a fewer number of larger lots in the event the topography of the property so requires (subject to the approval of said Committee).

5. ARCHITECTURAL CONTROL COMMITTEE. Declarant hereby establishes an Architectural Control Committee (hereinafter the "Committee"). The Committee shall be initially composed of at least five members each of whom shall be appointed by the Declarant. The membership of the Committee shall be controlled by the Declarant until the expiration of one (1) year after the date on which Declarant has conveyed all of the lots. Until said time, any member of the Committee (except the member designated by the Redmont neighborhood pursuant to the provisions of this paragraph) may be removed and replaced at the discretion of the Declarant. Subsequent to said time, the membership of the Committee shall

be determined by the owners of a majority of the lots. Provided, during such time as the membership of the Committee is controlled by the Declarant, the membership shall include one member from the Forest Park neighborhood and one member designated by the Redmont neighborhood, as said neighborhoods are established by the Office of Community Development of the City of Birmingham, said two members being subject to the approval of the Declarant, which approval shall not be unreasonably withheld.

6. APPROVAL OF PLANS AND SPECIFICATIONS. No improvement, including, but not limited to, residential dwellings, fencing, carports, garages, driveways, signs, mail boxes, lighting facilities, sidewalks, and landscaping, shall be constructed or altered on any lot until the architectural design and plans and specifications therefor, including, but not limited to, the color, size, location, construction materials and design, have been submitted to and approved by the Committee. No trees or other vegetation shall be removed or altered in any manner, nor shall dirt be moved or removed, nor shall the topography in any manner be altered with respect to any portion of the property without the prior written approval of the Committee. Upon the completion of the construction of any such improvements, the exterior appearance of same may not be altered, whether by change in color, size, or otherwise, until any such alteration has been approved by the Committee. Any request for approval pursuant to this paragraph shall be submitted to a representative designated by the Committee. Such requests shall be in writing and shall include plans and specifications and such other information as the Committee might require, together

with the name and address of the maker of the request and the legal description of the land affected by the request. The Committee shall, within thirty (30) days thereafter, meet to consider the request and give its response thereto. Any such request not approved or disapproved in writing by the Committee within 30 days after the submission of same to the Committee, shall be deemed approved. A request shall be deemed to have been made upon same being delivered in writing to the Committee's designated representative together with the information required under this paragraph. Any approval or disapproval by the Committee shall be deemed to have been delivered to the requesting party upon same having been either delivered in person to the requesting party or deposited in the United States mail addressed to the requesting party at the address given in the request.

The Committee representative shall call a meeting of the Committee members to consider all requests made pursuant to this paragraph. Notice of the time and place of all such meetings shall be given to each Committee member at least five (5) days prior to date thereof. Such notices shall be deemed given and received upon delivery to the Committee member or upon same having been deposited in the United States mail and addressed to the office or home address of the Committee member.

All decisions of the Committee with respect to approvals or disapprovals under this paragraph shall be by the majority vote of those in attendance at a duly called Committee meeting.

7. **CONSTRUCTION QUALITY STANDARDS.** Any residential dwelling constructed upon any lot shall be subject to certain minimum construction quality standards, which shall include the following:

(a) All windows shall be of wood construction and no metal cased windows shall be allowed.

(b) All driveways must be of concrete construction.

(c) The color and brand of the roof must be GAP Woodlite, Weathered Shade. Should said color and brand no longer be available, the roof color and brand shall be the closest equivalent available and approved by the Committee.

(d) The residential dwelling shall include nine (9) foot ceilings on the first floor.

(e) Each residential dwelling shall include decorative front light fixtures.

(f) Any metal chimneys must be encased in one of the materials listed in paragraph 7(h). Said encasement shall extend to the ground level for all chimneys located on the front of the dwelling.

(g) No solar collecting system or television dish may be installed on the roof or on the lot unless same has been approved in writing by the Committee.

(h) The siding on the residential dwellings shall be "Sherwood" brick, strip masonry "super siding", "dry-vit", or any combination of same. No sheet 4 x 8 siding shall be allowed. If the sidings listed in this paragraph are no longer available, then the closest equivalent thereto may be used, subject to approval by the Committee.

(i) No built-up roofs shall be allowed.

(j) No exposed block shall be allowed around the foundation or any place on the exterior of any residential dwelling.

(k) Any residential dwelling which includes only one level must include a minimum of 1,350 square feet (gross footage, inclusive of porches and garages). Any residential dwelling which includes one and one-half levels must include a minimum of 1,500 square feet (gross footage, inclusive of porches and garages). Any residential dwelling which includes two levels must include a minimum of 1,650 square feet (gross footage, inclusive of porches and garages).

(l) There shall be no more than 14 lots which do not include other parking in the rear yard or within a carport or garage.

8. MAINTENANCE STANDARDS. All improvements on each lot and the yards and grounds on each lot must be kept and maintained in a good, neat, clean and orderly condition by the owners and occupants thereof. The obligations set forth herein shall include, but not be limited to, the proper seeding, watering and mowing of all lawns, pruning and cutting of all trees and shrubbery, and painting and other appropriate external care of all structures, all in a manner and with such frequency as is consistent with good property management. The Committee shall have the right to establish and amend from time to time certain standards to govern the condition and maintenance of improvements and lots as required pursuant to this paragraph.

D. CREATION OF BASEMENTS. It is anticipated that a single family residential home shall be constructed on each lot. The home to be constructed on each lot may be situated so that one side wall of the home will be within three (3) feet of one side line of the lot. Any such lot shall hereafter be referred to as the "dominant lot" and the side line which is located within 3 feet of the home constructed thereon shall hereafter be referred to as the "dominant side." The owner(s) of each dominant lot shall have, and there is hereby created in favor of each dominant lot, a four (4) foot wide easement across the lot which joins the dominant lot on its dominant side, the easement to extend along their common property line from the front to the rear thereof, for the limited purpose of facilitating the construction and maintenance of the home. The easement herein created shall apply not only during the construction phase but shall also run with the lots subject thereto and in favor of the dominant lot, and apply to the continued maintenance and repair of the home and the reconstruction of a home in the event of its partial or total destruction. Any party exercising its rights under the easement herein established shall not cause any damage to any lot which is subject to this easement and may exercise its rights only during reasonable hours and in a reasonable manner. The easement herein created shall not permit the alteration in any manner of any area subject to the easement.

10. PARKING RESTRICTIONS. The flow of traffic across the interior roads which serve the lots located within the property shall not be blocked or impeded in any manner by any lot owner or by the guests or visitors thereof, whether by the improper parking of automobiles or other-

wise. No lot owners or their guests or visitors shall park their automobiles in any manner which would block the driveways serving any of the other lots within the property.

11. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than 6 square feet advertising the property for sale or rent or a sign used by Declarant of such size as Declarant shall determine to advertise the property during the construction and sales period.

12. NO MINING ACTIVITY. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on or in any lot nor shall oil wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

13. NO LIVESTOCK. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.

14. NO DUMPING GROUND. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of any such material shall be kept in a clean and sanitary

3332 REC 623

condition. The use of all or any portion of any lot within the property for outside materials storage shall be prohibited, and no harmful or noxious materials shall be stored either inside any structure or outside any structure.

15. ALTERATIONS AND MODIFICATIONS TO IMPROVEMENTS. No owner of any lot shall modify the structure on the lot by adding a room or rooms, changing the roof lines, adding decks, materially changing or altering the color or making other alterations in the exterior appearance of the structure without the express written approval of the Committee. Each owner, in acquiring title to a lot, acknowledges that the design, color scheme, and design have been selected in such a manner to be consistent and harmonious with other homes within the property and agrees to maintain his or her respective lot and structure in such a manner as to maintain and perpetuate the visual harmony within the property.

16. STORAGE OF BOATS, TRAILERS AND OTHER VEHICLES. Boats, boat trailers, pick-up campers, mini motor homes, buses, commercial vehicles, motor homes and trailers of any kind must be parked or stored only in an enclosed garage or a carport, and may not be parked on the street or in any open parking area. No unused or inoperable automobiles shall be permitted on any lot and no automotive repair shall be conducted on any lot, except for temporary repairs effected by authorized outside mechanics.

17. CLOTHESLINES AND FENCING. No clothes lines shall be permitted on any lot and no fencing or furniture of any kind shall be allowed in any front yard.

18. BINDING EFFECT AND TERM. The covenants and conditions herein contained are to run with the property and shall be binding on all parties and persons claiming under them for a period of fifty (50) years from the date of the recordation of this instrument, after which time said covenants and conditions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of a majority of the lots within the property has been recorded agreeing to change the covenants and conditions herein contained in whole or in part.

19. ENFORCEMENT. Enforcement of the provisions of this instrument may be by the Committee or by the owner of any lot located within the property and subject hereto or by the owner of any land located within five hundred (500) feet from the boundary of the property by filing proceedings at law or in equity against any person or persons violating or attempting to violate same. Any party so enforcing these covenants shall be entitled to equitable relief, the recovery of damages resulting from any such violation, and a reasonable attorneys fee.

20. INVALIDATION. Invalidation of any one of these covenants by a judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

21. AMENDMENT. Anything contained herein to the contrary notwithstanding, Declarant reserves the sole and exclusive right to modify, release or amend all of the covenants, restrictions and conditions contained herein until such time as it has sold all of the lots located within the property. Provided, any such amendment by Declarant must be first approved by a majority vote of the members in attendance of a regularly called meeting of the Forest Park neighborhood and of the Redmont neighborhood, as said neighborhoods are established by the office of the Community Development of the City of Birmingham. Subsequent to the conveyance of all of the lots within the property by Declarant, the provisions of this instrument may be modified and amended by a vote of the owners of at least two-thirds (2/3) of the lots within the property, each lot to carry one (1) vote. Any such modification or amendment must be in writing and filed for record with the office of the Judge of Probate of Jefferson County, Alabama.

22. NO REVERTER. No restriction or provision herein is intended to be or shall be construed as a condition subsequent or as creating any possibility of a reverter.

23. RIGHTS RESERVED BY DECLARANT. Any provisions herein to the contrary notwithstanding, Declarant shall have the right to construct, install and maintain on any lot owned by Declarant a temporary sales and construction structure which may be maintained and used only during the period of construction of improvements by Declarant on any one or more lots within the property. Nothing in this instrument shall be

construct, install and maintain on any lot owned by Declarant a temporary sales and construction structure which may be maintained and used only during the period of construction of improvements by Declarant on any one or more lots within the property. Nothing in this instrument shall be interpreted to prevent Declarant from displaying "for sale" signs and conducting such other activities on or about any portion of the property owned by Declarant as are reasonably necessary to promote and facilitate the sale of lots within the property by Declarant and to enable Declarant to complete the construction of dwellings and other permitted improvements upon any said lots, including, but not limited to, the right of Declarant to use any lot owned by Declarant, for the storage of construction materials, equipment and debris.

IN WITNESS WHEREOF, this instrument has been executed by the undersigned on this the same date as first hereinabove written.

REDMONT ESTATES GROUP

By: GIBSON-ANDERSON-RVINS, INC.

By L. L. Evinson
Its Pres.

3502 PAGE 627

STATE OF ALABAMA
JEFFERSON COUNTY

I, Charles A. J. Beavers, Jr., the undersigned, a Notary Public in and for said County in said State, hereby certify that S. Lewis II, whose name as President of Gibson-Anderson-Irvin, Inc., an Alabama corporation, in its capacity as General Partner of Redmont Estates Group, a Joint Venture, is signed to the foregoing instrument and who is known to me, acknowledged before me on this date that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily, for and as the act of said corporation in its capacity as General Partner of said joint venture.

Given under my hand and seal on this 12th day of FEBRUARY, 1988.

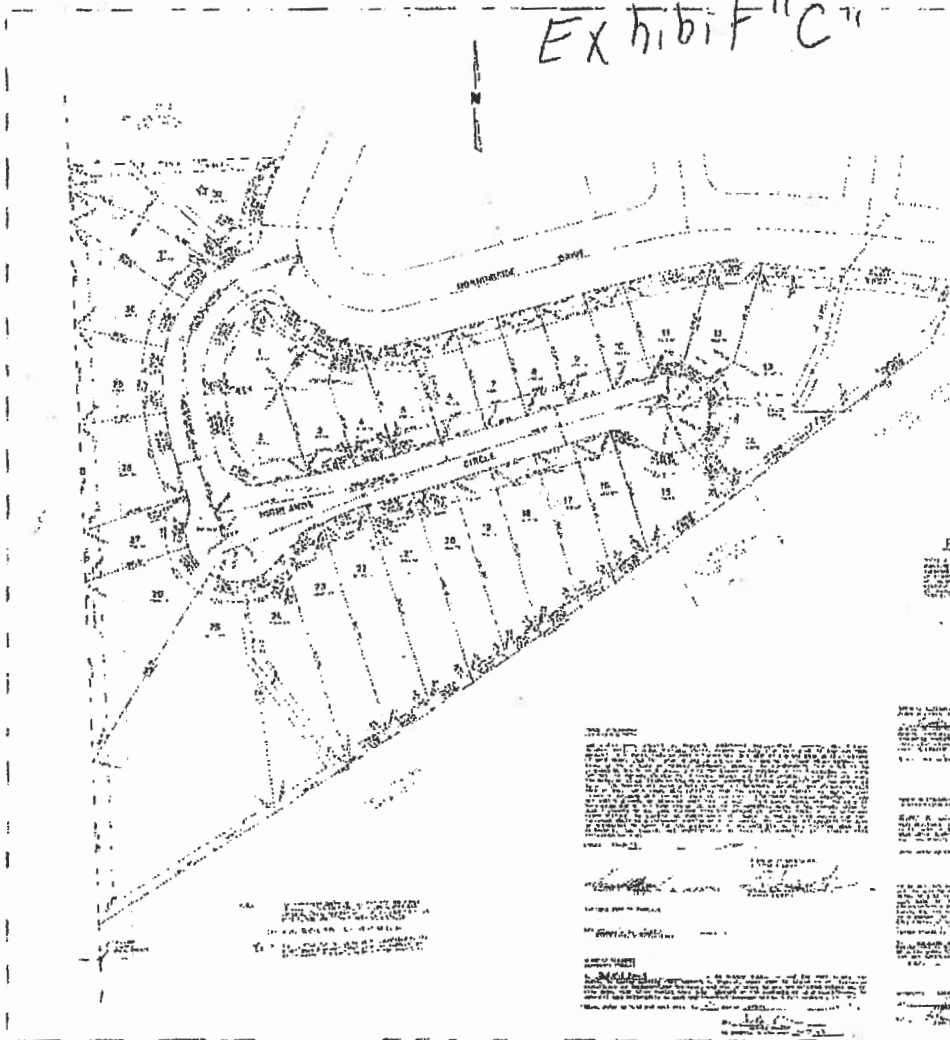
Charles A. J. Beavers, Jr.
Notary Public

[SEAL]

My Commission Expires 6/10/91

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RECEIVED
1988 FEB 15 PM 2:44
RECEIVED
ALABAMA DEPARTMENT OF REVENUE
JUDGE OF PROBATE

EXHIBIT "C"



NOTES:
1. THE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE EASEMENTS AND RESTRICTIONS SET FORTH IN THE DEEDS AND INSTRUMENTS REFERENCED HEREIN.
2. THE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE EASEMENTS AND RESTRICTIONS SET FORTH IN THE DEEDS AND INSTRUMENTS REFERENCED HEREIN.
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Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Five Points South

Staff Planner Moton

ZBA2020-00048

Request: Variance to allow a 6ft fence in the front yard area Title 1 Chapter 4 Subsection 3.A.1 page 182
Applicant: Geoff Boyd
Owner: Board of Trustees of University of Alabama System
Site Address: 1222 14th Ave S
Zip Code: 35233
Description: Variance to allow a 6ft fence in the front yard area.
Property Zoned: B-6 Health and Institutional District
Parcel Information: Parcel #: 012900013009007000, SW of Section 1, Township 18 S, Range 3 W

Variance:

The applicant is requesting to allow a 6ft fence in the front yard area.

Neighborhood Meeting:

The Five Points South Neighborhood Association voted in support of the request.

Public Notices:

Public notices were mailed on September 24, 2020

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet.

Physical characteristics of the property:

1. UAB Hospital - Highlands is composed of multiple interconnected buildings located on an existing superblock. Surrounded by four public streets, each side of the block is considered a front yard.
2. 13th Street S. is the service side of the Hospital, with no public entry points.
3. UAB Hospital – Highlands covers the majority of the superblock and the existing underground power feed for the facility is located between the Physician's Office Building (POB) and loading docks
4. Due to proximity to the user within POB and limitations of the site, the emergency generator is located in the front yard of 13th Street S. directly in front of POB.
5. The generator provides emergency back-up power for UAB's Telemetry Department located in the POB.

Unique characteristics:

1. POB is publicly accessed from 14th Avenue S. 13th Street S. provides access to restricted parking under the building.
2. This portion of 13th Street S., from 14th Avenue S. to 11th Avenue S. has over 70 ft. of topography change, resulting in a series of buildings "stepping" down the street, creating a series of retaining walls or blank building walls fronting the public street.

Hardship not self-imposed:

1. A 4 ft. fence is currently allowed within the front yard. UAB believes that an additional 2 ft. to the allowable fence height will better screen and secure the generator from public view.

Financial gain not only basis:

1. UAB has no financial gain regarding the variance request.

No injury to neighboring property:

1. UAB is the property owner directly across 13th Street S. from the fence location and is the property owner for the majority of parcels fronting 13th Street S. between 11th Avenue S. and 14th Avenue S. 2. Two adjacent non-UAB properties to the southeast of the fence are located 15 ft. above the elevation of the street. The requested fence height variance will not negatively impact their views.

No harm to public welfare:

1. The increase in height of the fence from 4ft. to 6 ft. improves the visual appearance of the area by screening the generator from view and improves the pedestrian experience by further buffering the generator from the adjacent public sidewalk. 2. The fence material is a higher grade metal panel and color which matches the concrete supports of the POB and the the adjacent concrete wall screening the loading zone. Fence material and color were chosen to help blend the fence with the existing conditions.

Staff Analysis:

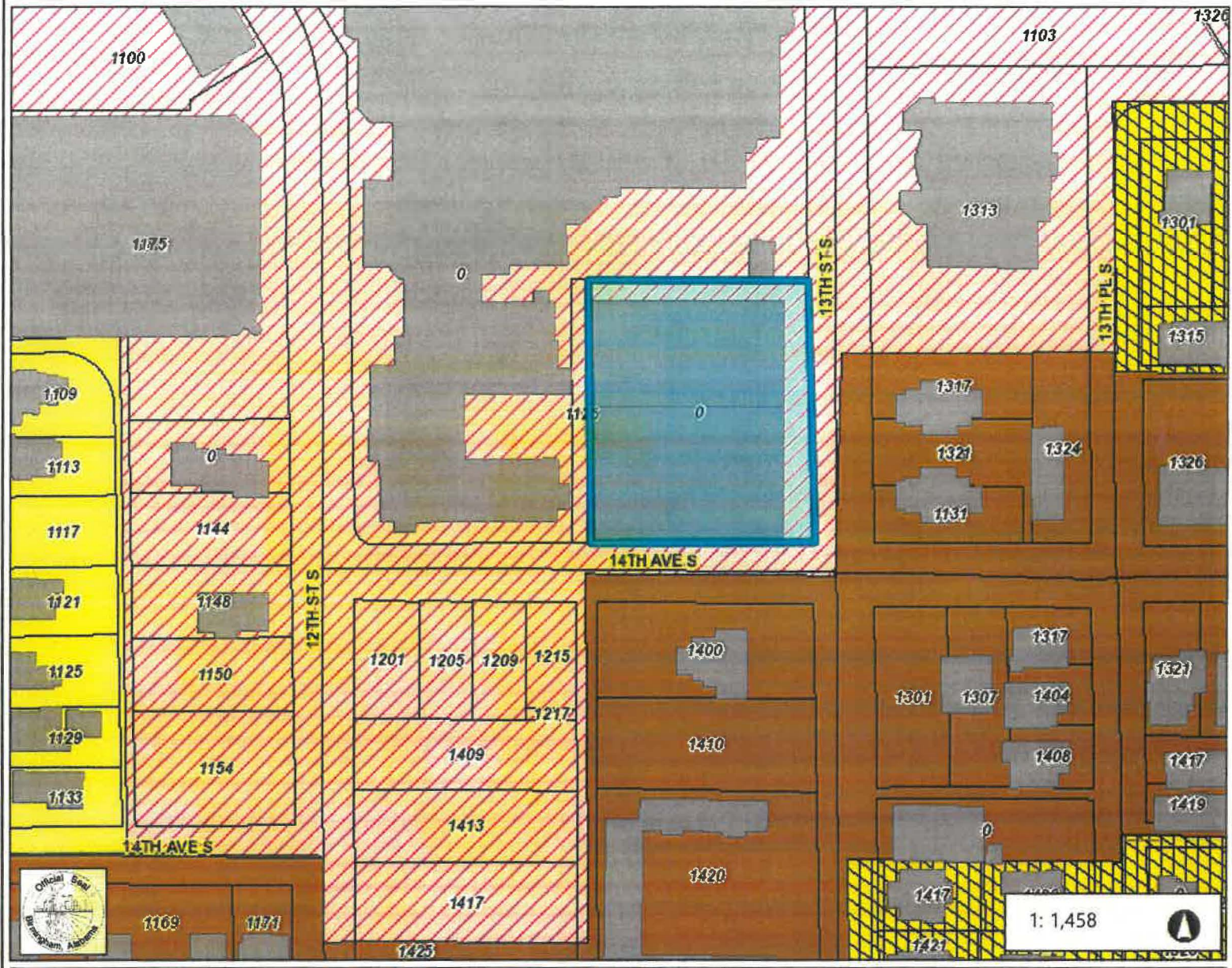
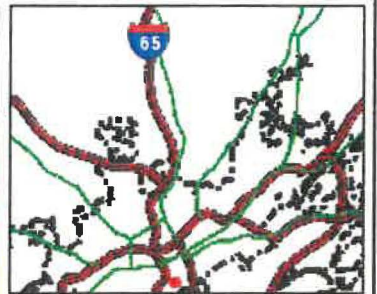
The subject property located at 1222 14th Ave S is zoned B-6, Health and Institutional District. The applicant is requesting to allow a 6ft fence in the front yard area off of 13th St s. The purpose of the 6ft fence is to better screen and secure the generator from the public view.

The applicant does meet the requirement of the six variance standards.

Staff Recommendation

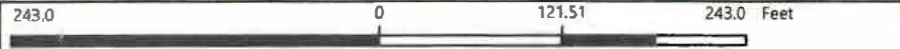
Staff believes the applicant has provided sufficient evidence to support the variance request. Therefore, staff believes the request has merit for approval and as such, should be **GRANTED** subject to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Fence permit should be obtain within one year of the approval date from the Board.



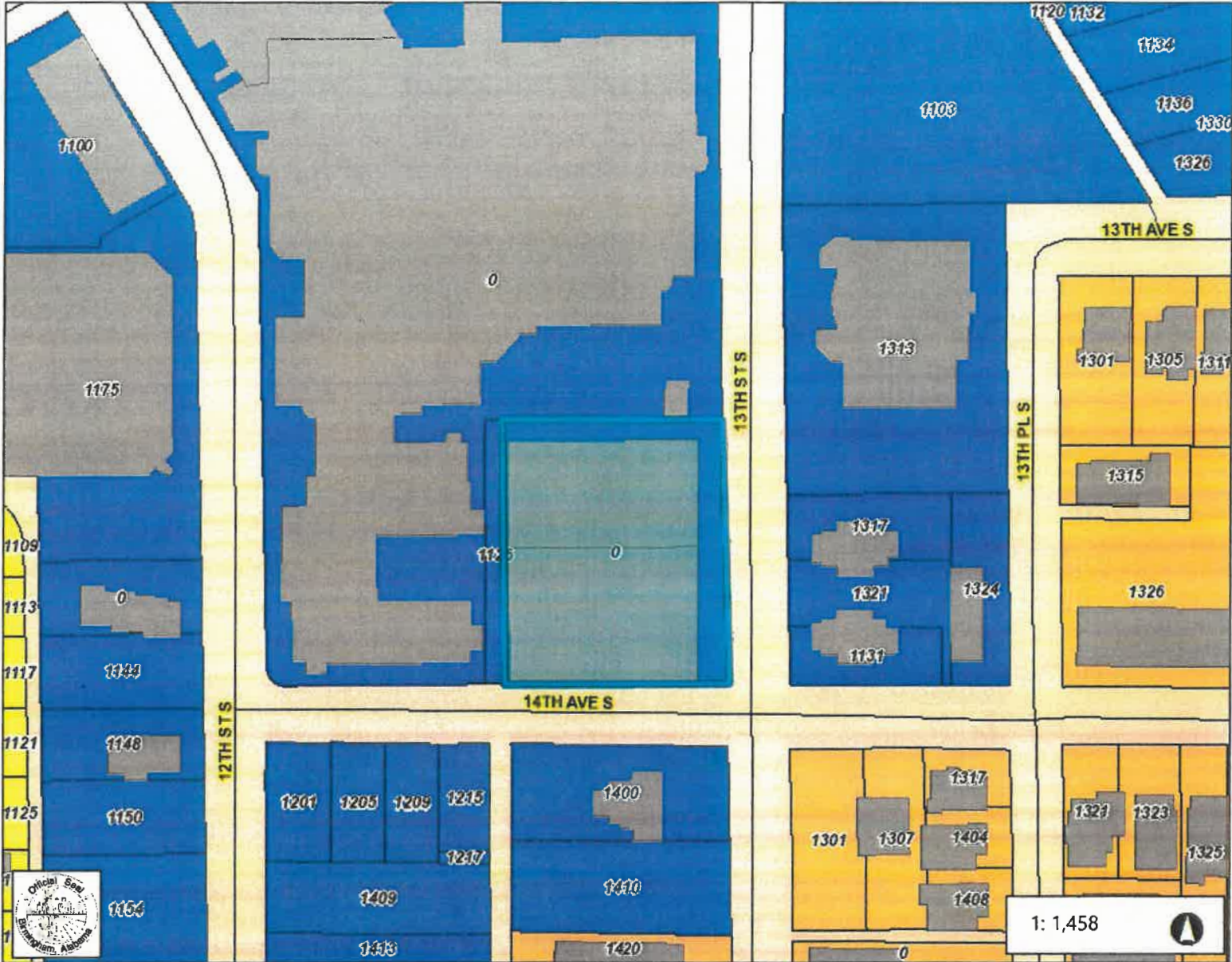
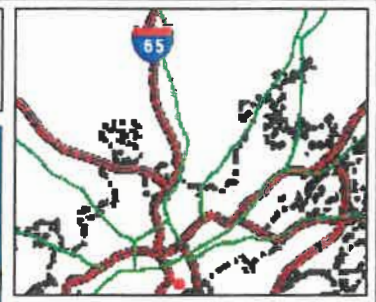
Legend

- Centerline Labels
- + Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
 - Limited Access
 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
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- City Parks
- Airport
- Zoning Shaded
 - R1; D1 - Single Family District - Cla
 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District



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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

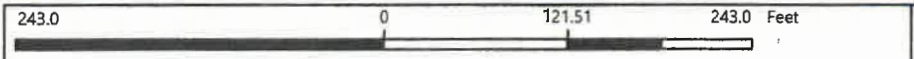


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- Adopted Land Use Plan
 - Residential-Low
 - Residential-Medium
 - Residential-High
 - Neighborhood Commercial
 - General Commercial
 - MXU-Low
 - MXU-Medium
 - MXU-High



1: 1,458



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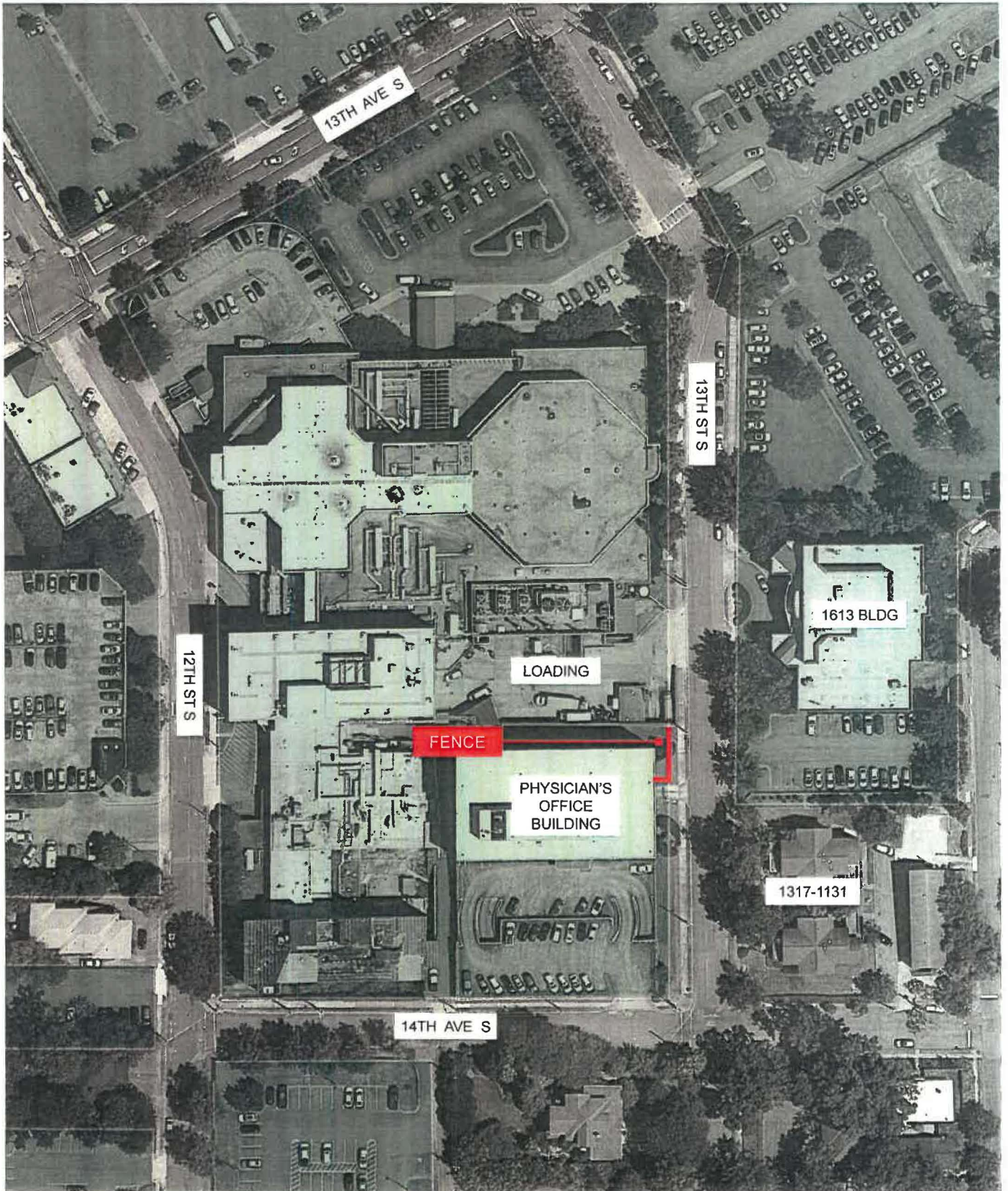


IMAGE 1: LOCATION MAP



IMAGE 2



IMAGE 3



IMAGE 4

Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: South Woodlawn

Staff Planner Moton

ZBA2020-00050

Request: Variance to allow a 10ft front yard setback instead of the required 20ft setback Title 1, Chapter 3, Article I, Section 2.D.2.
Applicant: Marshall Anderson
Owner: Mashonda Taylor
Site Address: 220 59th Place S
Zip Code: 35212
Description: Variance to allow a 10ft front yard setback instead of the required 20ft setback
Property Zoned: R-4A
Parcel Information: Parcel #: 012300214001005000, SE of Section 21, Township 17 S, Range 2 W

Variance:

Variance to allow a 10ft front yard setback instead of the required 20ft setback.

Neighborhood Meeting:

The South Woodlawn Neighborhood Association; waiting on response.

Public Notices:

Public notices were mailed on September 15, 2020

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet.

PHYSICAL CHARACTERISTICS

A previous home was on this lot up until recently, when it was demolished due to arson and accumulated blight. However, the home was an established part of the neighborhood fabric. It sat within 3 feet of the existing right of way along 3rd Avenue South, which is a 20-foot right of way. The variance request we propose increases this setback significantly, while still maintaining the neighborhood fabric of closely spaced homes, with broad porches, engaging the street and the public realm.

UNIQUE CHARACTERISTICS

The circle at 59th Place is a signature of this part of the neighborhood. Its geometry, as well as the unique lot conditions it creates, influences the building area of the lots that directly face the circle. In order to preserve the integrity of this feature, and its special place in the community, our variance request provides for the necessary setback to meet health, welfare, and safety requirements while still creating a sense of enclosure around this public feature.

HARDSHIP NOT SELF IMPOSED

As mentioned previously, the circle creates unique features for the lots that front it. Setbacks are affected by this geometry. The building area on the lot becomes increasingly limited based on a strict adherence to the zoning ordinance. Our variance requests gives the appropriate setback along the accepted frontage at 59th Place and the Circle, while maintaining its sense of enclosure at 3rd Avenue South.

FINANCIAL GAIN NOT ONLY BASIS

Build Initiative is a for-benefit business. We have been working with the Woodlawn Foundation for more than five years to help develop market-rate housing in the Woodlawn community, for

the benefit for current and future residents. This variance request is based on our belief the need to preserve and augment the neighborhood fabric, and not based on any financial considerations.

NO INJURY TO NEIGHBORING PROPERTY

This is the second phase of a two-block revitalization effort in the Woodlawn Neighborhood. The development of this section of the neighborhood and community has been approached from a Master Plan perspective, engaging community and neighborhood perspectives in its design. We have been very intentional in providing new construction that fits into and augments the existing fabric. Our variance request helps us realize this safe, vibrant, and walkable extension of the existing neighborhood.

NO HARM TO PUBLIC WELFARE

As stated above, our variance request is meant to enhance the public realm and not cause any harm. We are exceeding the minimum standards set forth by the building code which is focused on Health, Safety and Welfare; and adhering to intent of the zoning ordinance, which helps ensure a high-quality public realm.

Staff Analysis:

The subject property located at 220 59th Place S is zoned R-4-Two Family and Semi-Attached Dwelling District. The house that previous exist on this property had a front yard setback of 5ft off 3rd Ave S. The house was considered legal non-conforming before it was demolished due to arson. The applicant is proposing now to set the house back 10ft instead of 5ft.

The applicant does meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has provided sufficient evidence to support the variance request. Therefore, staff believes the request has 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 a certificate of occupancy with the approval of this variance within 3 years from the date of approval.

PARCEL ID: 012300214001005000

SOURCE: TAX ASSESSOR RECORDS **TAX YEAR:** 2019

DATE: Friday, August 28, 2020 2:28:15 PM

OWNER: WF REAL PROPERTY RESOURCES LLC

ADDRESS: 3800 COLONNADE PARKWAY

CITY/STATE: BIRMINGHAM AL

ZIP+4: 35243

SITE ADDR:

CITY/STATE: , AL

ZIP:



LAND: \$7,000.00

BLDG: \$0.00

OTHER: \$0.00

AREA: 6,625.17

ACRES: 0.15

SUBDIVISION INFORMATION:

NAME IDEAL LD & IMP CO 23-21-4

BLOCK:

LOT: 10

:

Section: 21-17-2W

Land Slide Zones: Not in Land Slide Zones

Historic Districts: Not in Historic Districts

Commercial Revitalization District: Not in Commercial Revitalization District

Fire District: Not in Fire District

Flood Zones: Not in Flood Zones

Tax Increment Financing District: Not in Tax Increment Financing District

Neighborhoods: So Woodlawn (2103)

Communities: Woodlawn (21)

Council Districts: District - 4 (Councilor: William Parker)

Zoning Outline: R4

Demolition Quadrants: DEM Quadrant - 4

Impaired Watersheds: Impaired Watershed - Upper Village Creek

Strategic Opportunity Area: In Strategic Opportunity Area

RISE Focus Area: In RISE Focus Area

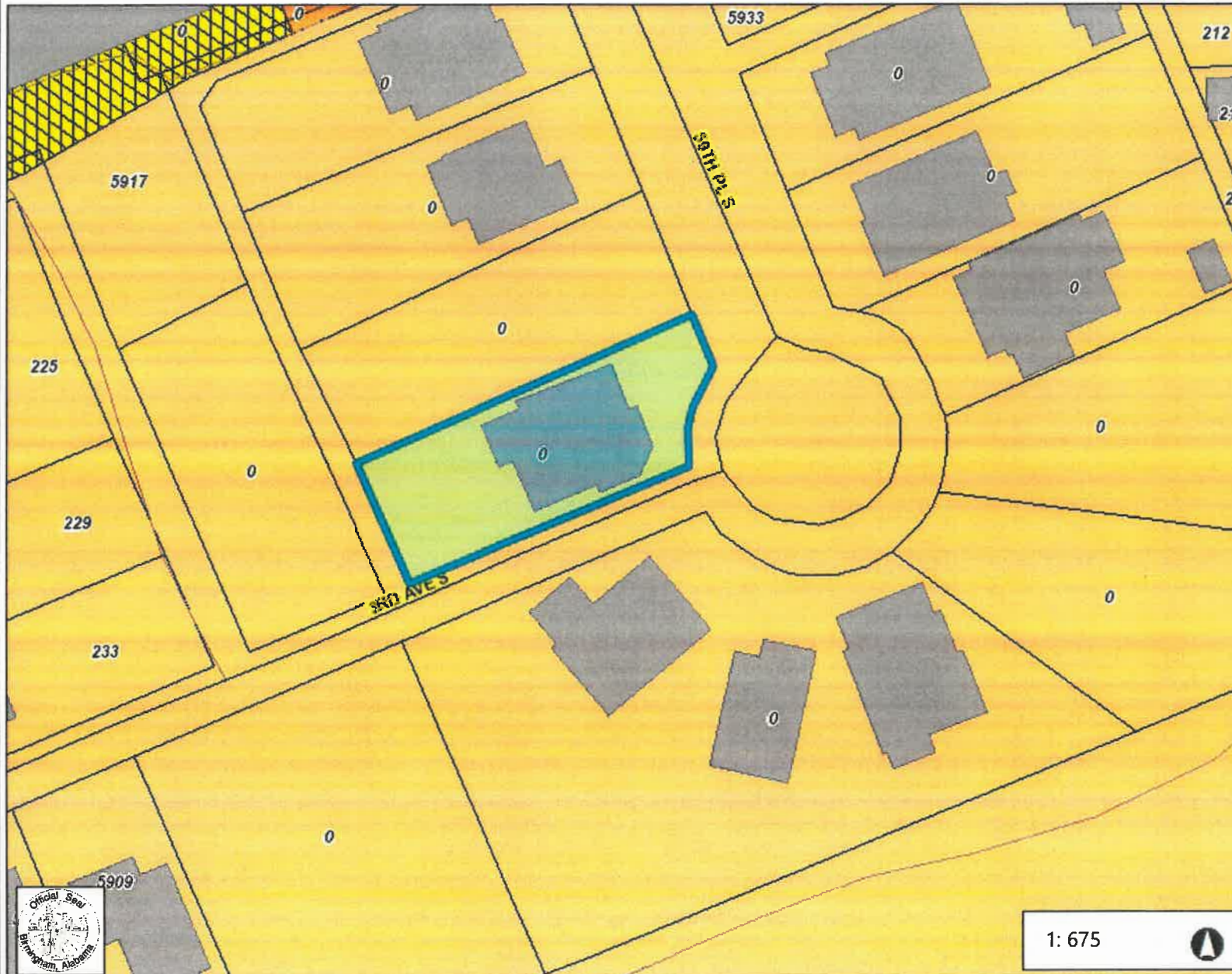
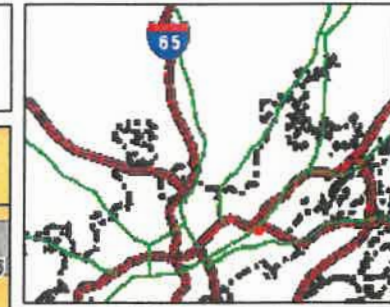
Tax Delinquent Property: Not in Tax Delinquent Property

EPA Superfund: Not in EPA Superfund

Opportunity Zones: In Opportunity Zones

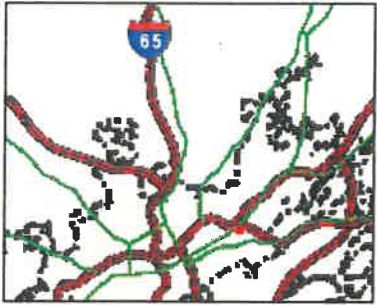
Judicial Boundaries: JEFFERSON

Parcel mapping and description information is obtained from the Jefferson County Tax Assessor's Office. This site does not provide real-time information and may contain errors. All data should be verified with the official source. The City of Birmingham makes no warranty as to the accuracy of the data and assumes no responsibility for any errors. Data from the Tax Assessor's Office may not be available for all parcels.



Legend

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



1: 675

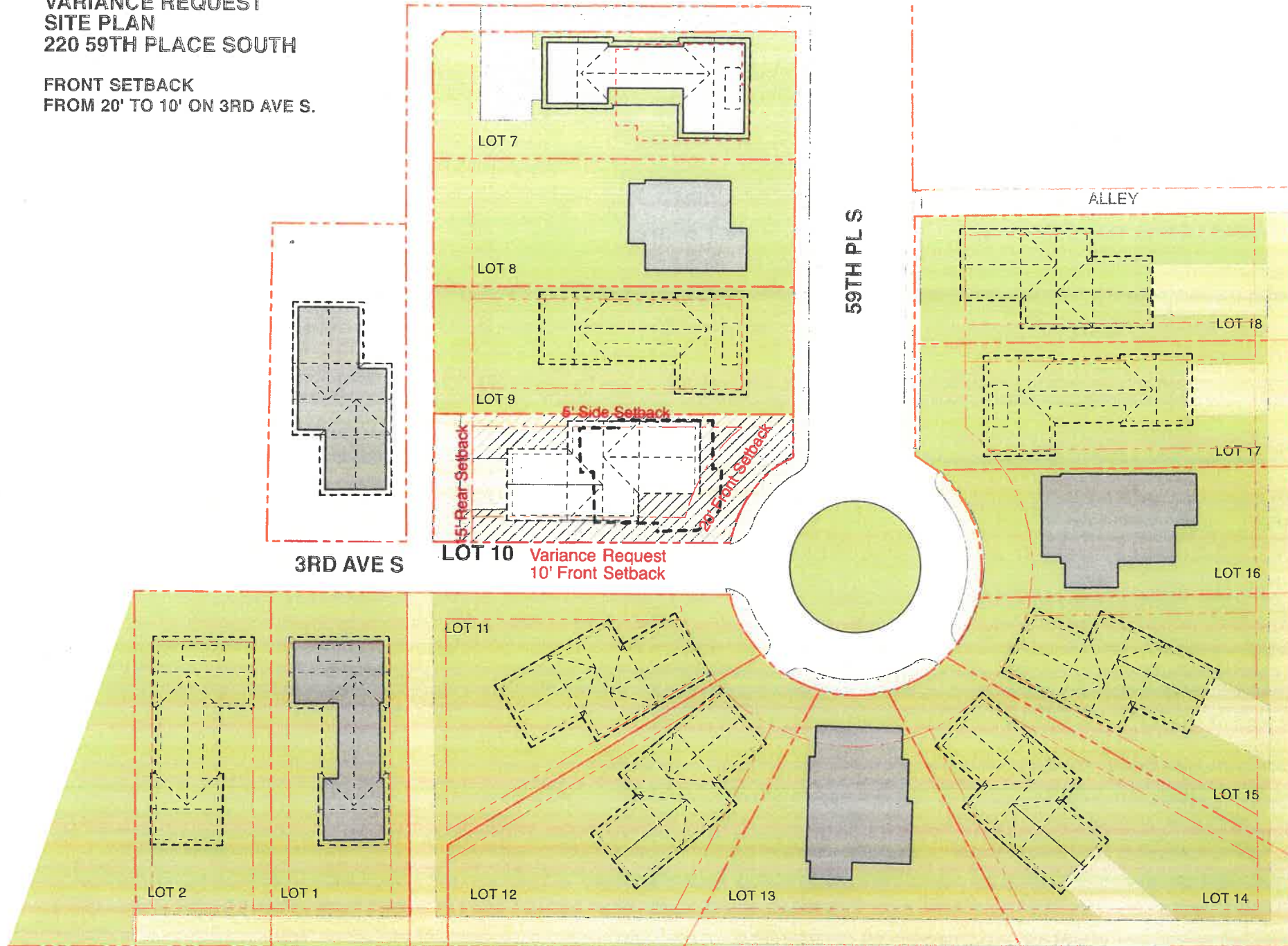


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Notes

VARIANCE REQUEST
SITE PLAN
220 59TH PLACE SOUTH

FRONT SETBACK
FROM 20' TO 10' ON 3RD AVE S.



WF Real Property Resources LLC
Survey of Ideal Land & Improvement Co. Survey

Located in the East 1/2 of Section 21, Township 17 South
 Range 2 West, Jefferson County, Alabama
 SCALE: 1"=30' May 30, 2019
 GRAPHIC SCALE



ALABAMA ENGINEERING COMPANY, INC.
 1214 ALFORD AVENUE, SUITE 200
 HOOVER, ALABAMA 35226
 (205) 803-2161

LEGEND

- R - RADIUS
- L - LENGTH
- Δ - CENTRAL ANGLE
- ☉ - CENTERLINE
- R.O.W. - RIGHT OF WAY
- MB - MAP BOOK
- PG - PAGE
- POB - POINT OF BEGINNING
- O - IRON PIN SET (IPS)
- - IRON PIN FOUND (IPF)
- + - SET CROSS IN CONCRETE
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- + - LOT WIDTH AT SETBACK
- SF - SQUARE FEET
- ± - MORE OR LESS
- S - SANITARY SEWER
- W - WATER
- G - GAS

State of Alabama,
 Jefferson County,

I, Gary Bannister, a Registered Land Surveyor in the State of Alabama hereby certify that all parts of this survey and drawing 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 for the following described lots:

Lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 according to the Ideal Land & Improvement Co Survey as recorded in Map Book 6, Page 73, in the Probate Office of Jefferson County, Alabama.

I further state 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 those which serve the premises only) or structures or supports thereof, including poles, anchor or guy wires on or over said property except as shown; that there are no encroachments except as shown; that the improvements are located as shown above. No underground utilities have been located.

According to my field survey this the 31st day of May, 2019.

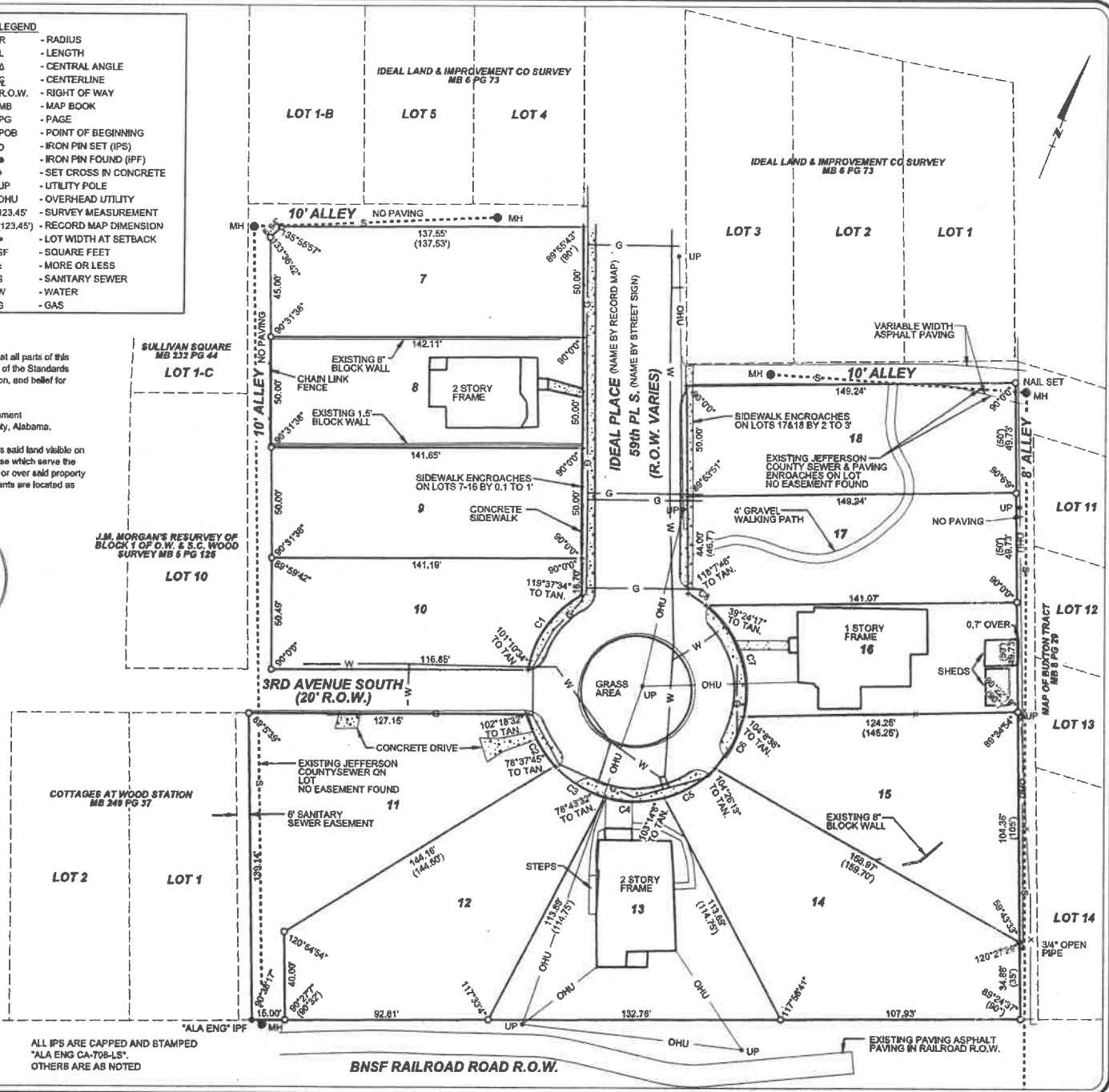
Gary Bannister
 Gary Bannister, PLS
 Alabama PLS No 24325



Notes:
 The survey shown hereon is based on documents of record, other documents supplied to the surveyor, and monumentation found.
 Date of fieldwork: April 24, 2018, May 5, 2018, & May 30, 2019
 All map book numbers shown on this survey refer to Jefferson County, AL Probate Office
 All lots are in Flood Zone X (Outside the special flood hazard area) according to FEMA FIRMS Map Number 01073C0411H date March 21, 2018.
 All lot corners were not set on contiguous groups of lots. Only exterior corners were set as shown on the survey.
 Sanitary sewer is shown on this survey from field located manholes and Jefferson County Environmental records.
 Water and gas locations are shown from paint markings made by Alabama #11 and field surveyed on May 24, 2019.
 Surveyor has not made a title search and makes no opinion as to title.
 Other easements, rights of way, encroachments or matters affecting title may exist.

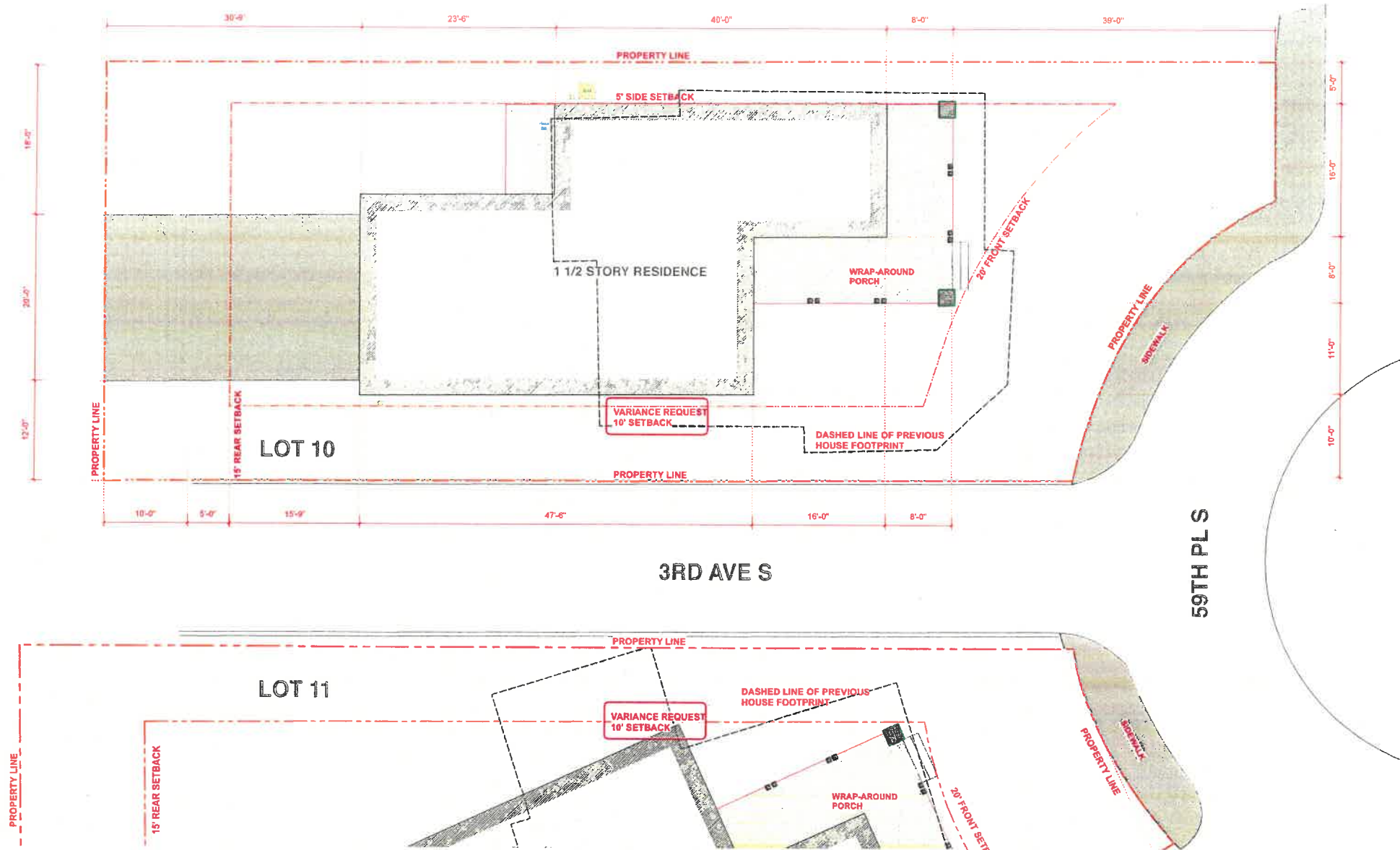
CURVE	RADIUS	ARC LENGTH	DELTA ANGLE
C1	50.00'	42.94'	49°12'09"
C2	50.00'	28.79'	30°41'48"
C3	50.00'	27.04'	30°59'08"
C4	50.00'	27.04'	30°59'08"
C5	50.00'	27.04'	30°59'08"
C6	50.00'	27.04'	30°59'08"
C7	50.00'	56.17'	84°22'01"
C8	50.00'	9.84'	11°16'30"

ALL IPS ARE CAPPED AND STAMPED
 ALA ENG CA-708-LS
 OTHERS ARE AS NOTED



VARIANCE REQUEST
SITE PLAN
220 59TH PLACE SOUTH

FRONT SETBACK
FROM 20' TO 10' ON 3RD AVE S.



216 59th Pl S
Birmingham, Alabama

Google

Street View



13 Ave
Georgia Rd
AWN
5th Ave E
5th Ct S

Expand

Google



Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: South Woodlawn Staff Planner Moton ZBA2020-00051

Request: Variance to allow a 10ft front yard setback instead of the required 20ft setback Title 1, Chapter 3, Article I, Section 2.D.2.
Applicant: Marshall Anderson
Owner: Mashonda Taylor
Site Address: 299 59th Place S
Zip Code: 35212
Description: Variance to allow a 10ft front yard setback instead of the required 20ft setback
Property Zoned: R-4A
Parcel Information: Parcel #: 012300214001004000, SE of Section 21, Township 17 S, Range 2 W

Variance:
Variance to allow a 10ft front yard setback instead of the required 20ft setback.

Neighborhood Meeting:
The South Woodlawn Neighborhood Association; waiting on response.

Public Notices:
Public notices were mailed on September 15, 2020

Applicant’s Justification:
The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet.

PHYSICAL CHARACTERISTICS

A previous home was on this lot up until recently, when it was demolished due to arson and accumulated blight. However, the home was an established part of the neighborhood fabric. It sat within 3 feet of the existing right of way along 3rd Avenue South, which is a 20-foot right of way. The variance request we propose increases this setback significantly, while still maintaining the neighborhood fabric of closely spaces homes, with broad porches, engaging the street and the public realm.

UNIQUE CHARACTERISTICS

The circle at 59th Place is a signature of this part of the neighborhood. Its geometry, as well as the unique lot conditions it creates, influences the building area of the lots that directly face the circle. In order to preserve the integrity of this feature, and its special place in the community, our variance request provides for the necessary setback to meet health, welfare, and safety requirements while still creating a sense of enclosure around this public feature.

HARDSHIP NOT SELF IMPOSED

As mentioned previously, the circle creates unique features for the lots that front it. Setbacks are affected by this geometry. The building area on the lot becomes increasingly limited based on a strict adherence to the zoning ordinance. Our variance requests gives the appropriate setback along the accepted frontage at 59th Place and the Circle, while maintaining its sense of enclosure at 3rd Avenue South.

FINANCIAL GAIN NOT ONLY BASIS

Build Initiative is a for-benefit business. We have been working with the Woodlawn Foundation for more than five years to help develop market-rate housing in the Woodlawn community, for

the benefit for current and future residents. This variance request is based on our belief the need to preserve and augment the neighborhood fabric, and not based on any financial considerations.

NO INJURY TO NEIGHBORING PROPERTY

This is the second phase of a two-block revitalization effort in the Woodlawn Neighborhood. The development of this section of the neighborhood and community has been approached from a Master Plan perspective, engaging community and neighborhood perspectives in its design. We have been very intentional in providing new construction that fits into and augments the existing fabric. Our variance request helps us realize this safe, vibrant, and walkable extension of the existing neighborhood.

NO HARM TO PUBLIC WELFARE

As stated above, our variance request is meant to enhance the public realm and not cause any harm. We are exceeding the minimum standards set forth by the building code which is focused on Health, Safety and Welfare; and adhering to intent of the zoning ordinance, which helps ensure a high-quality public realm.

Staff Analysis:

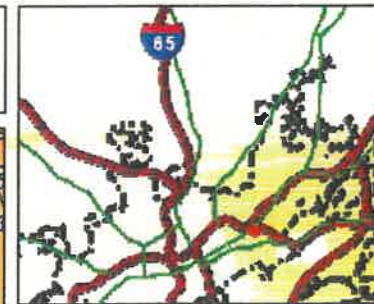
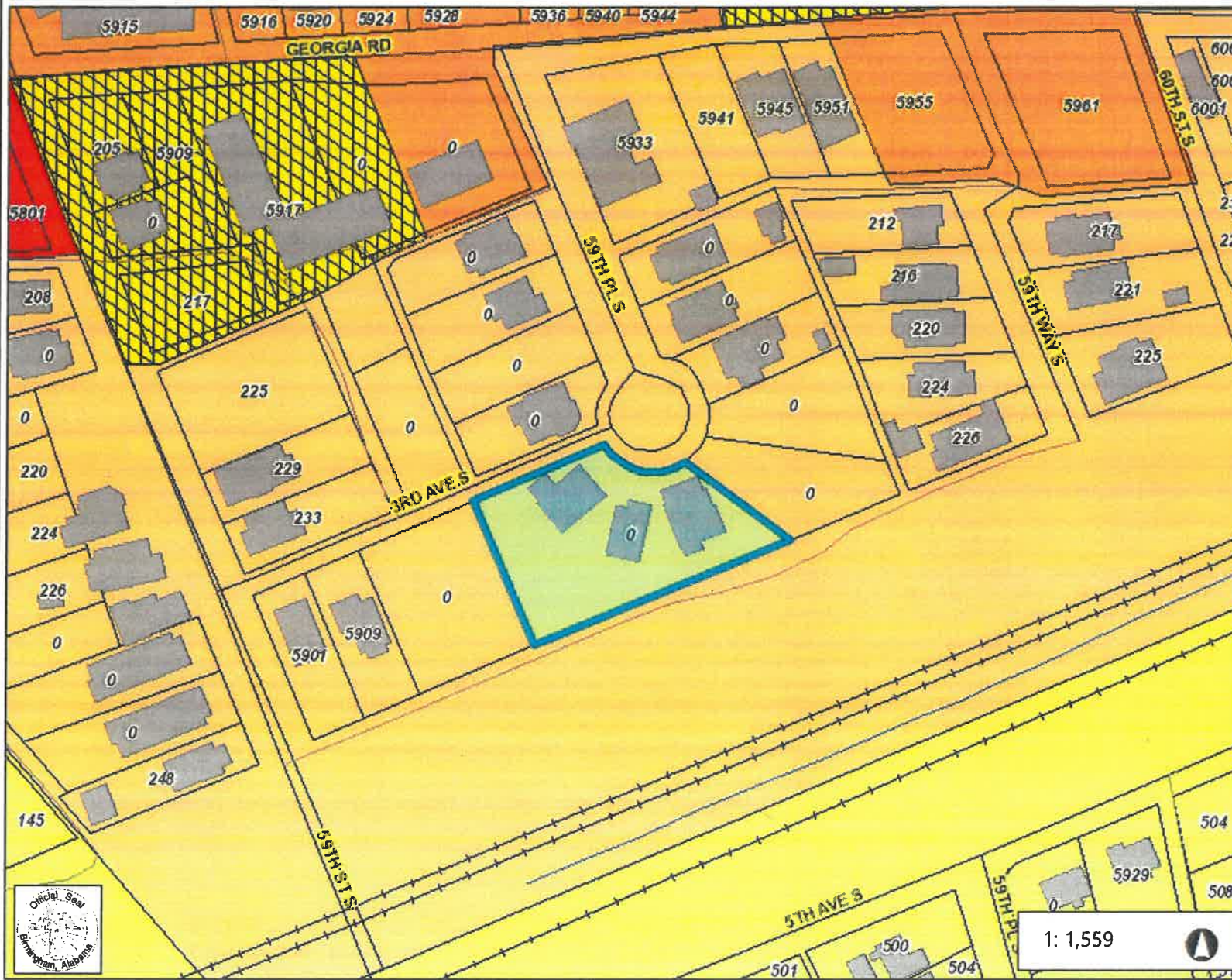
The subject property located at 299 59th Place S is zoned R-4-Two Family and Semi-Attached Dwelling District. The house that previous exist on this property had a front yard setback of 5ft off 3rd Ave S. The house was considered legal non-conforming before it was demolished due to arson. The applicant is proposing now to set the house back 10ft instead of 5ft.

The applicant does meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has provided sufficient evidence to support the variance request. Therefore, staff believes the request has 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 a certificate of occupancy with the approval of this variance within 3 years from the date of approval.



Legend

- Centerline Labels
- +— Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
- Limited Access
- Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Zoning Shaded
- R1; D1 - Single Family District - Cla
- R2; D2 - Single Family District - Cla
- R3; D3 - Single Family District; R3
- R4; D4 - Two Family District; R4
- R4A - Multiple Dwelling District
- R5; D5 - Multiple Family District; D5
- R6; D6 - Multiple Family District
- R7 - Multiple Family District

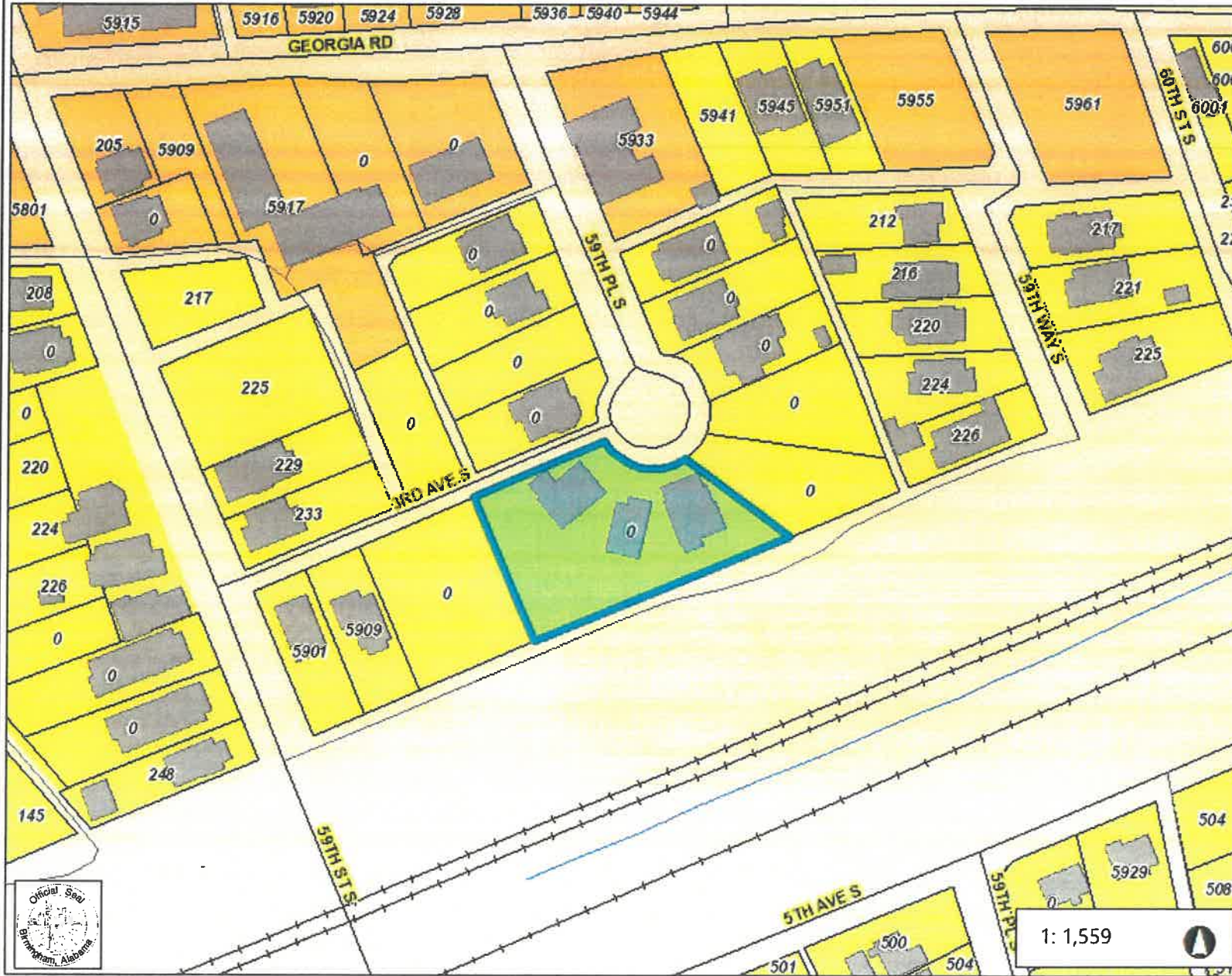
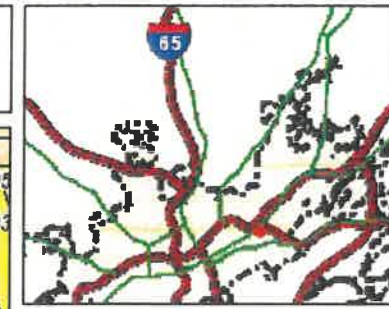


259.9 0 129.93 259.9 Feet

1: 1,559

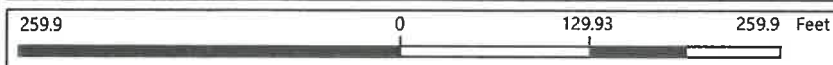


Notes



Legend

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 - 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
 - MXU-High



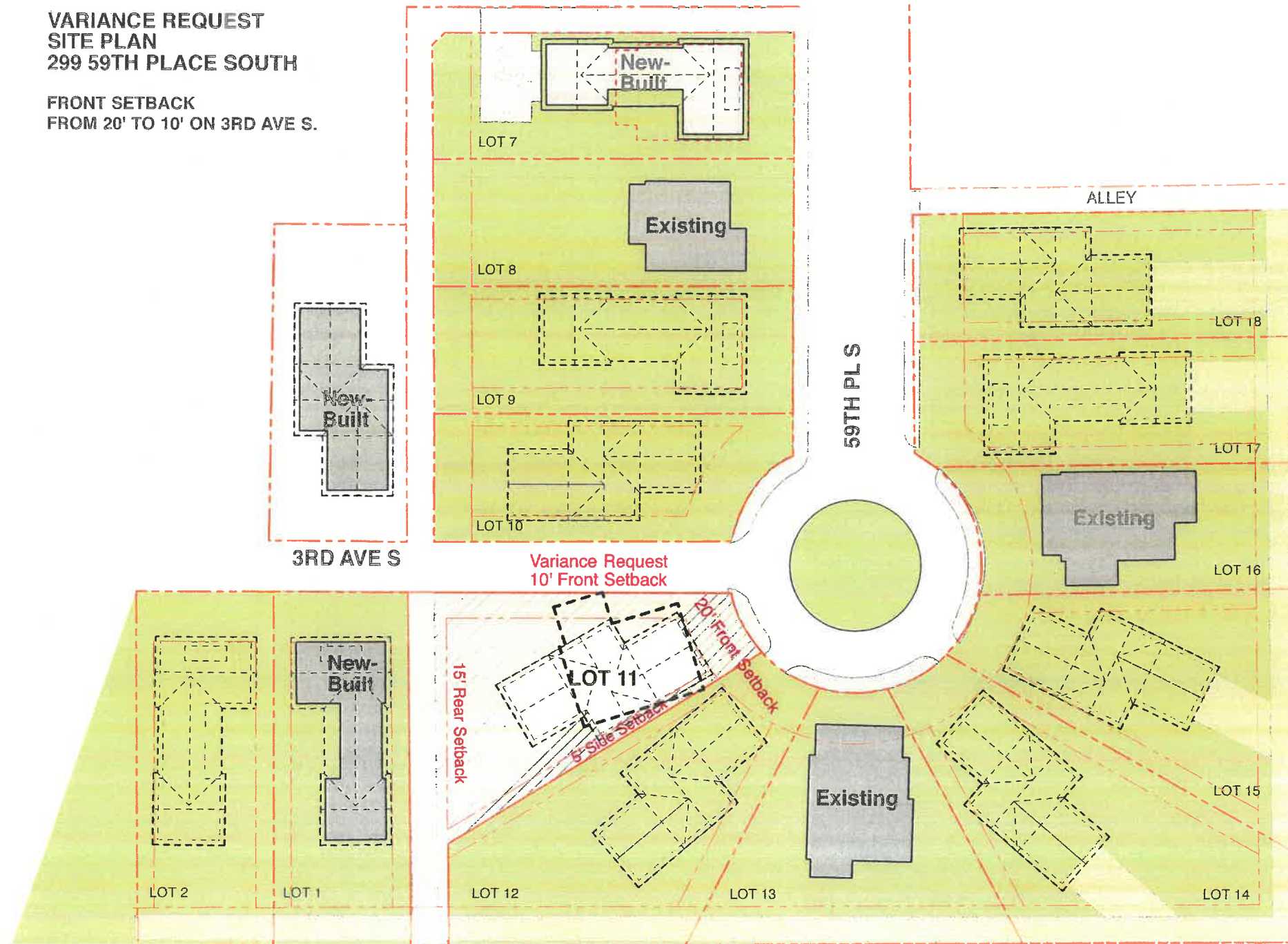
1: 1,559

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

Notes

VARIANCE REQUEST
SITE PLAN
299 59TH PLACE SOUTH

FRONT SETBACK
FROM 20' TO 10' ON 3RD AVE S.



WF Real Property Resources LLC
Survey of Ideal Land & Improvement Co. Survey

Located in the East 1/2 of Section 21, Township 17 South
 Range 2 West, Jefferson County, Alabama

SCALE: 1"=30' May 30, 2019

GRAPHIC SCALE



ALABAMA ENGINEERING COMPANY, INC.
 1214 ALFORD AVENUE, SUITE 200
 HOOVER, ALABAMA 35226
 (205) 803-2161

- LEGEND**
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 - L - LENGTH
 - Δ - CENTRAL ANGLE
 - C - CENTERLINE
 - R.O.W. - RIGHT OF WAY
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Garry Bannister, PLS
 Alabama PLS No 24325



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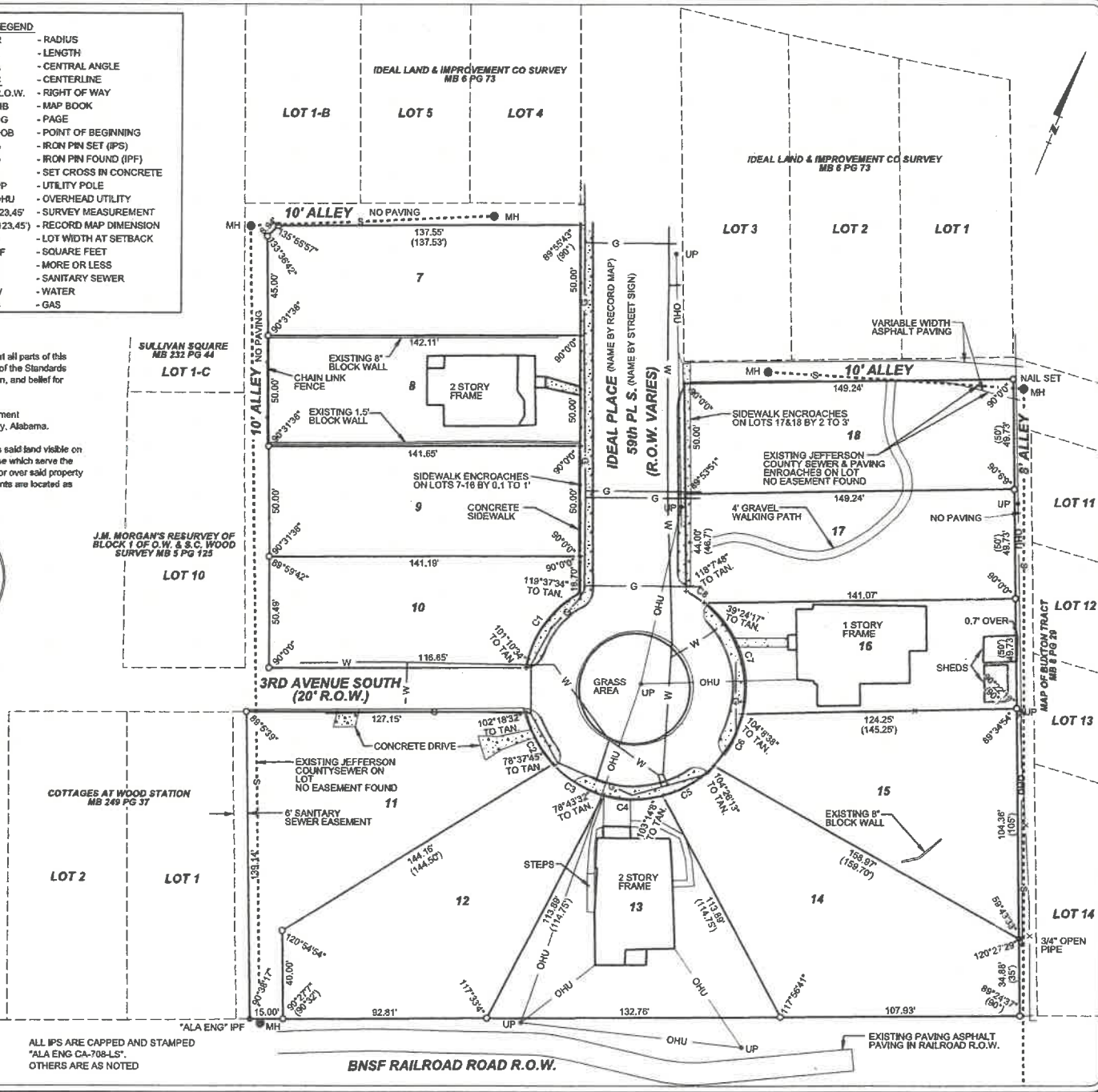
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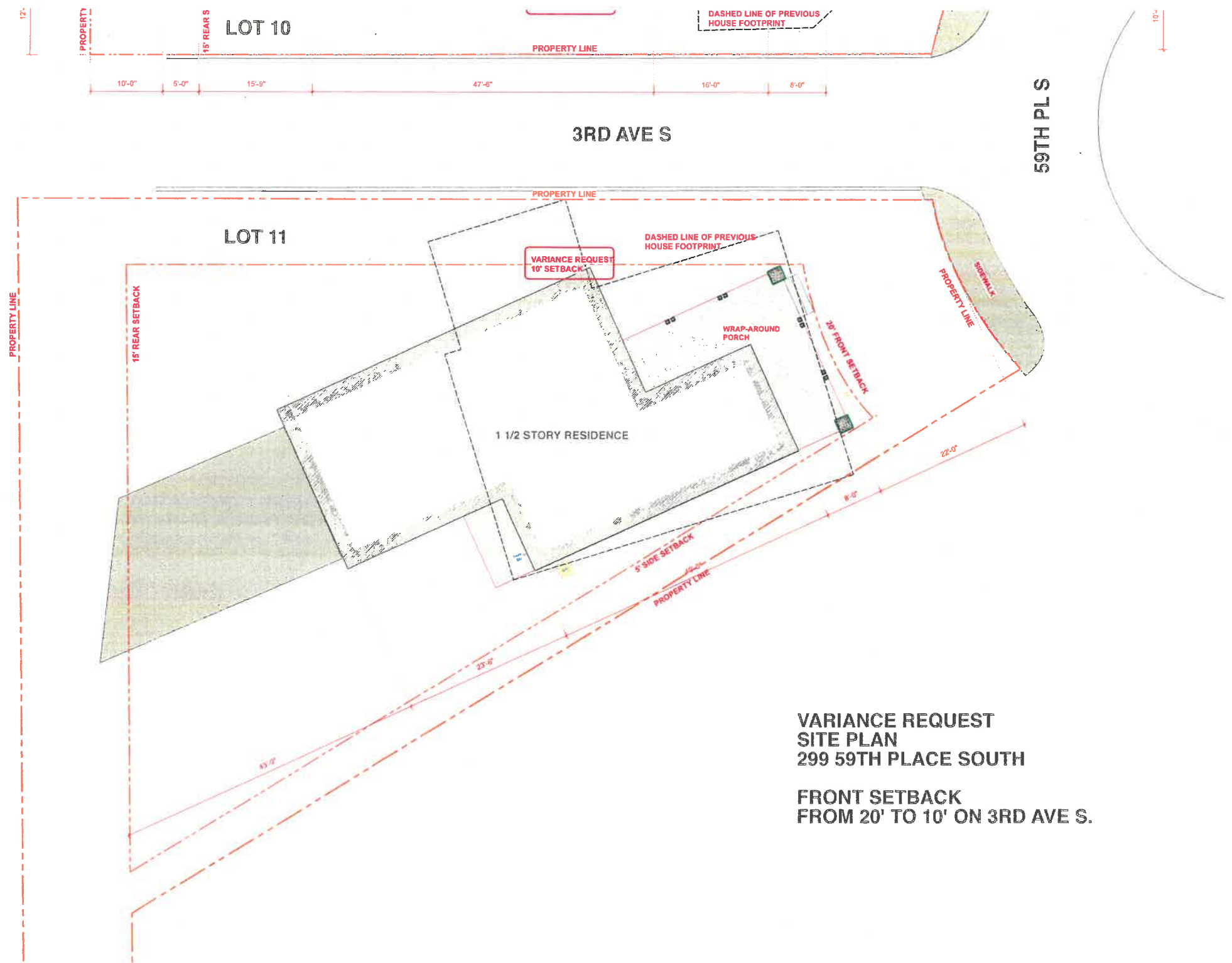
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Other easements, rights of way, encroachments or matters affecting title may exist.

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE
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ALL IPS ARE CAPPED AND STAMPED
 "ALA ENG CA-708-LS".
 OTHERS ARE AS NOTED





LOT 10

DASHED LINE OF PREVIOUS HOUSE FOOTPRINT

PROPERTY LINE

10'-0" 5'-0" 15'-9" 47'-6" 16'-0" 8'-0"

3RD AVE S

59TH PLS

LOT 11

PROPERTY LINE

DASHED LINE OF PREVIOUS HOUSE FOOTPRINT

VARIANCE REQUEST 10' SETBACK

WRAP-AROUND PORCH

1 1/2 STORY RESIDENCE

15' REAR SETBACK

20' FRONT SETBACK

PROPERTY LINE SIDEWALK

22'-0"

5' SIDE SETBACK

PROPERTY LINE

VARIANCE REQUEST
SITE PLAN
299 59TH PLACE SOUTH

FRONT SETBACK
FROM 20' TO 10' ON 3RD AVE S.

299 59th Pl S
Birmingham, Alabama



Street View



Google



216 59th Pl S
Birmingham, Alabama
Google
Street View



Google



Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Crestline Staff Planner Moton ZBA2020-00052

Request: Variance request to allow 6ft fence in the front yard area and variance to allow the finished side not facing adjacent property owner pursuant Title 1 Chapter 4 Subsection 3.A.1 page 182

Applicant: Thomas W. Russell
Owner: Thomas W. Russell
Site Address: 4521 Maryland Ave
Zip Code: 35213
Description: Variance request to allow 6ft fence in the front yard area and variance to allow the finished side not facing adjacent property owner pursuant Title 1 Chapter 4 Subsection 3.A.1 page

Property Zoned: R-2 Single Family District
Parcel Information: Parcel #: 012300263022030000, SW of Section 26, Township 17 S, Range 2 W

Variance:

Variance request to allow 6ft fence in the front yard area and variance to allow the finished side not facing adjacent property owner

Neighborhood Meeting:

The Crestline Neighborhood Association voted in support of the request and the abutting property owners Walter rush and Linda Hayes called in to voice their support of the request.

Public Notices:

Public notices were mailed on August 28, 2020.

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet. **Please see attached.**

Staff Analysis:

The subject property located at 4521 Maryland Ave is zoned R-2, Single Family District. The fence was installed without a permit. The 6ft wooden fence is in the front yard area with the finished side not facing the adjacent property owner.

The applicant does meet the requirement of the six variance standards for the height of the 6ft fence; however, not for the finished side not facing the adjacent property owner.

Staff Recommendation

Staff believes the applicant has not provided sufficient evidence to support the variance request for the finished side not facing the adjacent property and should be **DENIED**. Staff believes the applicant has provided sufficient evidence to support the variance request to allow a 6ft fence in the front yard area; therefore, staff believes the request has merit for approval and as such, should be **GRANTED** to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. All permits should be obtain within 30 days of the approval date from the Board.

August 17, 2020

City of Birmingham
Department of Planning, Engineering, & Permits
710 20th Street, North
Room 210, City Hall
Birmingham, AL 35203

Reference: Application to the Zoning Board of Adjustment
4521 Maryland Avenue; Birmingham, AL 35213
Parcel ID: 23-26-3-22-30.000
Case Number: ZEN2020-00140

Dear Zoning Board Members:

I am in receipt of two letters from Zoning Inspector, Mr. Lucius Jones, dated May 20, 2020 and August 6, 2020, respectively. Within these letters, Mr. Jones provided proper, yet shocking, notification of a possible fence violation located on the aforementioned subject property.

The violation contained in said letter(s) is:

- Title 1 Chapter 4, Article 5, Subs 3;1. (hereafter referred to as Violation One)

The violation not contained in said letter(s) is:

- Title 1 Chapter 4, Article 5, Subs 7. (hereafter referred to as Violation Two)

Thus, I humbly, and respectfully, request a variance approval for stated Violation One and Two respectively and cumulatively.

I fully recognize and respect the quasi-judicial adjudication powers of the Zoning Board of Adjustment, hereafter referred to as "ZBA or Board"; and, that I, as the property owner, have initiated this proceeding where the burden of proof is upon me (applicant) to show cause for the qualification of the variance. Further, I recognize the rights of a property owner that are provided to protect against an unfair loss of a property right that is embedded in the U.S. Constitution as is implied in the Alabama Constitution, that: (i) notice to affected persons is required, (ii) an opportunity to be heard at a public hearing, (iii) a right to appear and speak through counsel, (iv) decisions are to be made by an impartial tribunal, (v) deliberation based upon evidence and facts, (vi) provided a written decision with reasons, and, (vii) the right to appeal.

I also recognize that the subject matter of the is request is not a legal nonconforming use and references a fence installed on property that (i) exceeds the height maximum of four (4) feet in a residential property front yard; and, (ii) the "finished" side of the fence does not face adjacent property owners.

I do not allege any ambiguities in the expressed ordinance of the City of Birmingham concerning Violation One or Two. I do, however, factually state and provide evidence of the atypical characteristics of the subject property where Violations One and Two have occurred and which warrant a variance.

Permitting:

I accept that I erred in that I failed to obtain the proper fence permit prior to the fence installation. I erroneously relied on representations by the fencing company I hired. Although I was unaware of the permitting requirement, I understand that even had I sought to obtain a permit prior to the installation, the same application for the variance request(s) would have been required.

Hardship/Justification:

Consideration

Violation One

The non-conforming wooden privacy fence (hereafter referred to as 'fence') is six (6) feet tall in height. In a typical residential property, the City has a rational and legitimate interest in enforcing the ordinance's four (4) feet height requirement. However, the subject property is very atypical in that both abutting neighbors' backyards are in the front yard of the property. Additionally, one neighbor (with an inground pool) has an existing legal nonconforming six (6) feet high chain link fence that is grossly overgrown with vines; and, the other neighbor's backyard peers onto the subject property, which affects the privacy of the owners of the subject property. (see photos one and two).

Violation Two

The fence's finished side does not face adjacent property owners. While I understand this would be required in normal situations, in this particular instance, the adjoining neighbors – each of who's back yard adjoins my front yard, have existing chain link fences. Any aesthetic benefit to the neighboring properties which would normally occur if there was no existing fence is not applicable in this particular situation. Because of these unique circumstances, a fence installation to code on the subject property would result in unnecessary and undue hardship.

Six Variance Standards

Physical Characteristics of the Property

Violation One

As stated above, the extraordinary and exceptional conditions of the subject property warrants a six (6) foot fence not only for the aesthetics of the property and neighborhood, the privacy of the property owners, and the atypical depth of the front yard. The property owners recognize that the fence may be cut to conform to the height ordinance; however, the fence in total length is over 200 feet and would require the removal of each board, cut to height, and then reattached – which, would require excessive, and an undue hardship due to the cost of labor and damage to the fence.

Violation Two

The enforcement of this ordinance would rise to an exceptional or undue hardship by the economic loss of the fence, the additional expense of the complete removal of the fence and denying the property owners a fence in its entirety because of a heightened degree of impracticability, impossibility. Thus, the physical characteristics of the adjacent property owners' fences prohibit compliance.

Unique Characteristics

Considering the totality of the unique property characteristics, abutting neighbors' back yards in the front yards of the subject property is not generally a characteristic prevalently found in the area. Thus, the subject property *is* peculiar.

Violation One

The granting of the application is warranted as to the fence height is necessary due to the one adjacent neighbor's six (6) foot high fence with non-maintained vines would overtake a conforming four (4) foot high fence, the other adjacent neighbor's use and enjoyment of their property could interfere with the use and enjoyment of the property owner, and, thus, substantially interfere with the property owners' right to privacy

Violation Two

As previously stated, code enforcement would substantially interfere with the property owners' right to have a fence, even if conforming in height.

Hardship Not Self-Imposed

In regard to both Violation One and Two, the installation of the fence was self-imposed by the owners of the property that recently purchased it but the fence was installed in good faith reliance of a fence company that has been in business for fifty (50) years installing fences in the City of Birmingham. The property owners also acted in good faith by installing a fence of equal height to that of the adjacent neighbors. It is recognized that actions taken in good faith by property owners may give rise to an approval for a variance.

Financial Gain Not Only Basis

As the property owner- applicant, I aver that an approved variance to maintain the fence in its current height, appeal, and structure for nonconforming use is unprofitable, and also that the nonconforming use itself will not yield a reasonable return. Although curb appeal can heighten interest in a subject property's marketability, it is highly unlikely that the fence increased the property value or would result in a dollar for dollar return. Overall, it did improve the neighborhood aesthetically and more importantly, the surrounding properties.

No Injury to Neighboring Property

The granting of the ordinance variance request(s) is not injurious to other properties and does not diminish or impair property values within the area. In all actuality, the property in its prior state was adversely affected by the properties that surround the subject property.

No Harm to Public Welfare

In regard to Violation One and Two, an approval for a variance request will not be contrary to public welfare.

Request in the Alternative if Violation One request is not granted

Although the property owners' argument(s) for approval of ordinance variance One and Two is well-supported and when taken in consideration of the totality of the circumstances should be granted, the property owners request that in the alternative of denying both variances, that the ZBA consider the requests, respectively.

The property owners acknowledge that the fence can be reduced to meet the height requirements of a conforming fence, at a great cost, but the denial of variance for Violation Two would result in a denial of a fence in its entirety. It is unnecessary and an undue hardship to deny the property owners' right to a fence in the front yard of the subject property and the denial, itself, would be in contrast to the spirit of the ordinance which allows it.

As a new resident citizen of the City of Birmingham, I thank the City of Birmingham, the Department of Planning, Engineering and Permits, Zoning Inspector Lucius Jones, ZBA Planner

Angelica Moton, and the Members of the ZBA, in their official capacity, and individually, for the lessons learned by my lack of knowledge and most importantly, the opportunity to be heard.

I humbly request for the application for ordinance variance for Violations One and Two, cumulatively, or in the alternative, respectively, be granted.

Respectfully submitted,



Thomas W. Russell

4521 Maryland Avenue

Birmingham, AL 35213

(205) 721-3013

Thomas.russell1257@gmail.com

PARCEL ID: 012300263022030000

SOURCE: TAX ASSESOR RECORDS **TAX YEAR:** 2019

DATE: Thursday, August 27, 2020 10:14:42 AM

OWNER: KEYCO FLIP FUND 1 LLC

ADDRESS: 4880 OLD STILESBORO RD NW

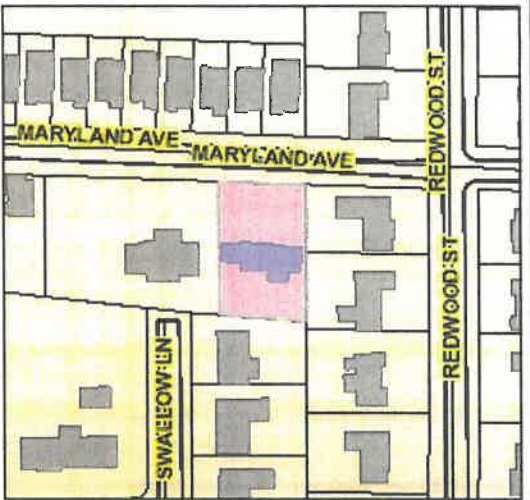
CITY/STATE: ACWORTH GA

ZIP+4: 30144

SITE ADDR: 4521 MARYLAND AVE

CITY/STATE: BHAM, AL

ZIP: 35213



LAND: \$152,000.00

BLDG: \$132,800.00

OTHER: \$0.00

AREA: 15,516.18

ACRES: 0.36

SUBDIVISION INFORMATION:

NAME CHANDLER & WATKINS 23-26-

BLOCK:

LOT:

:

Section: 26-17-2W

Land Slide Zones: Not in Land Slide Zones

Historic Districts: Not in Historic Districts

Commercial Revitalization District: Not in Commercial Revitalization District

Fire District: Not in Fire District

Flood Zones: Not in Flood Zones

Tax Increment Financing District: Not in Tax Increment Financing District

Neighborhoods: Crestline (301)

Communities: Crestline (3)

Council Districts: District - 2 (Councilor: Hunter Williams)

Zoning Outline: R2

Demolition Quadrants: DEM Quadrant - 4

Impaired Watersheds: Impaired Watershed - Upper Shades Creek

Strategic Opportunity Area: Not in Strategic Opportunity Area

RISE Focus Area: In RISE Focus Area

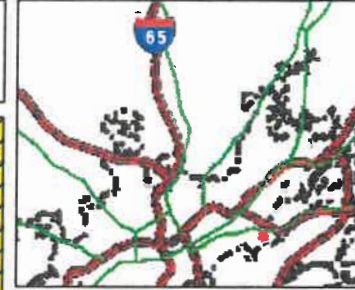
Tax Delinquent Property: Not in Tax Delinquent Property

EPA Superfund: Not in EPA Superfund

Opportunity Zones: Not in Opportunity Zones

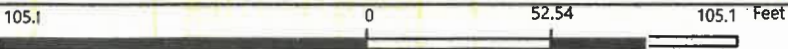
Judicial Boundaries: JEFFERSON

Parcel mapping and description information is obtained from the Jefferson County Tax Assessor's Office. This site does not provide real-time information and may contain errors. All data should be verified with the official source. The City of Birmingham makes no warranty as to the accuracy of the data and assumes no responsibility for any errors. Data from the Tax Assessor's Office may not be available for all parcels.



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 - Limited Access
 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Zoning Shaded
 - R1; D1 - Single Family District - Cla
 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District

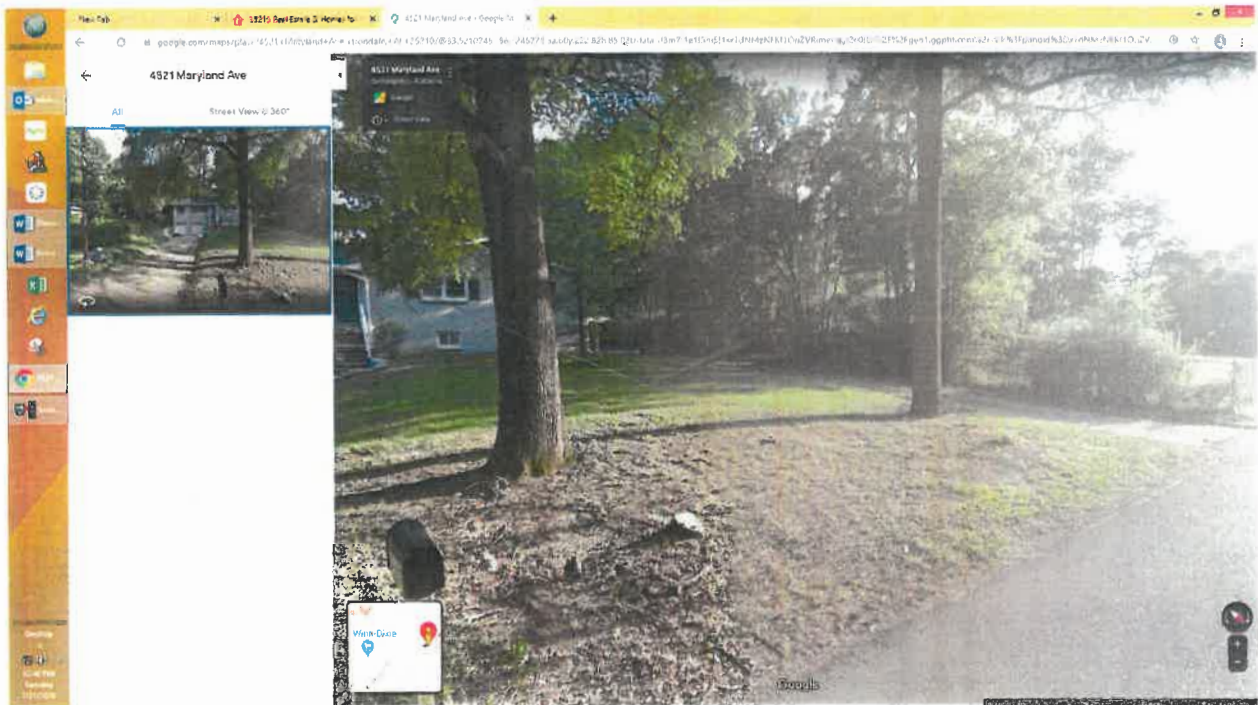


1: 631

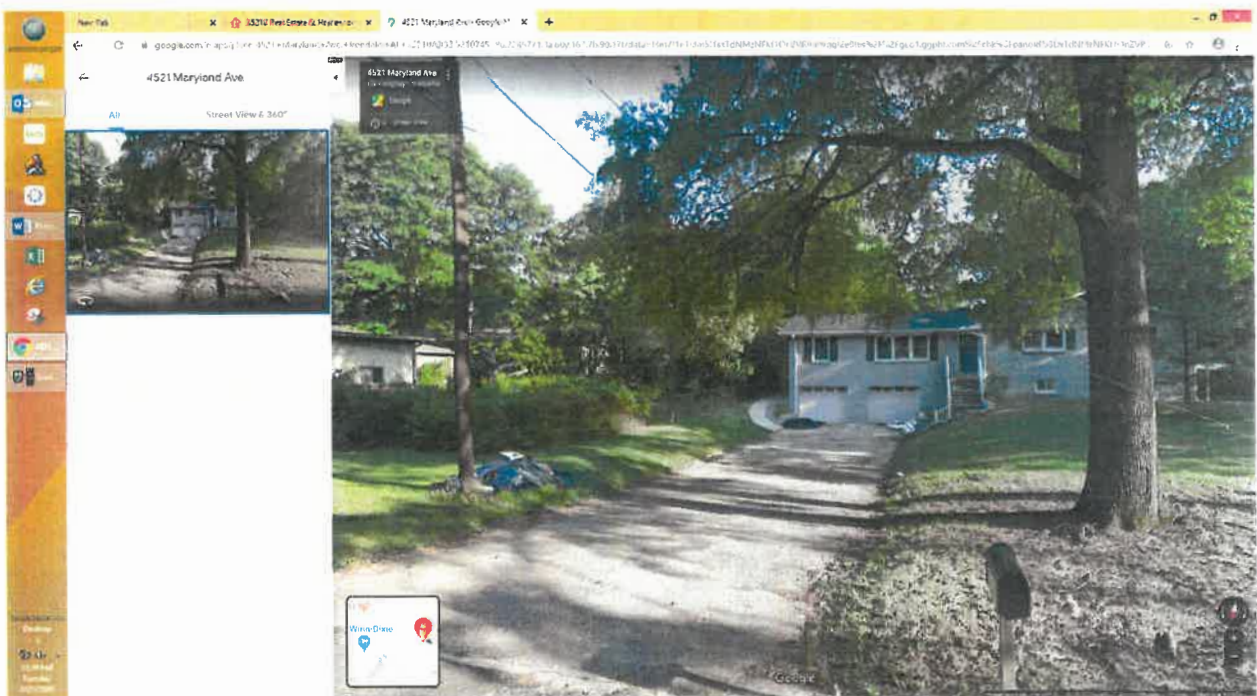
The City of Birmingham makes no warranty, expressed or implied, as to the accuracy of the information represented herein. This map is a user generated static output from an internet mapping site and is for general reference only.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Before Fence Installation Photos



**** Photo above shows pre-existing, legal nonconforming chain-link fence in neighbor's back yard. Overgrown, not maintained.**



**** Photo above shows overgrown, not maintained, pre-existing, legal nonconforming chain-link fence in abutting neighbor's back and side yard.**

After Fence Installation Photos

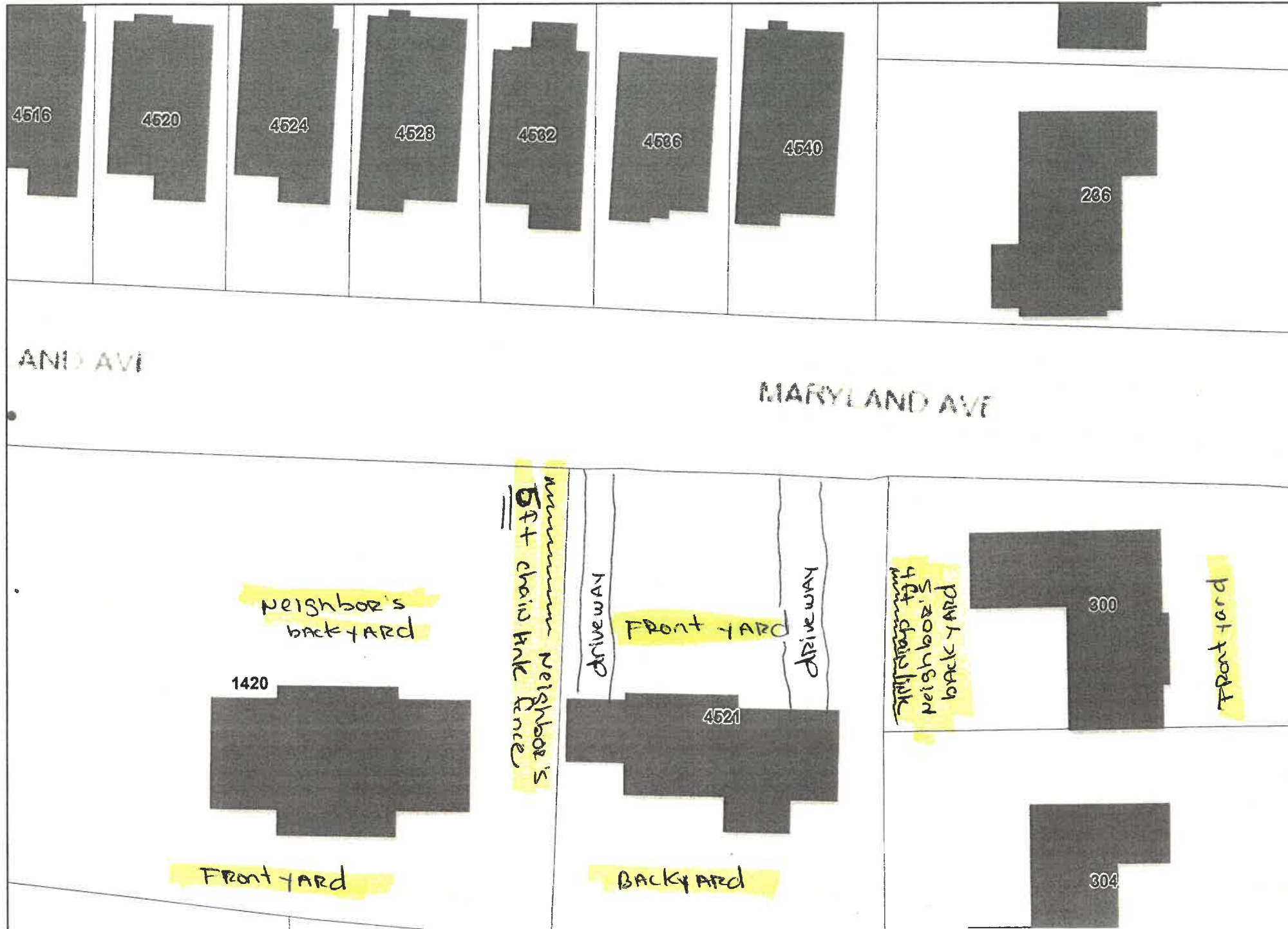


** Photo above shows wood privacy fence post-installation that abuts neighbor's chain-link fence and drastically improved the neighborhood. This photo also reflects the impossibility of facing the finished side of the fence to the adjacent neighbor. Facing the finished side facing the neighbor's property would, not only, serve no aesthetic purpose but would also diminish the appeal of the subject property.



** Photo above shows the same side of the subject property and supports the impossibility of installing the fence with the finished side facing the adjacent neighbor.

4521 Maryland Avenue GIS



4516

4520

4524

4528

4532

4536

4540

286

AND AVE

MARYLAND AVE

neighbor's
back yard

1420

Front yard

5 ft + chain link fence

driveway

Front yard

driveway

4521

BACKYARD

4 ft chain link fence

Neighbor's
back yard

300

Front yard

304



ALLSTEEL FENCE CO.
 2111 MONTEVALLO ROAD S. W.
 BIRMINGHAM, ALABAMA 35211
 (205) 942-8249 FAX: (205) 942-5860

JOB SKETCH

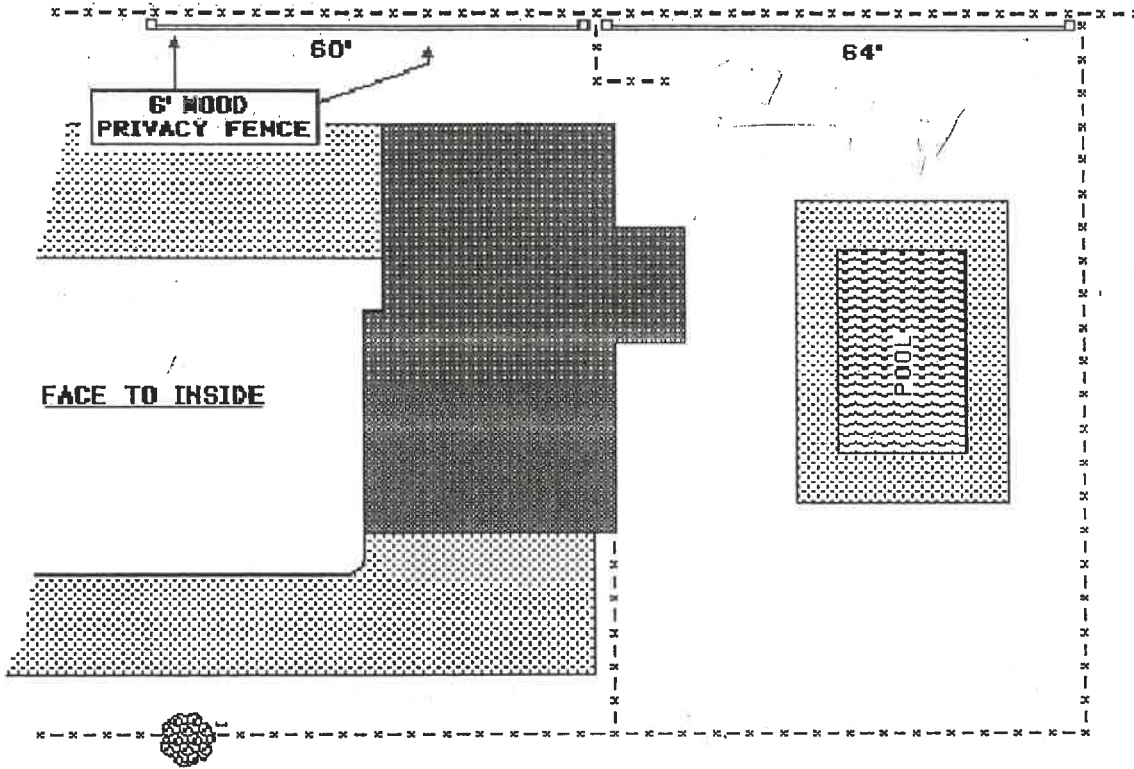
BILL TO:

THOMAS RUSSELL
 4521 MARYLAND AVE
 BIRMINGHAM, ALABAMA 35210

SHIP TO:

205-721-3013
 thomas.russell1257@gmail.com

124'
 ^





ALLSTEEL FENCE CO.
 2111 MONTEVALLO ROAD S. W.
 BIRMINGHAM, ALABAMA 35211
 (205) 942-8249 FAX: (205) 942-5860

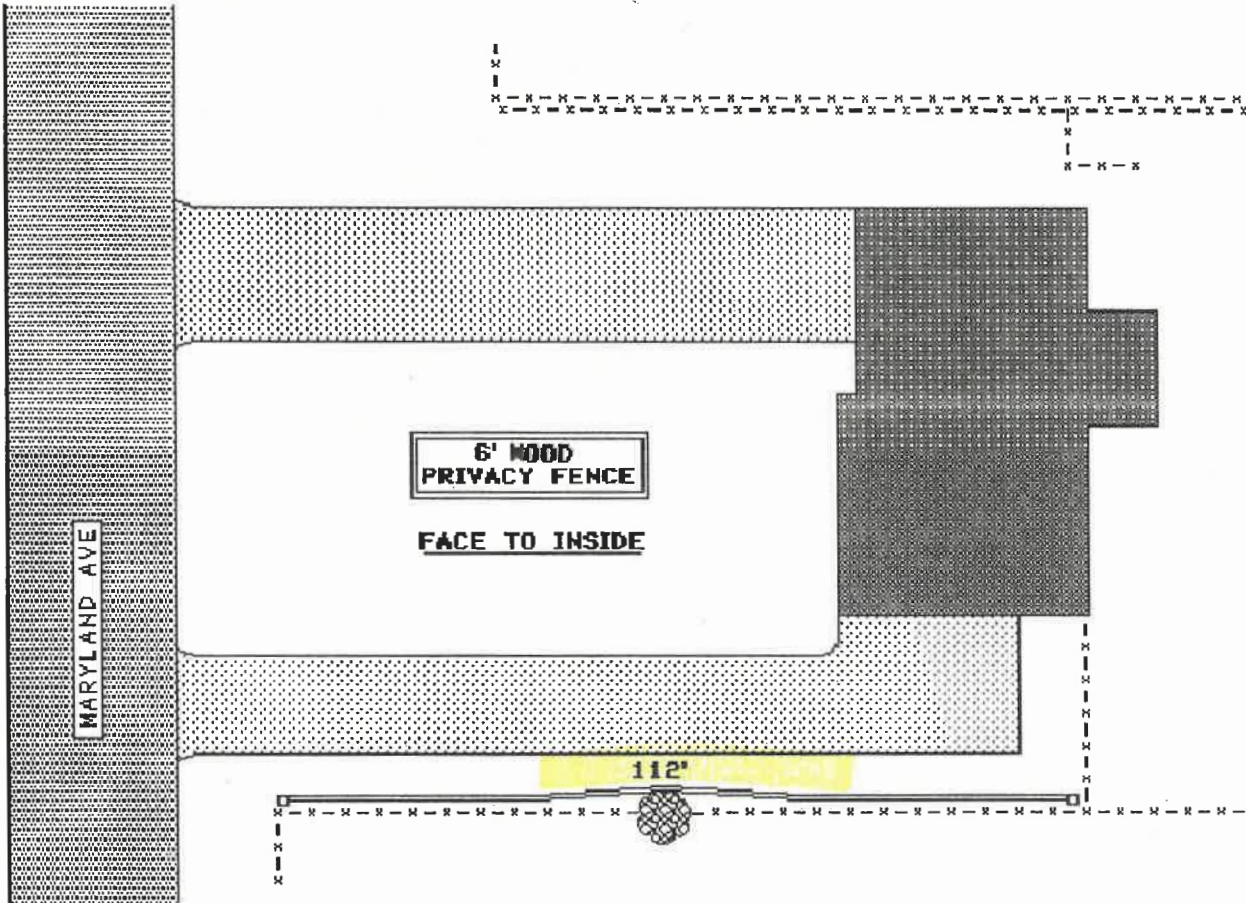
JOB SKETCH

BILL TO:

THOMAS RUSSELL
 4521 MARYLAND AVE
 BIRMINGHAM, ALABAMA 35210

SHIP TO:

205-721-3013
 thomas.russell11257@gmail.com



Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Central Park Staff Planner Moton ZBA2020-00053

Request: Variance to allow a 5ft chain link fence in the front yard area pursuant Title 1 Chapter 4 Subsection 3.A.1 page 182
Applicant: Leroy Williams
Owner: Leroy Williams
Site Address: 1344 57th St En
Zip Code: 35208
Description: Variance to allow a 5ft chain link fence in the front yard area pursuant Title 1 Chapter 4 Subsection 3.A.1 page 182
Property Zoned: D-3 Single Family District
Parcel Information: Parcel #: 012900073053007000, SW of Section 07, Township 18 S, Range 3 W

Variance:

Variance to allow a 5ft chain link fence in the front yard.

Neighborhood Meeting:

The Central Park Neighborhood Association voted in support of the request.

Public Notices:

Public notices were mailed on September 8, 2020.

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet. **Please see attached.**

Staff Analysis:

The subject property located at 1344 57th St EN is zoned D-3, Single Family District. The fence was installed without a permit. The applicant has an open storm water drainage ditch running through his property where children will often cut through his yard in swim in the dangerous condition. The applicant has also stated that automobiles, four wheelers and etc would drive through the empty lot. The adjacent neighboring property also have chain link fence in their front yard.

The applicant does meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has provided sufficient evidence to support the variance request. Therefore, staff believes the request has 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. All permits should be obtain within 30 days of the approval date from the Board.

Fence Variance

September, 2, 2020

The property at 1344 57th St. Ensley, 2.6 acre property that's almost rectangular shaped except for a 50ft. offset in the North West quadrant. The property is in a flood plane with a natural tributary (stream) combined in a storm water drainage ditch, which run almost diagonal the full depth of the property 15 ft. wide and at the focal point 20 ft. wide and 14 to 15ft. deep. The normal water level is about 4 to 4.5 ft. and after it rains the rushing water level rises to approximately 6 to 7 ft. deep.

I have maintained the stream/storm water drainage ditch, doing what I can, for 10 years then contacted, Mr. Terry Davis with Public Works, because of maintenance concerns and possible flooding with no avail, then asked again six months ago.

The storm water is structurally channeled from Bessemer Road at 1337 Bessemer Road, also from Avenue N over a shallow curb across my property into the stream/storm water drainage ditch.

The stream/ditch was hidden from sight for years because of so much brush, small trees and vines.

After we invested in creating a better looking green space for us and the neighbors and with a NO Trust Passing sign posted, cars, ATV's (doing donuts on the grass day and night), mini bike riders, foot traffic, school kids and younger, walking along the bank, and worst of all, children swimming unsupervised without permission. So, we believe a substantial fence is what we need for child safety and protection from possible lawsuits.

PARCEL ID: 012900073053007000

SOURCE: TAX ASSESSOR RECORDS **TAX YEAR:** 2019

DATE: Tuesday, September 8, 2020 9:48:52 AM

OWNER: WILLIAMS LEROY

ADDRESS: 1344 57TH ST W

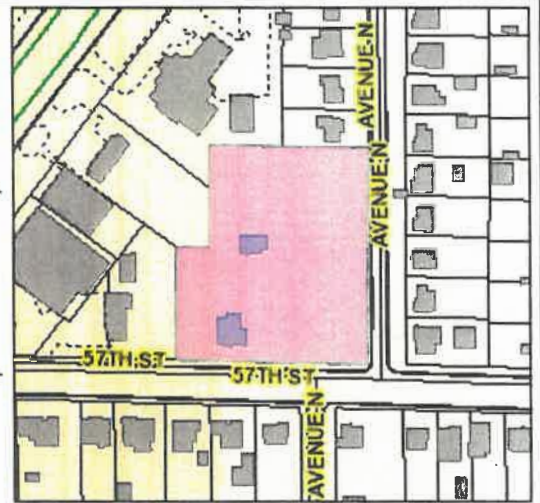
CITY/STATE: BIRMINGHAM AL

ZIP+4: 35228--1204

SITE ADDR: 1344 57TH ST

CITY/STATE: BHAM, AL

ZIP: 35208



LAND: \$54,500.00

BLDG: \$69,500.00

OTHER: \$0.00

AREA: 83,668.26

ACRES: 1.92

SUBDIVISION INFORMATION:

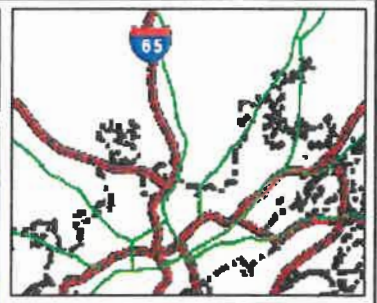
NAME TULLY PROP 29 7 3

BLOCK:

LOT:

Section: 7-18-3W
Land Slide Zones: Not in Land Slide Zones
Historic Districts: Not in Historic Districts
Commercial Revitalization District: Not in Commercial Revitalization District
Fire District: Not in Fire District
Flood Zones: Not in Flood Zones
Tax Increment Financing District: Not in Tax Increment Financing District
Neighborhoods: Central Prk (203)
Communities: Five Points West (2)
Council Districts: District - 8 (Councilor: Steven W. Hoyt)
Zoning Outline: D3
Demolition Quadrants: DEM Quadrant - 2
Impaired Watersheds: Not in Impaired Watersheds
Strategic Opportunity Area: Not in Strategic Opportunity Area
RISE Focus Area: Not in RISE Focus Area
Tax Delinquent Property: Not in Tax Delinquent Property
EPA Superfund: Not in EPA Superfund
Opportunity Zones: Not in Opportunity Zones
Judicial Boundaries: JEFFERSON

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Legend

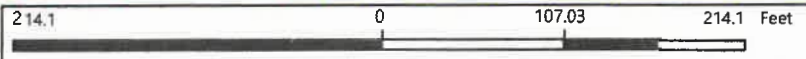
- Centerline Labels
- Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
- Limited Access
- Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport

Zoning Shaded

- R1; D1 - Single Family District - Cla
- R2; D2 - Single Family District - Cla
- R3; D3 - Single Family District; R3
- R4; D4 - Two Family District; R4
- R4A - Multiple Dwelling District
- R5; D5 - Multiple Family District; D5
- R6; D6 - Multiple Family District
- R7 - Multiple Family District

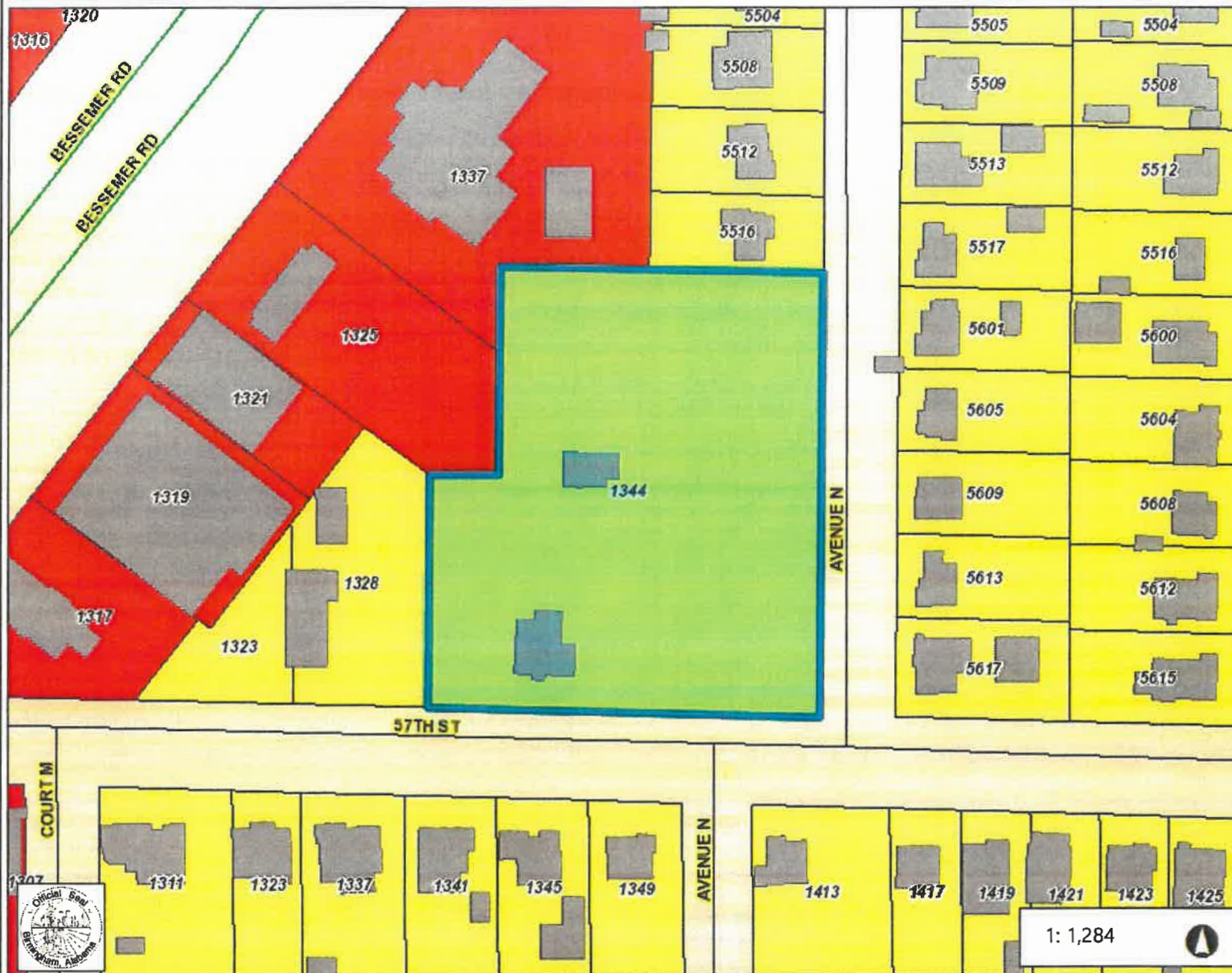
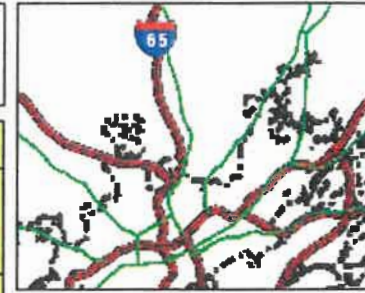


1: 1,284



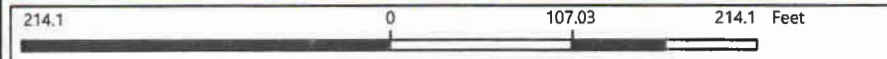
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Notes



Legend

- Centerline Labels
- + Railroad
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- Arterials
- County Highways
- 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
 - MXU-High



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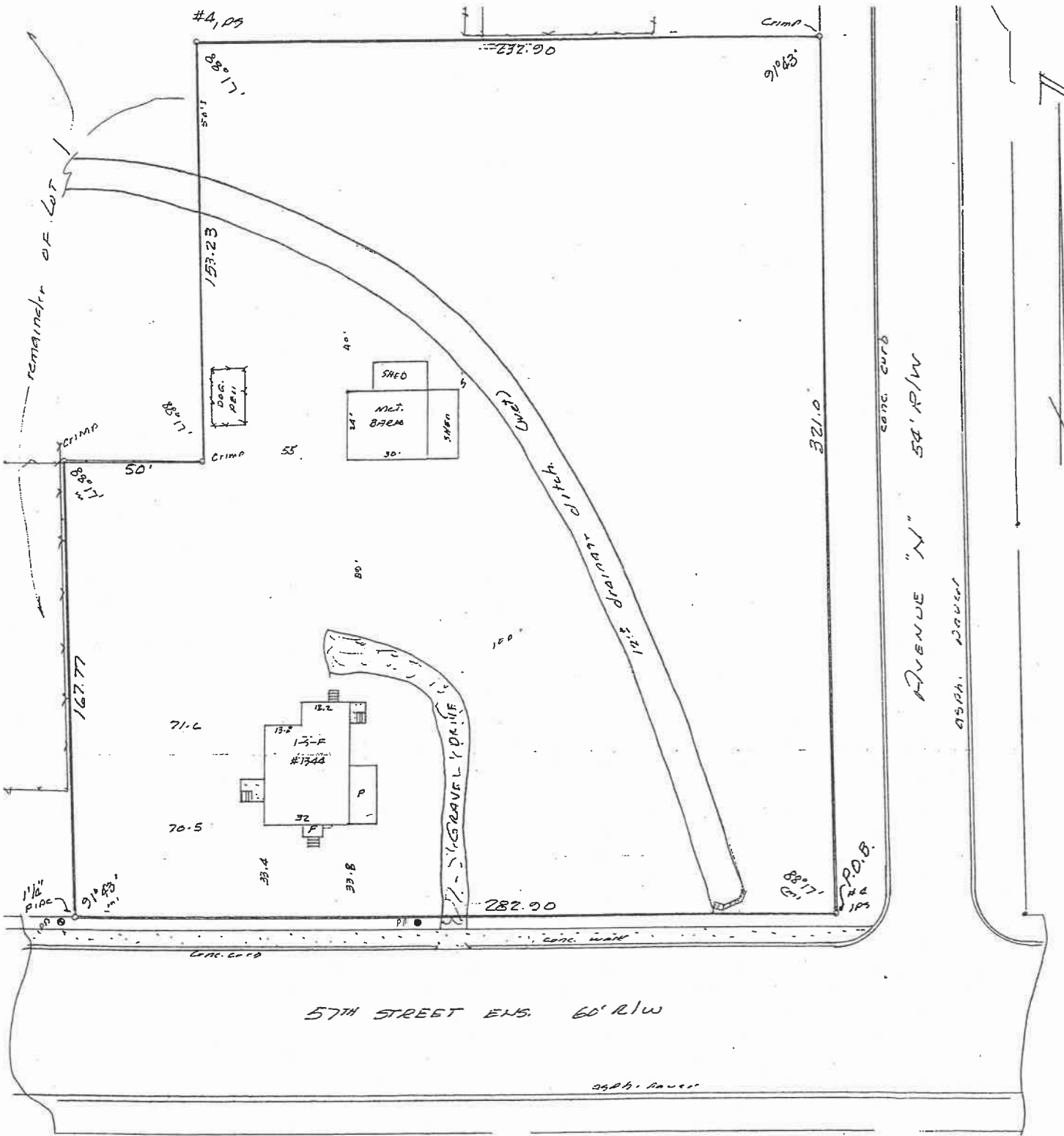
Notes



1344 57th St EN

ZBA2020-0053





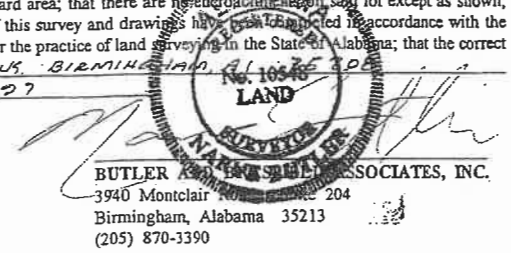
ASBUILT SURVEY
OF
REAL VOL. 1677, PAGE 123

* Part of Lot 1, according to the survey of Tully property as recorded in Map Book 8, on page 17, in the Office of the Judge of Probate of Jefferson County, Alabama, more particularly described as follows: Begin at the point of intersection of the West line of Avenue N and the North line of 57th Street as now located, thence North and along the West line of Avenue N 321 feet, thence West and parallel with the North line of 57th Street 232.9 feet, thence South and parallel with the West line of Avenue N to a point which is 167.77 feet North of the North line of 57th Street, thence West and parallel with the North line of 57th Street a distance of 50 feet, thence South and parallel with the West line of Avenue N a distance of 167.77 feet to the North line of 57th Street, thence East along the North line of 57th Street to the point of beginning.

**STATE OF ALABAMA
JEFFERSON COUNTY**

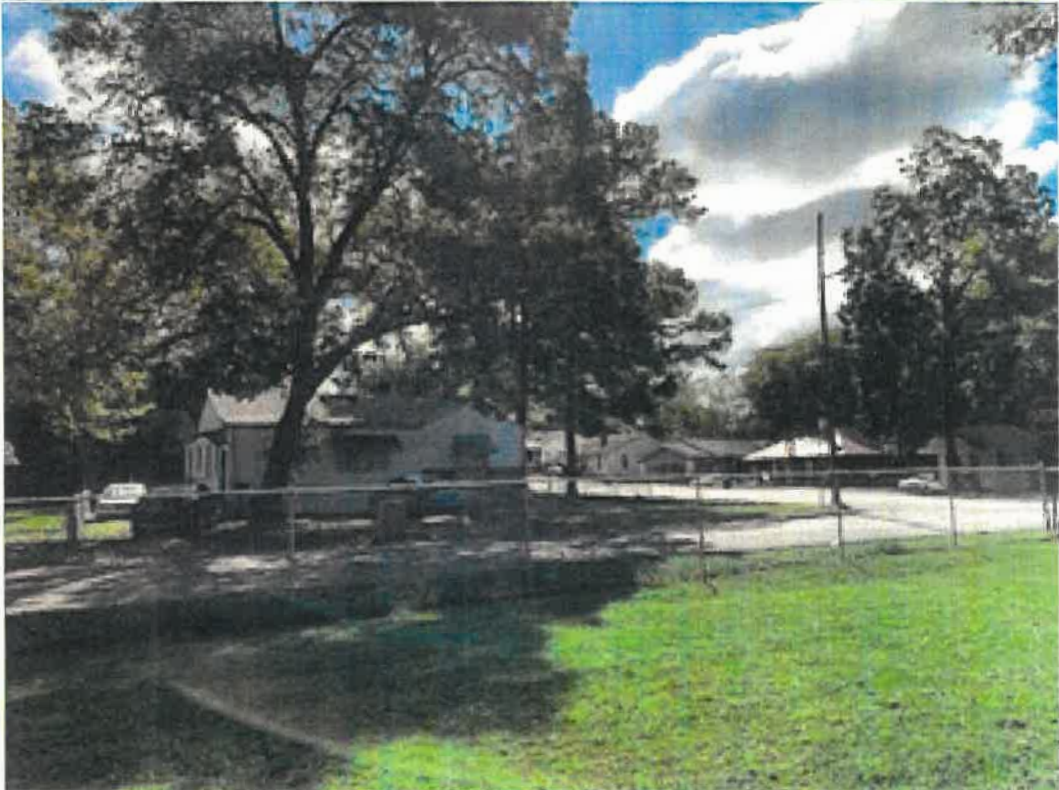
I, the undersigned for BUTLER AND BRASFIELD ASSOCIATES, INC., a registered Land Surveyor of Birmingham, Alabama, certify that I have surveyed LOT X, BLOCK ---, of ---, as recorded in Map Volume X, Page X, in the Office of the Judge of Probate, X County, Alabama; that there are no rights-of-way, easements or joint driveways over or across said land visible on the surface, except as shown; that there are no electrical or telephone wires (excluding wires which serve the 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 located in Zone C, and IS NOT, in a special flood hazard area; that there are no encroachments on said lot except as shown; that improvements are shown above; that all parts of this survey and drawings have been completed in accordance with the requirements of the Minimum Technical Standards for the practice of land surveying in the State of Alabama; that the correct address is 1344 57TH STREET EWS, BIRMINGHAM, AL 35213 according to my survey of DEC. 12, 1997

This survey is for mortgage purposes only. No other use is intended or implied. This survey is invalid unless sealed in red or embossed seal.



Scale: 1 inch = 40 feet

File # "E-79197-W" Dwg # 1











Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Fountain Heights Staff Planner Moton ZBA2020-00054

Request: Special exception to allow a communal living facility pursuant to Title 1, Chapter 9, Article V, Section 3.5
Applicant: Charlie Beavers
Owner: LSCG Fund 19-7 LLC
Site Address: 1628 2nd Ave N
Zip Code: 35203
Description: Special exception to allow a communal living facility pursuant to Title 1, Chapter 9, Article V, Section 3.5
Property Zoned: B-4, Central Business District
Parcel Information: Parcel #: 012200362042008000, NW of Section 36, Township 17 S, Range 3 W

Special Exception:
Special exception to allow a communal living facility.

Neighborhood Meeting:
The Fountain Heights Neighborhood Association waiting on response.

Public Notices:
Public notices were mailed on September 14, 2020.

Staff Analysis:
The subject property located at 1628 2nd Ave N is zoned B-4 Central Business District. The property is located within the Downtown West; 4th Ave North Commercial Revitalization District. The applicant is proposing a communal living facility that will house up to 28 homeless men. The property does not have any parking requirements; however, the applicant own the parking lot adjacent to the property which they would utilized for staff and residence.

Staff Recommendation
Staff believes the applicant has provided sufficient evidence to support the special exception request. Therefore, staff believes the request has 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. All permits and certificate or completion should be obtained within 3 years of the approval date from the Board.

Where HOPE is Found for a Better Life



1616 Second Avenue North * PO Box 11254 * Birmingham, AL 35202 * 205-322-0092 * bbmission.com

Brother Bryan Mission's Proposed Use for the 1628 2nd Avenue North Building.

Brother Bryan Mission, the oldest mission in Birmingham, is seeking to expand its ministry to the economically, emotionally, and spiritually impoverished in the central Alabama area by purchasing and remodeling the 2 story, 10,000 square foot building at 1628 2nd Avenue North.

Currently BBM has 76 beds to carry out its programming. With the possible addition of the 28 beds proposed by purchasing and remodeling the 1628 building, it would bring the number of beds being offered to 104.

Brother Bryan Mission has two residential programs for homeless men who desire help in dealing with addiction and overcoming the barriers that hinder them from returning to a productive life.

The heart of BBM's programming is the New Life Fellowship (NLF) Program. The NLF Program is a 9-month, Christian residential recovery and job readiness program. During the first six months, clients attend classes on the Bible, addiction, anger management, financial management, and other subjects while being accountable to a Chaplain on a weekly basis. The Chaplain helps the client to obtain the necessary documents to re-enter the workforce (AL Id, SS card, birth certificate), clear up legal issues, address any medical needs, and re-establish contact with family. They are required to participate in the job training program "Ready To Work" which is offered under the auspices of Lawson State Community College. Once they have satisfactorily finished the first six months, during the last 3 months they prepare a resume, seek and obtain employment under BBM's guidance. A mentor from the community is assigned to help in the transition back into the workplace.

The other residential program BBM offers is the Exodus Program. The Exodus Program is for graduates of the NLF Program and other similar programs. Exodus Program members have jobs and have not been active in their addiction within the last six months. An assigned Chaplain helps the client formulate and carry out an Exit Plan. Clients may stay for up to two years in the Exodus Program.

BBM also offers services to community residents during non-Covid times. BBM serves lunch Monday through Friday, provides clothing and toiletries, gives access to showers for men, and offers limited social work.

The goal of Brother Bryan Mission is for every client to return to their families, churches, and communities...1) free of addiction, 2) with stable employment and housing, and 3) with healthy relationships with God, their families, and others.

In 2019 BBM's New Life Fellowship Program served 159 unduplicated men while the Exodus Program served 49.

Can you spare a little HOPE today?

PARCEL ID: 012200362042008000

SOURCE: TAX ASSESOR RECORDS **TAX YEAR:** 2019

DATE: Monday, September 14, 2020 11:08:21 AM

OWNER: SOHO GROUP LLC

ADDRESS: 13949 VENTURA BLVD SUITE 300

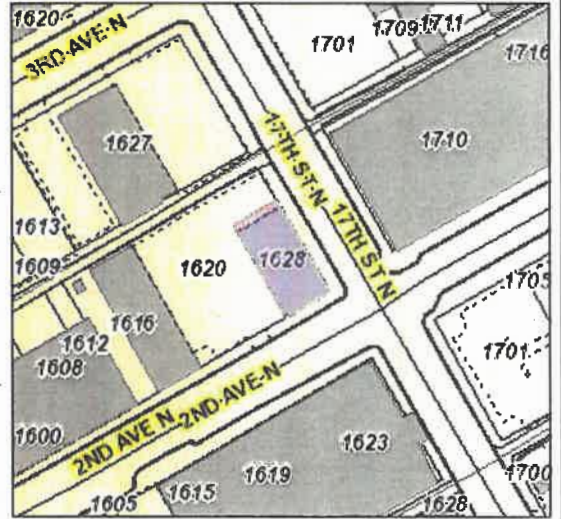
CITY/STATE: SHERMAN OAKS CA

ZIP+4: 91423

SITE ADDR: 1628 2ND AVE N

CITY/STATE: BHAM, AL

ZIP: 35203



LAND: \$47,500.00

BLDG: \$557,400.00

OTHER: \$0.00

AREA: 5,325.52

ACRES: 0.12

SUBDIVISION INFORMATION:

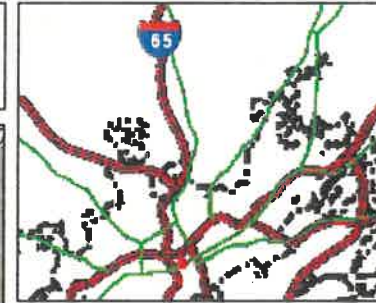
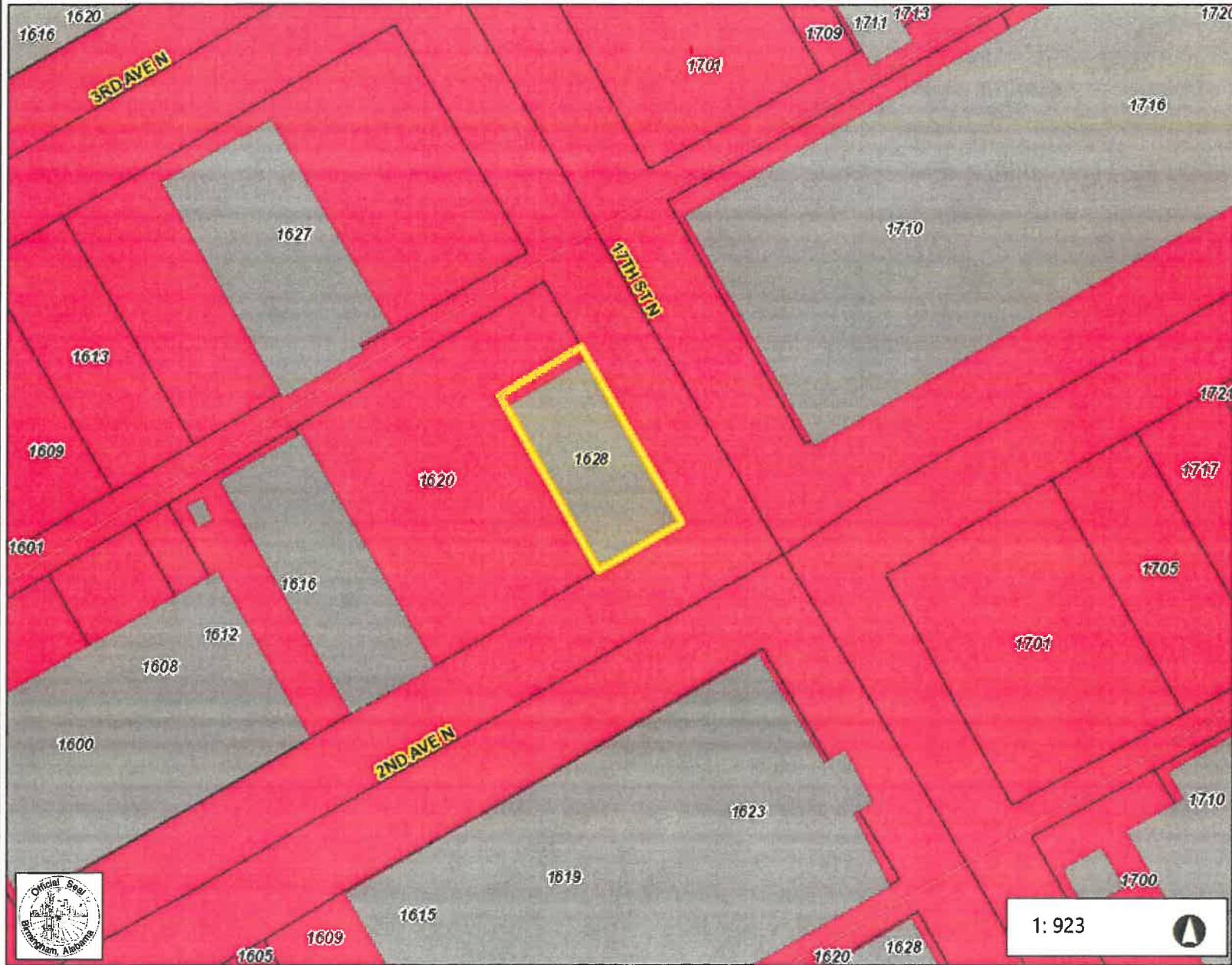
NAME BIRMINGHAM BLOCKS

BLOCK: 89

LOT: 19

Section: 36-17-3W
Land Slide Zones: Not in Land Slide Zones
Historic Districts: Not in Historic Districts
Commercial Revitalization District: Downtown West; 4th Avenue North
Fire District: In Fire District
Flood Zones: Not in Flood Zones
Tax Increment Financing District: In Tax Increment Financing District
Neighborhoods: Fountain Hghts (1204)
Communities: Northside (12)
Council Districts: District - 5 (Councilor: Darrell O'Quinn)
Zoning Outline: B4
Demolition Quadrants: DEM Quadrant - 3
Impaired Watersheds: Not in Impaired Watersheds
Strategic Opportunity Area: Not in Strategic Opportunity Area
RISE Focus Area: In RISE Focus Area
Tax Delinquent Property: Not in Tax Delinquent Property
EPA Superfund: Not in EPA Superfund
Opportunity Zones: In Opportunity Zones
Judicial Boundaries: JEFFERSON

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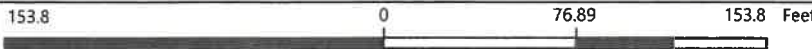


Legend

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- Parcels
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- Airport
- Zoning Shaded
 - R1; D1 - Single Family District - Cla
 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District

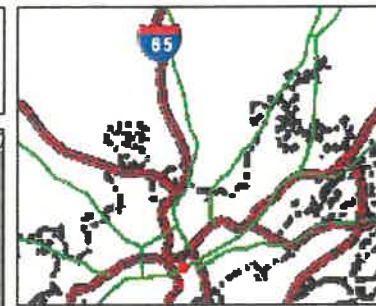
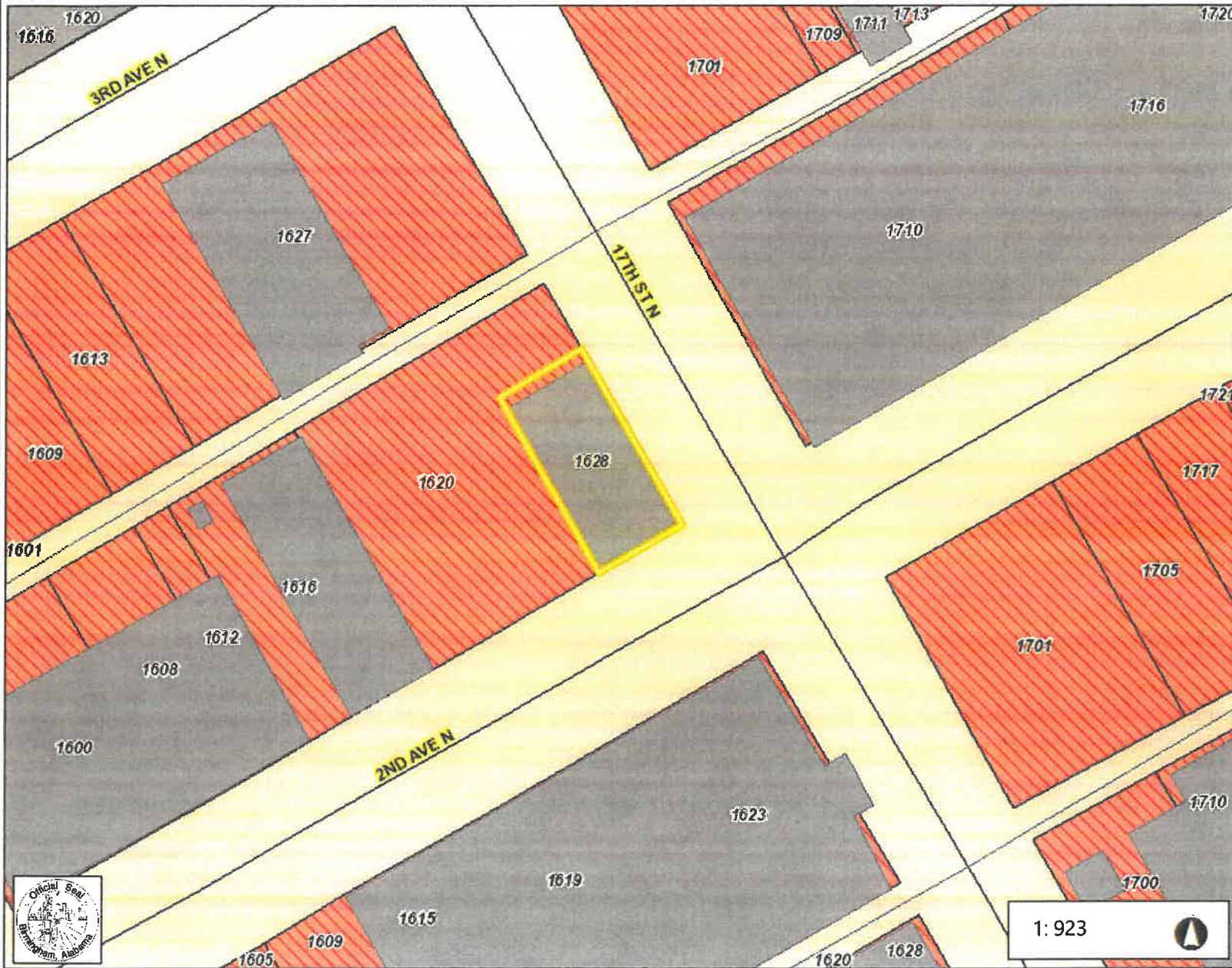


1: 923



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Notes

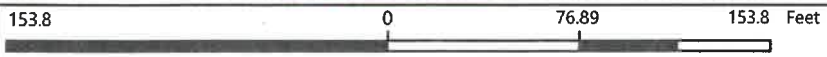


Legend

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



1: 923



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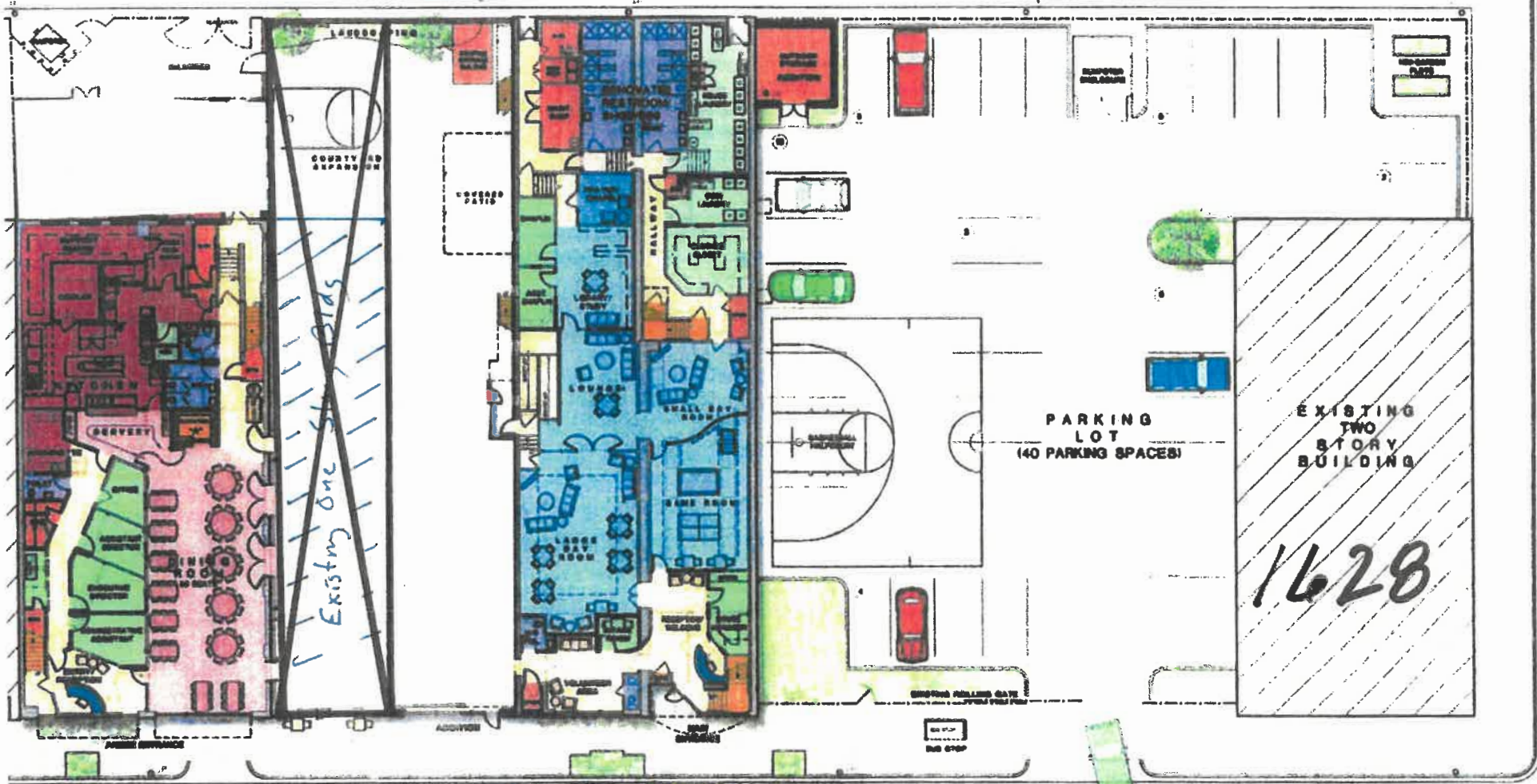




Google

EXISTING ONE STORY BUILDING

PUBLIC ALLEY



Existing One Story Bldg

EXISTING TWO STORY BUILDING

1628

PARKING LOT (140 PARKING SPACES)

1000 1012 SECOND AVENUE NORTH 1010

Brother Bryan Mission

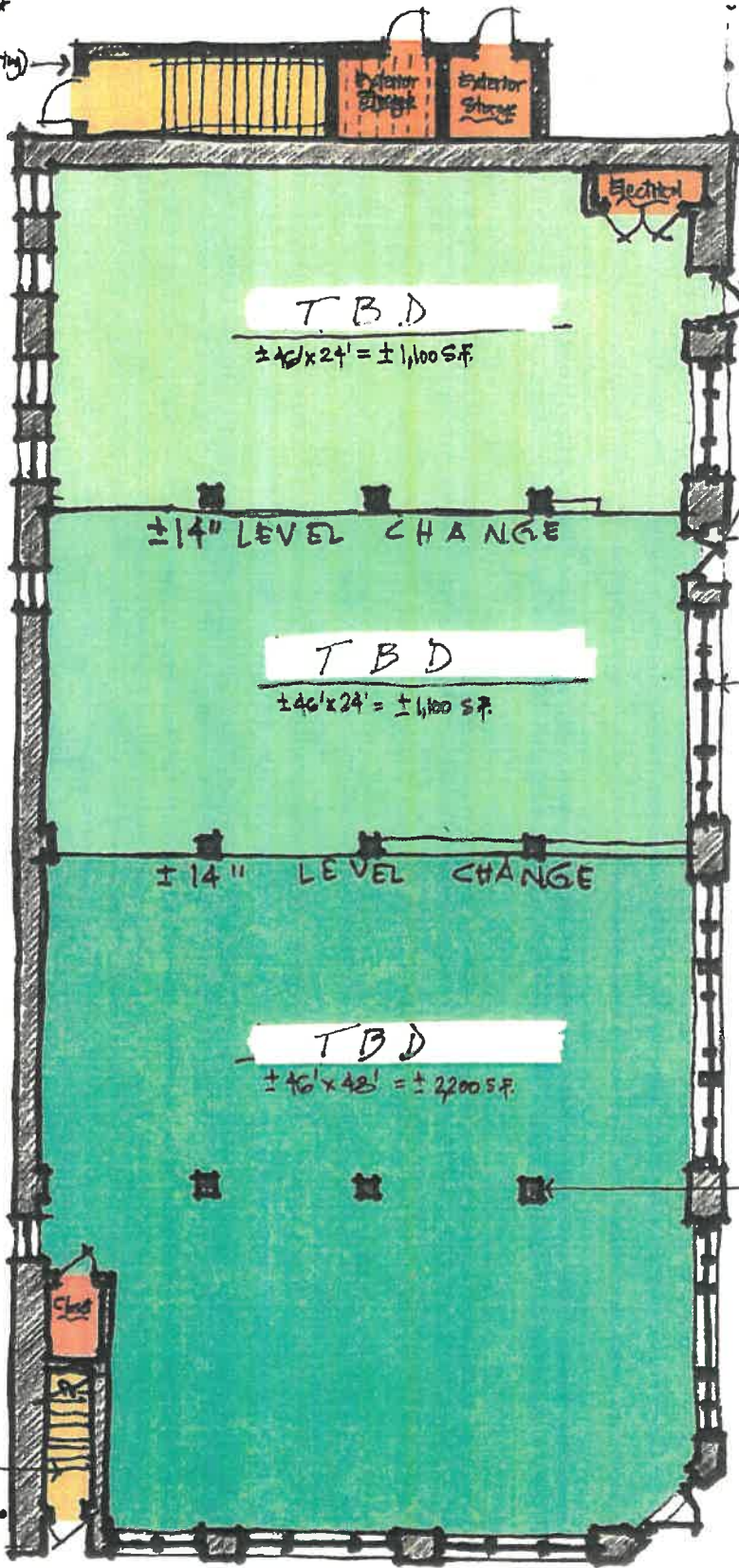
SECOND AVENUE NORTH
2ND AVE. N

MASTER SITE PLAN



1628

New Exit Stair
From Above
(Non-Communicating)



Location of
Existing Exterior
Door

Probable Area
of opportunity
for Major
Storefront Window
(Typical of 37 locations)

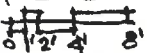
Existing Interior
Structural Column
To Remain Typical

17TH STREET NORTH

Existing Exit
Stair from
Above - Non
Communicating

Conceptual Tenant Space Layout - First Floor 1628 Building

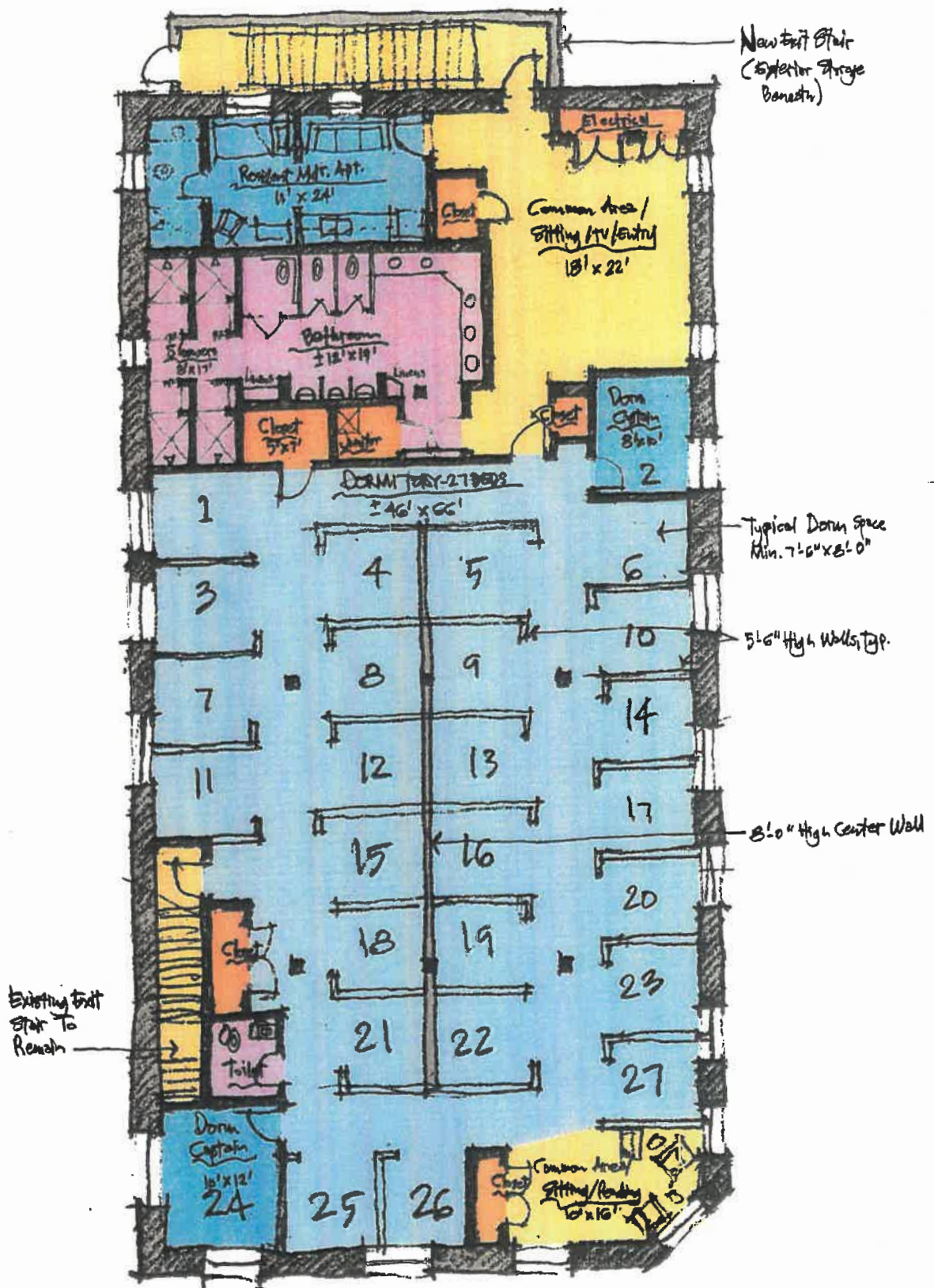
SCALE: 1/8" = 1'-0"



02.24.2020

BROTHER BRYAN MISSION Study #1928 CTSM ARCHITECTS, INC.

2ND AVENUE NORTH



Conceptual Dorm Layout - Exodus Program - Second Floor K28 Building
 SCALE: 1/8" = 1'-0" 02.24.2020
 BROTHER BRYAN MISSION Study #1928 CTSM ARCHITECTS, INC.

Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Roebuck Staff Planner Moton

ZBA2020-00055

Request: Variance request to allow the fence finished side not facing adjacent property owner pursuant Title 1 Chapter 4 Subsection 3.A.1 page 182
Applicant: Mark Gilbert
Owner: Craig Smith
Site Address: 320 Bridlewood Drive
Zip Code: 35215
Description: Variance request to allow the fence finished side not facing adjacent property owner pursuant Title 1 Chapter 4 Subsection 3.A.1 page 182
Property Zoned: D-2 Single Family District
Parcel Information: Parcel #: 011300351009012000, NE of Section 35, Township 16 S, Range 2 W

Variance:

Variance request to allow the fence finished side not facing adjacent property owner

Neighborhood Meeting:

The Roebuck Neighborhood Association; waiting on a response.

Public Notices:

Public notices were mailed on September 8, 2020.

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet. **Please see attached.**

Staff Analysis:

The subject property located at 320 Bridlewood Dr is zoned R-2, Single Family District. The fence was installed without a permit. The finished side is not facing adjacent property. There is an existing fence very close to the property owner and he does not know who owns it; therefore, he did not want to remove it.

The applicant does meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has not provided sufficient evidence to support the variance request. Therefore, staff believes the request has merit for approval and as such, should **DENIED.**

Olympic Fence

P.O. Box 63

Maylene, AL 35114

(205) 663-4632

olympicfence.office@gmail.com

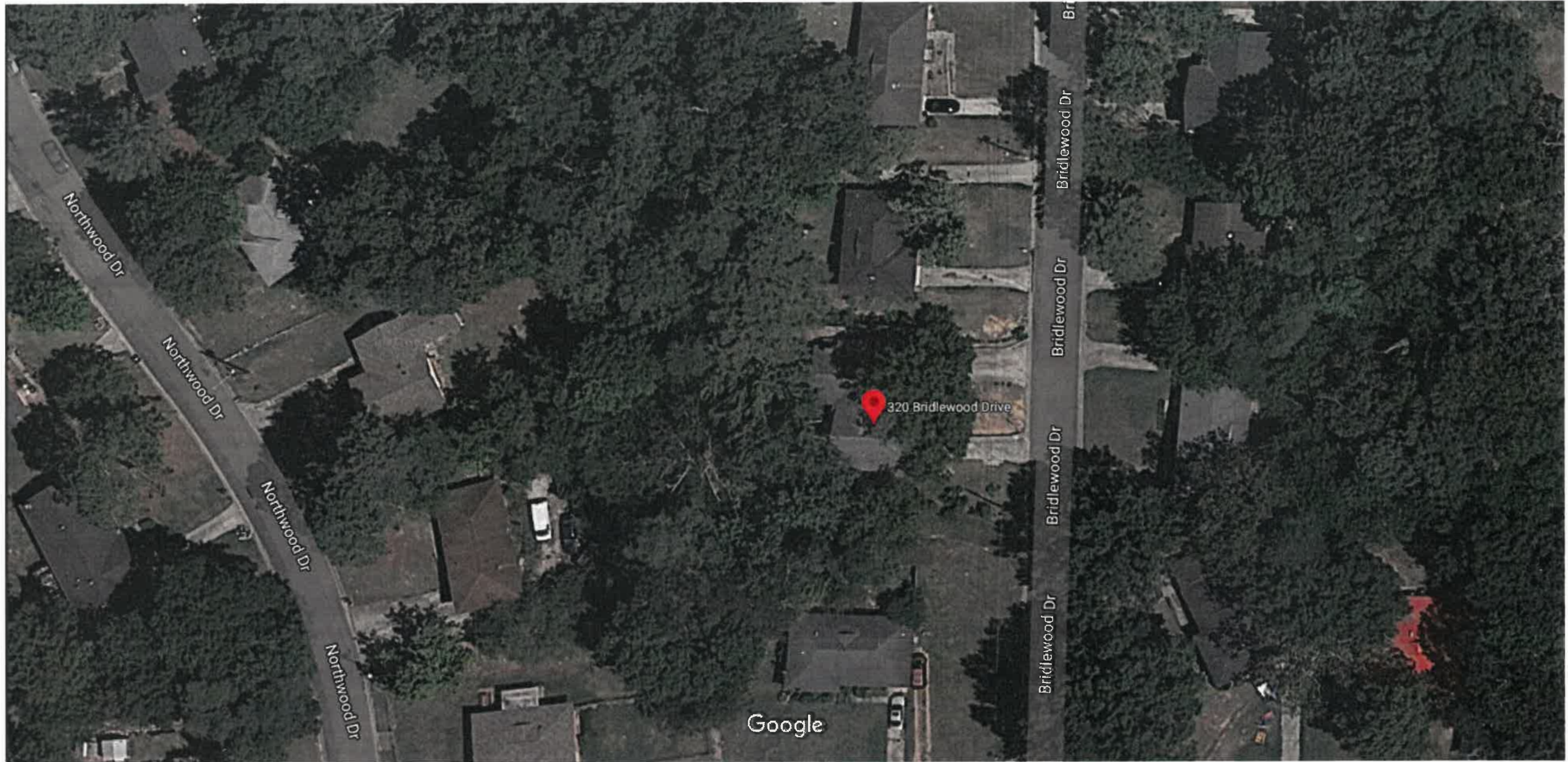
The variance is needed due to the difficult nature of installing the fence next to an adjoining fence. It is not possible to install the boards to the outside with the work posts being so close to the neighboring fences (see attached photos). The homeowner does not know who owns the fence to the left. It's possible that it is not his fence, thus he didn't want to have it removed.

The Variance Standards of Review answers are below.

1. The difficulties in installing the fence with the boards facing to the outside is virtually impossible due to existing chain link on the left side and back side. The homeowner is unsure who owns the fence to the left, thus removing that fence could create issues with the neighbors. The fence boards were placed on the inside of the posts to allow for space to install the boards. The only other option was to bring the post installment in about 2 feet, thus narrowing and limiting yard space.
2. The uniqueness of this project was the difficulty in building the fence next to the adjoining fence without having to remove the fence. The homeowner does not know who owns the fence to the left of his property. If the boards had been installed on the outside, the fence would have needed to have been brought in at least 2 feet inside the property. Thus, limiting the amount of backyard space.
3. The customer has an existing chain link fence on the left side facing the house from the street and the back side of his property. The fence boards were placed on the inside of the fence due to limited space between existing chain link fence and new wood privacy fence (see attached photos). The installation was not self-imposed due to the inability to install boards on the outside due to the existing chain link. It is a wooded area on the left and backside where the fence was installed.
4. The installation of the fence does not affect any standards stated in #4.
5. The installation of the fence does not affect any standards stated in #5.
6. Installation of the fence is behind the home and does not affect any issues stated in standard#6.



320 Bridlewood Dr
ZBA2020-00055



Map data ©2020, Map data ©2020 20 ft

PARCEL ID: 011300351009012000

SOURCE: TAX ASSESOR RECORDS **TAX YEAR:** 2019

DATE: Tuesday, September 8, 2020 10:57:58 AM

OWNER: PERSONS BESSIE M

ADDRESS: 320 BRIDLEWOOD DR

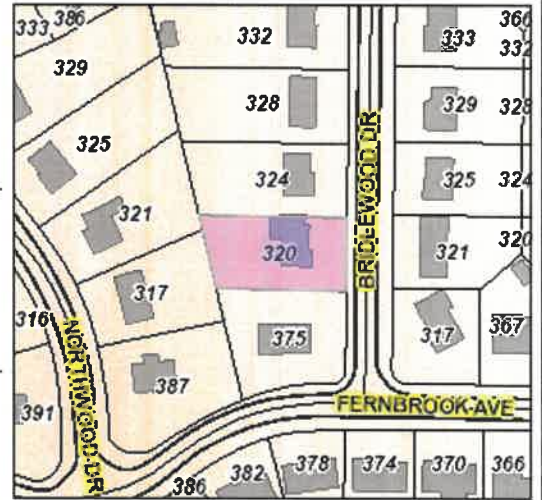
CITY/STATE: BIRMINGHAM AL

ZIP+4: 35215--7612

SITE ADDR: 320 BRIDLEWOOD DR

CITY/STATE: BHAM, AL

ZIP: 35215



LAND: \$17,000.00

BLDG: \$78,400.00

OTHER: \$0.00

AREA: 12,144.95

ACRES: 0.28

SUBDIVISION INFORMATION:

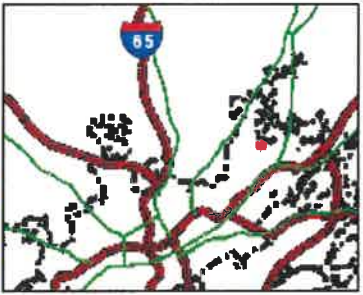
NAME: CLOVERDALE EST-2 13-35-1

BLOCK: 6

LOT: 12

- Section:** 35-16-2W
- Land Slide Zones:** Not in Land Slide Zones
- Historic Districts:** Not in Historic Districts
- Commercial Revitalization District:** Not in Commercial Revitalization District
- Fire District:** Not in Fire District
- Flood Zones:** Not in Flood Zones
- Tax Increment Financing District:** Not in Tax Increment Financing District
- Neighborhoods:** Roebuck (1501)
- Communities:** Roebuck-South East Lake (15)
- Council Districts:** District - 1 (Councilor: Clinton Woods)
- Zoning Outline:** D2
- Demolition Quadrants:** DEM Quadrant - 4
- Impaired Watersheds:** Not in Impaired Watersheds
- Strategic Opportunity Area:** Not in Strategic Opportunity Area
- RISE Focus Area:** Not in RISE Focus Area
- Tax Delinquent Property:** Not in Tax Delinquent Property
- EPA Superfund:** Not in EPA Superfund
- Opportunity Zones:** Not in Opportunity Zones
- Judicial Boundaries:** JEFFERSON

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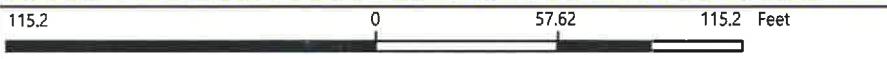


Legend

- Centerline Labels
- Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
 - Limited Access
 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Zoning Shaded
 - R1; D1 - Single Family District - Cla
 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District

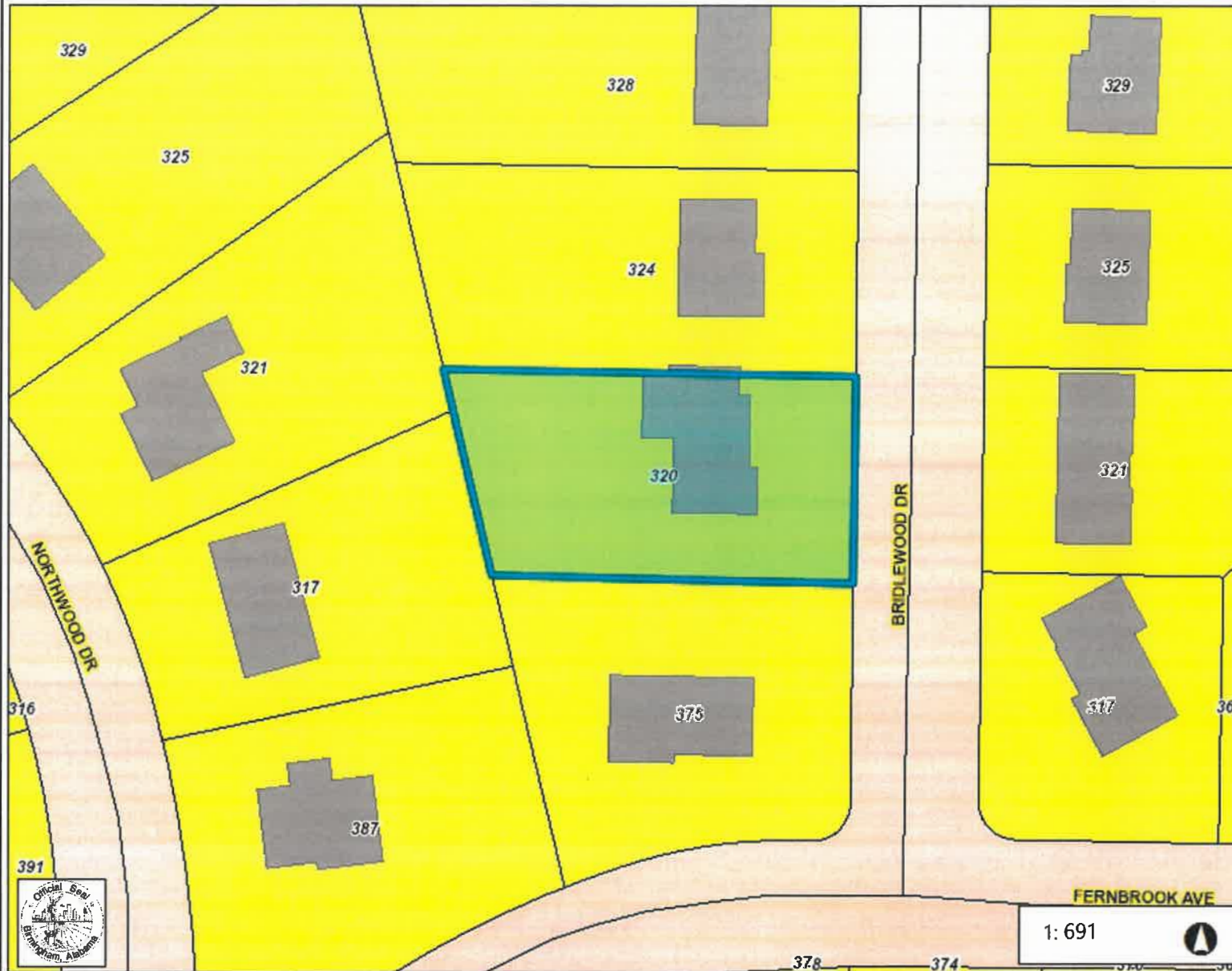
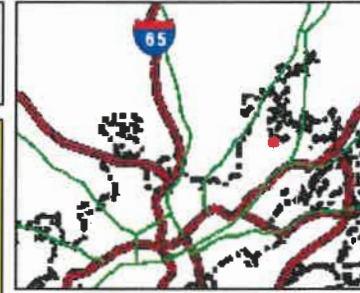


1: 691



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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes



Legend

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- County Highways
- 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
 - MXU-High



1: 691



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Notes

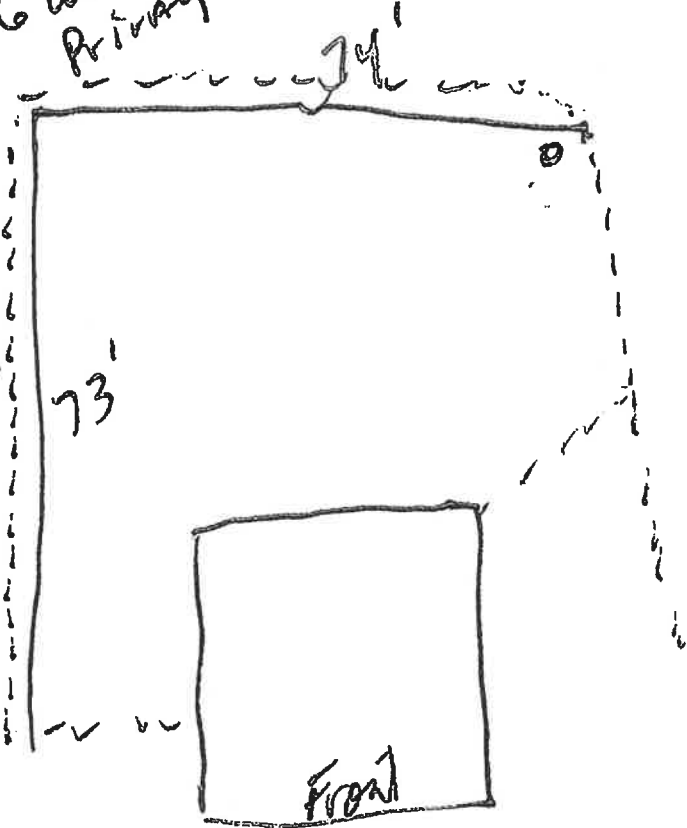
Craig Smith 718 @ yahoo.com

Smith
Bridlewood Dr.
Apt 35216
-05-732-6217

1475ft

6 wood
Privacy

Existing
Chalk



w/Removal
of
wood pr
& 14' Ft
Ch. Lin











Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Forest Park Staff Planner Moton

ZBA2020-00056

Request: Variance to allow a 2.5ft front yard setback instead of the established 10ft front yard setback Title 1, Chapter 3, Article I, Section 2.D.2.
Applicant: Tom Chambers
Owner: Whitefish Holdings, LLC
Site Address: 4115 4th Ave S
Zip Code: 35222
Description: Variance to allow a 2.5ft front yard setback instead of the established 10ft front yard setback Title 1, Chapter 3, Article I, Section 2.D.2.
Property Zoned: R-6, Multiple Dwelling District
Parcel Information: Parcel #: 012300293006004000, SW of Section 29, Township 17 S, Range 2 W

Variance:

Variance to allow a 2.5ft front yard setback instead of the established 10ft front yard setback.

Neighborhood Meeting:

The Forest Park Neighborhood Association; waiting on a response; however, we do have a citizen in opposed to this request. Please see attached.

Public Notices:

Public notices were mailed on September 8, 2020.

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet. **Please see attached.**

Staff Analysis:

The subject property located at 4115 4th Ave S is zoned R-6, Multiple Dwelling District. The applicant proposing to build a quadplex unit similar to the adjacent property owner. The lot has been resurveyed per SUB2020-00053.

The applicant does meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has not provided sufficient evidence to support the variance request. Therefore, staff believes the request has merit for approval and as such, should **DENIED**.

A request for a variance of the front yard setback requirements to allow a 2.5' front setback is made to provide conditions which allow a multiple-dwelling unit development to be built on this R-6 Multiple Dwelling Unit Zoning District property, matching the adjacent development to the west.

- **Physical Characteristics of the Property**

The subject property is roughly 50' wide by 140' deep, so it is narrow for providing a multiple-dwelling unit project, which is allowed by the property's zoning. Therefore, a multiple-dwelling unit building ("a building designed for or occupied exclusively by three or more families") must primarily be constructed with a deeper, narrower footprint. Because of its narrowness, in order for this property to meet the zoning district's intent to allow for a multiple-dwelling unit building on the lot with required parking in the rear, it must be located as close to the front of the property as possible. The request is therefore made to match the similar development on the adjacent property's front setback of 2.5'.
- **Unique Characteristics**

As noted above, because of the narrowness of the lot which would require a multiple-dwelling unit building be built with a narrow, deep footprint, a variance to allow a 2.5' front setback is requested in order to develop the property in a manner consistent with what is allowed by the R-6 Zoning district.
- **Hardship Not Self-Imposed**

The request for a reduced front setback is not self-imposed, but requested in order to develop a property similar to what already exists on the adjacent property.
- **Financial Gain Not Only Basis**

The Owner's vision in redeveloping this lot is to continue the look and feel of a street-fronting residential project similar to the adjacent one that facilitates a walkable environment and the activation of this public street and provides a desirable housing option for young professionals who are attracted to the Avondale area. This vision cannot be achieved with a strict application of the zoning code, which would require the building be pushed further from the public sidewalk and behind the adjacent residential development.
- **No Injury to Neighboring Property**

The granting of this variance will not be injurious to other properties or improvements in the area. It will essentially match the look and scale of the adjacent property to the west.
- **No Harm to Public Welfare**

This development, because it will be very similar to others nearby – including the property immediately to the west – will not cause any known public harm or compromise the health, safety, comfort, morals, or general welfare of the inhabitants of the City of Birmingham. The Owner's hope is that the project will be a positive addition to the growing Avondale area and will serve to help facilitate is continued vibrancy.

Mariann Neal
4117 4th Avenue South
Birmingham, AL 35222
(205) 592-0457

September 15, 2020

Ms. Angelica Moton
710 20th Street North Room 210
Birmingham, AL 35203

Case # ZBA2020-00056

Dear Ms. Moton

I am writing you to object to the proposed variance to allow a 2.5ft front yard setback instead of the required 25ft setback of Title 1, Chapter 3, Article 1, Section 2.D.2. (a copy of the notice is attached).

This property is located adjacent to my home where I have lived since 1981. My house is 100 years old this year, so it has been a historic part of this community's landscape for decades.

This proposed variance would result in me having to look at the side of a building from my living room window. It would reduce much needed greenspace in the area in addition to blocking the sunlight required to have healthy lawns along the front of the residences.

From a safety standpoint, it would block the ability to see people walking on the sidewalk when backing out of my driveway (Pictures A & B enclosed). The flag in picture A is located 2 feet from the sidewalk which shows basically where a 2.5 foot setback would place the building.

Children walk to and from school on this sidewalk and area residents walk their pets here. There are numerous restaurants in the area and families, many with children, are constantly walking past my house going to and from these eating establishments.

The street in front of my home is heavily travelled with some vehicles going faster than they should. I need all of the visibility I can get for myself and others to travel to and from my home safely.

The Avondale area has seen a lot of growth and development recently. People evidently like the atmosphere of the area. I would hate to see that destroyed or worse, have someone injured when I am leaving my home so someone could make a building 22.5 feet larger. The 25 foot setback was placed in the requirements for a good reason.

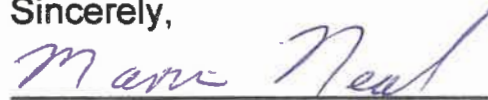
This proposed variance would also detract from the family atmosphere of the community. I have enclosed a picture (Picture C) of a building with a 5 foot setback and it shows how crowded such a setback makes the area look. I have also enclosed a picture (Picture D) of my street with the required 25 foot setback and it is obvious that it gives a more open, warm family appearance to the neighborhood in addition to being safer for pedestrians.

I have made this location my home and I have no plans of leaving it.
Therefore, I am opposed to the proposed variance in the strongest possible terms.

I would appreciate any assistance you can give me in maintaining the integrity of my neighborhood in its current state with the required 25 foot setback.

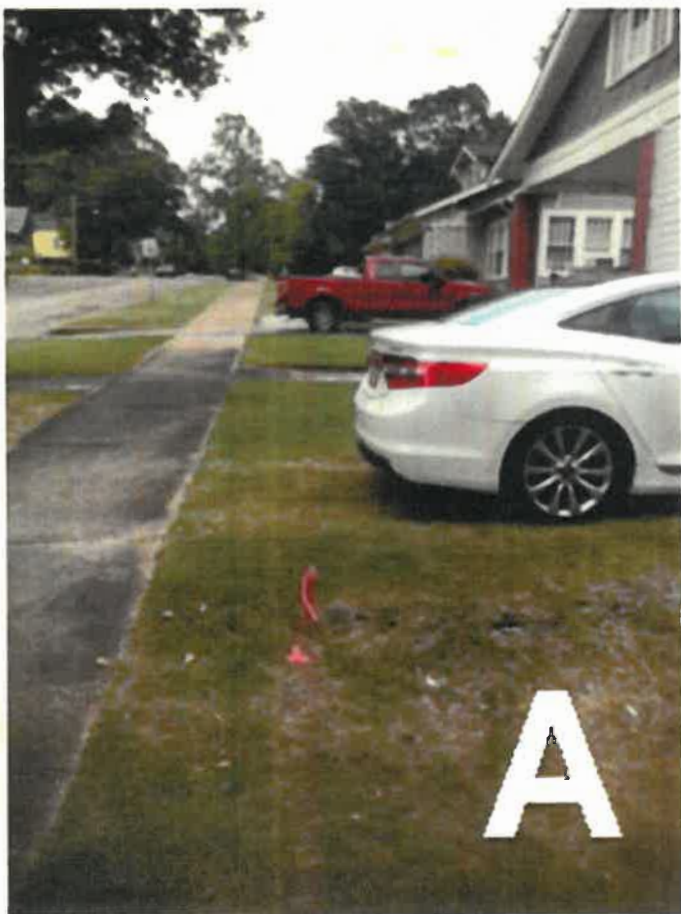
Please feel free to contact me if I may provide any additional information to you. Thank you in advance for your help.

Sincerely,

A handwritten signature in blue ink that reads "Mariann Neal". The signature is written in a cursive style and is positioned above a horizontal line.

Mariann Neal, Homeowner

Mariann Neal Case # ZBA2020-00056



PARCEL ID: 012300293006004000

SOURCE: TAX ASSESSOR RECORDS **TAX YEAR:** 2019

DATE: Wednesday, September 9, 2020 10:17:35 AM

OWNER: WHITEFISH HOLDINGS LLC

ADDRESS: 4115 4TH AVE S

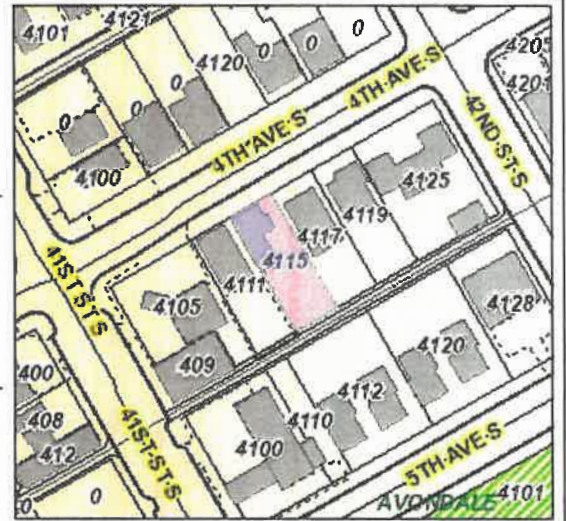
CITY/STATE: BIRMINGHAM AL

ZIP+4: 35222

SITE ADDR: 4115 4TH AVE S

CITY/STATE: BHAM, AL

ZIP: 35222



LAND: \$112,500.00

BLDG: \$0.00

OTHER: \$0.00

AREA: 7,048.43

ACRES: 0.16

SUBDIVISION INFORMATION:

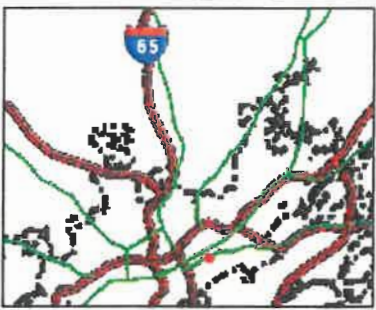
NAME AVONDALE

BLOCK: 16

LOT: 7&8

- Section:** 29-17-2W
- Land Slide Zones:** Not in Land Slide Zones
- Historic Districts:** Not in Historic Districts
- Commercial Revitalization District:** Not in Commercial Revitalization District
- Fire District:** Not in Fire District
- Flood Zones:** Not in Flood Zones
- Tax Increment Financing District:** Not in Tax Increment Financing District
- Neighborhoods:** Forest Prk (1401)
- Communities:** Red Mountain (14)
- Council Districts:** District - 5 (Councilor: Darrell O'Quinn)
- Zoning Outline:** R6
- Demolition Quadrants:** DEM Quadrant - 3
- Impaired Watersheds:** Impaired Watershed - Upper Village Creek
- Strategic Opportunity Area:** Not in Strategic Opportunity Area
- RISE Focus Area:** In RISE Focus Area
- Tax Delinquent Property:** Not in Tax Delinquent Property
- EPA Superfund:** Not in EPA Superfund
- Opportunity Zones:** In Opportunity Zones
- Judicial Boundaries:** JEFFERSON

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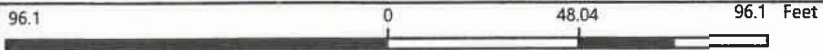


Legend

- Centerline Labels
- + Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
 - Limited Access
 - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Zoning Shaded
 - R1; D1 - Single Family District - Cla
 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District

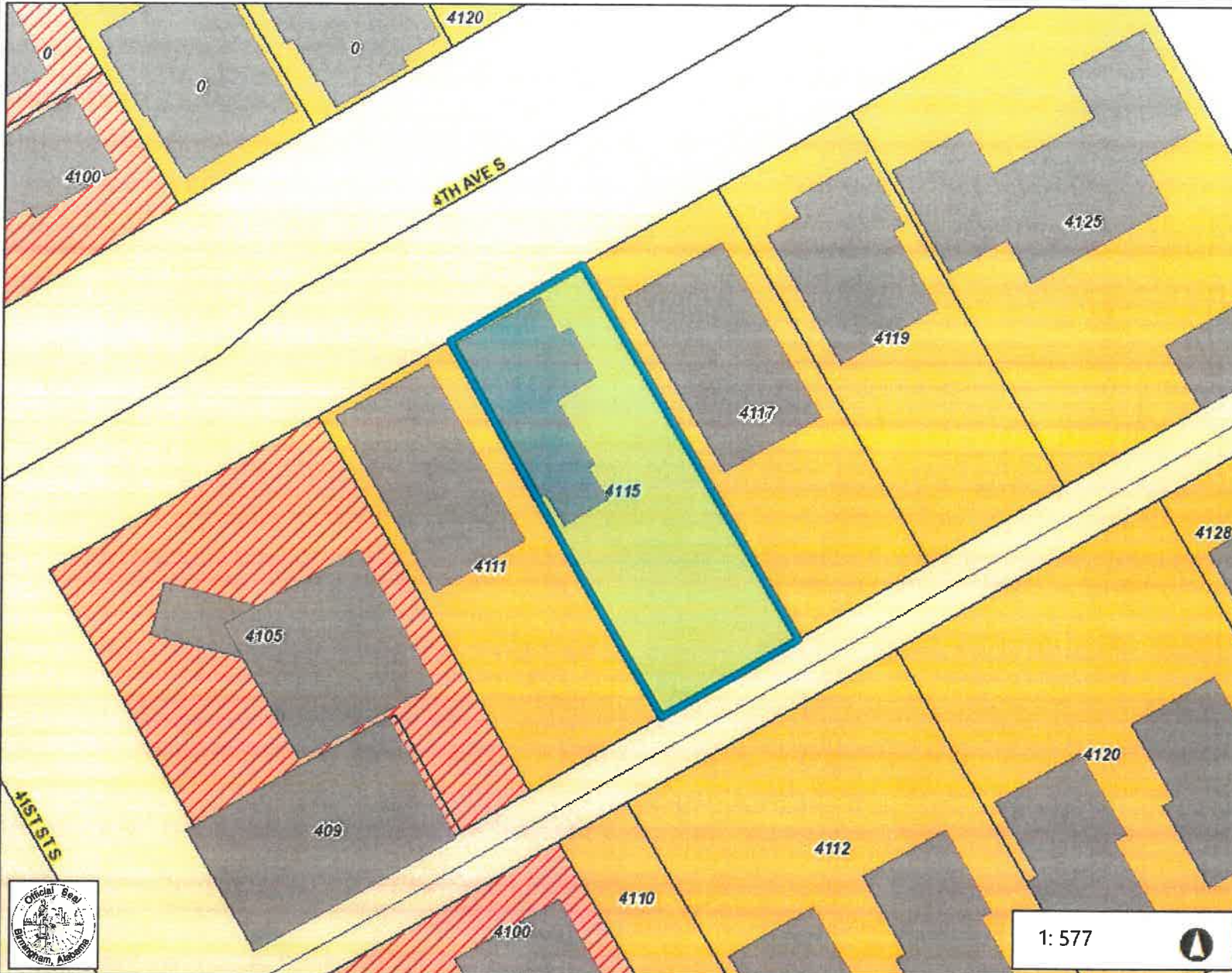
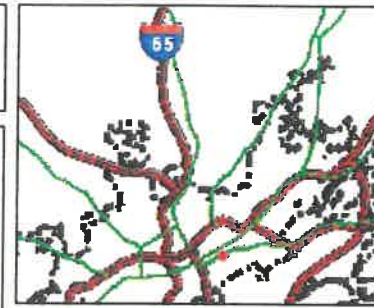


1: 577



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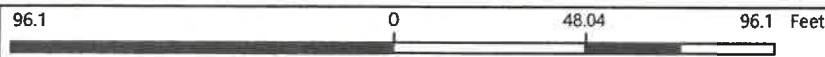
Notes



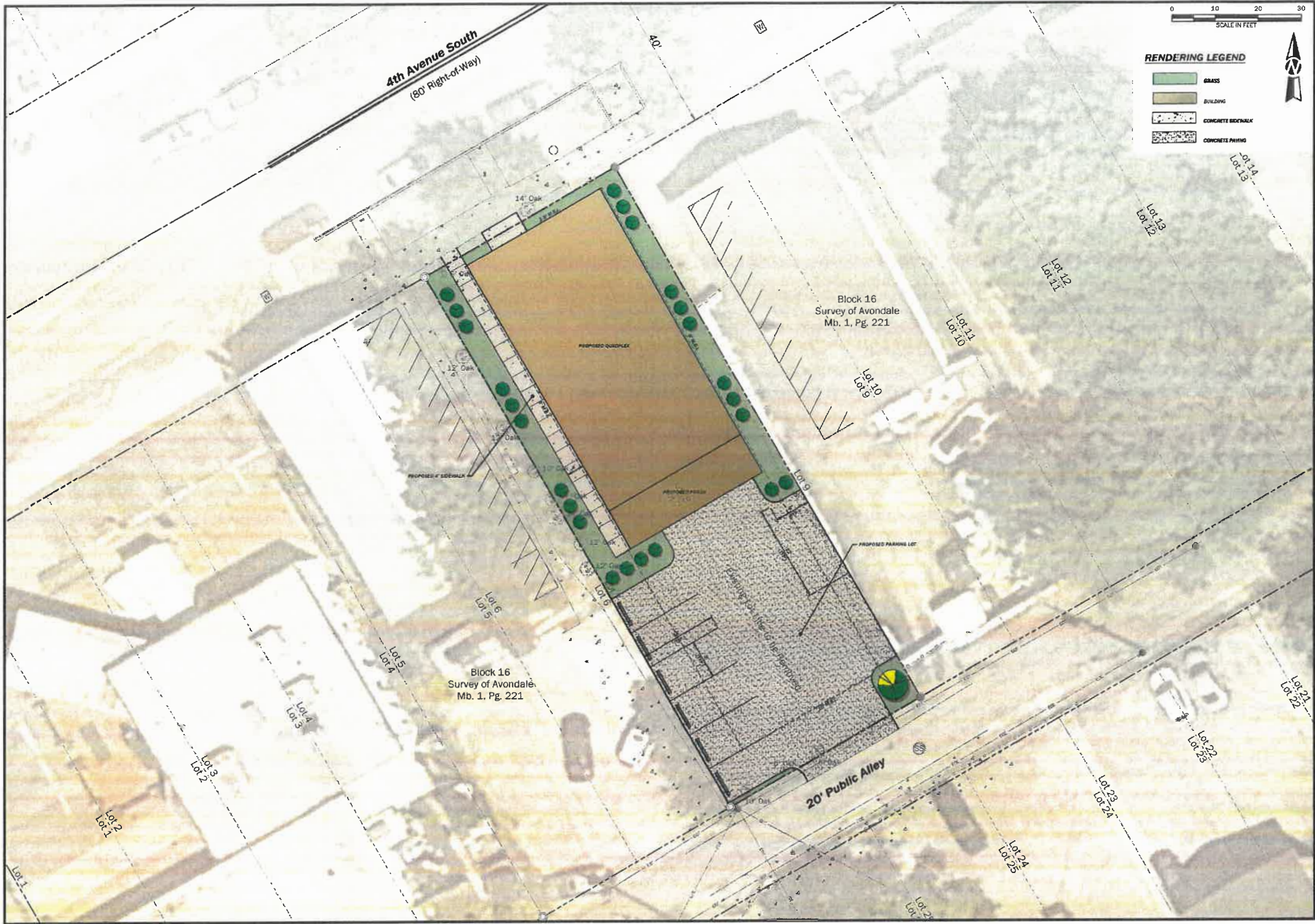
Legend

- Centerline Labels
- + Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- 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
 - MXU-High

Notes



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0 10 20 30
SCALE IN FEET

RENDERING LEGEND

- GRASS
- BUILDING
- CONCRETE SIDEWALK
- CONCRETE PAVING



2890 Rice Mine Road NE | Tuscaloosa, AL 35406
205.561.3778 | www.ttlusa.com

CHAMBERS AVONDALE QUADPLEX

TOM CHAMBERS
4115 4TH AVENUE SOUTH
BIRMINGHAM, ALABAMA

PRELIMINARY
NOT FOR CONSTRUCTION
PROVIDING PURPOSES
OR IMPLEMENTATION

CONCEPTUAL LAYOUT

No.	Date	Revision Description

Drawn by: JTS
Date: 09/03/20
Checked by: J.A.M.
Proj. No.: 203-002198.00
File Name: 202198_Conceptual Layout.dwg

Meeting – October 8, 2020
Location – WebEx/ Teleconference
Time - 2:00PM
Pre-Meeting - 1:00PM
Webex/Teleconference

Neighborhood: Ensley Highlands Staff Planner Moton ZBA2020-00057

Request: Variance request to allow 6ft fence in the front yard area pursuant Title 1 Chapter 4 Subsection 3.A.1 page 182
Applicant: Shameka Cotton
Owner: Shameka Cotton
Site Address: 1744 34th St En
Zip Code: 35208
Description: Variance request to allow 6ft fence in the front yard area pursuant Title 1 Chapter 4 Subsection 3.A.1 page 182
Property Zoned: D-3 Single Family District
Parcel Information: Parcel #: 012900064018024000, SE of Section 06, Township 18 S, Range 3 W

Variance:

Variance request to allow 6ft fence in the front yard.

Neighborhood Meeting:

The Ensley Highland Neighborhood Association; waiting on a response.

Public Notices:

Public notices were mailed on September 9, 2020.

Applicant's Justification:

The applicant provided documentation of the six (6) variance standard request questions. The information has been submitted as part of the ZBA Packet. **Please see attached.**

Staff Analysis:

The subject property located at 1744 34th St EN is zoned D-3, Single Family District. The fence was installed without a permit. This property does sit on a corner lot.

The applicant does not meet the requirement of the six variance standards.

Staff Recommendation

Staff believes the applicant has not provided sufficient enough evidence to support the variance request. Therefore, staff believes the request has merit for denial and as such, should be **DENIED.**

To whom this my concern,

I, Shameka Denise Cotton, am writing this in regards to a variance standard of review. I'm wanting to build a privacy fence around my backyard. My home is located at 1744 34th street Ensley, Birmingham, AL 35208. The property is said to have two front yards because it's located on a corner lot. So, instead of the normal 4ft tall fence that is allowed I would like to build a 6ft tall fence around the backyard. I feel my request meets all six variance standards because of the following:

1. The property is located on a corner lot and is considered to have two front yards.
2. The property sits on the corner lot. It has a driveway on the back of the home which comes down pass the side of the house.
3. I've been living here a little over two years and I've experienced multiple break-ins in both my car and my home.
4. The home is located on the corner and I have no financial gain from building the fence around the backyard.
5. Building the fence around the backyard poses no harm or injury to the neighboring property because it sits on the corner lot.
6. Also, there is no harm or injury posed to the public welfare because the fence will be built behind the house and still allow for people to see coming up and down the street.

I've addressed all six of the variance standards of review. I hope you can see why building this six-foot-tall privacy fence should be allowed. Thank you for taking time out to read my request.

PARCEL ID: 012900064018024000

SOURCE: TAX ASSESSOR RECORDS **TAX YEAR:** 2019

DATE: Wednesday, September 9, 2020 10:42:28 AM

OWNER: GREEN ROSCOE P

ADDRESS: 717 KERR DR

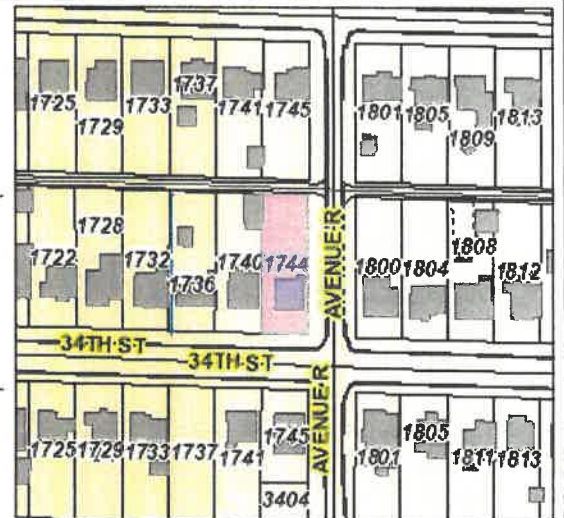
CITY/STATE: GARDENDALE AL

ZIP+4: 35071

SITE ADDR: 1744 34TH ST

CITY/STATE: BHAM, AL

ZIP: 35208



LAND: \$9,000.00

BLDG: \$44,400.00

OTHER: \$0.00

AREA: 7,428.32

ACRES: 0.17

SUBDIVISION INFORMATION:

NAME BHAM ENSLEY

BLOCK: 10

LOT: 24

- Section:** 6-18-3W
- Land Slide Zones:** Not in Land Slide Zones
- Historic Districts:** Not in Historic Districts
- Commercial Revitalization District:** Not in Commercial Revitalization District
- Fire District:** Not in Fire District
- Flood Zones:** Not in Flood Zones
- Tax Increment Financing District:** Not in Tax Increment Financing District
- Neighborhoods:** Ensley Hghlands (204)
- Communities:** Five Points West (2)
- Council Districts:** District - 8 (Councilor: Steven W. Hoyt)
- Zoning Outline:** D3
- Demolition Quadrants:** DEM Quadrant - 2
- Impaired Watersheds:** Not in Impaired Watersheds
- Strategic Opportunity Area:** Not in Strategic Opportunity Area
- RISE Focus Area:** In RISE Focus Area
- Tax Delinquent Property:** Not in Tax Delinquent Property
- EPA Superfund:** Not in EPA Superfund
- Opportunity Zones:** Not in Opportunity Zones
- Judicial Boundaries:** JEFFERSON

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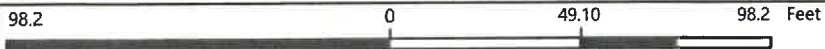


Legend

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 - R2; D2 - Single Family District - Cla
 - R3; D3 - Single Family District; R3
 - R4; D4 - Two Family District; R4
 - R4A - Multiple Dwelling District
 - R5; D5 - Multiple Family District; D5
 - R6; D6 - Multiple Family District
 - R7 - Multiple Family District

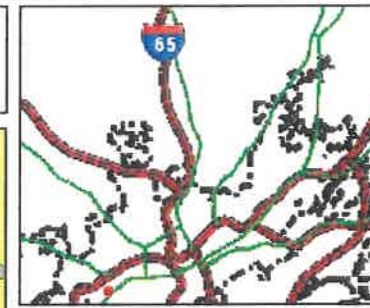


1: 589



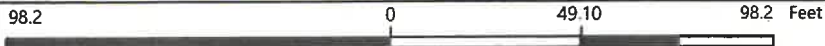
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Notes



Legend

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- Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
- Limited Access
- Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- Adopted Land Use Plan
- Residential-Low
- Residential-Medium
- Residential-High
- Neighborhood Commercial
- General Commercial
- MXU-Low
- MXU-Medium
- MXU-High



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THIS MAP IS NOT TO BE USED FOR NAVIGATION

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Notes



1744 34th St Fence Plan



1745 34th St Ensley

ZBA2020-00057

