

**ZONING BOARD OF ADJUSTMENT**

**Meeting Date:** June 10, 2021

**Time:** 2:00 P.M.

**Pre-Meeting:** 1:00 P.M.

**Place:** WebEx

**ZBA2021-00022**

**Ensley Highland Neighborhood**

***Request:***

Variance to allow a pole sign in a MUM zoning district and within 300ft of a residential zoning district pursuant to Title 1, Chapter 7, Section 7.1

***Applicant:***

Courtney G. French

***Location:***

3025 Ensley Ave, Birmingham AL 35208

Parcel #012900053009001000

***Applicant's Proposal:***

The applicant is proposing a new digital pole sign. The pole sign sits approximately 80 feet from adjacent residential uses, is 9 feet in height and 32 square feet in size (rounded up). The applicant has provided his response to the six variance standards; please see attached.

***Staff Analysis:***

The subject property is currently zoned MUM (Mixed-Use Medium District). Abutting the subject property to the North and East are parcels zoned D-3, Single Family District. To the South and West are parcels zoned MUM, Mixed-Use Medium. The property is not located in any design review districts or flood plain areas.

Per the zoning ordinance, the definition of a pole sign is a sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. Pole signs are only allowed in C-2, I-1 and I-2 zoning districts. A pole sign adjacent to any single-family or duplex residential use, public park or school must be set back at least 300 feet and must not exceed 25 feet in height and 80 square feet in size.

The current zoning does not allow a pole sign at this location. There is an existing illuminated pole sign on the property that was installed in 1997. Pole signs were allowed during that time; however, with the current zoning change and updated sign ordinance, it is no longer allowed. Therefore, to repair, replace or make any alterations, a variance would be required.

***Neighborhood Recommendation:***

*The Ensley Highland Neighborhood Association met and voted to support this request.*

***Staff's Recommendation to ZBA:***

Although the applicant provided evidence to support the variance request, including using the same pole, location and smaller sign area for the proposed sign, staff recommends that the request be **DENIED** because MU-M (Mixed-Use Medium) does not allow pole signs. However, staff would recommend approval of variance for a monument sign that sits approximately 80 feet from adjacent residential uses.



April 27, 2021

Angelica Moton  
Planning, Engineering and Permits  
City of Birmingham  
710 20<sup>th</sup> Street North  
Birmingham, AL 35203

RE: Variance Standards

Dear Ms. Moton:

Please see below our response to the Variance standards:

**Physical Characteristic of the Property:** The current pole sign that we have is in front of our parking lot. We have vehicles coming in and out and there is a grave danger of an accident with a wider monument sign. The view could present a hazardous situation for traffic coming up Ensley avenue and traffic leaving the parking lot.

**Unique Characteristics:** The Triangle shape of the property and hilly parking lot could easily block the view of a monument sign with some SUV's and trucks parking in the parking lot. We do not want the liability of someone getting injured because of the view.

**Hardship Not Self-Imposed:** The current sign was constructed around the early 1990s and we have had no incidents in reference to the current sign. The new ordinance that was issued many years later could influence our safety with a ground-based monument sign.

**Financial Gain Not Only Basis:** The only reason for our request is for safety and visibility, not for any financial gain.

**No Injury to Neighboring Property:** The present sign has been up since the 90s and it has not had a negative effect on the neighborhood. We would not like to fix something that has been working for us for over 20 years.

**No harm to Public Welfare:** The modification of the new proposed sign will not be detrimental to the public welfare but enhance it by allowing safe directions to our property with visible signage and comfort. Safety is our major concern.

Please feel free to contact me if you need any further information.

Sincerely yours,

*Ronald January*

Ronald January  
Vice-President of Operations

**PARCEL ID:** 012900053009001000

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

**DATE:** Monday, May 17, 2021 1:35:04 PM

**OWNER:** COURTNEY FRENCH BROADCASTING LL

**ADDRESS:** 600 LUCKIE DR STE 300

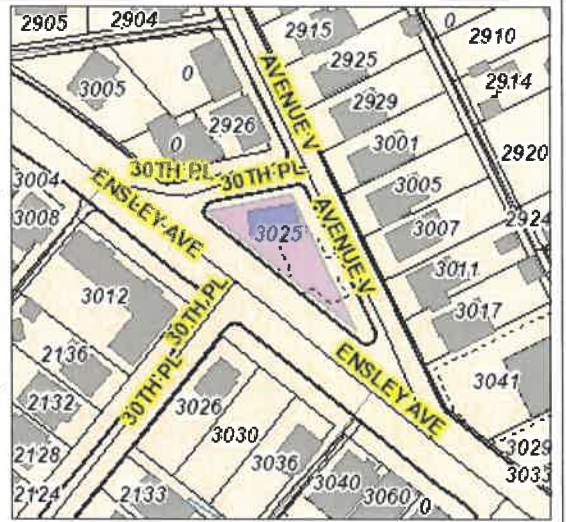
**CITY/STATE:** BIRMINGHAM AL

**ZIP+4:** 35223

**SITE ADDR:** 3025 ENSLEY AVE

**CITY/STATE:** BHAM, AL

**ZIP:** 35208



**LAND:** \$12,500.00

**BLDG:** \$95,500.00

**OTHER:** \$0.00

**AREA:** 7,155.37

**ACRES:** 0.16

**SUBDIVISION INFORMATION:**

**NAME** HELENA HEIGHTS

**BLOCK:** 9

**LOT:**

**Section:** 5-18-3W

**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:** MUM

**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

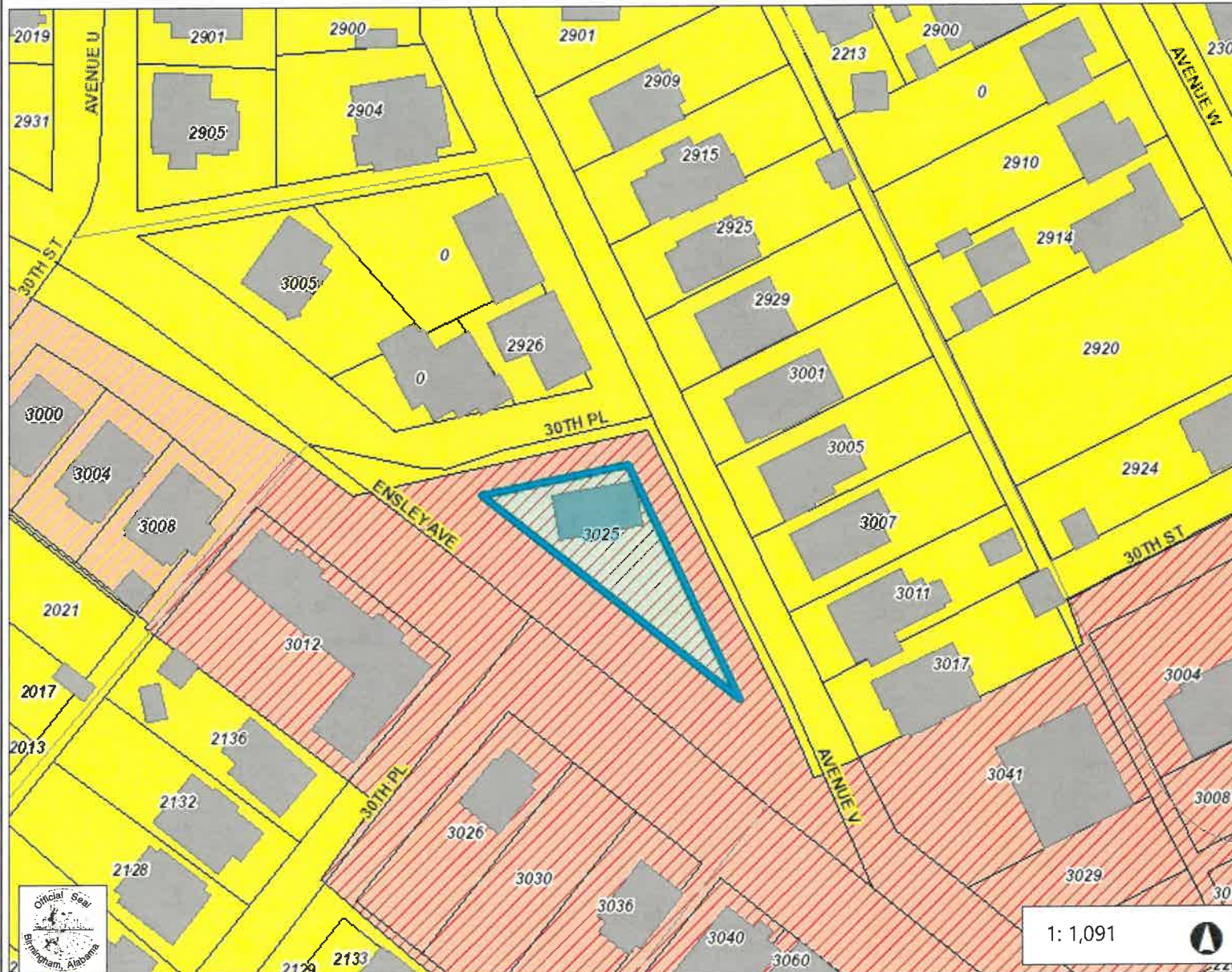
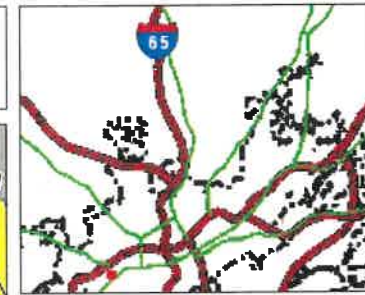
**EPA Superfund:** Not in EPA Superfund

**Opportunity Zones:** Not in Opportunity Zones

**Judicial Boundaries:** JEFFERSON

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.



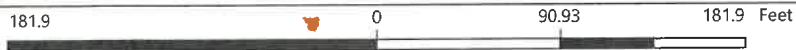


Legend

- 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

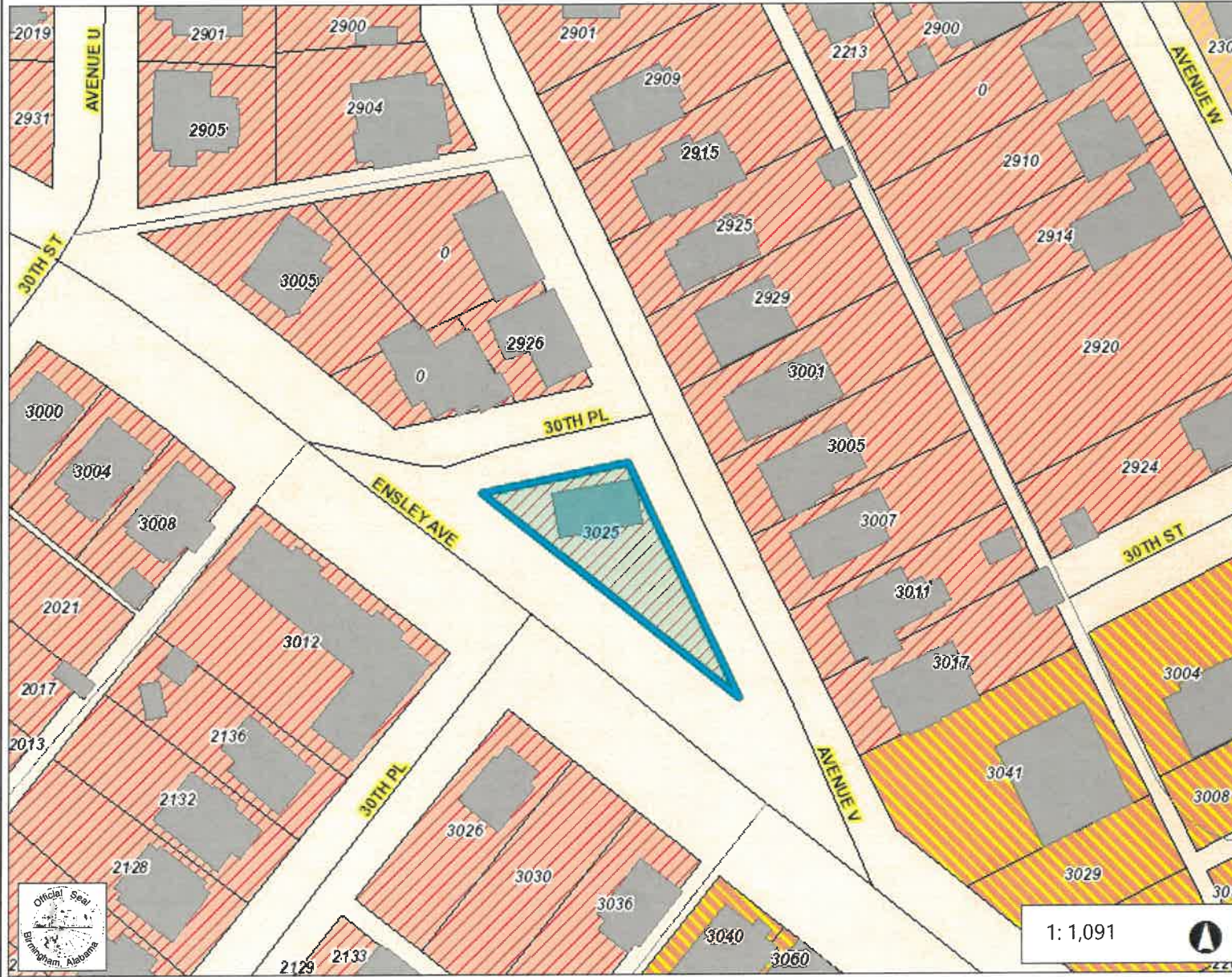
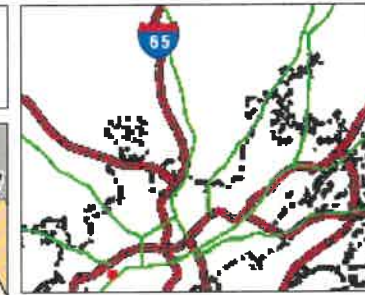


1: 1,091



Notes





Legend

- Centerline Labels
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- 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



1: 1,091



Notes









900 GOLD

WATV

AM STEREO

Existing



E 4 C 125

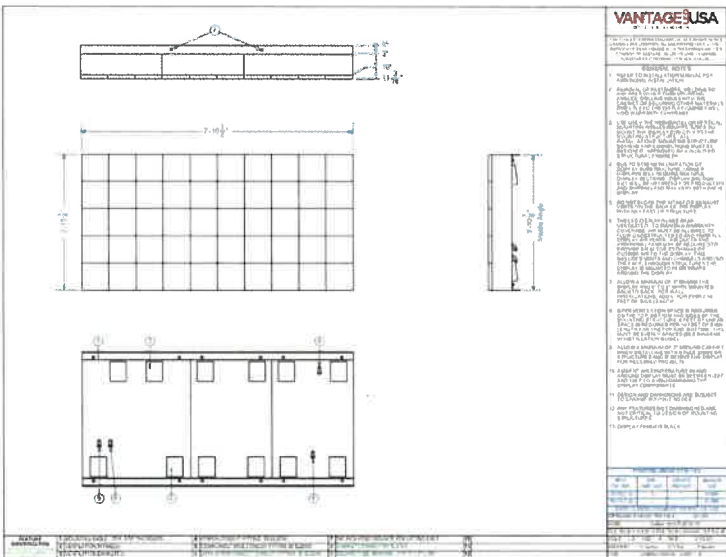


7' 10 1/2"

3' 11 1/4"

Approx - 30.7 sq'  
Full color LED Sign

5'



3025 Ensley Ave  
Birmingham, Al







3025 Ensley Ave Now





3025 Ensley Ave After



**ZONING BOARD OF ADJUSTMENT**

**Meeting Date:** June 10, 2021

**Time:** 2:00 P.M.

**Pre-Meeting:** 1:00 P.M.

**Place:** WebEx

**ZBA2021-00023**

**Southside Neighborhood**

***Request:***

Special exception to allow an Opioid Replacement Therapy Treatment Facility within an I-1 (M-1) zoning district and variance to allow it within 1,000 linear feet of the lot line of a church or other place of worship and areas that are registered and listed on the National Register of Historic places as Historic Districts pursuant to Title 1, Chapter 4, Article 3, Section 5.C.3.B & G.

***Applicant:***

Graffeo Family Partnership Ltd., applicant representing the owner Jim Horwitz

***Location:***

2500 4<sup>th</sup> Ave S, Birmingham AL 35233

Parcel # 012300313026001000.

***Applicant's Proposal:***

The applicant is proposing an Opioid Replacement Therapy Treatment Facility that will dispense drugs (methadone, buprenorphine, or suboxone) and offer both individual and group counseling services on an outpatient basis. The facility will consist of 19 individual Counselor's Offices, 1 Program Director's Office, 1 Treatment Services Coordinator Office, 1 Nurse's Office, 1 Doctor's Office, 1 Urine Analysis Technician Office, 1 secure Dosing Room with 6 dosing windows, a staff break room, 4 accessible unisex toilet rooms and queuing space for waiting patients. The clinic will be open 7 days a week with the following hours of operation: Monday-Friday 5AM-2PM; Saturday-Sunday 6AM-10AM; Holidays 5AM-8AM.

***Staff Analysis:***

The subject property is currently zoned M-1 (Light Industrial District). Abutting the subject property to the North, South, East and West are parcels zoned M-1, Light Industrial District. The property is not located in any design review districts or flood plain areas.

Per the zoning ordinance, the definition of an Opioid Replacement Therapy Treatment Facility is "any operation that has received a Certificate of Need from the State Health Planning and Development Agency of Alabama to operate a facility to prescribe and/or dispense opioid replacement drugs and offer therapy to individuals and groups as a part of a treatment program. These opioid replacement drugs generally include, but not limited to, methadone, naloxone, naltrexone, and similar types of opioid receptor agonists".

An Opioid Replacement Therapy Treatment Facility is allowed in the MU-H, MU-D, C-2, I-1 and I-2 zoning with a special exception and must meet the following conditions:

1. The applicant submits a statement from the State Department of Health, State Health Planning and Development Agency, or the State Department of Mental Health and/or the Jefferson County Department of Health that the proposed facility meets all requirements for operation and that all applicable and/or appropriate license or licenses have been obtained. If no license or licenses are needed or required for operation from the above listed agencies, a letter stating that fact from these agencies must be provided.
2. The applicant submits a certification from the owner and operator that approval under this section shall not be transferable without prior approval by the Board of the City.
3. No opioid replacement therapy treatment facility may be located:
  - a. within 1,000 linear feet of the lot line of a "E" or "R" zoned property,
  - b. within 1,000 linear feet of the lot line of a church or other place of worship, within 1,000 linear feet of the lot line of a public park,



- d. within 1,000 linear feet of the lot line of a kindergarten, elementary, high school, college, university, or other similar type of school, whether public or private,
- e. within 3,000 linear feet of the lot line of another medical controlled substance dispensing facility,
- f. within areas that are registered and listed on the National Register of Historic places as Historic Districts, or areas within 1,000 linear feet of the lot line of those districts. The boundaries of said historic districts are on file in the Department, and
- g. within areas designated as Commercial Revitalization Districts as established by the Council of the City. The boundaries of such districts are on file in the Department.

***Neighborhood Recommendation:***

***The Southside Neighborhood Association has not responded to this request. A courtesy notification was sent to the Five Points South Neighborhood as the abutting neighborhood; however, they have not responded.***

***We have received a letter of denial from an adjacent property owner stating:***

***“I am vehemently opposed to such a business, as the proposed, be allowed in a National Register of Historic places. We request your denial of authorization for this special exception.”***

***Staff's Recommendation to ZBA:***

Staff believes the applicant has provided sufficient evidence to support the special exception and variance request, including the following: appropriate license by the State of Alabama; certification that approval shall not be transferable without prior approval by the Board; the proposed facility will not have a negative impact on the abutting Historic District or the closest church; and the health, safety, and welfare of the general public will not be impacted; therefore, staff believes the request has merit for approval and as such, should be **GRANTED** with the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy if applicable, shall be obtained within two years of approval from the Board.



**Metro Treatment of Alabama, L.P.**

May 13, 2021

City of Birmingham  
Department of Planning Engineering & Permits  
Zoning Division  
710 North 20<sup>th</sup> Street  
Room 210, City Hall  
Birmingham, AL 35203  
Phone: (205) 254-2478

**Re: Zoning Board of Adjustment Application for Special Exception –  
Metro Treatment of Birmingham, 2500 4<sup>th</sup> Avenue S, Birmingham, AL 35233**

**Description of Proposed Use:**

The proposed Use of the building at 2500 4<sup>th</sup> Avenue S. is an Opioid Replacement Therapy Treatment Facility dispensing opioid replacement drugs (methadone, buprenorphine, or suboxone,) and offering both individual and group counseling services on an outpatient basis. This location will be a relocation of the existing treatment center located at 151 Industrial Drive, Birmingham, AL 35211. Previous Uses of the building, including the most recent, were also medical uses. The facility will consist of (19) individual Counselors' Offices, (1) Program Director's Office, (1) Treatment Services Coordinator Office, (1) Nurse's Office, (1) Doctor's Office, (1) Urine Analysis Technician Office, secure Dosing Room with (6) dosing windows, a staff break room, (4) accessible unisex toilet rooms, and queuing space for patients waiting to dose. Additional service and support spaces will be included as required.

New patients will be medically evaluated by the nurse and doctor prior to receiving a recommended course of treatment. Patients will visit the facility daily for administration of methadone treatment and will be provided both one-on-one and group counseling. The methadone treatment is administered by dosing technicians at the dosing windows. After meeting key criteria, take-home benefits for continued Medication-Assisted Treatment may be granted allowing the patient to visit the clinic less frequently.

The clinic will be open seven (7) days a week, with the hours of operation being Monday through Friday from 5:00 AM to 2:00 PM, Saturday and Sunday from 6:00 AM to 10:00 AM, and Holidays from 5:00 AM to 8:00 AM. Dosing hours will be limited to the following: Monday through Friday from 5:30 AM to 10:30 AM, Saturday and Sunday from 6:00 AM to 8:00 AM, and Holidays from 5:00 AM to 8:00 AM.

**Application for Special Exception:**

This application is to request permission that the proposed Use of an Opioid Replacement Therapy Treatment Facility be granted at the aforementioned property located in the M-1 Light Industrial District (I-1 Light Manufacturing District once re-zoned).

Per the City of Birmingham's Zoning Ordinance, Title I, Chapter 4, Article III, Section 5(C), this Use is permitted as a Special Exception in an I-1 Zoning District. The Conditions for the Special Exception Use and our response to the criteria are as follows:

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**Condition No. 1:**

*The applicant submits a statement from the State Department of Health, State Health Planning and Development Agency, or the State Department of Mental Health and/or the Jefferson County Department of Health that the proposed facility meets all requirements for operation and that all applicable and/or appropriate license or licenses have been obtained. If no license or licenses are needed or required for operation from the above listed agencies, a letter stating that fact from these agencies must be provided.*

**Response:**

The proposed facility will be a relocation of an existing Opioid Replacement Therapy Treatment Facility located at 151 Industrial Drive, Birmingham, AL 35211, which is duly licensed by the Alabama Department of Mental Health ("DMH"). See enclosed Exhibits E and F (State of Alabama Department of Mental Health Certification Certificates.) In conjunction with this zoning application, the applicant has initiated the process with the DMH to relocate this facility to 2500 4<sup>th</sup> Avenue S.

**Condition No. 2:**

*The applicant submits a certification from the owner and operator that approval under this section shall not be transferable without prior approval by the Board of the City.*

**Response:**

Certification documentation is attached.

**Condition No. 3:**

*No opioid replacement therapy treatment facility may be located:*

- a.) *within 1,000 linear feet of the lot line of a "E" or "R" zoned property,*
- b.) *within 1,000 linear feet of the lot line of a church or other place of worship,*
- c.) *within 1,000 linear feet of the lot line of a public park,*
- d.) *within 1,000 linear feet of the lot line of a kindergarten, elementary, high school, college, university, or other similar type of school, whether public or private,*
- f.) *within 3,000 linear feet of the lot line of another medical controlled substance dispensing facility,*
- g.) *within areas that are registered and listed on the National Register of Historic places as Historic Districts, or areas within 1,000 linear feet of the lot line of those districts. The boundaries of said historic districts are on file in the Department, and*
- h.) *within areas designated as Commercial Revitalization Districts as established by the Council of the City. The boundaries of such districts are on file in the Department.*

**Response:**

- a.) The property is not located within 1,000 linear feet of the lot line of any property zoned "E" or "R". **No variance required.**
- b.) The property is located 758.13 linear feet northeast from the lot line of a church, Twenty-Third Street Baptist. **Variance request provided under separate cover.**
- c.) The property is not within 1,000 linear feet of the lot line of a public park. **No variance required.**
- d.) The property is not within 1,000 linear feet of the lot line of a kindergarten, elementary, high school, college, university, or other similar type of school, whether public or private. **No variance required.**
- f.) The property is not located within 3,000 linear feet of the lot line of another medical controlled substance dispensing facility. **No variance required.**
- g.) The property is located 227.40 linear feet northwest of the Southside Historic District and 831.00 linear feet southeast of the Automotive Historic District. **Variance request provided under separate cover.**

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[news@anm.com](http://news@anm.com)




- h.) The property is not within an area designated as a Commercial Revitalization District as established by the Council of the City, as verified by the boundaries of the district maps on file with the department, and confirmed by Senior Urban Designer, John Sims, on 4/27/2021.  
**No variance required.**

By granting this request, public health and welfare will not be impaired yet rather benefitted by the much-needed treatment services provided by the facility. Statistical documentation showing the need is available upon request. Public safety will not be disturbed as security is a top priority of the facility, which will provide ample security camera coverage both inside and outside of the building. Strict adherence to DEA and other regulatory agency requirements regarding storage and dispensing of the medication is followed. Adequate public facilities including public transit are available to accommodate the site and enhance the availability for treatment. No major physical improvements to the site are proposed; therefore, not adversely affecting the abutting properties. The overall appearance of the building will not be negatively impacted by the proposed alterations. Access through the off-street parking and circulation within the parking site, for both vehicles and pedestrians, will not adversely affect the safety and convenience of vehicles or pedestrians accessing the site.

Variance for items (b) and (g) of Title I, Chapter 4, Article III, Section 5(C), are being provided under separate cover.

Sincerely,

DocuSigned by:  
  
E2DD039302B242C...

Jim Horwitz, Metro Treatment of Alabama, LP

CC: Bill Sutton, Colonial Management Group, LP  
David Riehl, Colonial Management Group, LP  
Stephanie Nepali, LGA Partners, LP  
Michaeleen Vargo, LGA Partners, LP  
T. Michael Brown, Bradley Arant Boult Cummings LLP  
File



**Metro Treatment of Alabama, L.P.**

May 13, 2021

City of Birmingham  
Department of Planning Engineering & Permits  
Zoning Division  
710 North 20<sup>th</sup> Street  
Room 210, City Hall  
Birmingham, AL 35203  
Phone: (205) 254-2478

**Re: Zoning Board of Adjustment Request for Variance –  
Metro Treatment of Birmingham, 2500 4<sup>th</sup> Avenue S, Birmingham, AL 35233**

**Introduction**

In conjunction with the request for Special Exception Application for the property at 2500 4<sup>th</sup> Avenue S, Metro Treatment of Alabama, L.P. humbly submits this request for a variance of Title I, Chapter 4, Article III, Section 5(C) for items 3(b) and 3(g) of the City of Birmingham Zoning Ordinance, which states that no Opioid Replacement Therapy Treatment Facility is permitted to be located (b) "within 1,000 linear feet of the lot line of a church or other place of worship", and (g) "within areas that are registered and listed on the National Register of Historic places as Historic Districts, or areas within 1,000 linear feet of the lot line of those districts."

**Need for Birmingham Metro Treatment Center Relocation**

This application pertains to the relocation of an existing Opioid Replacement Therapy Treatment Facility located at 151 Industrial Drive moving to 2500 4<sup>th</sup> Avenue S. The current location had been in use for over 20 years. In that time, the patient census has doubled. To accommodate this growth, the existing facility has had to expand to multiple stories at its current facility. This has posed a significant hardship for the large percentage of patients with disabilities utilizing the facility. The existing location is also more remote from Birmingham proper and is not close to public transportation. Adequate parking is also deficient.

Relocating to the site at 2500 4<sup>th</sup> Avenue S. will benefit the patients and surrounding population. It will allow for a completely ADA compliant building and site, adequate parking, and proximity to a public transit line. The more centralized location and public transportation availability will allow for greater access for patients in need within the City of Birmingham. See Exhibit A (preliminary site plan).

Relocating to the site at 2500 4<sup>th</sup> Avenue South will further benefit patients and surrounding population by its convenience to major roads. The site is located adjacent to the ramp to the Red Mountain Expressway (US Highway 280 and 31). The main entrance, and only entrance used by patients is located on the northwest side of the building facing the ramp to Red Mountain Expressway.

**Request for Variance**

This Request for Variance is necessary due to the City of Birmingham's Zoning Ordinance and criteria pertaining to the Special Exception Use of an Opioid Replacement Therapy Treatment Facility. This Use

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is not permitted in any Zoning District within the City of Birmingham without Special Exception, and even then, it is only allowable in a limited number of zoning districts. Those districts that allow the Use based on Special Exception, require further adherence to strict conditions primarily dealing with proximity to other Uses or districts. These restrictions make it quite challenging to locate a facility that statistical data proves is greatly needed within an area.

The need for this facility is reflected on the map attached hereto as Exhibit B (map of treatment centers in Jefferson and surrounding counties). Currently, only two OTPs are located within the boundaries of the City of Birmingham. The first is located at the far East region of the city; the second is the facility we are seeking to relocate. As the largest city in the state, at least one such facility – likely more than one – should be available to the public and located more central to Birmingham proper. Moreover, a facility located in any area accessible to a larger number of users makes the biggest difference to the citizens of our City, County and State. The Alabama Code in establishing Boards of Adjustment states the powers given to those boards, including authorizing variances from the terms of an ordinance that are not contrary to the public interest, so that “the spirit of the ordinance shall be observed, and substantial justice done.” A facility such as this is certainly within the public's interest and would support the spirit of the ordinance to allow this Use in the designated zones. It would be a substantial injustice to prevent this variance over a few hundred feet in either direction.

Based on Title 1, Chapter 9, Article VI, Section 5(A), the request of the variance will not be contrary to the public interest, and each of the following standards shall be presented.

**1. Physical Characteristics of the Property.**

The applicant, Metro Treatment of Alabama, L.P., desires to relocate their existing treatment center in Birmingham, AL to 2500 4<sup>th</sup> Avenue S due to its proximity to their existing patients and the future need. This property is also located along a public transit route which is imperative for patients to access the facility.

The physical characteristics of the property that is the address/location itself creates a need for a variance. The City has, over time, created certain districts that directly affect some address as opposed to those of neighboring properties. There are over twenty-five different historic districts in the City of Birmingham, which certainly limits any placement of opioid treatment centers. See Exhibit D (map of City of Birmingham Historic Districts.) Specifically, the Automotive National Register District was created and certified in 1991 by the National Park Service. Likewise, the Southside District was created and certified as recently as 2005. By creating these districts and drawing the boundaries where they are drawn, creates a direct physical hardship on this particular address. The variance requirement specifies “[N]o opioid replacement therapy treatment facility may be located: (g) within areas that are registered and listed on the National Register of Historic places as Historic Districts, or areas within 1,000 linear feet of the lot line of those districts.” The property in question is located at 2500 4<sup>th</sup> Avenue S. This area limitation creates its own hardship in that certain properties are directly eliminated while others within the same zoning area are not. The historic areas are at best irregularly shaped, which further creates hardships that are relative to some addresses and not others. See Exhibit C (map showing site and two historic districts at issue). The applicant is located 831 feet from an irregular boundary of the Automotive District and within 228 feet of the completely irregularly shaped Southside Historic District. A variance should be granted to prevent an injustice to this particular address.

**2. Unique Characteristics.**

While the site at 2500 4<sup>th</sup> Avenue S is located 758.13 linear feet from the lot line of a church, Twenty-Third Street Baptist, that should not preclude the variance.

First, in reviewing the “area limitations created by Title 1, Chapter 4, Section 4(C)3(a-d; f-h), they fall into limited categories. The first seems to be to protect children – (items c & d); second is to protect residences (item a); and a third is to protect competitors (item f). For these criteria, we are not requesting a variance. Items g and h; however, are self-created boundaries that do not specify the purpose. If those restrictions are to protect property values, that is addressed herein and does not apply even if the applicable property falls within that limitation.

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That leaves the area limitation related to Churches. As noted, the site at 2500 4<sup>th</sup> Avenue S is located 758.13 linear feet from the lot line of Twenty-Third Street Baptist. The area limitation requires any opioid treatment facility to be at least 1,000 feet away from a church. No reference is made as to why a church would need to be protected from these centers. If anything, churches are in the business of helping those less fortunate. Moreover, none of the area limitations declare why the limitation is at 1,000 feet instead of another number – say 500 feet or 1,500 feet. These seemingly arbitrary designations create zoning areas within areas where a particular Use is allowed. While it may be an important characteristic to consider that a Use such as that of the applicant is near a school or a residential area, placing other area restrictions on such a Use and then further limiting it by certain distances creates unique hardships that do not exist for other properties within the same zone.

Moreover, the patients of the facility should not have reason to pass the church during daily visits to the treatment center. This property has an existing private parking lot with 34 off-street parking spaces. There are also 24 existing on-street parking spaces within a short walking distance of the building. These spaces are located directly in front of the building on 4<sup>th</sup> Avenue S and continues along 4<sup>th</sup> Avenue S northeast of the property. The closest bus stop to the property is located less than 150 linear feet from the lot line, also northeast of the property. Twenty-Third Baptist is in the opposite direction of the parking spaces and bus stop to the southwest of 2500 4<sup>th</sup> Avenue S.

Finally, the applicant has met with Pastor Hatcherson of Twenty-Third Baptist Church on 5/12/2021. Based on the tone of the meeting, the applicant's understanding is the church appears to be in favor of this Use and the services offered.

**3. Hardship Not Self-Imposed.**

The hardship in which the applicant is requesting a variance is not self-imposed by any previous actions of any person having interest in the property. The need for the service of opioid replacement therapy is pertinent to the surrounding area of the property, and the applicant is looking for Special Exception for their Use in the City of Birmingham and Zoning Board approval.

**4. Financial Gain Not Only Basis.**

The applicant's request for a variance is not based solely on financial gain. It is based upon providing the best service for their patients to encourage recovery, and the statistical data showing the area of greatest need in the community.

**5. No Injury to Neighboring Property.**

There will not be any negative impact to neighboring properties. The property is surrounded by the public right of way on all sides, and there are no properties directly abutting 2500 4<sup>th</sup> Avenue S. Any proposed improvements will not impact neighboring properties.

**6. No Harm to Public Welfare.**

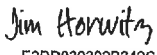
In granting of this variance, there would be no harm to public welfare. There will not be increased congestion of public streets being that the treatment center's peak dosing hours are early in the morning before many businesses open for the day. Previous Uses of the building, including the most recent, were medical uses, as is an opioid replacement therapy treatment facility. The current building and fire code requirements will be met as part of the proposed interior alteration. There will be no increased risk of fire.

By granting this variance, it will not impair the health, safety, comfort, morals, or general welfare of the inhabitants of the City of Birmingham. Public health and welfare will not be impaired yet rather benefitted by the much-needed treatment services provided by the facility. There will be no increased concern for public safety with the increase security proposed at the property. Public safety will not be disturbed as security is a top priority of the facility which will provide ample security camera coverage both inside and outside of the building. The proposed Use will not disturb comfort and convenience as the treatment center is relocating to an area closer to its current patients and future need. If anything, not allowing this Use could be considered harmful to the public welfare, as the need for this service is paramount in this area.

**2500 Maitland Center Pkwy, Suite 250 Maitland, FL 32751 Maitland, FL 32751  
T: (407) 351-7080 F: (407) 351-6930**

[news@ason1.com](http://news@ason1.com)

Sincerely,

DocuSigned by:  
  
E2DD039302B242C...

Jim Horwitz, Metro Treatment of Alabama, LP

CC: Bill Sutton, Colonial Management Group, LP  
David Riehl, Colonial Management Group, LP  
Stephanie Nepali, LGA Partners, LP  
Michaelleen Vargo, LGA Partners, LP  
T. Michael Brown, Bradley Arant Boult Cummings LLP

2500 Maitland Center Pkwy, Suite 250 Maitland, FL 32751 Maitland, FL 32751  
T: (407) 351-7080 F: (407) 351-6930

[www.newssearch.com](http://www.newssearch.com)

**PARCEL ID:** 012300313026001000

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

**DATE:** Monday, May 17, 2021 3:24:11 PM

**OWNER:** GRAFFEO FAMILY PARTNERSHIP LTD

**ADDRESS:** P.O. BOX 660897

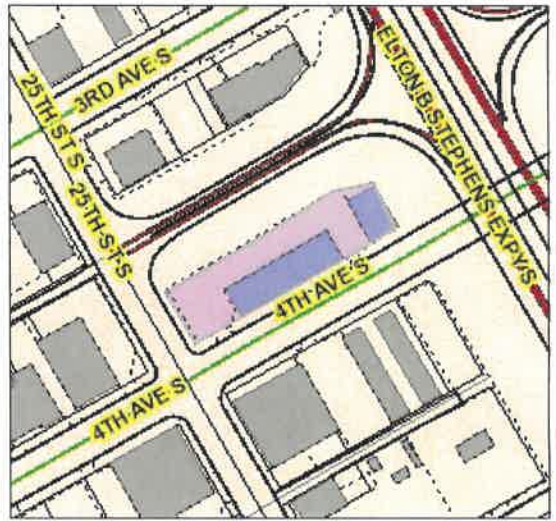
**CITY/STATE:** BIRMINGHAM AL

**ZIP+4:** 35266

**SITE ADDR:** 2500 4TH AVE S

**CITY/STATE:** BHAM, AL

**ZIP:** 35233



**LAND:** \$336,100.00

**BLDG:** \$403,500.00

**OTHER:** \$0.00

**AREA:** 23,415.65

**ACRES:** 0.54

**SUBDIVISION INFORMATION:**

**NAME** BIRMINGHAM BLOCKS

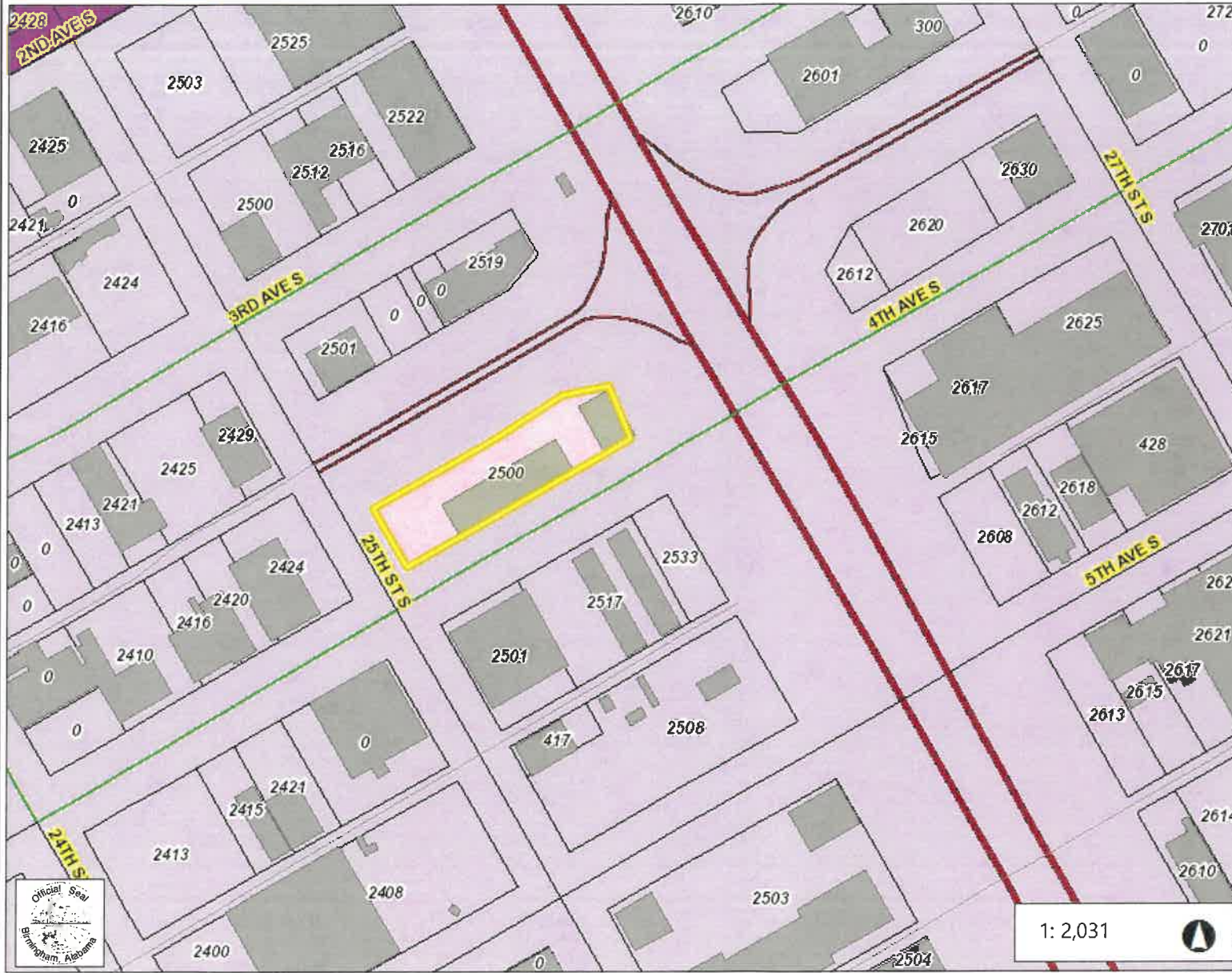
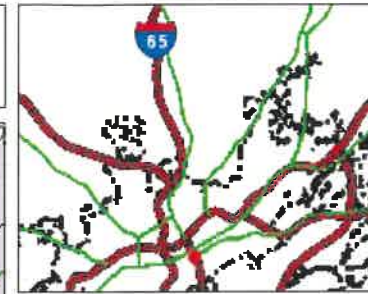
**BLOCK:** 142

**LOT:** 16

**Section:** 31-17-2W  
**Land Slide Zones:** Not in Land Slide Zones  
**Historic Districts:** Not in Historic Districts  
**Commercial Revitalization District:** Not in Commercial Revitalization District  
**Fire District:** In Fire District  
**Flood Zones:** Not in Flood Zones  
**Tax Increment Financing District:** In Tax Increment Financing District  
**Neighborhoods:** Southside (1703)  
**Communities:** Southside (17)  
**Council Districts:** District - 5 (Councilor: Darrell O'Quinn)  
**Zoning Outline:** M1  
**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

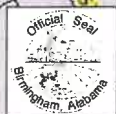
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Legend

- 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

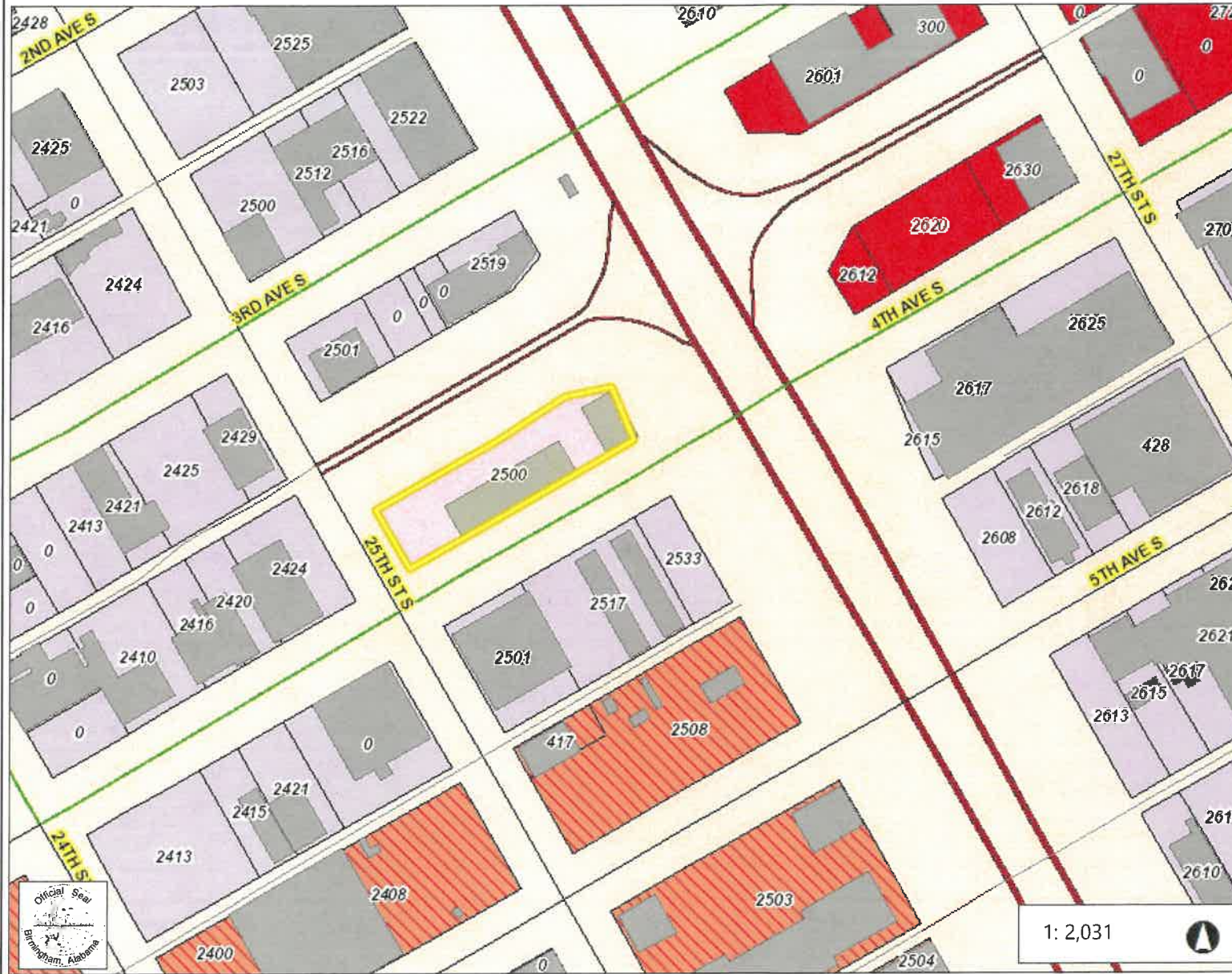


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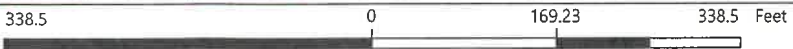
Notes





Legend

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- 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: 2,031

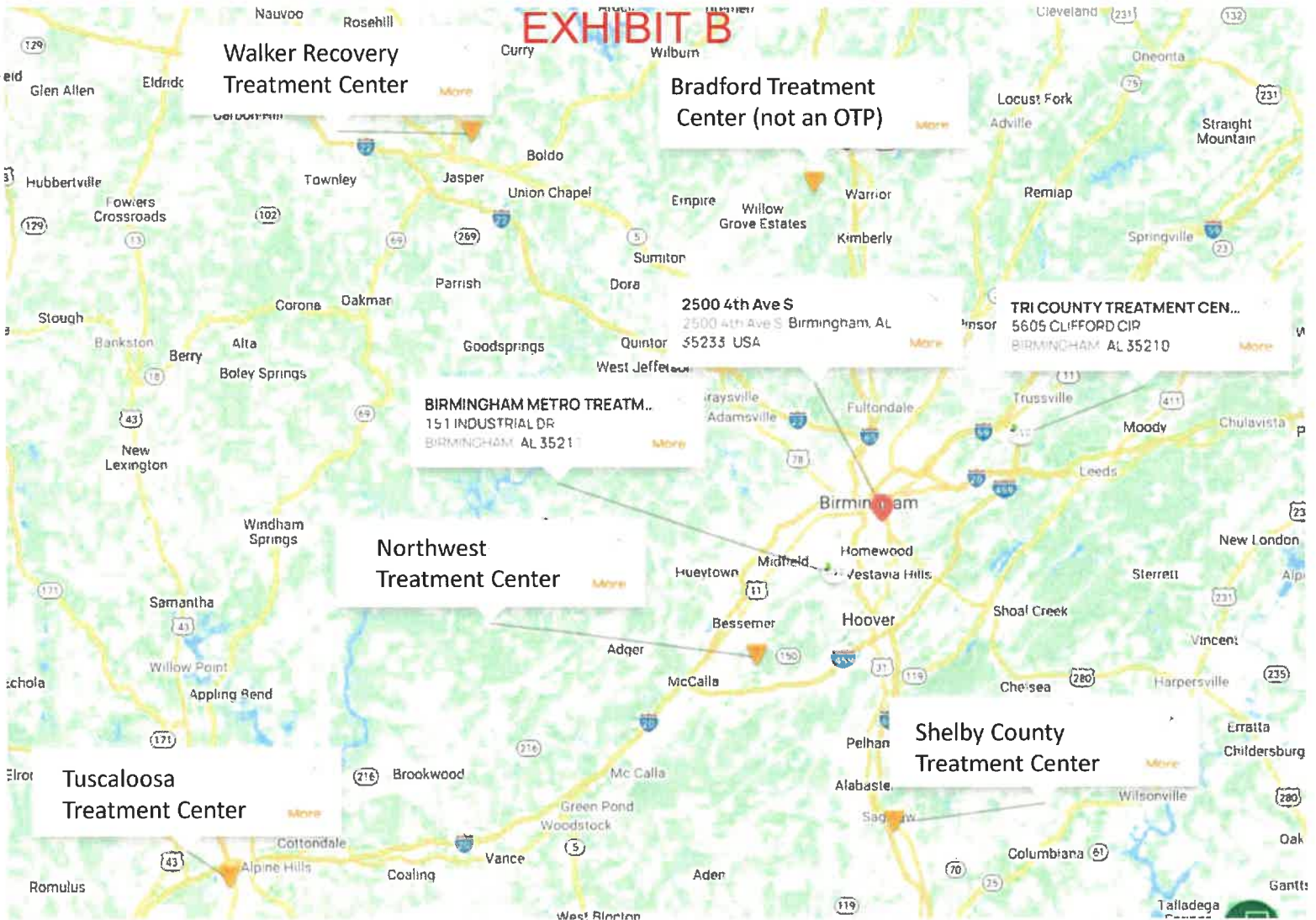
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**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

Notes

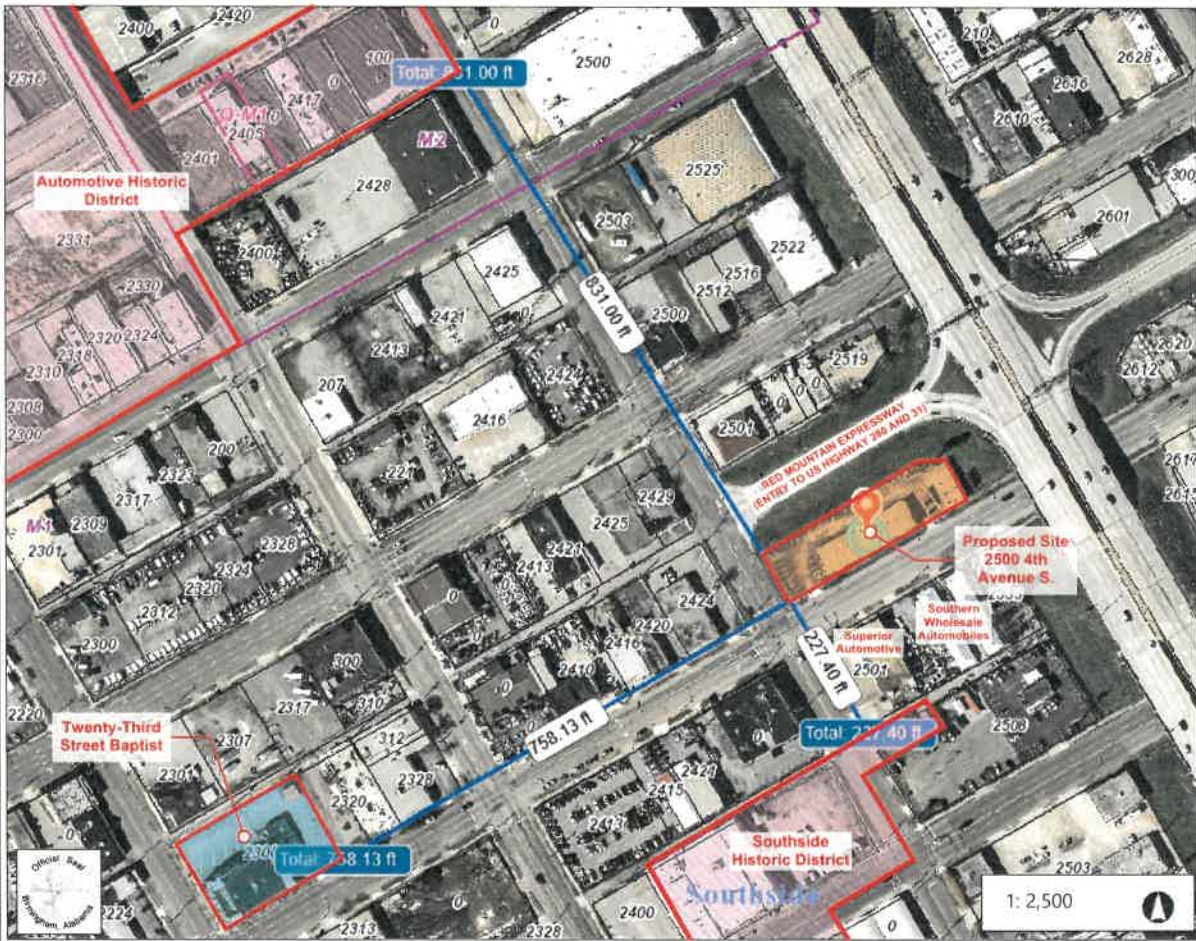




### Birmingham Alabama area Opioid Treatment center locations (OTPs)



# EXHIBIT C 2500 4th Avenue S



**Legend**

- Zoning Outline
- Parcels
- Historic Districts
- City Limits (use with Imagery)

**2015 Imagery**

- Red Band\_1
- Green Band\_2
- Blue Band\_3

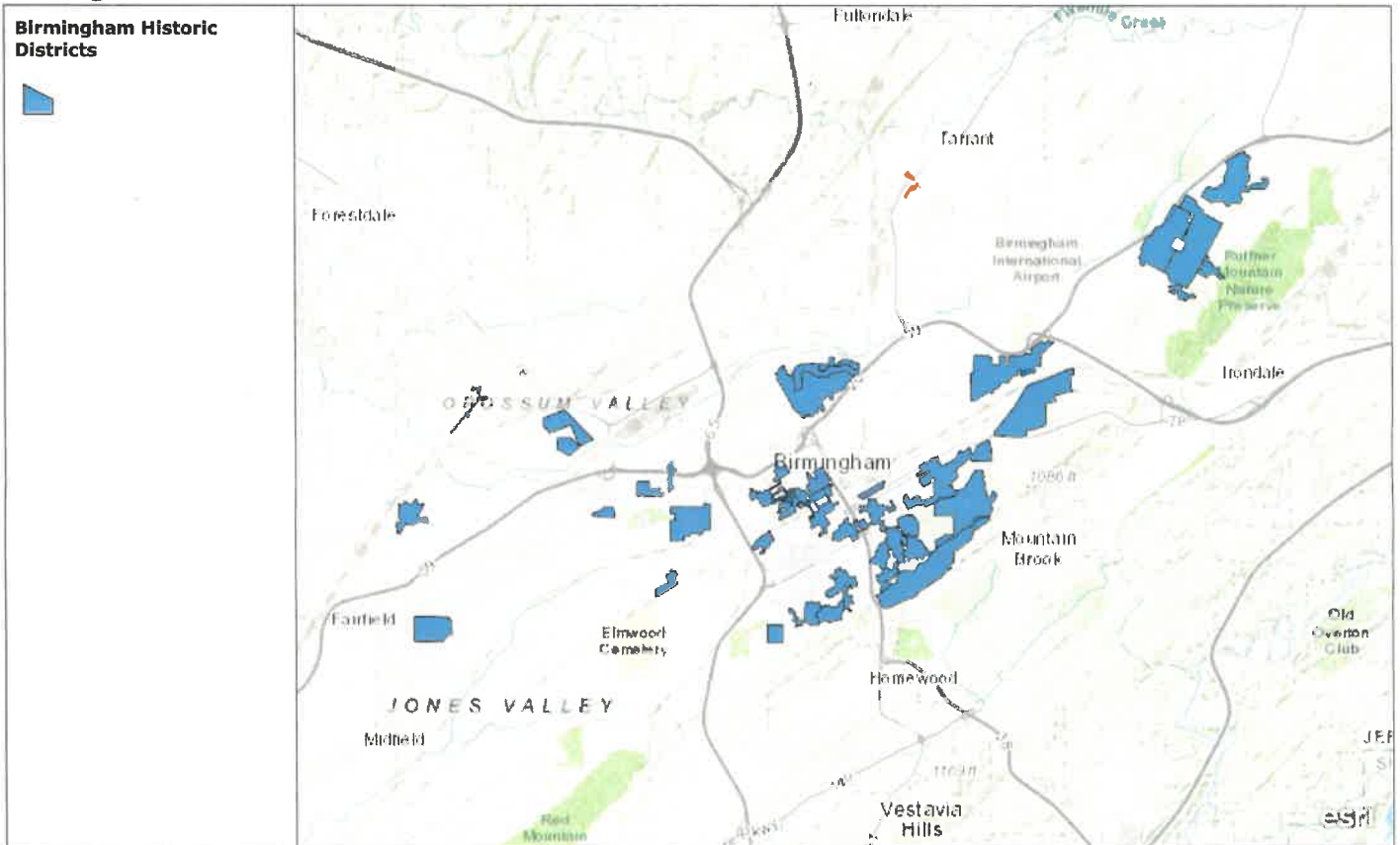
**Notes**

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THIS MAP IS NOT TO BE USED FOR NAVIGATION



## EXHIBIT D

### Birmingham Historic Districts





## EXHIBIT E



### State of Alabama Department of Mental Health



Be it known by all:

by virtue of the authority vested therein by Code of Alabama 1975 §22-50-17  
the Alabama Department of Mental Health does hereby certify and proclaim that the

**Colonial Management Group, LP dba Birmingham Metro Treatment Center  
Level I-0 Opioid Maintenance Therapy  
151 Industrial Drive, Birmingham, Alabama 35211  
Opioid Maintenance Therapy (SA)**

is in compliance with program and physical facility standards promulgated by the  
Alabama Department of Mental Health.

Continued certification of this agency/facility is contingent on maintaining compliance with the  
standards upon which this certification was issued and is subject to periodic inspection.

Effective date  
**June 30, 2020**

Certified through  
**June 30, 2022**

  
\_\_\_\_\_  
Commissioner

**1190**

**EXHIBIT F**



State of Alabama  
**Department of Mental Health**



Be it known by all:  
by virtue of the authority vested therein by Code of Alabama 1975 §22-50-17  
the Alabama Department of Mental Health does hereby certify and proclaim that the

**Colonial Management Group, LP dba Birmingham Metro Treatment Center  
151 Industrial Drive, Birmingham, Alabama 35211  
Administrative Services (SA)**

is in compliance with program and physical facility standards promulgated by the  
Alabama Department of Mental Health.

Continued certification of this agency/facility is contingent on maintaining compliance with the  
standards upon which this certification was issued and is subject to periodic inspection.

**Programmatic Only**

Effective date  
**June 30, 2020**

Certified through  
**June 30, 2022**

A handwritten signature in black ink, appearing to read "Spencer J. Beaman".

Commissioner

**3292**

**ZONING BOARD OF ADJUSTMENT**

**Meeting Date:** June 10, 2021

**Time:** 2:00 P.M.

**Pre-Meeting:** 1:00 P.M.

**Place:** WebEx

**ZBA2021-00024**

**Bush Hills Neighborhood**

***Request:***

Variance to allow 6ft fence in the front yard area along 11th Street and 4th Avenue West instead of the 4ft maximum height requirement and a variance to allow a 6ft black chain link fence in the front yard area Title 1 Chapter 4 Subsection 3.A.1 page 182,

***Applicant:***

Cultural and Educational Advancement Foundation, Inc

***Location:***

1025 4<sup>th</sup> Ave W, Birmingham AL 35204

Parcel # 012900041007006000

***Applicant's Proposal:***

The applicant is proposing a 6ft steel fence in the front yard area off of 11<sup>th</sup> St W and 4<sup>th</sup> Ave W as shown on the site plan outlined in pink. The 6ft height requires a variance. The applicant is also proposing a 6ft chain link fence in the rear, side and front yard area of the property as shown on the site plan outlined in green. The portion of the fence that extends past the building off of 11<sup>th</sup> St W and 4<sup>th</sup> Ave W would require a variance for 6ft in height and the chain link material.

***Staff Analysis:***

The subject property is currently zoned D-3 (Single Family District). Abutting the subject property to the North are parcels zoned D-3, Single Family District, and CD-5, Contingency Multiple Dwelling District, parcels East are zoned D-3, Single Family District, parcels west are zoned CD-5, Contingency Multiple Dwelling District and parcels South are zoned C-2, Commercial Business District. The property is not located in any design review districts or flood plain area.

Per the zoning ordinance, upon any "D", "E-1", or "R" zoned property, a wall or fence may be erected or placed in accordance with the following:

1. Complete Front Yard – No wall or fence within a front yard area shall exceed a height of four feet and the overall height of fence, supports and other features shall not exceed a height of five feet in total, except as required for wireless communication installations as listed in Section 1 of this Article. If a retaining wall is constructed in a front yard for the purpose of leveling the yard or to control stormwater, for every four feet of retaining wall it shall be setback two feet.
2. All fences shall be made of the following material and be allowed in the yards:
  1. Natural wood permitted at front, side and rear.
  2. Brick or stucco over masonry permitted at side and rear only.
  3. Chain link permitted in side and rear only.
  4. Barbed and razor wire permitted in rear only, in commercial, manufacturing and industrial districts.
  5. Electrified fences are prohibited in all yards.

The applicant's property is situated on a corner lot; therefore, it has two front yards off of 11<sup>th</sup> St W and 4<sup>th</sup> Ave W. The height requirement for the front yard area is 4ft and does not allow the material of chain link. Any portion of the fence that extends out pass the building would be considered in the front yard regardless if it is located behind or on the side of the building.



***Neighborhood Recommendation:***

The ***Bush Hills Neighborhood Association*** will meet and take a vote prior to the ZBA Meeting.

***Staff's Recommendation to ZBA:***

Staff believes the applicant has provided sufficient evidence to support the variance requests, including the need for CEAF to control access to the site and to provide for the safety and security of its members; therefore, staff believes the request has merit for approval and as such, should be **GRANTED** with the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within one year of approval from the Board.
3. The installation of the fence should be constructed as shown on the plans submitted.

**Cultural and Educational Advancement Foundation, Inc. (CEAF)**  
**Request for Six-Foot Fence Variance**

**1. Physical Characteristics of the Property.**

*a. The property is new construction that includes a building and parking lot. The building has been named the Pearl Center. It will be owned by the Cultural and Educational Advancement Foundation, Inc. (CEAF). The Pearl Center is being constructed for charitable purposes and has been zoned R5. We are a business physically located in a residential community. CEAF will make every effort to be a good neighbor in the community.*

*b. The characteristics of the property will remain the same. The land will not be removed or distorted with the addition of the 6-foot fence. The fence will add value to the property as well as be esthetically pleasing to the eye and surrounding locations. The landscape will remain the same. No additional soil will need to be added or removed. The fence will be professionally constructed.*

**2. Unique Characteristics.**

*The 6-foot fence is needed to control access to the Pearl Center and parking lot. CEAF would not like for the property, specifically the parking lot to become an attractive nuisance to its neighbors. The addition of a fence on the perimeter of the Pearl Center property will be complimentary to the adjacent properties in the area. It will not be the first constructed barrier in the neighboring area of homes and businesses. The fence will add value and security to the property.*

**3. Hardship Not Self-Imposed.**

*The construction of the fence will not alter the essential character of the neighborhood. The fence is needed for the security, safety and protection of members and the population it serves, as well as a deterrent for trespassers and intruders of the property. The Pearl Center would like to control movement and limit access to the center's property. The alleged hardship has not been self-created but was concluded from discussions and interactions with the neighbors.*

**4. Financial Gain Not Only Basis.**

*The Pearl Center will not benefit financially from constructing the fence.*

**5. No Injury to Neighboring Property.**

*The adjacent and adjoining properties will not be compromised by constructing the fence.*

**6. No Harm to Public Welfare.**

*The six-foot fence will not be detrimental to the public in any way. The fence is for security to deter trespassers and control access to the property.*

**PARCEL ID:** 012900041007006000

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

**DATE:** Friday, May 21, 2021 12:50:09 PM

**OWNER:** CULTURAL AND EDUCATIONAL ADVANC

**ADDRESS:** PO BOX 13787

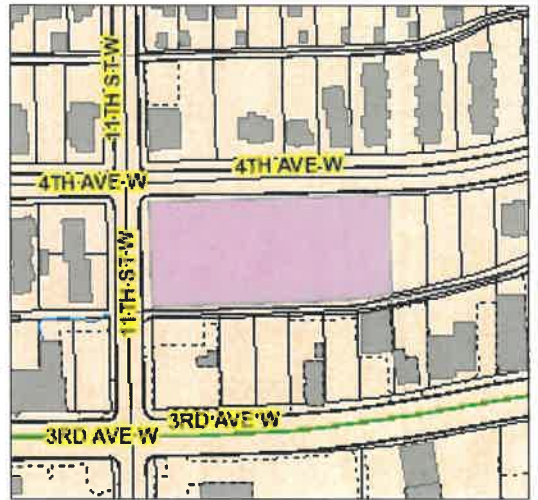
**CITY/STATE:** BIRMINGHAM AL

**ZIP+4:** 35203

**SITE ADDR:**

**CITY/STATE:** , AL

**ZIP:**



**LAND:** \$65,200.00

**BLDG:** \$0.00

**OTHER:** \$0.00

**AREA:** 52,084.24

**ACRES:** 1.20

**SUBDIVISION INFORMATION:**

**NAME** RESURVEY OF LTS 1 THRU 7

**BLOCK:** 12

**LOT:** 1-A

:

**Section:** 4-18-3W

**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:** Bush Hills (202)

**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:** In Opportunity Zones

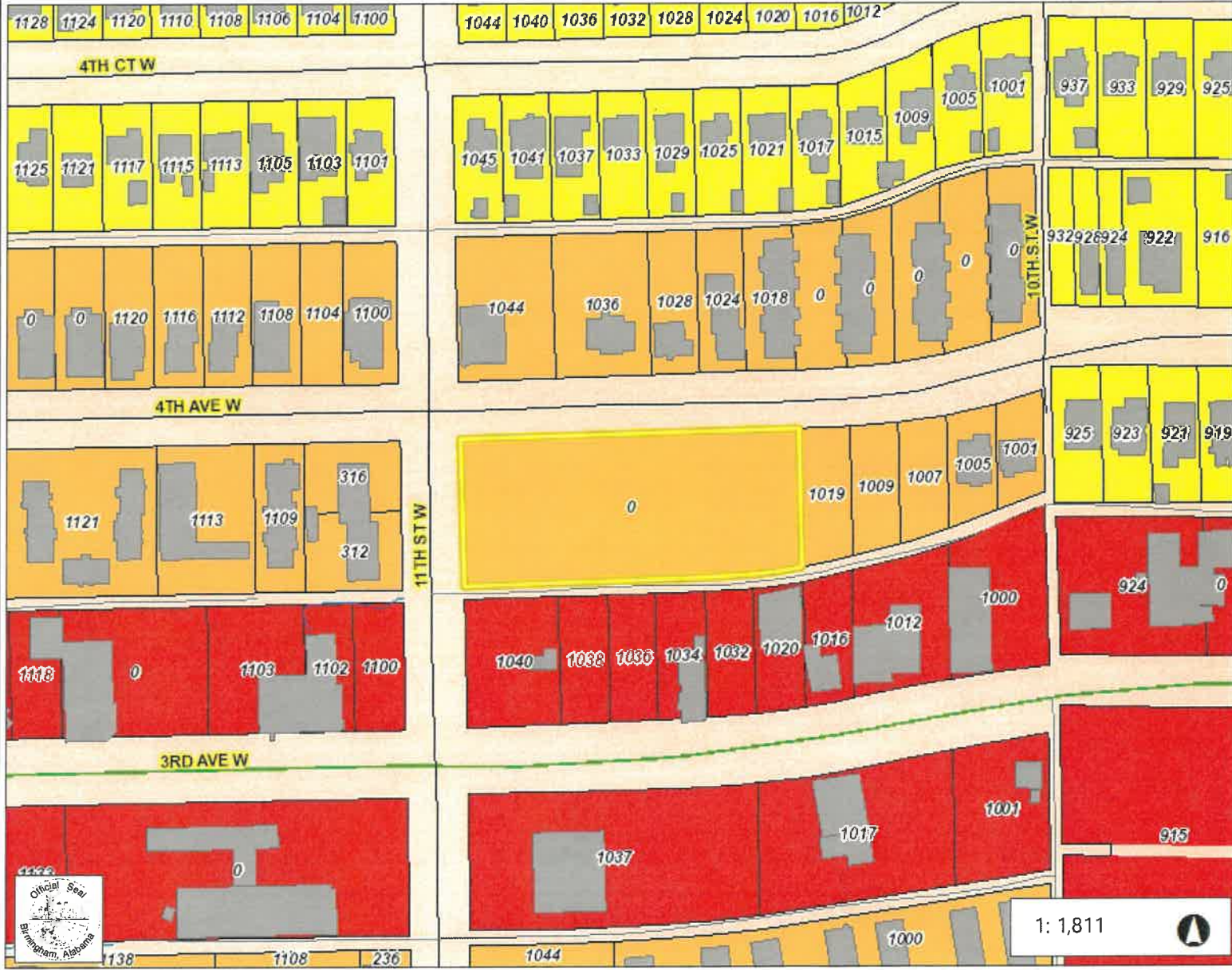
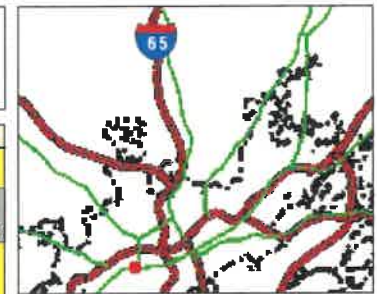
**Judicial Boundaries:** JEFFERSON

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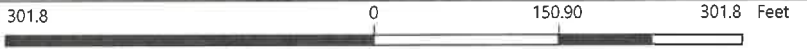






**Legend**

- Centerline Labels
- Railroad
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- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
  - Limited Access
  - Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
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- Adopted LandUse Plan
  - Residential-Low
  - Residential-Medium
  - Residential-High
  - Neighborhood Commercial
  - General Commercial
  - MXU-Low
  - MXU-Medium
  - MXU-High



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1: 1,811

**Notes**





