



# Zoning Board of Adjustment Staff Report

Department of Planning, Engineering, & Permits

ZBA2023-00010

North Birmingham Neighborhood

***Request:***

- A **Variance** for a 6' foot chain link fence with barbed wire on all sides of the property.
- A **Variance** for parking on a pervious surface instead of the required paved surface.
- A **Variance** to allow for outdoor storage in a Flood Zone.

***Filed by:*** Don Cosper of Davis Architects on behalf of the owner, MHLC Lot 1 LLC.

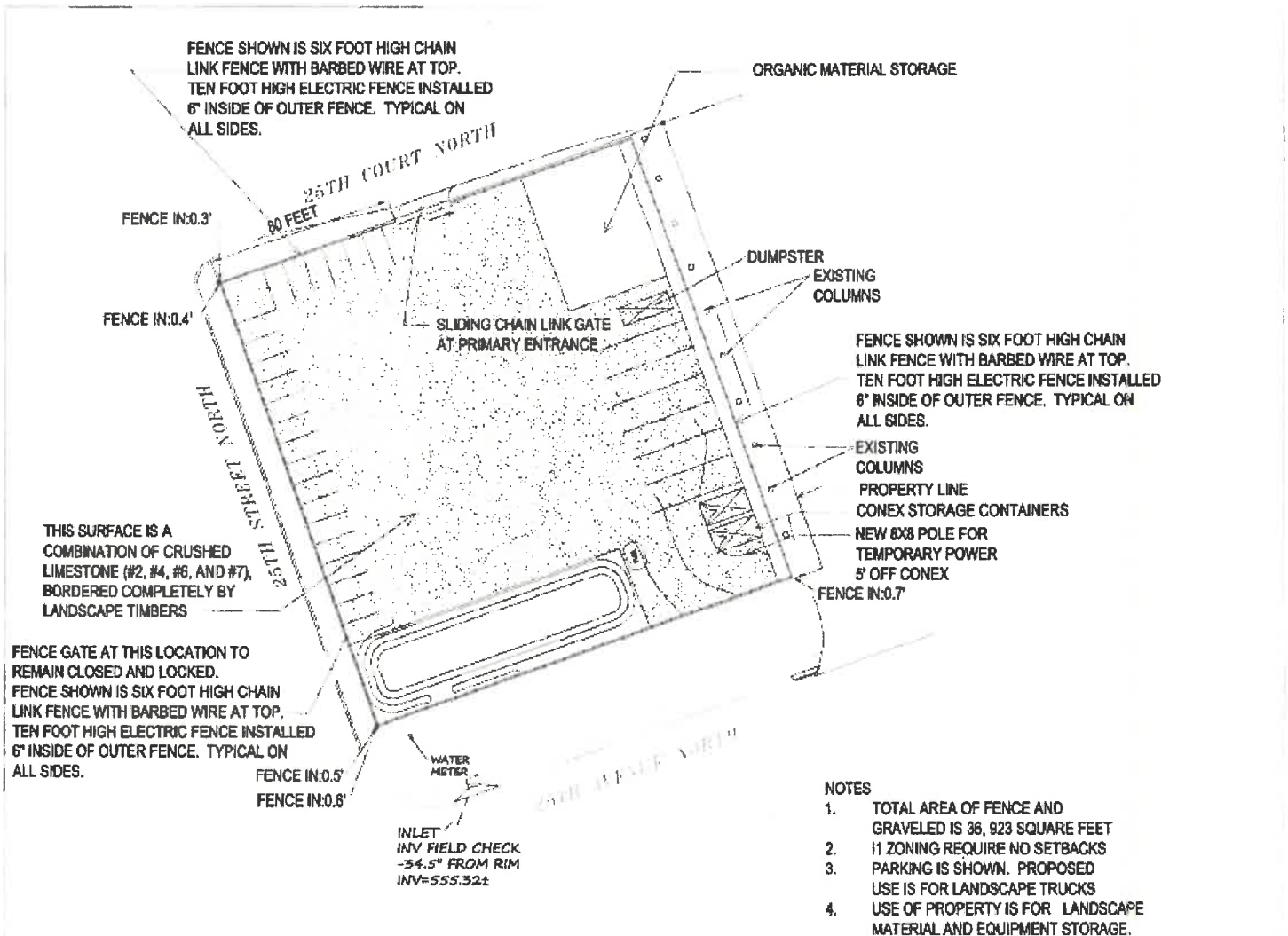
***Location:*** 2523 25th Court North, Birmingham, AL 35234 situated in the NE ¼ of Section 23, Township 17-S, Range 3-West, Council District 9.



December 2022  
Photo from Google  
Maps

***Applicant's Proposal.***

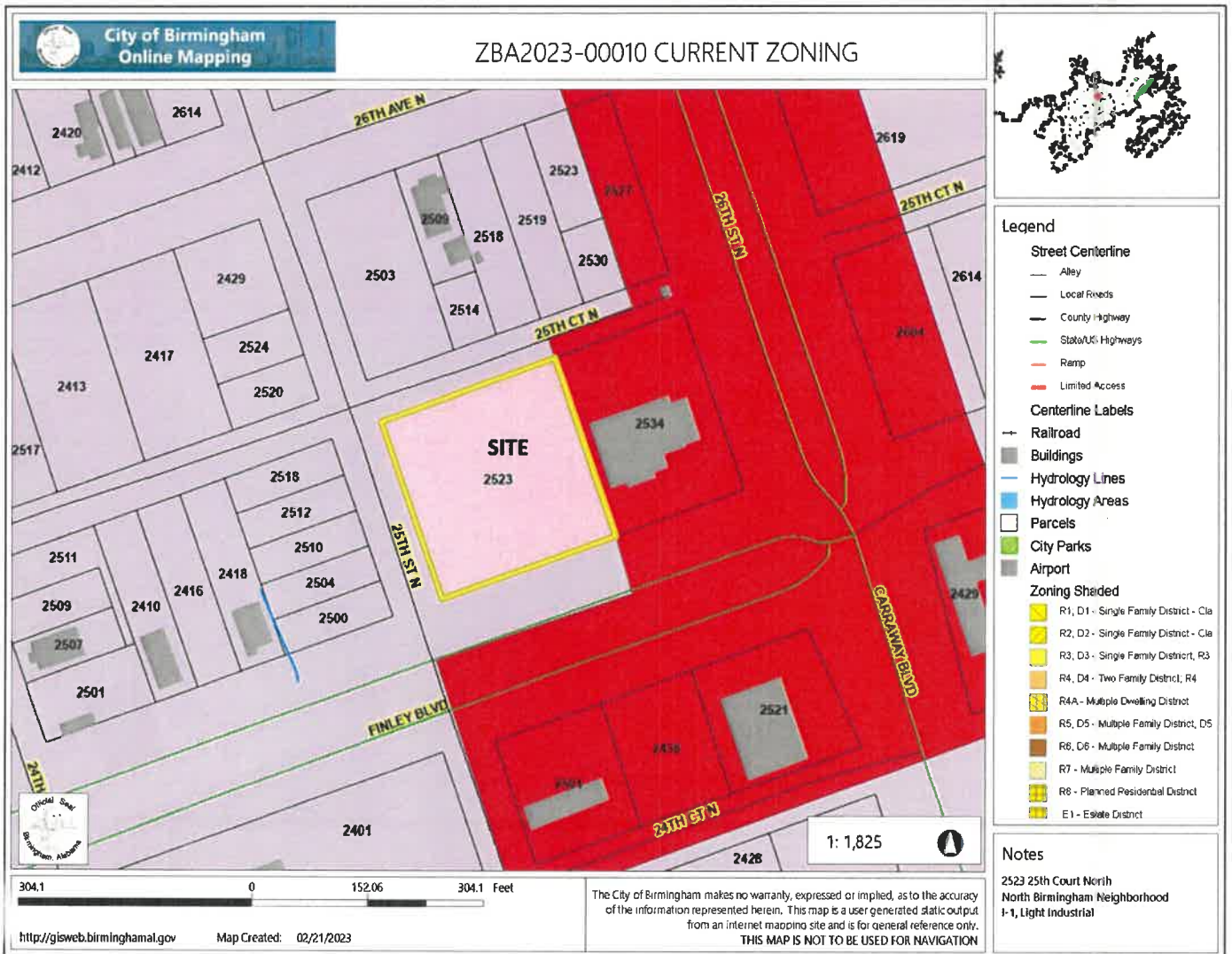
The applicant has installed a 6' foot chain link fence with barbed wire on all sides of the property and is using the site as storage for landscaping equipment and materials and parking for landscape trucks. The surface of the site is covered in crushed limestone (gravel).



**SITE PLAN**

**Property and Abutting Land Uses.**

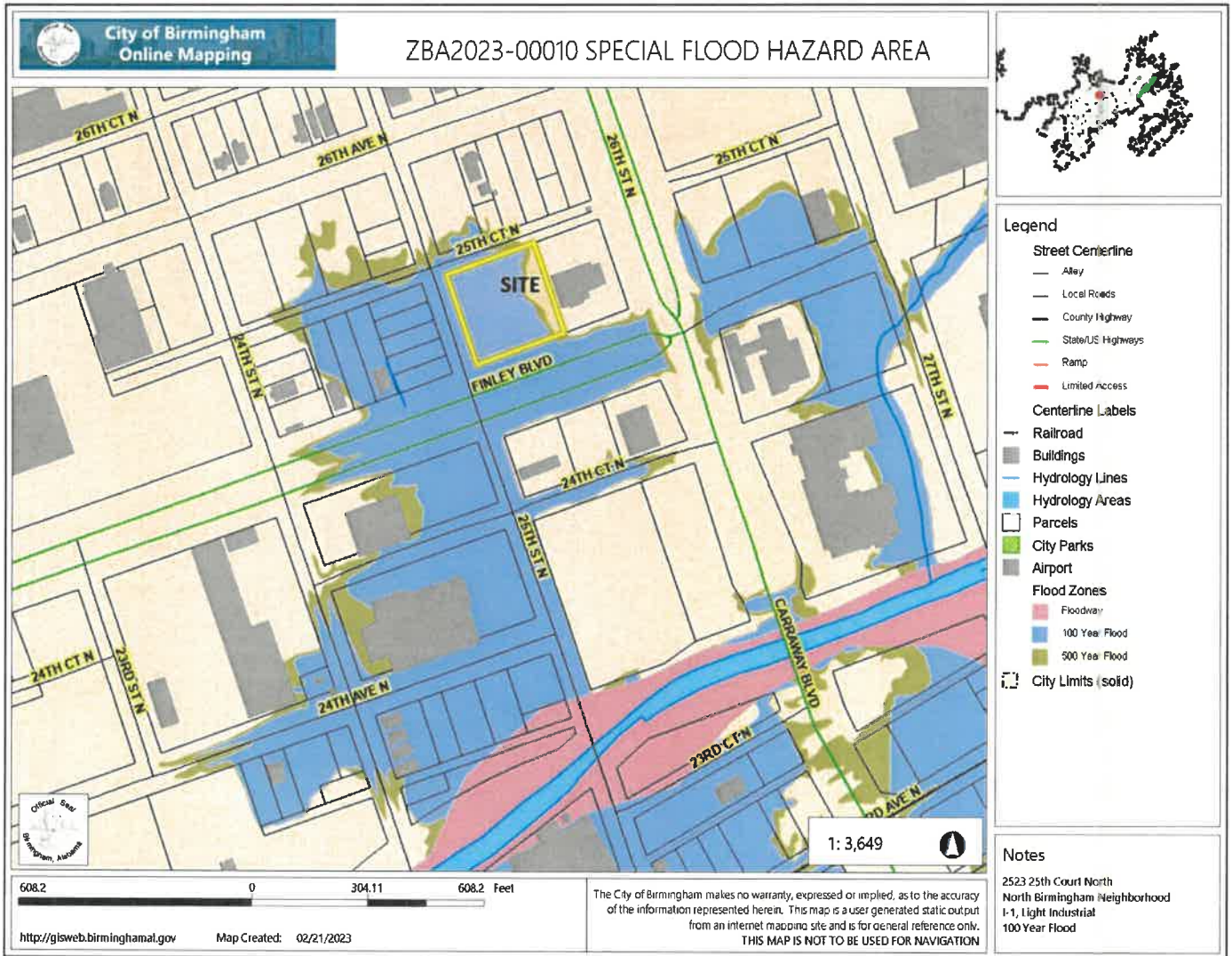
The subject property sits on .92 acres, currently zoned **I-1, Light Manufacturing District**. Parcels to the North and West are also zoned **I-1, Light Manufacturing District**. Parcels to the South and East are zoned **C-2, General Commercial District**. This property is located within a **Special Flood Hazard Area** and lies within the 100 Year Floodplain.



The I-1, Light Manufacturing District, is designed to allow for light manufacturing and office uses, potentially in “business park” settings, and typically near major transportation routes including Interstates, State Highways, railroad spurs and airport facilities. Uses in this district include: warehouse and distribution uses, urban agriculture, supporting uses, such as minor retail and services to support the major uses. No residential uses are allowed in this district.



A 100-year flood is a flood event that has a 1 in 100 chance of being equaled or exceeded in any given year. The 100-year flood is also referred to as the 1% flood, since its annual exceedance probability is 1%.



**Zoning Ordinance:**

**Contractor Yard:** The construction and incidental storage activities performed by construction contractors on lots other than construction sites.

**Subsection 7. Construction, Materials, and Maintenance.**

1. Finished side of fence must face adjacent property and thoroughfare.
2. Fences placed on top of retaining wall, terrace or patio in front yards shall not be opaque.
3. Fences placed in front yards shall not be opaque, except for certain uses such as junk yards and other similar uses.
4. All fences shall be made of the following material and be allowed in the yards:
  - a. Natural wood permitted at front, side and rear.
  - b. Brick or stucco over masonry permitted at side and rear only.
  - c. **Chain link permitted in side and rear only.**
  - d. **Barbed and razor wire permitted in rear only, in commercial, manufacturing and industrial districts.**
  - e. Electrified fences are prohibited in all yards.
5. All fences shall be well-maintained, in upright condition and free of missing and broken parts. Salvaged materials, such as, pallets shall not be allowed.

**Parking.**

**Pervious paving.** Porous paving blocks and pervious paving materials are permitted and encouraged as material for parking lots. Permeable solutions can be based on: porous asphalt and concrete surfaces, concrete pavers (permeable interlocking concrete paving systems - PICP). Grass pavers are excluded for commercial uses. All designs must meet the minimum design specifications of the City Engineer (See Section 7. C. Surfacing of this chapter).

**Floodplain.** Parking within the floodplain requires 100% pervious parking.

Storage lots for commercial vehicles and trailers (other than passenger vehicles) not used for daily transportation (e.g., truck trailers, moving trailers, RV's, campers, farm implements, construction vehicles) may be approved by the City Engineer for a substitute improved surface, such as, but not limited to compacted gravel. Such substitute surface, where approved by the City Engineer, shall have concrete curbing around the parking area perimeter to confine the gravel.

**Parking Requirement for a Contractor Yard:** 1 per 1000 sq. ft. of Gross Floor Area, plus 1 per 400 sq. ft. of office area.

**This parking surface has been approved by the City Engineer.**

### **Special Flood Hazard Area**

#### **Section 9. Variances.**

1. The Board of the City as established in Chapter 9 of this Ordinance shall hear and decide on appeals and request for variances from the requirements of this Article.
2. The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Administrative Officer in the enforcement or administration of this Article.
3. Any person aggrieved by the decision of the Board may appeal such decision in accordance with Chapter 9, Article V, Section 6 of this Ordinance.
4. **Variances may be issued for the following:**
  - a. **Structures Functionally Dependent on Close Proximity to Water:** Certain structures that must be located near water are functionally dependent uses and are permitted to be wet floodproofed after the issuance of a variance from NFIP elevation and dry floodproofing requirements. These structures may include certain types of docking, seafood processing, and port facilities associated with marine activities.
  - b. **Historic Buildings:** For the repair and rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation of a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

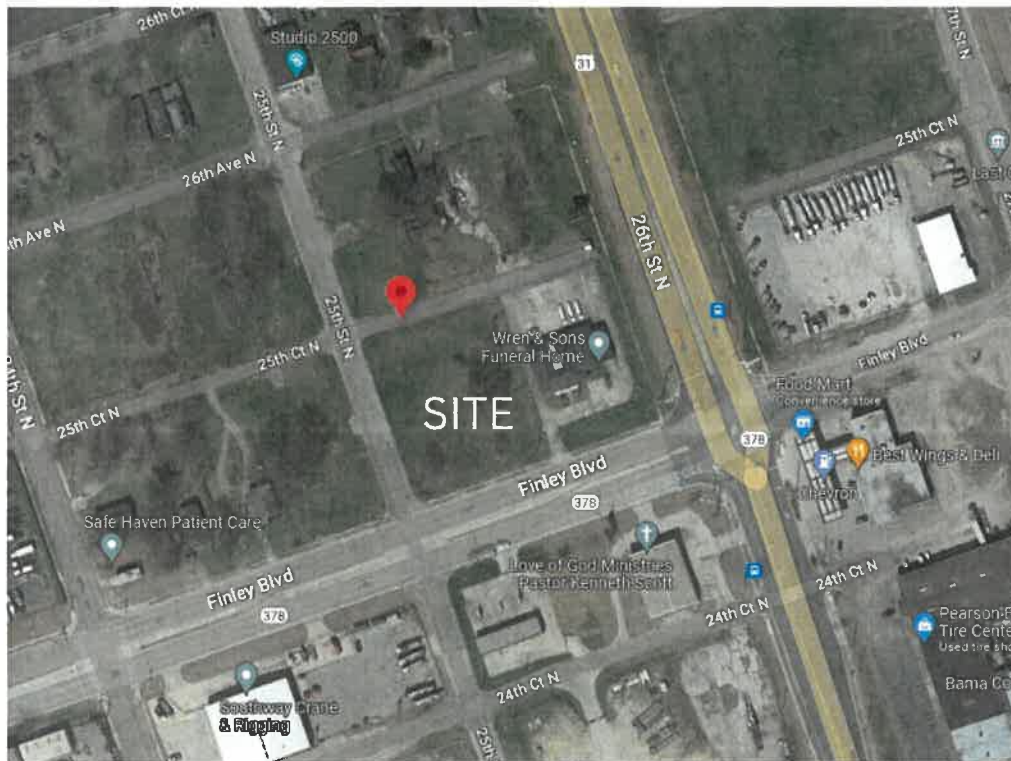


- **c. Accessory Structures: Used solely for parking (two-car detached garages or smaller), or limited storage (small, low-cost sheds) and non-habitable. This low cost should not exceed 10,000 dollars.**

5. In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other parts of this Article and:

- a. Danger that materials may be swept into other lands to the injury of others;
- b. Danger to life and property due to flooding or erosion damage;
- c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. Importance of the services provided by the proposed facility to the community;
- e. Necessity to the facility of a waterfront location, where applicable;
- f. Availability of alternative locations, not subject to flooding or erosion damage for the proposed use;
- g. Compatibility of the proposed use with existing and anticipated development;
- h. Relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- i. Safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- k. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- l. Upon consideration of the factors listed above and the purposes of this Article, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.
- m. Variances shall not be issued within any designated floodway if any increase in flood level during the base flood discharge would result.
- n. Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard to afford relief and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

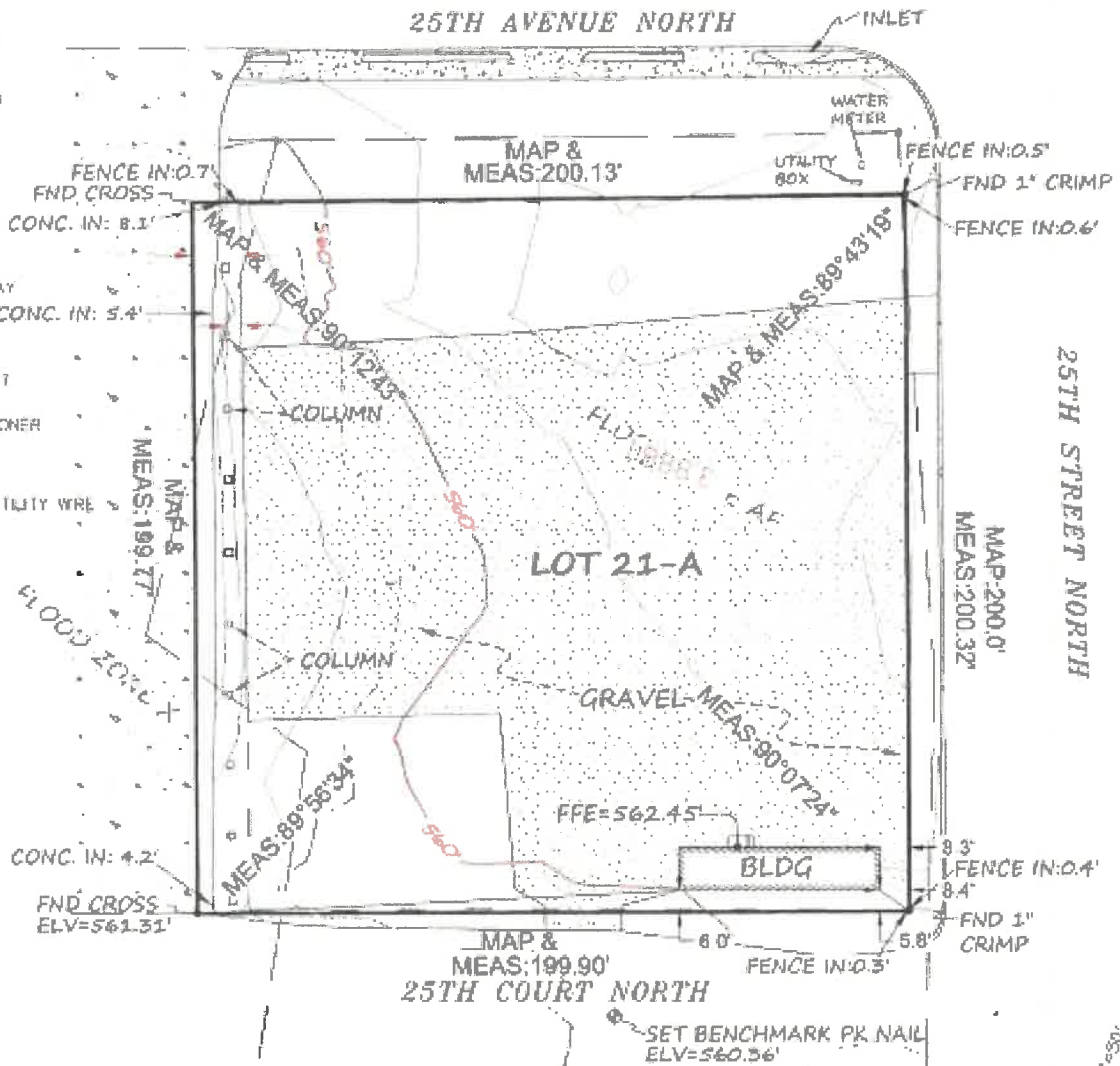
6. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship; and
  - c. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing laws or ordinances of the City.
7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating the cost of flood insurance will be commensurable with the increased risk resulting from the reduced lowest floor elevation.
8. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.





LEGEND

ASP	ASPHALT
BLDG	BUILDING
CALC	CALCULATED
MEAS	MEASURED
CH	CHORD
LNG	LONG CHORD
d	DEFLECTION
Δ	DELTA
ESMT	EASEMENT
HW	HEADWALL
MIN	MINIMUM
MH	MANHOLE
OH	OVERHANG
PDR	PORCH
R	RADIUS
R.O.W.	RIGHT OF WAY
SAN	SANITARY
STM	STORM
UTL	UTILITY
AC	ACRES
S.F.	SQUARE FEET
C	CENTERLINE
A/C	AIR CONDITIONER
●	POLE
—x—	ANCHOR
—x—	FENCE
—x—	OVERHEAD UTILITY WIRE
PVMT	PAVEMENT
W/	WITH
TAN	TANGENT
RES	RESIDENCE
o	LIGHT
COV	COVERED
▨	DECK
○	CONCRETE
▨	WALL
□	COLUMN



NOTES:  
 - VERTICAL DATUM IS NAVD88.



STATE OF ALABAMA)  
 JEFFERSON COUNTY)

"TOPOGRAPHIC SURVEY"

# SURVEY

## VARIANCE JUSTIFICATION

- 1. Physical Characteristics of the Property.** Most of this parcel zoned I1, is in a flood zone. For any type of business expected to develop this I1 parcel for commercial use, the City of Birmingham Storm Water Management will require some measures to be taken to reduce the flooding in the area around this parcel. To meet their requirements, a detention basin must be developed on the low side of the property adjacent to Finley Boulevard (also known as 25<sup>th</sup> Avenue North). Also based on the Weygand survey filed with probate and the Jeffco tax map, there is encroachment by the Wren Funeral Home to the east which has reduced the usable portion of the site. With this reduction and the space required by the civil engineers to meet the Storm Water requirements, the remainder of the space is necessary for the Owner's use as a equipment and storage lot. The need for a six foot fence with barbed is necessary to prevent further loss and damage of property and to keep the public safe from the retention basin during rain events.
- 2. Unique Characteristics.** This I1 parcel, as noted, is in a flood zone and also an area of high security risk. The fence both protects the public and protects the owner's equipment and material. In the short time that the owner's have used this lot there has been extensive theft of materials, theft of equipment, theft of trailers, and other security issues related to this area of the city. Other nearby businesses also have tall security fences with barbed wire for the same reasons except at this parcel, the tall fence and barbed wire would protect the public from the rainwater in the retention basin which is not observed in any of the other nearby businesses with fences and barbed wire.
- 3. Hardship Not Self-imposed.** The flood zone status was not created by any change or use of the property by the owners. The parcel is prone to flooding and overflowing into the public Right of Way. The improvements approved by the city's Stormwater Management will alleviate a long existing problem. Also, the risk of theft and property damage was entirely unexpected and the realities of the theft and damage have been devastating. Further measures have been required to help alleviate the continuing problem.
- 4. Financial Gain not the Only Basis.** Financial gain is not any type of basis for this request. Any business located on this property would need to have variances to protect property and the public as described previously. The configuration of the planned usage is based entirely on meeting the Storm Water Management requirements for drainage and rain detention.
- 5. No Injury to Neighboring Property.** None of the existing improvement or proposed improvements would cause injury to neighboring properties. Develop of a vacant space should be advantageous to all the neighboring properties.
- 6. No Harm to the Public Welfare.** The granting of the variance will not be detrimental to the public welfare. To the contrary, the flooding conditions satisfied by the fenced retention basin would create a safer environment for the public.

***Neighborhood Association.***

The **North Birmingham Neighborhood Association** met at its regularly scheduled meeting on **April 10, 2023** and voted to

***Recommended Conditions:***

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure 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.





# Zoning Board of Adjustment Staff Report

Department of Planning, Engineering, & Permits

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ZBA2023-00011

Forest Park Neighborhood

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**Request:** Application for a **Variance** to allow for the side yard setbacks on a new deck to be 4 feet on the right side of the house instead of the required 5 feet in a side yard in an R-3, Single-Family Residential District.

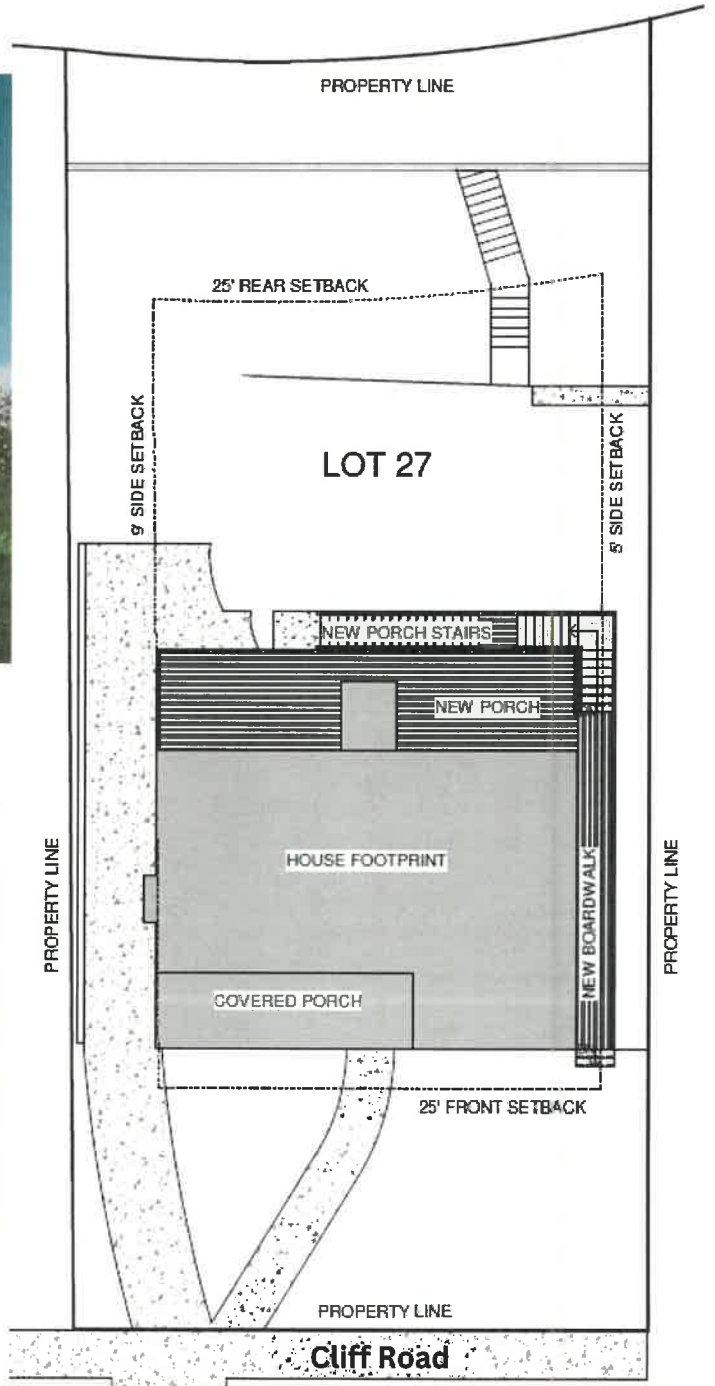
**Filed by:** Stanley Anderson of Diversified Home Services of AL on behalf of the owners, Angela Wallace and Rob Jones.

**Location:** 4348 Cliff Road, Birmingham, AL 35222 situated in the NE ¼ of Section 32, Township 17-S, Range 2-West, Council District 3.

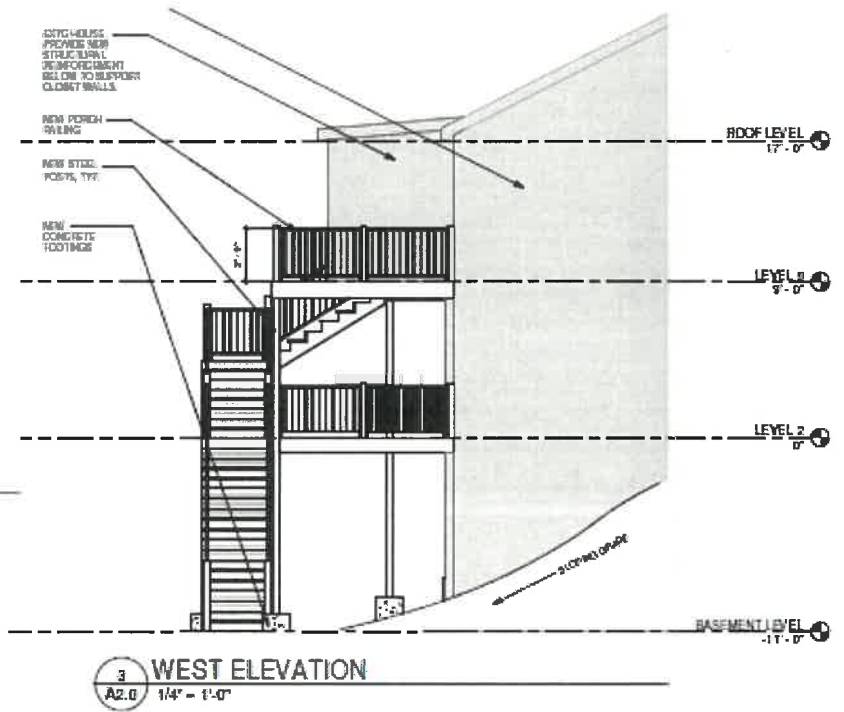
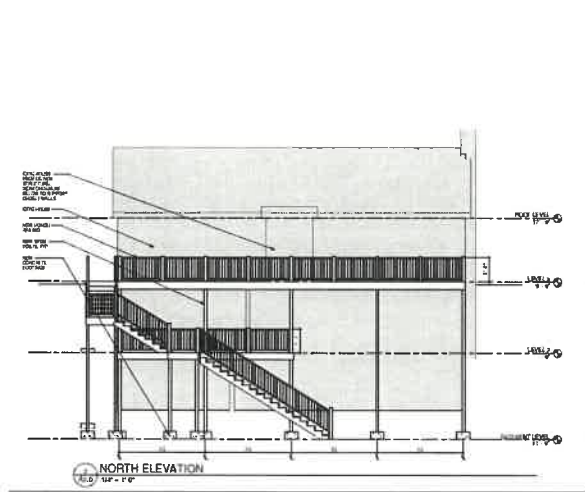
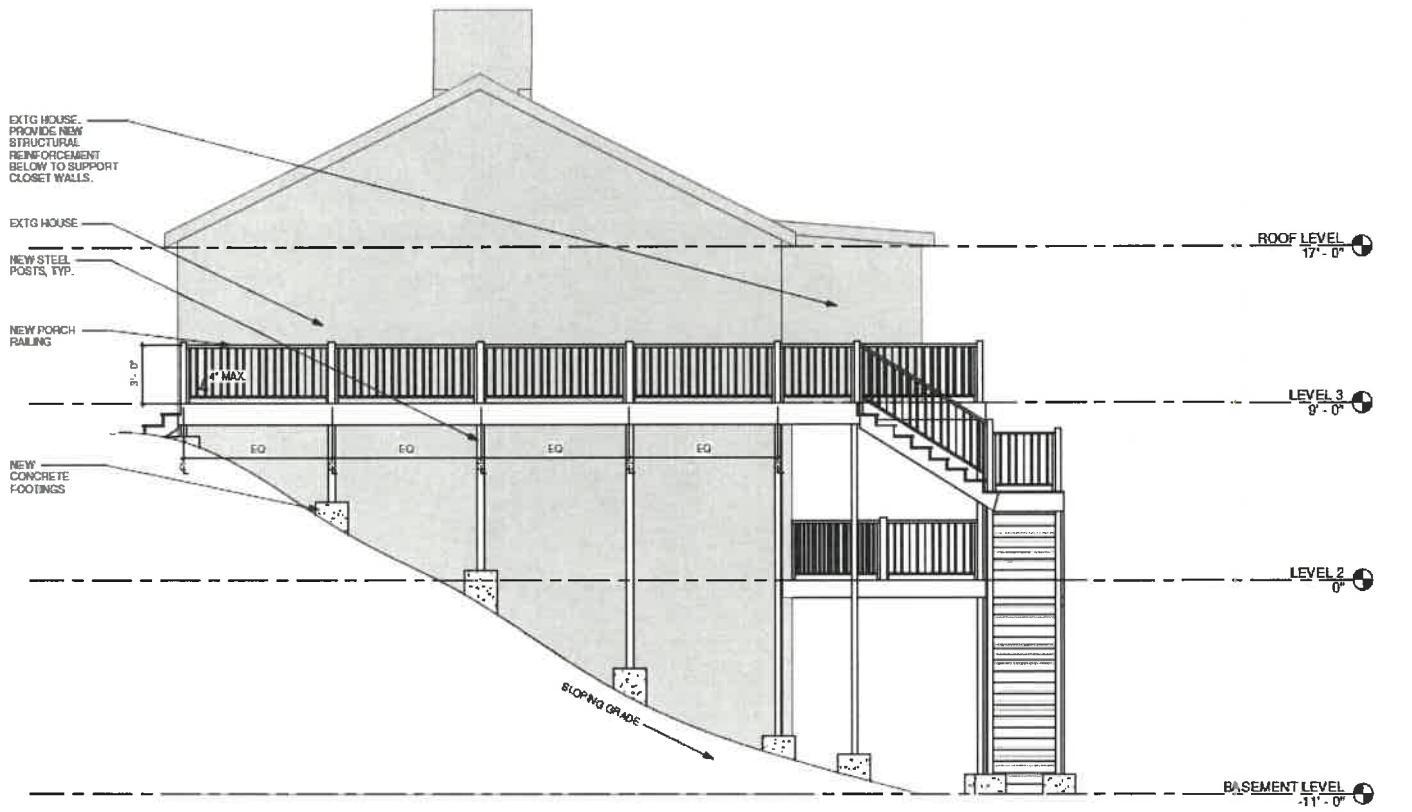


***Applicant's Proposal.***

The applicant is constructing a new deck on the rear and side of the house. The new deck will have a boardwalk that connects through the side yard, the boardwalk is encroaching 1' foot into the 5' foot required side yard setback. This makes the setback of the boardwalk 4' feet instead of the required minimum of 5' feet.







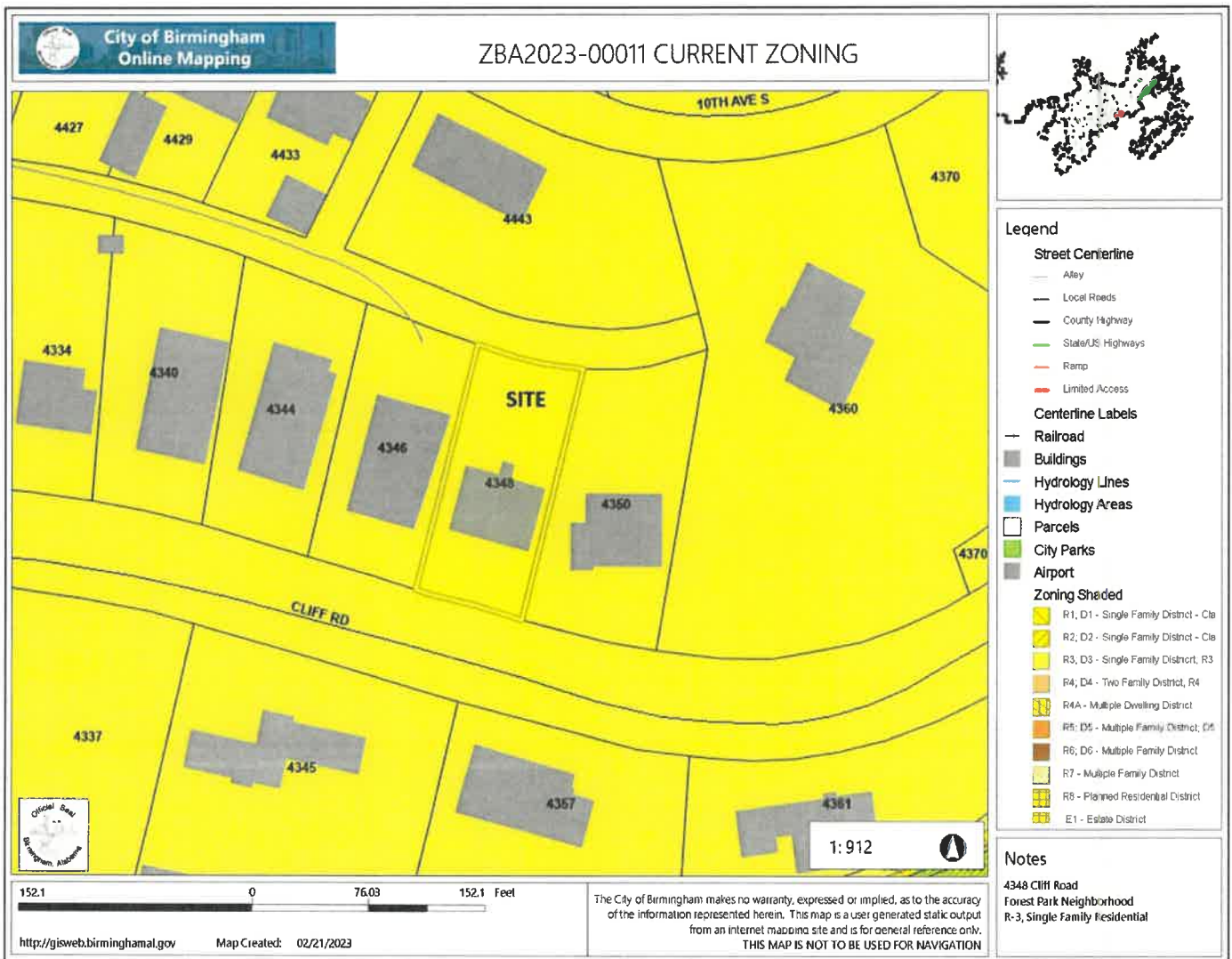
ELEVATION

DRAWINGS



**Property and Abutting Land Uses.**

The subject property sits on .18 acres, currently zoned **R-3, Single-Family District**. The surrounding properties in all directions are also zoned R-3, Single-Family District. This property is located within the **Forest Park Historic District** and the design has been approved by the Historic Preservation Manager.



***Zoning Ordinance:***

**R-3, Single-Family Area and Dimensional Regulations:**

Maximum Height of Structure: 35 Feet

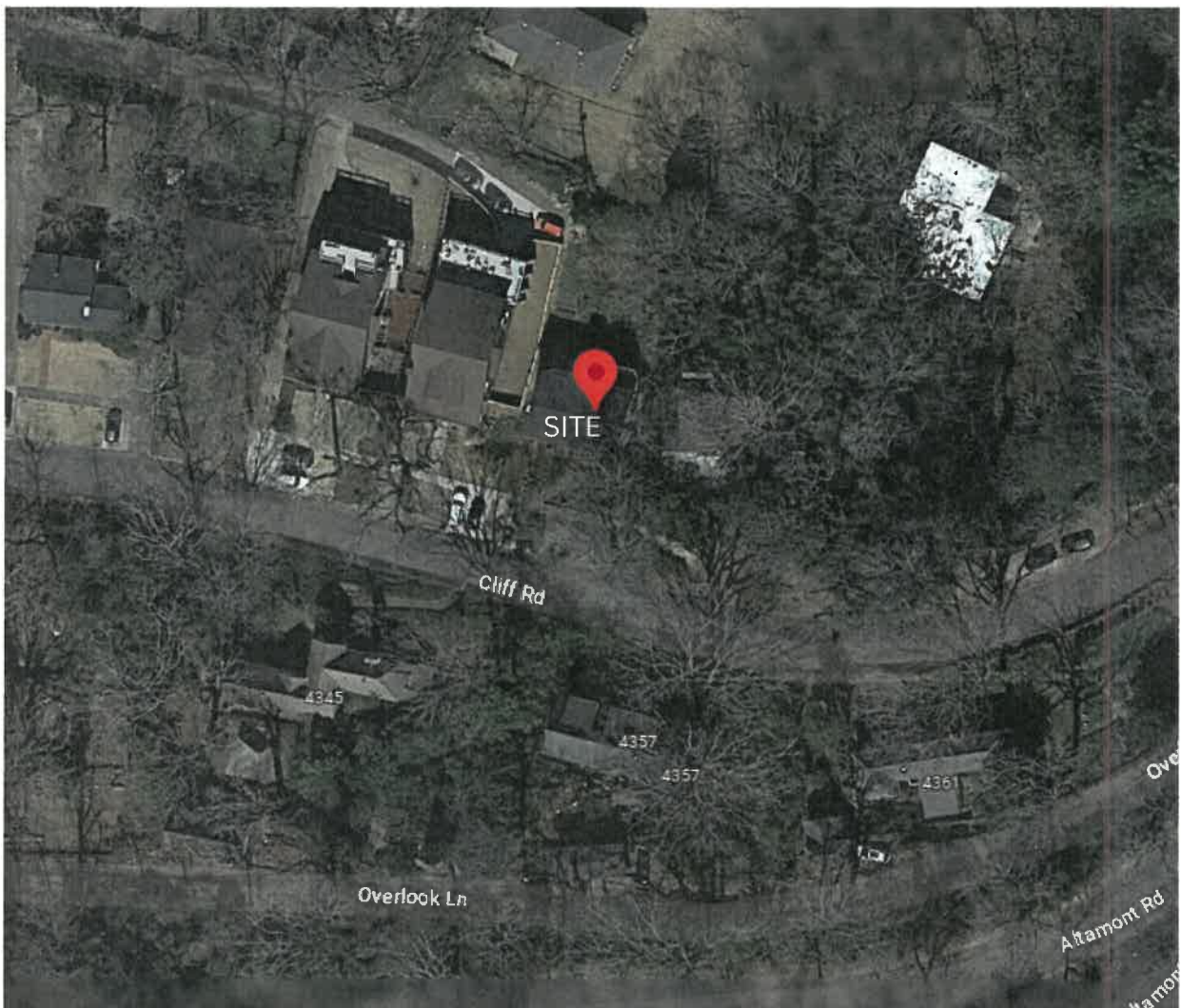
Front Yard Setback: 25 Feet

Rear Yard Setback: 25 Feet

**Side Yard Setback: 5/14 Feet**

Minimum Lot Area Per Family: 6,000 sq. ft.

Minimum Lot Width: 50 Feet



## VARIANCE JUSTIFICATION

1. **Physical Characteristics of the Property.** The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic conditions, or other extraordinary and exceptional conditions 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.
  - The areas on either side of the home are extremely steep making it unusable as a way to reach the back yard from the front yard safely. The path from the front door to the back door is extremely narrow and constricted because of the era of its construction making replacing the refrigerator or placing a grill on the deck impossible.
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.
  - The steep incline of the side yards would be dangerous to traverse. The east side yard has a 6' tall retaining wall that obstructs any passage from the front yard to the backyard. This retaining wall is part of a larger structure shared with the East side's neighbor.
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.
  - These conditions are caused by topography alone. As the homeowners age this will become another accessible egress and aid in getting things from the front yard to the backyard with safety in mind.
4. **Financial Gain Not Only Basis.** Financial gain is not the sole basis for granting the variance.
  - The added egress from the upper deck to the backyard with an ADA compliant boardwalk from the front will insure accessibility if needed in the future by the owners. It is not considered to be a monetary investment into the property other than increasing its usability to the home owners.
5. **No Injury to Neighboring Property.** The granting of the variance will not be injurious to other property or improvements in the area, impair an adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.
  - This request, if granted, will still insure that the proposed deck be short of the property line by more than a foot and will not impact the neighboring property owners or the neighboring property value. It will not impede any views, sunlight, or wind. The neighboring properties have been asked about the proposed deck and are completely okay with the addition due to the topography as some also must deal with their own issues with such improvements. This deck may (cont.) actually give idea options to others that may be considering the area but are worried about some of the less desirable aspects of some local properties.
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.
  - This will be may first request to adjust a zoning variance and only do so to better the property and provide safety to the client. This proposed deck will be no more intrusive than a typical fence to the neighboring property. The entire project will be below street level and because of trees and shrubbery, not visible from the street.



***Neighborhood Association.***

The ***Forest Park Neighborhood Association*** met at its regularly scheduled meeting on **March 7, 2023** and voted to unanimously **support** the request. (**24** votes)

***Recommended Conditions:***

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure 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.





# Zoning Board of Adjustment Staff Report

Department of Planning, Engineering, & Permits

ZBA2023-00013

South Titusville Neighborhood

**Request:** Application requesting a **Variance** to allow for an accessory storage structure in the front yard along Center Way South.

**Filed by:** Monique Amamoo, the owner.

**Location:** 37 6th Avenue South, Birmingham, AL 35205 situated in the SW ¼ of Section 02, Township 18-S, Range 3-West, Council District 6.

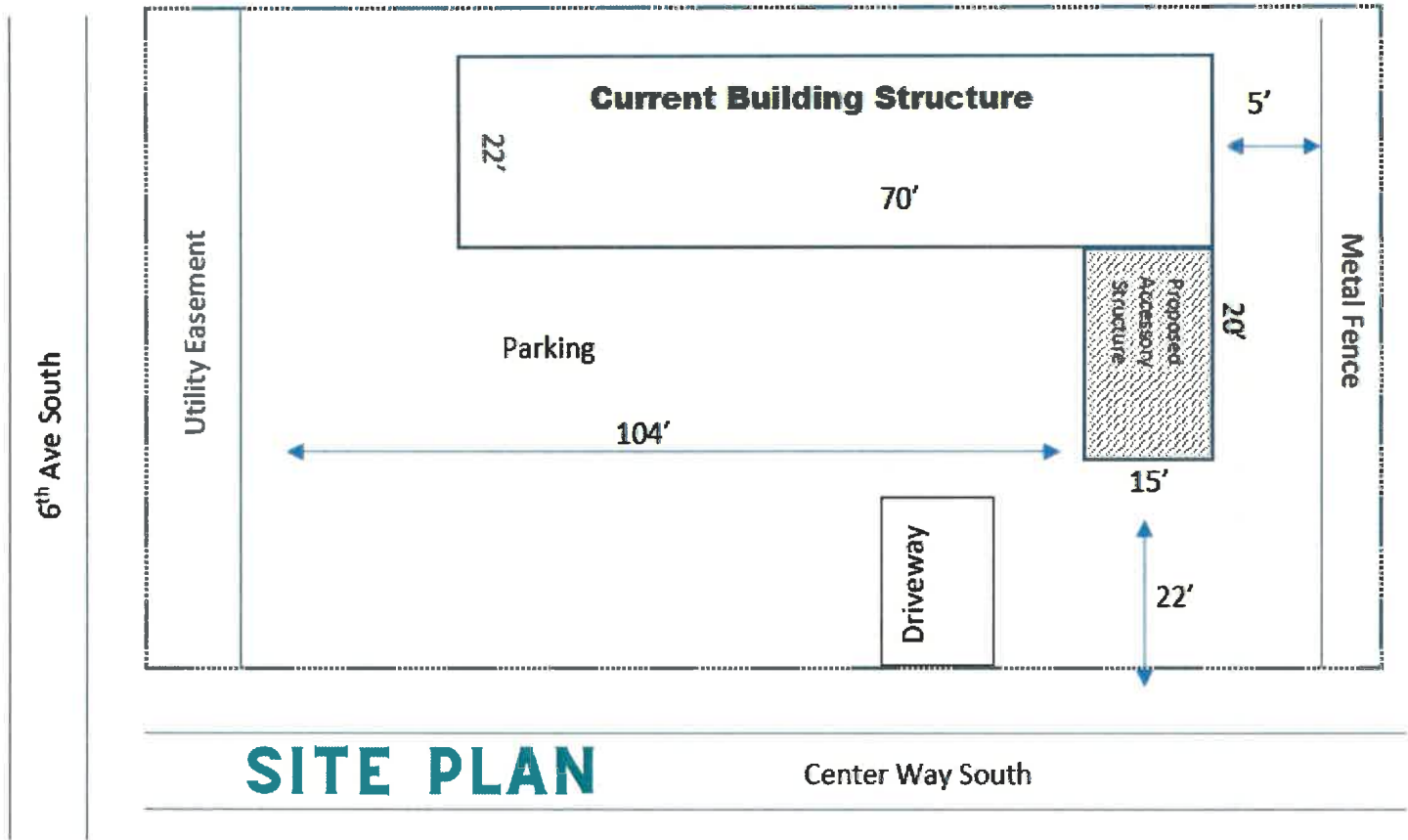


December 2022  
Photo from Google  
Maps

Accessory  
Structure

***Applicant's Proposal.***

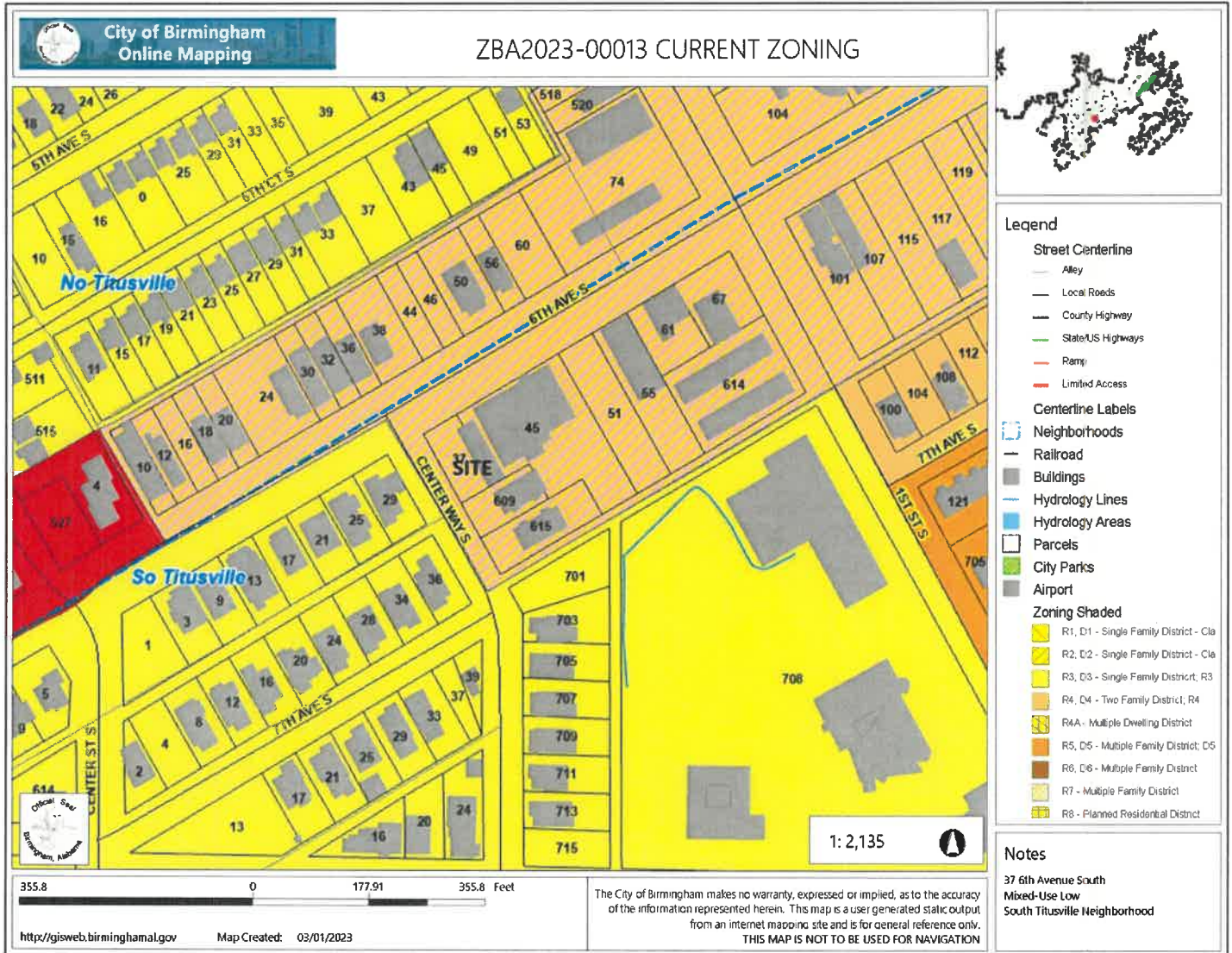
The applicant has begun building a 20' x 15' storage structure in the front yard along Center Way South.



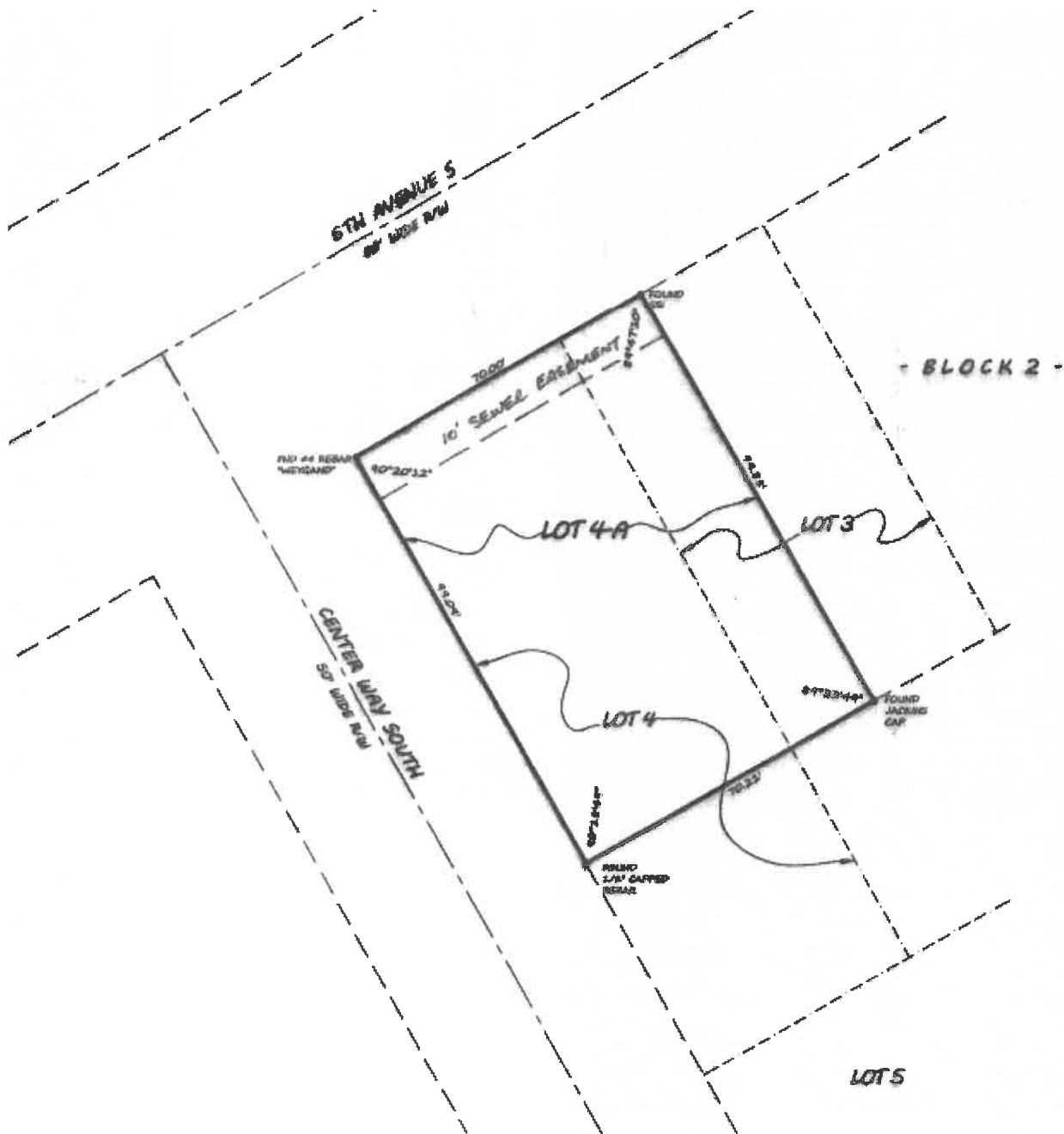


**Property and Abutting Land Uses.**

The subject property sits on .11 acres of land, currently zoned **MU-L, Mixed-Use Low Density**. Parcels to the North, South and East are also zoned **MU-L, Mixed-Use Low Density**. Parcels to the West are zoned **D-3, Single-Family Dwelling District**.



The Mixed-Use Low District is designed to be compact, walkable, and contain residential and commercial areas, often with a “Main Street” spine that historically served as a town center with two- to three-story buildings. Uses can be mixed horizontally (side-by-side), or vertically (one above the other). Uses in this district include: multi-family, townhouse, cottage and small-lot single-family residential, neighborhood supporting retail and services, offices, hotels and live/work structures. Main Street areas would typically be characterized by ground-floor uses including small markets, convenience retail and services, restaurants and cafes, and existing or potential residential uses on upper floors.



# SURVEY

# VARIANCE

## *justification*

1. Physical Characteristics of the Property.

**This is a corner lot and this does not have a backyard.**

2. Unique Characteristics.

**The property that this variance request is for is a corner lot and has no rear lot. The only available place to establish this accessory unit is on the requested area.**

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

**The hard ship is not self-imposed**

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

**Financial Gain is not the basis for granting this 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 within the area.

**No injury to neighboring property.**

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.

**No harm to public Welfare**

***Zoning Ordinance.***

**Accessory Structure:** Any subordinate structure that is incidental to the principal use of the premises and is located on the same lot as the related main use.

**Accessory structures are limited to storage sheds, water cisterns, cold frames, hoophouses and greenhouses, and they must be built of standard uniform materials that are either new or in sound condition not showing signs of decay, and can be located anywhere on site other than the required front yard or as required as an accessory structure in rear or side yard.**

***Neighborhood Association.***

The **South Titusville Neighborhood Association** could not be reached for comments.

***Recommended Conditions:***

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure 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.





# Zoning Board of Adjustment Staff Report

Department of Planning, Engineering, & Permits

ZBA2023-00014

Forest Park Neighborhood

**Request:** Application requesting a **Parking Modification** to allow for 8 off-street parking spaces instead of the required 43 parking spaces for a restaurant.

**Filed by:** Kenneth Ellsworth of Studio SOGO on behalf of the owner, Dan McCusker.

**Location:** 4105 4th Avenue South, Birmingham, AL 35222 situated in the SW ¼ of Section 29, Township 17-S, Range 2-West, Council District 5.



April 2021 photo of  
site from Google  
Maps

***Applicant's Proposal.***

The applicant is opening a restaurant that will be named PURE taqueria.



Chris Sedgwick and Michele Sedgwick, long time Alpharetta residents and successful Atlanta restaurateurs, were looking for a new way to express their style and their love of food. They found the inspiration they were seeking with their take on an authentic Mexican taqueria. Hip, loud, sophisticated and fun, PURE taqueria® has been serving up creatively-authentic Mexican cuisine and margaritas since its 2005 opening in Alpharetta, Georgia!

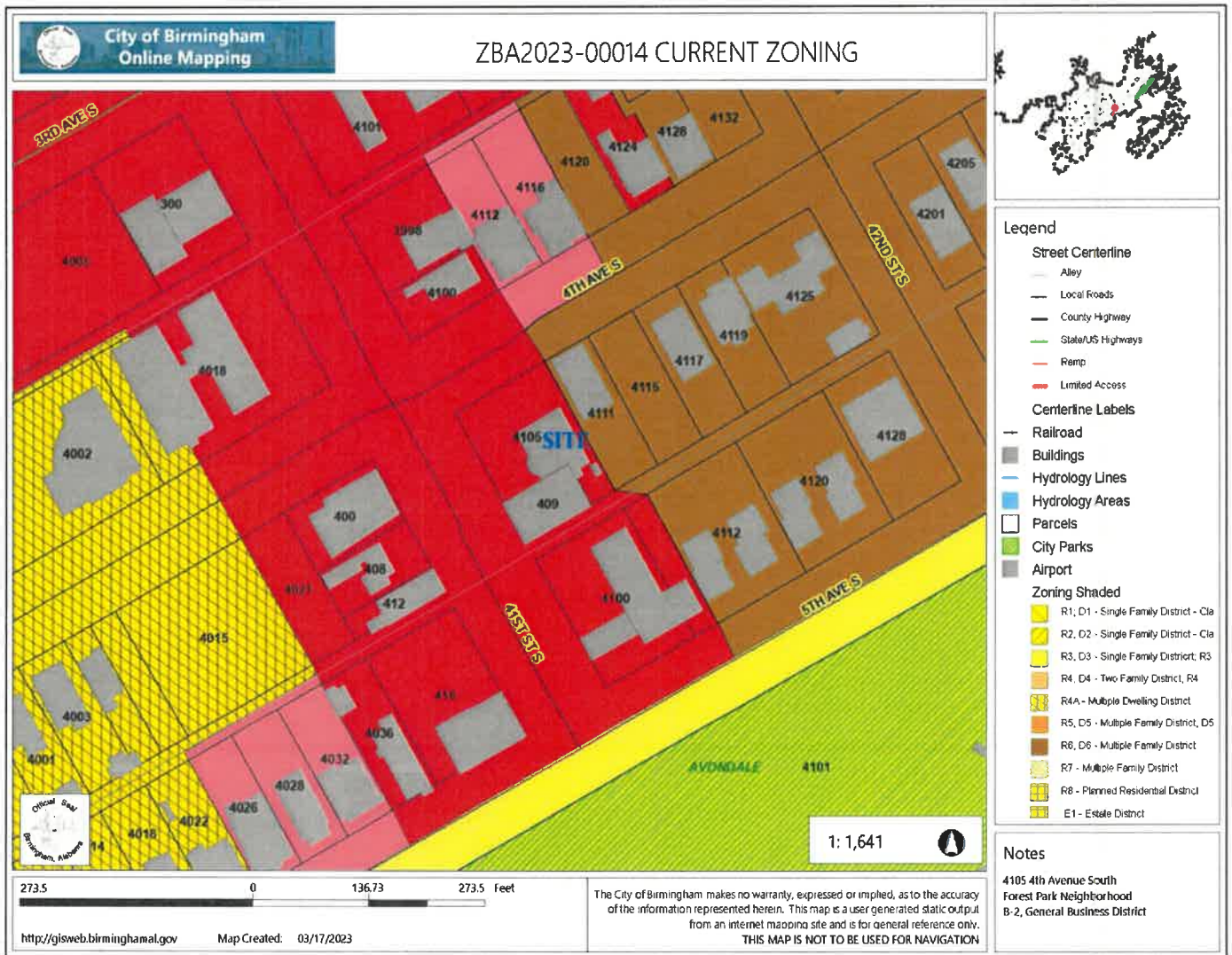
The original PURE taqueria® opened in Alpharetta, Georgia at the site of an abandoned 1920's era Pure Fuel Oil station. The small stone building on the corner (now used for storage) was part of the original gas station, but the main restaurant was built from scratch, with Chris and Michele designing, decorating and doing much of the construction themselves. Since 2005, PURE taqueria® has grown into a local institution, and a successful franchise company with seven locations in the ATL!





**Property and Abutting Land Uses.**

The subject property sits on .24 acres of land, currently zoned **B-2, General Business District**. Parcels to the North, South and West are also zoned **B-2, General Business District** and to the Northeast parcels are zoned **Q B-1, Qualified Neighborhood Business District**. Parcels to the East are zoned **R-6, Multiple Family District**. This property is located within the **41st Street Commercial Revitalization District** and their design has been before the City’s Design Review Committee.





**Zoning Ordinance.**

**Restaurant:** Any establishment where food is prepared and sold for consumption on-site or as take-out.

**Parking Requirement.**

Restaurant: 1 parking space per 100 sq. ft. of Gross Floor Area

4,286 sq. ft. / 100 = **43 Parking Spaces Required**

**Section 6. Modifications.**

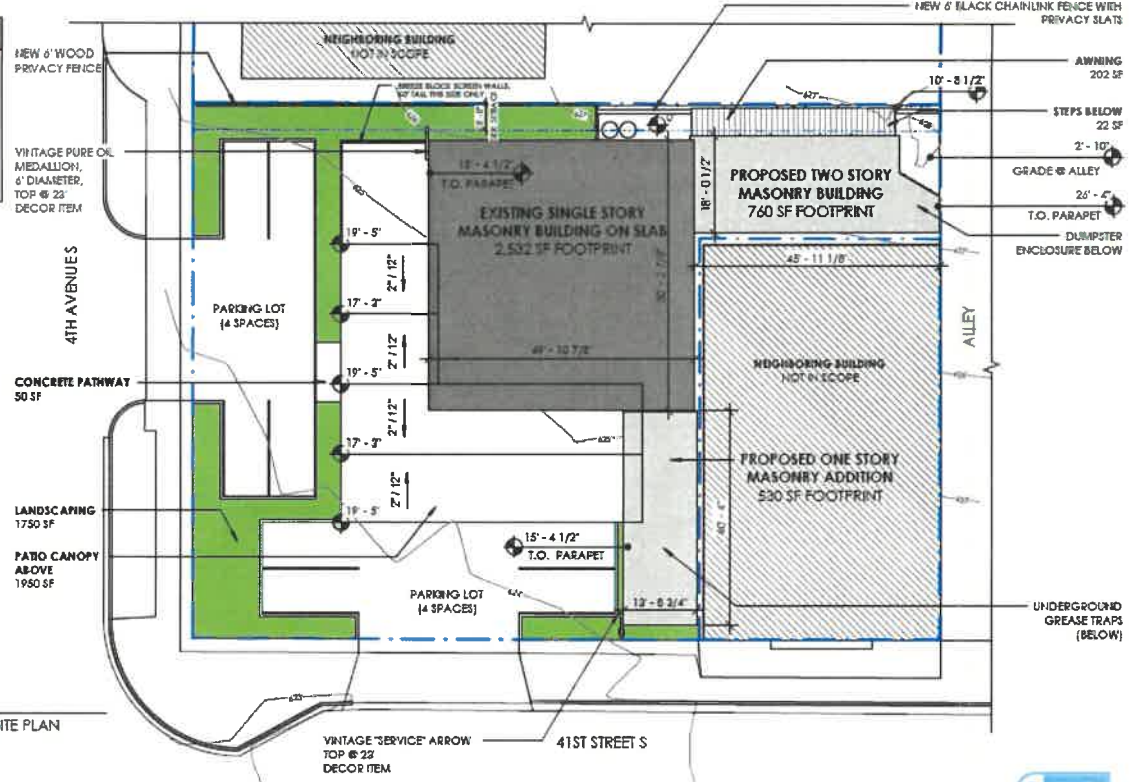
Reduction in the parking and loading requirements of this Ordinance whenever the character or use of a building or premises is such as to make unnecessary the full provision of parking or loading facilities, or where a designated public parking lot or deck is available within walking distance, equal to 1,320 feet, or where the applicant can demonstrate that a surplus of on-street parking, in a commercial, mixed-use, manufacturing or industrial district, exists and is within walking distance of the subject use.

**See Attached Parking Study.**



PARKING DATA	
TOTAL BUILDING AREA (GFA):	4,284 SF
REQUIRED PARKING RATIO:	1 per 100 SF
REQUIRED PARKING:	43 SPACES
EXISTING PARKING:	9 SPACES
PROPOSED PARKING:	8 SPACES (TOTAL)

PROPOSED USE: RESTAURANT  
 HOURS OF OPERATION: 11 am - 11 pm, 7 DAYS PER WEEK  
 # OF EMPLOYEES: 20

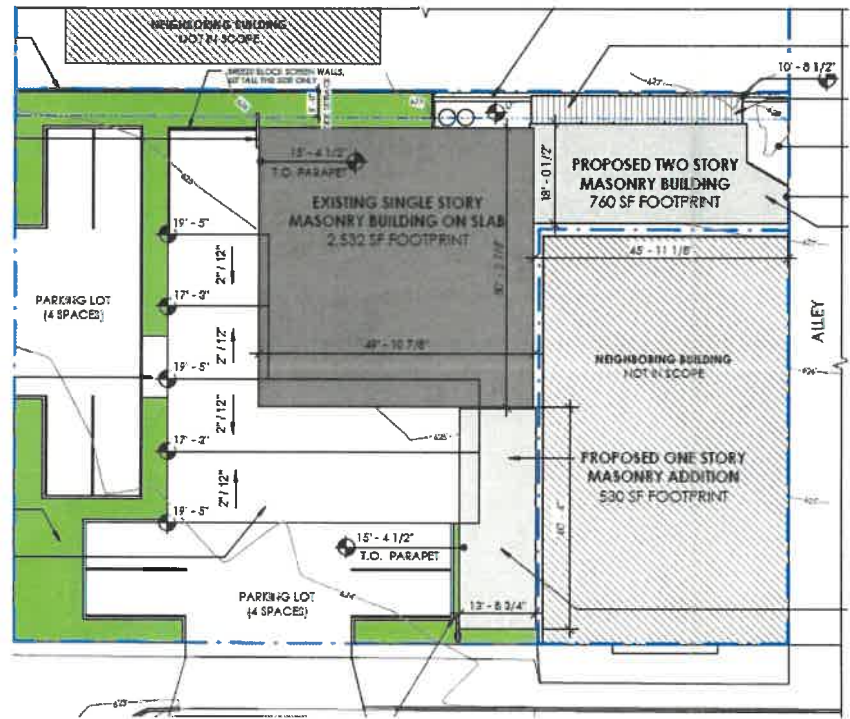


SITE PLAN  
 SD-1.0  
 03/06/2023

**PURE BIRMINGHAM**  
 4105 4TH AVE S  
 BIRMINGHAM, AL 35222



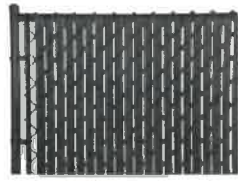
**SITE PLAN**





PARKING DATA	
TOTAL BUILDING AREA (GFA):	4,286 SF
REQUIRED PARKING RATIO:	1 per 100 SF
REQUIRED PARKING:	43 SPACES
EXISTING PARKING:	9 SPACES
PROPOSED PARKING:	6 SPACES (TOTAL)

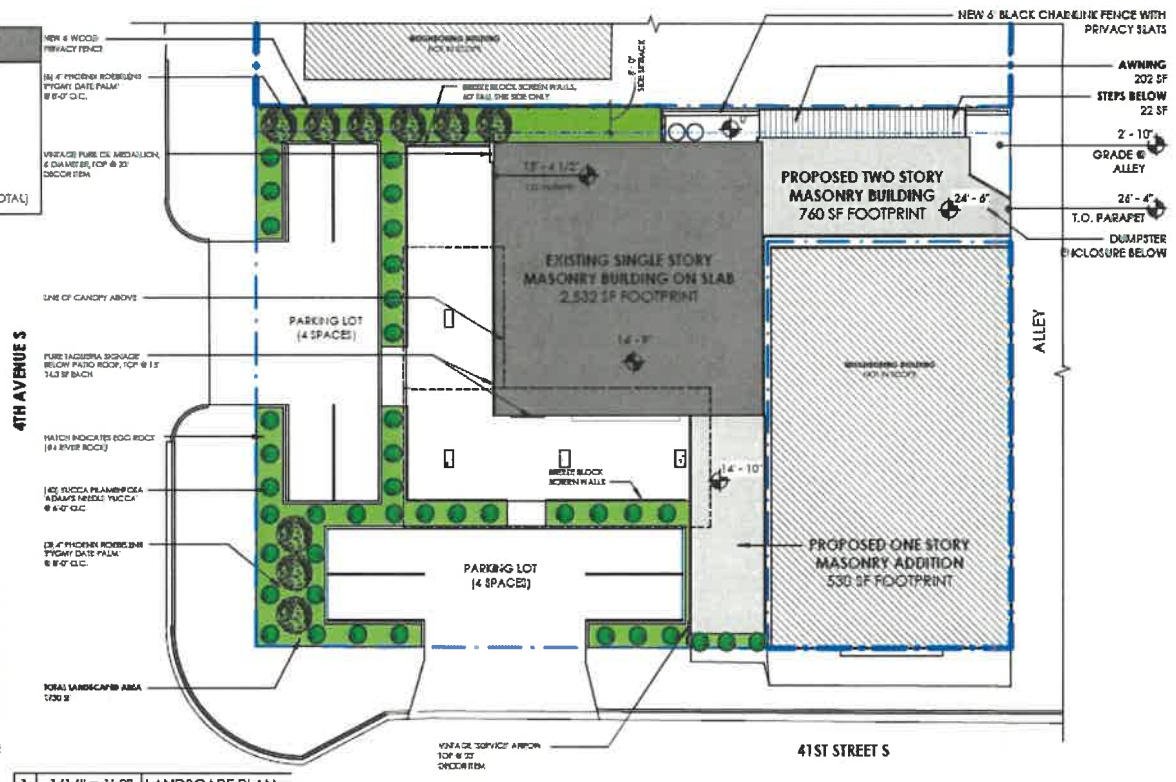
PROPOSED USE: RESTAURANT  
 HOURS OF OPERATION:  
 11 am - 11 pm, 7 DAYS PER WEEK  
 # OF EMPLOYEES: 20



6' BLACK CHAIN-LINK FENCE W/ SLATS M-D BUILDING PRODUCTS

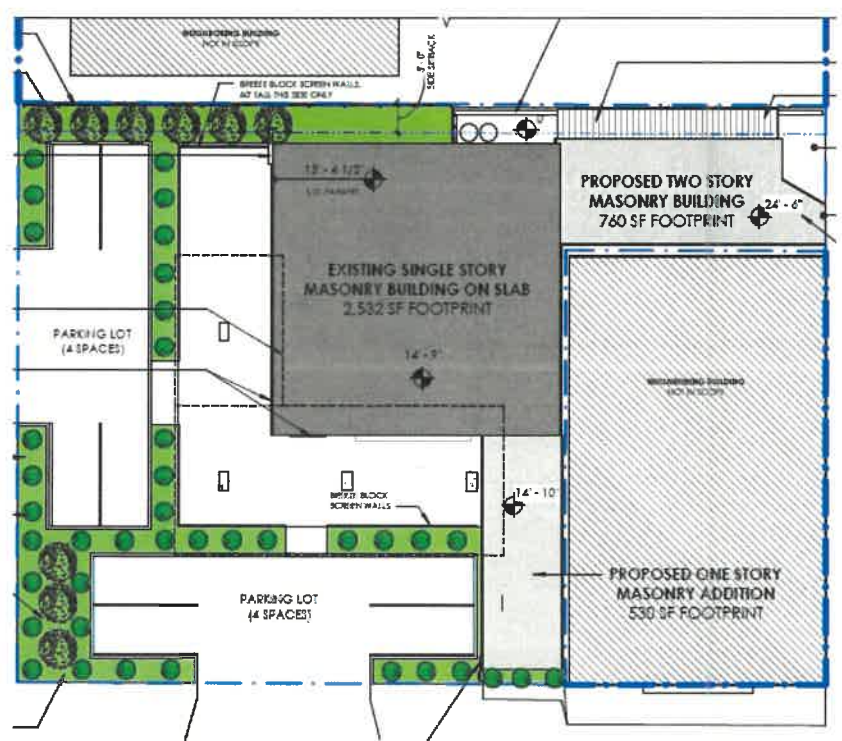


6' PRESSURE TREATED PINE PRIVACY FENCE

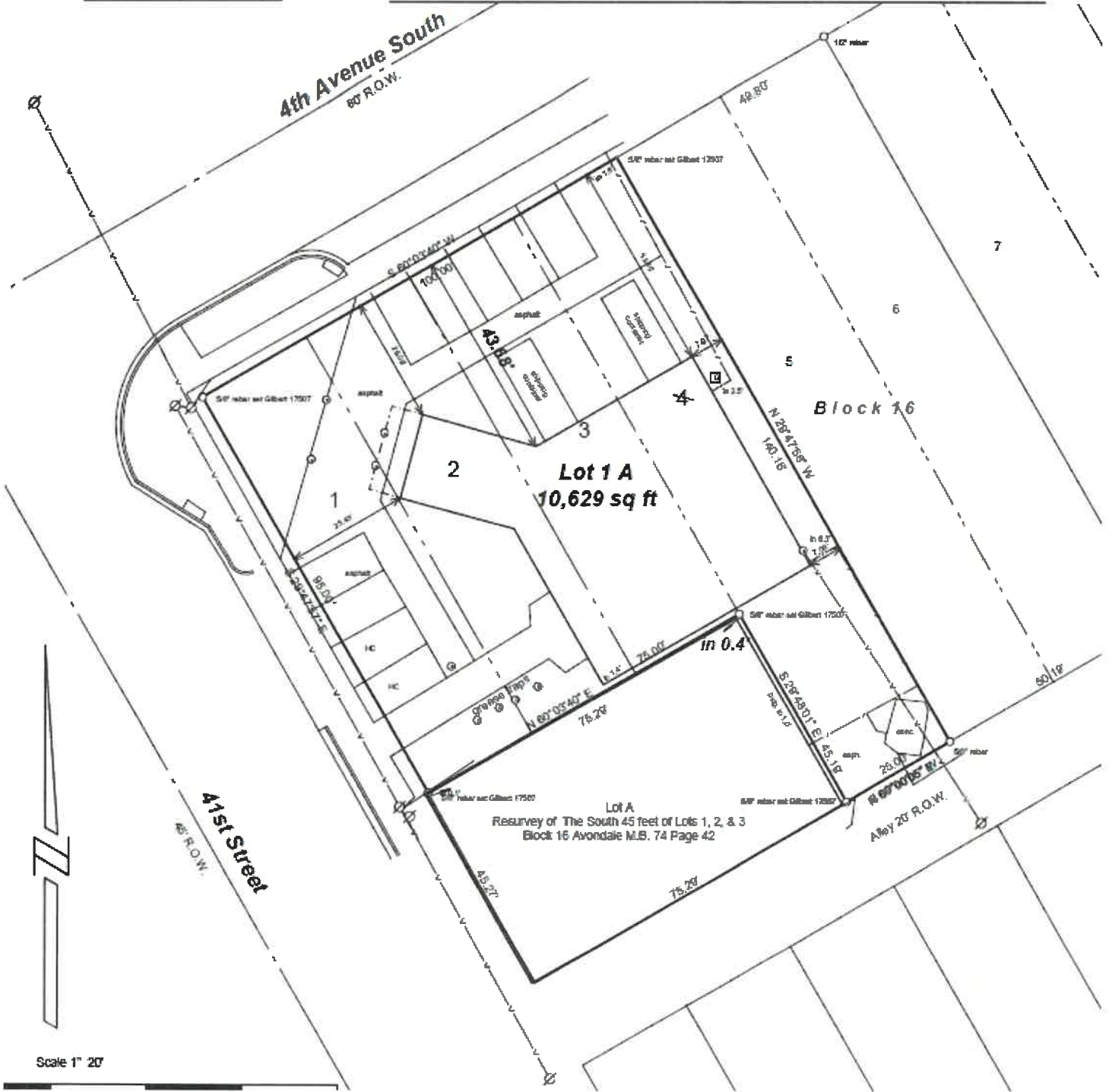


1 1/16" = 1'-0" LANDSCAPE PLAN

LANDSCAPE PLAN  
 SD-1.1  
 03/08/2023  
**PURE BIRMINGHAM**  
 4105 4TH AVE S  
 BIRMINGHAM, AL 35222







***Neighborhood Association.***

The ***Forest Park Neighborhood Association*** met at its regularly scheduled meeting on **April 4, 2023** and voted to unanimously **recommend** the Parking Modification because "we as a neighborhood want to see the 41st street entertainment district pedestrian friendly and safe. Reducing the number of curb cuts adds to the walkability of this area. In the part of the entertainment district that is in the Avondale Park Historic District, the local design review committee has worked with property owners design when presented that removes curb cuts particularly along 41st Street". The neighborhood did recommend that the Parking Modification be changed from 8 off-street spaces to 0 off-street spaces.

***Recommended Conditions.***

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure 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.

**PURE TAQUERIA TRAFFIC STUDY**  
4105 4th Ave S, Birmingham, AL 35222

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**February 21, 2023 (5:45 PM - 5:55 PM)**



BPA Lot on 41st



Melt Parking Lot Along 4th Avenue S





Parking Lot @ The Goose (4th Ave S)



Street parking along 41st Street (Looking South from 4th Ave)



Street parking along 4th Avenue (Looking North)



Street parking along 4th Avenue (Looking East)



Street parking on 41st Street (View North)

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**February 23, 2023 (6:00 - 6:15 PM)**

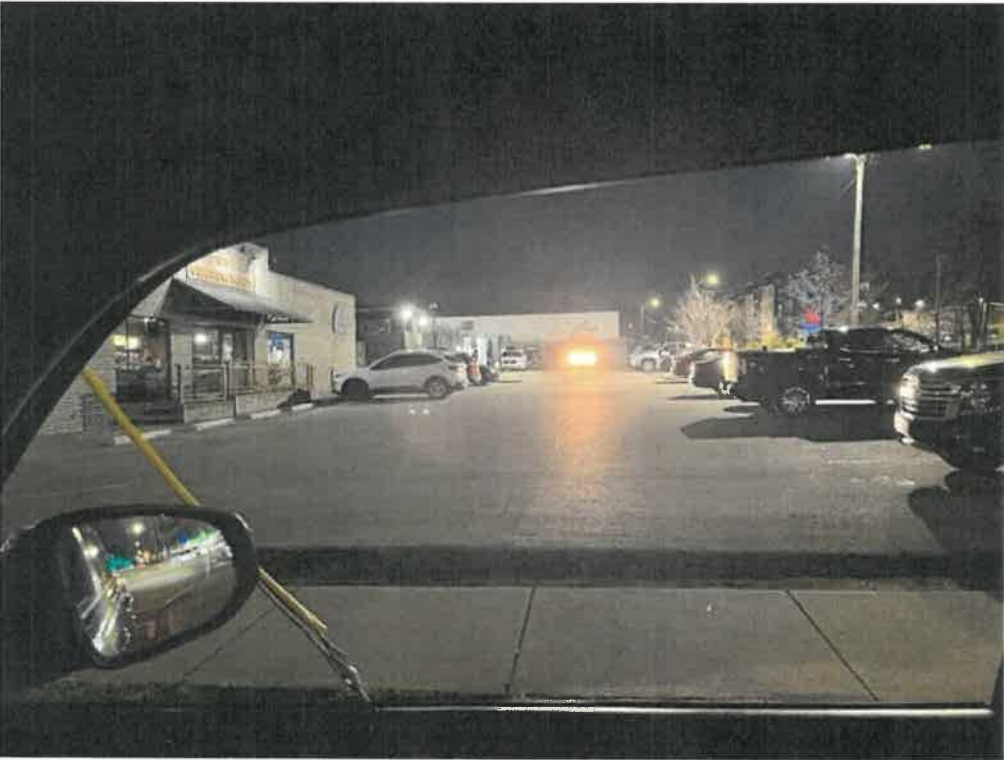


Street parking along 4th Avenue (Looking North)





Street parking along 4th Avenue (Looking North)



SAW's Soul Kitchen Parking Lot



BPA Lot on 41st



Parking Lot @ The Goose (4th Ave S)

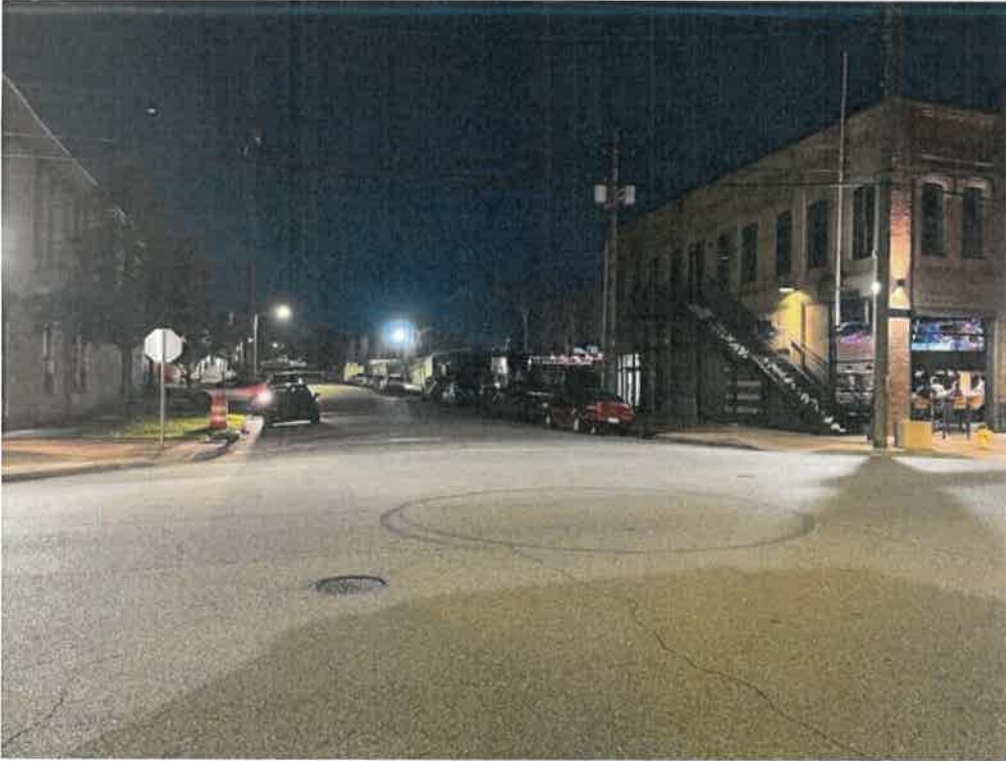


Street parking along 41st Street (Looking South from 1st Ave)



Street parking along 2nd Ave (looking West from 41st Street)





Street parking along 2nd Ave (looking East from 41st Street)



Melt Parking Lot Along 4th Avenue S



Parking lot on 4th Ave S (behind Firehouse Community Art Center, Cookie Dough Magic, and Hape & Co.)



Street parking along 41st Street (Looking North)

February 27, 2023 (6:00 - 6:05 PM)



Street parking along 41st Street (Looking North from 3rd Ave)



Parking lot on 4th Ave S (behind Firehouse Community Art Center, Cookie Dough Magic, and Hape & Co.)

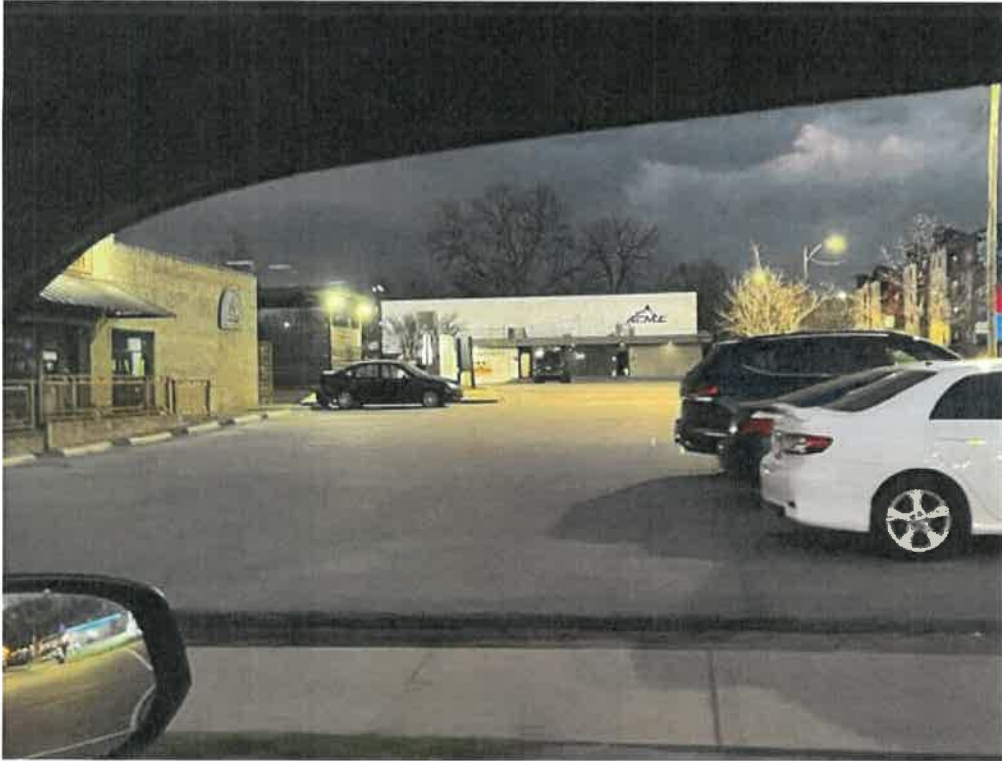




Street parking along 4th Avenue (Looking North)



Street Parking along 4th Ave (looking West from 41st Street)



SAW's Soul Kitchen Parking Lot



BPA Lot on 41st



Parking Lot @ The Goose (4th Ave S)



Street Parking on 2nd Ave (looking East from 41st Street)





Street Parking on 2nd Ave (looking West from 41st Street)



Melt Parking Lot Along 4th Avenue S



# Zoning Board of Adjustment Staff Report

RANDALL L. WOODFIN  
MAYOR

KATRINA THOMAS  
DIRECTOR

Department of Planning, Engineering, & Permits

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ZBA2023-00015

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Roebuck Neighborhood

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**Request:** Application requesting a **Variance** to install 7 new signs on the front facades of the building, exceeding the maximum number of attached signs allowed per street or frontage area per the Zoning Ordinance.

**Filed by:** Lisa Collins of BRR Architecture on behalf of the owner, Walmart.

**Location:** 9248 Parkway East, Birmingham, AL 35206 situated in the NE ¼ of Section 01, Township 17-S, Range 2-West, Council District 2.

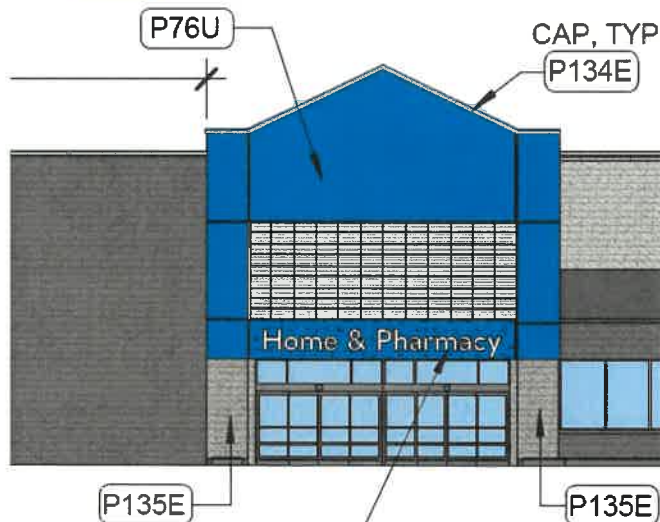


**Applicant's Proposal.**

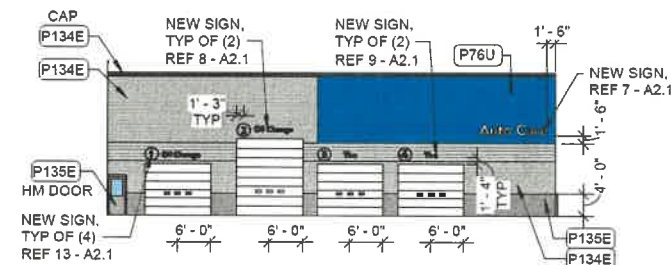
The applicant is installing 7 new signs on the front façades of the building. The signs will say:

- Grocery
- Home & Pharmacy
- A Walmart "Spark" symbol
- Outdoor >
- Pickup >
- Oil Change
- Tire

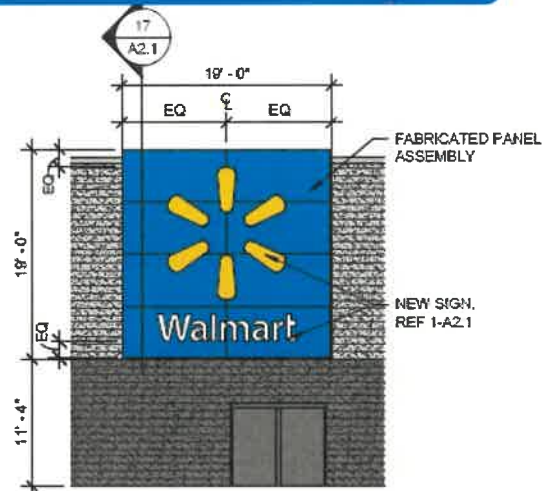
11



NEW SIGN CENTERED IN EIFS FIELD REF 4 - A2.1

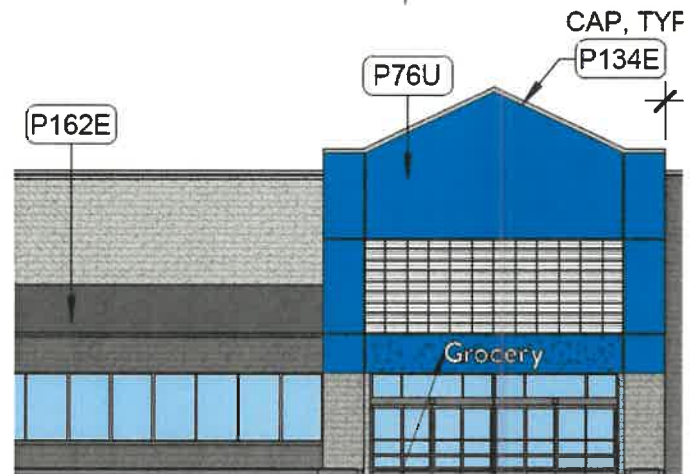


4 AUTO CENTER FRONT ELEVATION  
1" = 20'-0"

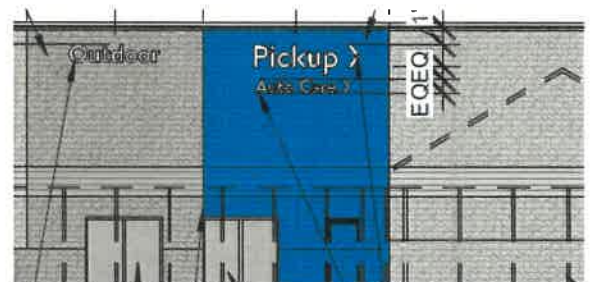


9 ENLARGED MAIN ID ELEVATION  
1" = 10'-0"

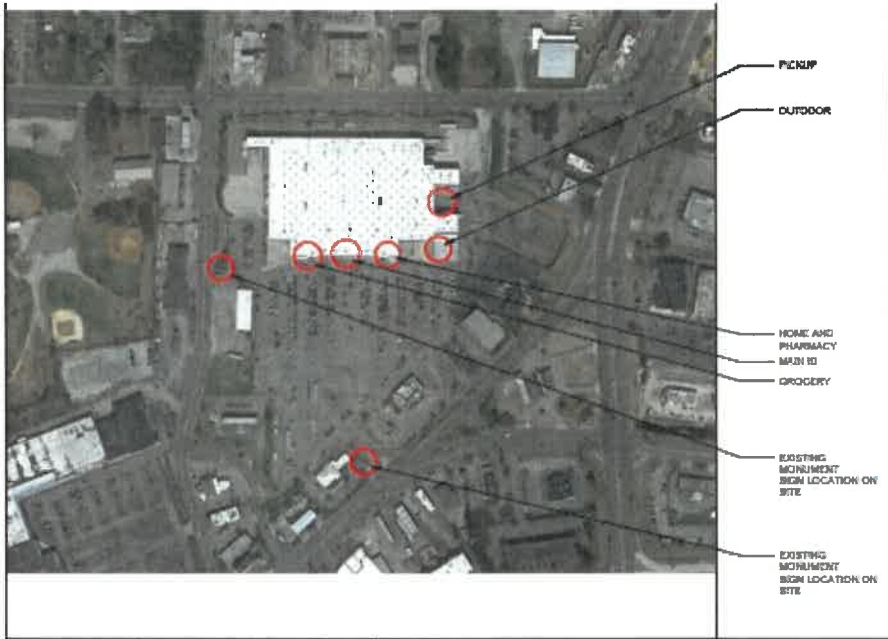
6




NEW SIGN CENTERED IN EIFS FIELD, REF 3 - A2.1

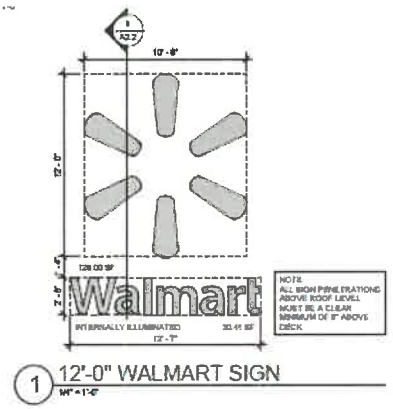






# SITE PLAN

MONUMENT SIGNAGE: ETR		COLOR LEGEND	
		P#	COLOR NAME
		P40E	DARK GRAY
		P76U	WALMART BLUE (URETHANE-LIKE)
		P134E	LIGHT GRAY
		P135E	MEDIUM GRAY
		P162E	HEAT RESISTANT COATING TO MATCH BLACK GRAY



**NOTE TO SIGN INSTALLER:**  
ALL PRIMARY MOUNTING HOLES MUST BE 1/8" DIA. IF MOUNTING THROUGH PRIMARY HOLE IS OBSTRUCTED BY REBAR, METAL STUDS, CHANNELS, OR OTHER MISC METAL, SEAL PRIMARY HOLES BY BOND GRAY AND MOUNT THROUGH THE NEAREST ALTERNATE MOUNTING HOLE. PRIMARY HOLES ARE INDICATED WITH PREDRILLED HOLES.

**NOTE:** SQUARE FOOTAGE NOT INCLUDED BY BUILDING SIGNAGE SCHEDULE

**NOTE:** ALL SIGN PENETRATIONS ABOVE ROOF LEVEL MUST BE A CLEAN MINIMUM OF 8" ABOVE DECK.

**NOTE:** BE PRODUCT ILLUMINATED WALLS OR POLYURETHANE CONSTRUCTION; MEET AND ASTM D 1302 IS TRANSPARENT APPLICATION; USE RESISTANT LOW A MINIMUM SIBA OF 250 PSI

**ATTACHMENT 12** NON-ILLU 1 02' x 1' 02'

**14** SIGNAGE 1 04' x 1' 02'

**13** AUTO NUMERALS 1 04' x 1' 02'

**10** 2'-6" PICKUP ARROW 1 04' x 1' 02'

**9** SIGNAGE 1 04' x 1' 02'

**8** SIGNAGE 1 04' x 1' 02'

**7** 2'-0" AUTO CARE 1 04' x 1' 02'

**6** 1'-6" AUTO CARE 1 04' x 1' 02'

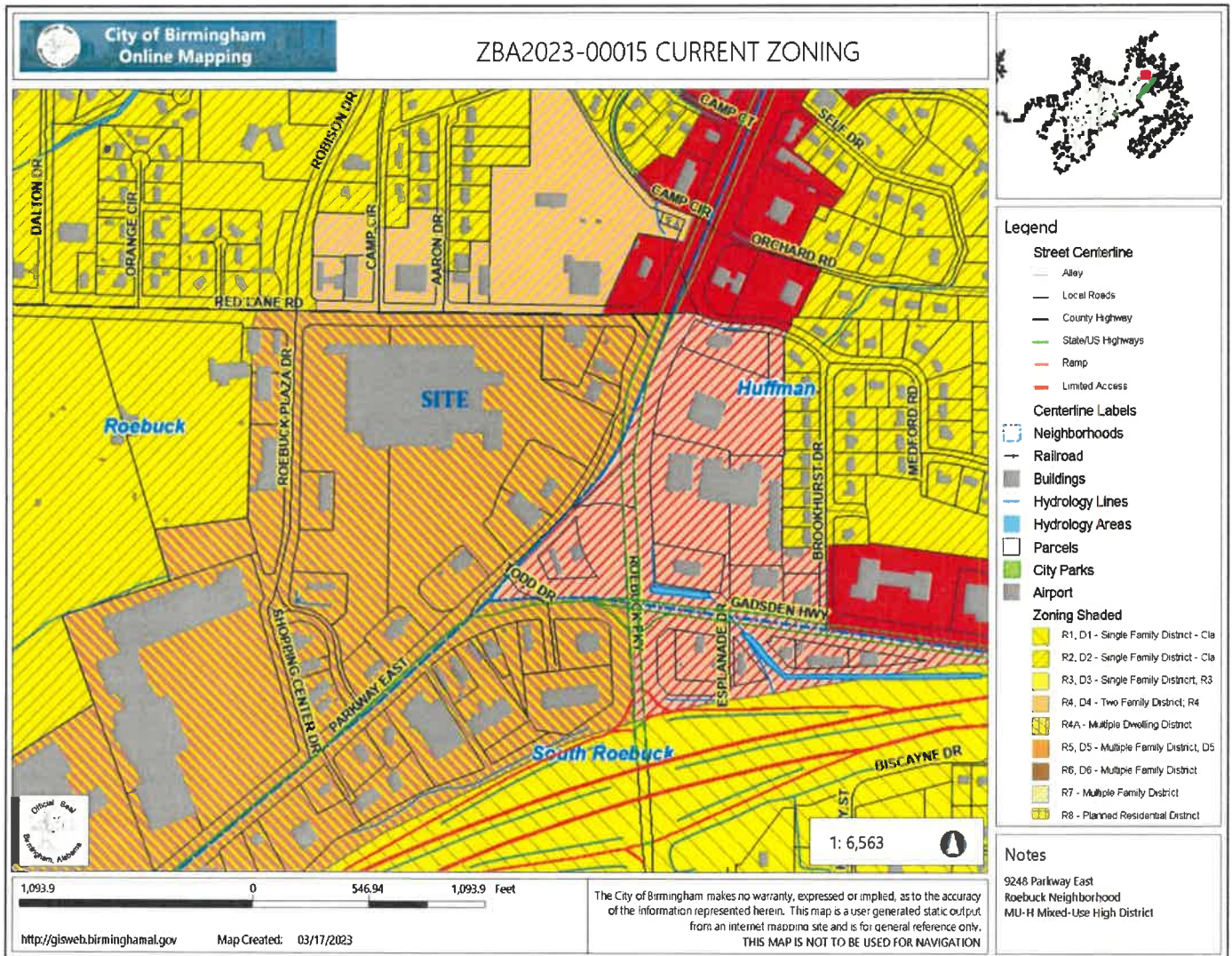
**5** SIGNAGE 1 04' x 1' 02'

**4** 2'-0" HOME & PHARMACY 1 04' x 1' 02'

**3** 2'-0" GROCERY 1 04' x 1' 02'

**Property and Abutting Land Uses.**

The subject property is currently zoned **MU-H, Mixed-Use High District**. Parcels to the South are also zoned **MU-H, Mixed-Use High District**. Parcels to the North are zoned **MU-L, Mixed-Use Low District**. Parcels to the East are zoned **MU-M, Mixed-Use Medium District**. Parcels to the West are zoned **MU-H, Mixed-Use High District** and **D-2, Single-Family Dwelling District**.



The Mixed-Use High District is designed to accommodate medium- to high-density office, residential, retail, artisanal industries and small warehouses that may be characterized as light industry that do not have noise, odor, illumination, trucking, or other adverse impacts on adjacent land uses. This district will could also include entertainment areas, and be transit-accessible or transit-ready locations. Intensity of development would vary by area. Uses in this district include: high density multi-family, loft, townhouse, and small-lot residential, retail and services, offices, hotels, large entertainment facilities, and live/ work structures. Ground-floor uses encouraged on desired pedestrian-intensive streets.

*Zoning Ordinance.*

SECTION 5. ATTACHED SIGNS.

Where permitted and graphic display area allowed. In the following zoning districts, each occupant of a premise may display attached signs on walls adjacent to each street or highway on which it has frontage. The total area of the attached signs displayed on the premises must not exceed the following percentage of a signable area for each district.

1. D-5, D-6, MU-L, MU-M, MU-M, MU-H, MU-D, C-1, C-2, PRD, HID:  
Maximum sign area shall not exceed 6% of building facade (height x length), nor shall its length exceed 50% of building length. No sign shall exceed 150 square feet.

**Signable area designation. A business premise displaying attached signs is allowed one signable area on each façade of the building that has frontage on a street or highway. See the definition of “signable area” for attached signs.**

**Signable Area For Attached Signs:** one area free of architectural details on the facade of a building or part of a building, which must include the entire area (1) enclosed by a box or outline or (2) within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures

How displayed. The sign display area may be displayed as one attached sign per street or highway frontage or divided among two or more attached signs per street or highway frontage.

Additional limitations. Attached signs may be painted on or attached to or pinned away from the wall, must not project from the wall by more than 12 inches, and must not interrupt architectural details.



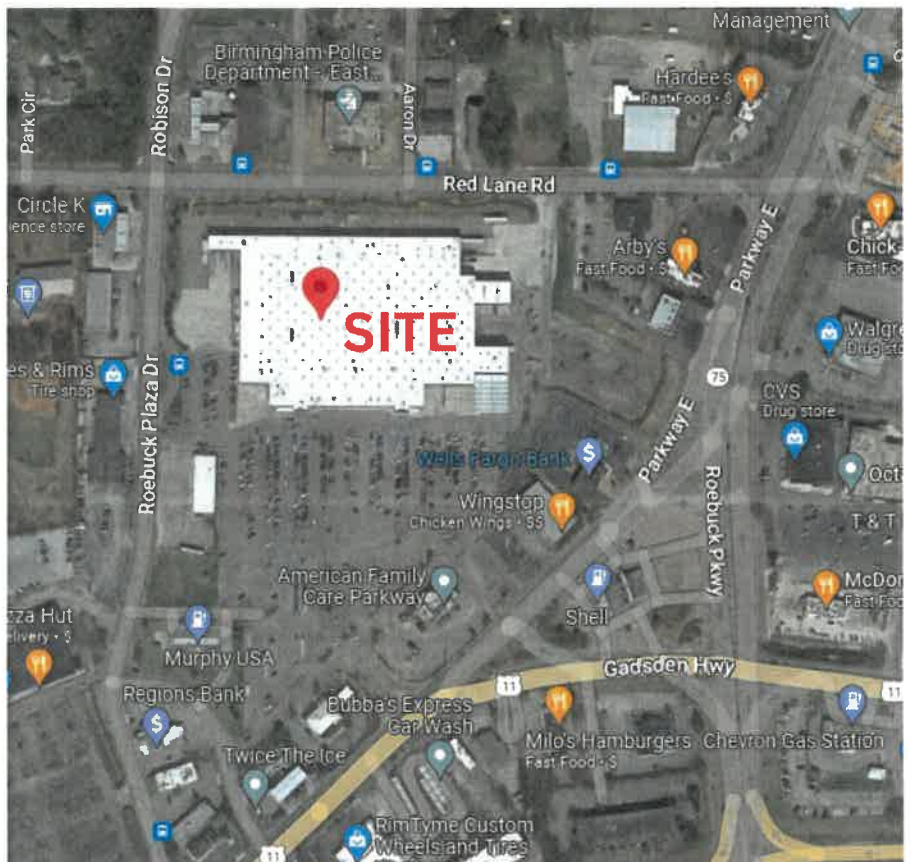
***Neighborhood Association.***

The ***Roebuck Neighborhood Association*** met at its regularly scheduled meeting on **April 10, 2023** and voted to

***Recommended Conditions:***

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure 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.





# Zoning Board of Adjustment Staff Report

Department of Planning, Engineering, & Permits

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ZBA2023-00016

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Central Park Neighborhood

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**Request:** Application for a **Special Exception** for resumption of a Legal Non-Conforming Use. The Legal Non-Conforming use is a childcare center.

**Filed by:** Cynthia Price on behalf of the owner, Eric Walker.

**Location:** 4941 Court R, Birmingham, AL 35208 situated in the SW ¼ of Section 08, Township 18-S, Range 3-West, Council District 7.



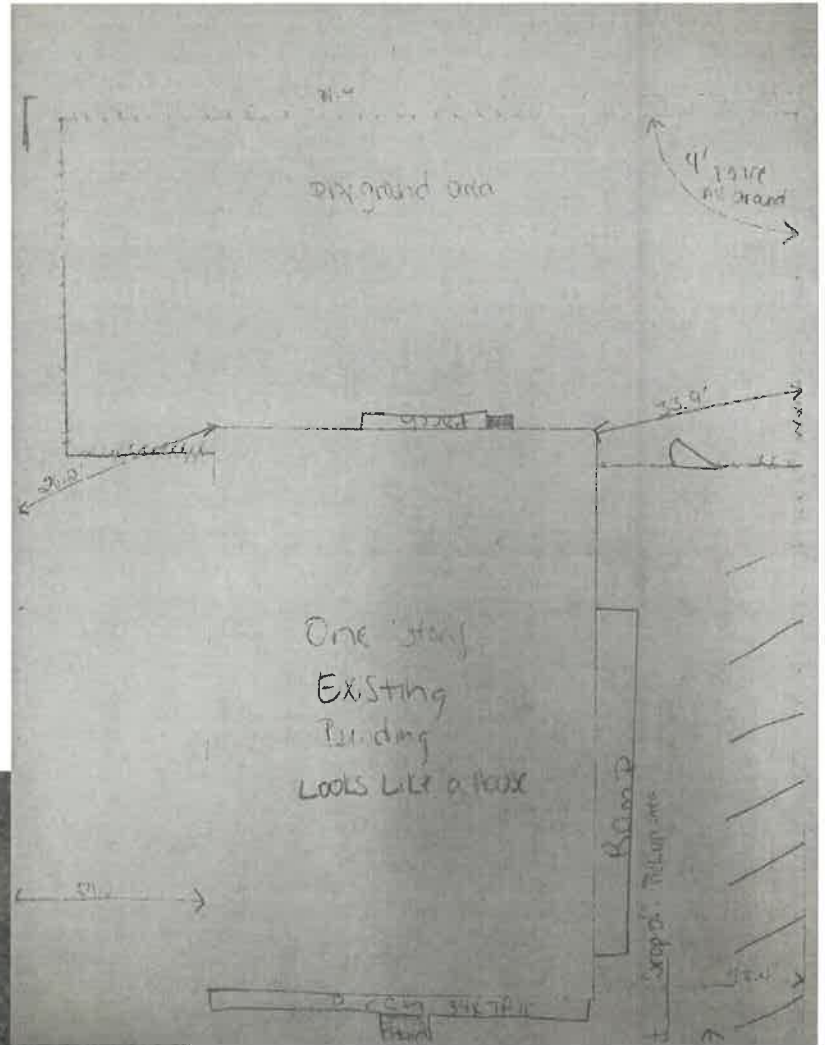
March 2022 photo  
of site from Google  
Maps



***Applicant's Proposal.***

The applicant is opening a daycare called Totally Kidz that will be open Monday-Friday from 6:30 am until 5:30 pm. There will be 17 children on site and 4 employees.

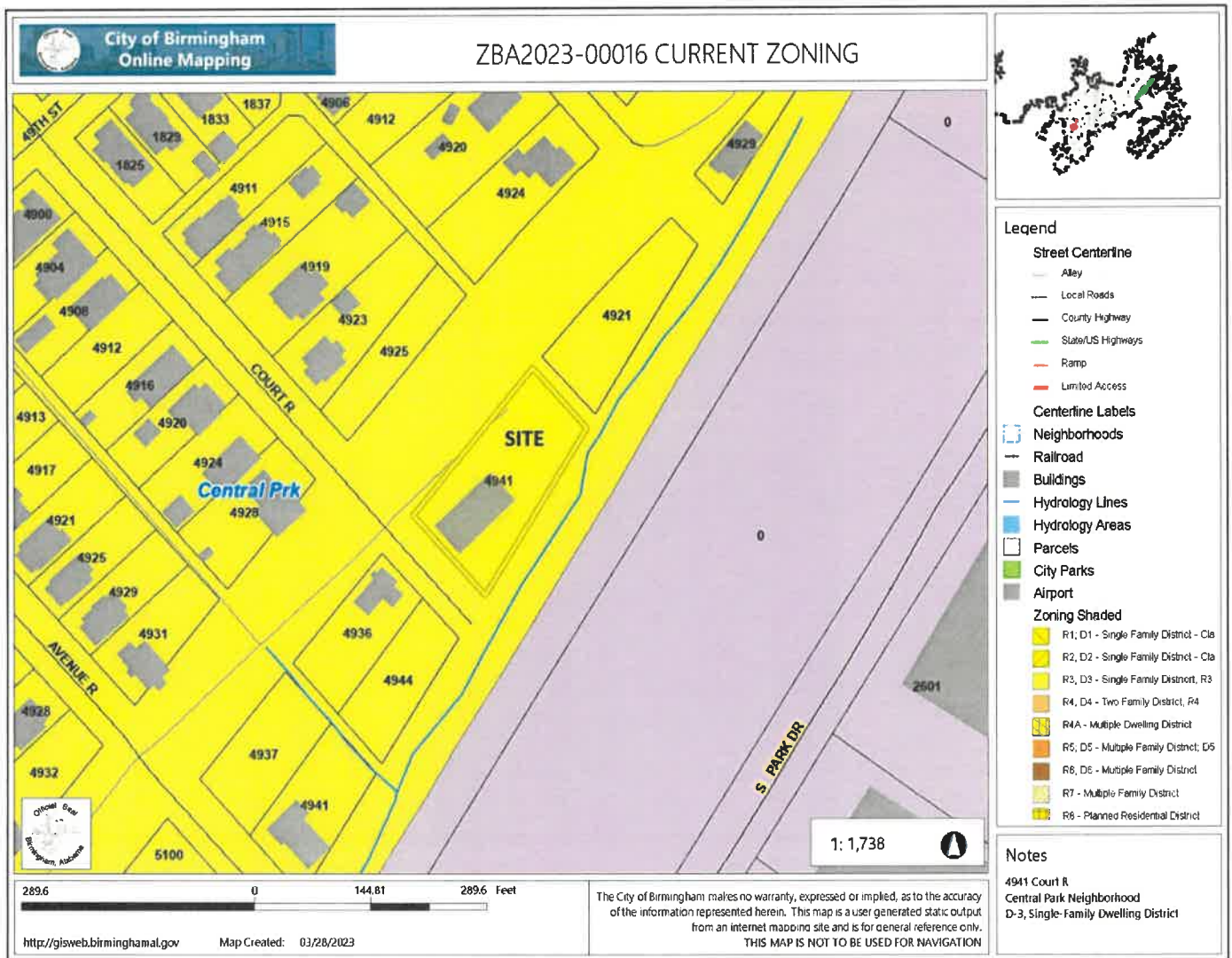
**SITE PLAN**





**Property and Abutting Land Uses.**

The subject property sits on .42 acres of land, currently zoned **D-3, Single-Family Dwelling District**. Parcels to the North, South and West are also zoned **D-3, Single-Family Dwelling District**. Parcels to the East are zoned **I-1, Light Manufacturing District**.



The D-3, Single-Family Dwelling District is designed to allow for single-family residential development at a variety of densities, these districts may be applied to preserve the character of developed residential areas that are predominately single-family in nature and recommended to remain so by the comprehensive plan. Uses in this district include: single-family homes, schools, churches, and neighborhood-serving public uses.

***Previous Actions.***

**ZBA2020-00039.** On September 10, 2020 the owner, Eric Walker, went before the Zoning Board of Adjustment for a Special Exception to allow resumption of a legal nonconforming daycare and that request was granted subject to the following conditions:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. Parking spaces must be striped, apply landscaping requirements from the ordinance if applicable and meet all sign ordinances.

***Zoning Ordinance.***

**Child Care Center:** A facility or licensed agency that provides for the care of thirteen or more children for periods of less than 24 hours a day.

**Parking Requirement.**

Child Care Center: A minimum of 1 per employee plus 1 per 6 adult patrons or 1 per 6 enrolled children

4 employees + 17 children / 6 = **7 Parking Spaces Required**

The site plan shows 7 parking spaces onsite.

**Section 4. Resumption of legal non-conforming use.**

A. In the event that a structure or premises occupied by a legal nonconforming use becomes abandoned, discontinued or remains vacant, for a continuous period of two or more years, the Board may grant a special exception to reestablish the legal nonconforming use provided that documentation is submitted to the Staff of the Planning, Engineering, and Permits Department that the previous use was a legal nonconforming use; and there was no intent to abandon the legal non-conforming use since the use was discontinued or stopped, thereby losing its legal nonconforming status. Documentation must also be provided confirming that the use of the subject property has not converted or conformed to its current zoning classification requirements. Said documentation may be in the form of a letter, or similar instrument, from the owner or applicant which is substantiated and/or supplemented by information provided by the City of Birmingham. The applicant must also provide, in writing, documentation stating reasons why the legal nonconforming use will not tend to impair the health, safety, convenience or comfort of the public, including that portion of the public occupying the property immediately contiguous to the parcel of land which the resumption of the legal non-conforming status concerns. (Ord. 08-82).

**See attached leases and Birmingham Water Works bill**

***Neighborhood Association.***

The **Central Park Neighborhood Association** is not currently active, and the **Five Points West Implementation Committee** did not have any comments to add.

***Recommended Conditions:***

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure 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.
3. Parking spaces must be striped, apply landscaping requirements from the ordinance if applicable and meet all sign ordinances.



3902

AL  
30 DLDS

## LEASE/PURCHASE AGREEMENT

THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK COMPETENT ADVICE.

THIS LEASE/PURCHASE AGREEMENT is made and entered into as of this 2 day of June 2020, by and between ERIC D. WALKER, hereinafter referred to as the "Owner", and CYNTHIA PRICE hereinafter referred to as the "Tenant/Buyer".

### TERMS OF LEASE AGREEMENT

The Owner, being the owner of the house located at 4941 COURT R Birmingham, AL (the "Premises") and Tenant/Buyer, in consideration of the premises and the mutual covenants herein contained, covenant and agree as follows:

CP 1. **PREMISES.** The Owner in consideration of the rent reserved herein to be paid by said Tenant/Buyer, and of the other covenants, agreements and conditions hereinafter set forth to be kept, performed, and observed by said Tenant/Buyer, hereby lets and leases unto said ~~tenant~~ the premises, to be occupied only by those adults whose signatures appear at the end of this Agreement and by no others Dylan

CP 2. **TERM.** The term of this Lease/Purchase Agreement shall be for a period of 18 months and 0 days commencing on JUNE 2, 2020 and ending on December 2, 2021.

CP 3. **NON-REFUNDABLE EARNEST MONEY.** <sup>Deposit</sup> The Tenant/Buyer shall deposit with the Owner \$      . This money will be used as earnest money toward the purchase of this property. This non-refundable earnest money will be applied toward the purchase price of the home. If for any reason the purchase is not completed this money is considered **NON-REFUNDABLE**.

CP 3. **RENT.** The Tenant/Buyer agrees to pay to the Owner, by check MADE PAYABLE TO THE OWNER, a monthly lease payment of \$ 700.00, which shall be due and payable on the **first (1<sup>st</sup>)** day of each month without notice or demand. Tenant/Buyer also agrees to pay a late charge of \$50.00 for any monthly payment not paid on or before the **1<sup>st</sup>** day of the month in which the rental payment is due. Any late charges and insufficient funds charges as described herein shall be additional rent. The obligation to pay rent shall be independent of any obligations of Owner under this Lease/Purchase Agreement.

CP 4. **RENT PAYMENT BY OTHER MEANS.** Payment of rent by personal check shall be conditional payment, and if rejected for insufficient funds, Owner may require rent, which shall include all late charges plus an insufficient funds charge of \$25.00, to be paid by cashiers check, certified check, or money order. In the event Tenant/Buyer is in default under any obligation (whether under the rental agreement or otherwise) owed to Owner and Owner is not under applicable law required to accept any rendered performance by Tenant/Buyer, the taking by Owner of any payment shall not be a waiver of Owner's right to terminate the Lease Agreement and to damages, unless Owner states in writing that such right is expressly waived. Unless such written waiver is delivered to Tenant/Buyer, Owner will pursue all remedies available to Owner.

CP 5. **CONTENTS.** It is understood that the house is rented unfurnished.

CP 6. **BREACH OF LEASE AGREEMENT.** If any rent required by the Lease/Purchase Agreement shall not be paid when due; if the Tenant/Buyer in any other manner fails to perform any of the terms and conditions of the Lease/Purchase Agreement, together with any responsibilities set forth by State Law; if Tenant/Buyer files for or if a petition is filed against Tenant/Buyer or Tenant/Buyer becomes a debtor under Bankruptcy or other insolvency laws; or, if the premises leased here under shall be abandoned or vacated prior to the expiration of the term of this Lease/Purchase Agreement; then in any of the above instances, the Tenant/Buyer shall be in breach of the

Seller at closing to pay \$ -0 towards the buyer's closing costs and prepaid items.

The \$ -0 Deposit is also to be used toward the buyers closing costs and prepaids.


If the closing costs and prepaids do not reach the total of \$ -0, the money left over will go toward reducing the purchase price.

**Lease Purchase Deposit:**

Lease purchase Deposit to be held by: ERIC D. WALKER Until this

Lease Purchase Contract become finalized with a closing date of JAN 15, 2022 for

Property Located at: 4941 COURT R BIRMINGHAM, AL 35208

Owner/Seller:	<u></u>	Date:	<u>6-2-20</u>
Tenant/Buyer:	<u>Cynthia Price</u>	Date:	<u>6/2/20</u>
Listing Agent:	_____	Date:	_____
Selling Agent:	_____	Date:	_____

Lease/Purchase Agreement and the Owner shall have all rights provided under State Law and also the rights to terminate the Lease Agreement, resume possession, and recover all damages resulting from such breach. Termination of the Lease/Purchase Agreement shall not act as a limitation on Owner's right to all damages resulting from Tenant/Buyer's breach of the Lease/Purchase Agreement. Upon a breach by Tenant/Buyer, all rent due or to become due in the future shall immediately without demand or notice become due and payable.

CP 7. **ABANDONMENT.** The Tenant/Buyer agrees that should the Premises be vacant for up to a period of one-half of any monthly rent period, and the rent is not current, the Tenant/Buyer shall notify the Owner in writing of his or her intended absence for such period, or upon the Tenant/Buyer's failure to so notify, the Owner shall be authorized to resume possession of the house under a presumption that the premises has been abandoned by the Tenant/Buyer. In such event, the Tenant/Buyer thereby authorizes the Owner to store and agrees to pay at the Owner's direction, any and all storage charges that may accrue by virtue of the removal of any of the Tenant/Buyer's personal property from the premises. This storage period will not exceed 30-days, at which time ownership of the stored articles will be vested in the Owner.

CP 8. **VACATING UPON TERMINATION.** The Tenant/Buyer agrees that upon the expiration of this Lease/Purchase Agreement, or upon the termination of the Lease/Purchase Agreement, that he or she will at once peaceably surrender and deliver up the whole of the above described premises, together with all improvements thereon to the Owner. In the event that the Tenant/Buyer holds over for any reason and does not vacate the house when so required after the expiration of this Lease/Purchase Agreement, then the Owner may recover double rent and damages resulting from Tenant/Buyer's holding over. This Lease/Purchase Agreement will not be renewed for any additional term unless the parties hereto execute a new Lease/Purchase Agreement, and a tenancy at sufferance shall exist.

CP 9. **USE OF <sup>Day Care</sup> HOUSE.** The Tenant/Buyer shall not use the house for any purpose other than as a private dwelling. The Tenant/Buyer further agrees not to use, nor permit the house to be used for any illegal, immoral or improper purposes, nor to permit or commit any disturbance, noise or annoyance whatsoever detrimental to the comfort and peace of any of the inhabitants of the community.

CP 10. **CONDITION OF PREMISES.** The Tenant/Buyer agrees to notify the Owner in writing prior to occupancy or moving in any personal property of any items that are in need of repair or which shall not be considered as damage caused by the Tenant/Buyer. If Tenant/Buyer fails to so notify the Owner, the Premises shall be deemed accepted as fully habitable and in good repair.

CP 11. **DELIVERY OF POSSESSION.** If the Tenant/Buyer shall be unable to enter into and occupy the Premises leased at the time herein above provided by reason that the Premises are not ready for occupancy; or by reason of the holding over of any previous resident; or as a result of any cause or reason beyond the direct control of the Owner, the Owner shall not be liable in damages to the Tenant/Buyer therefor, but during the period the Tenant/Buyer shall be unable to occupy the premises, the rental therefor shall be abated.

CP 12. **RIGHT OF ACCESS.** The Owner, or its agents, shall have the right at all reasonable times to enter the home to make inspections, to perform necessary maintenance or repairs, for the benefit or welfare of the Premises, as provided under State Law.

CP 13. **ASSIGNMENT OR SUBLETTING.** The Tenant/Buyer agrees that he or she shall not allow any person to share the premises unless the person has executed this Lease Agreement, nor shall the Tenant/Buyer keep roomers or boarders, not assign, sublet or transfer said Premises, or any part thereof without the Owner's written consent. Any assignee or sublessee must be approved by the Owner and such written consent or approval by the Owner shall in no way affect or relieve the Tenant/Buyer of his or her obligations arising under the Lease Agreement or the laws of the State.

CP 14. **PEST CONTROL AND UTILITIES.** The Tenant/Buyer shall pay for pest control and all utilities



CP 15. **MAINTENANCE.** The Tenant/Buyer will maintain the exterior and interior of the house and will maintain the air-conditioning and heating systems and plumbing facilities in proper working condition. Rent will not abate during periods of malfunction. The Tenant shall be responsible for the costs of any such maintenance or repairs made necessary by the act, omission, negligence or misconduct of the Tenant/Buyer, his family, guests or other persons for whom he is legally responsible.

The Tenant/Buyer will keep and maintain the home in the same condition as that existing at the commencement of the Lease/Purchase Agreement, reasonable wear and tear excepted. Tenant/Buyer will promptly pay for and replace any broken glass, windows, electrical or plumbing fixture, excessively worn or stained carpet, if applicable, and any other items constituting a part of the Premises with one of the same manner and quality. In addition, Tenant/Buyer shall promptly replace all non-working light bulbs and shall install new air filters in the air handler at least once every two months. If the Tenant/Buyer fails to install new air filters as required herein, the Owner may install said filters and charge Tenant/Buyer a sum equal to the cost of said filter, plus a labor charge for said installation, and Tenant/Buyer agrees to promptly pay Owner upon delivery of a statement therefor. Tenant/Buyer shall make or pay for all repairs necessary to be made in the same manner and quality as now exist in the house, and the cost of such repairs, after Owner notifies Tenant/Buyer in writing of the necessity of such repairs, shall be deemed additional rent that shall be paid within ten (10) days after such notice is sent by Owner.

CP 16. **RIGHT TO MORTGAGE; CONDEMNATION.** Tenant/Buyer agrees that this Lease/Purchase Agreement is subordinate and subject to any liens, mortgage or mortgages now or hereafter placed on the Premises. Upon any partial or complete taking of the Premises by eminent domain or other governmental or quasi-governmental action, the Owner at his option may immediately terminate the Lease Agreement.

CP 17. **PARKING FACILITIES.** Only passenger vehicles of ordinary size with current tags may be parked in the parking areas designated for the Tenant/Buyer, unless the Tenant/Buyer shall secure the written permission of the Owner to park other vehicles or items therein. No vehicle maintenance may be performed upon the grounds without securing the written permission of the Owner. Any vehicle left or abandoned upon the grounds for seven (7) days without removing the same, may be removed at the Tenant/Buyer's expense, unless the Tenant/Buyer shall have notified the Owner in advance, in writing, and shall have secured written permission from the Owner to leave the same.

CP 18. **ALTERATIONS BY THE TENANT/BUYER.** The Tenant/Buyer may make *NO* alterations or additions in or to the Premises without the written consent of the Owner. The Tenant/Buyer must specifically obtain the written approval of the Owner as to any proposed color the Tenant/Buyer wishes to paint the house. All alterations and additions to the Premises made by the Tenant/Buyer shall become the property of the Owner and may not be removed by the Tenant/Buyer at the expiration of the Lease/Purchase Agreement without the written consent of the Owner.

CP 19. **CONTROL OF PREMISES.** Tenant/Buyer assumes control and responsibility of the Premises leased to him or her, and covenants that if he or she has reason to believe that is any defect in the Premises, he or she will immediately notify Owner in writing of the defect. In particular, but without limiting the foregoing, Tenant/Buyer has inspected all locks, latches, windows and doors and agrees they are safe and acceptable.

CP 20. **NON-LIABILITY OF OWNER.** Subject to applicable state law, the Tenant/Buyer hereby releases and covenants not to sue the Owner, its agents and employees from and for any liability for any injury and damage to the Tenant/Buyer or the agents, employees, or guests of the Tenant/Buyer, from and for any cause including that resulting from the direct negligence of the Owner, its agents and employees. Further subject to applicable state law, the Tenant/Buyer releases and covenants not to sue Owner, its agents and employees from any and for all liability for any injury or damage that may arise or occur in any area under the control of the Tenant/Buyer even if caused or created by the direct negligence of the Owner, its agents or employees. The Tenant/Buyer shall indemnify and hold harmless the owner against all claims filed by his guests or other persons on the Premises due to the request of Tenant/Buyer who are injured or damaged, whether caused by the negligence of Owner or otherwise. Owner believes that the Premises are safe and adequate. Owner, however, cannot warrant, insure, or guarantee that crime will not occur. Tenant/Buyer understands and agrees that the risk of crime always exists, and Owner is not furnishing and does not undertake to furnish any protection, security, or guard service. Tenant/Buyer expressly assumes the risk of living in the Premises and agrees that Owner shall not be responsible for any crimes and /or injuries against Tenant/Buyer, Tenant/Buyer's family, property, or guests.

CP 21. **DAMAGE TO PERSONAL PROPERTY AND RENTER'S INSURANCE.** Any property of any kind belonging to the Tenant/Buyer which shall be brought upon the house or apartment grounds during the term of this Lease/Purchase Agreement, or any extension thereof, shall be at the complete and sole risk of the Tenant/Buyer, and it shall be the sole responsibility of the Tenant/Buyer to obtain the necessary insurance to protect such property. Further, Tenant/Buyer/ agrees to obtain the necessary insurance to protect such property. Anything in the Lease/ Purchase Agreement to the contrary notwithstanding, the Owner shall not be responsible for any loss or damage to such personal property, including contents in the apartment, caused by or due to fire, theft, or otherwise. When used in this Lease/ Purchase Agreement, the term "casualty" means any sudden, unexpected or unusual event arising from human or natural causes, including riot or civil commotion, action of the public enemy, action of the elements, or other agency not within the control of the Owner.

CP 22. **LEGAL MAJORITY.** The Tenant/Buyer acknowledges that, by the execution of the Lease/ Purchase Agreement, he or she is attesting to the fact that he or she is of legal age. If the Tenant/Buyer is not of legal age, this Lease/Purchase Agreement must be signed by a legal guardian, who, by affixing his or her seal, covenants and agrees to be held liable for all the terms and conditions contained herein.

CP 23. **WAIVER.** The assent by the Owner, or its agents, expressed or implied, to any breach of one or more of the covenants and agreements herein contained, shall not be deemed or taken to be an assent to any succeeding or subsequent breach, or a waiver by the Owner of its rights arising as a result of such breach. A waiver of rights by Owner in one instance shall not be construed as a waiver of such right in future instances.

CP 24. **ENTIRE AGREEMENT; JOINT AND SEVERAL LIABILITIES.** The Owner and Tenant/Buyer acknowledge and agree that this Lease/Purchase Agreement contains their entire understanding and agreement, and that all other representation, assurances and promises, either oral or written, not incorporated herein, shall be void and of no force and effect. Feminine and neuter pronouns shall be substituted for those of the masculine form wherever applicable, and plural shall be substituted for the singular number, in any place herein which the context may require such substitution or substitutions. All residents who sign this Lease/Purchase Agreement shall be jointly and severally liable on all obligations under this agreement including specifically, but without limiting the obligation to pay rent.

25. **NOTICE.** Any notices required by law or made appropriate by the terms and conditions of this Lease/Purchase Agreement shall be made by the Tenant/Buyer to the Owner by certified mail sent to 4393 Longwood Dr. Gardendale, AL 35227, or to such other place as the Owner may from time to time designate to any Tenant/Buyer by certified or regular US Mail, or by posting the same on the front door of the Tenant/Buyer's house. Each Tenant/Buyer who executes this Lease Agreement constitutes and appoints each other adult resident as his or her agent for acceptance of all notices, including summons and subpoenas under applicable law.

CP 26. **DEFAULT BY TENANT/BUYER.** If Owner prevails in any suit for eviction, unpaid rentals, charges or damages, Tenant/Buyer shall be liable for costs and reasonable attorney's fees; and all amounts shall bear interest at the maximum lawful rate from due date. Any judgment obtained against Tenant/Buyer shall accrue interest at the maximum lawful interest rate existing at the time such judgment is entered.

# Security Deposit Receipt

The landlord hereby accepts the receipt of a security/damage deposit from the tenant in the amount of \_\_\_\_\_ Dollars (\$ 700<sup>00</sup>).

Cynthia Price  
Tenant's Name  
2945 Gallant Dr. Apt 3  
Street Address/Unit No.  
Birmingham, AL 35215  
City/State/Zip

\_\_\_\_\_  
Social Security No.

This deposit will remain in an escrow account during the term of the lease/rental agreement. The landlord has the right to apply this deposit to the cost incurred to offset any damages due to the tenant's lack of execution as agreed upon in the lease/rental agreement dated \_\_\_\_\_, 20\_\_\_\_, between the landlord and tenant.

If the tenant complies with the lease/rental agreement and no damage is caused to the landlord's property, the deposit will be returned to the tenant within \_\_\_\_\_ days of the tenant's vacating the property. If the tenant violates the terms of the lease/rental agreement, or if the tenant causes damage to the landlord's property, the landlord may retain any portion of this deposit necessary to compensate the landlord for financial burdens caused by the tenant.

Landlord's Signature  Date 6-2-20

Tenant's Signature Cynthia Price Date 6/2/20

ERIC D. WALKER  
4393 Longwood DR.  
GARDENDALE, AL 35071  
Phone 205-705-5558



TERMS OF PURCHASE AGREEMENT

CP 27. TERMS. The Tenant/Purchaser agrees to purchase from Owner this property for a price of \$ 79,900.00. The closing shall occur on or before JAN 15, 2022 (date). The Owner agrees to pay \$ -0- in the form of the Tenant/Purchaser's 79,900.00.

CP 28. CLOSING. The Tenant/Purchaser agrees to inform Owner 30 days prior to closing that they have made application for a mortgage

IN WITNESS WHEREOF, the Owner has hereunder caused this Lease/Purchase Agreement to be executed by its duly authorized and constituted agent, and the Tenant/Buyer has executed this Agreement as of the date first above written.

SIGNED, SEALED and DELIVERED in the presence of:

Owner Eric Walker 6.2.20  
Signature Date

Tenant/Buyer Christina Price 6/2/20  
Signature Date

\_\_\_\_\_  
Signature Date

Tenant/Buyer \_\_\_\_\_  
Signature Date

Witness \_\_\_\_\_

Witness \_\_\_\_\_

- CP - Lesser shall maintain insurance with EW the landlord as land owner.
- CP - Front room ceiling will be prepared before EW move in. by 6/8/20.
- CP - Once tenant lease it is tenant responsibility to EW keep up the daycare.
- CP - Central heating and air unit will be installed at EW
- CP - Closing. Fence will be repaired by seller. EW
- CP - Can buy property at anytime before the 18 month EW period.

# Commercial Net Lease for Part of Building

1. **Names.** This lease is made by Eric Walker, Landlord and Cynthia Price, Tenant.

2. **Premises Being Leased.** Landlord is leasing to Tenant and Tenant is leasing from Landlord the following premises:

4941 Court R  
Birmingham, AL 35208

**Part of Building Only.** Specifically, Tenant is leasing the \_\_\_\_\_ of the building.

**Shared Facilities.** As part of this lease, Tenant and Tenant's employees and customers may use the following additional facilities in common with other tenants, employees, and customers:

Parking spaces: \_\_\_\_\_.

Restroom facilities: \_\_\_\_\_.

Storage areas: \_\_\_\_\_.

Hallways, stairways, and elevators: \_\_\_\_\_.

Conference rooms: \_\_\_\_\_.

Other: \_\_\_\_\_.

3. **Term of Lease.** This lease begins on 3/9/2023 and ends on 3/9/2028.

4. **Rent.** Tenant will pay rent in advance on the 10<sup>th</sup> day of each month. Tenant's first rent payment will be on \_\_\_\_\_ in the amount of \$ 800. Tenant will pay rent of \$ 800 per month thereafter.

Tenant will pay this rental amount for the entire term of the lease.

Rent will increase each year, on the anniversary of the starting date in paragraph 3, as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 5. Option to Extend Lease

First Option. Landlord grants Tenant the option to extend this lease for an additional 5 years. To exercise this option, Tenant must give Landlord written notice on or before \_\_\_\_\_. Tenant may exercise this option only if Tenant is in substantial compliance with the terms of this lease. Tenant will lease the premises on the same terms as in this lease except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Second Option. If Tenant exercises the option granted above, Tenant will then have the option to extend this lease for \_\_\_\_\_ years beyond the first option period. To exercise this option, Tenant must give Landlord written notice on or before \_\_\_\_\_. Tenant may exercise this option only if Tenant is in substantial compliance with the terms of this lease. Tenant will lease the premises on the same terms as in this lease except as follows:

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**6. Security Deposit.** Tenant has deposited \$ 0 with Landlord as security for Tenant's performance of this lease. Landlord will refund the full security deposit to Tenant within 14 days following the end of the lease if Tenant returns the premises to Landlord in good condition (except for reasonable wear and tear) and Tenant has paid Landlord all sums due under this lease. Otherwise, Landlord may deduct any amounts required to place the premises in good condition and to pay for any money owed to Landlord under the lease.

**7. Improvements by Landlord**

- Before the lease term begins, Landlord (at Landlord's expense) will make the repairs and improvements listed in Attachment 1 to this contract.
- Tenant accepts the premises in "as is" condition. Landlord need not provide any repairs or improvements before the lease term begins.

**8. Improvements by Tenant.** Tenant may make alterations and improvements to the premises after obtaining the Landlord's written consent. At any time before this lease ends, Tenant may remove any of Tenant's alterations and improvements, as long as Tenant repairs any damage caused by attaching the items to or removing them from the premises.

**9. Tenant's Use of Premises.** Tenant will use the premises for the following business purposes:

Childcare Center

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Tenant may also use the premises for purposes reasonably related to the main use.

**10. Landlord's Representations.** Landlord represents that:

- A. At the beginning of the lease term, the premises will be properly zoned for Tenant's stated use and will be in compliance with all applicable laws and regulations.
- B. The premises have not been used for the storage or disposal of any toxic or hazardous substance, and Landlord has received no notice from any governmental authority concerning removal of any toxic or hazardous substance from the property.

**11. Utilities and Services.**

A. Separately Metered Utilities. Tenant will pay for the following utilities and services that are separately metered or billed to Tenant:

- Water
- Electricity
- Gas
- Heating Oil



- Trash Collection
- Other: AS IS

B. Other Utilities. Tenant will pay \_\_\_\_\_ % of the following utilities and services that are not separately metered to Tenant:

- Water
- Electricity
- Gas
- Heating Oil
- Trash collection
- Other: AS IS

Tenant will pay for these utilities in monthly installments on or before the \_\_\_\_\_ day of each month, in advance, in an amount estimated by Landlord. Every \_\_\_\_\_ months, Landlord will give Tenant copies of the bills sent to Landlord. If Tenant's share of the actual costs for utilities and services exceeds the amount paid in advance by Tenant, Tenant will pay Landlord the difference within 30 days. If Tenant has paid more than Tenant's share of the actual costs, Tenant will receive a credit for the overage, which will be applied to reduce the next installments due from Tenant.

**12. Maintenance and Repair of Common Areas.** Landlord will maintain and make all necessary repairs to the common areas of the building and adjacent premises and keep these areas safe and free of trash. This includes:

- On-site parking areas
- Off-site parking areas
- Restroom facilities
- Storage areas
- Hallways, stairways, and elevators
- Conference rooms
- Sidewalks and driveways
- Other: Tenant Pays

Tenant will pay Landlord \_\_\_\_\_ % of the cost of such maintenance and repairs. Tenant will pay these amounts in monthly installments on or before the \_\_\_\_\_ day of each month, in advance, in an amount estimated by Landlord. Within 90 days after the end of each lease year, Landlord will give Tenant a statement of the actual amount of Tenant's share of such costs for such period. If Tenant's share of the actual costs exceeds the amount paid in advance by Tenant, Tenant will pay Landlord the difference within 30 days. If Tenant has paid more than Tenant's share of the actual costs, Tenant will receive a credit for the overage, which will be applied to reduce the next installments due from Tenant.

**13. Maintenance and Repair of Leased Premises.** Landlord will maintain and make all necessary repairs to the following parts of the building in which the leased premises are located:

- Roof
- Foundation and structural components
- Exterior walls
- Interior common walls
- Exterior doors and windows

- Plumbing system
- Sewage disposal system
- Electrical system
- Heating, ventilating, and air-conditioning systems
- Sprinkler system
- Other: AS IS

Tenant will maintain and repair the leased premises and keep the leased premises in good repair except for those items specified above as being Landlord's responsibility.

**14. Insurance**

A. Landlord will carry fire and extended coverage insurance on the building. Tenant will pay Tenant's proportionate share (100 %) of such insurance within ten days after receiving a statement from Landlord as to the cost.

B. Tenant will carry public liability insurance, which will include Landlord as a party insured. The public liability coverage for personal injury will be primary to any insurance maintained by landlord, and in at least the following amounts:

- \$ \_\_\_\_\_ per occurrence.
- \$ \_\_\_\_\_ in any one year.

C. Landlord and Tenant release each other from any liability to the other for any property loss, property damage, or personal injury to the extent covered by insurance carried by the party suffering the loss, damage, or injury.

D. Tenant will give Landlord a copy of all insurance policies that this lease requires Tenant to obtain.

**15. Taxes**

A. Tenant will pay \_\_\_\_\_% of all taxes and assessments that may be levied or assessed against the building and the land for the period of the lease. Tenant will pay these taxes and assessments in monthly installments on or before the \_\_\_\_\_ day of each month, in advance, in an amount estimated by Landlord. Landlord will give Tenant copies of the tax bills and assessments as Landlord receives them. If Tenant's share of the actual taxes and assessments exceeds the amount paid in advance by Tenant, Tenant will pay Landlord the difference within 30 days. If Tenant has paid more than Tenant's share of the actual taxes and assessment, Tenant will receive a credit for the overage, which will be applied to reduce the next installments due from Tenant. Taxes and assessments to be paid by Tenant will be prorated on a due date basis and will be assumed to cover a period of one year from the due date. Tenant will pay all taxes except building

B. Tenant will pay all personal property taxes levied and assessed against Tenant's personal property.

**16. Subletting and Assignment.** Tenant will not assign this lease or sublet any part of the premises without the written consent of Landlord. Landlord will not unreasonably withhold such consent.

**17. Damage to Premises**

A. If the premises are damaged through fire or other cause not the fault of Tenant, Tenant will owe no rent for any period during which Tenant is substantially deprived of the use of the premises.

B. If Tenant is substantially deprived of the use of the premises for more than 90 days because of such damage, Tenant may terminate this lease by delivering written notice of termination to Landlord.

**18. Notice of Default.** Before starting a legal action to recover possession of the premises based on Tenant's default, Landlord will notify Tenant in writing of the default. Landlord will take legal action only if Tenant does not correct the default within ten days after written notice is given or mailed to Tenant.

Owner Eric Walker 3-13-2023  
 Tenant Cynthia Price 3-13-2023

# BIRMINGHAM WATER WORKS

101st Avenue North, Birmingham, AL 35222  
 205.244.4000 | www.bwwb.org



INVOICE DATE: 03/10/2023  
 ACCOUNT NUMBER: 220010075973  
 SERVICE PERIOD: 02/11/2023 - 03/10/2023

### ACCOUNT DETAILS

INVOICE DATE: 03/10/2023  
 ACCOUNT NUMBER: 220010075973  
 CUSTOMER NAME: CYNTHIA PRICE  
 SERVICE ADDRESS: 4941 COURT R  
 BIRMINGHAM, AL 35208

### METER READINGS

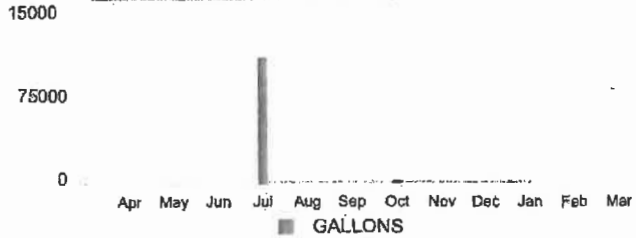
METER NO	SZ	PREVIOUS READ	PRESENT READ	CONS
015044758	5/8"	142 02/10/23	142 03/10/23	0
TOTAL CCFS				0
TOTAL GALLONS				0

1 CCF = 748 GALLONS

### BILLING SUMMARY (See Page 3 for billing details.)

PREVIOUS INVOICE AMOUNT	\$4,011.53
TOTAL PAYMENT RECEIVED	\$0.00
TOTAL ADJUSTMENTS	\$0.00
BWWB WATER SERVICE	\$26.96
JEFFERSON COUNTY SEWER SERVICE	\$24.16
<b>Total Amount Due 03/24/2023</b>	<b>\$4,062.65</b>

### ANNUAL WATER USAGE



Help Us Help You. Beginning February 15, 2023, Birmingham Water Works will resume shutoffs on delinquent accounts. To make payment arrangements, please contact customer service today at 205-244-4000.

PLEASE DETACH AND RETURN BOTTOM PORTION WITH YOUR PAYMENT



Birmingham Water Works  
 Water & Sewer Utility Bill  
 P.O. Box 830269  
 Birmingham, AL 35283-0269

PAY YOUR BILL ONLINE, BY PHONE, OR BY MAIL

HELP 2 OTHERS (H2O) FOUNDATION  
 PLEASE BILL ME \$1 EXTRA PER MONTH

ACCOUNT NUMBER:  
 TOTAL AMOUNT DUE by 03/24/2023  
 PAYMENT AMOUNT:

220010075973  
 \$4,062.65



