



**City of Fairhope
Board of Adjustments Agenda
5:00 PM
Council Chambers
September 16, 2024**

Sherry Sullivan
Mayor

Council Members

Kevin G. Boone

Jack Burrell, ACMO

Jimmy Conyers

Corey Martin

Jay Robinson

Lisa A. Hanks, MMC
City Clerk

Kimberly Creech
City Treasurer

1. Call to Order
2. Approval of Minutes
 - August 19, 2024
3. Consideration of Agenda Items

A. BOA 24.12 Public hearing to consider the request of the Applicant, Montaser Shahrouz, acting on behalf of the Owner, Sky Cloud #21 Inc., for a Special Exception - Use Not Accounted For – to allow for a tobacco and vape shop on property zoned B-2 – General Business District. The property is located at 19674 Greeno Road and is approximately 1.78 acres. **PPIN#: 21517**

B. BOA 24.13 Public hearing to consider the request of the Owners, James and Heather DeLapp, for a building height variance, an accessory structure to be built forward of the principal structure and a variance to retaining wall height of 4' or 8' based on placement of primary home on property zoned R-1 – Low Density Single-Family Residential District. The property is located at 23335 Main Street and is approximately 0.82 acres. **PPIN#: 265003**

4. Old/New Business

BOA 24.11 Public hearing to consider the request of the Owner, Jason LaSource, for a 15' front setback variance and a 5' side setback variance on property zoned R-2 Medium Density Single-Family Residential District. The property is located at 50 Fels Avenue. The property is approximately 0.22 acres. **PPIN#: 14503**

5. Adjourn

161 North Section Street

P.O. Drawer 429

Fairhope, Alabama 36533

251-928-2136

251-928-6776 Fax

www.fairhopeal.gov

Printed on recycled paper

The Board of Adjustments met Monday, August 19, 2024, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chair; Cathy Slagle, Vice-Chair; Ryan Baker; Frank Lamia; Donna Cook; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager; Michelle Melton, City Planner; Chris Williams, City Attorney; and Cindy Beaudreau, Planning Clerk.

Absent:

Chair Vira called the meeting to order at 5:00 PM.

Approval of Minutes

Ryan Baker made a motion to approve the minutes from the July 15, 2024, meeting.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, and Donna Cook

Nay: None.

Abstain: Anil Vira

BOA 24.07 Public hearing to consider the request of the Owner, William Bolton, for a Special Exception – Use on Appeal – to display automobiles for outside sales on property zoned M-1 – Light Industrial District. The property is located at 7841 Porter Lane and is approximately 0.17 acres. **PPIN: 38692**

Mike Jeffries, Development Services Manager, presented the request of the Owner, William Bolton, for a Special Exception – Use on Appeal – to display automobiles for outside sales on property zoned M-1 – Light Industrial District. Mr. Jeffries shared the zoning and aerial maps along with the existing and proposed site plans. Mr. Bolton provided a revised site plan showing only two parking spaces. The property does not have access from Porter Lane, which is a private road. Mr. Bolton supplied three opinions from his attorney. Mr. Jeffries shared tax parcel information for the property.

Recommendation:

Staff recommends denial of BOA 24.07, due to a lack of access and excessive traffic that would be generated along Porter Lane (if legal access was cleared) through the surrounding residential area.

Frank Lamia asked what access is to the property that is being argued about. Mr. Jeffries stated that there is a portion of property with a blue street sign which is typically a county street sign. Not knowing who owns this property would make access to Mr. Bolton's property require access through someone's private property. Mr. Simmons added that there are deeds stating there is access through an easement, but there are pieces of property with an easement across it. The question is do those belong to private individuals. The clarification is a civil issue that needs to be worked out among private individuals.

Mr. Bolton stated that he owns the property, and it will be used for two antique vehicles. Porter Lane has been a right of way for at least 40-50 years. Mr. Alan Lipscomb, Attorney, sent a letter stating this. The issue with going to Greeno is there are storm drainage improvements that have been done by the hotel which is in the 20' easement. It would be more difficult to access the road due to changes that would be needed by the hotel. Mr. Bolton and a neighbor cleared the property which allows access to the property. This issue of ownership should not be an issue since Porter Lane has been used. There will be very limited use. This request is primarily for his state wholesale dealer license which only requires two parking spaces.

Cathy Slagle stated she is confused about the use. Mr. Bolton stated that the space will be used to park refurbished antique cars.

Ryan Baker shared Ms. Slagle's confusion. Mr. Simmons states that outdoor sales within the Zoning Ordinance require approval by the BOA and Mr. Bolton needs a letter for the state from the city stating that he has an outdoor sales lot. Mr. Jeffries reiterated that although Mr. Bolton only needs two parking spaces, the property will be zoned as an outdoor sales lot.

Mr. Baker asked how the other five parcels are accessing their property. Mr. Simmons stated that there is no argument that there is access to the property. There needs to be an access easement from the other property owners. Clarification that Mr. Bolton has access to the property is all that is needed. Mr. Bolton stated that he has contacted the Holiday Inn but has received no response. Mr. Simmons stated that Mr. Lipscomb's letter does not state that this is a right of way, it states it is an access point. Confirmation needs to be received from other property owners that the easement may be used for a more intense use on Porter Lane.

Frank Lamia stated that his dilemma is that Mr. Bolton is asking for an outdoor sales lot. Mr. Bolton stated that no other property owners are able to see the lot unless they go all the way down Porter Lane.

Ms. Slagle asked if the antique vehicles would be worked on at the site. Mr. Bolton stated that the vehicles would only be parked on the site.

Mr. Baker asked if the BOA is able to add contingencies and what would happen if they were broken. Mr. Simmons stated that the BOA could add special restrictions, but enforcement is tricky. The simplest solution would be to remove the business license if there were any violations.

Mr. Lamia asked if access from Porter Lane was necessary if only two vehicles were parked there. Mr. Bolton replied that he needs access from Porter Lane due to there not being enough room on his other property even if he granted himself an easement. Mr. Jeffries stated that a business license can be revoked if conditions are violated. The first hurdle is getting across the property to Mr. Bolton's property and knowing that it is legal. Mr. Lamia asked if it could be a liability to the city if the BOA approves the use of property for two parking spaces and then someone comes up stating that the city gave access that they did not have. Mr. Bolton stated that there may never be a car parked on that site. He just needs approval for his license. The property will not be used heavily. Donna Cook asked if anyone had legal access to Porter Lane. Mr. Simmons stated that staff reached out to the Baldwin County Highway Department who researched the parcel and stated that no one has ever turned that over, so it has been reserved for future right of way. Mr. Bolton stated that no

one has paid taxes on the property for over 40 years. Mr. Simmons reiterated that this is an access easement and when looking at the deeds, it states reserved for future right of way. All the staff is asking for is confirmation from other property owners.

Mr. Baker asked what the timeline is. Mr. Bolton stated the renewal needed to be done earlier this year.

Chris Williams stated that this is not a publicly dedicated right of way accepted by Baldwin County or the City of Fairhope. There is concern about access to private property. Staff concerns are legitimate. Property access is important. One solution for a landlocked property owner is a lawsuit for all property owners involved where a court would set forth the access. Another solution is getting all property owners together on a joint document that is recorded and runs with the land that entitles certain property owners to access. Mr. Williams continued that the decision can be conditioned based on their decision and since this case has been tabled in the past, the applicant will need to agree to table it again or the BOA will need to decide now. Mr. Bolton asked that the case be approved with conditions. Mr. Simmons stated that the Holiday Inn has a clear title to the property, but there are multiple property owners coming from Ingleside where title needs to be clarified.

Mr. Lamia asked if there was a problem if Mr. Bolton provided permission from the property owners. Ms. Slagle would rather Mr. Bolton did the leg work and table the case and then come back with proof of ownership. Mr. Bolton would like a vote now from the BOA. Mr. Simmons asked about an e-mail on July 17, 2024, asking for title information. Mr. Bolton believed that he supplied the information. Mr. Simmons stated that staff did not receive proof that it was a public right of way.

The public hearing was opened at the last meeting, so not required at this meeting.

Motion:

Ryan Baker made a motion to approve BOA 24.07, with the following conditions:

1. Two parking spaces only
2. Requirement of legal access to the property by affected property owners

Donna Cook seconded the motion and discussion continued.

Chris Williams asked for clarification of if the conditions are not met, then the City would not issue a permit, letter, or business license.

Mr. Baker amended his motion to include the two conditions and if the conditions are not met then no permit will be granted.

Donna Cook seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Ryan Baker, Frank Lamia, and Donna Cook

Nay: Cathy Slagle

BOA 24.09 Public hearing to consider the request of the Owner, FST and Thomas F. Munsey, for a Special Exception – to allow for an accessory structure to be built forward of the principal structure on property zoned R-1 – Low Density Single-Family Residential District. The property is located at 52 N. Ingleside Street and is approximately 0.83 acres. **PPIN#: 14954**

Michelle Melton, City Planner, presented the request of the Owner, FST and Thomas F. Munsey, for a Special Exception – to allow for an accessory structure to be built forward of the principal structure on property zoned R-1 – Low Density Single-Family Residential District. Ms. Melton shared the zoning and aerial maps along with the existing and proposed site plans.

Recommendation:

Staff recommends approval of BOA 24.09.

Thomas Munsey, Owner, stated that he will be replacing a wooden tool shed in the middle of the property on the Fairhope Avenue side and will be applying for a permit for a new structure at the back of his property. He will also remove two additional structures that could be considered eye sores.

Ms. Slagle asked if the new structure will be behind the house and fence. Mr. Munsey replied yes it would.

Chairman Vira opened the public hearing at 5:51pm.

Richard Caudill, 57 N. Ingleside, asked if the building will be used for personal or commercial use. Mr. Munsey replied that will be exclusively used for storage of tools, clothes, a golf cart and a lawnmower. There will be no commercial use of this structure. Mr. Caudill has no objection to personal use.

The public hearing was closed at 5:53pm.

Motion:

Donna Cook made a motion to approve BOA 24.09.

Frank Lamia seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Frank Lamia, and Donna Cook

Nay: None.

BOA 24.10 Public hearing to consider the request of the Applicant, Mack McKinney, on behalf of the Owner, FST Sildi LLC, for a Special Exception – Use on Appeal – to allow for a hotel on property zoned B-2 General Business District. The property is located at 301 Fairhope Avenue and is approximately 0.20 acres. **PPIN#: 14359**

Hunter Simmons, Planning and Zoning Director, presented the request of the Applicant, Mack McKinney, on behalf of the Owner, FST Sildi LLC, for a Special Exception – Use on Appeal – to allow for a hotel on property zoned B-2 General Business District. Mr.

Simmons stated that staff received a request to table this item, so slides were not prepared. The Applicant did not receive confirmation so prepared over the weekend to carry-on with the application. Mr. Simmons shared the proposed site plans. Parking is a concern for this project. The zoning ordinance states that on-street parking may be credited. Impact on adjacent properties must be considered. 27 parking spaces for the hotel would require 54 on-street parking spaces. Off-site parking on Magnolia was considered but would likely require a rezoning. Another option was to use some existing parking deck spaces. Mr. Simmons added that the Parking Authority was meeting on August 26, 2024, to discuss parking issues in the city. Mr. Simmons added that this project will also have a site plan review and a multiple occupancy review. This request is more about the use, which includes a restaurant, a small office, a medical spa and 27 hotel rooms. There is one handicap and two regular parking spots on site. Mr. Simmons shared the elevations and the floor plans.

Mr. Lamia asked if they would be voting on this tonight. Mr. Simmons stated that they could vote on this tonight. Mr. Baker asked if they were voting on the conditional use of a hotel. Mr. Simmons replied yes, the parking use is an issue that should be decided. Mr. Simmons stated that if this were tabled, then it should be tabled with specifics.

Tamara Prickett, 16321 Scenic Highway 98 and Mary Wells, MD, 857 Sea Cliff Drive stated that they had asked to table the project. They are still looking for a parking solution. Ms. Prickett stated that she, her husband, Ms. Wells and Dusty Smith, are responsible for the project. They joined together on the project based on their excitement to do something with the proposed site. The restaurant downstairs would service the rooftop terrace along with Fairhope residents. There will be two uses for this project, a restaurant and a med spa. Ms. Prickett believes that the best solution for parking is the off-site property on Magnolia and asked the BOA if that would be a solution to parking.

Mr. Baker believes that with a solution to the parking, it is a great project. Mr. Lamia asked if they had been working with the parking authority. Ms. Prickett stated that if they own the property that is contiguous with the hotel, then the property may not need to be rezoned. Mr. Lamia asked if this worked with the grand parking plan. Ms. Prickett stated that this is not a parking authority issue and suggested that the owner of the Magnolia property join the meeting through zoom. Ms. Prickett asked if they can build a parking lot on Magnolia, would the BOA have any problems with the hotel. Mr. Lamia asked if 27 places would fit. Ms. Prickett stated yes, it would be designated for the hotel and would be valet parked. Ms. Wells stated that it would also be manicured and landscaped to beautify the parcel. Mr. Vira asked, within the 24 parking spaces, where would be staff park. Ms. Wells stated that staff would park like other staff downtown.

Mr. Vira asked if they were using a parcel for parking if they were subject to landscaping. Mr. Simmons stated that this would be subject to the Tree Ordinance. Mr. Lamia asked what the Parking Authority's role is in this project. Mr. Simmons stated that the shared parking solutions are owned by the Parking District. There is a small lot by Julwin's that is owned by the city.

Mr. Baker stated that he is not opposed to off-site parking. Mr. Lamia stated that he would like them to come back with a solution that the City agrees with. Ms. Wells stated that this would be a locally owned hotel not a chain hotel. Ms. Prickett stated they are fine with tabling the project.

Chairman Vira opened the public hearing at 6:25pm.

Richard Hice stated that he loves the project and believes that parking on the Magnolia property would be an easy solution to the parking issue.

Wendy Butler is located in downtown Fairhope and is excited about the project. She believes that it will draw in tourists.

John Bethea owns property around the building and believes it is a good project.

Nick Klarman, 116 Fairhope Avenue, supports the project.

Peter Whitehead, Chicken Salad Chick owner, is excited about and approve of the project.

Brad Hicks, Attorney for project, requests that the project be tabled until the October 21, 2024, meeting.

Jeremiah Mathews, owner of Southwood Kitchen and Ben's BBQ, in support of the project.

The public hearing was closed at 6:30pm.

Motion:

Ryan Baker made a motion to table BOA 24.10 until the October 21, 2024, meeting.

Cathy Slagle seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Frank Lamia, and Donna Cook

Nay: None.

BOA 24.11 Public hearing to consider the request of the Owner, Jason LaSource, for a 15' front setback variance and a 5' side setback variance on property zoned R-2 Medium Density Single-Family Residential District. The property is located at 50 Fels Avenue. The property is approximately 0.22 acres. **PPIN#: 14503**

Michelle Melton, City Planner, presented the request of the Owner, Jason LaSource, for a 15' front setback variance and a 5' side setback variance on property zoned R-2 Medium Density Single-Family Residential District. Ms. Melton shared the zoning and aerial maps along with the existing and proposed site plans.

Recommendation:

Staff recommends denial of BOA 24.11.

Ms. Slagle asked what the height was of the current home and noted that the bottom limb is 14' from the ground and it does not appear there is room for a second story. Ms. Slagle continued that the BOA would need additional information on the second story. Mr. Simmons agreed that additional information would be needed. Ms. Slagle then asked if the magnolias on the front side of the house would be taken down. Mr. Simmons stated that every heritage tree is not required to be shown. There are no protections on the trees on that parcel. Mr. Vira asked if a single-family residence has the right to cut any tree down on their own property. Mr. Simmons replied yes. The Tree Ordinance does not apply. Mr. Vira stated that the house should be 35' from the front, but the current house is 24' and staff can give a 7' variance to come closer to the front, side or back. Mr. Simmons stated that the intent of the owner is to take the house down so the new house would need to conform to the 35' mark. The only relief that staff can give would bring the new house to 28'.

Mr. Baker asked if the front porch was covered which would bring the house to 20'. Mr. Simmons stated yes, the porch was covered but not as wide as the rest of the house.

Jason LaSource, owner, reiterated that the front porch was covered and sets back about 5' and 10' shorter than the house. Mr. LaSource stated that two of the limbs on the tree were going over the back of the house and the two-story part of the house would be in front of all of that. Full plans are not done due to paying for revisions and waiting for approval. Chris Francis, Tree Care, will work with Mr. LaSource to ensure the tree is not damaged during construction. Mr. LaSource stated that other homes in the neighborhood have similar setbacks to what he is requesting. Mr. LaSource continued that there is not enough room to push the house back.

Mr. Vira asked if the house would have some of it one story and some of it two-story? Mr. LaSource replied yes, the two-story would be in the front part and over the garage. There will be nothing above the master bedroom where the tree is.

Ms. Slagle asked about the stairway in the garage. Mr. LaSource stated that that area will be used for storage and a workout area with no running water, just electricity. Ms. Slagle asked if there were guidelines on whether running water was allowed. Mr. Jeffries replied yes, that would be reviewed at time of building permit application. Mr. Jeffries stated that if more than a half bathroom or a kitchen was installed, it would need to be removed before being permitted.

Mr. Vira asked if the house would be on pilings or a slab. Mr. LaSource stated it would be on footings. Mr. Lamia asked how deep the porch is. Mr. LaSource stated 8'. Mr. Simmons stated that, based on the plan, it does not look like the house is being moved. Mr. LaSource stated that the new plans will show that. Mr. Baker stated that it does not look like the house is moving very much away from the tree. Mr. LaSource stated that he plans on renovating the house and selling it. Mr. Baker asked why he didn't move the house to the west. Mr. LaSource stated that will make the driveway too narrow. Mr. Vira asked how wide the driveway was. Mr. Simmons stated that it is 18' and there is a 3' required landscape strip. Mr. Vira asked if that would help with pushing the house over. Mr. Simmons stated that there is roughly 3.5' that it could be moved. Mr. LaSource stated that if the house were moved over, it would encroach on the property west of his.

Mr. Lamia asked what the overall square footage of the proposed house is. Mr. LaSource stated approximately 2,500 square feet with an additional 400 square feet above the garage. Mr. Lamia asked how many square feet the house is now. Mr. LaSource replied approximately 1,150 with 350 in the back building. Mr. Vira confirmed that part of the second story will be cantilevered. Mr. LaSource agreed.

Mr. Baker stated that in the past, the BOA has granted a variance to save a tree, and he did not hear that in this request. Mr. LaSource stated that he is saving the tree by having Chris Francis monitor the tree during construction. Mr. Baker asked if the master bedroom could be moved back farther away from the tree and make the hallway longer to allow more space around the tree. Mr. LaSource stated that the master could be moved back, but he still needs the space in front of the house. Mr. Vira asked if the house had to be 10' away from the garage. Mr. Simmons stated yes, or the garage could be attached. Mr. LaSource stated that he will try to attach the garage if possible.

Mr. Baker asked for more definition of how far the house will be from the tree and what the second floor will look like in relation to the tree. Mr. Baker is in favor of saving the tree and granting a variance of some sort. Mr. Jeffries suggested a site plan be provided with exact dimensions that the structure shall be from that tree and a report of what limbs will need to be trimmed and/or removed to allow the construction of the second floor from the horticulturist. And Mr. Jeffries suggested consulting with the City Horticulturist Supervisor.

Ms. Cook stated that she agrees, and the only hardship is trying to save the tree. If the tree is not saved correctly or if there were not enough dimensions there, she would not approve it.

Chairman Vira opened the public hearing at 7:12pm.

Mac McCawley stated that all structures should comply with the Zoning Ordinance. The tree and house were there when he bought it and he needs to comply with the Zoning Ordinance.

The public hearing was closed at 7:13pm.

Motion:

Ryan Baker made a motion to table BOA 24.11 until the owner meets with staff.

Cathy Slagle seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Frank Lamia, and Donna Cook

Nay: None.

Old/New Business

Mr. Simmons shared some changes for the Planning Commission cases. The staff's role is to write reports for the BOA and Planning Commission. Staff will begin establishing a final agenda one week prior to the meeting and once that is done, an applicant will need to come and ask that their case be tabled. Mr. Simmons suggests that is done with the BOA also. This proposal would require a zoning amendment which would be approved by the City Council.

Mr. Vira confirmed that the next meeting will be September 16, 2024.

Adjournment

Cathy Slagle made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Frank Lamia, and Donna Cook

Nay: None.

Adjourned at 7:22p.m.

Anil Vira, Chairman

Cindy Beaudreau, Secretary

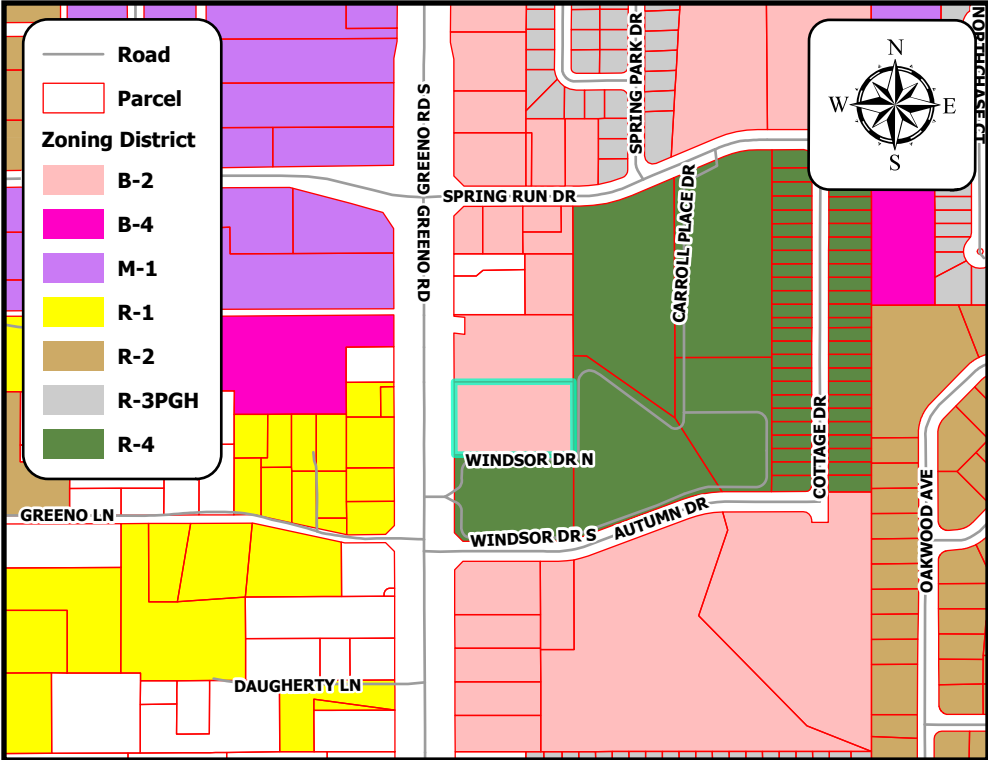
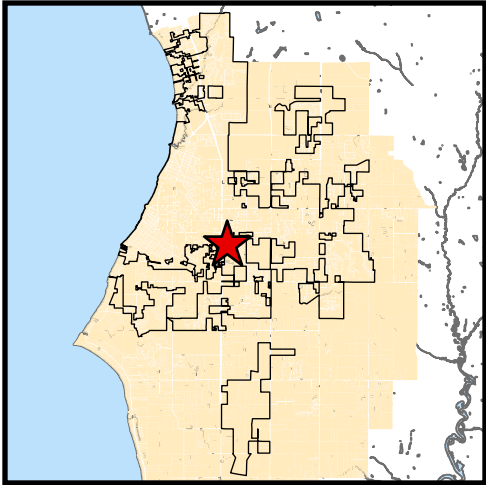
City of Fairhope

Board of Adjustments

September 16, 2024



BOA 24.12 - Sky Cloud #21 Inc



<u>Project Name:</u>
Sky Cloud #21 Inc
<u>Site Data:</u>
1.78 acres
<u>Project Type:</u>
Use Not Accounted For: Tobacco and Vape Shop
<u>Jurisdiction:</u>
Fairhope Planning Jurisdiction
<u>Zoning District:</u>
B-2
<u>PPIN Number:</u>
21517
<u>General Location:</u>
East side of Greeno Road, South of Spring Run Drive. Polo Crossing.
<u>Surveyor of Record:</u>
N/A
<u>Engineer of Record:</u>
N/A
<u>Owner / Developer:</u>
Sky Cloud #21 Inc
<u>School District:</u>
Fairhope Elementary School Fairhope Middle and High Schools
<u>Recommendation:</u>
Approve
<u>Prepared by:</u>
Michelle Melton





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☒ Special Exception ☐ Variance

Property Owner / Leaseholder Information

Name: SKY Cloud # 21 Inc. Phone Number: 251-370-7613 M 298-3130
 Street Address: 19690 Green Rd. 3-B (19674)
 City: Fairhope State: AL Zip: 36532

Applicant / Agent Information

If different from above.

Notarized letter from property owner is required if an agent is used for representation.

Name: Montaser Shabran Phone Number: 251-370-7613
 Street Address: 1292 Sable Palms Dr.
 City: Fairhope State: AL Zip: 36532

Sugarcree West@gmail.com

Site Plan with Existing Conditions Attached:

YES NO

Site Plan with Proposed Conditions Attached:

YES NO

Variance Request Information Complete:

YES NO

Names and Address of all Real Property Owners

within 300 Feet of Above Described Property Attached: YES NO

Applications for Administrative Appeal or Special Exception:

Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal.

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

SKY Cloud # 21 Inc.
 Property Owner/Leaseholder Printed Name

Montaser Shabran
 Signature

8-8-24
 Date

Fairhope Single Tax Corp. (If Applicable)

BDA 24-12
 RECEIVED
 AUG 12 2024

BY: CB



VARIANCE REQUEST INFORMATION

What characteristics of the property prevent / preclude its development?:

- | | | |
|--------------------------------------|------------------------------------|--|
| ☐ Too Narrow | ☐ Elevation | ☐ Soil |
| ☐ Too Small | ☐ Slope | ☐ Subsurface |
| ☐ Too Shallow | ☐ Shape | ☐ Other (specify) |

Describe the indicated conditions: use not accounted for.

How do the above indicated characteristics preclude reasonable use of your land?

use not accounted for.

What type of variance are you requesting (be as specific as possible)?

use not accounted for.
To allow for a retail tobacco/vape/ shop.

Hardship (taken from Code of Alabama 1975 Section 11-52-80):

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done."

BOA Fee Calculation:

	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
TOTAL:	\$	

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

Sky Cloud # 21 Inc.
Property Owner/Leaseholder Printed Name

Montaser Shabray
Signature

8-8-24
Date

Fairhope Single Tax Corp. (If Applicable)

Summary of Request:

The Applicant, Montaser Shahrouj, on behalf of Sky Cloud #21, Inc. is requesting a Special Exception-Use Not Accounted For to allow for a general merchandise retail establishment to sell tobacco and vape (vaporizing) tobacco products. The property is zoned B-2 General Business District and is located at 19674 Greeno Road in the new commercial Polo Crossing development.

Table 3-1 Use Table does not specifically address tobacco or vape products in the retail category; thus, that use is most likened to General Merchandise, which is allowed in B-2 subject to general ordinance standards and conditions.

Table 3-1: Use table

Zoning District	R-A	R-1(a,b,c)	R-2	R-3 TH	R-3 P/GH	R-3	R-4	R-5	R-6	B-1	B-2	B-3a	B-3b	B-4	M-1	M-2	PUD	VRM	NVC	CVC	HTD
Uses Categories / Specific Uses																					
Retail																					
Grocery										●	●		●		●	●			●	●	
Convenience Store										3	3		3		3	3			3	3	
General Merchandise										●	●		●		●	●			●	●	○
Shopping Center											●										
Automobile Service Station										○	○				○	○					
Outdoor Sales Limited											○				○	○			○	○	
Outdoor Sales Lot											○				○	○			○	○	
Garden Center											○	○			○	○			○	○	○

● Permitted subject to general ordinance standards and conditions.
 3 Permitted subject to special conditions listed in the ordinance
 ○ Permitted only on appeal and subject to special conditions

Article III of the Zoning Ordinance does not mention any particular standards and conditions for tobacco/vape retailers. Other like businesses are also located in B-2 developments. The closest being Vaping on the Coast in Baldwin Square (beside Winn-Dixie).



Figure 1: Polo Crossing

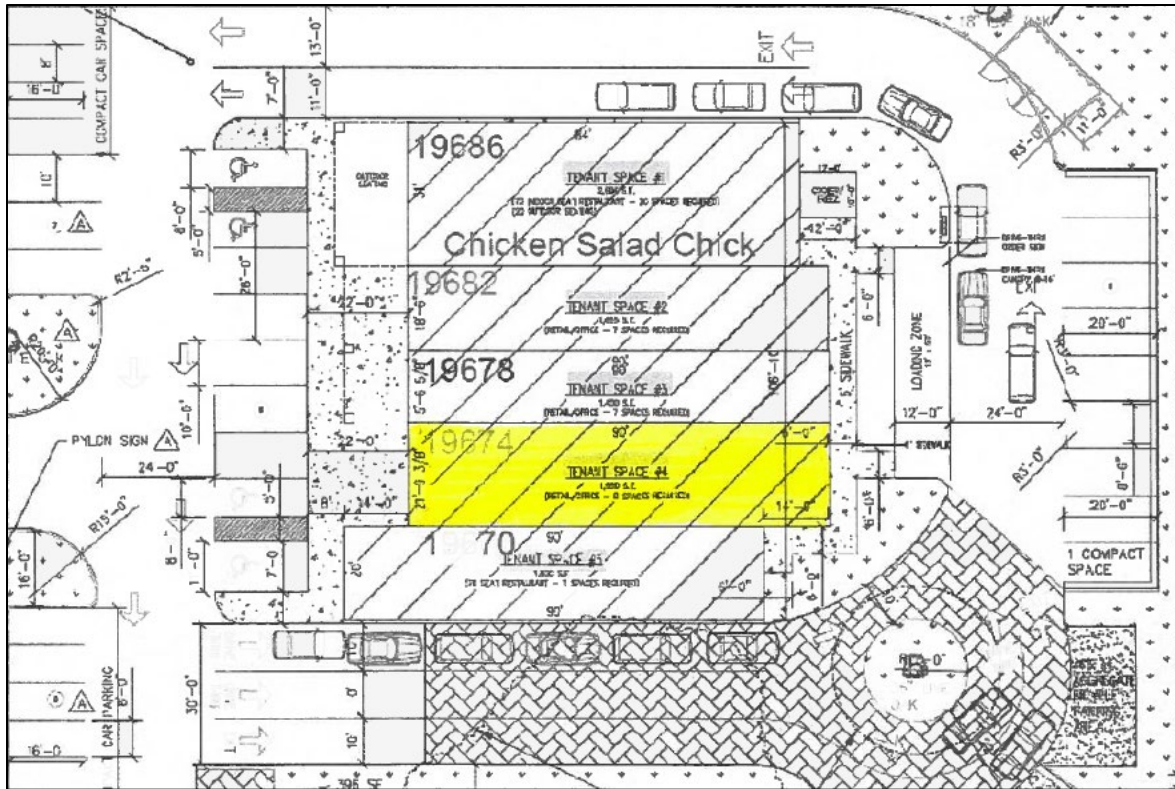


Figure 2: Existing Site Plan

Review Comments

As previously mentioned, the “general merchandise” retail use is permitted subject to general ordinance standards and conditions. Each proposal should be evaluated separately, with special consideration given not only to the goals and intent of the Zoning Ordinance and Comprehensive Plan, but also the impacts on surrounding property.

Article II.C.3(2)(e) Use Appeal Criteria

Any other application to the Board shall be reviewed under the following criteria and relief granted only upon the concurring vote of four Board members:

(a) Compliance with the Comprehensive Plan;

Staff Response: Meets. Commercial/retail developments are primarily found on the primary north/south roadways.

(b) Compliance with any other approved planning document;

Staff Response: This use completely fills out the units at Polo Crossing and conforms to the Polo Crossing Site Plan.

(c) Compliance with the standards, goals, and intent of this ordinance;

Staff Response: Staff believes a the use does meet the intent of the ordinance.

(d) The character of the surrounding property, including any pending development activity;

Staff Response: The use does not conflict with, or negatively impact, the other surrounding uses. Screening and buffering for the entire development was reviewed and approved previously.

(e) Adequacy of public infrastructure to support the proposed development;

Staff Response: Meets.

(f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;

Staff Response: The proposed use is in a recently developed site.

(f) Compliance with other laws and regulations of the City;

Staff Response: Meets.

(g) Compliance with other applicable laws and regulations of other jurisdictions;

Staff Response: Meets.

(h) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;

Staff Response: No negative impacts are anticipated.

(j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

Staff Response: No negative impacts anticipated.

(k) Overall benefit to the community;

Staff Response: Meets.

(l) Compliance with sound planning principles;

Staff Response: Meets.

(m) Compliance with the terms and conditions of any zoning approval; and

Staff Response: Staff will ensure all conditions will be met.

(n) Any other matter relating to the health, safety, and welfare of the community.

Staff Response: None noted.

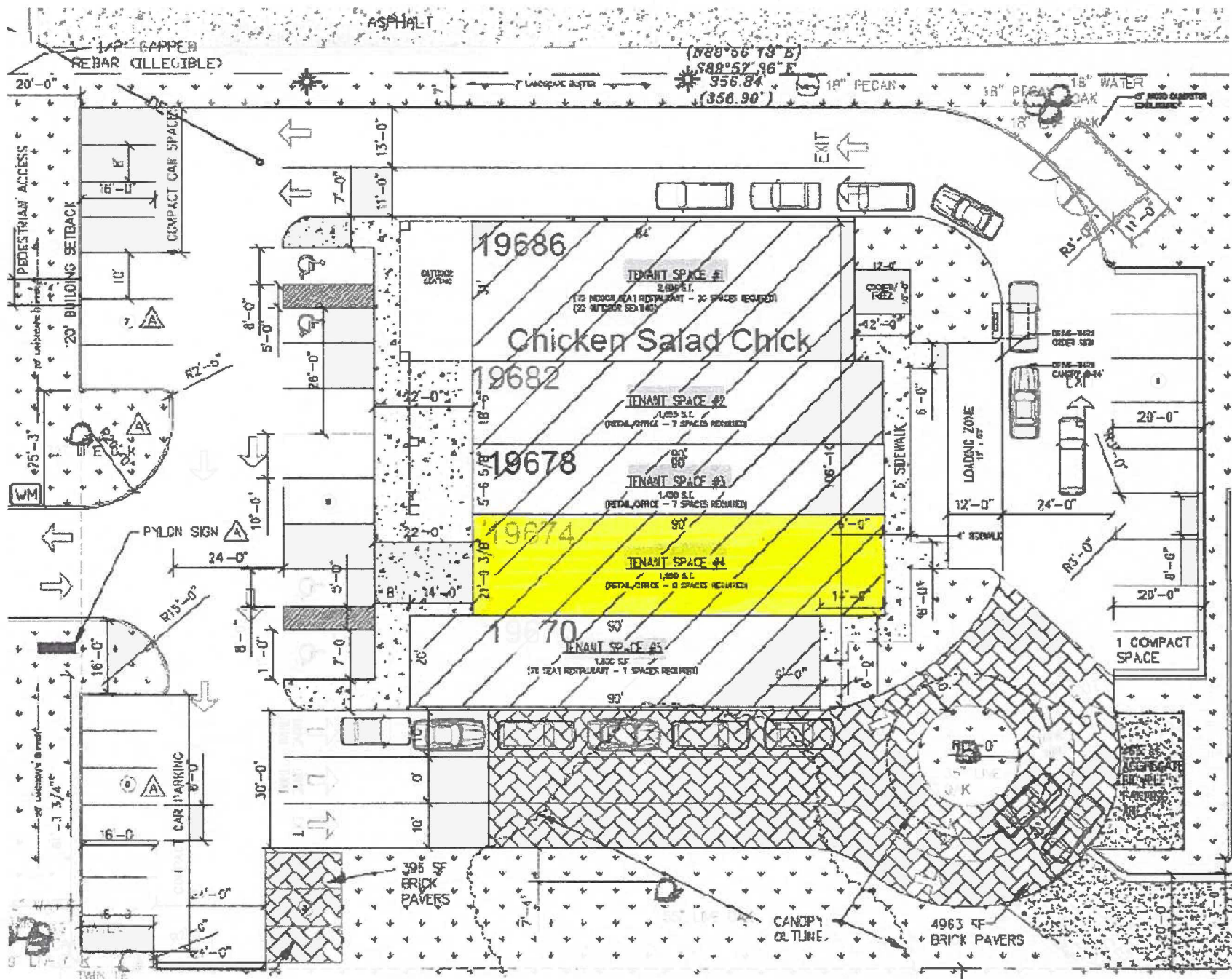
Recommendation:

Staff recommends **approval** of BOA 24.12.

Board of Adjustment Review Procedures:

d. *Review* - Application review shall occur according to the following:

- (1) A complete application shall be reviewed by the Director of Planning and Building. The Director shall offer a written report on the merits of the application to the Zoning Board of Adjustments.
- (2) The application shall be submitted to the Board at the scheduled public hearing, with the Director's report. The Board shall consider the application and take one of the following actions:
 - (a) Grant the requested relief;
 - (b) Grant the requested relief with specific conditions;
 - (c) Deny the requested relief; or
 - (d) Continue discussion of the application for further study. An application shall only be continued one time without the applicant's consent before the Board can take one of the above actions. An applicant may agree to more continuances.



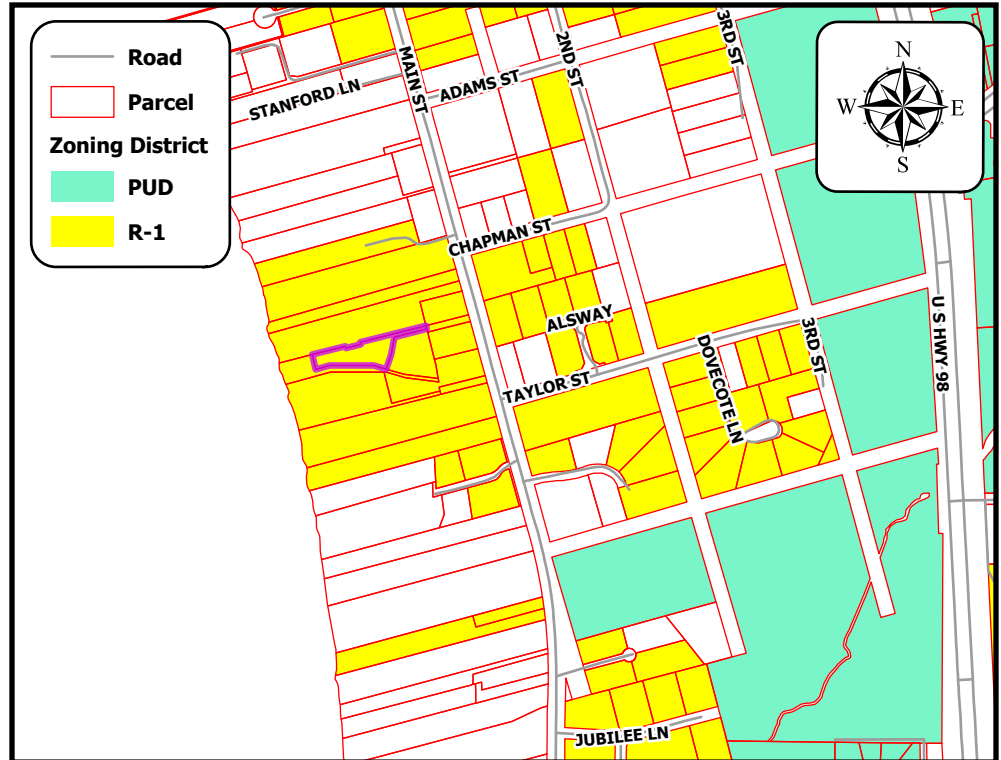
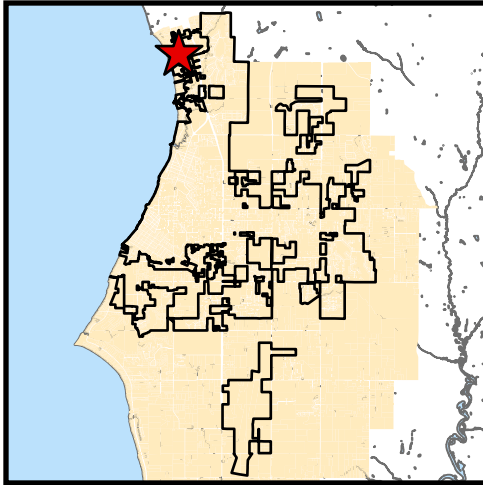
City of Fairhope

Board of Adjustments

September 16, 2024



BOA 24.13 - 23335 Main Street



Project Name:

23335 Main Street

Site Data:

0.82 acres

Project Type:

Building Height Variance
Accessory Structure Variance
Wall/Fence Height Variance

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

R-1

PPIN Number:

265003

General Location:

West side of Main Street, North of
Taylor Street

Surveyor of Record:

N/A

Engineer of Record:

N/A

Owner / Developer:

James and Heather DeLapp

School District:

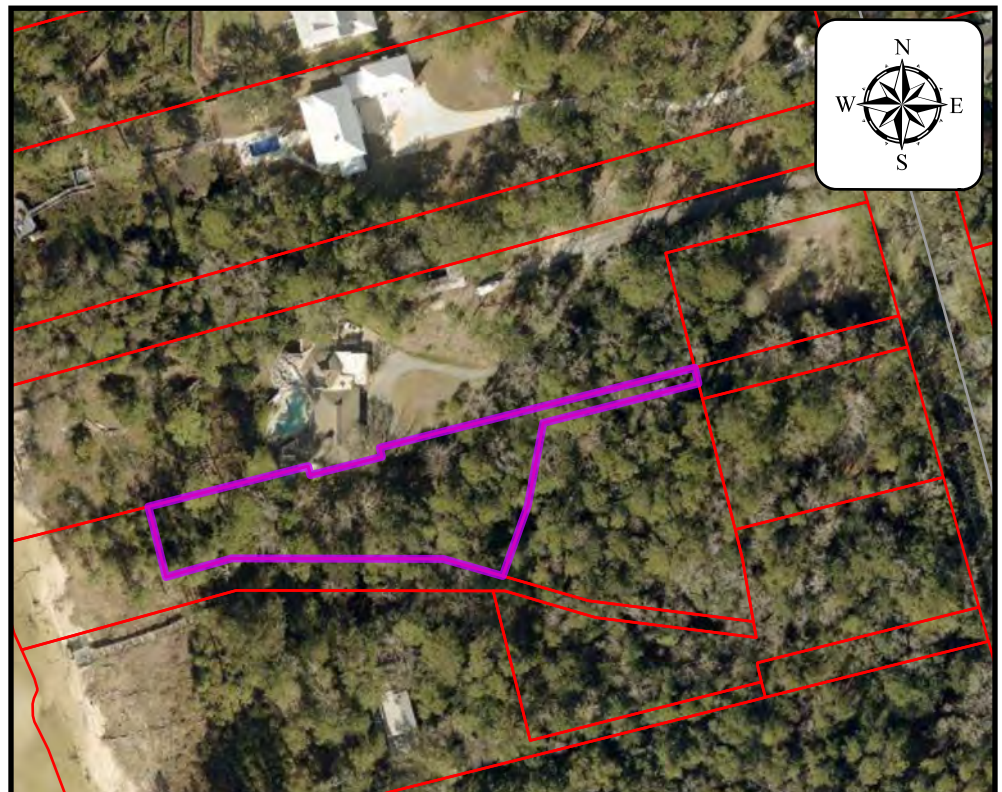
Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Multiple

Prepared by:

Hunter Simmons





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☒ Variance

Property Owner / Leaseholder Information

Name: James & Heather DeLapp Phone Number: 979-575-1425
 Street Address: 492 Boulder Creek Ave
 City: Fairhope State: AL Zip: 36532

Applicant / Agent Information

If different from above.

Notarized letter from property owner is required if an agent is used for representation.

Name: _____ Phone Number: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____

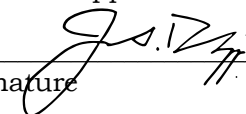
Site Plan with Existing Conditions Attached: **YES** NO
 Site Plan with Proposed Conditions Attached: **YES** NO
 Variance Request Information Complete: **YES** NO
 Names and Address of all Real Property Owners
 within 300 Feet of Above Described Property Attached: **YES** NO

Applications for Administrative Appeal or Special Exception:

Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal.

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

James & Heather DeLapp
 Property Owner/Leaseholder Printed Name


 Signature

13 August 2024
 Date

 Fairhope Single Tax Corp. (If Applicable)



VARIANCE REQUEST INFORMATION

What characteristics of the property prevent / preclude its development?:

- | | | |
|--------------------------------------|---|--|
| ☐ Too Narrow | ☒ Elevation | ☐ Soil |
| ☐ Too Small | ☒ Slope | ☐ Subsurface |
| ☐ Too Shallow | ☒ Shape | ☐ Other (specify) |

Describe the indicated conditions: 23335 Main St., Lot 6 of the Crawford Subdivision, has several unique characteristics which make development a challenge including, irregular shape and sloping site in two directions.

How do the above indicated characteristics preclude reasonable use of your land?

Because of the significant change in elevation, the maximum height limitation using the entire lot for natural elevation makes it almost impossible to build a home as intended. Because of the irregular shape, slope, and bluff upon which the lot sits, mandates placement of the carport in front of the main home in order to allow vehicles to access to the carport. In order to maintain a safe and generally level site between drive, carport, and home a retraining wall is required that would exceed 4'.

What type of variance are you requesting (be as specific as possible)?

1. Seeking a variance to Art.III.C.1. Lot and Principle Structure Max Height to use average elevation of buildable site and not entire lot.
2. Seeking variance to Art. III.C.2. Residential Accessory Structures for determination of and placement of carport in front of main home.
3. Seeking variance to retaining wall height of 4' or 8' based on placement of primary home, site conditions and safe access.

Hardship (taken from Code of Alabama 1975 Section 11-52-80):

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done."

BOA Fee Calculation:		
	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
TOTAL:	\$ 120.00	

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

James & Heather DeLapp
Property Owner/Leaseholder Printed Name

13 August 2024

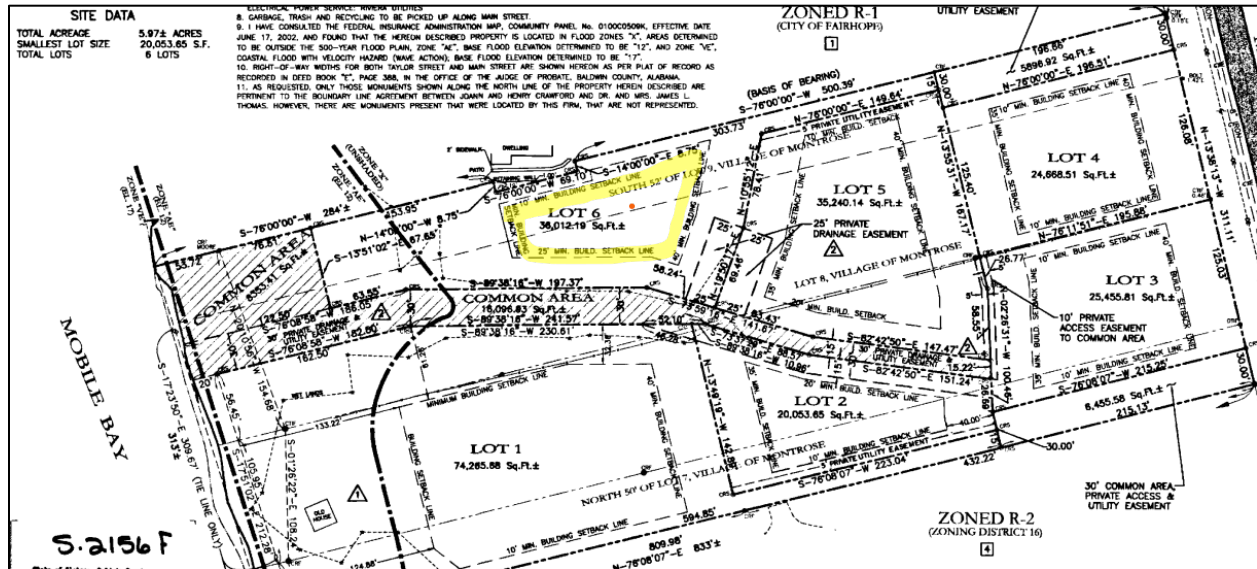
Date


Signature

Fairhope Single Tax Corp. (If Applicable)

Summary of Request:

The applicants, James and Heather DeLapp, have three (3) requests: a building height variance, a retaining wall variance, and a special exception to place an accessory structure forward of the principal structure. Subject property is zoned R-1, Low Density Single-Family Residential District (approx. 36,012sf) at 23335 Main Street. The request is for Lot 6 of the Crawford Subdivision (S 2156-F). See below.



Comments:

The property slopes from ~95' close to Main Street to ~11' along a common area on Mobile Bay. Applicants state that the elevation, slope, and shape of the lot warrant the variance requests and the special exception to Table 3-3 Residential Accessory Structures.

Principle Structure Height Variance

Table 3-2 Lots and Principle Structure has a maximum height of 30ft for R-1 zoned property.

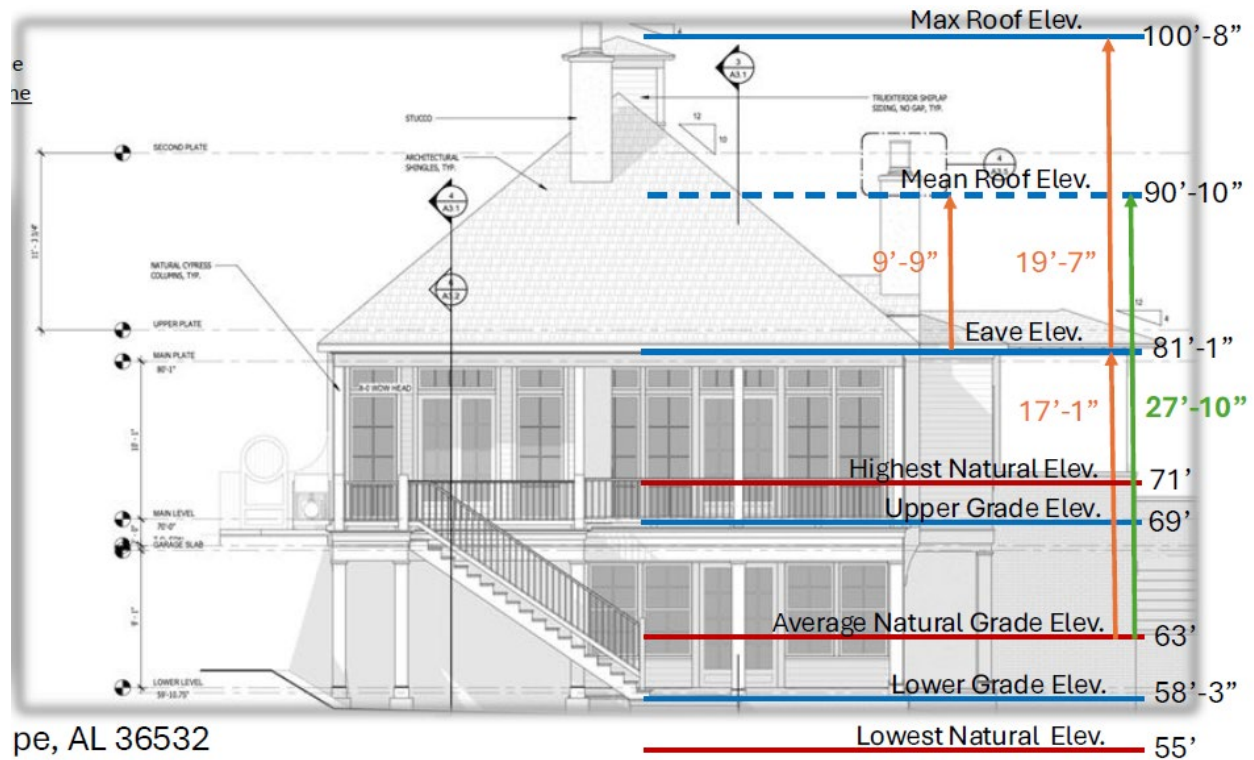
Table 3-2: Dimension Table - Lots and Principle Structure

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by all structures	Max. height
			Front	Rear	Side	Street side		
R/A	3 acres/ -	198'	75'	75'	25'	50'	none	30'
R-1	15,000 s.f./ -	100'	40'	35'	10' ^b	20'	40%	30' ^a

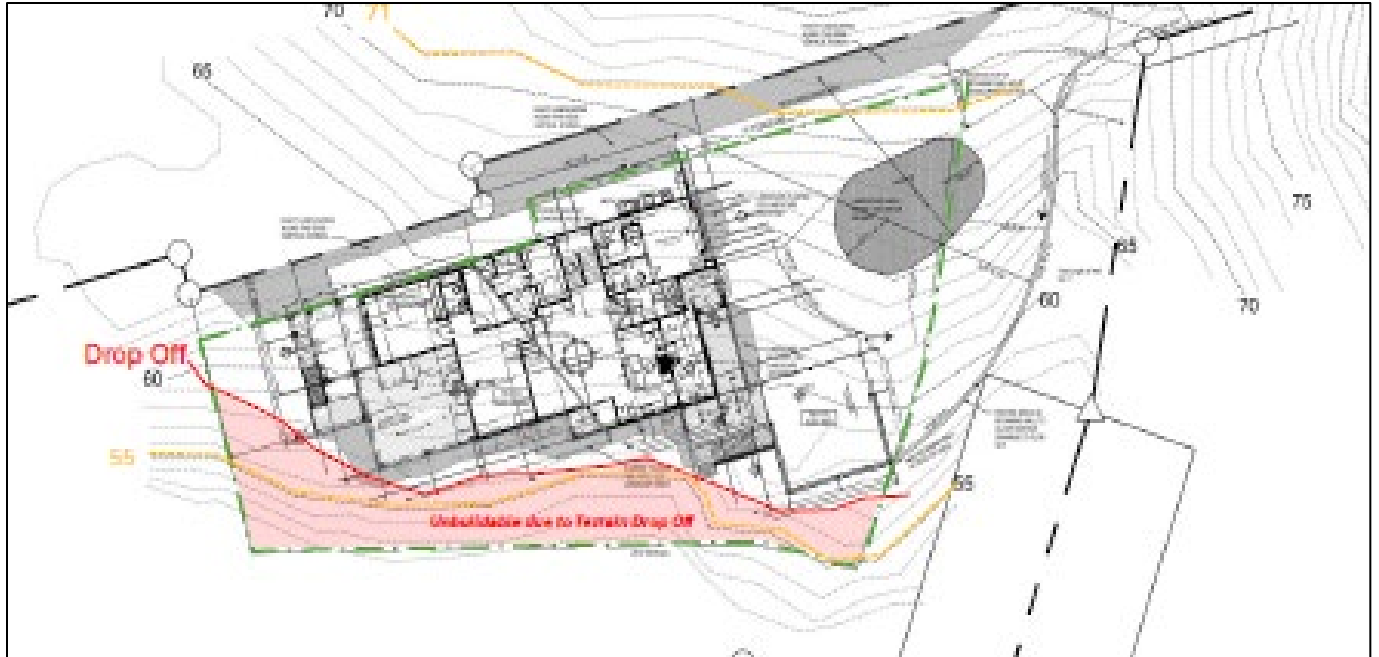
Building Height is defined in the Zoning Ordinance as “The vertical distance measured from the average natural elevation of the lot to the mean point of the roof of the building.” Applicants are requesting a variance from the definition of building height because “...the maximum height

limitation using the entire lot for natural elevation makes it almost impossible to build a home as intended” and suggests building height be determined by the average natural elevation of the “buildable area.” The average natural elevation of the lot is 53ft. According to Applicants, the average buildable area elevation is 63ft.

Staff supports the request to measure FROM the natural elevation of the building footprint. In which case, it would be 27’10” to the mean roof elevation. Measured from the front door the Max Roof Elevation is ~31’.



pe, AL 36532

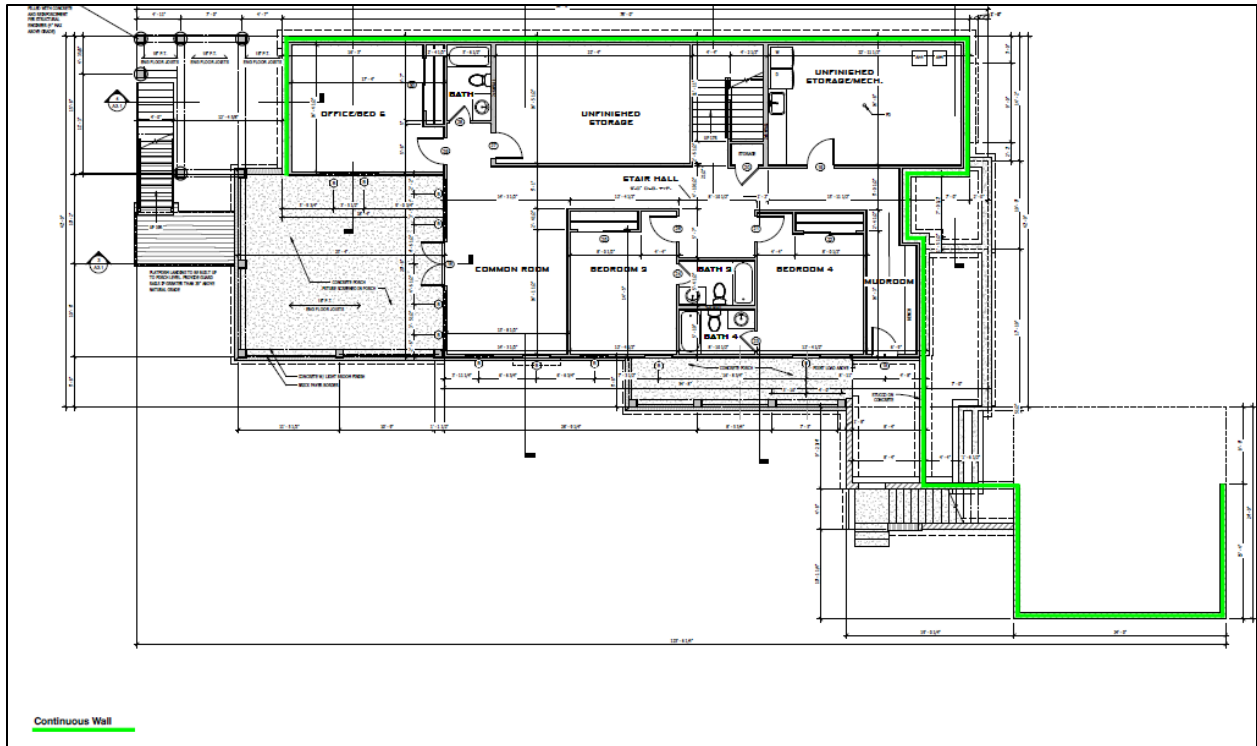


Site Plan Proposed Layout with Drop Off Detail

Retaining Wall Height Variance

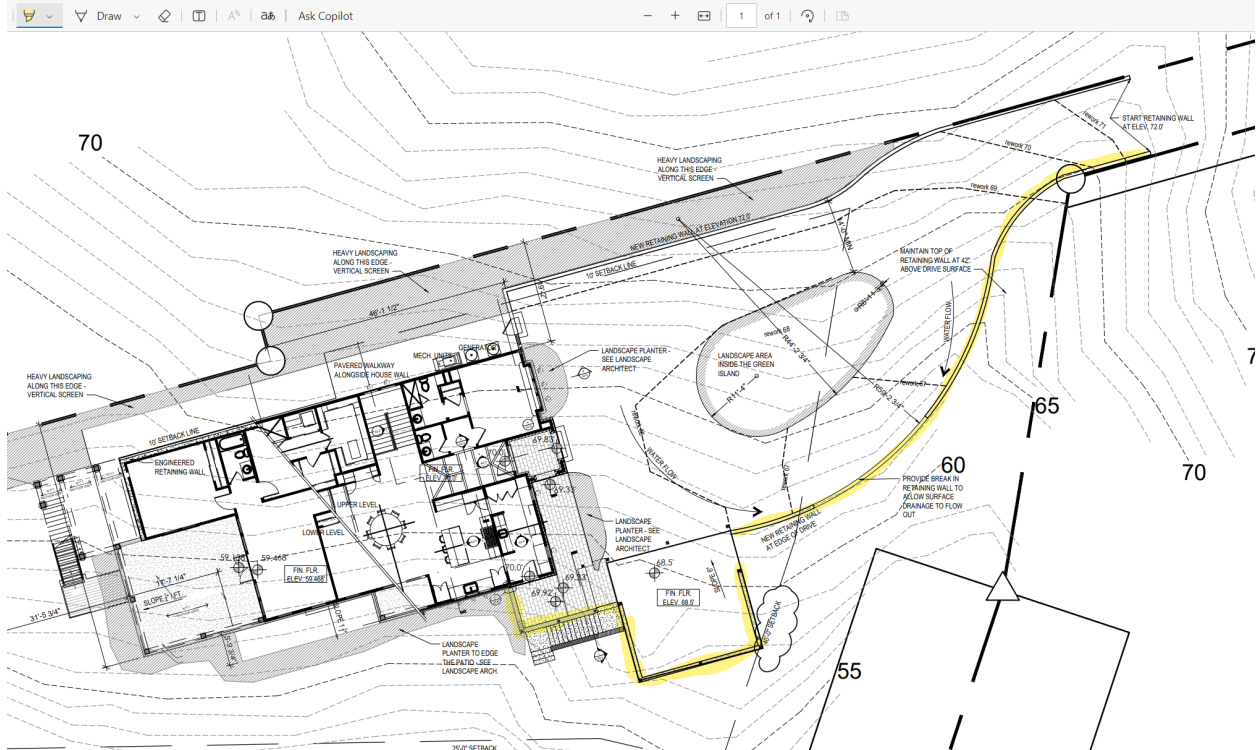
Applicant's proposed plans have a retaining wall around approximately half of the structure and the driveway approach. In some areas the retaining wall is approaching 20'. Article IV, Section B(5)(b)(1) states the following:

- b. Fences and/or walls in all residential zoning districts are subject to the following requirements:
 - (1) No fence and/or walls shall be higher than eight (8') feet. Any fence and/or walls forward of the front building line shall not be higher than four (4') feet;



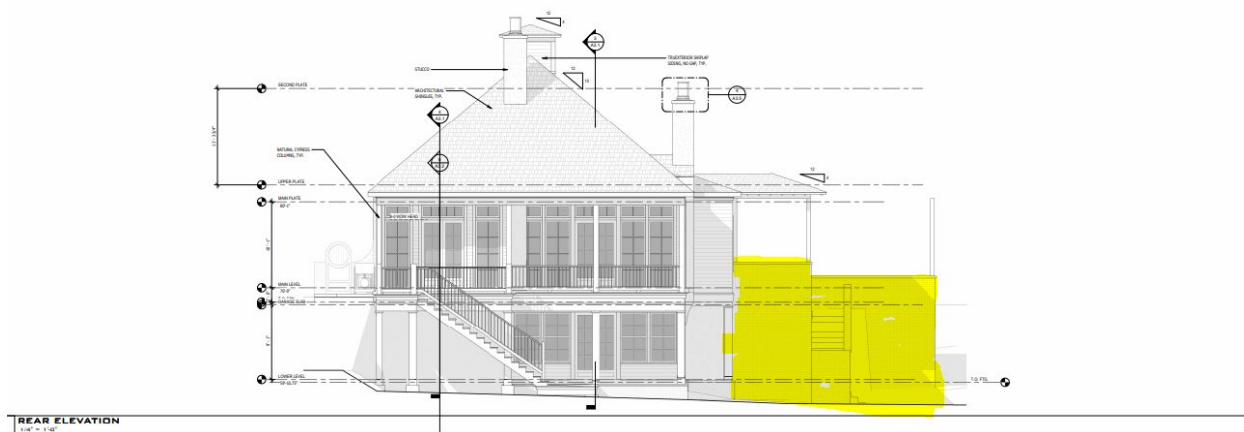
Sheet A1.1 of Ground Floor Plan with Continuous Wall

Height restrictions on fences and walls are, in part, to ensure consistent development and consider effects on adjacent and neighboring properties. The continuous wall (shown in green above) is over 8' in many places. In some places it is the structural wall of the home. In other places it retains land to create a driveway. Essentially, the home screens the wall from neighboring properties except for the areas highlighted below. Much of these walls are over the 4' height limit allowed in front of a building.



The following elevations show the wall as proposed before it begins tapering to the drive entrance. Not shown on the plans are the intended garage/carport proposed, which is discussed below.





While Staff understands the desire for a level drive, and we acknowledge the slope of the Subject Property, we believe there are other options available. The excessive retaining wall is necessary to hold up the driveway as drawn. Retaining walls are not extraordinary in and of themselves; however, they must meet the height requirements. The current plans necessitate this particularly large and extensive retaining wall. A massive retaining wall is usually an unsightly feature in a neighborhood or development. Granting a variance for said wall may be considered to cause substantial detriment to the public good and impair the purpose and intent of the ordinance because the ordinance is written so there are not towering flat surfaces in the form of walls throughout town.

Staff does not support the Variance request for the retaining wall as proposed.

Accessory Structure Special Exception

The current house plans show the accessory structure placed in front of the principle structure; whereas it is supposed to be behind the principle structure according to Table 3-3. *See below.* Specific plans for an accessory structure were not submitted with the application to review, but the Applicant would like to place a carport or garage in the location highlighted in yellow below.

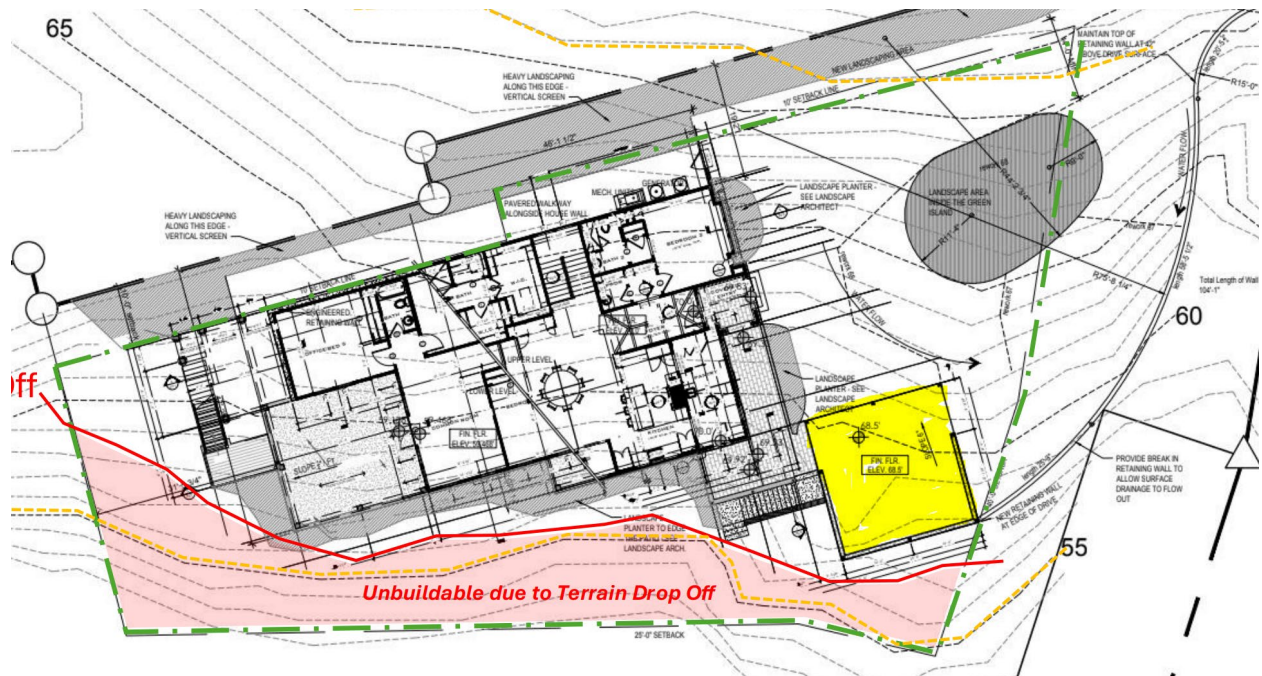


Table 3-3: Dimension Table - Residential Accessory Structures

Dimension District or use	Setbacks				Max. total lot coverage by accessory structure	Max. height	Min. structure separation from principle structure	Min. separation between structures
	Front	Rear	Side	Street side				
R/A	Behind front building line of principle structure	15'	15'	50'	30% of required rear yard	30'	50' for agriculture structures; 10 feet for all other accessory structures	5'
R-3 PGH ⁺	Behind rear building line of principle structure	none required	same as principle structure	same as principle structure	25% of required rear yard*	20' but no taller than the principle structure	5'	5'
All other residential districts	Behind rear building line of principle structure	5'	5'	no nearer than principle structure	25% of required rear yard	30' but no taller than the principle structure	10'	5'

Staff met with the Applicants and the homebuilder in August. Sketches were shared with the Applicants that would eliminate the need for a special exception to Table 3-3. There are feasible alternatives. Namely, the home could be built with the garage integrated. Or the garage may be eliminated altogether.

Waterfront Lots are allowed to place an accessory structure in front of the home. However, by definition of the Fairhope Zoning Ordinance, the Subject Property is not a Waterfront Lot. It lies adjacent to a Common Area that is for the shared use of the Subdivision, which is a Waterfront Lot. Staff believes there are alternative solutions and does not recommend the location of an

oversized retaining wall as proposed to hold up the garage. Generally, Staff does not foresee conflicts of a garage/carport allowed in front of the home for the Subject Property.

Recommendation:

Separate recommendations are needed for the three requested variances.

Staff recommends Denial for the height variance for the retaining wall.

Staff recommends Approval for the Building Height and Location of the Accessory Structure.

Zoning Ordinance Requirements:

The City of Fairhope Zoning Ordinance defines a variance as follows:

Variances: A modification of the strict terms of the relevant regulations in a district with regard to placement of structures, developmental criteria or provision facilities. Examples would be: allowing smaller yard dimensions because an existing lot of record is of substandard size; waiving a portion of required parking and/or loading space due to some unusual circumstances; allowing fencing and/or plant material buffering different from that required due to some unusual circumstances. Variances are available only on appeal to the Board of Adjustment and subject to satisfaction of the standards specified in this ordinance.

The Board of Adjustments is authorized to grant variances through Article II.A.d(3) which says the following:

d. Duties and Powers: The Board shall have the following duties and powers:

(3) Variances - To authorize upon appeal in specific cases variance from the terms of this ordinance not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Prior to granting a variance, the Board shall find that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of this ordinance to the particular piece of property would create an unnecessary hardship;
- (c) Such conditions are peculiar to the particular piece of property involved; and,
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

The Ordinance provides guidance for variance requests through the following criteria:
Article II.C.3.e.

Criteria – (1) An application for a variance shall be granted only on the concurring vote of four Board members finding that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.
- (c) Such conditions are peculiar to the particular piece of property involved; and
- (d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

When a variance is granted by the Zoning Board of Adjustment it has the following effect:

Article II.C.3.g.

Effect of Variance - Any variance granted according to this section and which is not challenged on appeal shall run with the land provided that:

- (1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and
- (2) The variance is recorded with the Judge of Probate.

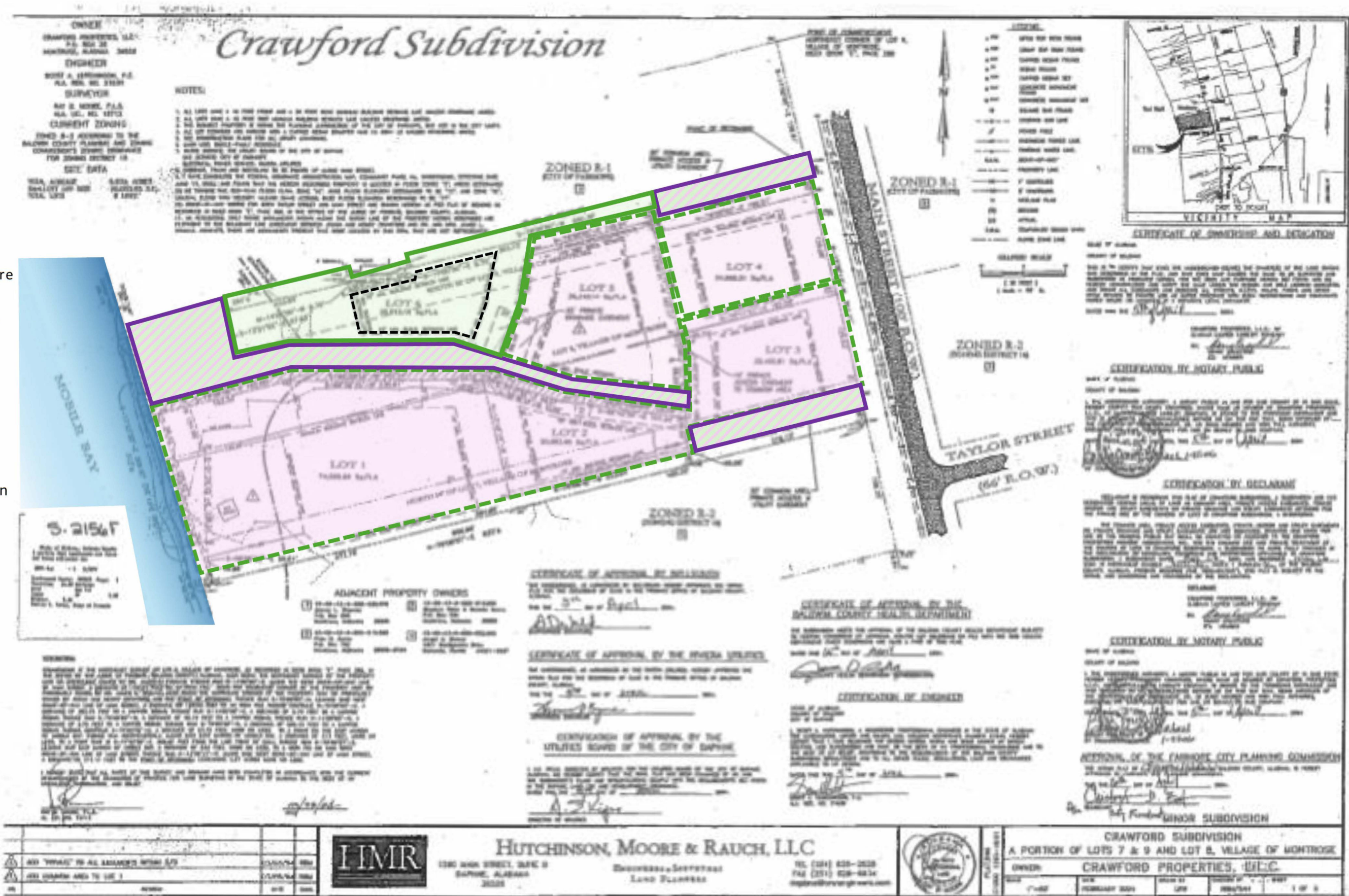
Approved in 2004

- 6 Original Lots
- Lots 1,2,3 were combined in 2023 and are owned by Henry and Joanne Crawford.
- Lot 4 is owned by Lui, Lot 5 is owned by Small, and Lot 6 is owned by DeLapp.
- There are 4 property owners in the Crawford Property Owners Association: Crawford, DeLapp, Small, and Liu.

 Lot 6 DeLapp

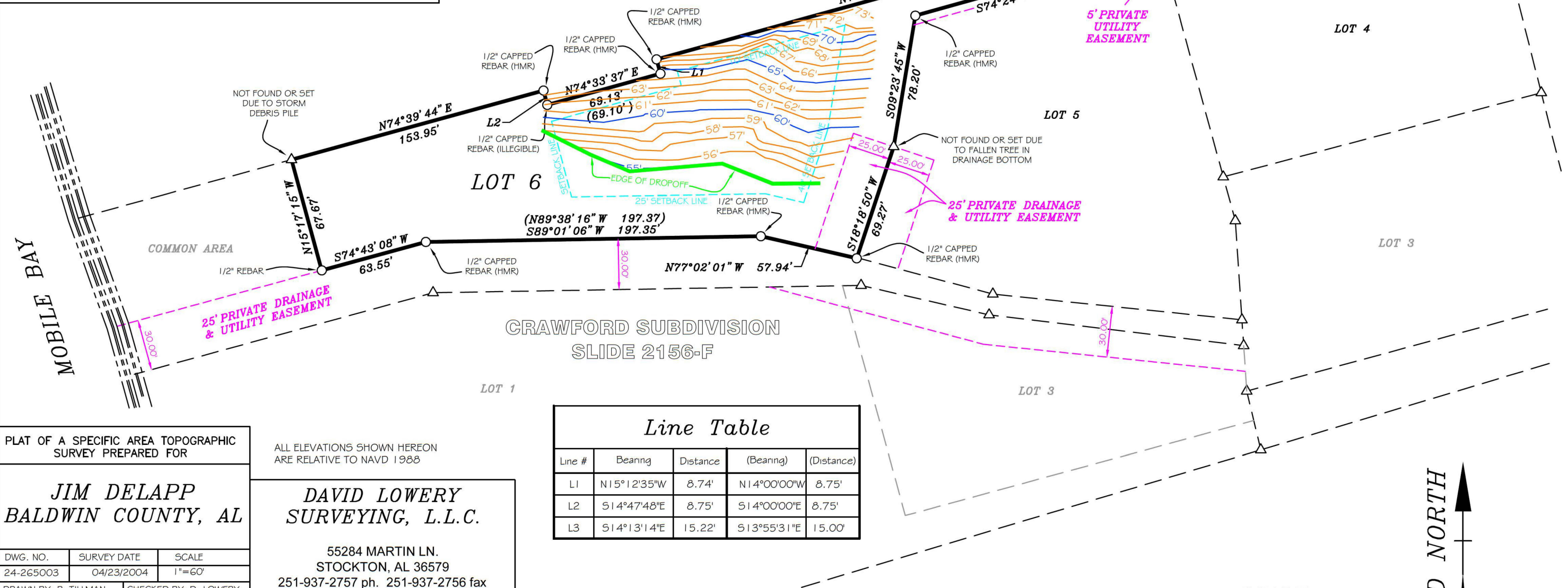
 Crawford Owners Association
Common Areas

Lots 1 - 5

 Mobile Bay

1. All bearings shown hereon are relative to GRID NORTH. GRID NORTH was obtained by G.P.S. observations.
2. Corner monuments shown as set iron pins are 5/8" reinforcing bars with a durable plastic cap stamped "26623".
3. Only Select Fixed Interior Improvements shown hereon.
4. This survey was prepared for the client shown and is not to be used for any other purpose without prior approval from this surveyor.
5. No instruments of record reflecting easements, right of ways, and/or ownership were furnished this surveyor, except as shown or noted.
6. No underground installations or improvements have been located, except as shown or noted.
7. This survey was prepared without the benefit of an abstract of title or a title search unless stated hereon. No liability is assumed by the undersigned for loss relating to any matter that might be discovered by an abstract, title search, or legal judgement rendered on the property.
8. Liability of the undersigned for the survey shown shall not exceed the amount paid for this survey.

LOT 6 OF CRAWFORD SUBDIVISION AS SHOWN ON SLIDE 2156-F AS RECORDED
IN THE OFFICE OF THE JUDGE OF PROBATE FOR BALDWIN COUNTY, AL



Line #	Bearing	Distance	(Bearing)	(Distance)
L1	N15°12'35"W	8.74'	N14°00'00"W	8.75'
L2	S14°47'48"E	8.75'	S14°00'00"E	8.75'
L3	S14°13'14"E	15.22'	S13°55'31"E	15.00'

ALL ELEVATIONS SHOWN HEREON
ARE RELATIVE TO NAVD 1988

DAVID LOWERY
SURVEYING, L.L.C.

55284 MARTIN LN.
STOCKTON, AL 36579
251-937-2757 ph. 251-937-2756 fax
dlsurvey25@hotmail.com

DRAWN BY: R. TILLMAN	CHECKED BY: D. LOWERY
----------------------	-----------------------

(**)	RECORD BEARING/DISTANCE
OE	OVERHEAD ELECTRIC
●	SET IRON PIN
○	FOUND IRON PIN
△	PIN NOT SET
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
	NOT TO SCALE
	FENCE
■	FENCE CORNER POST
□	CONCRETE MONUMENT

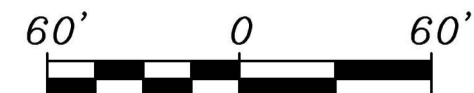


D.L.H.

David Lowery
Al Lic No 26623
55284 Martin Ln.
Stockton, AL 36579
251-937-2757

I, David Lowery, a licensed land surveyor in the State of Alabama, do hereby certify the foregoing to be a true plat or map of a survey performed by me or under my supervision, containing the acreage and being situate as both shown and stated herein. I further certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama, to the best of my knowledge, information, and belief.

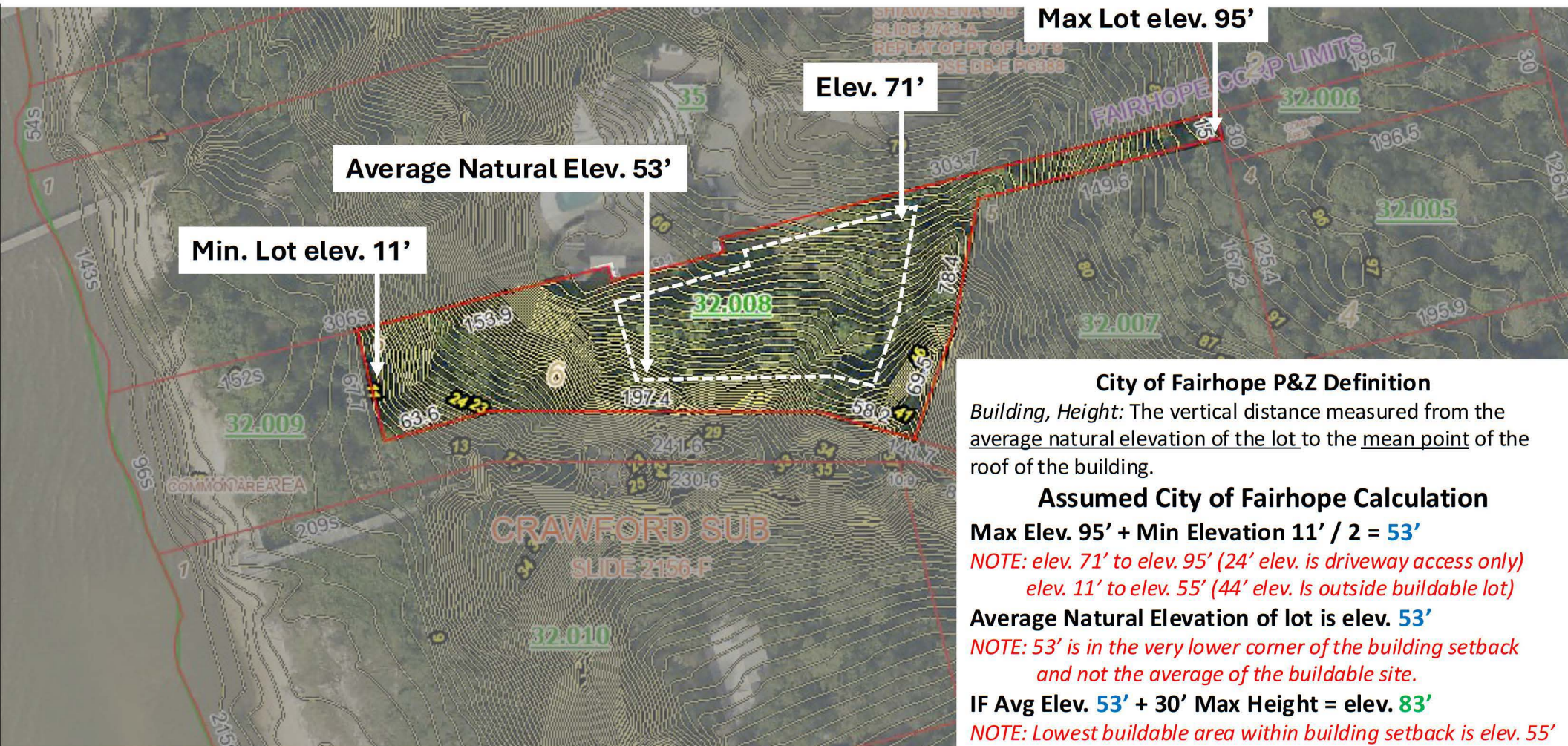
SCALE
1" = 60'



**GRID NORTH*

DAVID LOWERY SURVEYING, L.L.C.

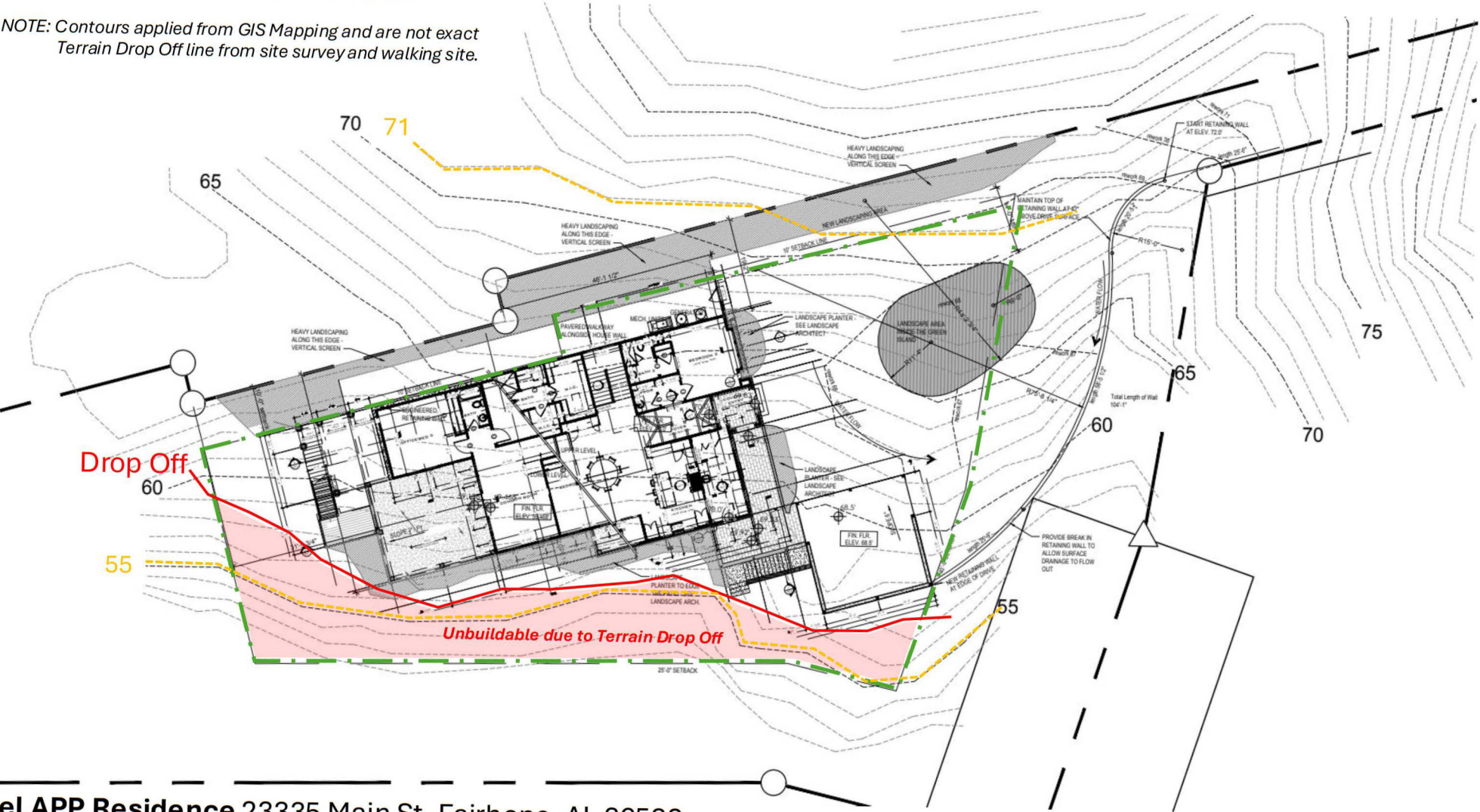
SITE PLAN & BUILDING HEIGHT CALCULATIONS



DeLAPP Residence 23335 Main St. Fairhope, AL 36532

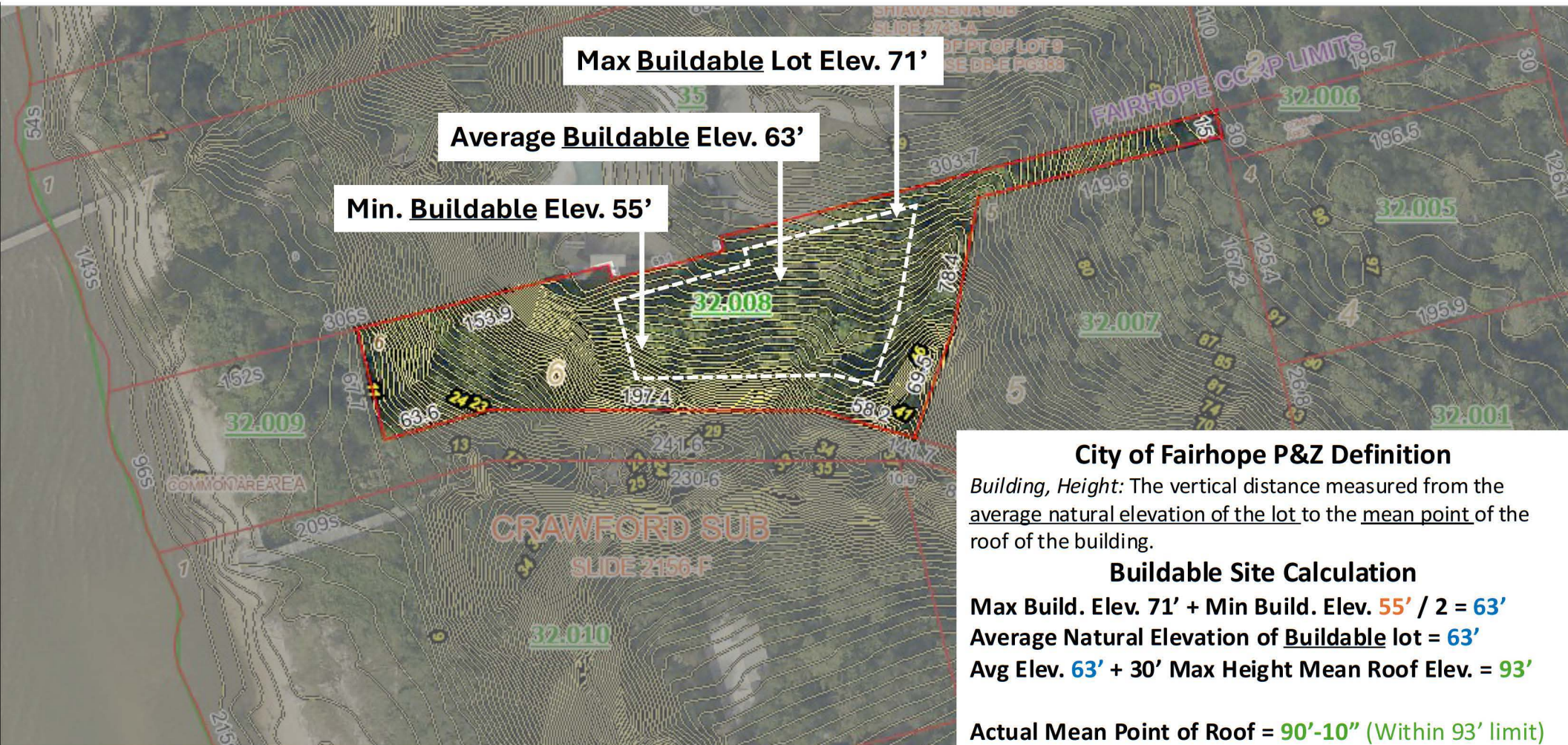
SITE PLAN PROPOSED LAYOUT

NOTE: Contours applied from GIS Mapping and are not exact
Terrain Drop Off line from site survey and walking site.



DeLAPP Residence 23335 Main St. Fairhope, AL 36532

SITE PLAN & BUILDABLE SITE CALCULATIONS

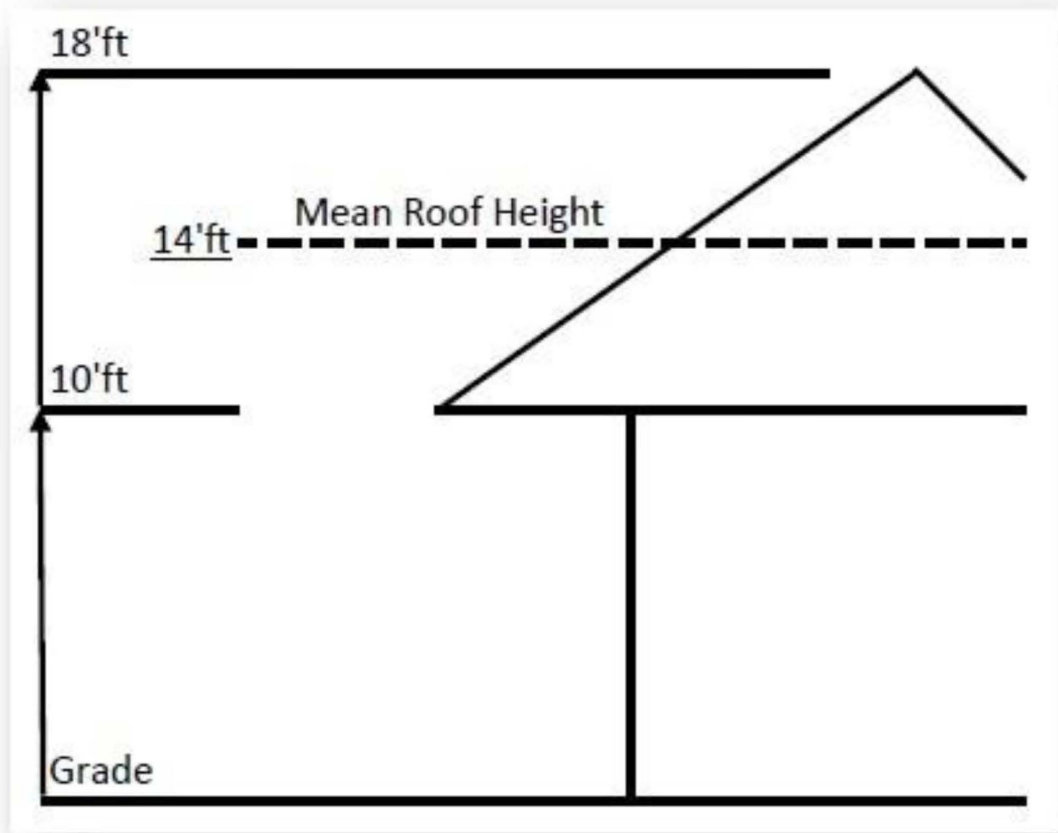


DeLAPP Residence 23335 Main St. Fairhope, AL 36532

BUILDING HEIGHT CALCULATIONS

Per ASCE 7, the Mean Roof Height (h) is defined as the average of the roof eave height and the height to the highest point on the roof surface, except that, for roof angles of less than or equal to 10°, the mean roof height is permitted to be taken as the roof eave height.

Visually, AAMA TIR A15-14 illustrates the mean roof height as per the image below, where h on the sloped roof is = (ridge height + eave height) /2.
Eave height is the distance from the ground surface adjacent to the building to the roof eave line at a particular wall. If the height of the eave varies along the wall, the average height shall be used.



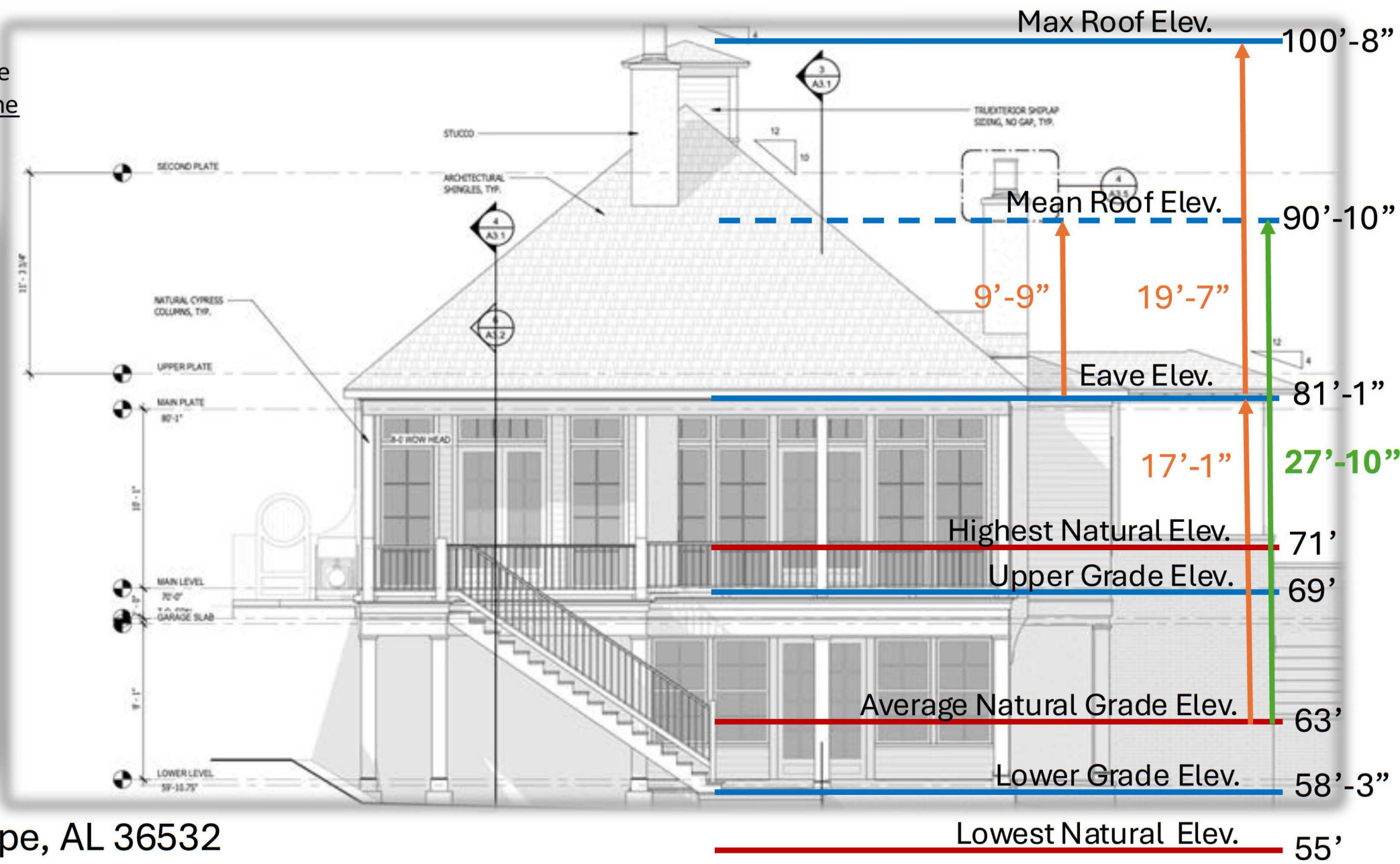
DeLAPP Residence 23335 Main St. Fairhope, AL 36532

Table 3-2: Dimension Table - Lots and Principle Structure

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by all structures	Max. height
			Front	Rear	Side	Street side		
R/A	3 acres/ -	198'	75'	75'	25'	50'	none	30'
R-1	15,000 s.f./ -	100'	40'	35'	10' ^b	20'	40%	30' ^a

“Building, Height: The vertical distance measured from the average natural elevation of the lot to the mean point of the roof of the building.”

Mean Roof Height is 27'-10" within the 30' Max Height



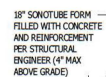
DELAFF HOUSE

DATE _____

4/18/2024

A1.1

CONSTRUCTION DOCUMENT



Continuous Wall

1	GROUND FLOOR PLAN 1/4" = 1'-0"
---	--

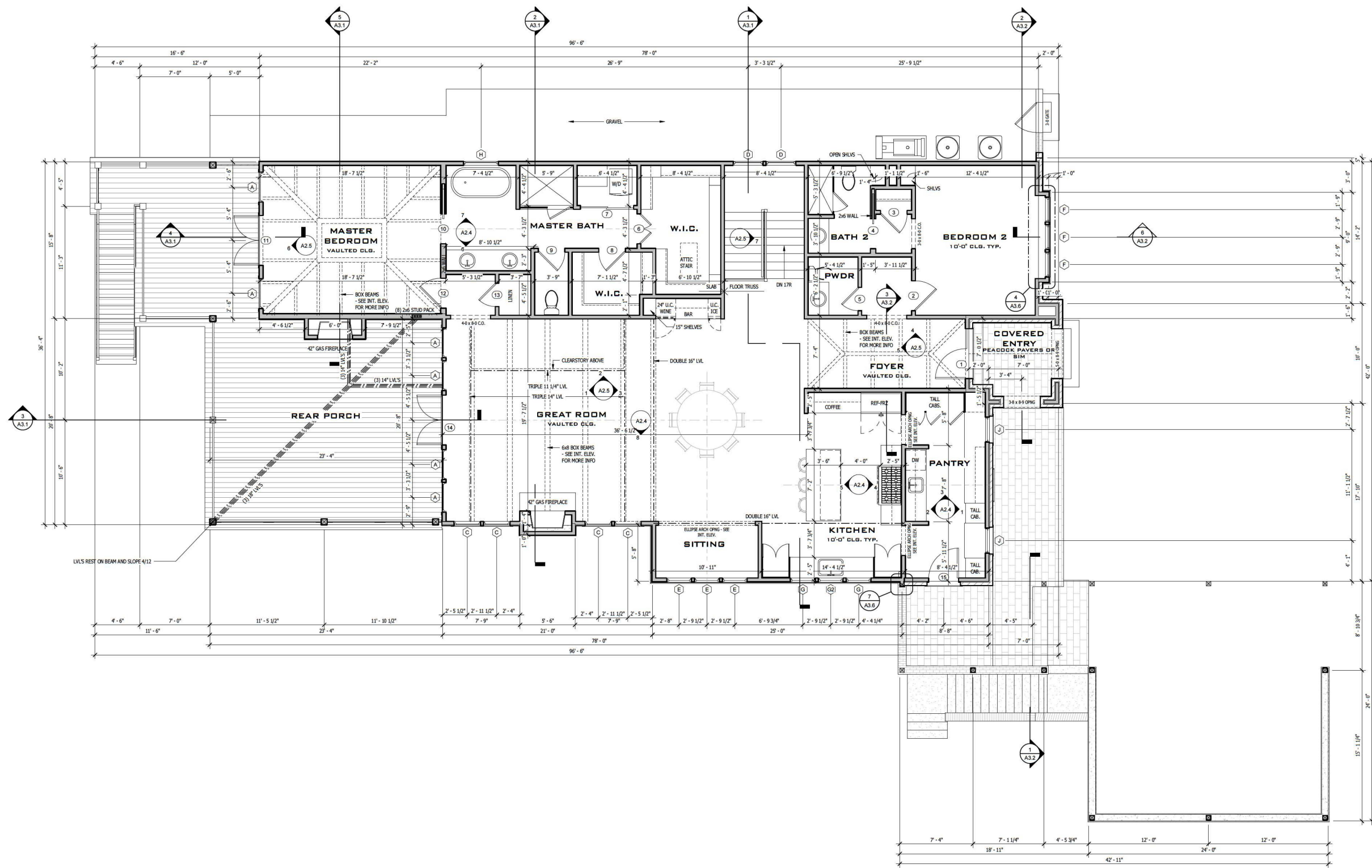
$1/4'' = 1'-0''$

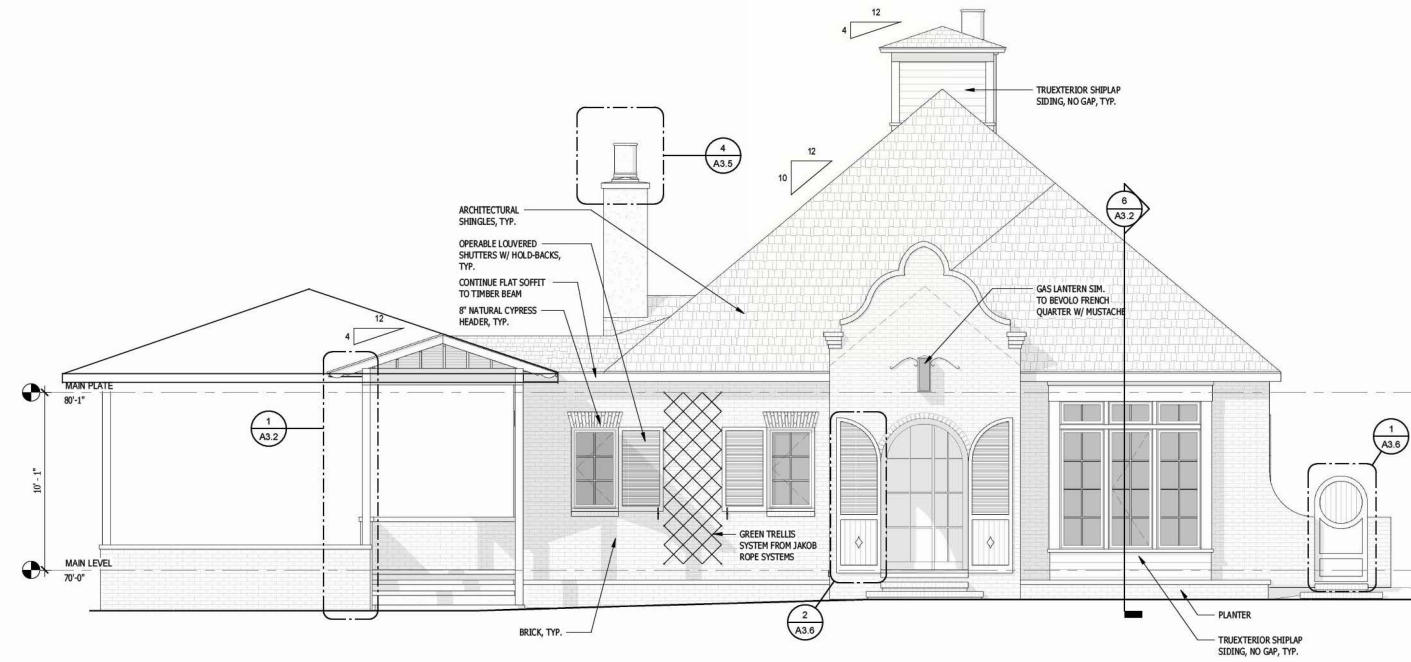
DELAPP HOUSE
FAIRHOPE, AL

COPYRIGHT THOMPSON PLACEMAKING

DATE
4/18/2024
SHEET NUMBER

A1.2
CONSTRUCTION DOCUMENTS





1 FRONT ELEVATION
1/4" = 1'-0"



2 LEFT ELEVATION
1/4" = 1'-0"

DELAPP HOUSE
FAIRHOPE, AL

COPYRIGHT THOMPSON PLACEMAKING

DATE
4/18/2024
SHEET NUMBER

A2.1

CONSTRUCTION DOCUMENTS

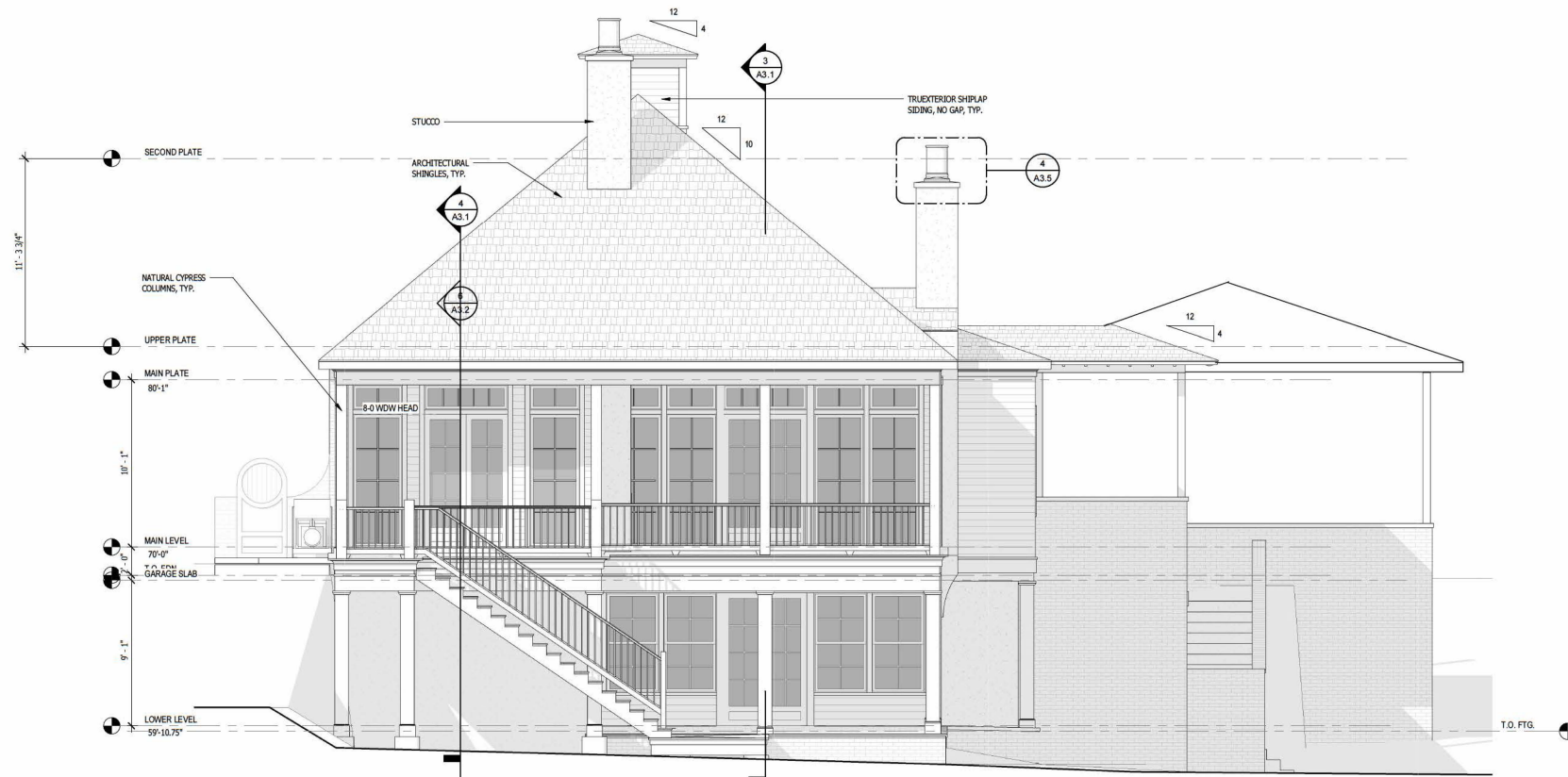
DELAPP HOUSE
FAIRHOPE, AL

COPYRIGHT THOMPSON PLACEMAKING

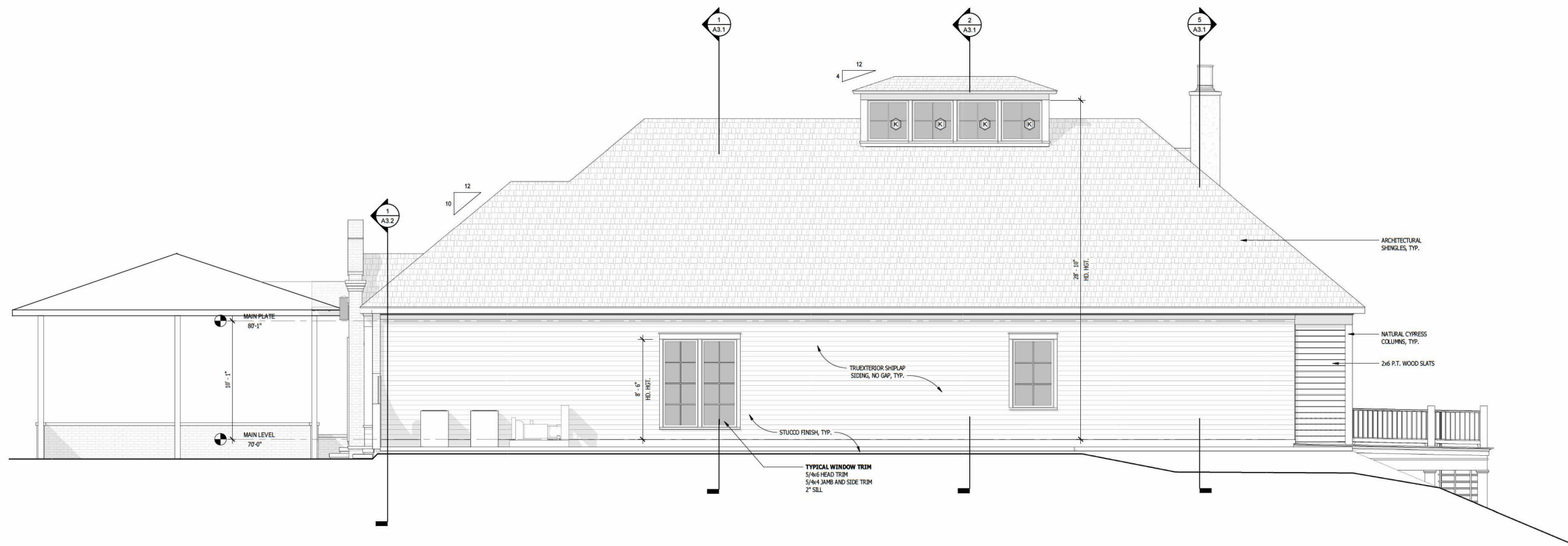
DATE
4/18/2024
SHEET NUMBER

A2.2

CONSTRUCTION DOCUMENTS



1 REAR ELEVATION
1/4" = 1'-0"

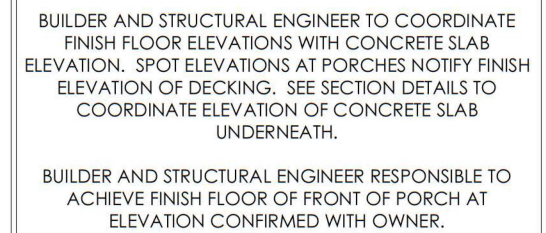


2 RIGHT ELEVATION
1/4" = 1'-0"

1. Use only dimensions shown on drawings. If dimensions are in question, the builder shall be responsible for obtaining clarification before continuing construction. Builder shall verify all dimensions & conditions at jobsite.
2. Spot elevations are for guidance and must be verified prior to foundations being formed and poured.
3. Builder to verify number of steps needed to grade at front porch and rear porch based on spot elevations given and existing grade. Some grading or adding of fill may be needed to adjust number of steps to work in space provided.
4. In general, elevation at front edge of porch must be min. 21" above walkway or drive.
5. Spot elevations need to be verified by landscape architect with grading and drainage plan.
6. Spot elevations are to finish floor of house, or porch, or grade at driveway. Builder must refer to drawings for construction of those elements in order to understand slope of surface and where foundation finish needs to be set.
7. Positive slope and drainage must be provided away from structures to front or side or rear.
8. Mechanical units must be in the backyard of the homeowner, behind privacy fence.
9. An area for trash cans must be provided, either within the courtyard privacy fence, or within the garage.
11. Gas meters or electric meters, open to public walkways, must be screened.
12. Coordinate with owner and landscape architect for landscaping.

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DATE
08.07.24
SHEET NUMBER
SITE
CONSTRUCTION DOCUMENTS



From: [Jessica Deese](#)
To: [planning](#)
Subject: Montrose variance Delapp property
Date: Monday, September 16, 2024 3:12:23 PM

To whom it may concern,

I am a Montrose resident and I am writing to respectfully request that you deny approval for the requested variances for this proposed building site. The rules are in place for a reason. This gulley is a delicate environmental habitat that needs protection from damaging development based. These guidelines were in place prior to the property owners purchase and should remain in place.

Thank you,

Jessica Deese

Sent from my iPhone

From: [Krista Nebrig](#)
To: [planning](#)
Subject: Variance request denial for Delapp property
Date: Monday, September 16, 2024 3:24:01 PM



I am a resident of Montrose, and my home is located near the construction site in question. This area is a delicate natural habitat that has not been included in the protective measures in place for the wetlands and waterways in Fairhope. The building codes and regulations set by the City of Fairhope exist for important reasons, particularly to protect sensitive environments like this one. The lot in question is already environmentally vulnerable, and granting variances to allow construction on it would exacerbate these challenges. The proposed project would place undue stress on the land, which is not suitable for such development. I strongly urge that no variances be approved for this site, as the environmental impact on the Gully and the surrounding watershed would be significant and harmful. Sincerely, Krista Nebrig

From: [Ameri'ca Tickle](#)
To: [planning](#)
Subject: Delapp Variance Request Denial
Date: Monday, September 16, 2024 4:15:59 PM



Good evening to the board of adjustments: Chairperson Vira and the other members.

I am writing to exercise my right to speak not only as a resident of Montrose and the City of Fairhope, but as an adjacent property owner. My name is Ameri'ca Tickle.

My East/West property line runs the full length of and is adjacent to the proposed building site owned by Heather and Jim Delapp.

I am calling for denial of all three variance requests for this proposed site.

For those of you who have not walked this property and are not familiar with it, it is the side of a historically pristine Gully in Montrose.

The site is small, has challenged elevation from east to west as well as north to south and is extremely compromised as a building site.

The attempt to over engineer this environmentally challenged land is an example of WHY we have building codes and restrictions. Not only for the sake of our environment, but for the sake of adjacent property owner's lands and rights.

This site does not need variances allowed.

The variance for the carport to be moved to the east is valid as the lot is not, legally and otherwise, not bayfront property, the rules apply. They were in place when the property was purchased.

The variance for a retaining wall height to be extended ruins the esthetic value for the boardwalk below (A giant wall on the side of the gully is not in keeping with the environment that was sold to other property owners as well) It is a drastic change to that site.

The third wall variance is just another issue that reflects the problems w the site.....

Part of what is a concern as an adjacent property owner is not only the current request to go above and beyond the rules, but the continued work that will be done on this property once the city is not watching-I have witnessed prior to this point with how Mr. Delapp has handled his permitting By building a set of stairs that were not approved or permitted. That type of behavior and continued clearing and cutting after the city is out of this process will ultimately result in absolute compromise and washout of the delicate ecosystem at the foot of this property.

The whole site itself would never be approved with the regulations that we have today. It is an antiquated attempt at a development from 20 years ago that the architect who did the lot divisions envisioned that the proper type of structure that should even have been allowed for that site would have been very specific, very small and very -most importantly- non impacting to the surrounding environment. Those are the architect's words.

These are not the conditions that are being attempted to be built there by the Delapps.

What has been proposed is simply not logical. The environmental impacts will be profound,

despite whatever attempts while in construction to minimize, it is not a buildable lot. For that reason, the idea that variances would be made in order to allow something to be built there that does not fit into the confines of the building codes and does not fit the buildable footprint and is not in keeping with the land or the protection of ecosystems that surround it is WHY denial of all variances is what I am requesting.

With respect and appreciation,
Ameri'ca Tickle