



**City of Fairhope
Board of Adjustments Agenda
5:00 PM
Council Chambers
October 21, 2024**

Sherry Sullivan
Mayor

Council Members

Kevin G. Boone

Jack Burrell, ACO

Jimmy Conyers

Corey Martin

Jay Robinson

Lisa A. Hanks, MMC
City Clerk

Kimberly Creech
City Treasurer

1. Call to Order
2. Approval of Minutes
 - September 16, 2024
3. Old/New Business
 - Election of Officers
 - Approval of 2025 Meeting Schedule
4. Consideration of Agenda Items

A. 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**

B. 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**

C. 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**

161 North Section Street

P.O. Drawer 429

Fairhope, Alabama 36533

251-928-2136

251-928-6776 Fax

www.fairhopeal.gov

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D. BOA 24.14 Public hearing to consider the request of the Applicant, Rebecca Bryant, Watershed, on behalf of the Owner, Gerard Garcia, for a Special Exception – Use on Appeal – to allow for a restaurant, bar and community center on property zoned B-3a Tourist Resort Lodging District. The property is located at 700 S. Mobile Street and is approximately 3.21 acres. **PPIN#: 11940**

E. BOA 24.15 Public hearing to consider the request of the Applicant, Element 3 Engineering LLC, on behalf of the Owner, Fairhope Avenue Baptist Church, for a Special Exception – Use not Provided for – to allow for a church expansion on property zoned R-1 Low Density Single-Family Residential District. The property is located at 8717 Fairhope Avenue and is approximately 4.29 acres. **PPIN#: 13305**

5. Adjourn

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The Board of Adjustments met Monday, September 16, 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; Bryan Flowers; Hunter Simmons, Planning and Zoning Director; Michelle Melton, City Planner; and Cindy Beaudreau, Planning Clerk.

Absent: Donna Cook

Chair Vira called the meeting to order at 5:02 PM.

Approval of Minutes

Ryan Baker made a motion to approve the minutes from the August 19, 2024, meeting.

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

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Frank Lamia, and Bryan Flowers

Nay: None.

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**

Michelle Melton, City Planner, presented 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. Ms. Melton shared the zoning and aerial maps along with the existing and proposed site plans. Mr. Simmons stated that if a use is unclear, Staff will ask for BOA input. This type of business in other municipalities is considered a dispensary. The use for this case is only for tobacco and vape use, not a dispensary. The City of Fairhope does not allow dispensaries in the city limits.

Recommendation:

Staff recommends approval of BOA 24.12.

Ryan Baker suggested a methodology that takes into consideration nearness to schools for these types of businesses. Mr. Simmons stated that it could be something that is added to the Zoning Ordinance.

Saed Amleh spoke on behalf of the applicant and stated that this business will only be selling cigars, loose tobacco and vape products.

Chairman Vira opened the public hearing at 5:11pm.

Don DeGutz, 110 Blakeney Avenue, stated that he opposes the request. Mr. DeGutz shared several portions of the Comprehensive Plan where he feels that this case is in conflict with the Comprehensive Plan.

Rachel Ball, 210 S. Mobile Street, Apt. 28, shared her experience in high school where students were able to leave campus to purchase vapes. Ms. Ball believes that this type of business should not be located near a high school.

The public hearing was closed at 5:18pm.

Cathy Slagle asked about the age limits to enter the store. Mr. Amleh stated that IDs will be scanned at the store and are not permitted in the store if under 21.

Mr. Flowers asked if a precedent would be set if the board denied this even though gas stations and convenience stores sell these types of products. Mr. Simmons stated that staff looked at what was being sold for this case and noted that many other types of stores sell these types of products. The precedent would be why would the cigar shop downtown be allowed, but this case not be approved. Mr. Flowers asked about the current businesses in the plaza and if they were concerned whether this case, if approved, would affect their business. Mr. Simmons stated that the staff has not received any complaints from nearby property owners.

Motion:

Ryan Baker made a motion to approve BOA 24.12.

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

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Frank Lamia, and Bryan Flowers

Nay: None

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**

Mr. Baker stated that he needs to recuse himself due to him being the architect for the next-door neighbor.

Hunter Simmons, Planning and Zoning Director, presented 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. Mr. Simmons shared the zoning and aerial maps along with the existing and proposed site plans. Mr. Simmons shared the elevations for the lot and explained how building height is determined. Staff supports the request to measure FROM the natural elevation of the building footprint variance. Mr. Simmons stated that staff does not support the height for the retaining wall, due to much of the walls being above the 4' height limit allowed in front of a building. This request includes close to a 20' retaining wall. Mr. Simmons shared the diagram for the accessory structure request and shared that if the accessory structure was attached to the house, there would be no need to request a variance.

Recommendation:

1. Staff recommends approval for the building height.
2. Staff recommends denial for the height variance for the retaining wall.
3. Staff recommends approval for the location of the accessory structure.

Ms. Slagle asked about the property with the very high fence. Mr. Simmons stated that is the neighbor's fence. Ms. Slagle noted that this case's property has a very big dip. Mr. Simmons acknowledged that fact. Discussion continued about access to the properties in this subdivision. Mr. Lamia asked if there were wetlands on the property. Mr. Simmons stated that there were no wetlands that he knew of. Ms. Slagle asked about a letter received from a citizen about stairs that were built by Mr. DeLapp and whether there was a permit for that construction. Mr. Simmons stated that he would look into that. Mr. Simmons shared a view of the property from the Baldwin County Parcel Viewer for the board to see the stairs and boardwalk.

Jim DeLapp, 492 Boulder Creek, stated that he would answer any questions. Mr. Lamia asked what the square footage of the house would be. Mr. DeLapp stated approximately 4,500 square feet. Mr. DeLapp shared that the site is a challenging site, and the cost of construction is very high right now. Mr. DeLapp continued that the retaining wall is also a construction wall for the house and a landscaping wall. Discussion continued on access to the property and rather than putting the house on stilts, Mr. DeLapp is choosing to nestle his house into the terrain of the property using the various heights of 12', 15' and 17' for the retaining wall. Mr. Lamia asked if this project could be done without any variance requests. Mr. DeLapp stated yes but the elevation on the property would require a height variance. Mr. Lamia asked if, aside from the height variance, if any attempts had been made for the garage and retaining wall to be built without requesting variances. Mr. DeLapp stated that due to half of the house being under grade, a garage could not be built under the house. He tried to get it as close to the house as possible and that portions of the retaining wall is a foundation wall. Mr. DeLapp continued that it would be a great expense to change the location of the garage. Mr. Simmons stated that a 17' retaining wall that is visible from the street and not part of the house is against regulations. Mr. DeLapp stated that the only other house built in the subdivision right now also has an approximately 20' high block retaining wall that holds his house up. Mr. Lamia asked if the garage was incorporated into the house, would a variance be needed. Mr. Simmons stated no and shared some discussions that were had with Mr. DeLapp on variations that could be made to the house where variances would not be required. Mr. Vira asked what else could be done about the height of the retaining wall. Mr. Simmons stated that the wall can only be 4' in front of the house and anything over 30" must have protection so you don't fall off. Mr. Simmons suggested terracing the wall. Mr. DeLapp stated that following the natural terrain is a challenge without a retaining wall. Mr. Lamia asked how long he has owned the property. Mr. DeLapp stated 2 ½ to 3 years. Mr. Vira asked if the retaining wall was terraced, would he still need a variance. Mr. Simmons stated that part of the wall could be terraced but staff never received revised plans. Mr. Flowers asked if this case could be tabled until revised plans are received. Mr. DeLapp stated that terracing the foundation wall is not feasible because it would not fit. Mr. Lamia stated that the board should look at hardships. The garage or carport is a choice and asked Mr. DeLapp where the hardship is. The design of the carport and retaining wall is a choice. Mr. DeLapp replied that on page 38 of 40 shows the front elevation of the house and fitting a carport on the left or right doesn't fit due to the narrowness and tapering of the lot. Mr. Simmons stated that he acknowledges the lot is very steep, but it is a choice to have a 4,500 square foot house. Mr. Simmons added that he would like to see some variations in the house design and if Mr. DeLapp

is not in a hurry, tabling it would allow staff to review revised plans. Mr. DeLapp stated that he would like to begin construction as soon as possible. Mr. Vira asked Mr. DeLapp if he would be open to tabling his case and providing staff with revisions based on the discussions. Mr. DeLapp asked again what type of revisions they are requesting. Mr. Vira stated the terracing and design on the house. Mr. DeLapp stated that he could provide a revision that includes terracing the wall. Mr. Vira asked if the people who wrote the letters are part of the HOA. Mr. DeLapp was not aware of the letters. Ms. Beaudreau provided the letters to Mr. DeLapp, and he stated that none of the individuals who wrote the letters are part of the HOA. Mr. Lamia reiterated that Mr. DeLapp must show a hardship in order for his variances to be granted. Mr. DeLapp stated that integrating a garage into the house would create a larger house. Mr. Simmons asked how that would create a larger house. Mr. DeLapp stated that when looking at the front elevation if he attached a two-car garage, it would take up the entire front elevation and he would have to enter the house through the garage. Mr. Flowers stated that he believes the case should be tabled so staff can review a new design. Mr. DeLapp stated that he would agree to table it to provide a new design. Ms. Slagle stated that Mr. DeLapp is creating his own hardship with the size of the house because he bought the property knowing the topography. Mr. DeLapp stated that the subdivision requires that the house must be 2,500 – 2,800 square feet. The main level is 2,500 and tucked into the hillside with a very expensive concrete wall and 2,000 square feet is below grade. Mr. Lamia asked for some sketches with the garage attached to the house and the terraced retaining wall that shows why it would not work. Mr. Vira suggested adding plantings or vines to the retaining wall to soften it.

Chairman Vira opened the public hearing at 6:41pm.

Amy Thompson, 108 Alsway Court, was interested in this property in the past. Ms. Thompson stated that she and her husband realized that the property would be a construction nightmare. She is concerned with filling in the natural gulley and ravine. She asked the board to be mindful to follow the codes and to deny the variances.

Don DeGutz, 110 Blakeney Avenue, drove to the property and noticed the new fence and asked the Planning Department to investigate if there were any code violations for this fence. Mr. DeGutz asked if the steps along the boardwalk will be investigated for code violations also. Mr. Simmons agreed to investigate these issues. Mr. DeGutz asked if the letters would be read into the record. Mr. DeGutz added that the size of the house should not be questioned. Mr. Simmons stated that it is an appropriate question to ask because if the house fit, there would be no need for a variance. Mr. Simmons stated that the letters would be added to the agenda packet and reposted.

Mr. DeLapp stated that this subdivision was created in 2006, six lots were created. Mr. DeLapp added that he was the first person to purchase his lot.

The public hearing was closed at 6:52pm.

Ms. Slagle asked if they could approve the building height at this meeting then hear the other requests at the October meeting. Mr. DeLapp stated that he would like that so that if he can find solutions to the garage and retaining wall that would not require variances, he would not need to come back to the October meeting. Mr. Simmons stated that he would prefer that the board review all of the variances again in case Mr. DeLapp's new design changes the building height.

Motion:

Cathy Slagle made a motion to table BOA 24.13 until the October meeting.

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

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Frank Lamia, and Bryan Flowers

Nay: None.

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**

Hunter Simmons, Planning and Zoning Director, stated that staff received a request from Mr. LaSource to table his request to the October meeting.

Recommendation:

Staff recommends tabling of BOA 24.11.

Motion:

Cathy Slagle made a motion to accept the applicant's request to table BOA 24.11 until the October meeting.

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.

Mr. Vira confirmed that the next meeting will be October 21, 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 Bryan Flowers

Nay: None.

Adjourned at 6:58p.m.

Anil Vira, Chairman

Cindy Beaudreau, Secretary

BOARD OF ADJUSTMENTS AND APPEALS DEADLINES 2025

AGENDA IS SUBJECT TO CHANGE BY THE BOARD

Meeting Date, 5:00 PM

Submittal Deadline, 3:00 PM

Thursday, January 23, 2025

*Moved due to MLK Holiday

Monday, December 9, 2024

Monday, February 17, 2025

Monday, January 13, 2025

Monday, March 17, 2025

Monday, February 10, 2025

Monday, April 21, 2025

Monday, March 10, 2025

Monday, May 19, 2025

Monday, April 14, 2025

Monday, June 16, 2025

Monday, May 12, 2025

Monday, July 21, 2025

Monday, June 9, 2025

Monday, August 18, 2025

Monday, July 14, 2025

Monday, September 15, 2025

Monday, August 11, 2025

Monday, October 20, 2025

Monday, September 15, 2025

Monday, November 17, 2025

Monday, October 6, 2025

Monday, December 15, 2025

Tuesday, November 10, 2025

Thursday, January 22, 2026

*Moved due to MLK Holiday

Monday, December 8, 2025

**BOARD OF ADJUSTMENTS AND APPEALS MEETINGS ARE HELD IN THE COUNCIL CHAMBERS,
FAIRHOPE MUNICIPAL COMPLEX AT 161 N. SECTION STREET.**

**IT IS THE RESPONSIBILITY OF THE APPLICANT TO SEE THAT ALL SUBMITTALS ARE MADE IN A
COMPLETE AND TIMELY SEQUENCE, AND TO HAVE THE CASE PRESENTED BEFORE THE BOARD
AT SCHEDULED MEETINGS.**

****INCOMPLETE SUBMITTALS WILL NOT BE PLACED ON THE AGENDA.****

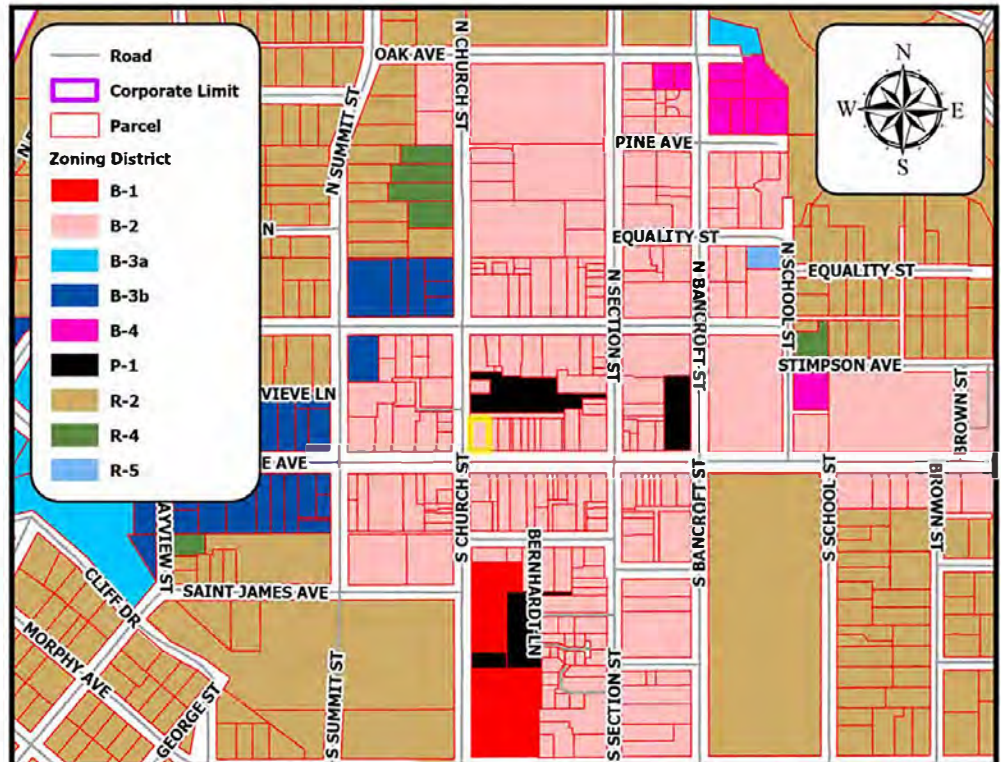
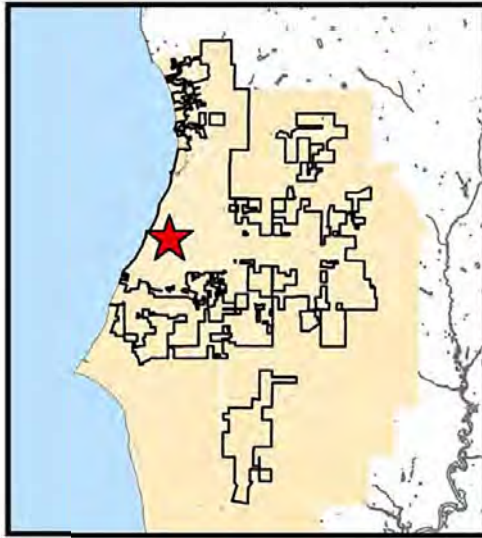
City of Fairhope

Board of Adjustments

October 21, 2024



BOA 24.10 - Fairhope Hotel



Project Name:

Fairhope Hotel

Site Data:

0.20 acres

Project Type:

Special exception - allow for hotel

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

B-2 General Business

PPIN Number:

14359

General Location:

Northeast corner of Church Street and Fairhope Avenue

Surveyor of Record:

N/A

Engineer of Record:

N/A

Owner / Developer:

FST Sildi

School District:

Fairhope Elementary School

Fairhope Middle and High Schools

Recommendation:

Denial

Prepared by:

Hunter Simmons





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☐ Variance

→ Sildi, LLC

Property Owner / Leaseholder Information

Name: DANIEL PRICKETT Phone Number: 251 209 0074
 Street Address: 16321 SCENIC HWY 98
 City: FAIRHOPE State: AL Zip: 36532

Applicant / Agent Information

Name: MACK MCKINNEY Phone Number: 205 401 6651
 Street Address: 18825 SCENIC HWY 98
 City: FAIRHOPE State: AL Zip: 36532

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.

Property Owner/Leaseholder Printed Name

Date

7/8/2024

Signature

Fairhope Single Tax Corp. (If Applicable)

Reuben E. David Smith III
as Secretary, FSTC

RECEIVED
 JUL 08 2024



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) |

CONDITIONAL USE (HOTEL)

Describe the indicated conditions: DEMOLISH EXISTING BUILDING

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

NONE

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

CONDITIONAL USE FOR HOTEL

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:	\$	520-

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.

Property Owner/Leaseholder Printed Name

Date

Signature

Fairhope Single Tax Corp. (If Applicable)

AT SINGLE TAX OFFICE

Reuben E. Davidson III
as
Secretary
FSTC

Summary of Request:

The Owner, Sildi, LLC, is requesting a Special Exception to allow for Hotel Use for property located at 301 Fairhope Ave. The property is zoned B-2, General Business District and is located within the Central Business District (CBD). Mack McKinney is the Architect and Authorized Agent.



Figure 1: Rendering of Proposed Hotel. *Rendering does not match currently proposed plans.

A hotel in the B-2 district is not permitted “by-right” in the zoning ordinance (see excerpt from Table 3-1: Use Table below but is allowed on appeal to the Zoning Board of Adjustment, subject to special conditions. Therefore, the applicant has filed for a use appeal to allow for the hotel use on the subject property.

Table 3-1: Use table

Zoning District																				
Uses Categories / Specific Uses	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
Hotel / Motel											○	●	●							

Existing Conditions:

The site is the location of the former Fairhope Hardware Store.



Figure 2: Existing site looking northeast.

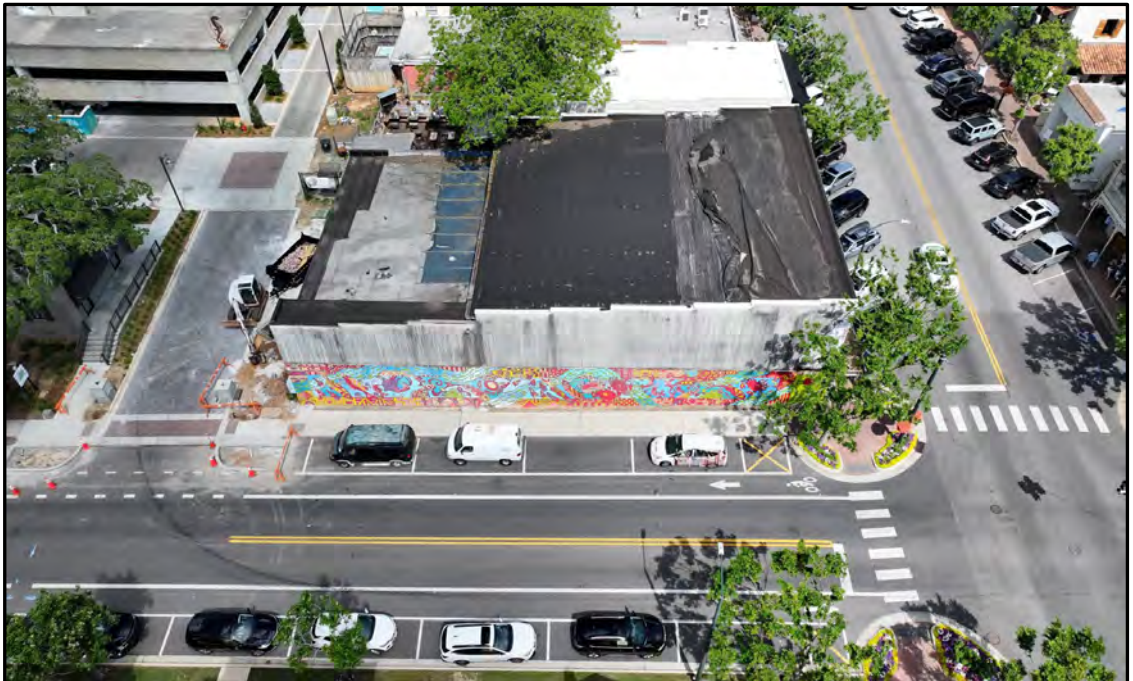


Figure 3: Aerial of site on April 27, 2024.

A Multiple Occupancy Project (MOP) was approved for a 6-Unit renovation by the Fairhope Planning Commission on September 5, 2019. The property has since sold. Staff met with current owners on three occasions. The first meeting we discussed a building with a restaurant and medical spa on the ground floor and four residential/short-term rental units above. Due to the high costs of restoration, the second meeting highlighted the need to demolish the existing building and add thirteen (13) hotel rooms on the second floor, nine (9) on the third floor above a restaurant and medical spa; a portion of the third floor was proposed as a roof-top bar that can be seen in the rendering in Figure 1.

Applicant's Proposal

The applicant provided the following description on the proposed site:

We are writing to seek approval for the construction of a multi-purpose building at 301 Fairhope Avenue, which will include 3 commercial spaces, 27 hotel rooms, and a rooftop terrace that will be owned by the Hotel.

The full set of proposed plans are included as attachments. For convenience, a few of the proposed plans are shown below. It is important to note that this case is about the use approval. Staff is not reviewing dimensional requirements, nor is the Board being asked to approved final plans at this stage. The Board could request final plans as a condition of approval if it deems appropriate.

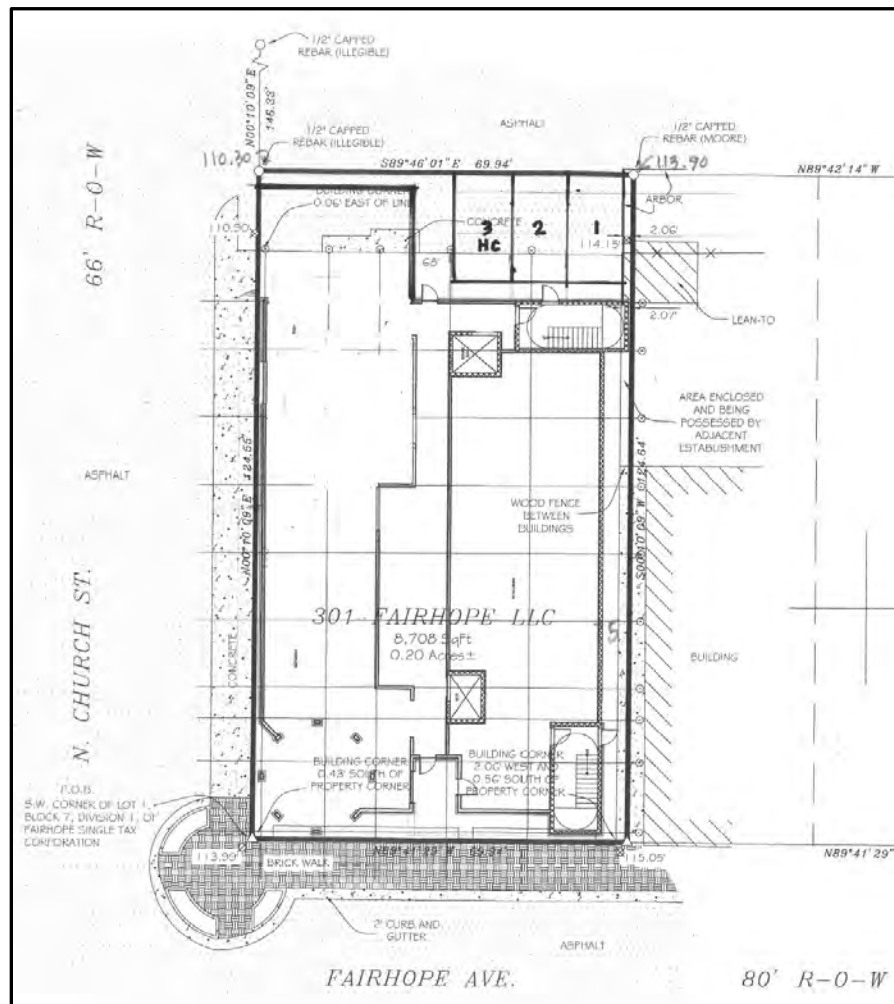


Figure 4: Proposed site plan.

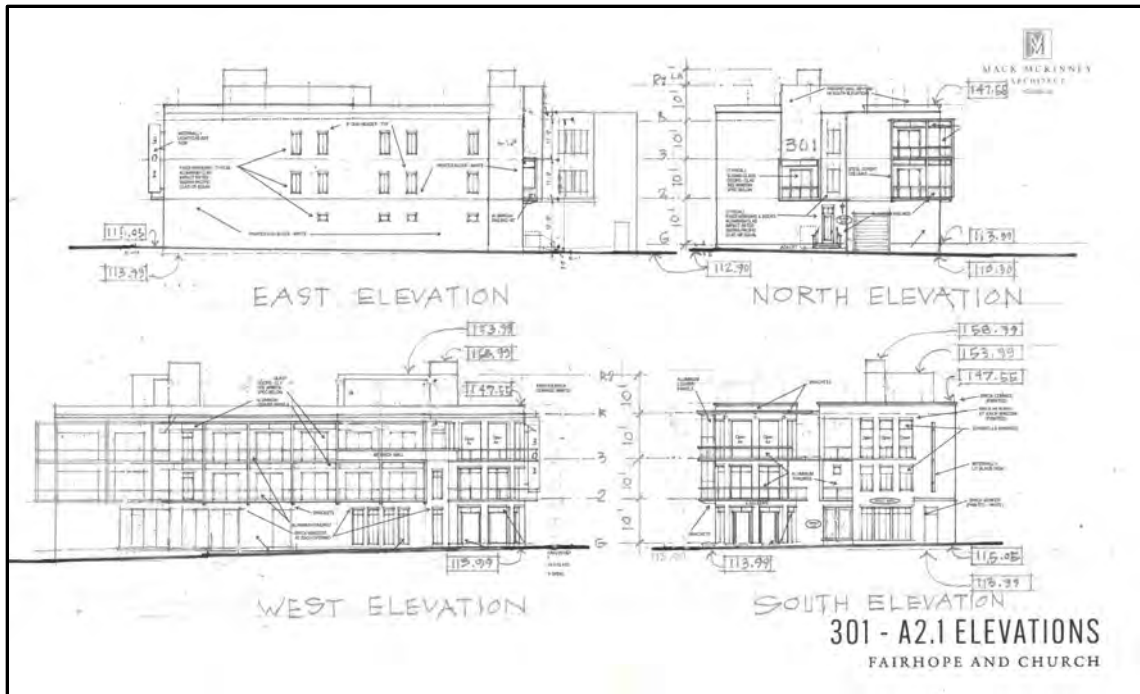


Figure 5: Proposed Elevations.

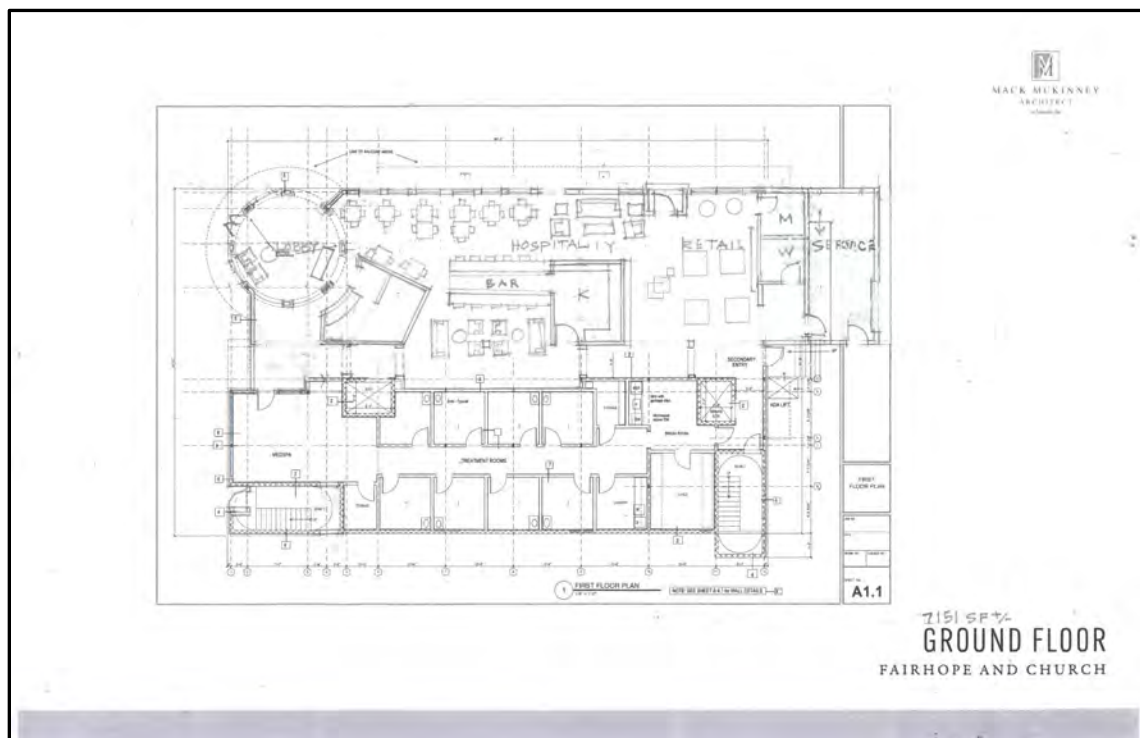


Figure 6: Proposed Ground Floor Plan.

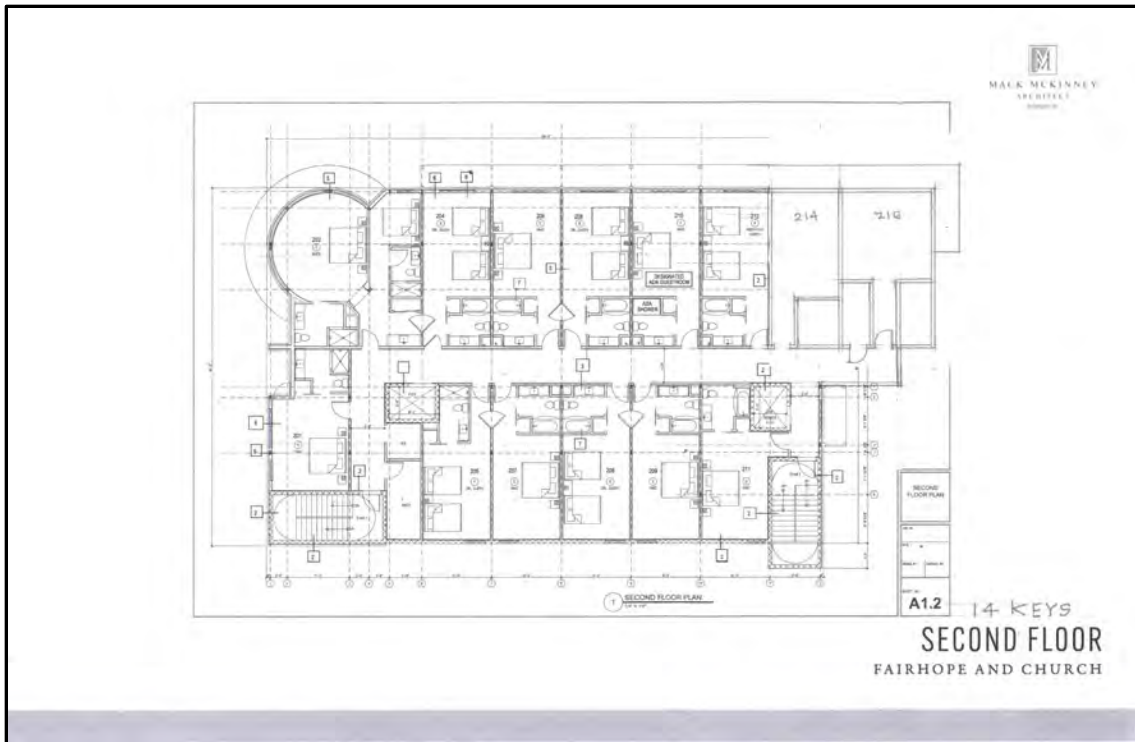


Figure 7: Second Floor Plan.

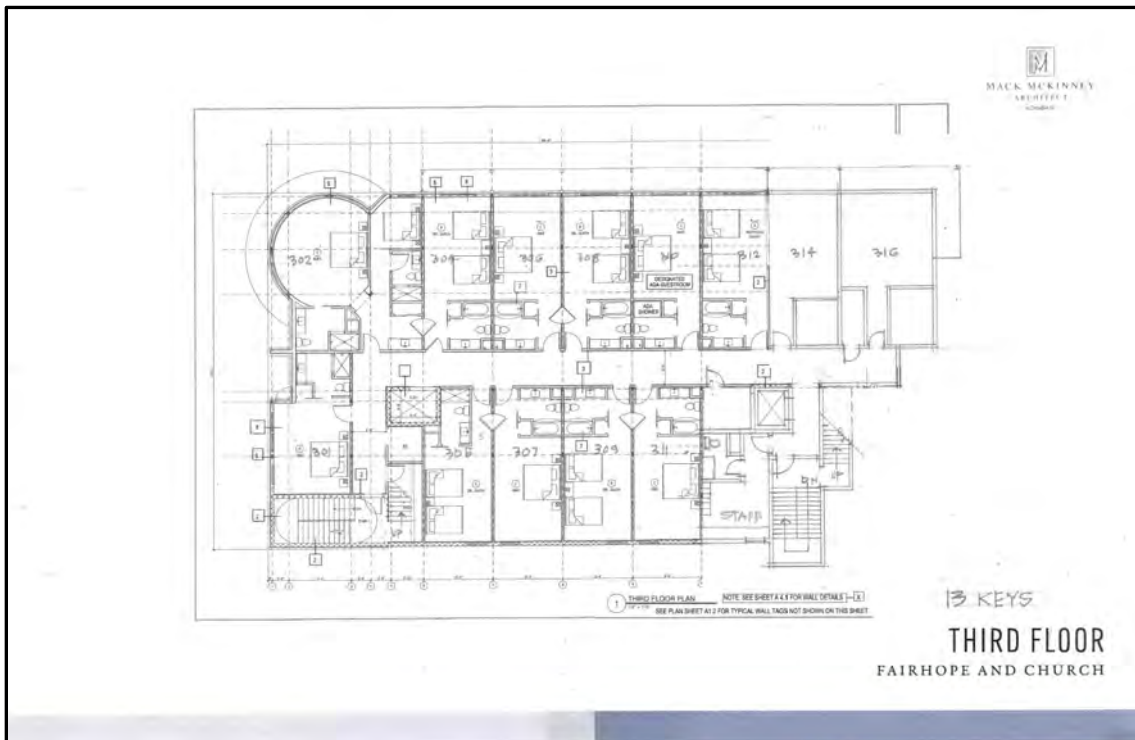


Figure 8: Third Floor Plan.

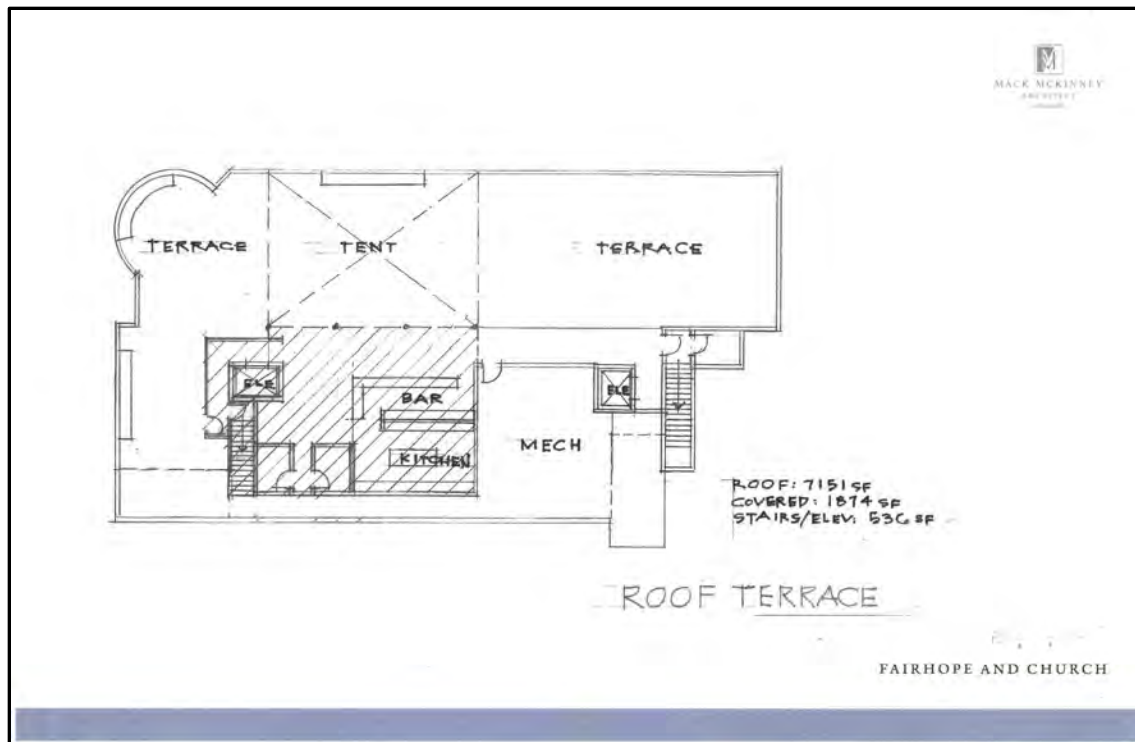


Figure 9: Rooftop Plan.

Review Comments

Along with the hotel use, the building, as currently proposed, would also require MOP approval from the Fairhope Planning Commission and a Site Plan Review approval from the City Council.

Review criteria for a use permitted on appeal and subject to special conditions is listed in Article II, Section C.e(2) and summarized below:

- (a) Compliance with the Comprehensive Plan;
- (b) Compliance with any other approved planning document;
- (c) Compliance with the standards, goals, and intent of this ordinance;
- (d) The character of the surrounding property, including any pending development activity;
- (e) Adequacy of public infrastructure to support the proposed development;
- (f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
- (g) Compliance with other laws and regulations of the City;
- (h) Compliance with other applicable laws and regulations of other jurisdictions;
- (i) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;
- (j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.
- (k) Overall benefit to the community;
- (l) Compliance with sound planning principles;
- (m) Compliance with the terms and conditions of any zoning approval; and
- (n) Any other matter relating to the health, safety, and welfare of the community.

Building Height/Stories – Buildings are limited to 40’/3 stories in the CBD (Article V, Section B.4.(c)). Elevations provided by the architect show only the elevator structure exceeds the 40’ height limit, which has an exception in the Rooftop Terrace section of the Zoning Ordinance. Staff will confirm building height and dimensional requirements under future review, if the use is granted.

Rooftop Terrace - The applicant is proposing a Rooftop Terrace. For reference, a Rooftop Terrace is defined as:

Rooftop Terrace: A outdoor amenity area located on the roof of a building. A rooftop terrace shall be accessory to the primary use of the building. Individually owned and operated businesses or venues shall not occupy a rooftop terrace.

Parking – The Fairhope Zoning Ordinance does not require parking spaces for any of the proposed ground floor uses. However, there is a precedence for required parking with a hotel in the CBD. Without negating the other review criteria listed above (Article II, Section C.e(2), adequacy of public infrastructure (public parking) and impacts on adjacent property/the surrounding neighborhood are of particular concern. Staff recommends 1 space per hotel room based on previous precedent of the Hampton Inn, but the Board (or Council or Planning Commission) may have a different opinion. A parking study, like the one provided by the Hampton Inn could also be beneficial to clarify parking demand.

For clarification, the Hampton Inn on Section St. was approved in 2005. Within the Site Plan Review, a *Traffic Impact & Parking Considerations* study was supplied by the Applicant's Engineer. At the time, an 89 room hotel with 12-15 guests would require a maximum of 104 spaces. An agreement was made between the Fairhope Parking Authority and the Applicant to utilize land owned by the Parking Authority (80 existing spaces at the time) to construct a parking garage. A copy of the study is included within this packet for review. 89 spaces within the parking garage were reserved for the Hampton Inn, with the rest available for public parking.

Article V, Section B.4 provides some guidance on parking within the CBD:

- d. Parking –
 - a. (1) No parking is required for non-residential uses in the CBD. If parking is provided, it shall be located behind the building, screened from public rights-of-way, and have a direct pedestrian connection to the primary building entrance of the public right-of-way.
 - b. (2) Dwelling units in the CBD shall provide the required parking. It shall be located behind the building, screened from public rights-of-way, and have a direct pedestrian connection to the primary building entrance of the public right-of-way.
 - c. (3) Residential and office is encouraged on the upper floors of buildings; lower floors are encouraged to be retail or restaurants.

Article V, Section E.2. (Required Parking), also notes the following exception within the CBD:

These standards (Parking Requirements) shall not apply to the CBD Overlay, where on-street parking is permitted. However, wherever practicable, businesses in the CBD Overlay are encouraged to provide off-street parking facilities.

As previously mentioned, the proposed hotel use is permitted only on appeal and subject to special 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. While there is not an explicit requirement for parking, projects should be evaluated to determine whether their parking demand puts an undue burden on neighboring property/businesses. Staff reviewed existing parking in the vicinity of the proposed hotel.

Article IV, Section E.7 states that “On-street parking within 300 feet of any lot line may be credited to the parking requirement at a rate of one credit for every two on-street parking spaces”. Staff has mapped the City’s inventory of public parking spaces, as well as most of the private spaces within the CBD. Based on the information below, there are 82 on-street spaces that lie within 300’ of the subject property. Ironically, there are also 82 separate address points within the same 300’ buffer. Address points were used to determine how many individually occupied “units” exist. Units may include retail space, restaurants, office, or other commercial uses. There is a 1:1 ratio of on-street parking:occupied units.

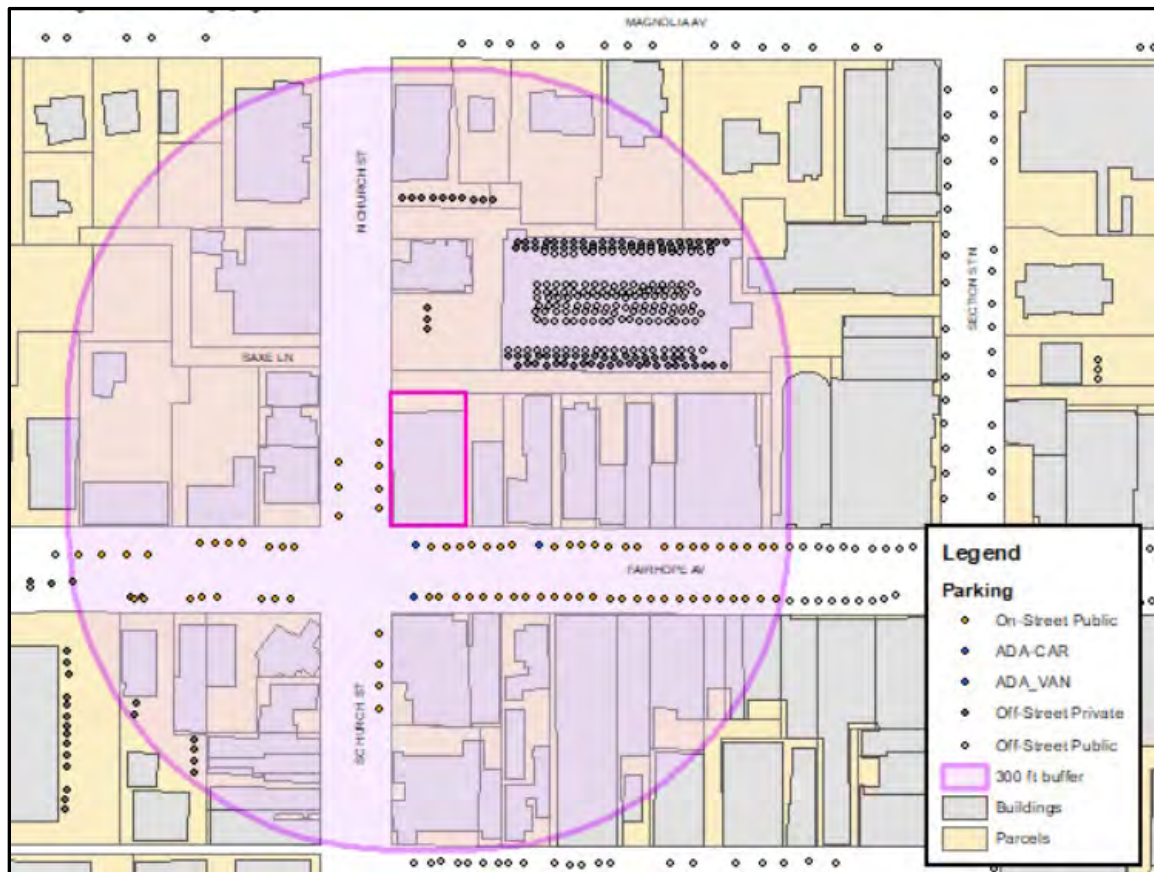


Figure 10: Parking analysis within 300’ of the subject property.

As shown in the above study, Church street does not have many on-street public parking spaces and is already crowded with cars parking on the sides where parking spaces do not exist. The Zoning Ordinance contemplates the proposed restaurant, medical spa, and office uses will utilize the surrounding parking spaces, much like the neighboring businesses. However, Staff does not feel there is enough on-street parking nearby to absorb parking for a 27-room hotel without negatively affecting neighboring businesses.

Specifically, the Applicant has proposed three different parking solutions, which are described below, along with Staff comments.

Option 1: Utilizing 306 Magnolia Ave for parking. Per the Applicant's narrative:

One key solution involves utilizing the property at 306 Magnolia Street Fairhope, AL 36542. The property, currently home to Barnes Law Firm, is on the other side of Fairhope Arts Alley, almost adjacent and contiguous to our property. Mr. Barnes has received a permit from the City to remove the existing building. Once removed, the space will provide room for 28 parking spaces. Coupled with the 3 onsite spaces, we would exceed the requirement of 27 parking spaces. Mr. Barnes has agreed to provide a long term lease to us.

The location map and parking plan below was provided by the Applicant:



Figure 11: Location of proposed valet lot.

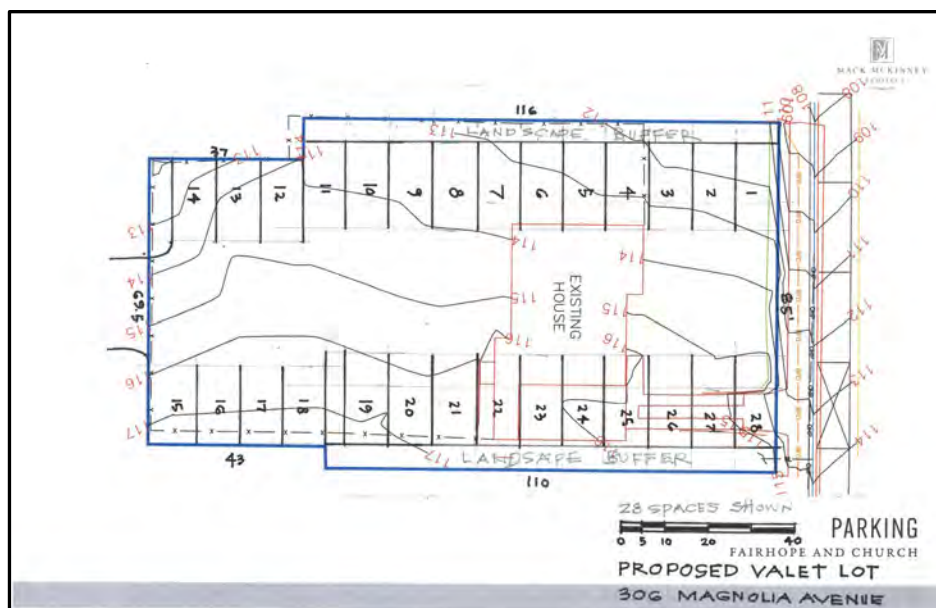


Figure 12: Proposed Parking Layout.

Staff has concerns about setting a precedent with small surface level parking lots in the Central Business District. We do not feel this solution fits within the overall goals of the comprehensive plan. More importantly, the property on Magnolia is currently zoned B-2. To provide a parking lot, the property would have to be rezoned to P-1 (Parking District). Below is the definition of Parking District, with more information available in Article V, Section F. of the Zoning Ordinance.

21. *Parking District:* This district is intended for those situations where parking may be provided more efficiently and with less impact on goals for the overall surrounding areas by consolidating and sharing parking in one location.

The City Council is the authority to approve a zoning request, with reviews and recommendations by Staff and Planning Commission. At this time, for the requested use, Staff would not support the rezoning request because the proposed solution does not consolidate and share parking. Furthermore, the parking plan shown for 306 Magnolia Ave does not accommodate for other City regulations, most notably landscape requirements of the Tree Ordinance. It would be highly likely final designs would result in a reduced parking count. Within the CBD, parking lot plans could be reviewed as part of a the zoning request. For the purposes of the Use Approval, Staff, nor the Board, can answer whether a parking lot would get approval on 306 Magnolia Ave. Therefore, we cannot recommend this solution at this time.

Option 2: Leasing parking spaces from the Parking Authority. Per the Applicant's narrative:

Another viable solution would be for the City and Parking Authority to rent an undetermined number of spaces to us in the parking garage. Given the top two floors of the garage are mostly empty, this would be a practical and efficient use of existing resources.

The City and the Parking Authority have long emphasized the use of the parking garage. The Parking Authority is finalizing a Study that will likely confirm the Applicant's assertion that the garage is underutilized. However, the speculation is that it is underutilized because downtown employees and hotel guests are utilizing on-street parking instead. Solutions, including enforcement, are being discussed between the City and the Parking Authority.

In addition, 89 spaces on the top two floors are reserved for Hampton Inn as established within the agreement referenced above for its contribution of building the parking deck. I would assume they cannot be leased to another entity. Ultimately, the Parking Authority, as Owners, would be the authority to answer those questions. Staff, nor the Board, can give permission to utilize the garage for the proposed use.

Option 3: Credit for parking spaces. Per the Applicant's narrative:

Lastly, we would like the Board of Adjustments to consider allocating some credit for parking spaces as has been done for another Hotel project on August 15th 2022.

We believe the Applicant is referring to Article IV, Section E.7.a below:

7. Parking Credits

A credit may be given to the requirements of Table 4-3 – Parking Schedule, under the following conditions:

- a. On-street parking within 300 feet of any lot line may be credited to the parking requirement at a rate of one credit for every two on-street parking spaces.
- b. Bicycle parking facilities within reasonable proximity of the main entrance may be credited at a rate of one credit for every five-bicycle parking spaces, up to a maximum of 10% of the required vehicle parking.

Staff's evaluation is clarified above. Each use permitted on appeal and subject to special conditions is evaluated individually, geographic location, intensity, access to public infrastructure and impacts on surrounding businesses are just a few of the evaluation criteria. For example, the project referenced was also a hotel, but it was on a larger lot and only included 14 hotel rooms.

They provided seven parking spaces on-site and there were on-street parking spaces that were largely unused within 300' of that particular property. It is also important to note that that project left room on their site for loading/unloading. To accommodate Article IV, Section E.7.a, the credits for on-street parking was approved by the Board, Planning Commission, and City Council.

Whereas, this application proposes three commercial spaces, almost twice the number of hotel rooms, and fewer on-site parking on a smaller site.

The Applicant states the spatial constraints impose challenges on the subject property, but Staff believes those challenges are imposed by the requested use, or, more specifically, the intensity of the specific use. Parking for four rental units, as originally discussed, could be accommodated on site.

Conclusion and Recommendation

The Central Business District is unique and the focal point of the City. Walkability and non-automobile-related activities are critical. However, we almost must consider how each project will affect the CBD long-term and the precedent each approval may have on future projects. In general, Staff is not comprehensively against the idea of rental units or a hotel in this location. And we believe the architecture, as proposed, would be an asset to downtown. But the intensity of the proposal, in the location proposed, is too much of a burden on the current infrastructure for the benefit of one property. We do not believe we could offer the same solution to other property should they request the same. In which case, we feel we must recommend denial as currently proposed.

Furthermore, some of the proposed solutions would require approvals from other authorities. For this reason alone, we feel it is not appropriate to recommend approval until the feasibility of those solutions are vetted.

Because there may be other authorities involved, Staff would not be opposed to tabling the request to allow the Applicant appropriate time to work through the other options appropriately, or alter the request.

Recommendation:

Staff recommends DENIAL of BOA 24.10:

As stated previously, a hotel is allowed only on appeal in the B-2 District, criteria for those uses are listed in Article 2, Article II.C.3(2)(e)

(a) Compliance with the Comprehensive Plan;

Staff Response: Staff believes that a downtown hotel, with proper parking consideration, can positively affect the long-term vitality of downtown. However, we do not think the currently proposed project meets these goals.

(b) Compliance with any other approved planning document;

Staff Response: More clarity may be needed, depending on the three solutions proposed.

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

Staff Response: Staff believes a hotel use does meet the intent of the ordinance, but the proposed intensity of the mixed-use building does not meet the intents of the Zoning Ordinance.

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

Staff Response: Parking for a hotel is typically 'park and leave it' that could affect the neighboring businesses which have a higher turnover rate.

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

Staff Response: Utilities and drainage would be reviewed under different applications, but Staff foresees no significant problems. Impacts to public parking are discussed above.

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

Staff Response: The proposed use is a redevelopment of an existing disturbed site.

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

Staff Response: Staff would like to note the existing building is a historically contributing building, but understands there have been several evaluations of the existing structure. Demolition is permitted within our regulations.

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

Staff Response: Staff will ensure all are met through permitting.

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

Staff Response: Parking and deliveries is our main concern. (j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

Staff Response: Parking and deliveries is our main concern.

(k) Overall benefit to the community;

Staff Response: We feel the current proposed plan, with existing conditions, would have a negative impact.

(l) Compliance with sound planning principles;

Staff Response: 'Don't do for one, what you can't do for all' is a mantra frequently heard during our Planning Commission meetings. We do not feel we could support the same request on neighboring properties at this time. There have been other developments in the neighboring area that have discussed hotels, bed and breakfast, or other short-term rentals. Staff would expect the same considerations.

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

Staff Response: None noted at this time.

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

Staff Response: None noted at this time.

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.

Dear Members of the Board of Adjustments,

We are writing to seek approval for the construction of a multi-purpose building at 301 Fairhope Avenue, which will include 3 commercial spaces, 27 hotel rooms, and a rooftop terrace that will be owned by the Hotel. According to the Fairhope zoning ordinances, a hotel is permitted only on appeal and subject to special conditions. We have met with Hunter several times and understand that the requirement is to provide one parking space per hotel room. However, we face significant challenges in meeting this requirement due to spatial constraints on the property. We can only provide 3-4 parking spaces onsite.

Our proposed hotel is situated directly adjacent to the public parking garage, which provides ample parking capacity. We have visited this garage numerous times since the completion of the Alley project and have observed that the top two floors remain mostly empty. We have documented this with pictures and believe this nearby facility could effectively serve the parking needs of our hotel guests along with on-street parking and the onsite parking we will provide.

In a similar case, another proposed hotel was granted parking credits for the nearby convention center, a precedent we hoped would be applicable to our situation. Unfortunately, we were told that no such parking credits will be granted to us, and we must provide 27 parking spaces for the 27 hotel rooms. It is important to note that the City Zoning Ordinances do not specifically require any parking spaces for a Hotel in the CBD district.

We have invested significant time and resources into developing several potential parking solutions, which we would like to present to the Board. We believe one of these solutions will meet the parking needs of the CBD district.

One key solution involves utilizing the property at 306 Magnolia Street Fairhope, AI 36542. The property, currently home to Barnes Law Firm, is on the other side of Fairhope Arts Alley, almost adjacent and contiguous to our property. Mr. Barnes has received a permit from the City to remove the existing building. Once removed, the space will provide room for 28 parking spaces. Coupled with the 3 onsite spaces, we would exceed the requirement of 27 parking spaces. Mr. Barnes has agreed to provide a long term lease to us.

Another viable solution would be for the City and Parking Authority to rent an undetermined number of spaces to us in the parking garage. Given the top two floors of the garage are mostly empty, this would be a practical and efficient use of existing resources.

Lastly, we would like the Board of Adjustments to consider allocating some credit for parking spaces as has been done for another Hotel project on August 15th 2022.

It is important to note that the current building on the property is in very poor condition and is considered an eyesore to the community. Additionally, it poses a potential hazard, particularly in

severe weather. Redeveloping this site would significantly improve the aesthetics and safety of the area, contributing positively to the community.

Moreover, the City of Fairhope stands to benefit significantly from this development. The hotel would generate substantial lodging tax revenue, and the retail spaces would contribute additional sales tax revenue. Currently, Fairhope is losing lodging tax revenue to hotels in other Baldwin County locations. By approving our project, the city can capture this revenue and enhance its economic vitality.

Attached to this letter, you will find detailed information regarding our proposed project. We respectfully request that the Board of Adjustments consider these solutions and grant us the necessary approval to proceed with our project.

Thank you for your time and consideration.

Sincerely,
Daniel Prickett



MACK MCKINNEY
ARCHITECT
m2studio, llc



* (TO BE REVISED PER PLANS)

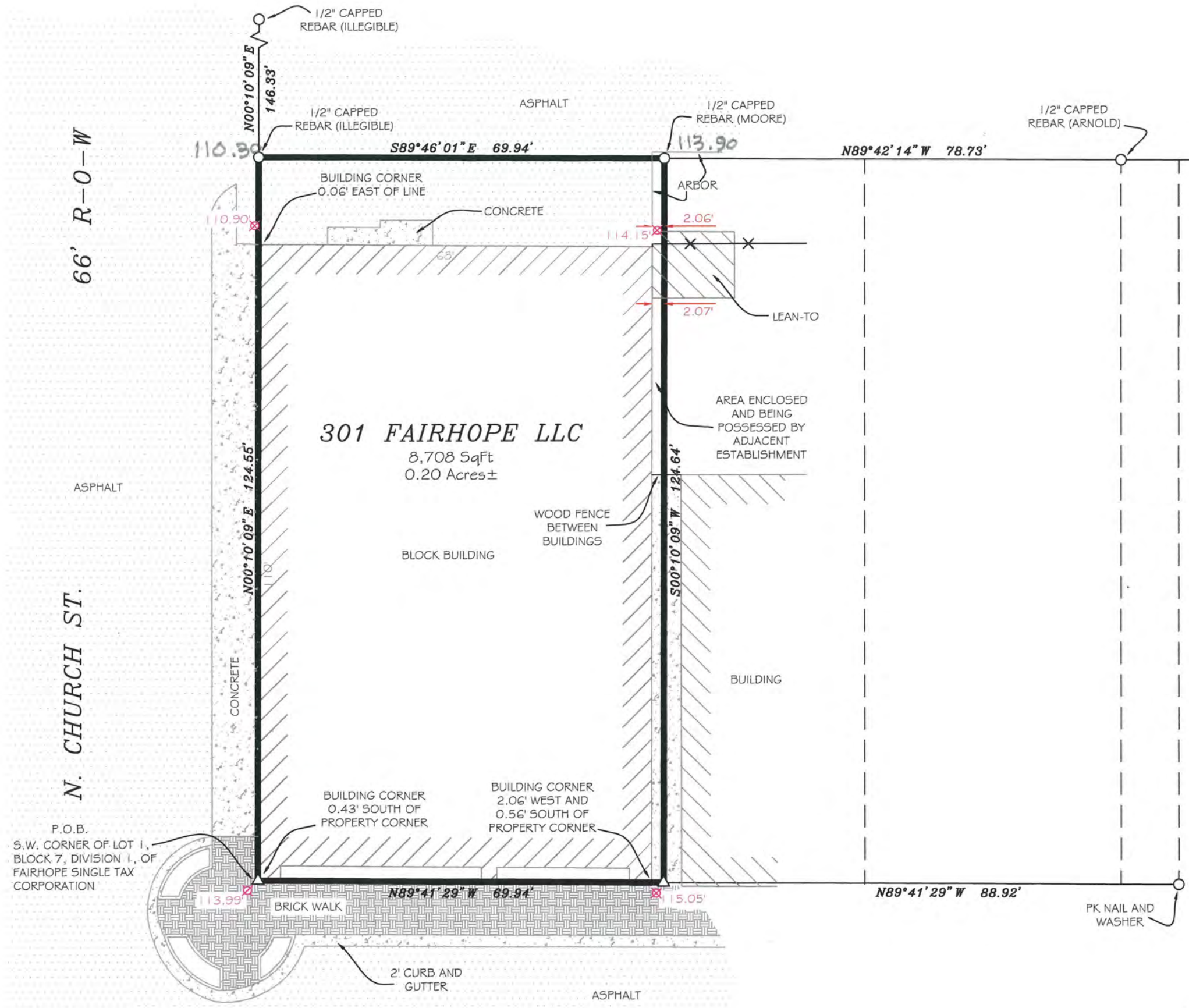
SCHEMATIC RENDERING

FAIRHOPE AND CHURCH

JULY 8, 2024

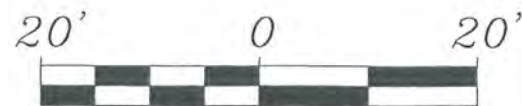


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ARCHITECT
m2studio, llc



SURVEY

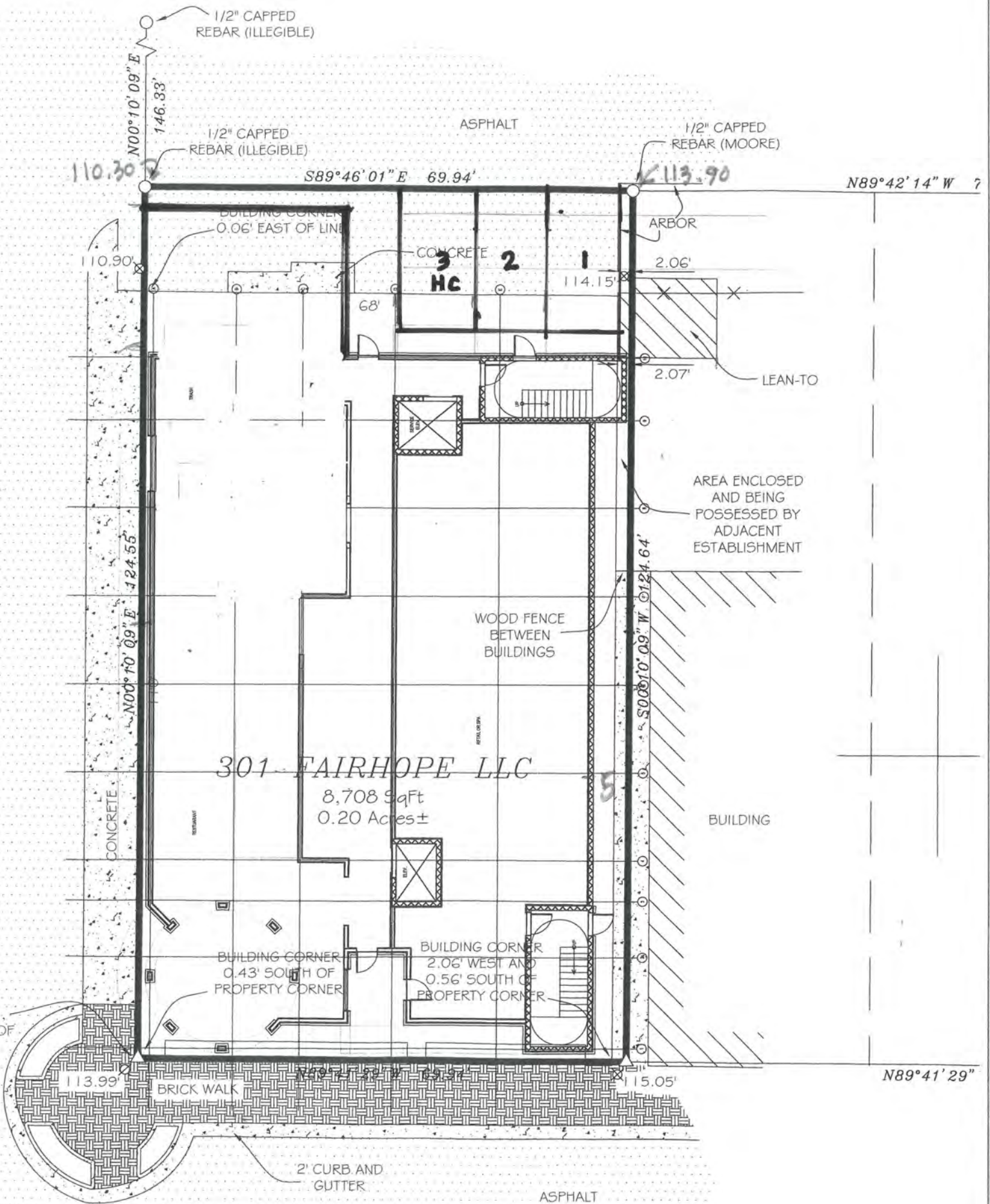
FAIRHOPE AND CHURCH



*GRID NORTH
N
SCALE
1" = 20'

P.O.B.
S.W. CORNER OF LOT 1,
BLOCK 7, DIVISION 1, OF
FAIRHOPE SINGLE TAX
CORPORATION

N. CHURCH ST.
66' R-O-W



FAIRHOPE AVE.

80' R-O-W

REV. #	DATE	ISSUE

SITE PLAN

JOB NO. :	
DATE :	
DRAWN BY :	CHECKED BY :



MACK MCKINNEY
ARCHITECT

m2studio,llc



DIAMOND GRADE
SIDEWALK CLOSED SIGN
N.T.S

LEGEND:

PEDESTRIAN ROUTE: - - -



PEDESTRIAN CIRCULATION PLAN

FAIRHOPE AND CHURCH

6:06



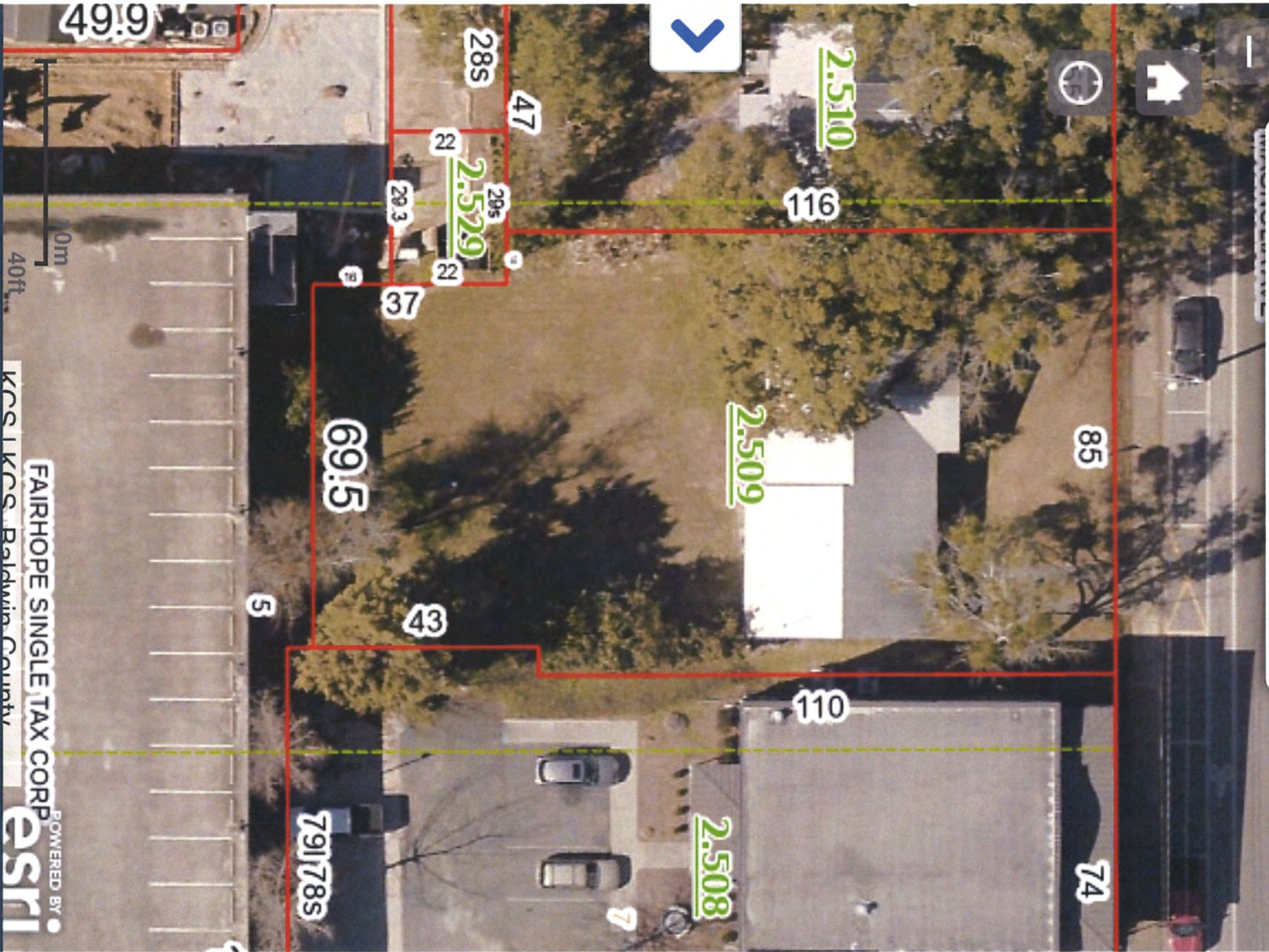
Photo >

Done



No Information

Basemaps ▾



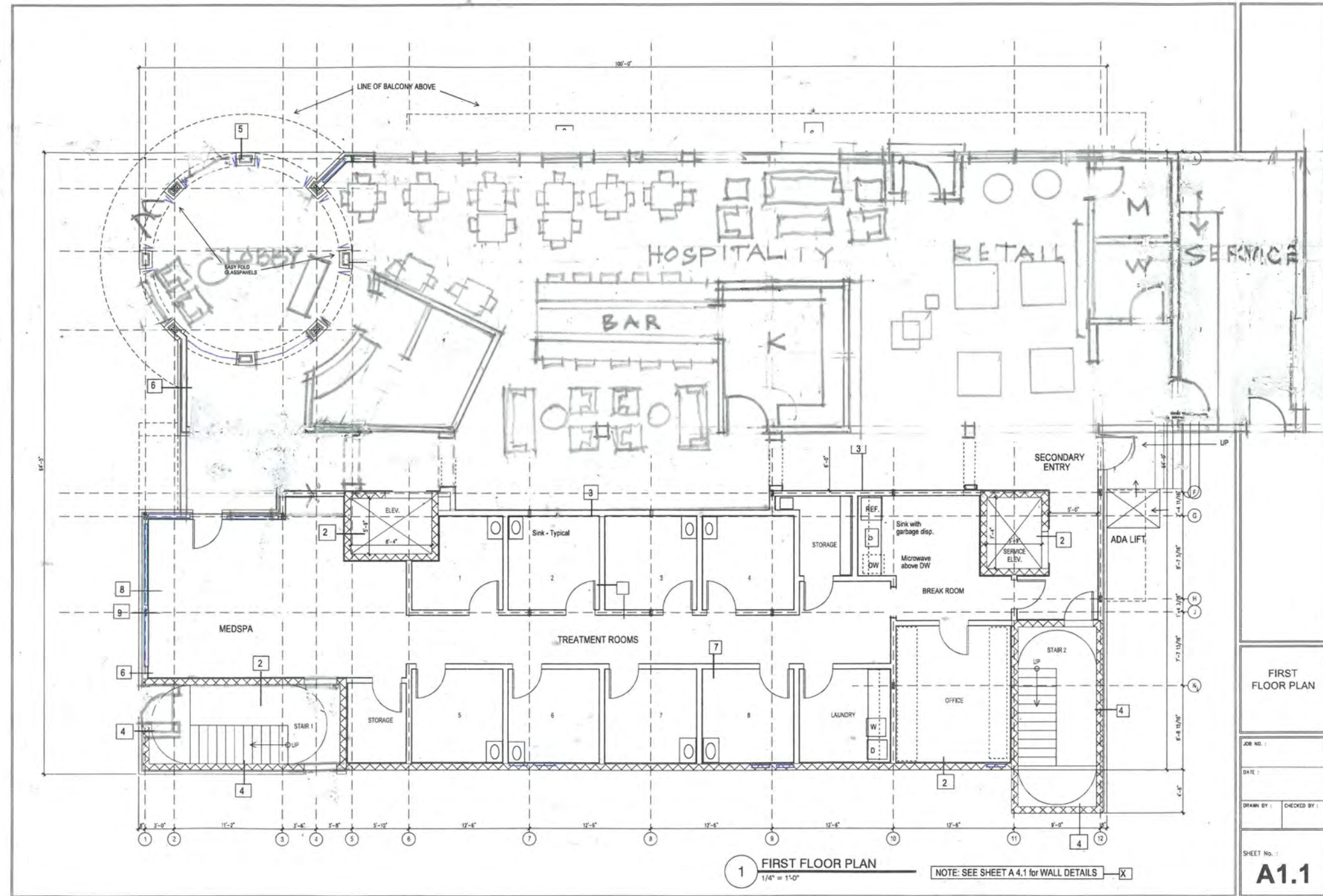
AA isv.kcsqgis.com



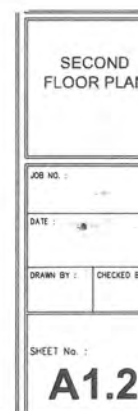
PROPOSED VALET LOT
306 MAGNOLIA AVENUE



MACK MCKINNEY
ARCHITECT
m2studio, llc



7151 SF +/-
GROUND FLOOR
FAIRHOPE AND CHURCH

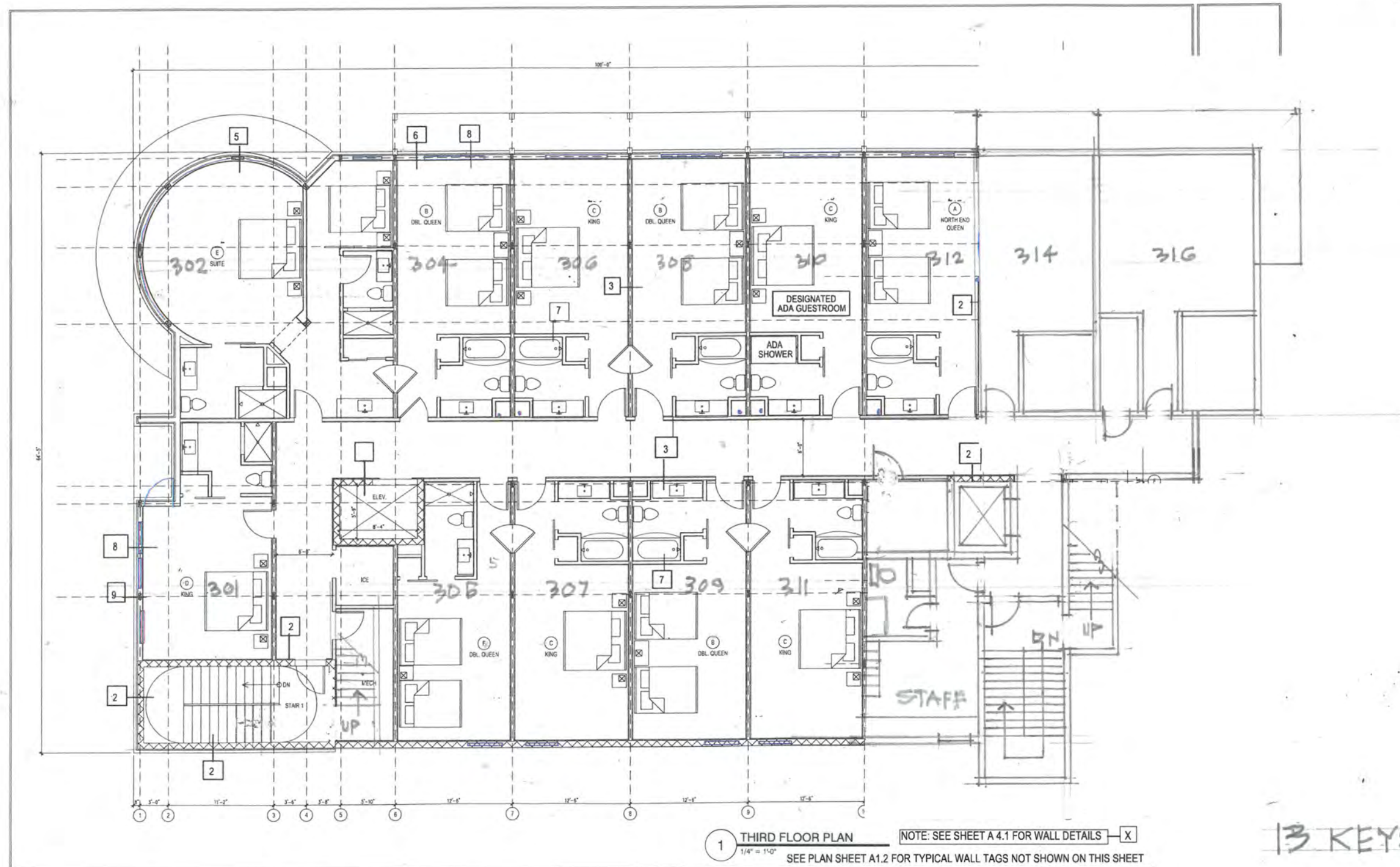


14 KEYS

SECOND FLOOR
FAIRHOPE AND CHURCH



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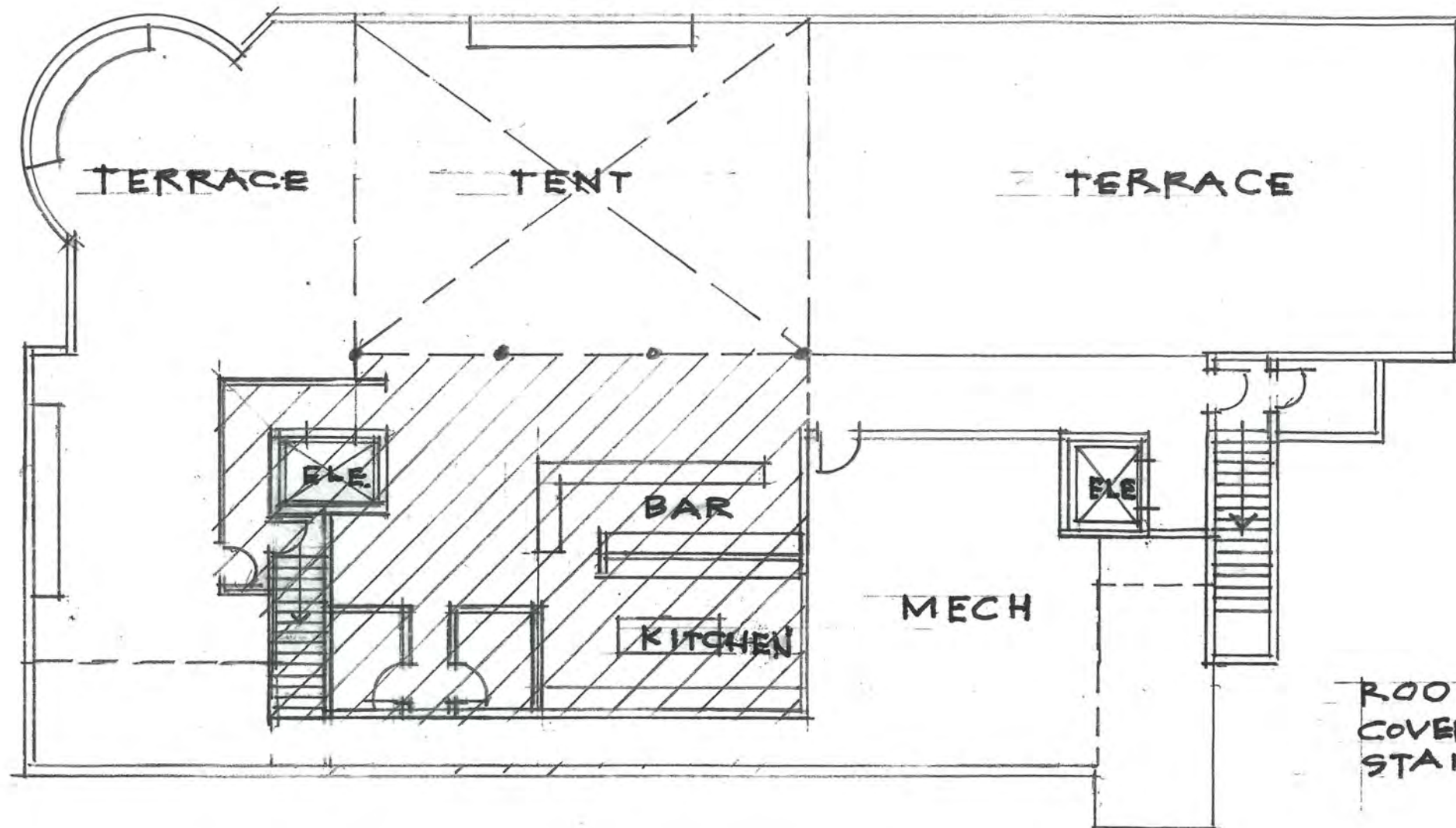
13 KEYS

THIRD FLOOR

FAIRHOPE AND CHURCH



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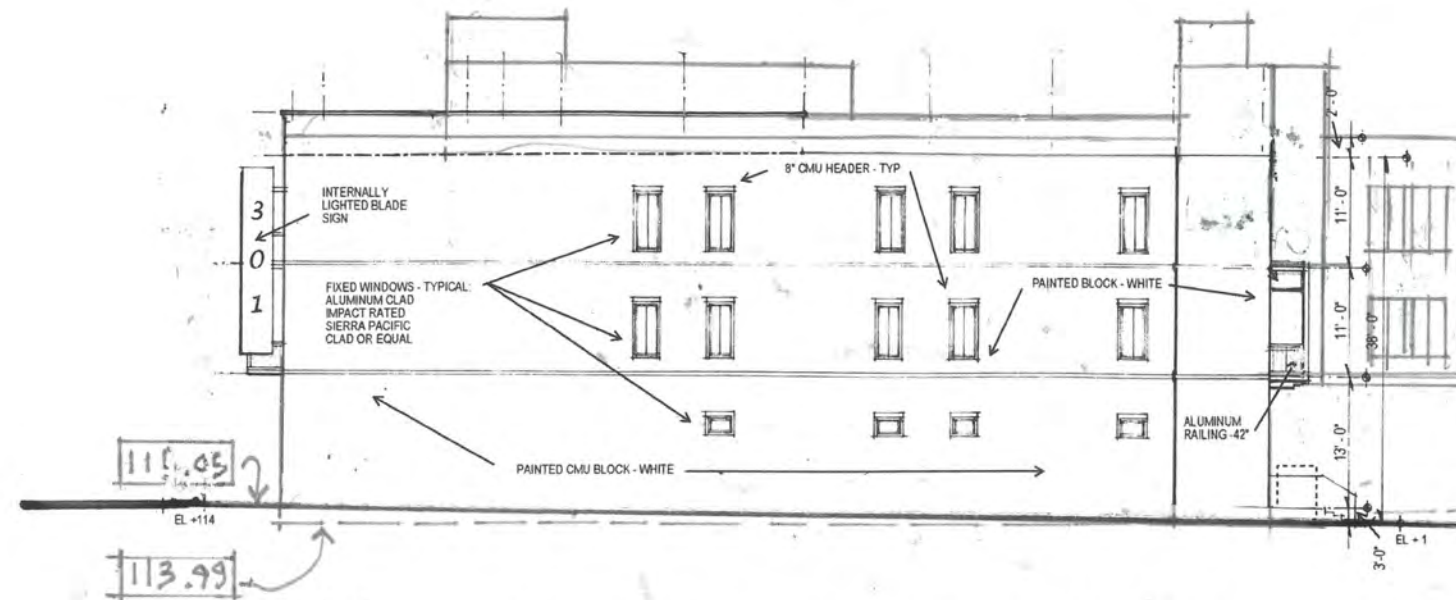
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COVERED: 1874 SF
STAIRS/ELEV: 536 SF

ROOF TERRACE

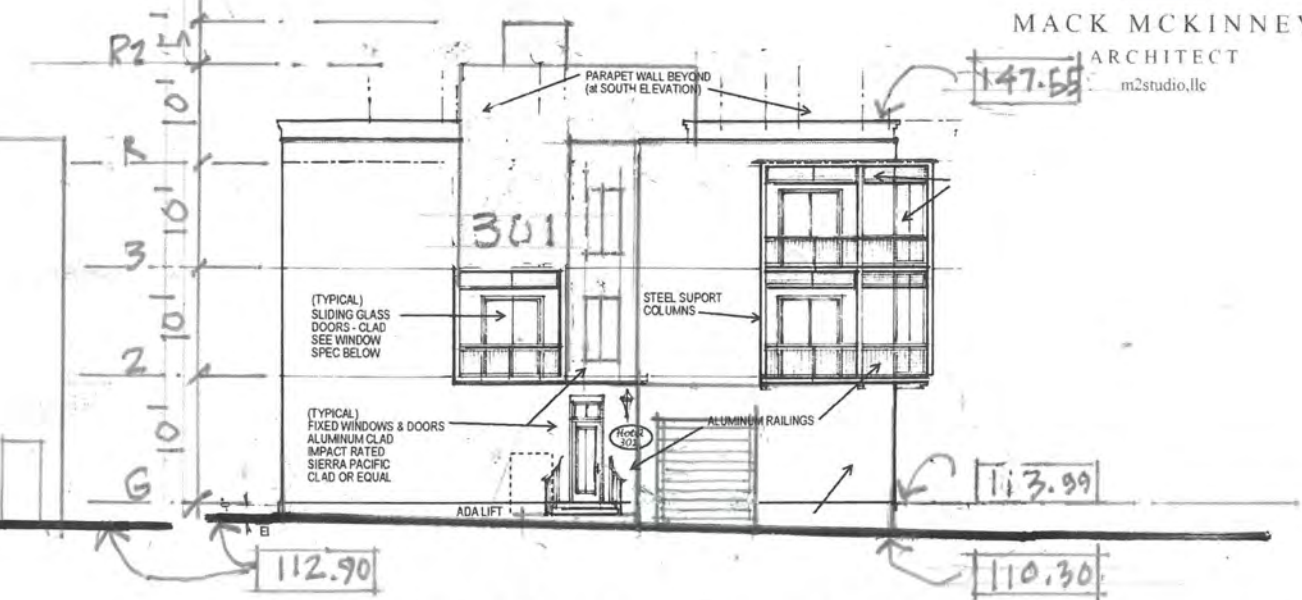
FAIRHOPE AND CHURCH



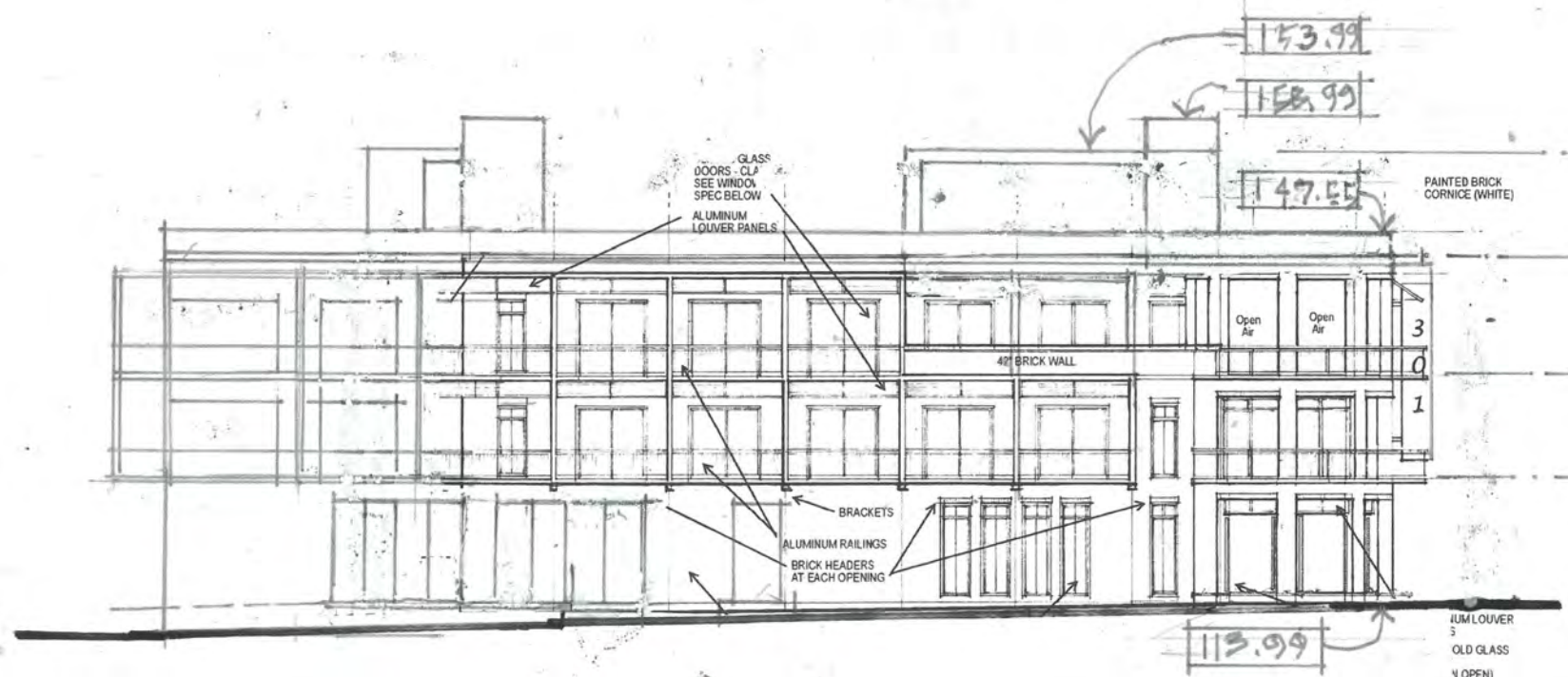
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m2studio, llc



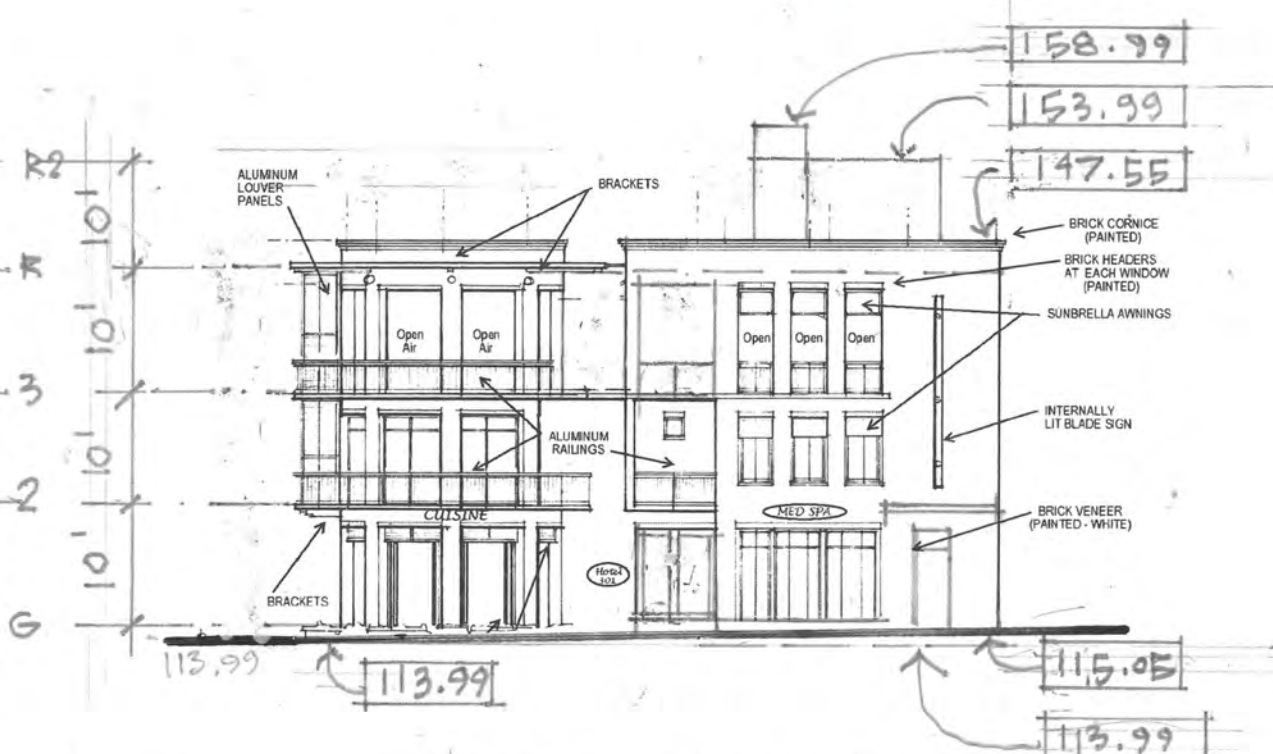
EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION



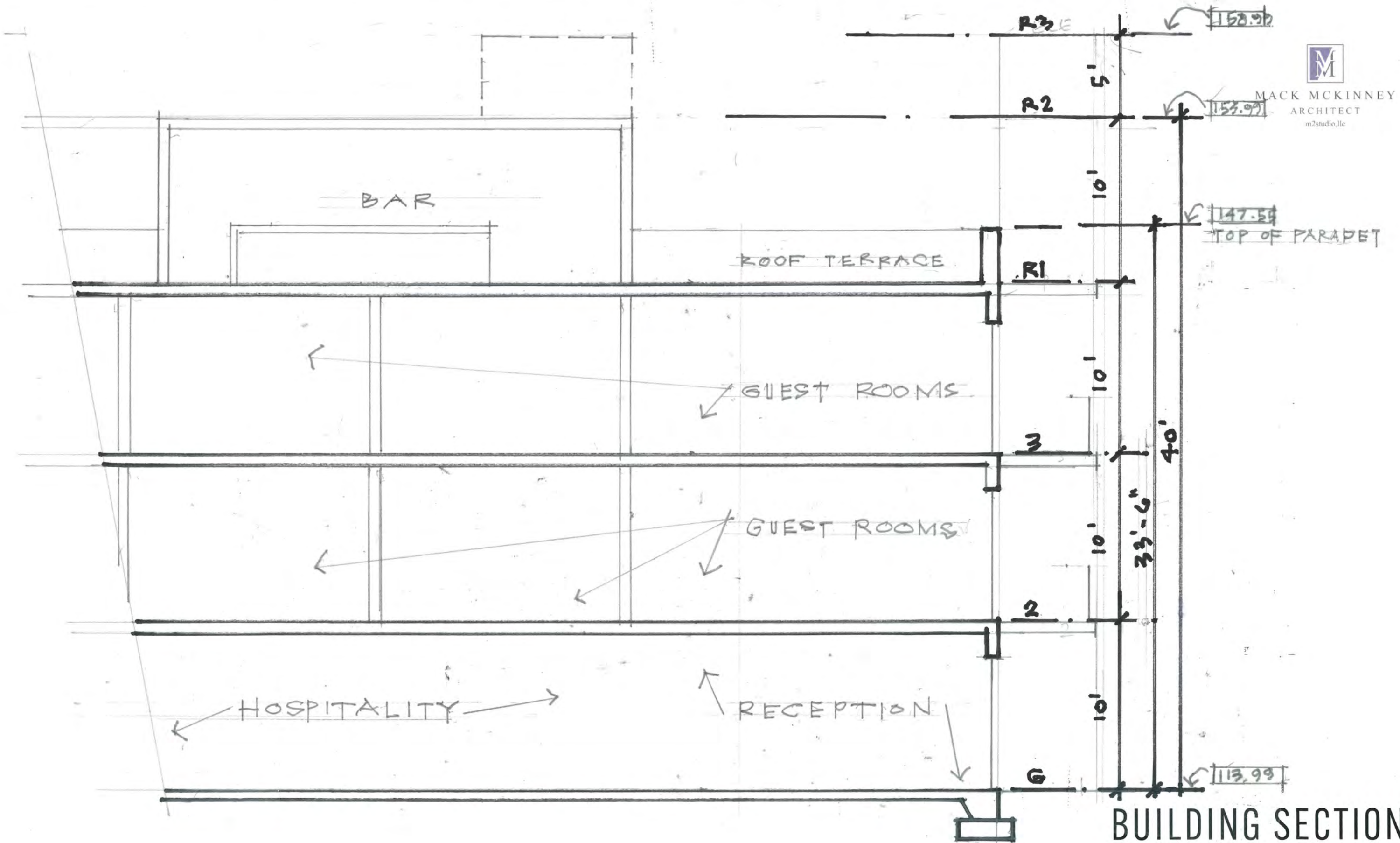
SOUTH ELEVATION

301 - A2.1 ELEVATIONS

FAIRHOPE AND CHURCH



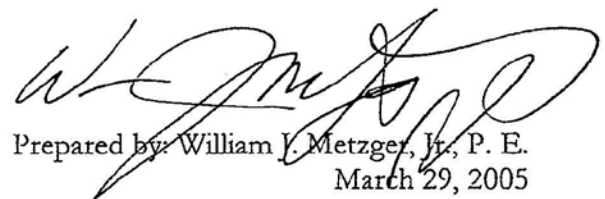
MACK MCKINNEY
ARCHITECT
m2studio, llc



BUILDING SECTION
FAIRHOPE AND CHURCH

**Traffic Impact &
Parking Considerations
Section Street Hotel
Fairhope, Alabama**




Prepared by: William J. Metzger, Jr., P. E.
March 29, 2005

Traffic Impact & Parking Considerations

Section Street Hotel

Fairhope, Alabama

An 89 room Hampton Inn is planned in Downtown Fairhope. The hotel will have a pedestrian entrance from Magnolia Avenue and Section Street. The hotel will have the primary vehicular entrance on Section Street and a second vehicular entrance to the hotel and parking garage from Church Street.

Traffic Impact

Trip Generation is an informational report of the Institute of Transportation Engineers. It is intended as a tool for planners, traffic engineers, zoning boards, and others interested in estimating the number of vehicle trips likely to be generated by a particular land use. It is based on more than 3,000 trip generation studies conducted by public agencies, developers, and consulting firms and reported to the Institute.

The attached *Trip Generation* calculations are for an 89 room hotel with 73 rooms as standard hotel and 16 rooms as suites (with food preparation capability). The total two-way driveway access would have a total of 679 trips per 24 hours. The heaviest impact would have 28 vehicles entering during the a.m. peak and 19 vehicles exiting; and during the p.m. peak 26 vehicles entering and 25 vehicles exiting. These studies are based on national averages and in my opinion would produce an excessive result for the Fairhope Downtown Area since a high percentage of the trips would be for walking to shopping and eating in the downtown. Even with the *Trip Generation* numbers, the traffic impact would be minor and no additional traffic control devices are recommended. The proposed development has good circulation and a safe plan for pedestrians and bicycles.

Parking Considerations

The proposed parking deck will have a total of 201 spaces. The lowest level will only have access to Church Street with 105 spaces. The second level will have access to Church Street and Section Street with 96 spaces. The current parking lot on Church Street has approximately 80 spaces available.

The hotel is projected to have 64% occupancy the first year and up to 68% by the third year. The hotel is estimated to have 20-30 employees with a maximum on duty of 12-15 per shift at 100% occupancy. The Fairhope City Subdivision Ordinance requires one space per room (89) and one per employee (on duty 15) or total of 104 required based on 100% occupancy so this should be the maximum required. Hotel guests would be directed to the 2nd floor. I used the Institute Transportation Engineers (ITE) Parking Generation 3rd Edition to calculate estimated parking use and it estimates 107 spaces needed by the hotel. Also I used American Planning Association Parking (APA) Standards to evaluate the hotel's need and it estimates 103 spaces.

Total parking deck	201 spaces
Required by the hotel	104 spaces
Available for other use	97 spaces

The parking deck can be a very positive structure for the City's merchants. The on street parking in the downtown area during mid-day and also during peak shopping seasons are mostly full. If the merchants and employees are forced into the deck on street parking will be available for customer's use and should improve business because parking would be so convenient. Many downtown merchants and employees are currently using the best available spaces. Few of these merchants realize they are taking their customer's space or don't want to admit they are.

If the City of Fairhope charges for the spaces in the parking deck and also the spaces in the Bancroft lot, the maximum on street spaces could be left open for downtown customers. Fairhope has a lot of elderly shoppers who may also shop more if they can park closer to their destination. The City needs to enforce the

existing two hour parking limit or most people are not going to use the parking deck because of the extra walking distance. This enforcement will also be necessary to force cars into the deck if parking fees are charged.

The parking deck has other positive impact such as parking for downtown residents and the hotel guests are more likely to shop and eat downtown than guests staying elsewhere.

The fees for the deck can be raised during prime events such as the Arts and Craft fair or Mardi Gras. The parking deck will be mostly operated by electronic gates and will require a minimum of employee labor. A parking lot company in the area estimates a needed for an employee of approximately 16 hours per week for the first five years and 32 hours per week after that due to ageing equipment. The parking deck will be well lighted. The deck will accommodate vehicles up to seven feet in height.

Summary

The hotel traffic generated will have no major impact to the existing streets in downtown Fairhope and no additional traffic control is recommended.

The proposed plan has good circulation and is a safe plan for pedestrians and bicycles.

The proposed parking deck should be a major asset to the downtown area. If managed properly the City could make more parking available in convenient locations for downtown shoppers and diners.

Downtown's are a very complex subject and various opinions are shared by Traffic Engineers, Planners, Main Street Merchants, and Politicians. I have included a few pages from the APA Parking Standards that addresses some of these issues.

HAMPTON INN
 Summary of Multi-Use Trip Generation
 Average Weekday Driveway Volumes
 March 29, 2005

Land Use	Size	24 Hour Two-Way Volume	AM Pk Hour		PM Pk Hour	
			Enter	Exit	Enter	Exit
Hotel	73 Rooms	601	25	16	23	21
All Suites Hotel	16 Rooms	78	3	3	3	4
Total		679	28	19	26	25

Note: A zero indicates no data available.

TRIP GENERATION BY MICROTRANS

HAMPTON INN
Summary of Multi-Use Trip Generation
Saturday and Sunday Driveway Volumes
March 29, 2005

Land Use		Saturday		Sunday			
		24 Hr	Peak Hour	24 Hr	Peak Hour		
		2-Way	2-Way	2-Way	2-Way		
	Size	Vol.	Enter	Exit	Vol.	Enter	Exit
Hotel	73 Rooms	598	29	23	434	19	22
All Suites Hotel	16 Rooms	0	0	0	0	0	0
Total		598	29	23	434	19	22

Note: A zero indicates no data available.

TRIP GENERATION BY MICROTRANS

HAMPTON INN
Summary of Trip Generation Calculation
For 16 Rooms of All Suites Hotel
March 29, 2005

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	4.90	2.29	1.00	78
7-9 AM Peak Hour Enter	0.21	0.00	1.00	3
7-9 AM Peak Hour Exit	0.17	0.00	1.00	3
7-9 AM Peak Hour Total	0.38	0.62	1.00	6
4-6 PM Peak Hour Enter	0.18	0.00	1.00	3
4-6 PM Peak Hour Exit	0.22	0.00	1.00	4
4-6 PM Peak Hour Total	0.40	0.63	1.00	6
AM Pk Hr, Generator, Enter	0.22	0.00	1.00	4
AM Pk Hr, Generator, Exit	0.18	0.00	1.00	3
AM Pk Hr, Generator, Total	0.40	0.64	1.00	6
PM Pk Hr, Generator, Enter	0.18	0.00	1.00	3
PM Pk Hr, Generator, Exit	0.22	0.00	1.00	4
PM Pk Hr, Generator, Total	0.40	0.63	1.00	6
Saturday 2-Way Volume	0.00	0.00	1.00	0
Saturday Peak Hour Enter	0.00	0.00	1.00	0
Saturday Peak Hour Exit	0.00	0.00	1.00	0
Saturday Peak Hour Total	0.00	0.00	1.00	0
Sunday 2-Way Volume	0.00	0.00	1.00	0
Sunday Peak Hour Enter	0.00	0.00	1.00	0
Sunday Peak Hour Exit	0.00	0.00	1.00	0
Sunday Peak Hour Total	0.00	0.00	1.00	0

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

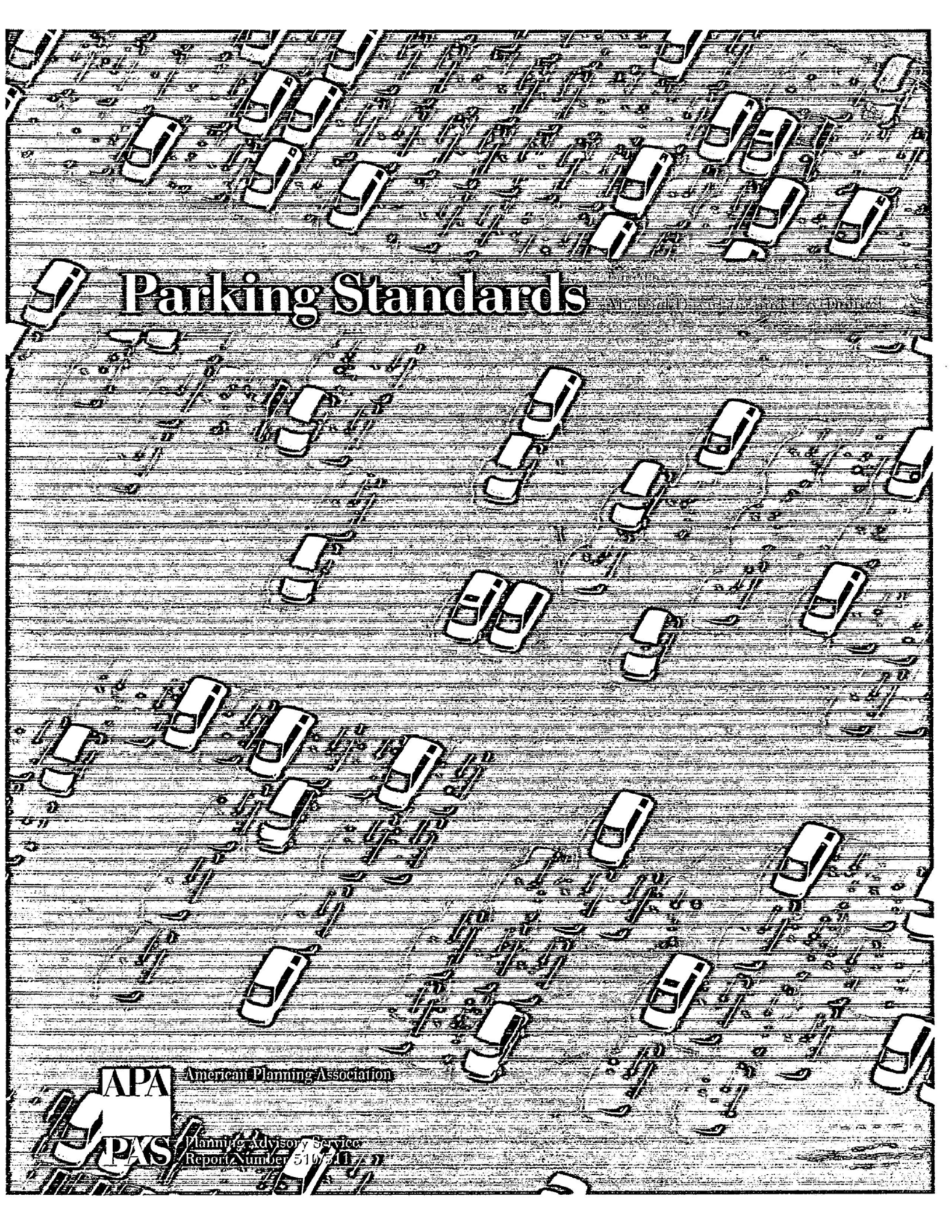
TRIP GENERATION BY MICROTRANS

HAMPTON INN
Summary of Trip Generation Calculation
For 73 Rooms of Hotel
March 29, 2005

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	8.23	3.38	1.00	601
7-9 AM Peak Hour Enter	0.34	0.00	1.00	25
7-9 AM Peak Hour Exit	0.22	0.00	1.00	16
7-9 AM Peak Hour Total	0.56	0.78	1.00	41
4-6 PM Peak Hour Enter	0.32	0.00	1.00	23
4-6 PM Peak Hour Exit	0.29	0.00	1.00	21
4-6 PM Peak Hour Total	0.61	0.81	1.00	45
AM Pk Hr, Generator, Enter	0.29	0.00	1.00	21
AM Pk Hr, Generator, Exit	0.23	0.00	1.00	17
AM Pk Hr, Generator, Total	0.52	0.75	1.00	38
PM Pk Hr, Generator, Enter	0.35	0.00	1.00	26
PM Pk Hr, Generator, Exit	0.26	0.00	1.00	19
PM Pk Hr, Generator, Total	0.61	0.81	1.00	45
Saturday 2-Way Volume	8.19	3.13	1.00	598
Saturday Peak Hour Enter	0.40	0.00	1.00	29
Saturday Peak Hour Exit	0.32	0.00	1.00	23
Saturday Peak Hour Total	0.72	0.87	1.00	53
Sunday 2-Way Volume	5.95	2.89	1.00	434
Sunday Peak Hour Enter	0.26	0.00	1.00	19
Sunday Peak Hour Exit	0.30	0.00	1.00	22
Sunday Peak Hour Total	0.56	0.75	1.00	41

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers,
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

An aerial, black-and-white photograph of a parking lot. Numerous cars are parked in various orientations. Overlaid on the image are many musical notes and stems, creating a whimsical, musical theme. The title 'Parking Standards' is printed in a large, bold, serif font across the middle of the image.

Parking Standards

APA

American Planning Association

PAS

Planning Advisory Service
Report Number 516/517

Maximum Number of Parking Spaces Required.

The maximum number of off-street parking spaces for any building or use shall not exceed the amount determined as follows:

1. Parking lots of more than twenty and less than fifty-one spaces. Parking lots may not have more than one hundred twenty percent (120%) of the number of spaces identified in Table 15-C, not including accessible spaces, unless a minimum of twenty percent (20%) of the parking area is landscaped in accordance with the standards of this chapter.
2. Parking lots of fifty one spaces or more. No more than one hundred ten percent (110%) of the number of spaces required as identified in Table 15-C of this chapter, not including accessible spaces, are permitted.

Based on Helena's minimum parking requirement for retail uses of 4.1 spaces per 1,000 square feet of gross floor area, a 5,000-square-foot retail store would be required to provide 21 spaces and could provide no more than 25 spaces (unless 20 percent of the parking lot is landscaped)—a very narrow range. (Note that maximum standards of 125 or 150 percent of the minimum are more prevalent and provide a somewhat wider range.) Generally, communities with minimum parking requirements that are set particularly low (i.e., below typical demand) might consider higher maximum standards (e.g., 150 or 200 percent of the minimum) when using this method.

A third method is a limit on the overall number of parking spaces in a particular geographic area. Cambridge, Massachusetts, uses parking maximums as part of comprehensive set of strategies to reduce automobile dependence (Millard-Ball 2002). The Cambridge zoning ordinance, for example, states that "the total number of parking spaces serving non-residential uses in the North Point Residence District shall not exceed 2,500 spaces, allocated to each lot in the district at a rate of 1.2 spaces per 1,000 square feet of lot area." Cambridge also uses the more popular approach of setting parking maximums for many individual land uses.

Some communities offer automatic exceptions to maximum parking standards if certain objectives are met. For example, San Antonio, Texas, which incorporates maximum standards for an extensive number of uses in its zoning code, exempts structured parking and parking located on pervious pavement. The pervious pavement exemption is subject to standards that describe the underlying soil permeability, level of the water table, the slope of the lot, and maintenance of the lot (e.g., sweeping and washing).

A note of caution: maximum standards that are set particularly low may result in spillover parking that could erode support for such standards. On-street parking restrictions accompanying maximum standards are one way of dealing with this issue, though such restrictions are also controversial in many places. Resident-only parking restrictions are often both a response to and a source of friction between the wishes of area residents, who like having on-street parking available for themselves and their guests, and businesses and institutions that rely on the ability of their patrons to find places to park. Time will tell whether maximum standards completely replace minimum requirements as concern continues to rise about traffic congestion, low-density development, and the environmental consequences of automobile dependence.

Downtown Parking Standards

In recent years, a number of communities without a traditional downtown have attempted to create such a place. Parking in downtown areas is complex and subject to a variety of competing interests. For example, the needs of businesses that rely on the availability of short-term parking are sometimes af-

fectured by commuters who occupy parking spaces from 8:00 a.m. to 5:00 p.m. Constantly adding to the downtown parking supply should not be the sole solution to solving real or perceived downtown parking "problems." Doing so, in fact, is likely to work against goals aimed at improving air quality, reducing traffic (or at least reducing the rate of increase of traffic congestion), and increasing transit use. When parking demand in a downtown area increases substantially, there are only a limited number of ways to increase the traffic carrying capacity of downtown streets as well, some of which, such as elimination of on-street parking, are not necessarily desirable.

Levinson (1982), as cited by Barr (1997), suggests that a review of downtown parking strategies should begin with consideration of the following points:

- What are the community development, environmental, and transportation goals for downtown and the surrounding areas?
- What basic policies underline formation of plans and options?
- Which range of parking options are meaningful in relation to: existing parking facilities and street systems; downtown development patterns and intensities; origins, destinations and approach routes of parkers; transit service capabilities; and environmental and energy constraints?
- How can parking serve as a catalyst for desired development?
- Should parking be provided for all who want to drive downtown, or should it be rationed in some specific manner?
- What balance should be achieved between parking located on the outskirts of downtown and parking located along express transit stops in outlying areas?
- What are the effects of parking on the location and design of public transport routes, stations, and terminals?

Although this report focuses on zoning requirements, such requirements are only one piece of the downtown parking puzzle (as the above points suggest). Signage, pricing, location, design, supply, metering of on-street parking, and long-term employee parking versus the availability of short-term parking for retail customers are also issues to be considered.

Morrall and Bolger (1996) conducted quantitative research and concluded, "The proportion of downtown commuters using public transport is inversely proportional to the ratio of parking stalls per downtown employee." The size of a downtown, the mix and intensity of land uses, and the availability of transportation alternatives and commercial or public parking facilities combine to form a unique environment that many zoning ordinances recognize through particularly low parking requirements and, in some cases, maximum requirements.

No minimum off-street parking requirements exist for nonresidential uses in many downtown areas, particularly in large cities (e.g., Portland, Oregon; Boston; Massachusetts; Columbus, Ohio; San Diego, California). The Parking and Access section of the Portland, Oregon, Central City Plan District contains regulations intended to "implement the Central City Transportation Management Plan by managing the supply of off-street parking to improve mobility, promote the use of alternative modes, support existing and new economic development, maintain air quality, and enhance the urban form of the Central City." It includes no *minimum* parking standards for nonresidential uses in the core area of the downtown. *Maximum* parking requirements for office uses range from 0.7 to 2.0 spaces per 1,000 square feet of new net building area in the core.

Among medium-size downtowns, parking requirements vary widely. In the Central Business District Zone in Grand Rapids, Michigan, (pop. 197,000) parking is required at a rate of one space for each 1,000 square feet of gross floor area for nonresidential buildings and hotels. Off-street parking is not required for any building constructed prior to January 1, 1998, however, or for new buildings and cumulative additions to existing buildings with a gross floor area of 10,000 square feet or less.

CBD Parking

Required Automobile Parking

Off-street parking space as required herein shall be provided for all buildings and structures and for additions to existing buildings or structures. The number of spaces required for all uses shall be one space for each 1,000 square feet of gross floor area for all non-residential buildings and hotels, and one space per dwelling unit for all dwellings.

Required Bicycle Parking

Bicycle parking shall be provided in conjunction with new automobile parking facilities. Any new facility providing parking for more than fifty (50) automobiles, shall provide bicycle parking at a rate of one bicycle parking space for each forty (40) automobile spaces, with a minimum of six (6) spaces. In lieu of providing bicycle parking within the parking facility, the owner may provide bicycle parking at an alternate location well suited to meet the needs of potential users. Public parking facilities designed to provide remote employee parking on the fringe of the district shall be exempt from this requirement.

Madison, Wisconsin (pop. 208,000), and Richmond, Virginia (pop. 198,000), do not have parking requirements in most or all of their downtown districts; they do, however, negotiate all parking needs through a transportation management ordinance.

Communities with small downtowns vary widely in their management of downtown parking. Some have chosen to develop parking programs focused on public parking lots that serve the downtown area. In Holland, Michigan, for example, a community with 27,000 residents and a traditional downtown of approximately eight square blocks, "All businesses located in the C-3 Central Business District shall be deemed participants in a community parking program and shall be exempt from parking requirements herein specified. For any additional residential use created, additional parking areas shall be provided in accordance with the requirements set forth herein" (Section 39-52).

Distinctions Based on the Type of Commercial District

In addition to special regulations for downtown parking, some communities choose to provide distinct parking requirements based on the type of commercial district rather than delineating citywide requirements for each particular land use. (In some cases communities use overlay districts—see below.) The basic premise is that a commercial district serving a particular neighborhood will draw patrons from a relatively small market area, increasing the chances that many will arrive via walking, for example, while districts that allow uses drawing from a regional market may require more parking per square foot of floor area for the same use.

Cambridge, Massachusetts, offers an example of differentiating between districts; its regulations provide that the parking requirements vary "according to the type, location and intensity of development in the different zoning districts, and to proximity of public transit facilities." For example, the minimum parking requirement for general retail establishments varies from one space per 500 square feet, one space per 700 square feet, and one

space per 900 square feet, depending on the type of zoning district. Maximum standards in Cambridge vary by district as well.

Portland, Oregon, does not require off-street parking in several of its commercial zoning districts (e.g., Mixed Commercial/Residential zone, Storefront Commercial zone, and the Office Commercial 1 zone). Where parking is required, the city makes distinctions based on the scale of development allowed in the district and, in some cases, the residential density of the surrounding area. There are no minimum parking requirements associated with uses in the Neighborhood Commercial 1 zone, which "is intended for small sites in or near dense residential neighborhoods." Off-street parking is required for uses in the Neighborhood Commercial 2 zone, which "is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods." Off-street parking requirements are generally less in the Neighborhood Commercial 2 zone than in another level of commercial activity, the General Commercial zone, which "is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas."

The Role of Overlay Districts

Overlay districts can be an effective tool for incorporating unique parking requirements that recognize and foster unique characteristics associated with particular areas in a community.

Minneapolis has several overlay districts that incorporate special parking requirements. The Pedestrian Oriented Overlay Districts, scattered throughout the city, include maximum parking standards and restrictions on the location of parking facilities. The Downtown Parking Overlay District prohibits new commercial parking lots in the downtown area and limits the size of new accessory surface parking lots to no more than 20 spaces.

Greensboro, North Carolina, uses unique parking standards in its East Market Street Pedestrian Scale Overlay District. One purpose of the overlay district is to "modify the image of the corridor, moving away from the existing vehicular-oriented thoroughfare to an image which is attractive to pedestrian access and use." The parking regulations in the overlay district include the following:

Parking Credits and Exceptions:

- i. In all areas, on-street parking spaces on the right-of-way between the two side lot lines of the site may be counted to satisfy the minimum off-street parking requirements.
- ii. Where parking is available off-site within 400 feet of the front entry to the building, and that parking is owned or controlled under a permanent and recorded parking encumbrance agreement for use by the occupants or employees on the site, said parking may be counted to satisfy the off-street parking requirements.
- iii. In those portions of the Overlay District with underlying zoning of GB, GO-H and HB and which are occupied as a retail use, all parking located behind the front setback of the building shall be double-counted so that each such parking space behind the front setback shall be counted as if it were two (2) spaces available to satisfy the off-street parking requirements for such retail use.
- iv. Where it can be demonstrated through a documented parking study that the demand for parking of the combined uses of two (2) or more buildings can be satisfied with the shared and jointly accessible off-street parking available to those buildings, then a special exception to these parking requirements may be granted by the Board of Adjustment to satisfy the minimum parking requirements.

The Richmond, Virginia, zoning code includes a very extensive description of the rationale underlying its Parking Overlay Districts:

Pursuant to the general purposes of this chapter, the intent of Parking Overlay Districts is to provide a means whereby the City Council may establish overlay districts to enable application of appropriate off-street parking requirements to business uses located within areas of the City characterized by a densely developed pedestrian shopping environment in close proximity to residential neighborhoods. The districts are intended to recognize that, due to several factors, business uses located in such areas typically generate lower demands for privately maintained off-street parking spaces than are reflected in the requirements generally applicable in the City and set forth in Section 32-710.1 of this chapter.

Parking requirements within Parking Overlay Districts are designed to reflect the factors that result in lower parking demand in such areas. These include: a function similar to that of a shopping center, resulting in a high proportion of multipurpose trips by patrons; considerable walk-in trade due to proximity to residential areas and employment centers; significant numbers of employees that walk to work due to proximity to living areas; availability of public transportation; and many older buildings which have been adapted from other uses and tend to be less efficient than newer special purpose buildings. It is also intended that each Parking Overlay District reflect the supply of public parking spaces within the district by providing for further reduction in the parking requirements in direct proportion to available public parking.

Parking Overlay Districts are intended to complement the UB Urban Business District and to be applied principally to those areas within such district which possess the factors enumerated above, but may also be applied independent of the UB District to other areas where such factors exist within other specified districts.

Bicycle Parking

A number of communities recognize how bicycle travel can reduce vehicular parking demand. Overall, less than 1 percent of all trips in the U.S. are bicycle trips. Since 48 percent of all trips in the U.S. are shorter than three miles, many believe the potential for increasing utilitarian bicycle travel is great (Pucher and Schimek 1999). The extent to which bicycle travel can substitute for automobile travel may depend on demographics, climate, and the availability of the infrastructure to accommodate bicycle use, including bicycle parking. U.S. communities that have the highest level of bicycle use tend to be midsize cities with a large student population, such as Gainesville, Florida; Madison, Wisconsin; Boulder, Colorado; and Davis, California. The presence of a major university need not be a prerequisite to making a serious effort to encourage bicycle travel as a legitimate form of daily transportation.

PAS Report 459, *Bicycle Facility Planning* (Pinsoff and Musser 1995), covered a wide range of bicycle infrastructure and regulation issues. The report included the following general guide that suggested minimum bicycle requirements for a variety of uses.

A number of communities have chosen to institute minimum bicycle parking requirements, while some also allow for a reduction in the number of required automobile spaces when bicycle parking is provided. (See Table 3.)

In Davis, California, considered by many to be the preeminent bicycling community in the U.S., "the number and location of all bicycle parking spaces shall be in accordance with the community development director

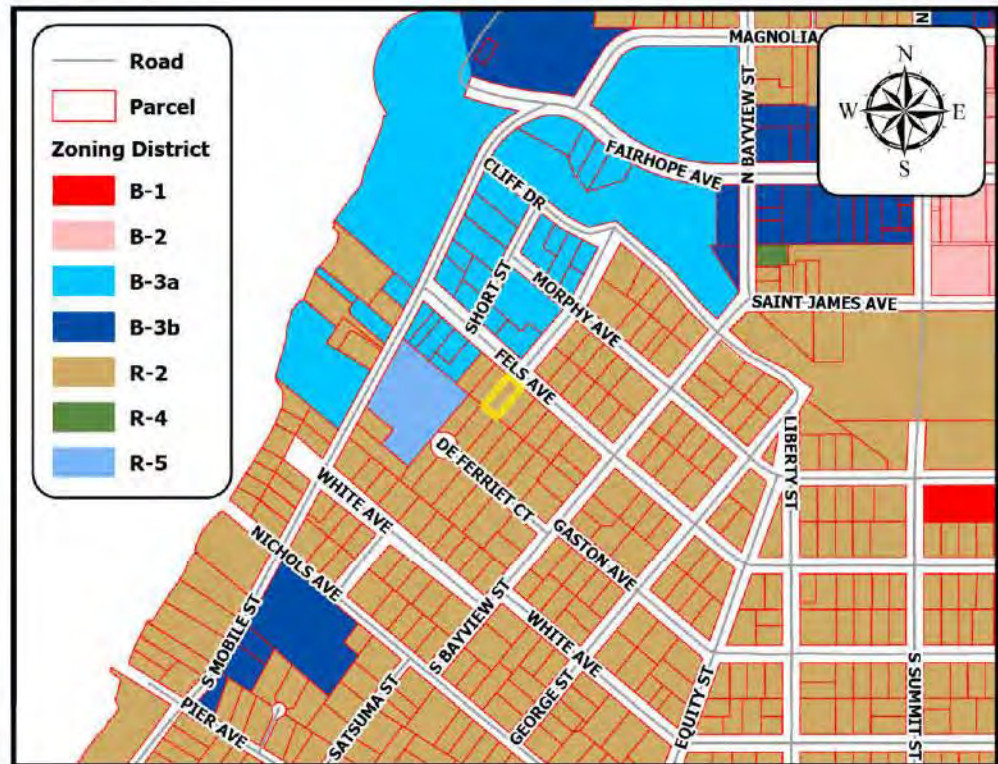
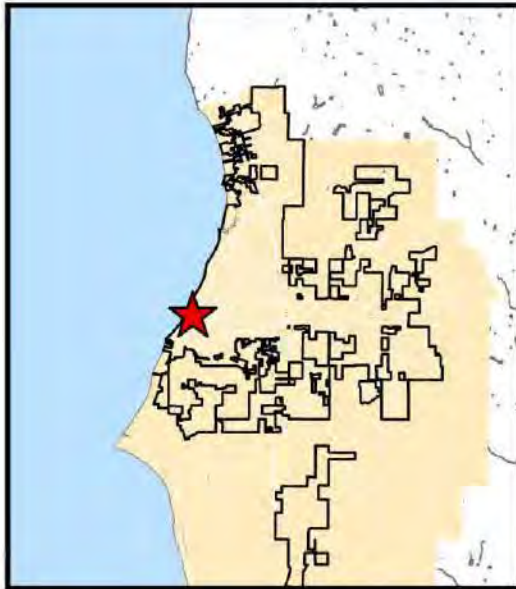
City of Fairhope

Board of Adjustments

October 21, 2024



BOA 24.11 - 50 Fels Avenue



Project Name:

50 Fels Avenue

Site Data:

0.22 acres

Project Type:

Setback variances of 5 and 15 feet

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

R-2 Medium Density Single-Family Residential District

PPIN Number:

14503

General Location:

Freedom Street and Fels Avenue

Surveyor of Record:

N/A

Engineer of Record:

N/A

Owner / Developer:

Jason LaSource

School District:

Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Denial

Prepared by:

Name: Michelle Melton





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☒ Variance

Property Owner / Leaseholder Information

Name: Jason M. LaSource Phone Number: 251-379-4822
 Street Address: 50 Fels Ave
 City: Fairhope State: AL Zip: 36532

jlsource24@gmail.com

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.

Jason M. LaSource
 Property Owner/Leaseholder Printed Name

6/13/24
 Date

Signature

[Signature]
 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) <u>Live Oak Tree</u> |

Describe the indicated conditions: Live Oak in the middle of the yard. Tree is around 80 yrs Old. Healthy tree per Chris Francis. Will build house around if variances are approved.

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

Live oak is toward the middle of yard. Lot is too narrow to build away from tree. Need to move house up to give the tree room to grow & allow room to build around.

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

Setback Variance 15 ft front setback
5 ft Side setback

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.

Jason M. LaSource
Property Owner/Leaseholder Printed Name

6/13/24
Date

Signature

[Signature]
Fairhope Single Tax Corp. (If Applicable)

Summary of Request:

The Applicant/Owner, Jason LaSource, is requesting a 15' front setback variance and a 5' side setback variance for the principle structure to preserve an 80+ year old heritage live oak tree. The address is 50 Fels Avenue. This case was tabled at the August 19, 2024, BOA meeting for lack of information, particularly regarding the 2nd floor addition.



Figures 1-3: Existing Conditions of house and tree.

Comments:

As mentioned, the lot nor the structure conform to the current day R-2 dimensions because the lot is less than 10,500 sf (approximately 9,504 sf) and less than 75' feet wide (66' wide). None of which are peculiar to the neighborhood. The existing principle structure is built 20' from the front lot line and 4-5' from the side lot line and remains a legal non-conforming structure to Staff's knowledge. *See below.*

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' =
R-1a	40,000 s.f./-	120'	30'	30'	10' ^b	20'	25%	35'
R-1b	30,000 s.f./-	100'	30'	30'	10' ^b	20'	25%	35'
R-1c	20,000 s.f./-	80'	30'	30'	10' ^b	20'	25%	35'
R-2	10,500 s.f./-	75'	35'	35'	10' ^b	20'	25%	30' =

a. Structure may exceed the building height provided the lot width is increased by 10 feet for each additional foot in height.

b. Where a driveway is in the side, and extends past the front of the principle structure, the side setback shall be 15'. Driveways shall not be within 3 feet of the side lot line. The area between the side lot line and driveway shall be vegetated and remain pervious.

The lot was platted with its current dimensions in 1910-1911. *See below.*



It is the intent of the Applicant to completely tear down the principle and accessory structure and rebuild. New structures shall conform to the current Zoning Ordinance unless there is a case for a variance based on the following criteria listed in Section C(e)(1).

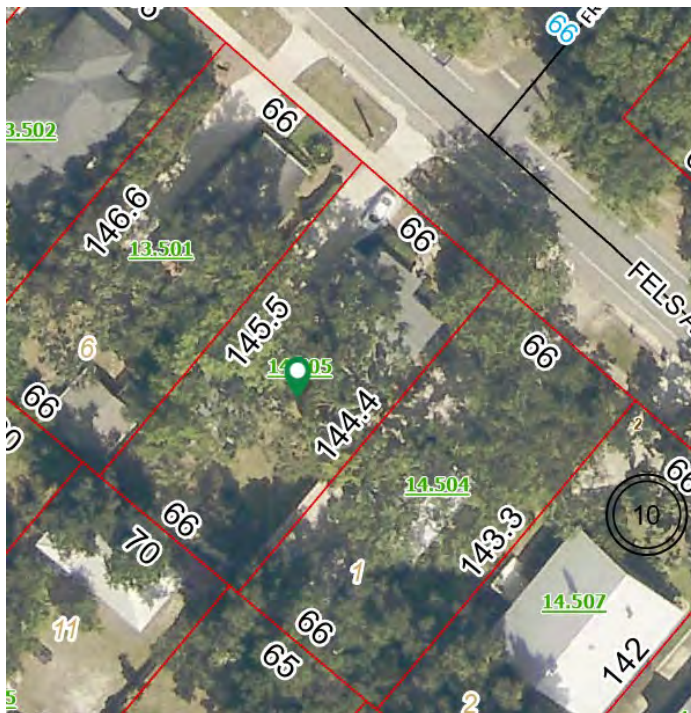
e. *Criteria –*

- (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.

Article VII, Section D(3) reads the following regarding front setbacks for non-conforming lots:

3. The minimum front setback required for the district (and, on corner lots, the street side setback) shall not apply to any lot where the average front building line(s) of the adjacent lot(s), is less than the minimum setback required for the district. In such cases, the front building line may be the same as the average front building lines(s) of the adjacent lot(s). In no case, shall the front building line be more than 5' less than the minimum setback required for the district.

The direct “adjacent lots” are 24 and 52 Fels Avenue with approximately 15’ and 60’ front setbacks, respectively. *See below.*



Applicant's narrative states that the requested setback variance will be further back than several of the neighbors on the block and that is a correct statement. Many of the houses are zoned differently with different setbacks. Article VII, Section D(3) allows relief, under certain conditions, when adjacent properties are built closer to the street than current front setbacks allow. The average front building line of the two adjacent properties is 37.5', so there is no relief allowed for this proposal.

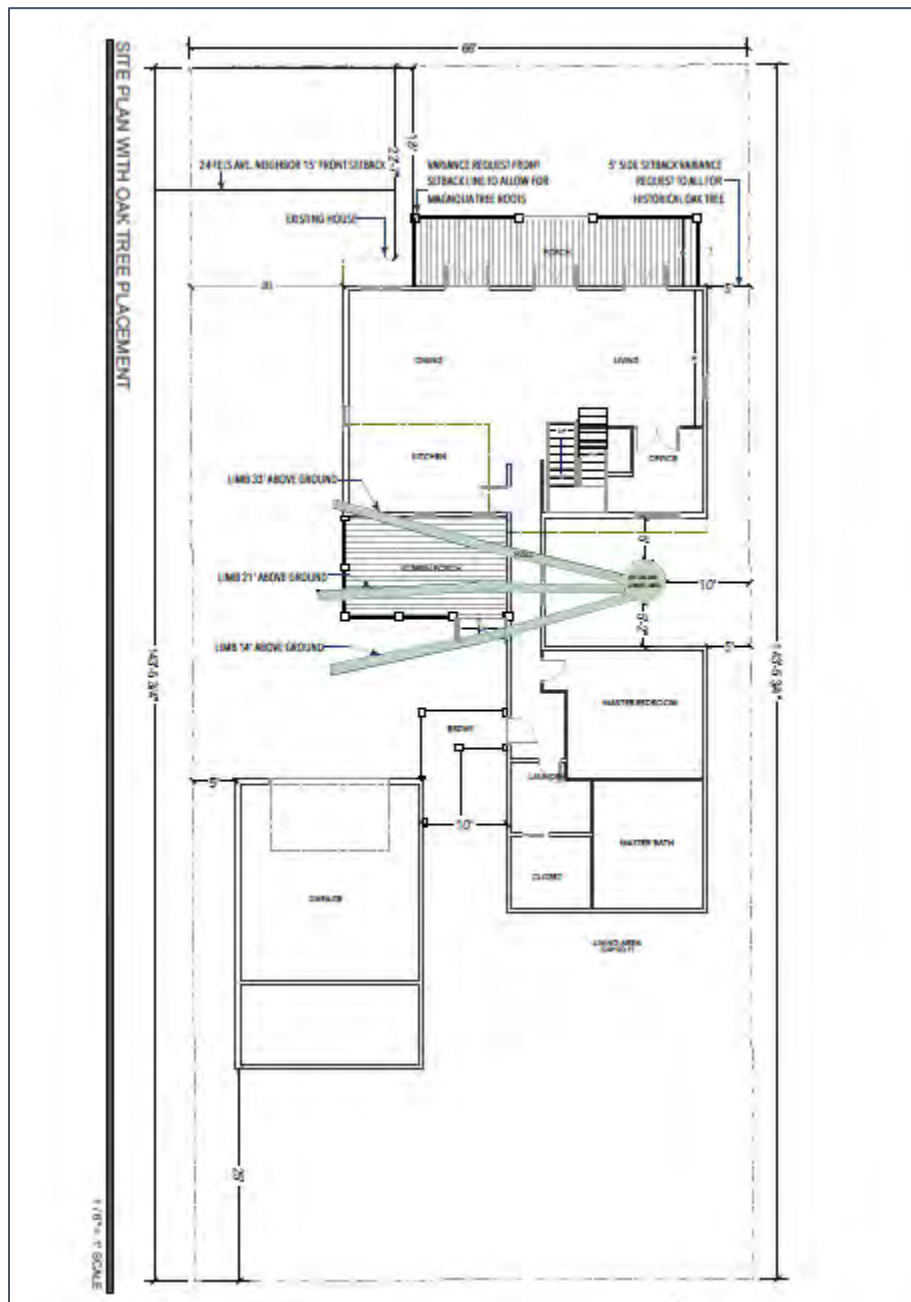


Figure 4: Proposed Site Plan with Oak and Largest Limbs

The above site plan illustrates the proposed home with an area cut out to protect the tree and its roots. Applicant has consulted with Chris Francis Tree Service (“Francis”) whereas Francis “verified the tree is healthy” and Francis recommended tree protection measures in the event the above site plan is approved. The estimate is within the packet.

The updated plans, including the second-floor addition, were sent to a third-party landscape professional. After reviewing the plans and doing a site visit to assess the health of the heritage oak tree the professional opined that the tree can withstand and survive the second story addition so long as the proper precautions are taken and construction of the second story addition does not require cutting off any of the major limbs depicted in the plans.



Figure 5

Note: Although BOA cases are not Site Plan driven Staff did recognize on the updated plans that the accessory structure is not set behind the rear building line of the principle structure as is required in Table 3-3. *See below.* This needs to be adjusted before applying for a building permit.

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				
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 recommendation is confined to the current Zoning Ordinance. The Tree Ordinance does not apply to single family residences per 20.5-4(1). The Planning and Zoning Director may grant a 7' administrative setback variance to protect and/or preserve an existing Heritage Tree. See *Article IV, Section G*.

Although the requested deviations from the existing front and side setbacks may be minimal, new builds must conform to current setbacks unless the BOA deems otherwise. In that vein, there have been variances granted based on trees in the past, most of which were prior to the adoption of the Tree Ordinance in 2011 (Ord. No. 1444). Staff would be more supportive if the tree was not cradled on three sides by the proposed new house. The proposed plans leave a large amount of buildable area inside the setbacks untouched. Utilizing this area would provide more protection for the tree. Or a possible better solution exists by requesting relief from the rear setback line as opposed to moving the house closer to the street.

The following is a previous case.

BOA 13.01 105 Fels Avenue: Granted 30' rear setback variance (5' rear setback) to preserve a 60" heritage live oak. Minutes mention Applicant cutting out buildable area to preserve the tree. In the case above, Staff supported the administrative variance, but was limited to the 7'. The Board granted an additional variance based on the merits of the case, including the fact that the lot was only 45' wide.

Analysis and Recommendation: Variance Criteria

(a) There are extraordinary and exceptional conditions pertaining to the piece of property in question because of its size, shape, or topography.

Response: The City acknowledges a Heritage Tree is worth saving in various sections of local code.

(b) The application of the ordinance to this piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.

Response: The application of the Zoning Ordinance **does not** create an unnecessary hardship.

(c) Such conditions are peculiar to the piece of property involved; and

Response: A heritage live oak meets the tree preservation criteria of Article IV, Section G, which is unique to this piece of property.

(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.

Response: Relief will not cause substantial detriment to the public good because tree variances have been granted in the past to protect heritage trees.

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

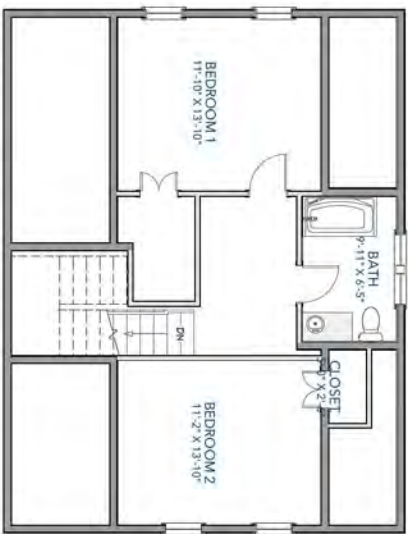
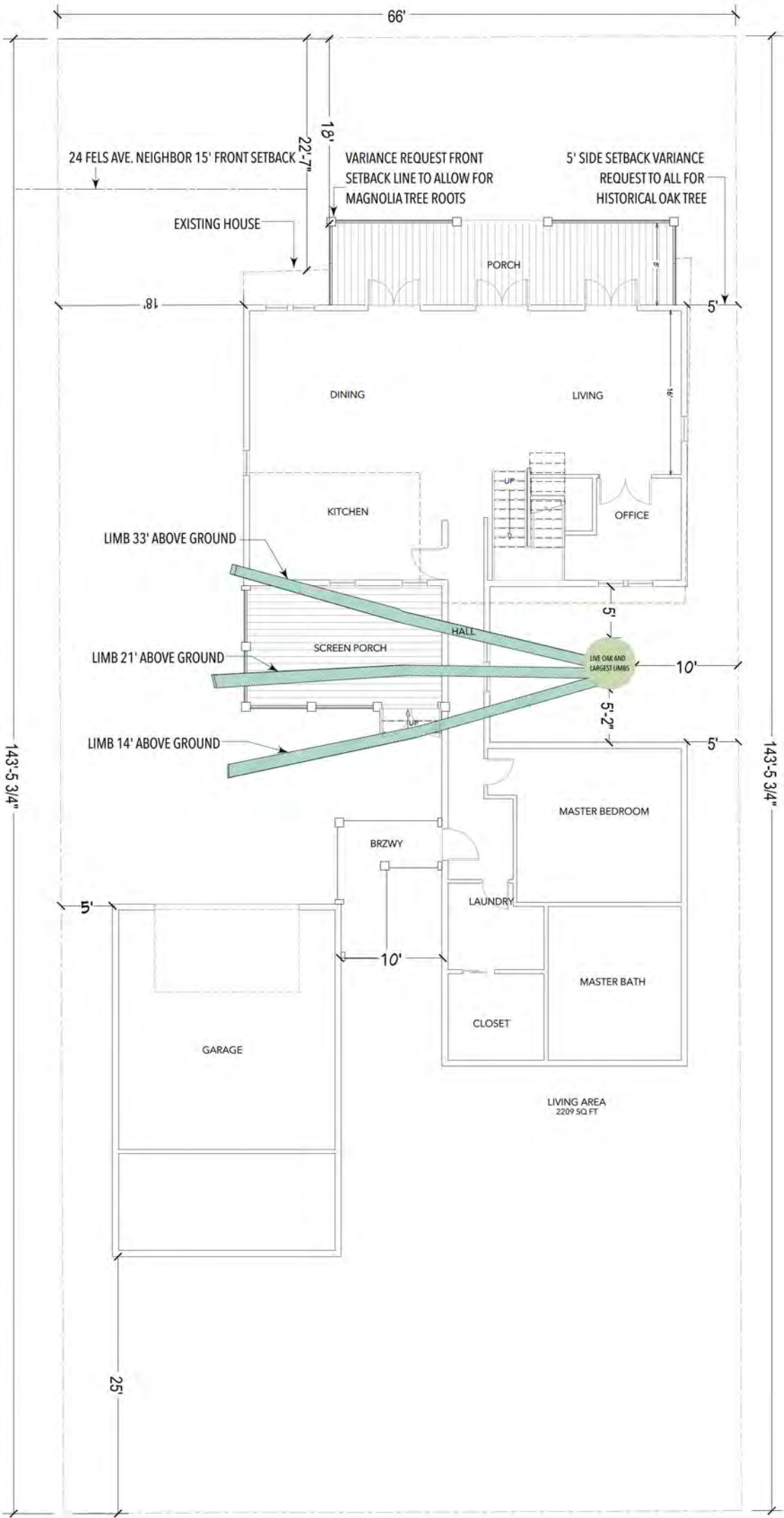
Article II.C.3.g.

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

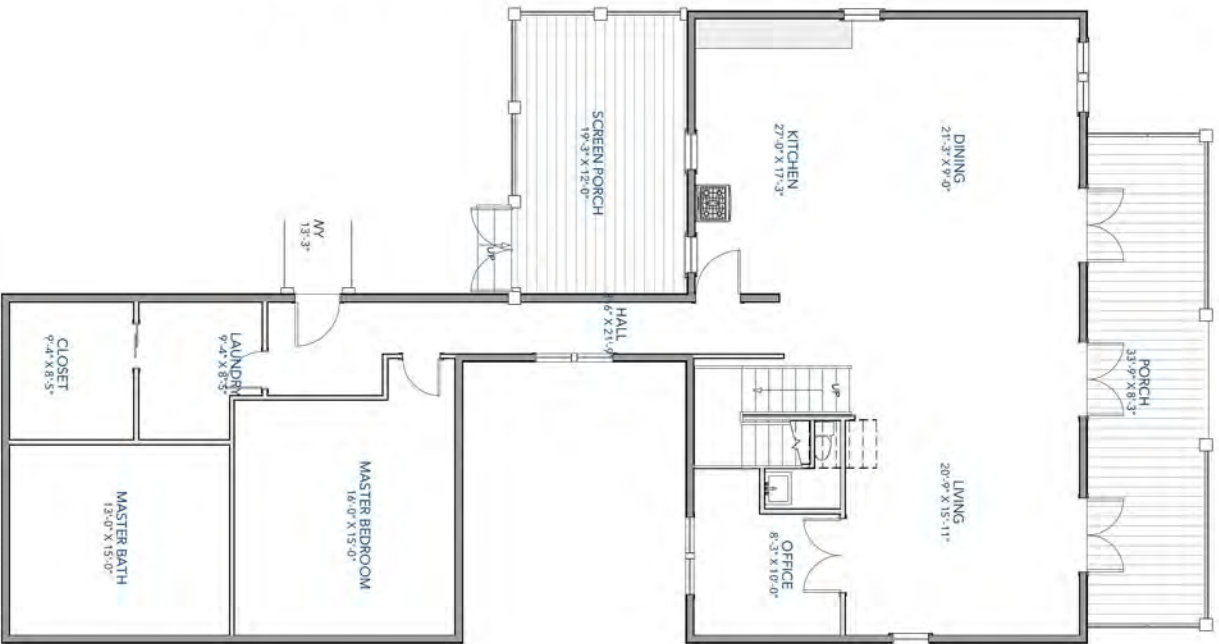
- (1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and
- (2) The variance is recorded with the Judge of Probate.

Recommendation:

Staff is not convinced that the updated full set of plans is the best solution for protecting the tree and recommends **Denial** of a 15' front setback and 5' side setback variance for the principle structure in case BOA 24.11. However, it may be the pleasure of the BOA to decide otherwise.



PRELIMINARY FLOOR TWO: 8' CLG.



PRELIMINARY FLOOR ONE: 10' CLG.

PROPOSED LAYOUT
AND PLACEMENT

LASOURCE
RESIDENCE

CHRISTINA STANKOSKI
COASTAL CLASSICS
HOME DESIGN + RESTORATION

DATE:

9/11/24

SCALE:

SHEET:

2



CONCEPTIONAL RENDERING:
WEST ELEVATION OF LIMB CLEARANCE
OVER HALLWAY AND SCREEN PORCH

1/4" = 1' SCALE

3 MAIN LIMBS BETWEEN THE MAIN HOUSE AND PRIMARY SUITE
(CONNECTED BY HALLWAY) IN ORDER TO PRESERVE THE HISORICAL TREE



FRONT ELEVATION WITH TREE LIMBS IN THE REAR

1 / 2" = 1' SCALE

TREE LIMB PLACEMENT IS AN ESTIMATE AND IS TO BE
VERIFIED WITH A SURVEYOR AND / OR ARBORIST.

FRONT ELEVATION
WEST RENDERING

LASOURCE
RESIDENCE

CHRISTINA STANKOSKI
COASTAL CLASSICS
HOME DESIGN + RENOVATIONS



DATE:

9/11/24

SCALE:

SHEET:

4

To whom it may concern:

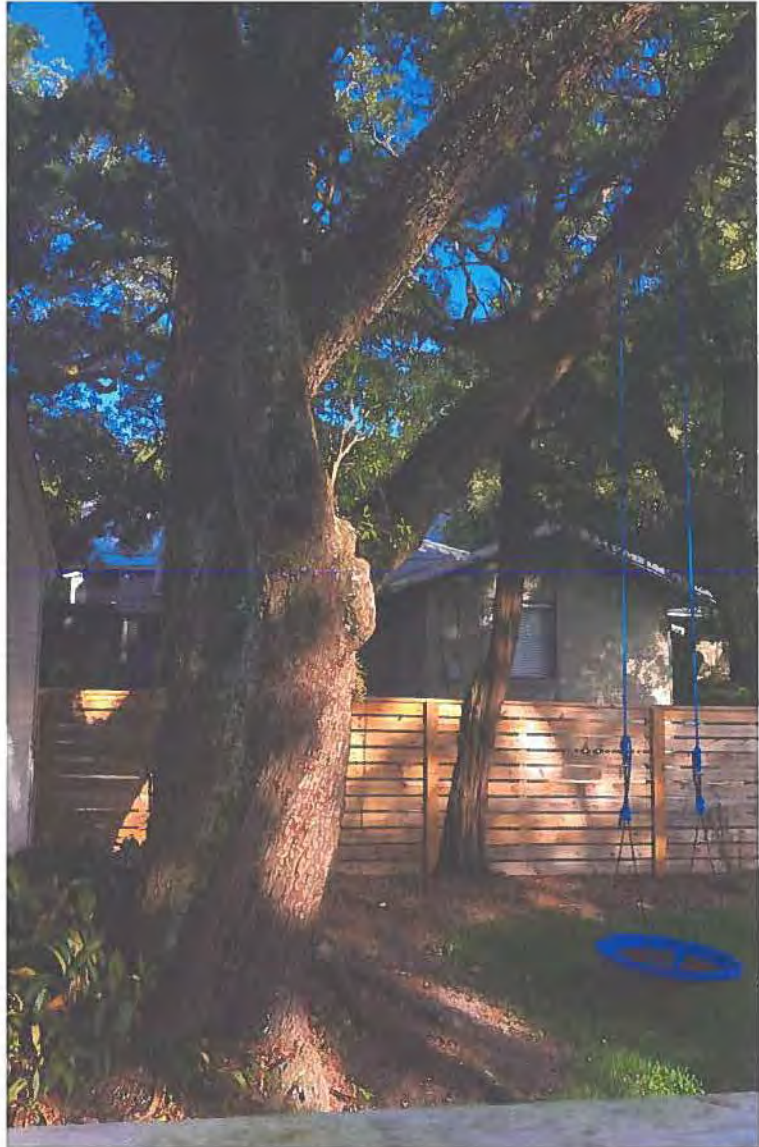
We purchased our property at 50 Fels Avenue in 2017 with the intent to build. The house was in such poor shape that we almost did not even consider visiting the property because the pictures were so terrible. We took a chance and decided to visit the property and upon seeing the live oak, the proximity to the bay and room for a garden we made an offer to purchase the property. Our intention from the beginning was to build a coastal cottage home with a modest footprint to preserve our great outdoor space while preserving the 80+ year old live oak.

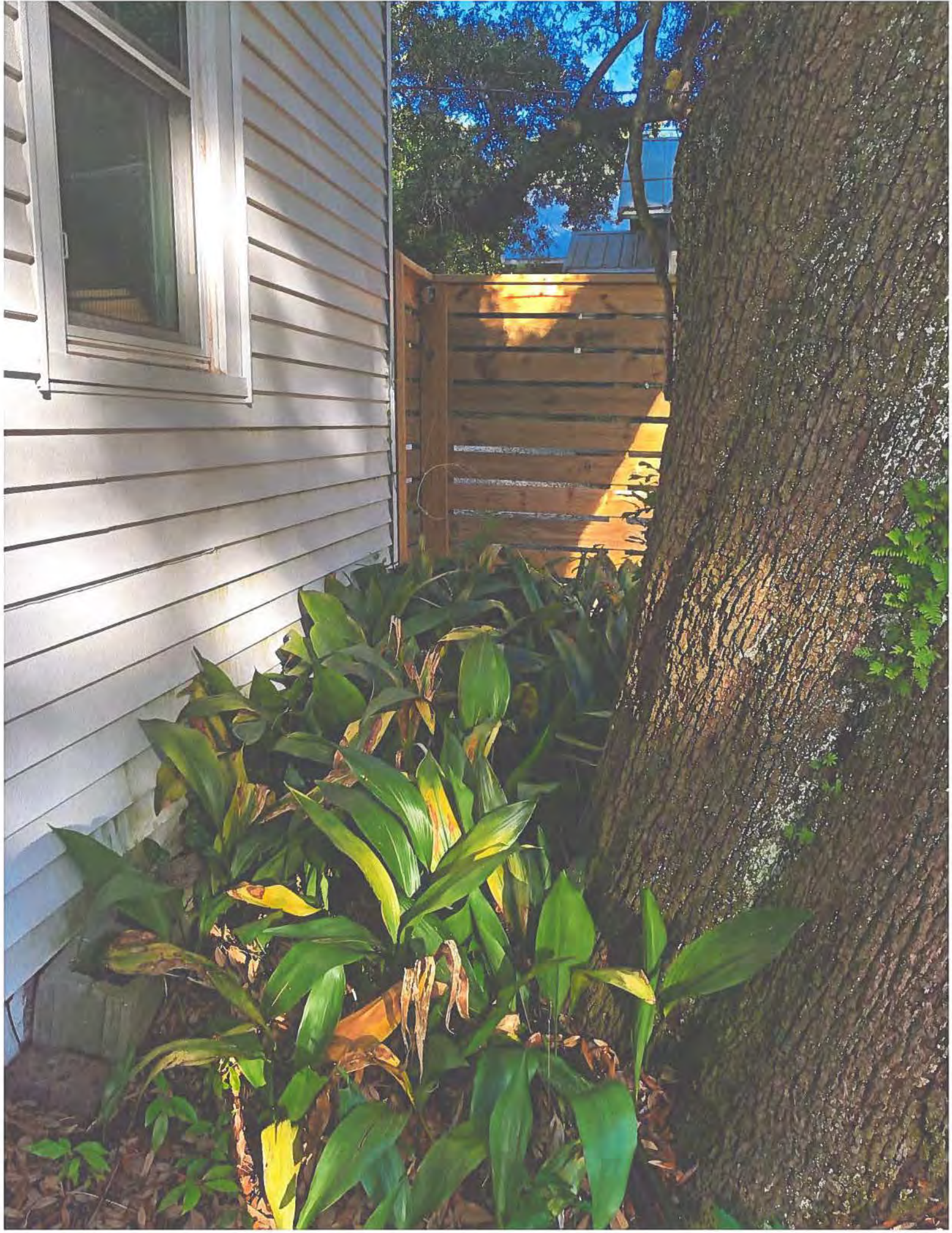
We are in an area that has a lot of foot traffic and frequently observe people stopping directly in front of our property to admire the massive live oak that hangs over the property. We did the same thing upon our initial visit to 50 Fels. It is a magnificent tree that has many more years to mature and should be preserved. Moving the house up 2-3 feet from where it currently sits and keeping our current set back on the east side (where our house sits now) would allow for that. Even with moving the house forward it will still be set back further than several other houses on our street including the 5 houses that are west of us. With the new house remaining near where the current house is on the east side it will give our neighbor to the west more privacy than if we had to center the house and move it closer to her lot. Almost all of the houses on our side of the street are offset to the left with driveways on the right. Maintaining our left offset will allow us to keep our current level of privacy while maintaining the look of our street. We enjoy teaching our daughter how to garden and having space for friends and family to enjoy in our backyard so do not want to take up our entire property with a house which we would have to do otherwise. Thank you for your time and consideration.

Sincerely,

Jason and Sarah LaSource











Proposal #26962

Created: 03/14/2024

From: Chris Francis

Proposal For

LaSource, Jason & Sarah

Jason & Sarah LaSource

50 Fels Ave

Fairhope, AL 36532

Location

50 Fels Ave

Fairhope, AL 36532

Customer Contact

mobile: 251-379-4822

sourcy24@yahoo.com

Terms

Due upon completion

LaSource air excavation (FHP)

ACCEPT	ITEM DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
☒	A) Air Excavation Day Rate Recommended Air Excavation Day Rate (PHC crew 8 hours air excavation, root pruning, and inspection of trunk flares)	1	\$ 2,000.00	\$ 2,000.00
☐	B) Air Excavation Day Rate Optional Air Excavation Half Day Rate (PHC crew 4 hours air excavation, root pruning, and inspection of trunk flares)	1	\$ 1,200.00	\$ 1,200.00

Please use the checkbox to mark items as accepted.

01. Performance - Chris Francis Tree Care, LLC (herein "CFTC" or "Chris Francis Tree Care") will attempt to coordinate scheduling of work with client so as to avoid scheduling conflicts. Chris Francis Tree Care reserves the right to arrive at the job site unannounced unless otherwise noted. Chris Francis Tree Care will attempt to meet all performance dates but is not held liable for any damages due to delays. We must work around weather, heavy equipment, traffic, employees, and other factors; please understand.

02. Workmanship / Professionalism - Chris Francis Tree Care will perform all work in a professional manner using experienced personnel outfitted with the appropriate tools and equipment to complete the job safely and properly. All work should be performed according to ISA Best Management Practices, ANSI A300 Standard Practices, and ANSI Z133.1 Safety Standards. Chips from stump grinding will be left on site unless otherwise noted.

03. Insurance - Chris Francis Tree Care will maintain General Liability Insurance - which provides coverage for damages to property and injury to persons other than employees. Chris Francis Tree Care will maintain Worker's Compensation Insurance - which provides coverage for injury to employees. Chris Francis Tree Care will maintain Vehicle Liability Insurance - which provides coverage for vehicular accidents. Chris Francis Tree Care will also maintain a bond which covers your personal property while employees are present on the site. Unless otherwise noted, some damage to lawn is normal for tree service.

04. Ownership - Client warrants that all trees, plant material, and property upon which work is to be performed are either owned by the client or that permission for the work has been obtained from the owner by the client. Client agrees to indemnify and hold harmless Chris Francis Tree Care and its employees from any and all claims and damages resulting from client's failure to obtain said permission from owner.

05. Hidden Obstruction Clause - Client agrees to indemnify and hold harmless Chris Francis Tree Care for damage to any and all below grade objects or systems including, but not limited to: water pipes, sewer pipes, field lines, cable lines, telephone lines, gas pipes, electrical lines, etc... Client agrees that Chris Francis Tree Care and its employees are not responsible for damage to hidden conditions which Chris Francis Tree Care and its employees were not made aware of including, but not limited to: geothermal lines, septic tanks, irrigation systems, drainage systems, unstable soil, etc. Failure of client to notify Chris Francis Tree Care of location of hidden conditions releases Chris Francis Tree Care from any and all damages resulting from hidden conditions.

06. Scheduling - A deposit of 10% of the overall project cost may be due upon agreement of the project to cover rented equipment and purchased products. Most tree work will not require a deposit. Upon acceptance of proposal (and payment of deposit, where necessary), an estimated start date for the project will be provided to the client. Deposits are nonrefundable. If a deposit is required, it will be clearly spelled out in the proposal.

07. Terms of Payment - A payment of 50% of the overall project cost may be due before start of project. Most tree jobs will not require upfront payment. Upon completion of the job, the remaining balance will be paid by the client in full to Chris Francis Tree Care. Certain projects will require credit card information to be on file. Clients providing credit card information hereby authorize the charging of such card in the amounts as agreed. A convenience charge of 3% is billed for all credit card transactions. There is no fee for payments made by cash or check. Client agrees that any unpaid balance due to Chris Francis Tree Care not paid will accrue 2% interest per month after 30 days. Client agrees that the work performed by Chris Francis Tree Care constitutes a mechanic's lien pursuant to Alabama Law. Client agrees to be responsible for any and all costs of collection of said amounts due under this contract including, but not limited to: attorney fees, collection fees, filing fees, and court costs.

08. Warranty - Client agrees that Chris Francis Tree Care is not responsible for plant materials. Chris Francis Tree Care will offer a 1 year limited warranty for all planted material if irrigation, plant material, and maintenance are all provided by Chris Francis Tree Care during that 1 year time frame. Fertilization and pesticide treatments are not guaranteed to solve problems or eradicate pests. Reapplications are often necessary. If you suspect a problem, please call immediately.

09. Estimate - Client agrees that the estimate is just that: an estimate (not advice, not an inspection, not an opinion). Plant, equipment, and material availability and prices are subject to change from the date the estimate is created to the start or completion date. If changes are

necessary, Chris Francis Tree Care will notify the client to resolve the issues. Free estimates can be created based on client's specific desires. Travel fees may apply. Rush fees may apply.

10. Consultations - For all consultations and inspections, client agrees to pay a fee of \$150 to \$450 per hour, minimum 1 hour. This includes but is not limited to: landscape consultations, arborist consultations, irrigation consultations, inspections, etc... This rate will also apply for the entire time the representative of Chris Francis Tree Care is waiting for client's arrival and/or required for witness reports and/or testimony. During normal consultations, the arborist can provide professional opinions and mitigation options. This is NOT to be confused with a free estimate, which provides only an estimated cost to complete the work. Clients may also be responsible for travel fees.

11. Travel fee / Overtime Fee - Estimates, consultations, and professional services in areas outside of the Eastern Shore of Baldwin County, Alabama will incur a travel fee. Travel fee is based on the time required to drive to and from the site. Time for travel cannot be applied to one hour minimum (on site). Normal work hours are Monday through Friday 8 AM - 4 PM; appointments scheduled outside of normal work hours may incur an overtime fee.

12. Change Order / Additions - Client agrees that additional charges will be applied to the invoice for any additional work that the client requests. If you would like to know the exact amount, please request an estimate before authorizing changes.

13. Emergency / Hourly Jobs - Due to the nature of emergencies, these jobs are invoiced at hourly rates for labor and equipment. While we maintain reasonable rates, emergency jobs invoice at higher than "normal" rates due to the increase in labor costs, increase in equipment costs, scarcity of resources, and urgency. Special order items will include a 15% convenience charge. Rates can be provided upon request and may require hourly minimums.

14. Severability - This is a legal binding contract; however if any part of this contract is deemed unenforceable, the remainder does remain in full force.

By clicking the 'Accept Proposal' button electronically, the customer agrees to the terms and conditions of the contract. If the customer is unable to sign electronically, a signed and dated paper copy of the contract is acceptable and must be returned to Chris Francis Tree Care before the work is to be performed.

Signature

x

Date:

Please sign here to accept the terms and conditions

Sales Reps

Chris Francis

Office: 251-367-8733

Mobile: 251-510-0186

chris@chrisfrancistreecare.com

50 FELLS

From Susan Slade <susan@gdsifairhope.com>

Date Fri 10/11/2024 9:37 AM

To Michelle Melton <michelle.melton@fairhopeal.gov>

Dear Michelle,

Paul had a chance to by 50 FELS Avenue and look at the Live Oak. It is a Healthy Heritage Live Oak and with the proper precautions taken, can definitely survive the construction of the new house. If the second story of the house doesn't require cutting off the Major Limbs, He thinks that a variance would be in order since this is a Heritage Tree.

Thank you,
Susan
Susan Slade
Office Manager
GDSI
251-929-0702



For Resolution see Miss 37 pag 1537

PLAN OF SUBDIVISION OF LAND
THE FAIRHOPE SINGLE TAX CORPORATION
SECTIONS 17 & 18, T6S R2E,
BALDWIN CO., ALA.

Scale 1 inch = 200 ft.
W. H. Graham, Draftsman

Thereby certify that this is a true and
Correct plan as represented.
Signed Aug 22, 1911

Prescott O. Porter, Secretary
THE FAIRHOPE SINGLE TAX CORPORATION
By G. M. Borgess
Supt. Land & Highways

The land of the Fairhope Single Tax Corporation shown on this map is not offered for sale, but for the convenience of its tenants and no dedication whatever is made to the public of any portion thereof except the Streets and they are dedicated to the municipality of Fairhope on the same terms and conditions named in the conveyance made by the said Corporation to said municipality on September fourteenth, 1909, recorded in deed book Number 15, New Series, page 245, 246, of the records of Baldwin County Alabama.

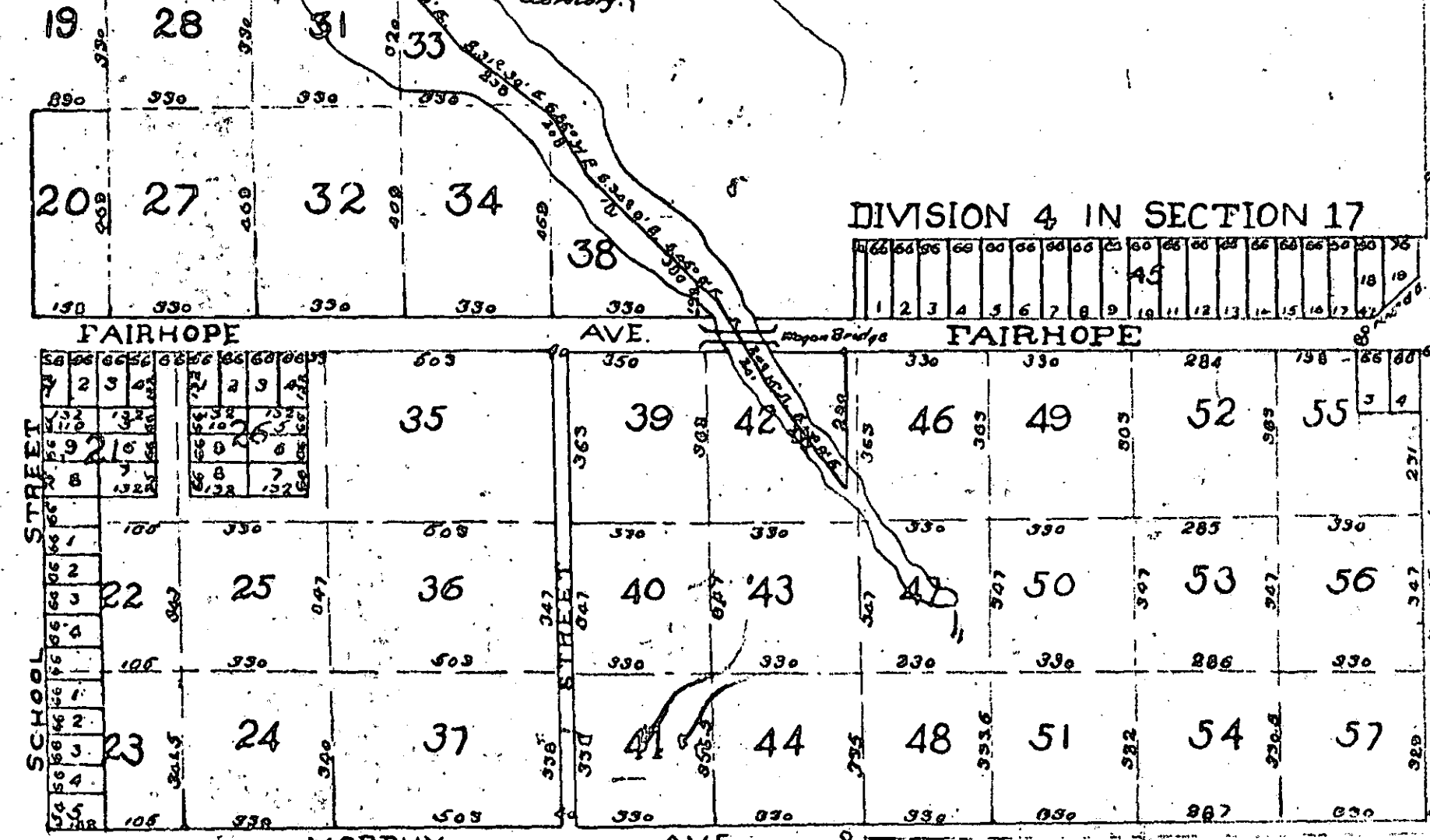
In witness whereof, the said Fairhope Single Tax Corporation has hereunto set its hand and seal on this the 9th day of September, 1911.

Fairhope Single Tax Corporation Seal
Attest: T. B. Godwin, Secretary
By T. L. Brown, Vice President

State of Alabama
Baldwin County, I, George W. Wood, a Notary Public in and for said State and County do hereby certify that T. L. Brown, whose name as Vice President of the Fairhope Single Tax Corporation is on the foregoing dedication, and who is known to me, acknowledged before me on this day, that being informed of the contents of said dedication, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand, this 9th day of September, 1911.

George W. Wood
Notary Public, Baldwin County, Alabama.



Areas crosshatched do not belong
to the Company
Iron pegs are denoted by @.

Various Owners
SW 1/4 of SE 1/4 of SW 1/4
NW 1/4 of SE 1/4 of SW 1/4
NE 1/4 of SE 1/4 of SW 1/4
SE 1/4 of SE 1/4 of SW 1/4

Filed in Office of Probate Judge for Record Sept-13, 1911
Recorded Sept-28th 1911
J. H. H. Smith, Probate Judge

DAVID LOWERY SURVEYING, L.L.C.

NOTES

- 1. All bearings shown hereon are relative to MAGNETIC NORTH
- 2. Corner monuments shown as set iron pins are set 5/8" reinforcing bars with a durable plastic cap stamped "26623"
- 3. Only School Road 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 the surveyor
- 5. No easements 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 herein. No liability is assumed by the undersigned for loss relating to any matter that might be discovered by an abstract, title search or legal judgment rendered on the property
- 8. Liability of the undersigned for the survey shown shall not exceed the amount paid for this survey
- 9. Record plat info is not legible except the width of the lots

THE UN-NUMBERED LOT ON THE SOUTH SIDE OF FELS AVE BOUNDED ON THE EAST BY LOT 1, BLOCK 7, DIVISION 2 AND ON THE WEST BY LOT 6, BLOCK 7, DIVISION 2 OF THE LAND OF THE FAIRHOPE SINGLE TAX CORPORATION IN THE CITY OF FAIRHOPE, AL AS PER THE PLAT RECORDED IN MSC. BOOK 1 ON PAGE 320-321 IN THE PROBATE RECORDS OF BALDWIN COUNTY, AL

1. David Lowery, a Licensed Land Surveyor in the State of Alabama, do hereby certify that the foregoing is a true and correct plat of a survey prepared by me or under my supervision, containing the scope and being 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.

PLAT OF A BOUNDARY LINE SURVEY
PREPARED FOR

**LASOURCE
BALDWIN COUNTY, AL.**

DWG. NO.	SURVEY DATE	SCALE
17-05-100	05/03/17	1"=20'

DRAWN BY: DBL CHECKED BY: D. LOWERY

LEGEND AND SYMBOLS

- (") RECORD BEARING/DISTANCE
- OC 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

**DAVID LOWERY
SURVEYING, L.L.C.**

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

**ALABAMA
LICENSED
No. 26623
PROFESSIONAL
LAND
SURVEYOR
DAVID LOWERY**

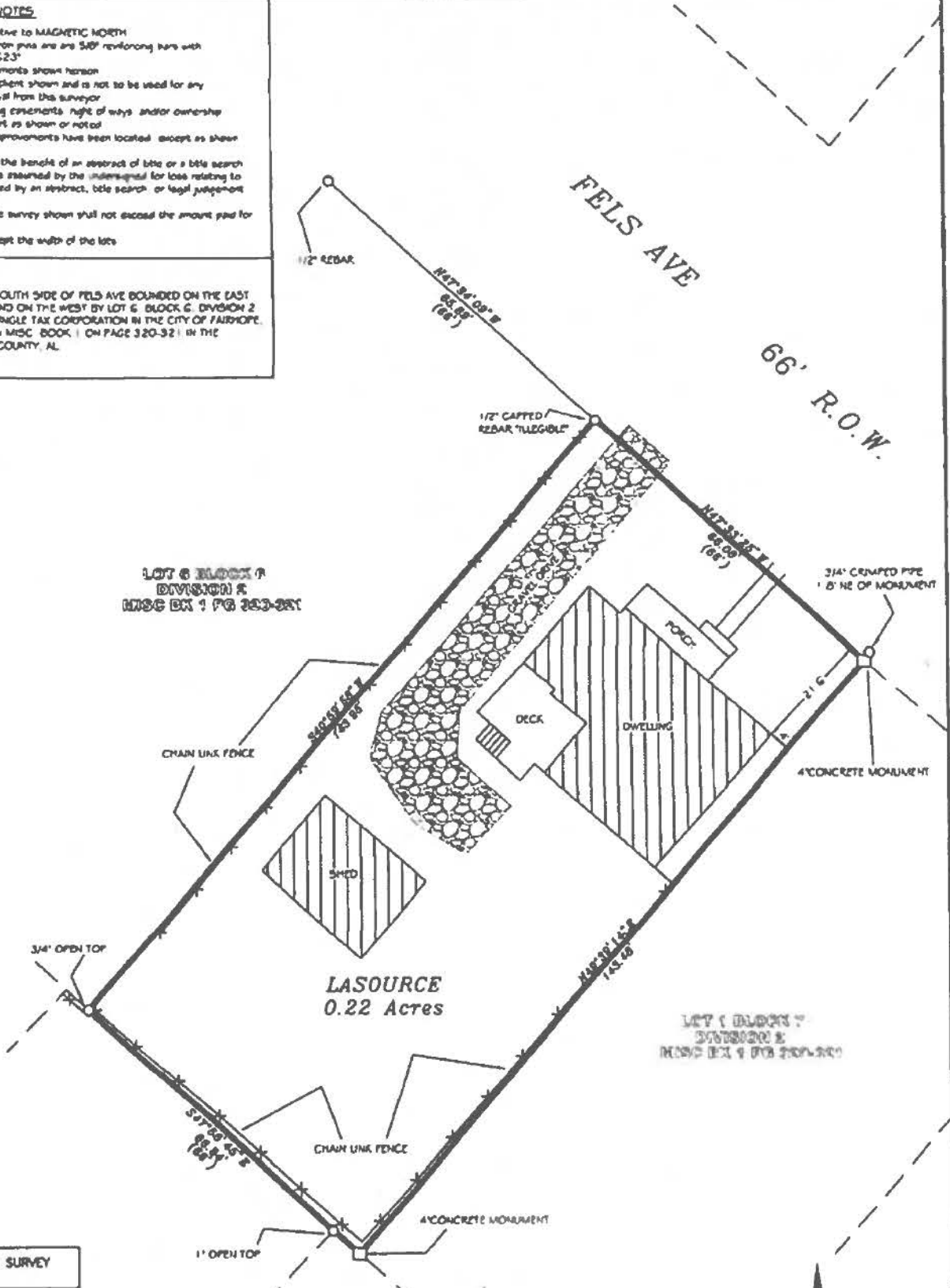
David Lowery
David Lowery
Al Lic No. 26623
55284 Martin Ln
Stockton, AL 36579
251-937-2757

***MAGNETIC**

N

SCALE
1"=20'

20' 0 20'



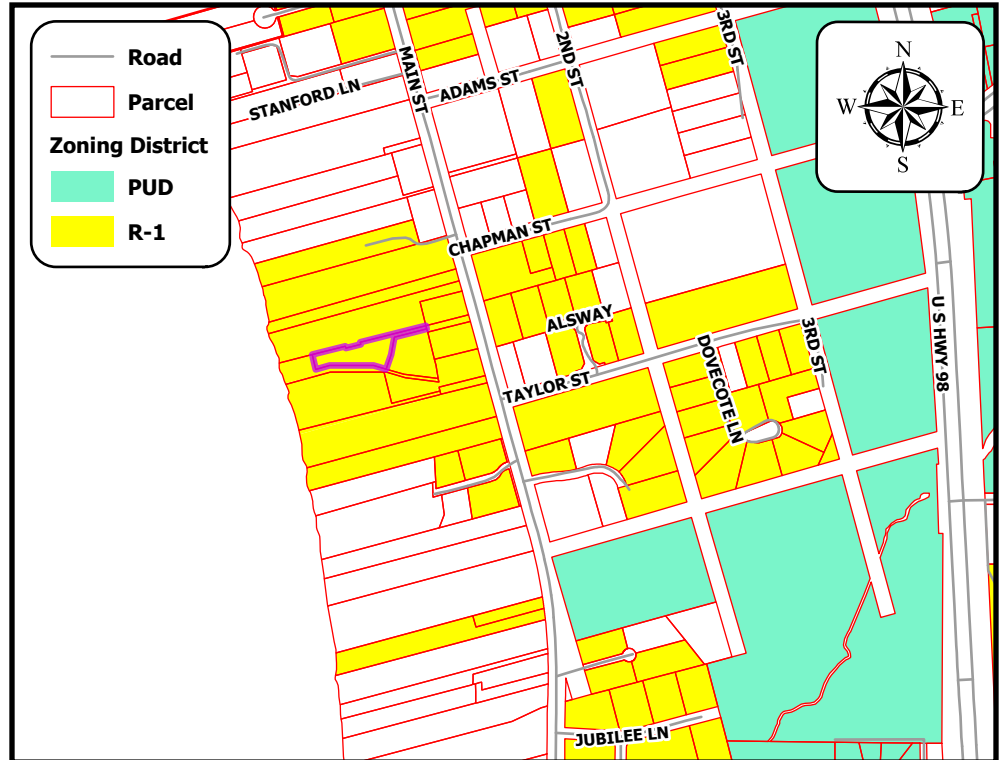
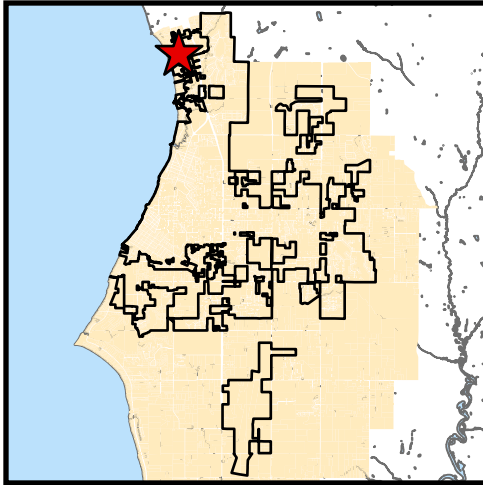
City of Fairhope

Board of Adjustments

October 21, 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

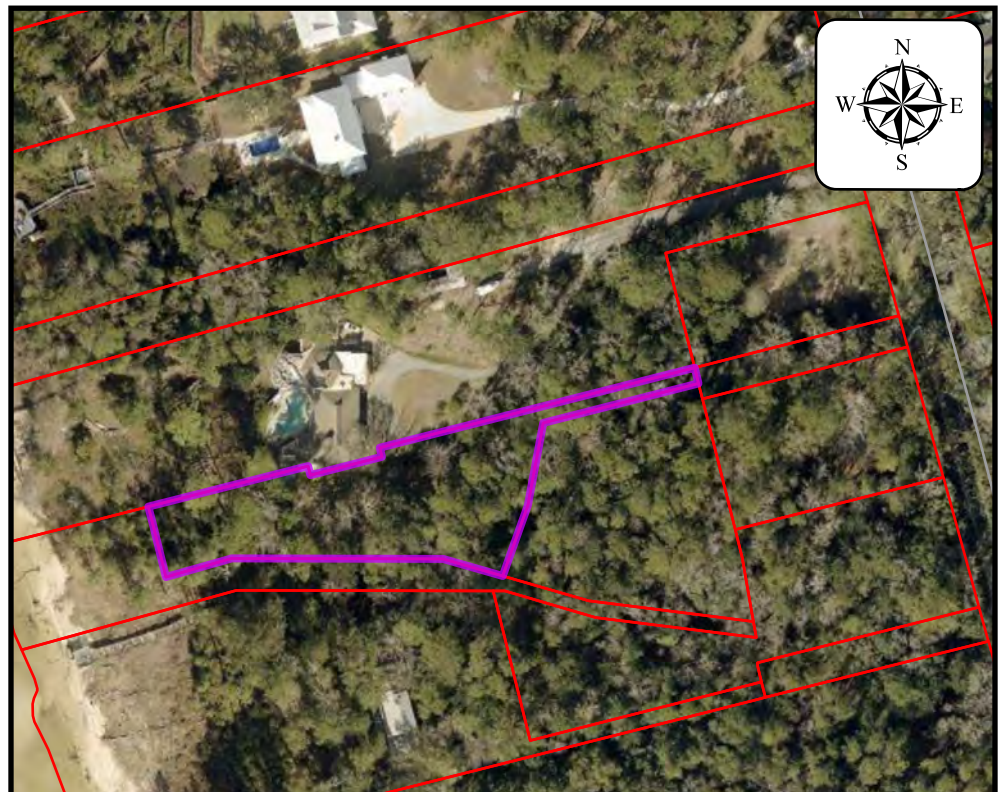
Fairhope Middle and High Schools

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: _____

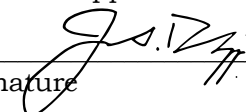
Site Plan with Existing Conditions Attached: **YES** NO
 Site Plan with Proposed Conditions Attached: **YES** NO
 Variance Request Information Complete: **YES** NO
 Names and Address of all Real Property Owners
 within 300 Feet of Above Described Property Attached: **YES** NO

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

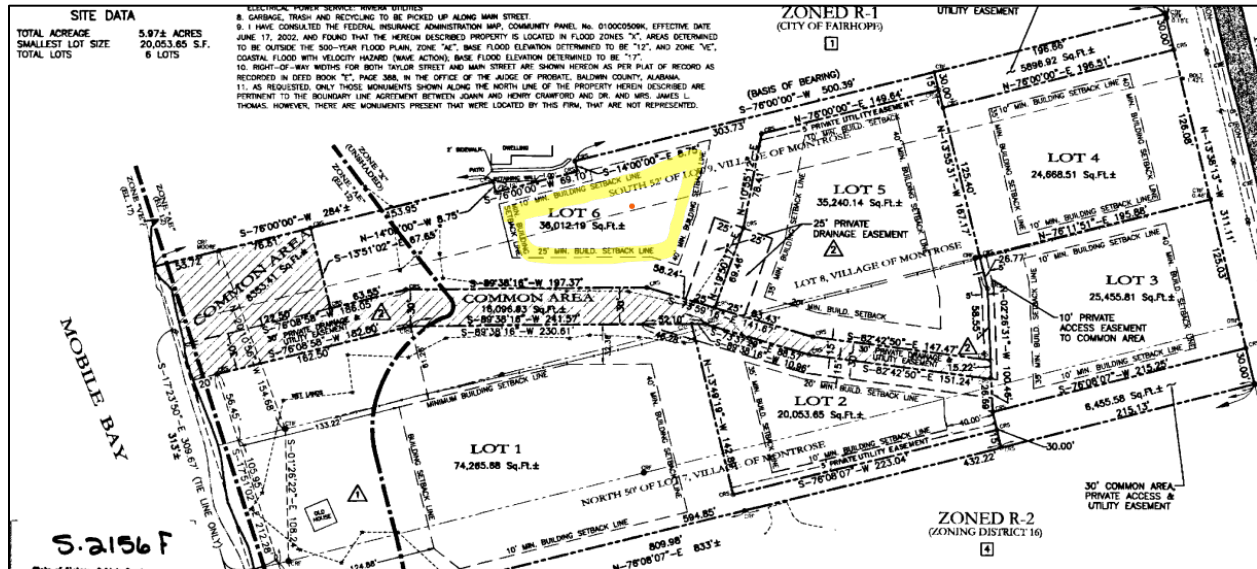
Date


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.

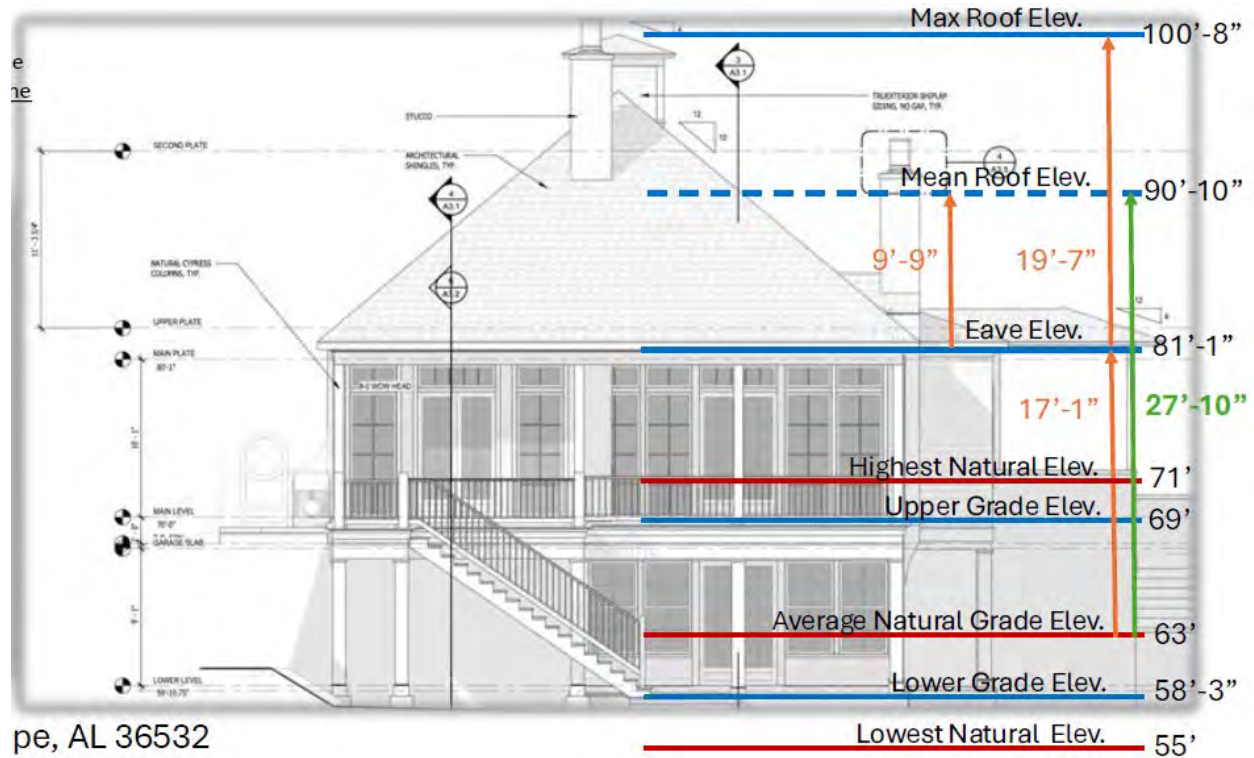
Table 3-2: Dimension Table - Lots and Principle Structure

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' ^h	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’.



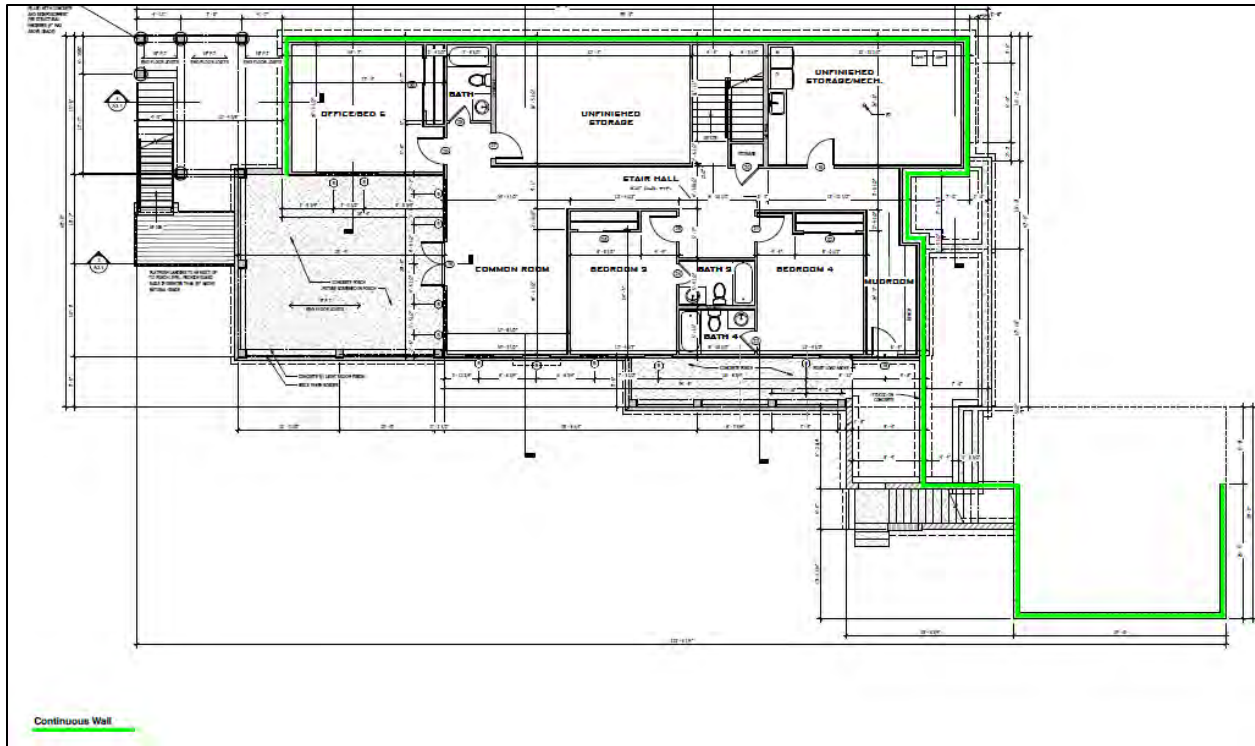


Site Plan Proposed Layout with Drop Off Detail

Retaining Wall Height Variance

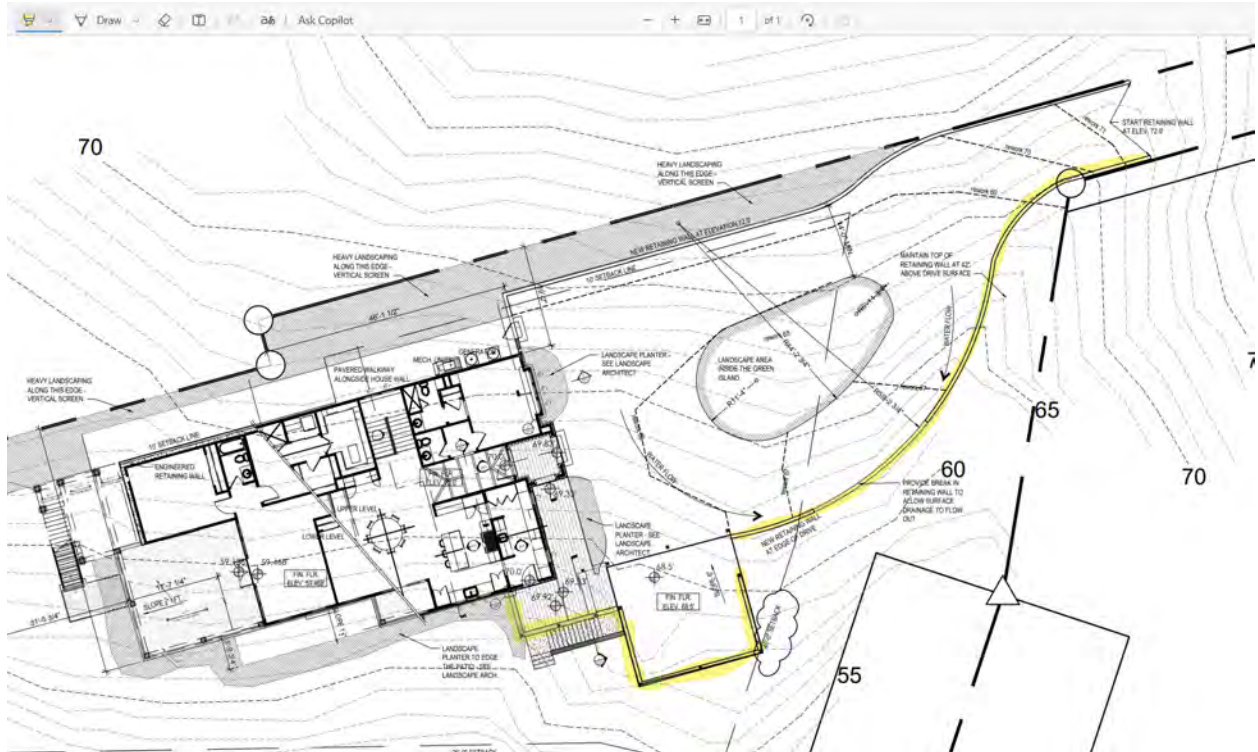
Applicant's proposed plans have a retaining wall around approximately half of the structure and the driveway approach. In some areas the retaining wall is approaching 20'. Article IV, Section B(5)(b)(1) states the following:

- 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;



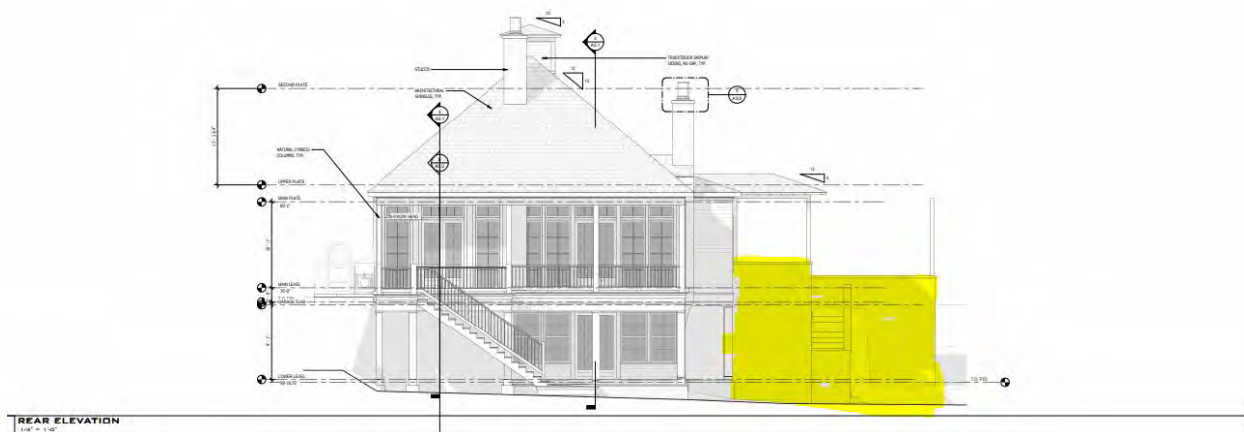
Sheet A1.1 of Ground Floor Plan with Continuous Wall

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.

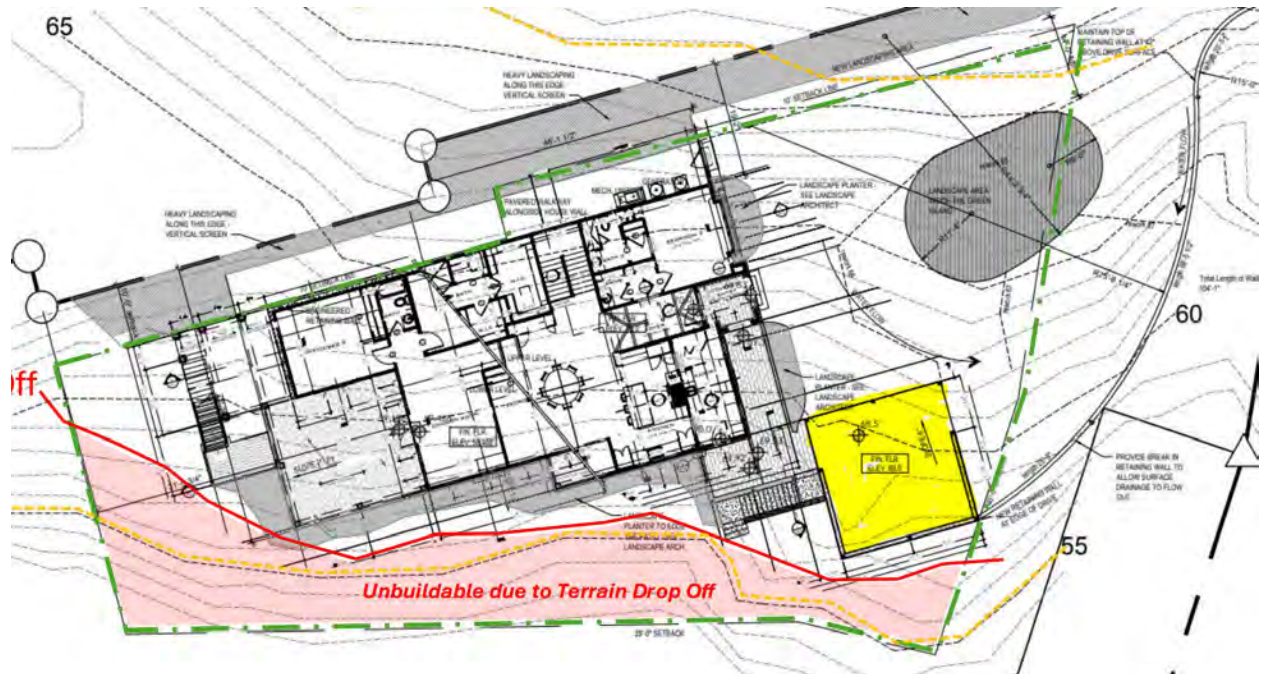


Table 3-3: Dimension Table - Residential Accessory Structures

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.

September Recommendation:

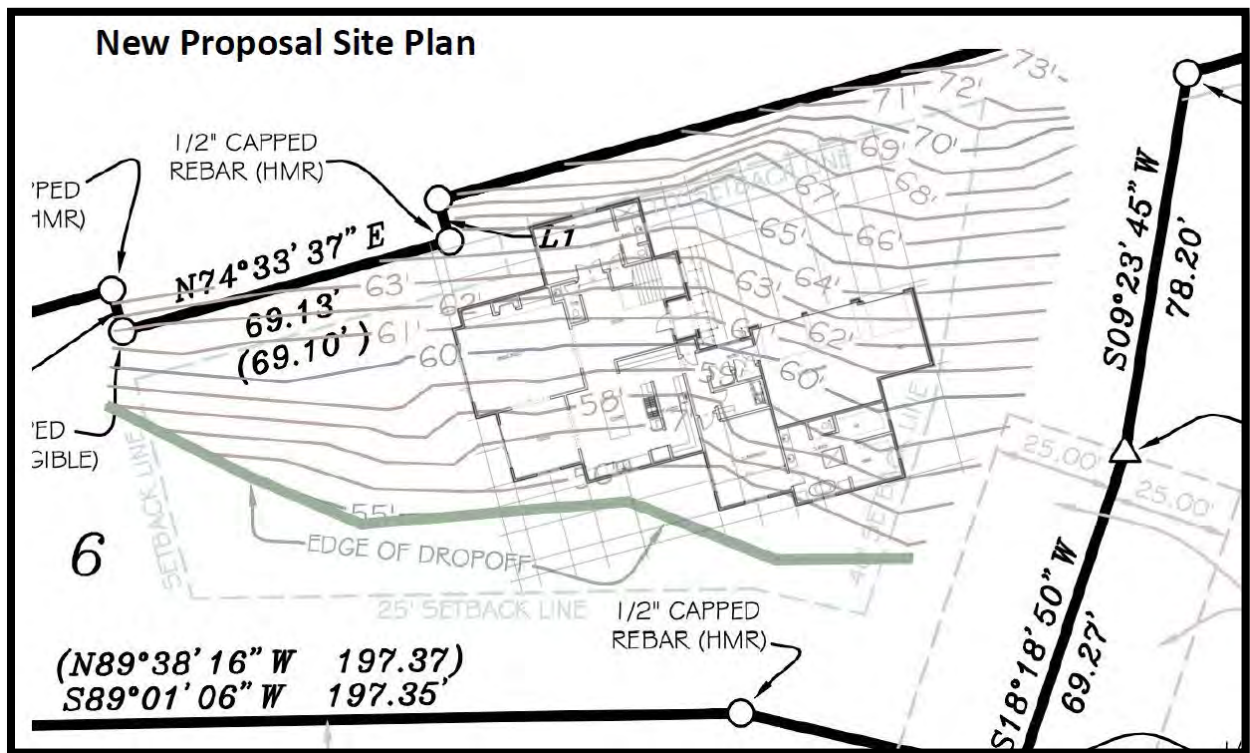
Separate recommendations are needed for the three requested variances.

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

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

October Comments after additional information submitted.

Staff received a presentation included in your packet with additional information to support the applicant's request. Below is a clip of a new proposed site plan incorporating the garage into the house included in the presentation.



Summary of Applicant Presentation

- Depiction of terraced retaining wall options
- Photos and illustrations of northern properties fence which has no bearing on if his property and proposed variance requests meets the variance criteria.
- Alternatives to the carport connected by a covered walkway.
- Alternative with no variance required by integrating the garage with the house.

Staff believes that although the applicant states an alternative exists with no variances required that the height variance would still be needed for the proposed plan.

October Recommendation:

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

Staff recommends Denial for the Location of the Accessory Structure.

Staff recommends Approval for the Building Height of the principle 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



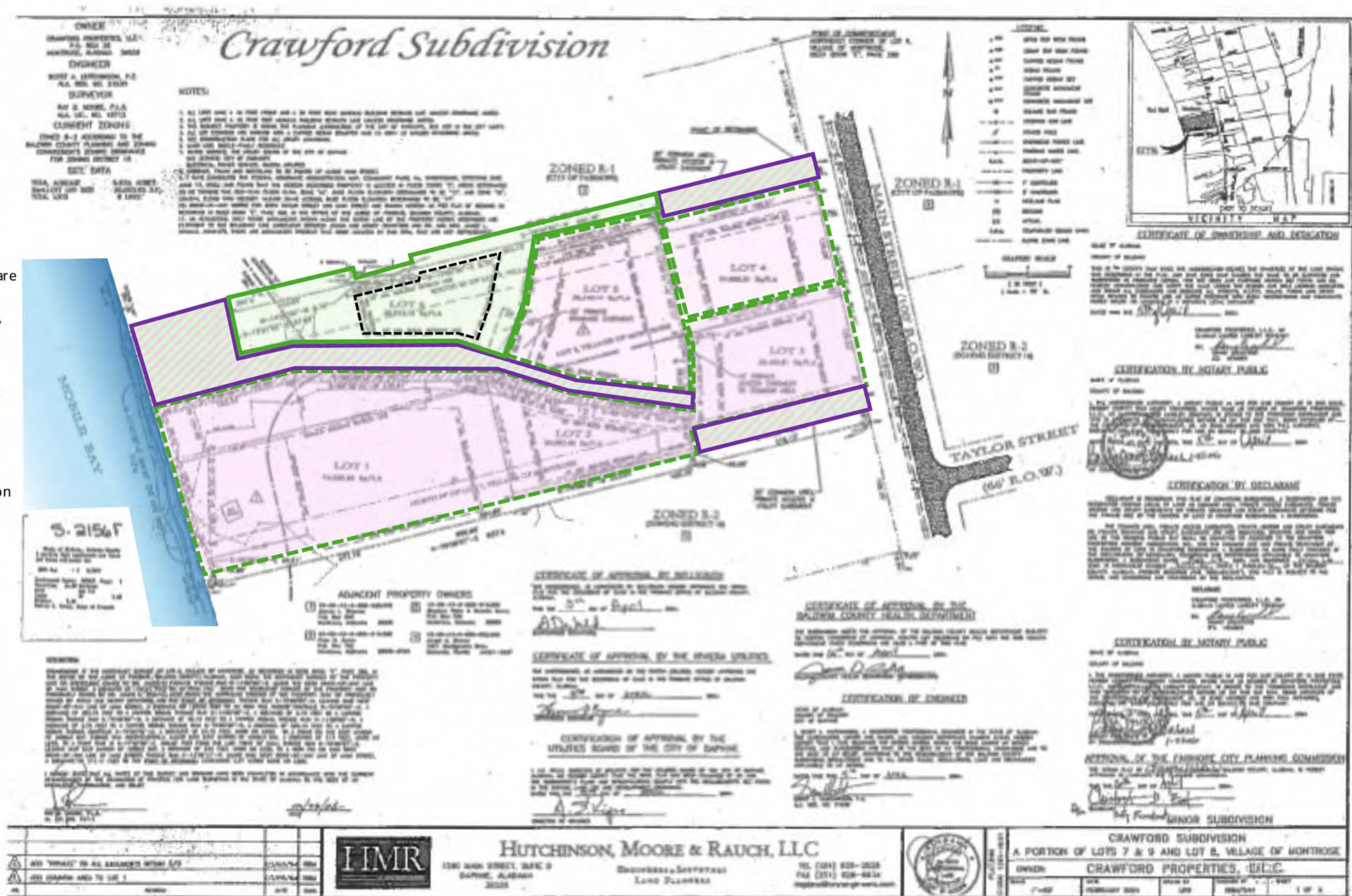
Crawford Owners Association Common Areas



Lots 1 - 5

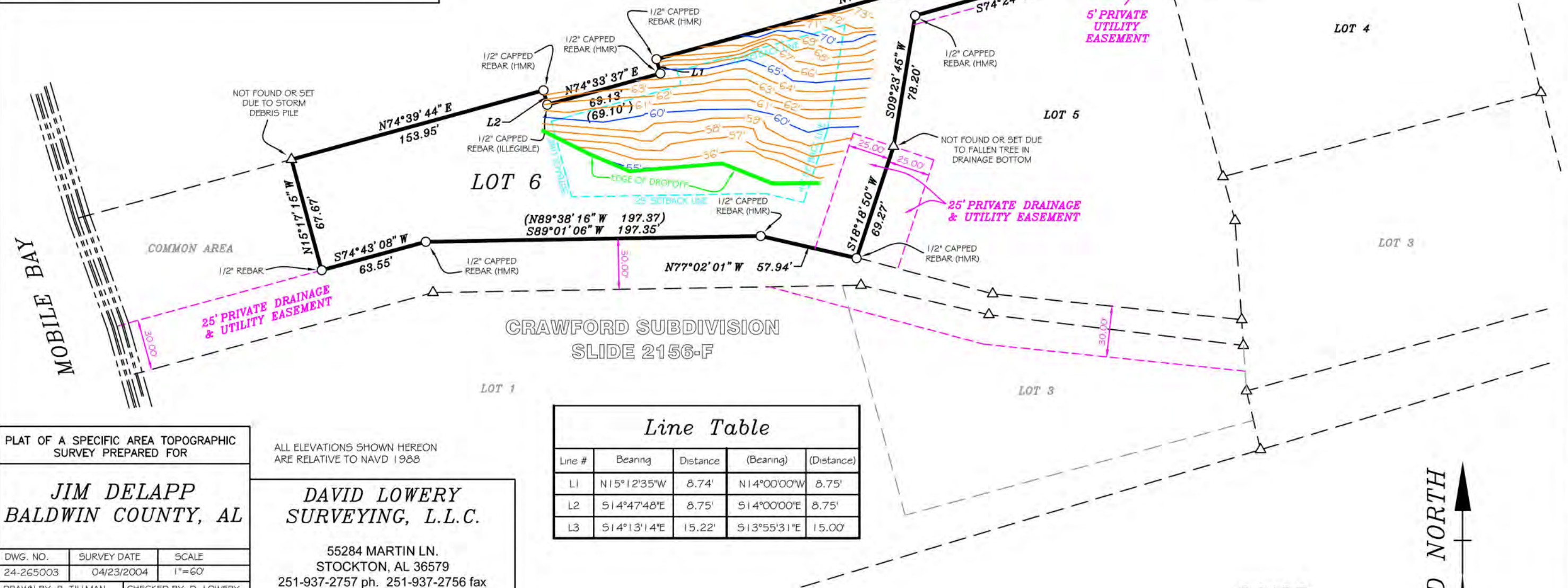


Mobile Bay



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'

D.L.H.

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

CERTIFICATION

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.

PLAT OF A SPECIFIC AREA TOPOGRAPHIC
SURVEY PREPARED FOR

JIM DELAPP
BALDWIN COUNTY, AL

DWG. NO.	SURVEY DATE	SCALE
24-265003	04/23/2004	1"=60'
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

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



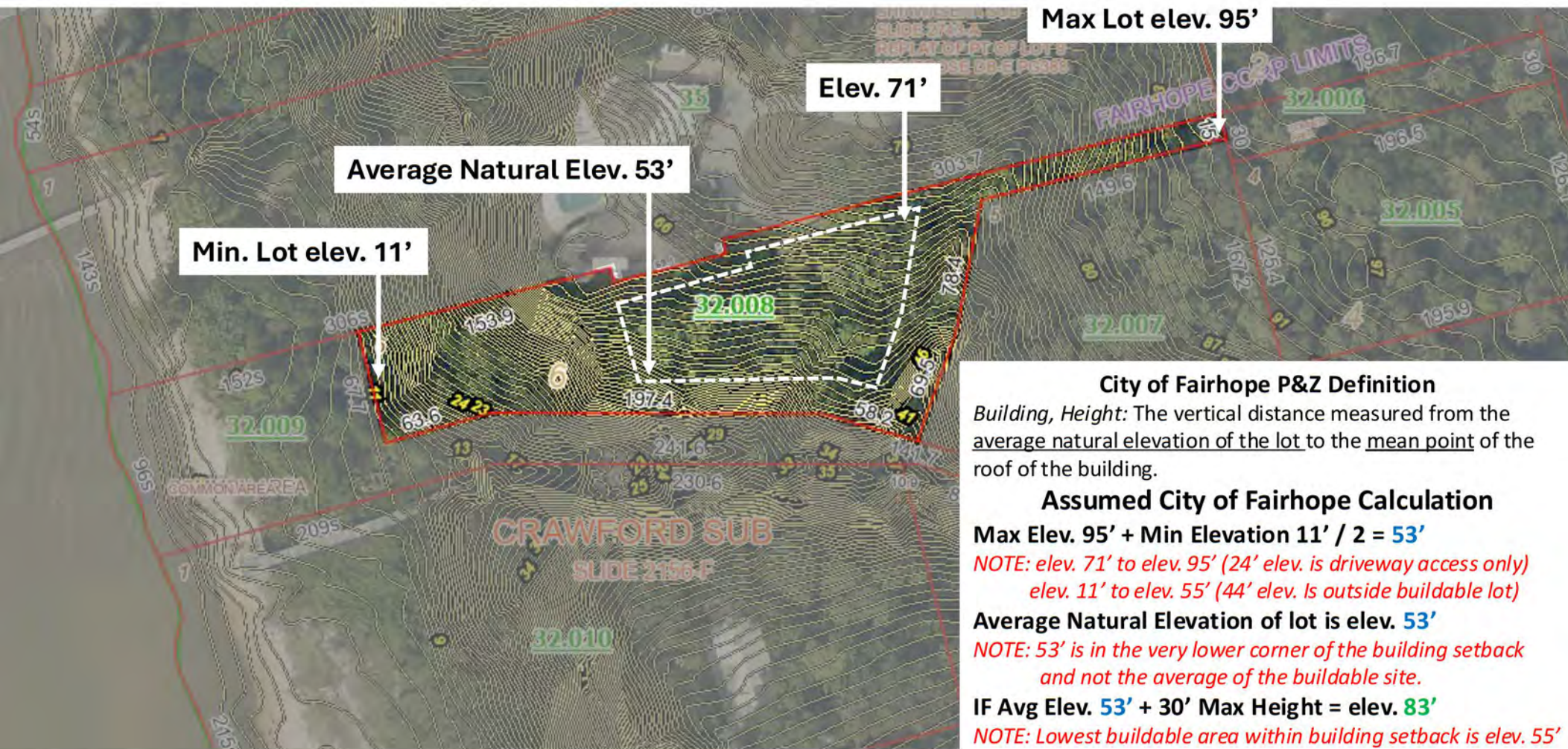
**GRID NORTH*

SCALE
1" = 60'



DAVID LOWERY SURVEYING, L.L.C.

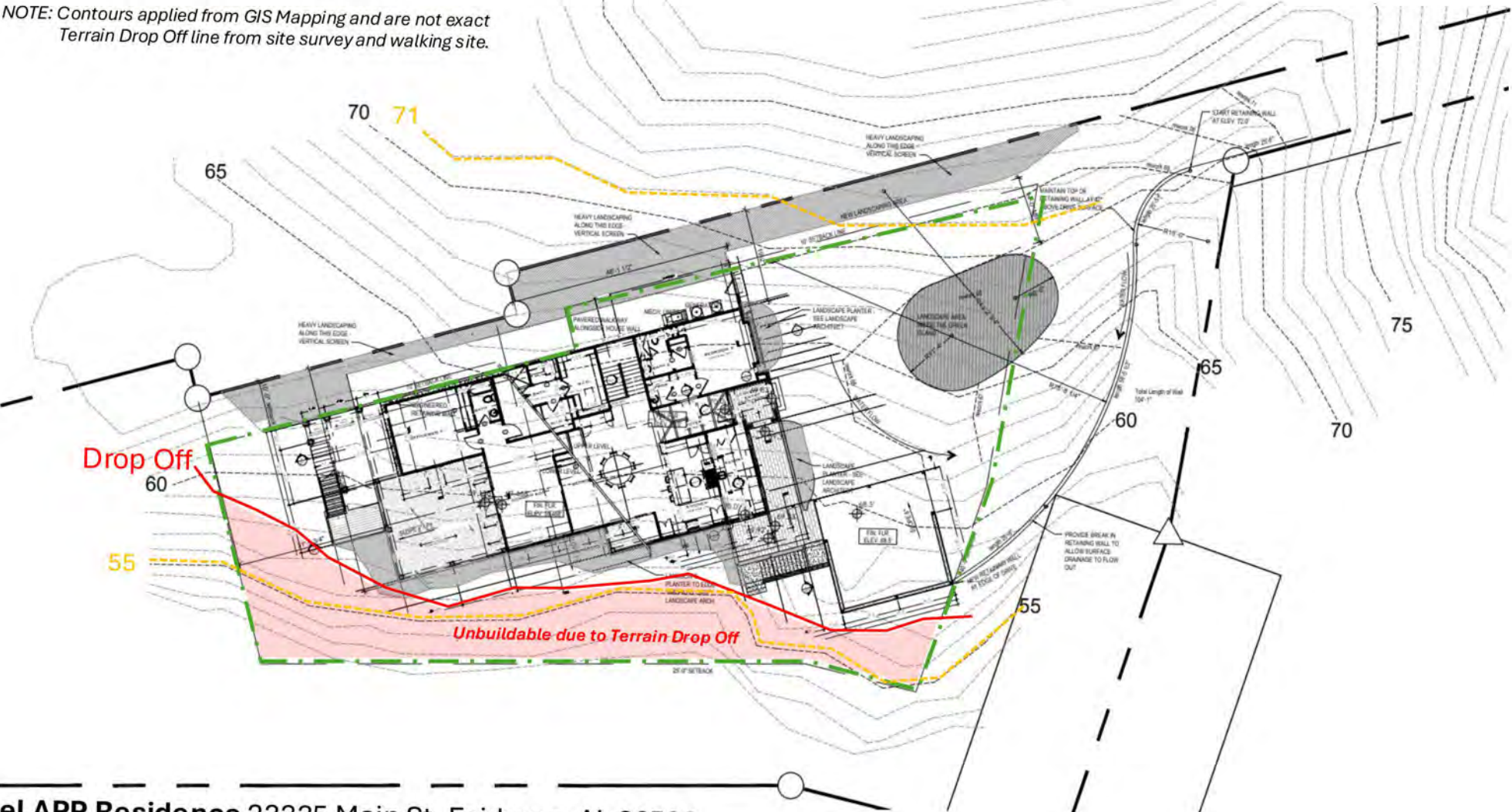
SITE PLAN & BUILDING HEIGHT CALCULATIONS



DeLAPP Residence 23335 Main St. Fairhope, AL 36532

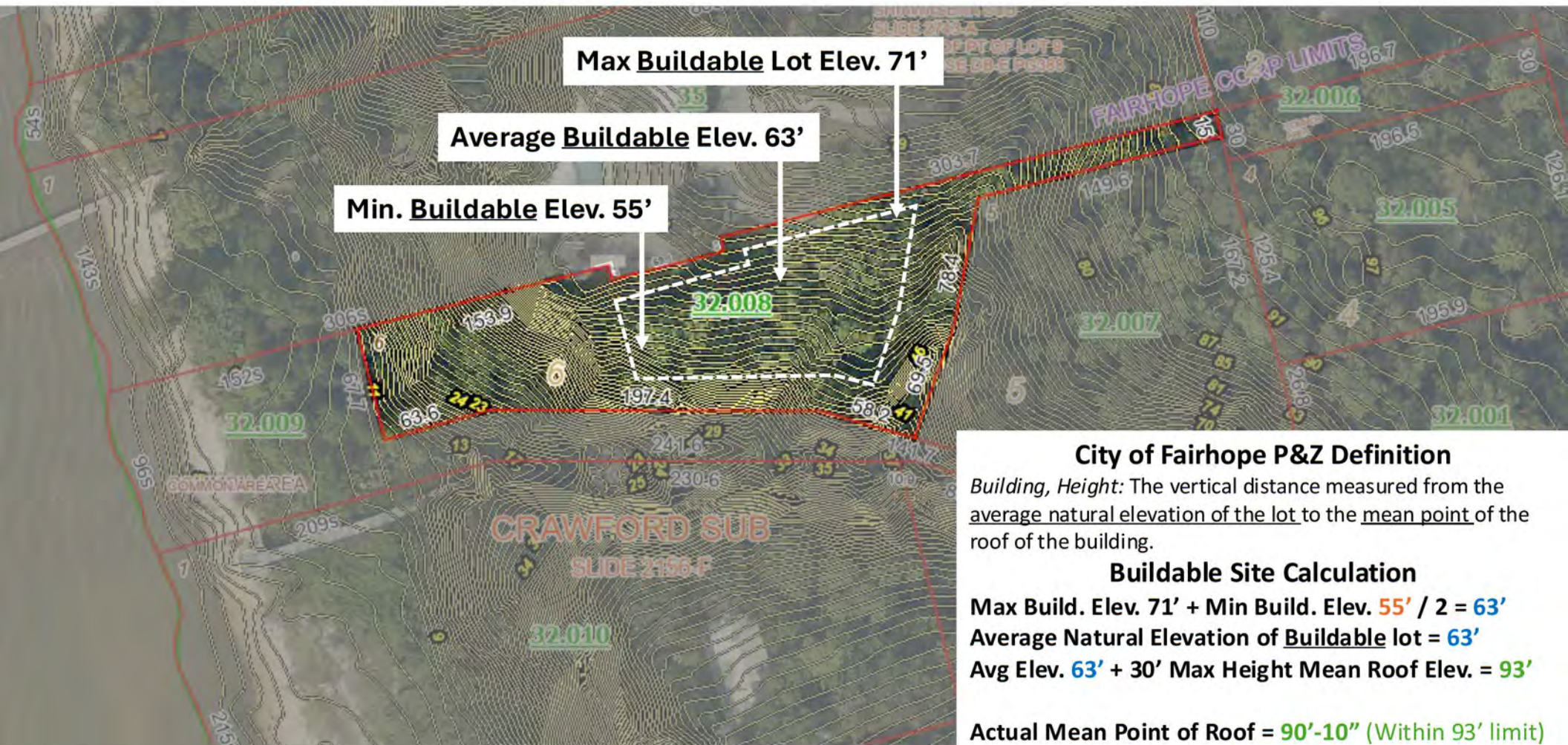
SITE PLAN PROPOSED LAYOUT

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

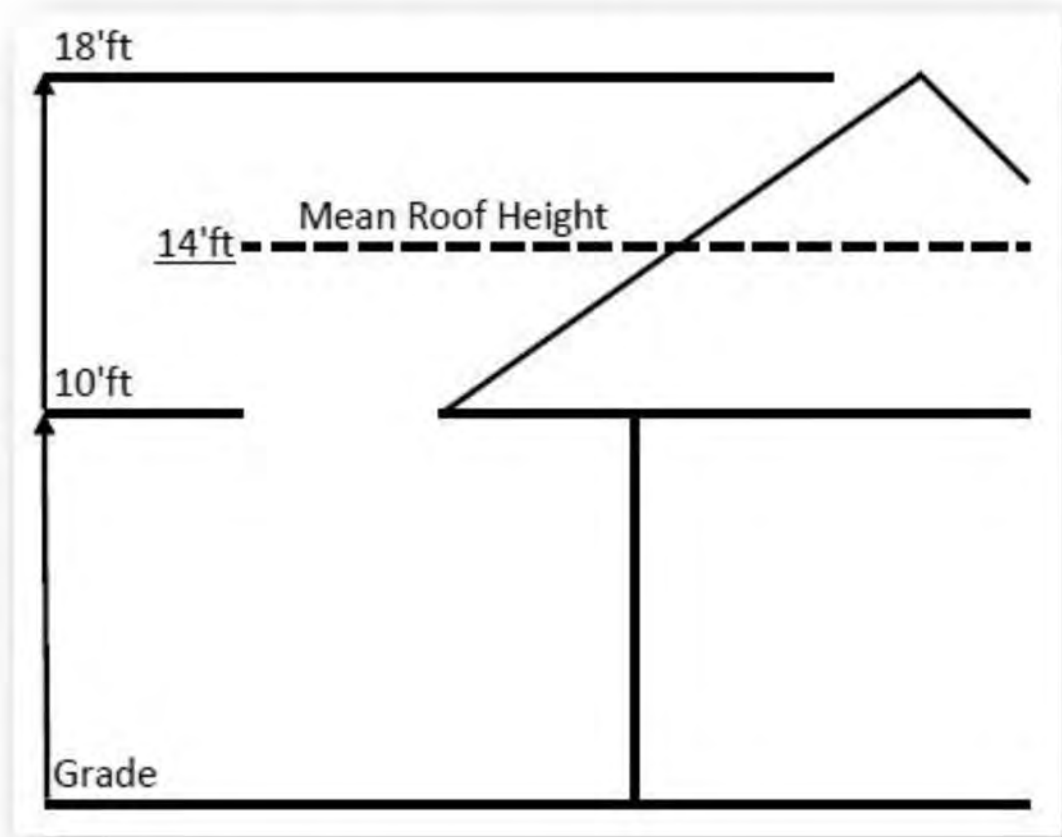


DeLAPP Residence 23335 Main St. Fairhope, AL 36532

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.



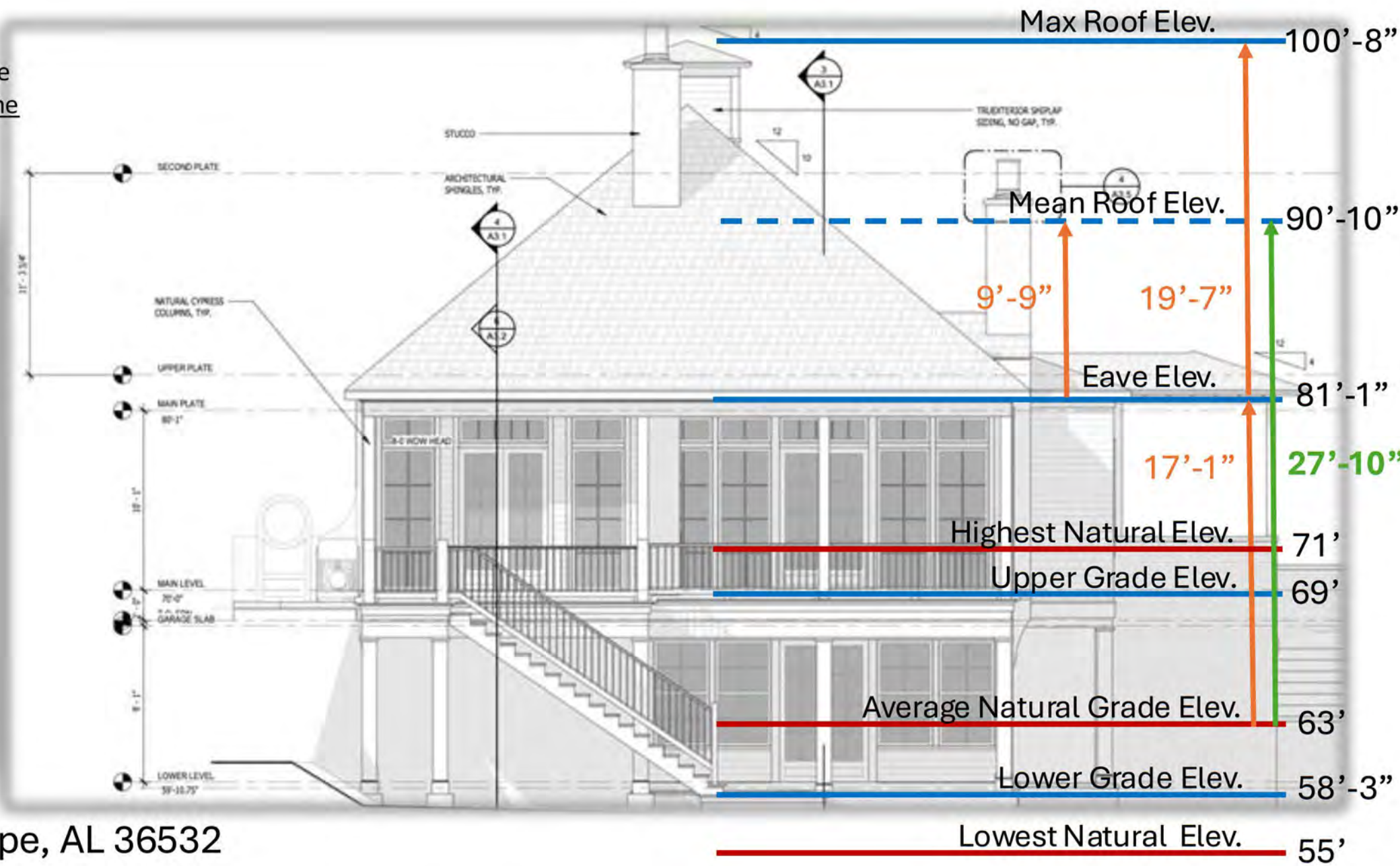
DeLAPP Residence 23335 Main St. Fairhope, AL 36532

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

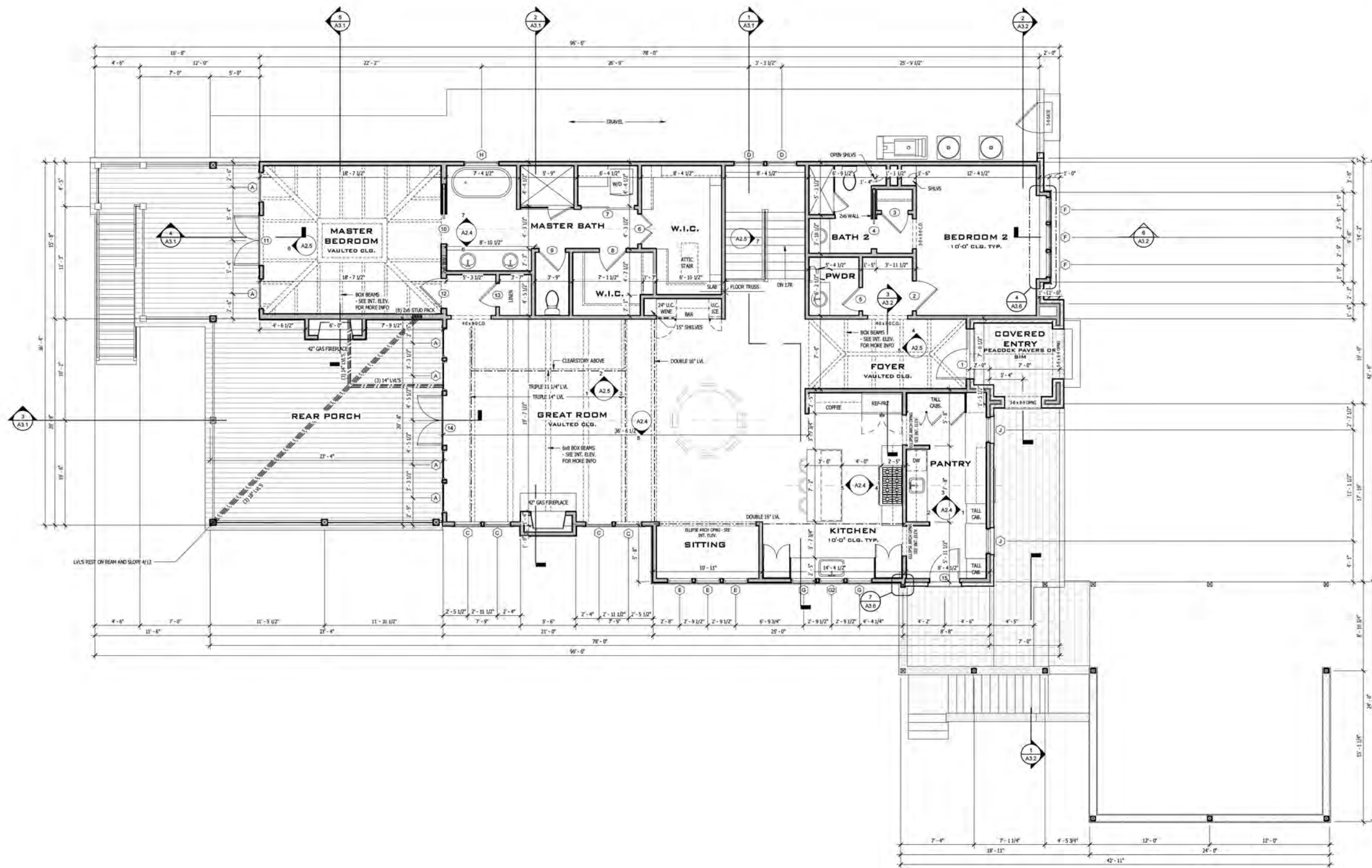
A 1.1

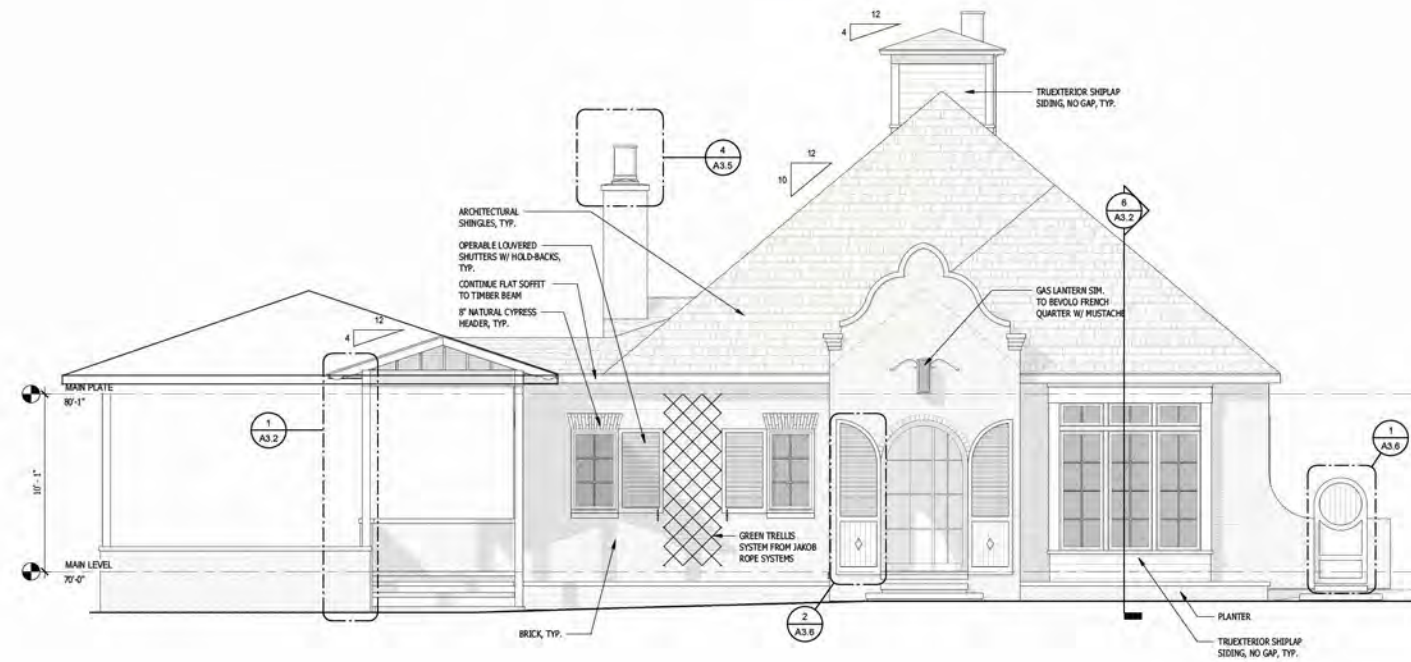
CONSTRUCTION DOCUMENTS



Continuous Wall

DELAPP HOUSE
FAIRHOPE, AL





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



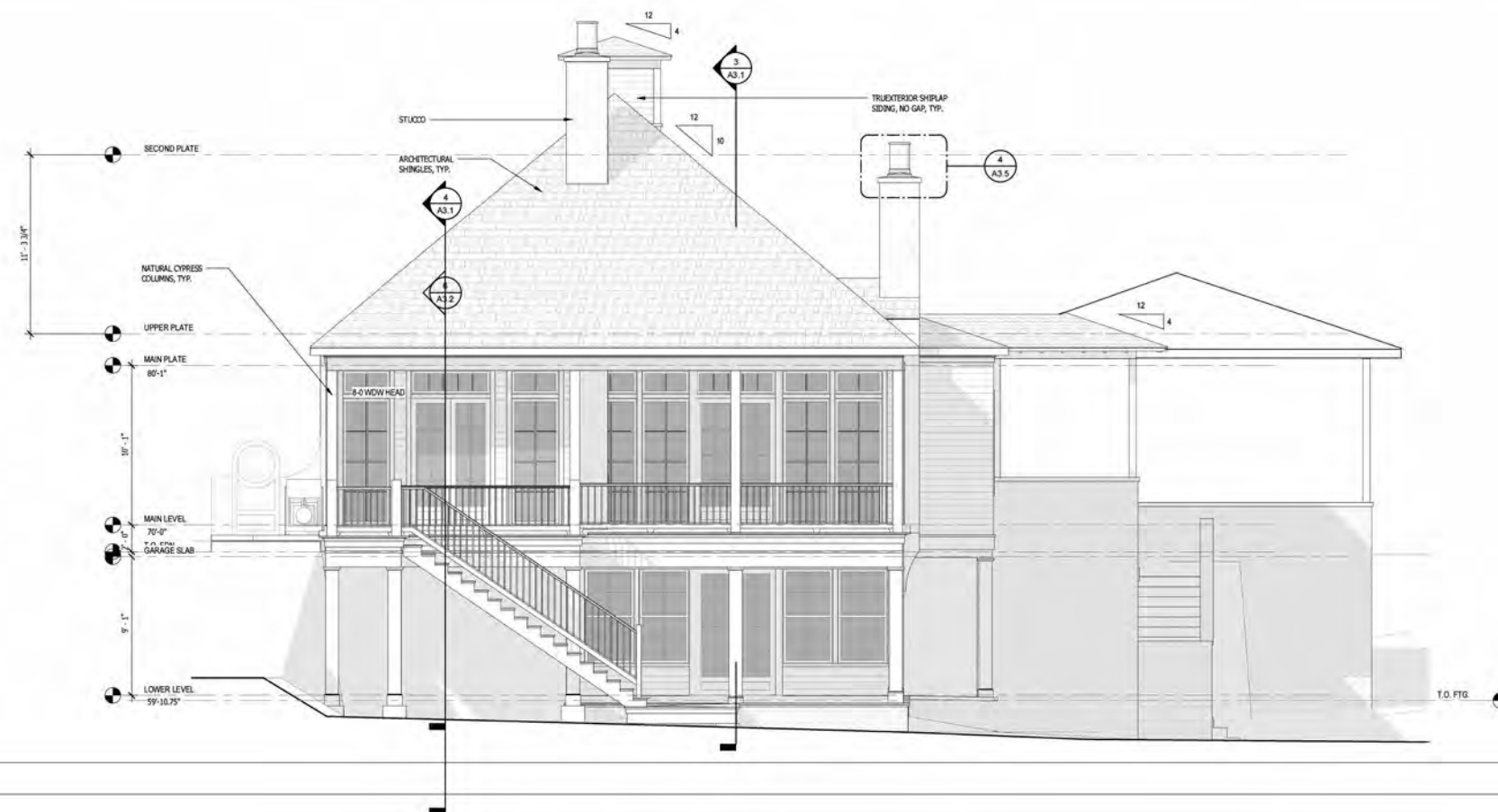
2 LEFT ELEVATION
1/4" = 1'-0"

DELAPP HOUSE
FAIRHOPE, AL

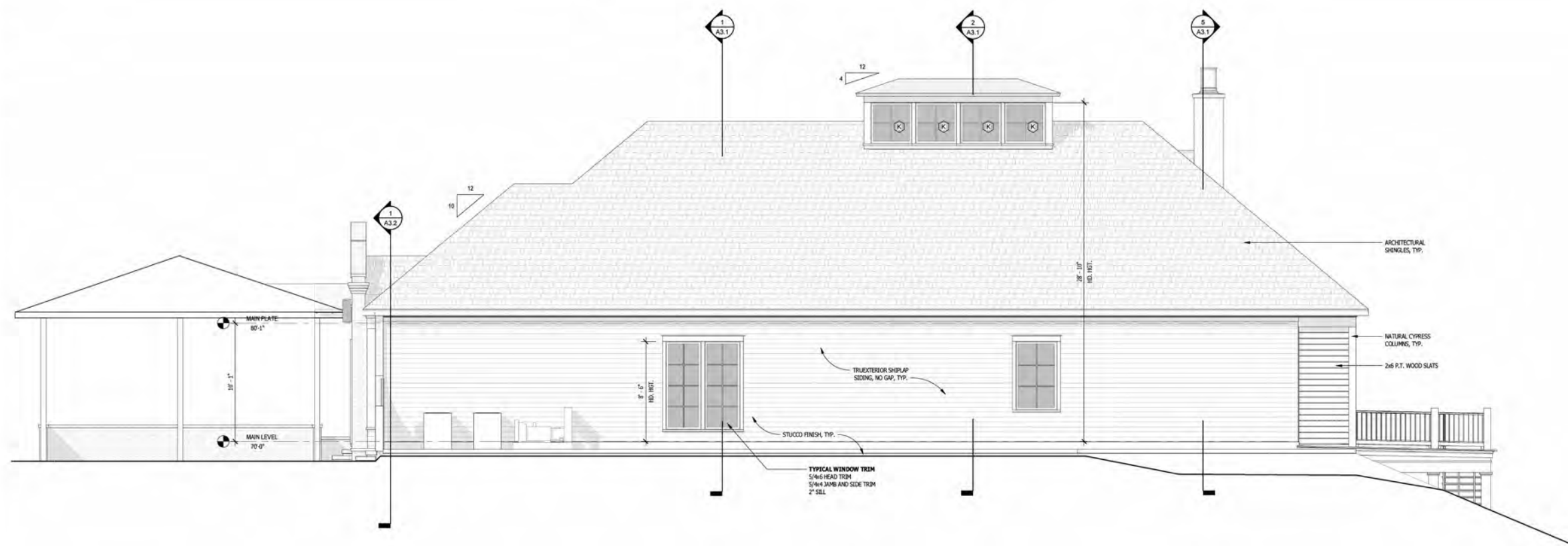
DATE
4/18/2024
SHEET NUMBER

A2.1

CONSTRUCTION DOCUMENTS



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



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

THE PROPOSAL

11

ARCHITECTURE PLACEMAKING ILLUSTRATION

GOVERNMENT ST. | BRANDON, MS 39042 | 601.955.
WWW.THOMPSONPLACEMAKING.COM

DELAPP HOUSE
FAIRHOPE, AL

FAIRHOPE, AL

COPYRIGHT THOMPSON PLACEMAKER

DATE _____

4/18/2024

SHEET NUMBER

A2.2

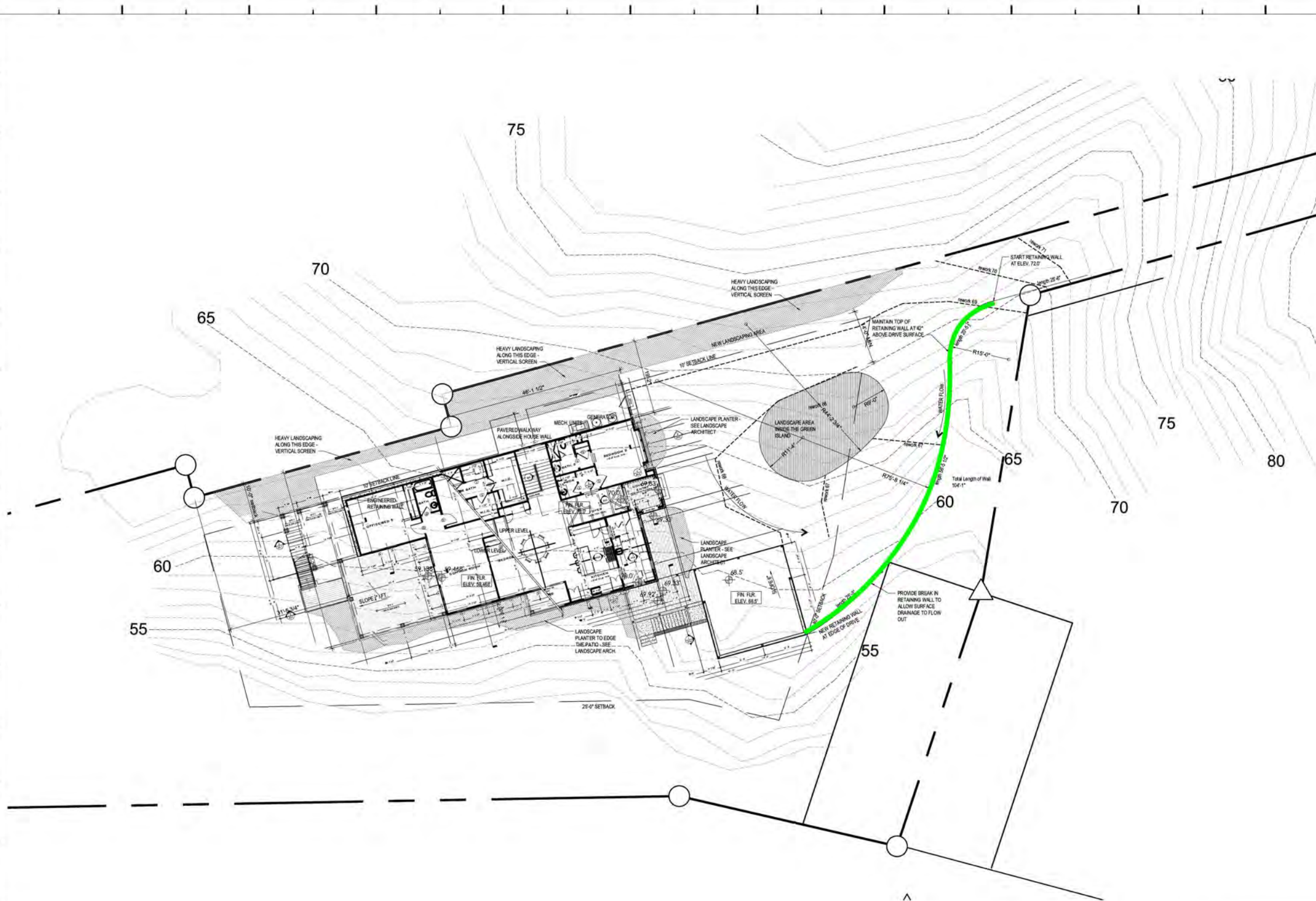
CONSTRUCTION DOCUMENT

SITE NOTES

1. Use only dimensions shown on drawings. If dimensions are in question, the builder shall be responsible for obtaining clarification before continuing in 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 or 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 surface. 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 structure to front or side or rear.
8. Mechanical units must be in the courtyard 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.
10. Gas meters or electric meters, open to public walkways, must be screened.
11. Coordinate with owner and landscape architect for landscaping.

THOMPSON
ARCHITECTURE PLACEMAKING ILLUSTRATION
157 W. GOVERNMENT ST. | BRANDON, ME 39042 | 601.955.4094
WWW.THOMPSONPLACEMAKING.COM

DELAPP RESIDENCE
FAIRHOPE, AL



BUILDER AND STRUCTURAL ENGINEER TO COORDINATE FINISH FLOOR ELEVATIONS WITH CONCRETE SLAB ELEVATION. SPOT ELEVATIONS AT PORCHES NOTIFY FINISH ELEVATION OF DECKING. SEE SECTION DETAILS TO COORDINATE ELEVATION OF CONCRETE SLAB UNDERNEATH.

BUILDER AND STRUCTURAL ENGINEER RESPONSIBLE TO ACHIEVE FINISH FLOOR OF FRONT OF PORCH AT ELEVATION CONFIRMED WITH OWNER.



BOA 24.13 Three Variances Requested

Additional Information: Applicant Presentation

1. Building Height:

Staff recommended **Approval**, as this has been done in the past and is a common problem with taking whole site into consideration and not building footprint.

2. Accessory Structure in Front of Main Home:

Staff recommended **Approval**, as irregular site does not allow for normal side or rear load garage.

3. Retaining Wall Height:

Staff **did not** recommend approval based on being an unsightly feature, impact to public good, and not wanting towering flat surfaces throughout town.

BOA Request for Follow Up:

- ☐ Look at cost increase and impact of terracing the proposed retaining wall.
- ☐ Look at alternatives to planned car port connected by covered walkway.

Questions during September BOA Meeting:

“What is the hardship?... it appears you’ve created your own hardship”

Guidance for Variance Request. Article II.C.3.e.(a)

“There are extraordinary and exception conditions pertaining to the particular piece of property in questions because of its size, shape or topography.”

The hardship and request for variance is annotated at the top of the BOA application with three of the nine blocks checked meeting the criteria described in Article II.C.3.e.(a)

VARIANCE REQUEST INFORMATION

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

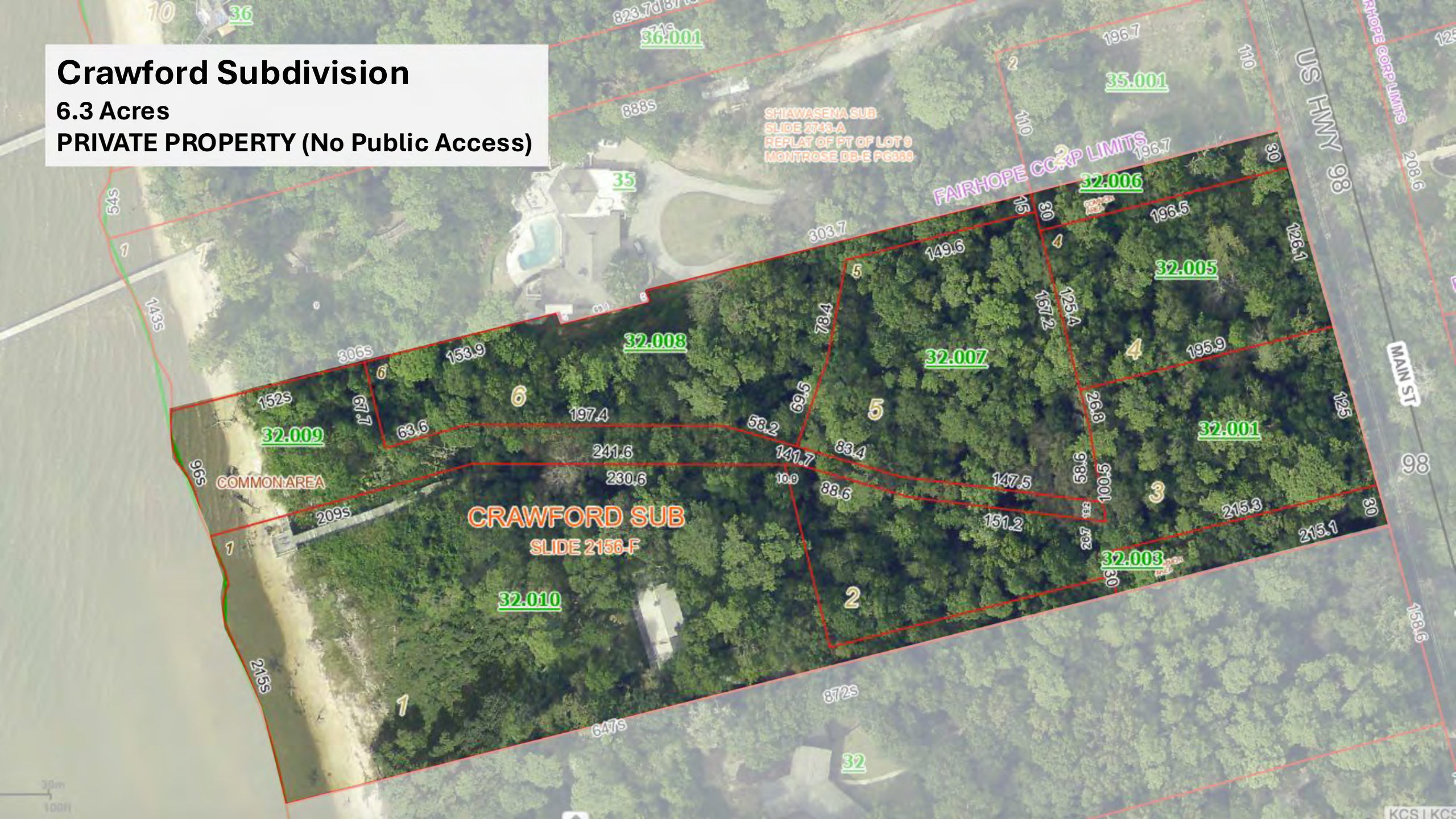
☐ Too Narrow	☒ Elevation	☐ Soil
☐ Too Small	☒ Slope	☐ Subsurface
☐ Too Shallow	☒ Shape	☐ Other (specify)

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.

Crawford Subdivision

6.3 Acres

PRIVATE PROPERTY (No Public Access)

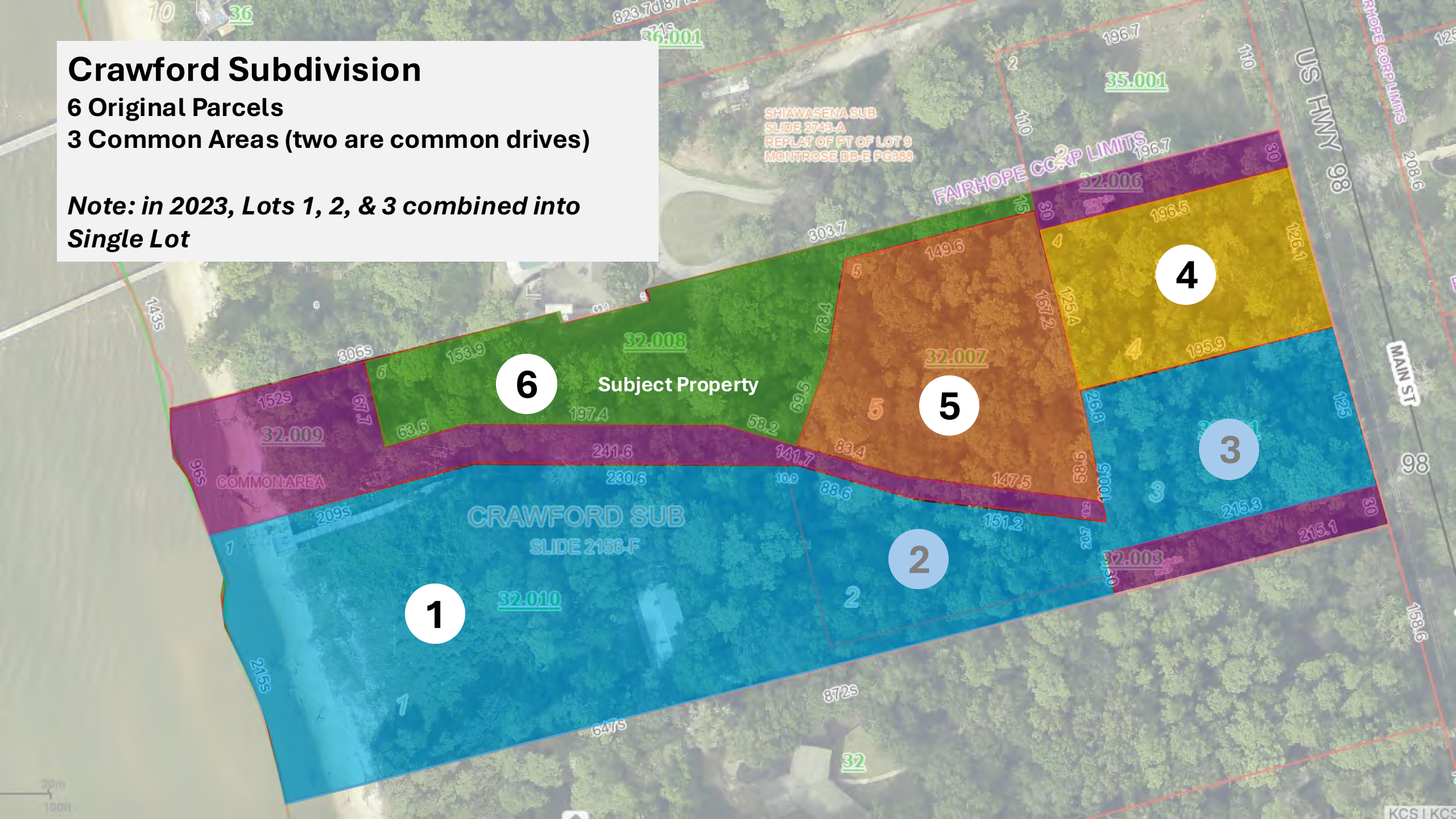


Crawford Subdivision

6 Original Parcels

3 Common Areas (two are common drives)

Note: in 2023, Lots 1, 2, & 3 combined into Single Lot





Home on Lot 1

(only current home in Crawford Subdivision)

- Directly across ravine from Lot 6
- 20+ rows of painted Concrete Masonry Unit (CMU)
- Required as foundation in uneven terrain
- No concerns from any owners in the HOA.

~14'



BOA 24.13 Meeting Agenda Packet Excerpt

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’.**”

“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.”

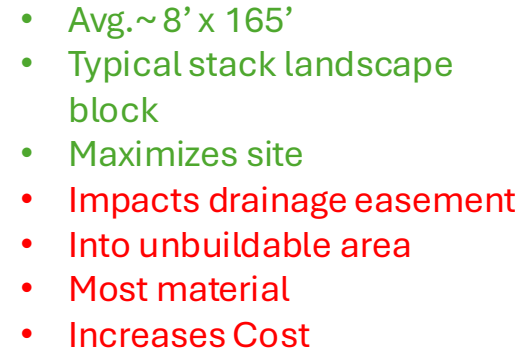
- **Actual retaining wall is approx. 12’, and averages 6’ in height.**
- **Foundation wall is covered in brick, and retaining wall is split-face landscape block.**
- **This is NOT a Public space.**
- **This is a PRIVATE Development with only one current resident.**
- **Retaining wall is not able to be seen by ANY public**
- **Total development when built out would be 4 homes**
- **HOA Architectural Review Board has approved design.**
- **ALL property owners support the design and project.**

- 

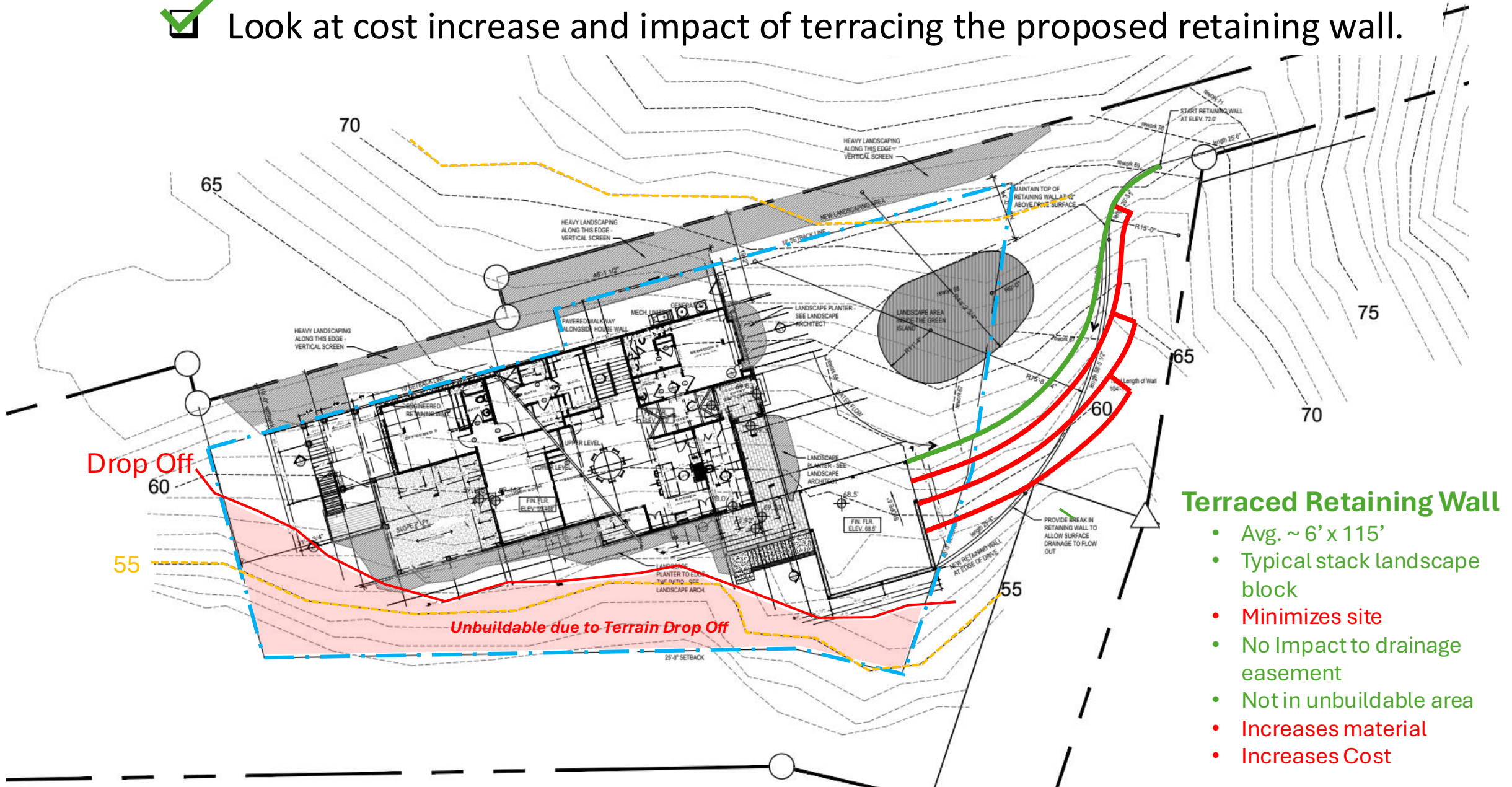


- Avg. ~6' x 115'
- Typical stack landscape block
- Maximizes site
- No impact to drainage easement
- Not into unbuildable area
- Least amount of material
- Cost Effective

- 



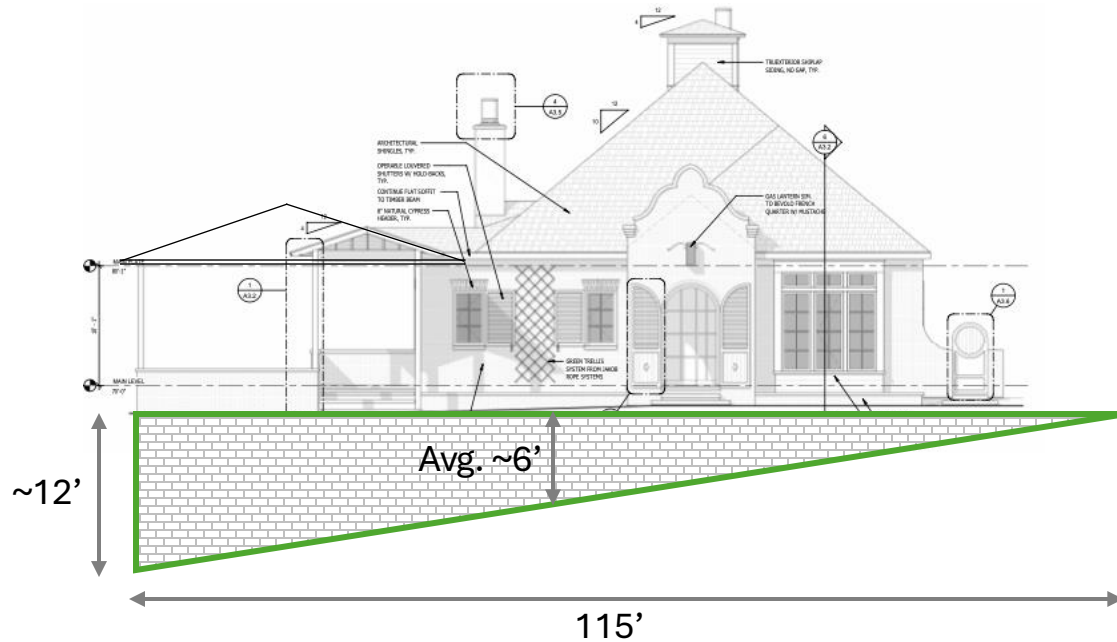
- ✓ Look at cost increase and impact of terracing the proposed retaining wall.



Terraced Retaining Wall

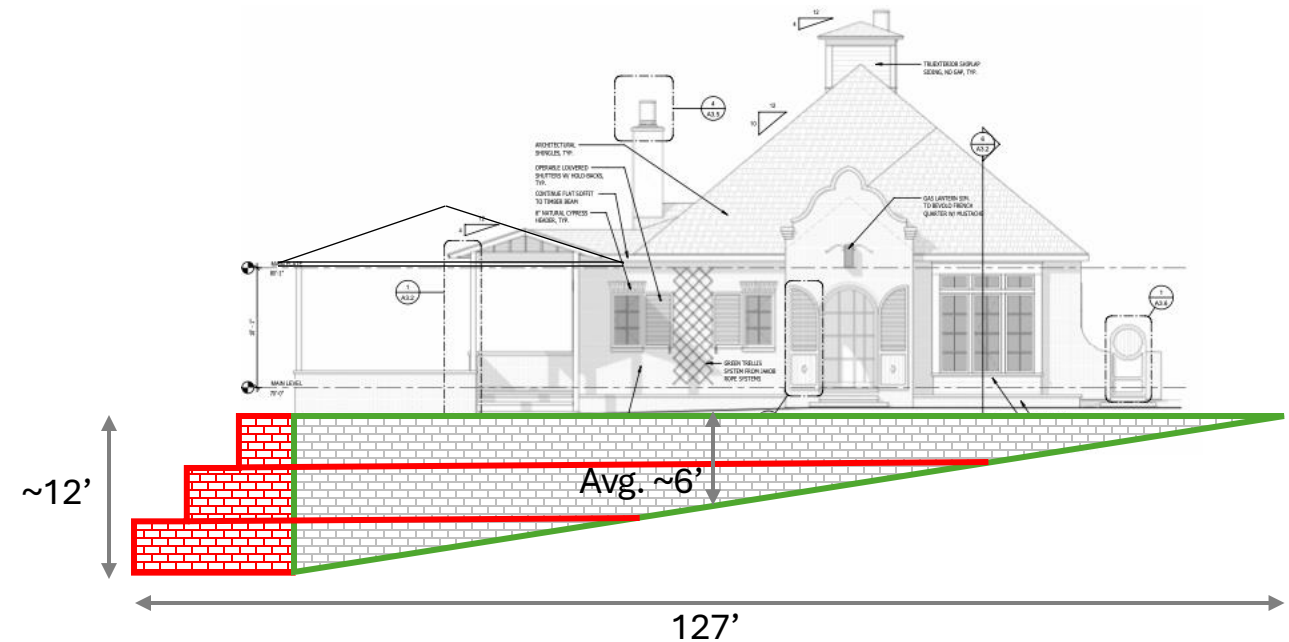
- Avg. ~ 6' x 115'
- Typical stack landscape block
- Minimizes site
- No Impact to drainage easement
- Not in unbuildable area
- Increases material
- Increases Cost

- ✓ Look at cost increase and impact of terracing the proposed retaining wall.



Cost estimate for ~1000 sf of landscape wall

\$43,574 Rock Hardscapes Quote



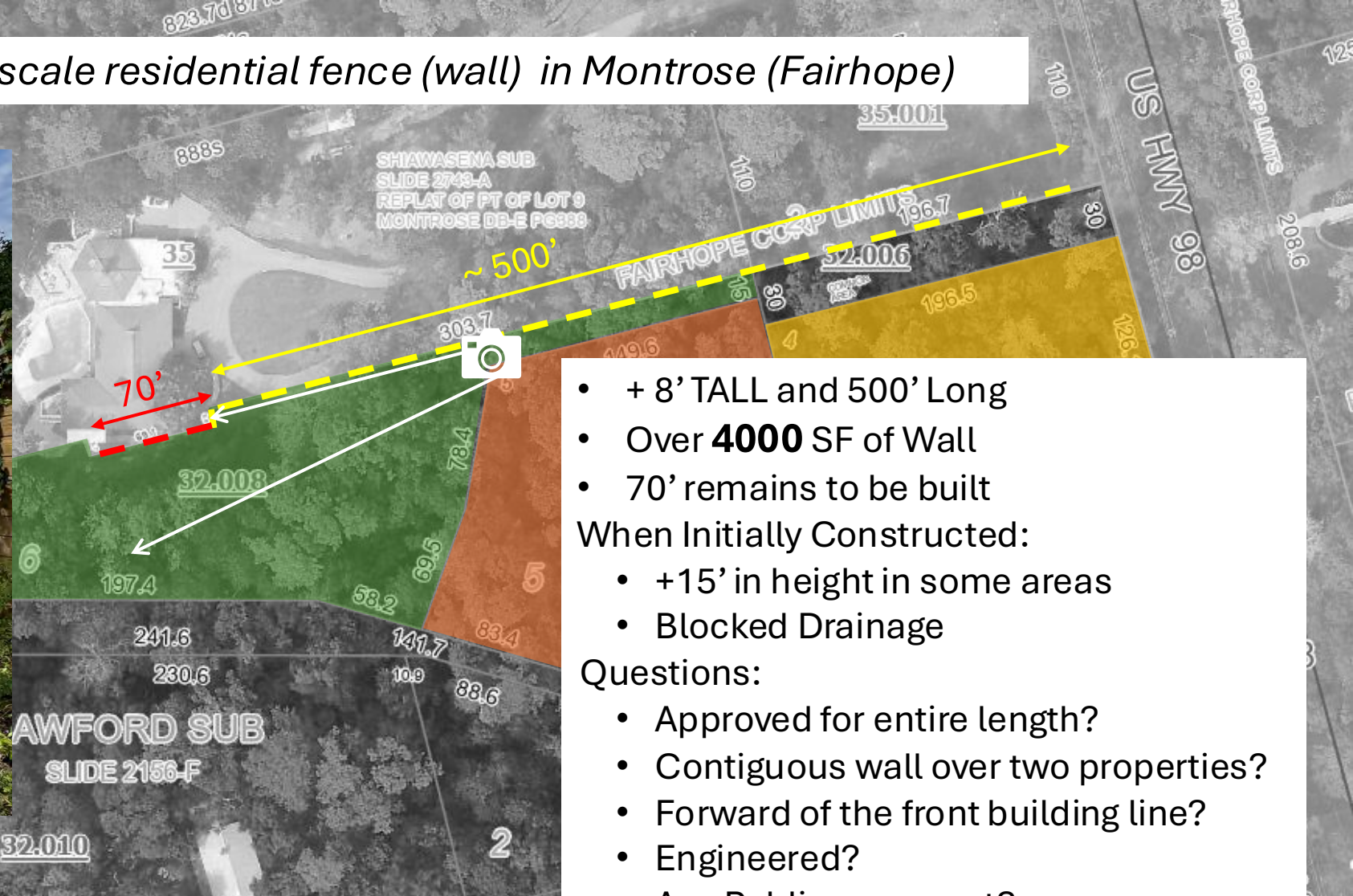
Cost estimate for ~2,640 sf of landscape wall

\$97,680

More than **doubles** the amount of material and cost with no change to amount of vertical wall

The **GREAT WALL** of Montrose (in Fairhope)





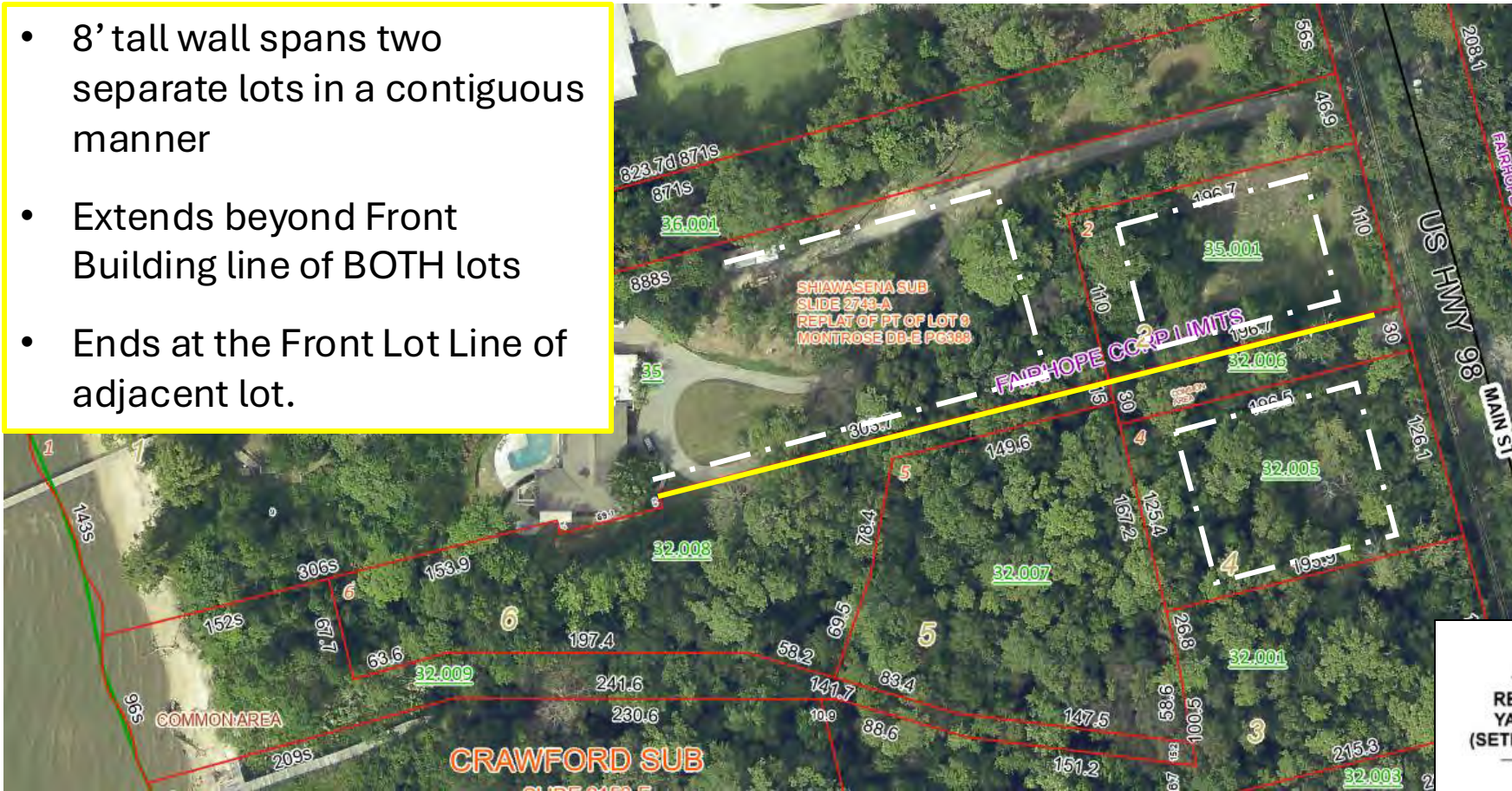
- ## When Initially Constructed:

- ## Questions:

- Approved for entire length?
- Contiguous wall over two properties?
- Forward of the front building line?
- Engineered?
- Any Public comment?
- Unsightly Feature?
- Detriment to the Public Good?
- Effects to neighbors considered?
- Required to plant vegetation?

City of Fairhope BOA 24.13 packet pg.4

- 8' tall wall spans two separate lots in a contiguous manner
- Extends beyond Front Building line of BOTH lots
- Ends at the Front Lot Line of adjacent lot.

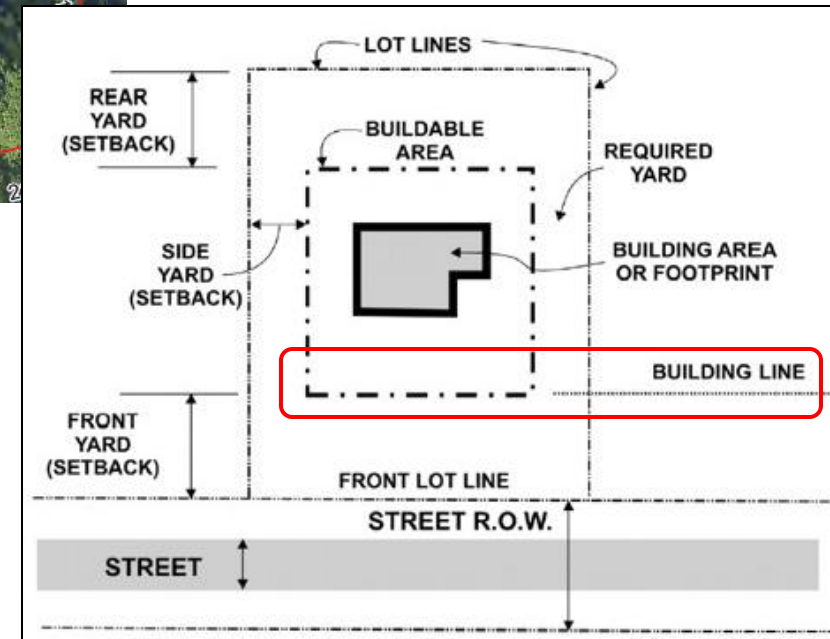


Definition Building Line:

The front building line is the line of a building that is closest to and parallel to the front lot line of a property.

Building lines are also known as setbacks, and they are usually established by statute, deed, or contract. They indicate a specified distance from the sides of a lot where a building cannot be placed.

Example Building Line Diagram



Article IV, Sect. B(5)(b)(1)

b. Fences and/or walls in all residential zoning districts are subject to the following requirements:

(1) No fence and/or wall shall be higher than eight (8') feet. Any fence and/or walls **forward of the front building line** shall not be higher than (4');

500' long **8'** tall

4,000 *sf* **WALL**

5,000
Cars
Per Day



According to ALDOT Traffic Count
Scenic 98 (Main St.) is over 5,000 cars per day
Source: <https://aldotgis.dot.state.al.us/TDMPublic>

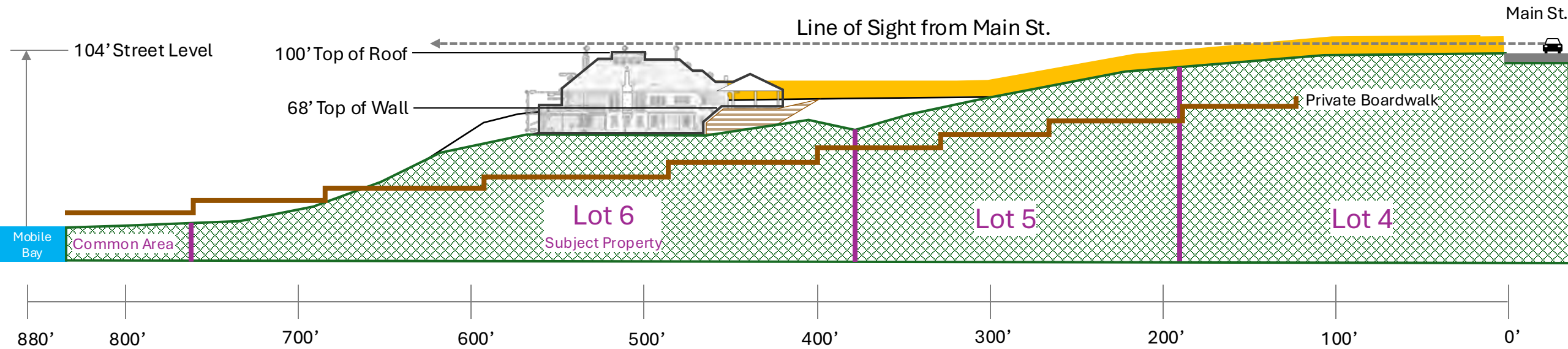








Site Section South Elevation



- Retaining wall not visible by public
- Retaining wall below adjacent lot grades
- Top of roof is below Main St.
- Line of Sight over entire home

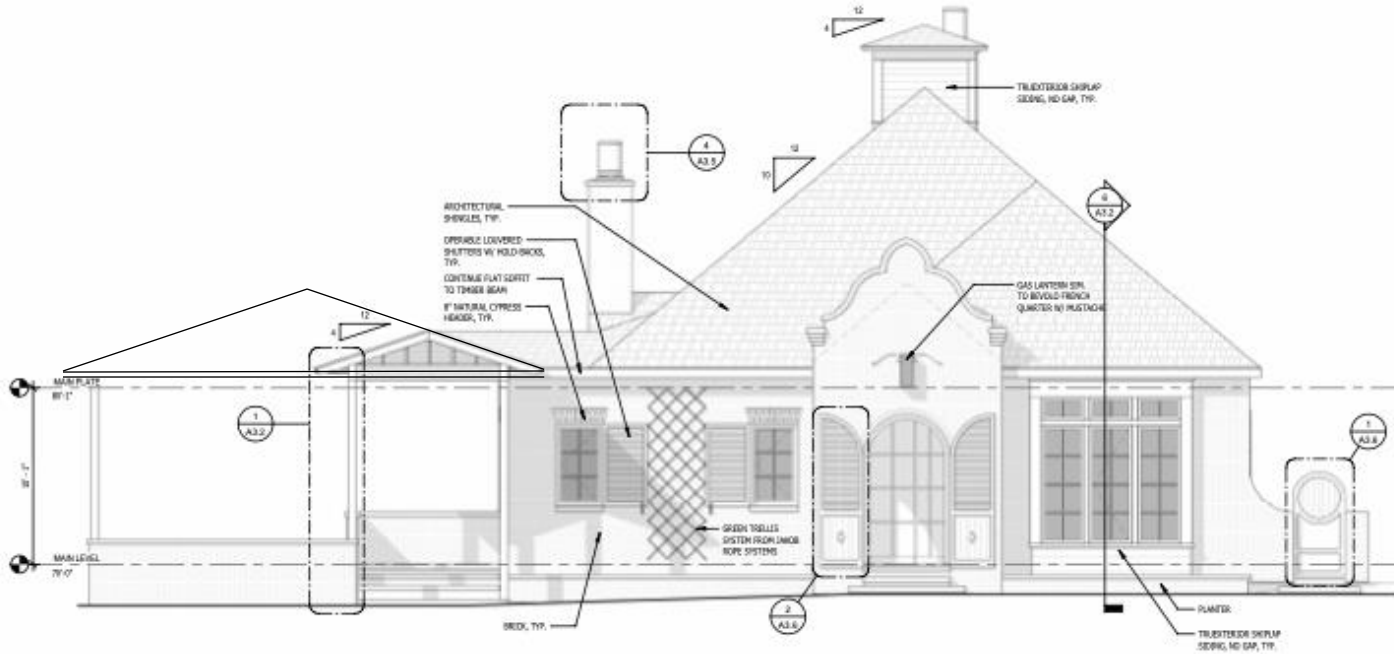
Wall Size Comparison

Proposed Retaining Wall
115'
Avg. 8'
± 1000 sf

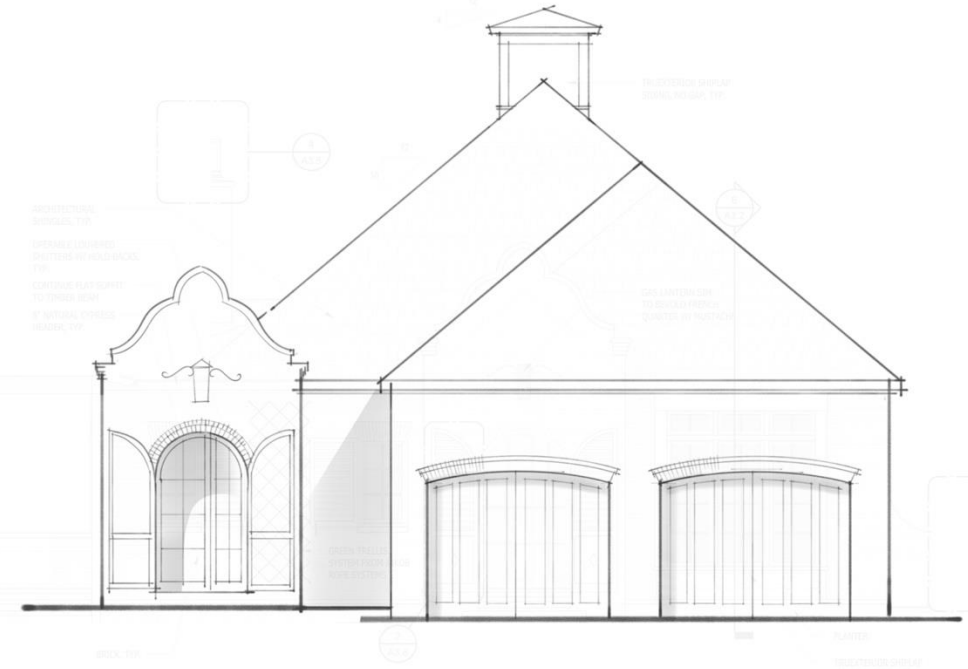
The proposed brick and landscape block retaining wall is **25%** the area of adjacent wood fence the runs down the entire length of all three lots

New Wood Fence
500'
8'
± 4,000 sf

- ✓ Look at alternatives to planned car port connected by covered walkway.

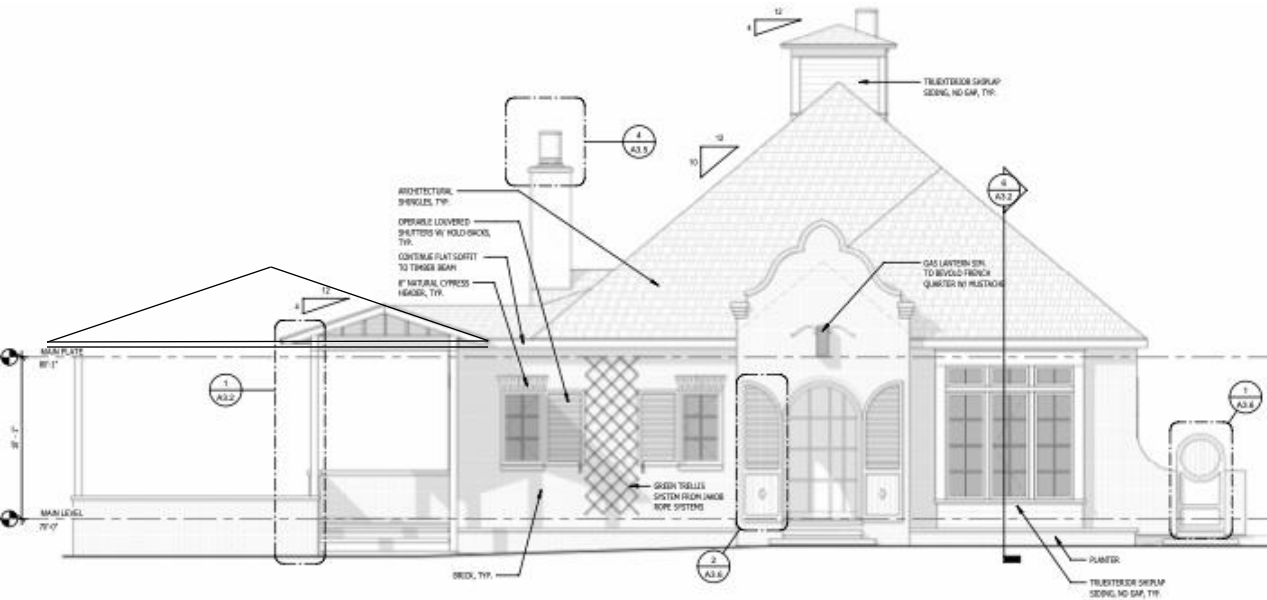


Submitted Elevation for Approval



Alternative with Garage in Front of Home Facing Main St.

- ✓ Look at alternatives to planned car port connected by covered walkway.



Submitted Elevation for Approval



Alternative with Garage Integrated

No Variances Required

- ✓ Integrated Garage into 2-Story home above grade



NORTH ELEVATION



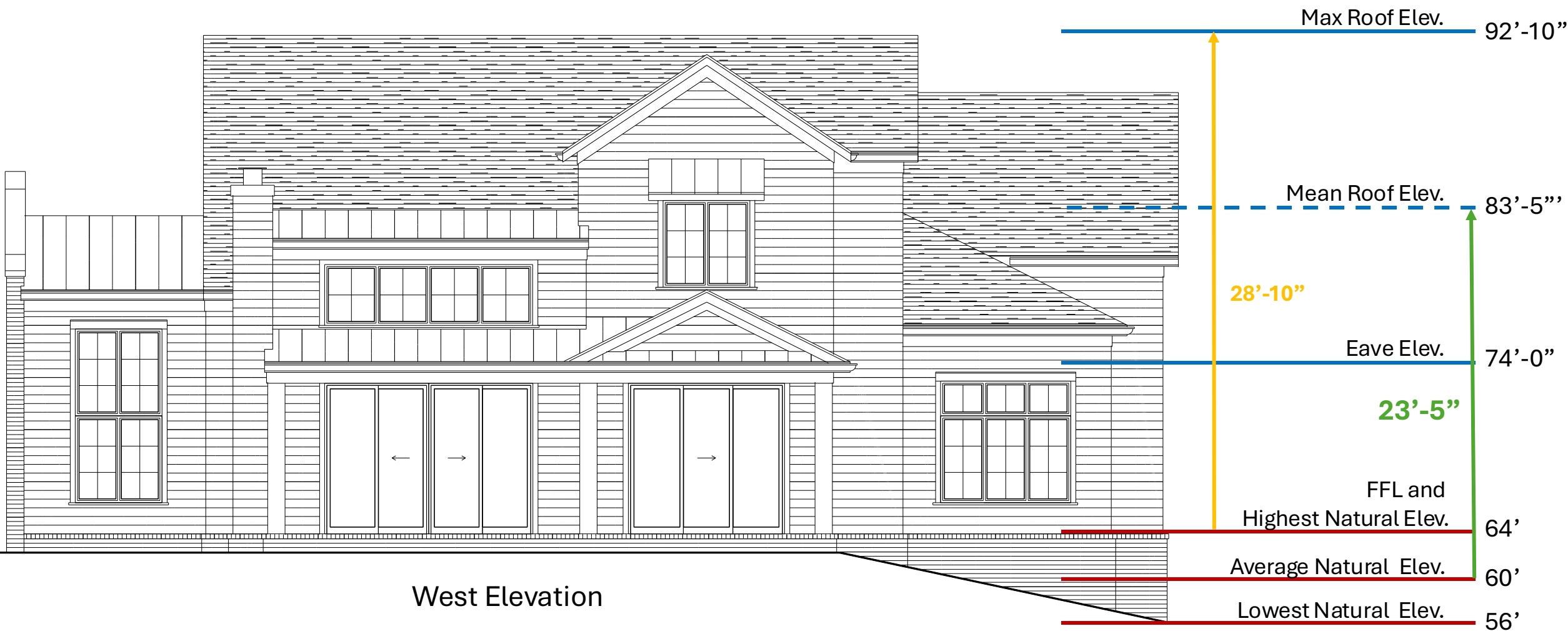
Building Height Calculations

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

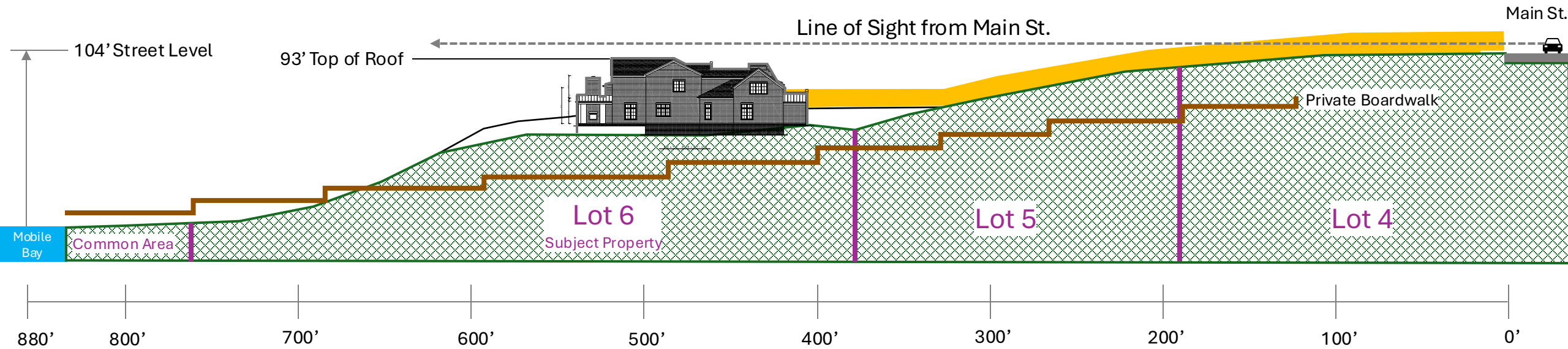
Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by all structures	Max. height
			Front	Rear	Side	Street side		
R/A	3 acres/ -	198'	75'	75'	25'	50'	none	30'
R-1	15,000 s.f./ -	100'	40'	35'	10' ^b	20'	40%	30' ^a

“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 23’-5” within the 30’ Max Height

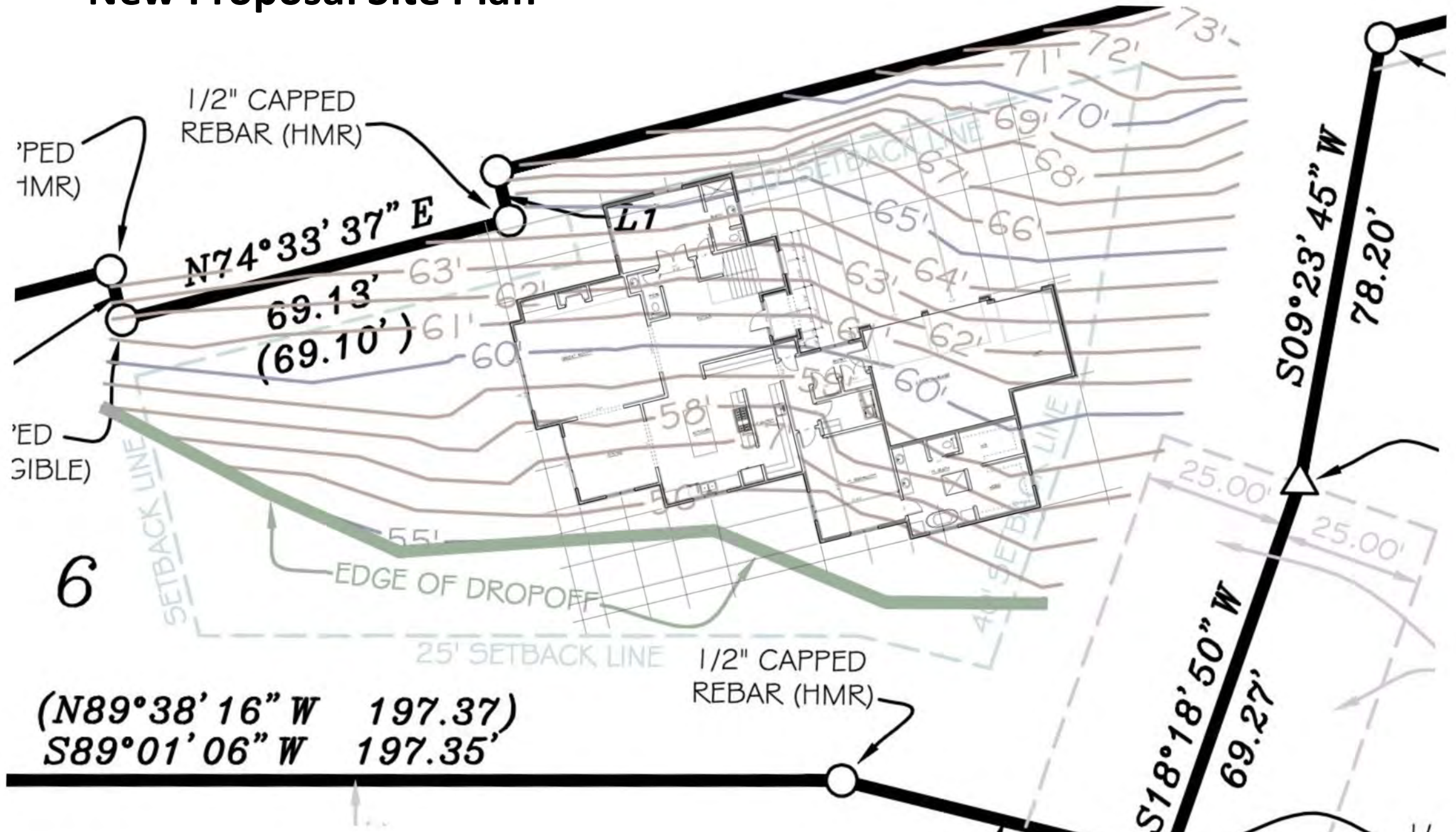


Alternative Proposal Site Section and South Elevation



SOUTH ELEVATION

New Proposal Site Plan



**Thank you
for your consideration and time
Questions?**

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

From: [Diane Thomas](#)
To: [Cindy Beaudreau](#)
Subject: BOA 24.13 - 23335 Main Street
Date: Wednesday, October 9, 2024 8:31:31 PM
Attachments: [Historical report on retaining wall stabilization on Montrose Bluff.doc](#)



Objection to variance for retaining wall at 23335 Main Street Montrose

Historical report on retaining wall and bluff stabilization on Montrose Bluff

I am writing to oppose the variance to build a long retaining wall on the property located at 23335 Main Street. For thirty years, I lived on the adjacent lot north of the proposed build site at 23389 Main Street. I think my long experience with retaining wall failure and bluff stabilization efforts is pertinent to this hearing.

When our home was built in 1960, there were several retaining walls constructed on the bay side in order for the homeowner to build a gunite swimming pool and surrounding concrete deck. Most of the retaining walls followed the bluff, but one was constructed as a free standing wall and back filled to allow for a larger grassy area surrounding the pool. It is this wall that caused problems for over 20 years.

In October of 1989, after a heavy rain, which washed out Scenic 98 at Winding Brook, the middle of this retaining wall described above blew out and sent rubble down the bluff for 20 to 40 yards. The other retaining walls built along the bluff held. Picture one shows the repaired wall on the left with separation at seams and the stable walls on the right.

We immediately had the wall repaired because of concern that further erosion would threaten a collapse of the pool. After the repair and for the next ten years, after every significant rainfall, cracks would widen where the new wall joined the old, and the wall would sink an infinitesimal amount. Finally, we had a different contractor who excavated and back filled only this wall with concrete and used a deadman tieback system placed 10 to 20 feet back to stabilize the whole structure. Picture 2 shows the problem wall with repair.

In 2012, we needed to redo the concrete decking around the pool which had cracked and was settling. We hired an engineer to evaluate the stability of all

the retaining walls and any bluff erosion below the walls. He found evidence of erosion at the foot of the walls in multiple places and recommended we redo all of the concrete decking and install a new drainage collection system to ensure no water would push against the back of the walls. The engineer and the contractor constructed a water collection system that captures all rainfall coming off the roof of the house and the decks and pipes it down to the wetlands at the foot of the bluff. Picture 3 shows the pipe that carries all the water down to the flat land below ensuring that no water flows behind the walls or over the top of the bluff.

This system took care of retaining wall stability but there was still erosion on the slope. The answer to this problem was to cover the bluff slope with a nonwoven geotextile fabric which would allow rain to penetrate but would filter all sediment from coming through. Picture 4 shows the slope covered in the geotextile fabric and picture 1 shows the rubble from the demolished concrete pool deck covering the fabric and holding it in place. This system keeps the dirt from eroding on the slope and undercutting the walls from below.

Picture 5 shows the completed project. You can see the oblong drains in the concrete deck, the stainless steel covering of the collection box, and the 4 inch curbing which directs all water to the drains and collection box.

My concern with a long and in places very tall retaining wall as proposed by Mr. DeLapp is that our heavy rains will penetrate behind the wall and cause a failure or erosion on the slope beneath the wall will undercut the structure and cause a failure. Failure of Mr. Delapp's retaining wall would destabilize the walls of the gully on the south side of his property and potentially deposit tons of debris and dirt down the gully and onto the beach below. I have relayed the history of retaining wall failure and bluff erosion on the property next door so that my concerns will be seen as valid and taken very seriously by this board and Mr. DeLapp.

This board has cited the aesthetic objection to a long and tall retaining wall. I add the objection of the precarious nature of this tall, long wall and the potential for immense environmental damage to the gully, the common bayfront area, and the beach below.

Respectfully submitted,
Diane Thomas
23545 2nd Street

Montrose
251-423-4820

05/01/2012











October 14, 2024
City of Fairhope
Board of Adjustments

Dear Board Members,

First, I would like to thank you all for holding over on the vote in order to clarify information so that the true situation could be reviewed.

I appreciate the points that you all made, as they were absolutely valid.

This is not a hardship-rather a self imposed desire. This request for the retaining wall is an effect of the Delapps wanting to build an oversized structure on a small and unstable lot, to suit their aesthetics. If they wanted to build a 4500 square-foot house with a detached garage and a swimming pool, which was in their original plan, they should have bought a lot that would accommodate those based on the current building regulations within the municipality in which they hope to build. That's a basic, common sense step in buying a lot to build on....

There are absolutely other ways to incorporate a garage, or as was suggested- alleviated, based on the fact that there is simply not the land to build it on.

I've spoken with the architect that did this questionable subdivision 18 years ago and he explained to me the original intent for that odd and delicate parcel.

These details are noted in the minutes of the approval of that meeting with the city, and it specifically calls attention to how trees will be handled on the site-that no trees will be cut of a certain diameter-and the details of the special attention required for environmental protection of the lot. The approval that was granted to create that lot was based on those clear and specific issues.

The Crawford's had planned to build a minimal, non-invasive and environmentally aligned house there. Their vision was one of non-disturbance and integration into the gully. Unfortunately, because they could not decide on plans they built across the gully. Unintentionally not having the foresight to realize that, although their intentions in creating that lot were thoughtful, the next person who would end up with it may not be as logical, thoughtful, environmentally aware or reasonable. The architect recognized that it is very unfortunate that original intentions were not realized, so the destruction of the gully and negative impact on the environment wasn't secured.

This is where we are.

We have a lot that would never be approved by anywhere close to today's standards.

We have an overzealous owner who can only think of his ability to say he lives on the bay and he's trying to squeeze in some idea that is absolutely inappropriate for that space.

Every single person that has looked at it in the last year and a half from our property cannot imagine anyone attempting to build anything of substance there, much less forcing a house of that magnitude onto that 30 degree slope that is simply- the side of a gully.

Many of them are quite disappointed that the City of Fairhope has allowed it to happen, not understanding the code process, but simply from the public's appreciation for the city's tight restrictions on trees and nature, etc. They can't believe it. The environmental destruction in that stream bed should have been illegal.

And let us not forget that it will continue once he begins building a structure. *His BMP's have failed multiple times* and to assume that that would not be the case through a long and difficult construction process would be a failure on all of our part to protect our watershed.

Every engineer, that despite being a small community and they have to make their living here so they are not able to stand up about this, have strong opinions about the fact that if a retaining wall is built throughout that site, *it will absolutely result in water changing course and undermining new and unknown areas, and they recognize the only way it has to go is under our house and out the front of our bluff*.

We have six springs on our property that we can point to. The amount of water moving underground in this particular site should not be underestimated. And no amount of engineering can trump Mother Nature- as anyone that has lived here long enough knows with our sandy soil and bluff conditions.

The reality of erosion on these adjacent sites is real. The attempt to control that- until there is a disaster- followed by major financial and physical overhaul to hundreds of feet of lot line and all damage to our property is not something we believe Jim Delapp is prepared to do. He was not even willing to speak to us about it the first time we met him.

As an existing homeowner, not a proposed one, I have the right to demand every step that can be taken to minimize the real impact of a subterranean retention wall of that length in order to protect my bluff line, our underground pool that has been here for 60 years, our house foundation that is 25 feet from the sandy, tree root held vertical wall of 60'+, it is all being threatened by this proposed plan.

I clearly again beg you to see the reality of this variance request and know that it is absolutely not wise.

I am asking you to help protect our property by denying this retention wall request.

We have trusted the system in place to protect our property. We understand in our line of work *that is why there are zoning, building and environmental regulations*- which we work with every day and go to great lengths to protect and work around those conditions. It's why we have the building codes. Please do not grant this variance.

Mr. Delapp is seeking to push the limits of this site to a breaking point.

The response we have been given repeatedly about this situation- "Well, if there's nothing that will stop him, you just wait until it fails, because it will, then you just sue him for damages." I think if this was your home, any normal person would realize that has to be a better proactive way. There is. To prohibit the overbuilding on this site by way of these variances. That is as best as can be done legally to try to protect surrounding properties and environment. I would hate for it to end up in that situation and I know that you all can appreciate that that is not a position that anyone wants to be put in... The damage will have been done, and it will be a nightmare for both parties.

I respectfully submit my requests to you all and I acknowledge that I am extremely disturbed by all of this. I'm sure that if it was happening to you and your property, you would feel the same. Thank you for your consideration.
Ameri'ca Tickle



UNPERMITTED STAIRS UNDER CONSTRUCTION



**COUNTLES LARGE
STABILIZING TREES CUT IN
VIOLATION OF HOA**

**ACTIVE BMP FAILURE HAPPEING
THE PLASTIC FENCE IS FAILING JUST OUT
FROM THE STAIRS. MULTIPLE TIME DURING
BIG RAINS. AND THERE IS NOT EVEN RED FILL
DIRT HERE YET**





OUR FENCE-COMPLETED PERMITTED AND TO CODE.

MR DELAPP FELT THE NEED TO CALL THE CITY ON OUR CONTRACTOR BECAUSE OF NON COMPLIANCE WHERE THE GROUND SLOPES SO DRASTICALLY AS YOU CAN SEE, BECAUSE THE FENCE WAS OVER HEIGHT AT THIS SPOT. WE HAD THE CONTRACTOR COME BACK AND ADJUST TO COMPLY.





15 feet from the white stake is a sheer sand wall. this is held in by only the mag tree in sight, this tree is on Delapps property and based on the 30" magnolia he cleared for his view, this tree being taken will result in dmage to our property. it is all just very delicate and Mr Delapps approach of cut first get forgiveness later does not work in this situation.







**ATTEMPTS TO CONTROL, FILL WITH RED CLAY, PILE IN GRAVEL-UNDER
ALLOWED CODES. COMPLETELY DESTRUCTIVE TOT HE WATERSHED AND
WETLANDS ADJACENT TO THE STREAMBED.**







Phelps Dunbar LLP
101 Dauphin Street
Suite 1000
Mobile, AL 36602
251 432 4481

October 14, 2024

pending

Richard B. Johnson
Partner
Richard.johnson@phelps.com
Direct 251 441 8237

Via U.S. Mail and Email

City of Fairhope Board of Adjustment
161 North Section Street
P.O. Drawer 429
Fairhope, Alabama 36533
Email: planning@fairhopeal.gov

Via U.S. Mail

Crawford Properties, L.L.C.
Attn: Henry Crawford
P.O. Box 39
Montrose, Alabama 36559

Via U.S. Mail

Brian Gerard Small and Fu Zhengzheng
2100 Elissalde Street
Baton Rouge, Louisiana 70808

Via U.S. Mail

Liu Jianhong
6141 Wood Wren Drive
Baton Rouge, Louisiana 70817

Via U.S. Mail

James DeLapp
P.O. Box 684
Montrose, AL 36559

Re: BOA 24.13 - 23335 Main Street (PPIN#: 265003) – Variance Request

To whom it may concern:

We have the pleasure of representing Jason and Ameri'ca Tickle, who own the property located 23389 Main Street, directly to the north of the subject property and who oppose the requested variance and request the following from the BOA. After watching the most recent meeting of the Board of Adjustment (the "Board"), in which the above request for variances were held over until the next meeting, there were several items that the Board should consider before and during the upcoming meeting.

As discussed at length at the previous meeting, the Board has the power to authorize variances from the terms of the Zoning Ordinance where a literal enforcement of the provisions of the Ordinance will, in an individual case, result in an unnecessary hardship, so long as the variance is not contrary to public interest. While we acknowledge that the Applicant's property has certain unique conditions related to its size, shape, and topography, the requested variances significantly exceed what is minimally necessary to "hardships" created by the site's characteristics. These scope and extent of the variance requested is largely due to the Applicant's design of the primary residence, accessory structure, and the retaining wall. The Board should only grant variances to the extent necessary to overcome the unique and exceptional conditions of the site, and not to merely allow the requested design of any applicant.

Accessory Structure Built Forward of the Principal Structure. As discussed in the previous meeting, our clients agree that there are feasible alternatives that would eliminate the need for a special exception to Table 3-3, such as integrating the garage into the home or removing it

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entirely. Additionally, Section 7.01 of the Declaration that governs the Crawford Subdivision states, "No building or structure shall be constructed, erected, altered, placed, remodeled, reconstructed, added to, or permitted to remain on any Lot other than a single-family dwelling". Therefore, while the Board may grant the variance to the Zoning Ordinance, it does not appear that the Accessory Structure may be built in the Subdivision without a variance from the Architectural Committee of the Subdivision. We would request that the Board deny this variance request and ask that Applicant to resubmit with a design that is permitted under the Zoning Ordinance and the Declaration.

Building Height Variance. While we can understand the potential need for a building height variance due to the elevation changes from 95' at the front of the lot to 11' at the rear of the lot, the Applicant's design, which features a substantial cupola, only exacerbates the already existing height issues that are caused by the slope of the lot. We would request that the Board consider requesting the Applicant redesign without the cupola, which causes the need for the additional height variance.

Retaining Wall height of 4' or 8' based on placement of primary home. We agree with the Board and Staff's discussion regarding the Applicant's design creating the need for the substantial variance that is being request. While we understand the argument from above regarding the necessity for the height variance because of the slope of the property, the Applicant's design appears to be trying to create a completely flat driveway area out of the immense slope of the property, which is cause for the 20' retaining wall. We would request that the Board deny this variance and ask the Applicant to redesign with a more appropriate and suitable retaining wall that better integrates with neighboring properties.

Next, there was discussion by the Applicant of the restrictions that the home construction and design must comply with under the current Declaration for Crawford Subdivision (the "Declaration") and how those restriction hindered his designs. While we understand that the Applicant must receive the building approvals and variances from the City of Fairhope and from the Architectural Committee of the Crawford Subdivision. We therefore request the applicant provide the Board of Adjustment the following Approvals and Variances required under the Declaration for new construction in the Subdivision to ensure that the Board is not wasting its time approving plans that the Architectural Committee of the Subdivision has not approved:

1. **Approval of Grading Plans.** Per Section 6.02 of the Declaration, "erosion control measures shall be taken by the Owner of a Lot, and the contractors of said Owner, to protect adjacent properties during construction on such Lot and until the soil is stabilized on the Lot." Additionally, "All erosion control measures, including slop stabilization, must be specified on the grading plan and must be approved by the Architectural Committee prior to the commencement of grading activities."
2. **Approval of Construction Plans.** Per Section 4.03 of the Declaration, "no activities shall commence on any portion of Crawford Subdivision until an application for approval has been submitted to and approved by the Architectural Committee". Further, "such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation and other features of proposed construction, as applicable."
3. **Express Written Authorization from Architectural Committee for the Removal of Trees.** Per Section 7.11 of the Declaration, "no tree having a diameter of six (6) inches or more (measured from a point forty-two (42) inches above ground level) shall be removed from any Lot without the express written authorization of the Architectural Committee."

4. **Express Written Authorization from Architectural Committee for the Proposed Retaining Wall.** Per Section 7.13 of the Declaration, “No fence, wall, hedge, ornamental structure or gazebo shall be located or constructed on any Lot without the prior written approval of the Architectural Committee.”
5. **Written Variance from the Architectural Committee.** Per Section 7.01 of the Declaration that governs the Crawford Subdivision states, “No building or structure shall be constructed, erected, altered, placed, remodeled, reconstructed, added to, or permitted to remain on any Lot other than a single-family dwelling”. Since the Accessory Structure is not permitted under the Declaration, a variance from the Architectural Committee is required per Section 4.05.
6. **Approval of Carport or Garage facing the Road.** If the above variance is not provided from the Architectural Committee and the Applicant desires to incorporate the garage into the Home design, Section 7.23 of the Declaration, states “No carports or garages shall open toward a road unless approved by the Architectural Committee.”

Finally, regarding a fence recently constructed on our client’s property, the City permit number for the fence was RES24-000084 and was issued on February 8, 2024. All work that has been performed on my property has been approved and permitted by the City of Fairhope.

On behalf of our clients, we submit this without prejudice and reserve all rights, including the right to hold the applicant, the neighborhood association and/or the City responsible for all damages that may occur on their property as a result of the work plan for which a variance is sought.

Very truly yours,

/s/ Richard B. Johnson

Richard B. Johnson

RBJ:kr

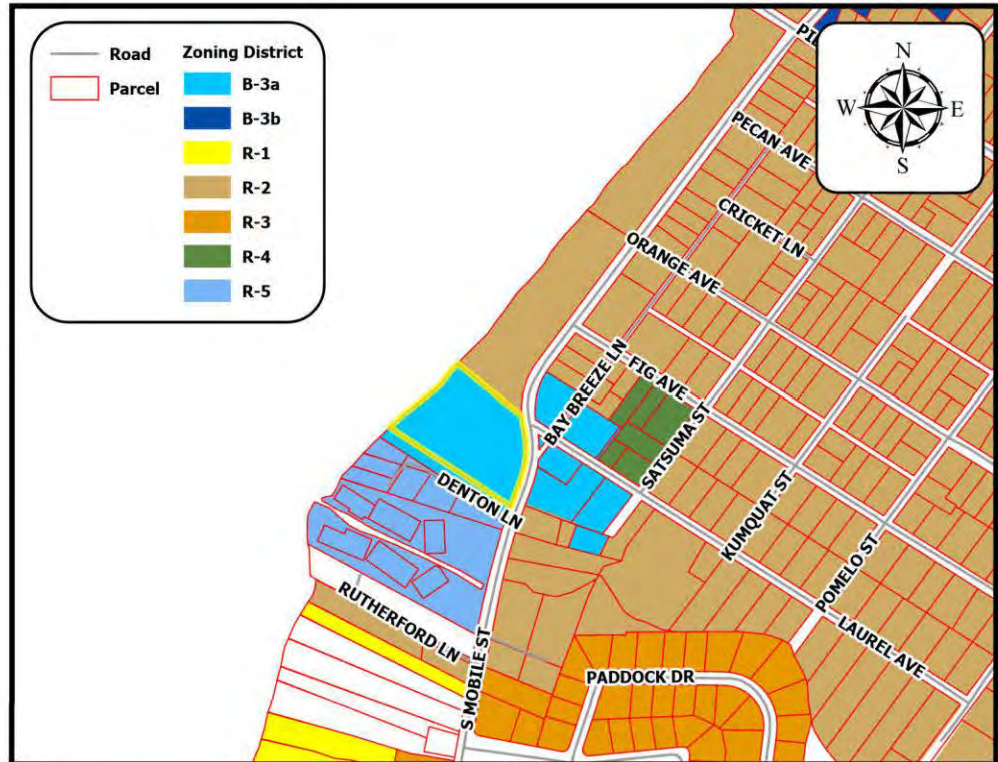
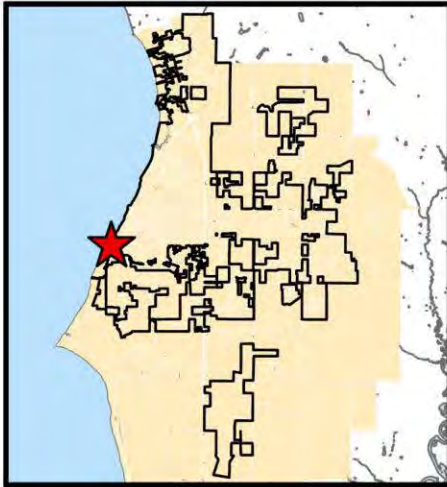
City of Fairhope

Board of Adjustments

October 21, 2024



SD 24.14 - American Legion



Project Name:

American Legion

Site Data:

3.21 acres

Project Type:

to allow for restaurant, bar, and community center

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

B-3a Tourist Resort Lodging District

PPIN Number:

11940

General Location:

SW of intersection of Laurel Ave & S Mobile St

Surveyor of Record:

Watershed

Engineer of Record:

Watershed

Owner / Developer:

Gerard Garcia

School District:

Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Approve with conditions

Prepared by:

Mike Jeffries



APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☐ Variance

Property Owner / Leaseholder Information

Name: American Legion, Eastern Shore Chapter Post 199 Phone Number: Text
 Street Address: 700 South Mobile Street Fairhope AL 36532
 City: _____ State: _____ Zip: _____

Applicant / Agent Information

If different from above.

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

Name: GERARDO GARCIA Phone Number: (251) 300-0438
 Street Address: PO Box 473
 City: FAIRHOPE State: AL Zip: 36533

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.

GERARDO GARCIA
 Property Owner/Leaseholder Printed Name

9/9/24
 Date

[Signature]
 Signature

Fairhope Single Tax Corp. (If Applicable)



VARIANCE REQUEST INFORMATION

Amendment of Conditional Use Approval Action 22.05

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

Describe the indicated condition(s):

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

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

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: \$		\$ 520 +

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.

GERARDO GARCIA
Property Owner/Leaseholder Printed Name

9/9/24
Date

[Signature]
Signature

Fairhope Single Tax Corp. (If Applicable)

Summary of Request:

On behalf of Eastern Shore American Legion, Watershed LLC is requesting to amend the previous approval. May 16th, 2022 the American Legion received conditional approval of the Special Exception for Restaurant, Bar, and Community Center or Club excluding drive-through's. The property is located at the intersection of Laurel Street and South Mobile Street. The subject property is zoned B-3a. The applicant desires to develop the subject property as a Community Center or Club, Restaurant, and Bar, which is allowed only on appeal and subject to special conditions. The original uses approved is not changing, however, the site layout and buildings have changed substantially. Essentially a new building will be constructed (Phase 1 Legion Club), the existing building will be renovated and become the Legion Hall and restaurant. A narrative is included in the packet more particularly describing the reasoning behind the changes.

Comments

The overall occupied building under roof in this amendment is equivalent to the original proposal. Historic porches on the existing building that have been covered in the past are being converted back to open air porches. The new building will be located in an area that was previously dedicated to be covered grill area, garages, and parking. Staff's concern was an increase in parking demand but with this approval the following limitations will apply:

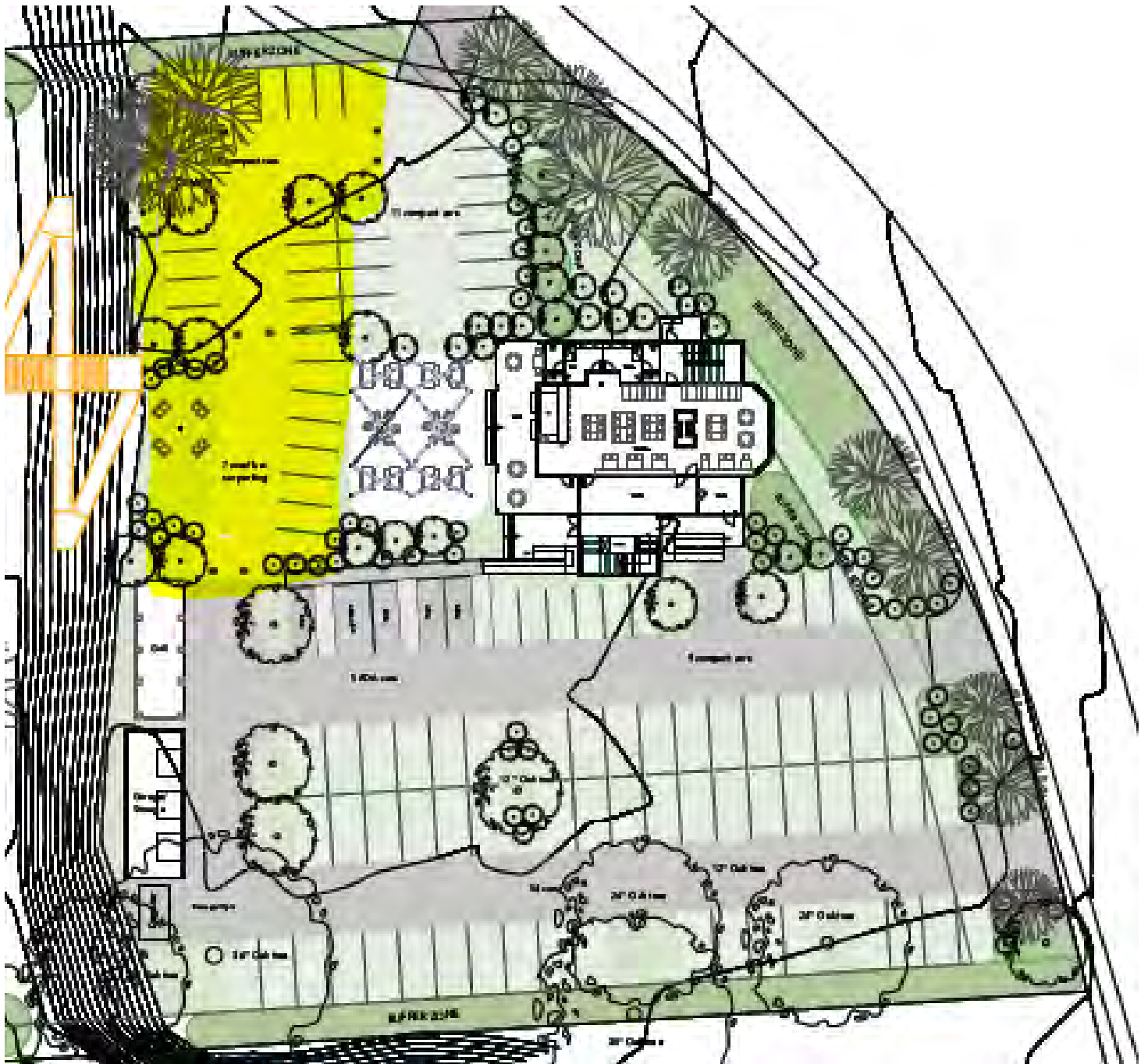
- Restaurant will operate only Tuesday-Saturday (drive-through not be a permitted use on site)
- The Legion Events including monthly membership meetings will be limited to only Sunday's and/or Monday's. (Or when the Restaurant is not in operation)

Parking

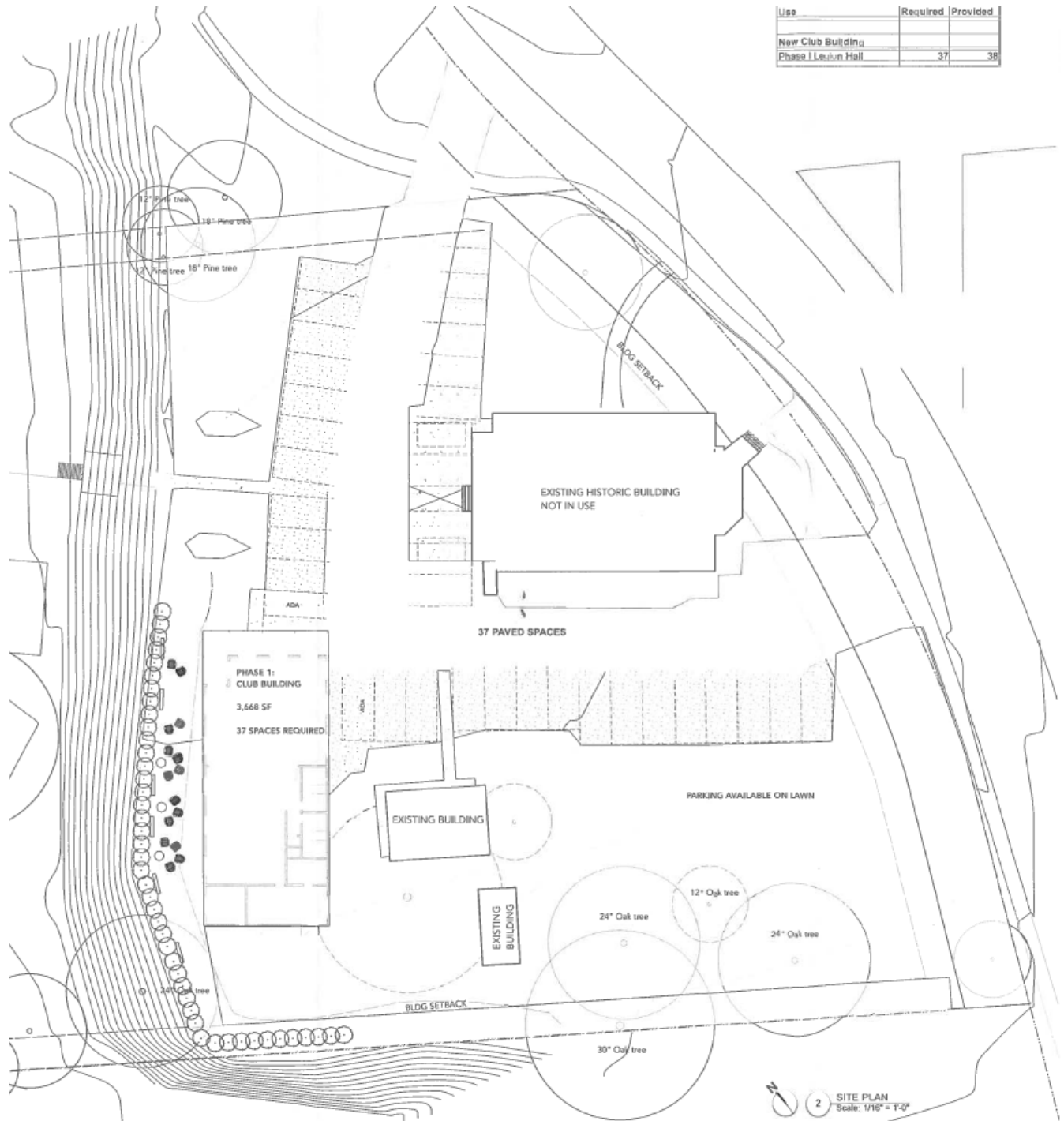
- The number of parking spaces work with the shared hours of operation and limitations on events.
- The landscaping plan will be modified due to the new orientation of some parking areas and required screening and buffering will be provided.
- The south parking lot will be gravel.
- The north and west parking lot will be grassed and bollards installed to restrict access except during events. Creating open grass areas at the other times.

According to staff calculations and based on restricted capacity of the proposed uses provided, the applicant meets the parking requirements of the Zoning Ordinance.

Previous Site Plan



Proposed Site Plan



The review criteria for a use appeal is as follows:

Article II. Section C.e(2)

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:

Response: Complies

(b) Compliance with any other approved planning document;

Response: None noted.

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

Response: Complies

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

Response: The subject property is bordered by R-2 Medium Density Single-Family, R-5 High Density Dwelling Residential, and B-3a Tourist Resort Lodging District. The structure is existing, and the uses do not conflict with the character of the surrounding properties.

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

Response: No issues noted.

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

Response: No issues noted.

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

Response: No issues noted.

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

Response: No issues noted.

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

Response: The property is buffered from adjacent residential properties.

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

Response: No issues noted.

(k) Overall benefit to the community;

Response: The use proposed will provide a community center, restaurant, and bar services for the community.

(l) Compliance with sound planning principles;

Response: Staff believes this use is in keeping with sound planning principles.

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

Response: No issues noted.

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

Response: No issues noted.

Staff Recommendation:

Staff recommends **CONDITIONAL APPROVAL** of the appeal for Community Center or Club, Restaurant, and Bar uses for the site known as Eastern Shore American Legion.

1. A drive-through shall not be an allowed use on this site.
2. The restaurant shall only be open Tuesday-Saturday
3. Legion Events and Monthly membership meetings shall be Sunday's and/or Monday's or when the restaurant is not in operation.

**AMERICAN LEGION, EASTERN SHORE, POST 199
PROPOSED CONDITIONAL USE AMENDMENT TO CASE 22.05**

09.06.2024

1. On May 16, 2022, the American Legion Eastern Shore Post 199 applied for conditional use approval of a restaurant, bar, and club use on their property at 700 S. Mobile Street. The following action was taken by the BOA.
 - a. Conditional approval of the Special Exception for Restaurant, Bar, and Community Center or Club use for the site known as Eastern Shore American Legion with the following condition:
 - A drive-through shall not be an allowed use on this site
2. The Legion respectfully requests an amendment to the previously approved conditional uses, in order to build a new Phase I Legion Club Building on the site, and to revise the usage and reduce the occupancy of the renovated historic building. (now referred to as Phase II, Legion Hall and Restaurant) The intent of these changes is to stop the drain on their finances from the rental building, invest in a simple structure that will be a permanent asset, and reduce construction costs of the Phase II renovation of Legion Hall.

The new Phase I Club Building will support the unique character of the site, and respond to the historic architecture of the Phase II Legion Hall and Restaurant illustrated in the original case 22.05 materials and attached. The new building will have a 12' ceiling height, similar to the historic first floor, and a hip roof with a 7:12 pitch and deep overhangs, to match the historic roofline. The front porch will also mimic the historic building, with columns and decorative "x" framing from 10'-12'. A change in siding will continue the 10' datum around the building. Siding will include horizontal siding to mimic enclosed porches, and board and batten. The overall architectural character will be our local coastal vernacular, similar to and complementary to the historic building.

3. The proposed uses in this amendment have not changed. The proposed location of those uses, site plan, and buildings have changed as follows:
 - a. The proposed Phase 1 Legion Club Building is 3,678 SF under roof.
 - b. Phase I Legion Club Building will temporarily host Legion activities and club meetings until the historic building can be revitalized, and the meetings moved to the second floor of the historic building. It will also provide a much needed ground floor staging facility for the Legion's ALERT program, providing Emergency Response support to our communities, in collaboration with Baldwin County EMS.
 - c. The impact of the proposed new building on the site usage and parking is offset by a reduction in area of the historic building, created by eliminating a previously proposed addition to the building, and eliminating the conversion of the attic into occupied space.
 - d. Phase II Legion Hall and Restaurant now includes 7,344 SF under roof. The Legion Hall and Restaurant proposed in the original conditional use approval included 11,052 SF under roof. Phases I and II laid out in this amendment together include 11,022 SF under roof. **The overall area of occupied building under roof in this amendment is equivalent to the original proposal, and actually slightly reduced.**
 - e. On both floors of Phase II Legion Hall and Restaurant, historic porches that were previously enclosed will be uncovered for open air use. This creates a significant reduction in proposed conditioned enclosed space that should be considered. Phases I and II total 2,952 SF Porch and 8,070 SF Conditioned space. Original conditional use approval totaled 1,567 SF Porches and 9,485 SF conditioned space. **Phases I and II of this proposed amendment reduce *conditioned space* by 1,415 SF.**
 - f. While it is not reflected in the parking calculations, the plan for Phase 2 Legion Hall reduces the calculated occupant load of the first floor by 45 occupants and the second floor by 128 occupants. **Phases I and II of this**

proposed amendment reduce the calculated occupant load by 224 occupants in total.

- g. Phase I Legion Club building will be located in an area previously designated for covered grill and garage buildings and parking. The new site plan offsets an increase in impervious area by using grass pave surface for an additional 16 parking spaces along the southern property line.
- h. To manage the parking demand and use of the site, the Phase II Restaurant will operate Tuesday-Saturday. The Legion will only hold major events, including monthly Legion membership meetings, on Sundays and Mondays, or when the restaurant is not in operation.
- i. We have attached a table to help clarify the changes proposed in the proposed amendment, relative to the original conditional use approval of case 22.05 Eastern Shore American Legion. We have also included the original application materials as an attachment.

4. Amended Lot requirements

			setbacks					
District	Lot area	Lot width	Front	Rear	Side	Street	Lot coverage	Height
B-3a	7,500 Sf	60ft	30ft	35ft	10ft	N/A	30% Max	30 ft
Proposed Phase I Building	108,900sf 10 . 2022 survey reduced lot area from original approved BOA case.	262 ft	187'	211'	135'5" north side 26'8" south	N/A	6.7% 7,350 SF / 108,900 SF	+/- 20'

5. Site Screening: No change

- The original landscape plan is attached. While some areas to the west and interior parking islands will need to be shifted, or changed slightly, there is no change proposed for the landscaping on the borders of the site, and along the street, including in the green space buffer.
- The plan utilizes native plants to create a landscape that is distinctive in appearance and adapted to this coastal environment, resulting in a wildlife friendly, drought tolerant, and low maintenance landscape.
- We are happy to provide further clarification regarding plant materials or revisions if needed to ensure adequate screening is provided with this plan.

6. Amended Parking: *see Parking Table on Site Plan*

- Community Center, Clubs 1 space for each 100 SF under rood
- Restaurant and Bar: 1 space for each 4 seats up to 52 and 1 space for each 6 seats thereafter
- Compact Parking: >30%-<40% required. +/- 40% proposed
- ADA Accessible: 94 spaces required, 4 ADA, including 1 van
- The South gravel parking lot has 60 spaces and will serve the restaurant and typical club uses.
- The North and West structured grass parking lots have 34 parking spaces and bollards to restrict car access. The grass lots will be opened for legion events.
- LID parking design:
 - Total area of landscape is >10% of the total paved area
 - 50 grass pave 44 gravel parking spaces
 - Planting islands provided every 12 spaces
- Parking Credits: no change.

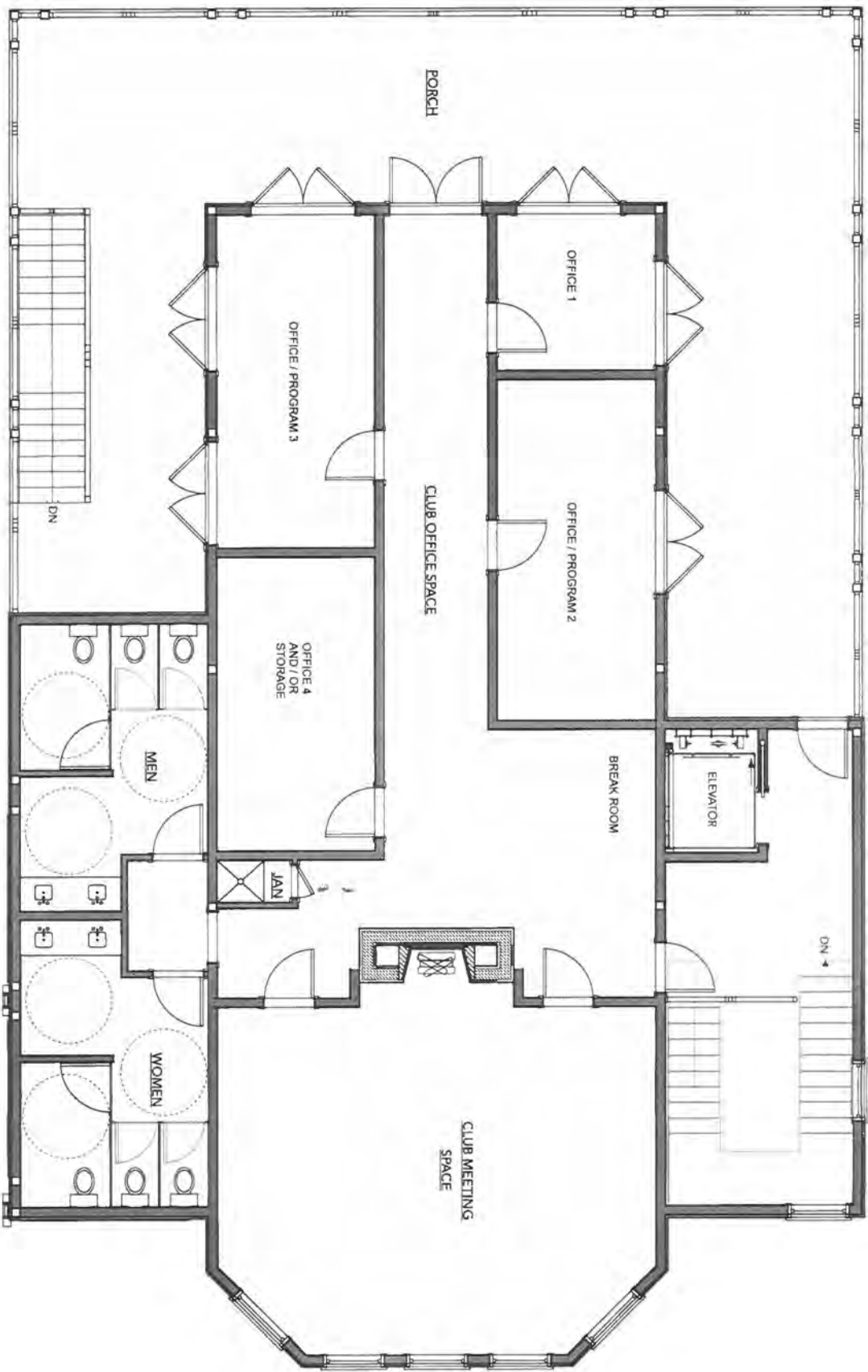
Bicycle parking facilities will be provided, with 50 bicycle parking spaces. Parking provided complies *without* using bicycle parking credits.

BOA 22.05 Eastern Shore American Legion Approved Action & Proposed Amendment

	BOA Approved Conditional Use Application 2021	Construction Documents for Revitalization 2022	Current Proposed Phase I Club Space Hall	Current Proposed Phase II Legion Hall + Restaurant	Totals Phases I&II
1st Floor SF U.R.	4076	4160	3678	3672	7350
1st Floor Porch SF		726	572	1190	1762
Restaurant/Bar Seating	160	88	0	88	88
1st Floor Calculated Egress Occupancy*		160	136	115	251
1st Flr Parking Req	31	19	37	19	56
2nd Floor SF U.R.	4076	4160	0	3,672	3672
2nd Floor Porch SF		601	0	1190	1190
2nd Floor Egress Occupancy Count *		440	0	312	312
2nd Floor Parking Requirements	40	37	0	37	37
3rd Floor SF U.R.	2900	3258	0	0	0
3rd Floor Porch SF		240			0
3rd Floor Calculated Egress Occupancy*		160	0	0	
3rd Floor Parking Requirements	29	33	0	0	0
Total Calculated Occupant load	0	760	0 136	400	536
				2380	
Total Under Roof SF	11052	11578	3678	7344	11022
Total Porches	1567	1567	572	2380	2952
Total Conditioned Area	9485	10011	3106	4964	8070
Bike Pkg /Credits	0	0	40 bike spaces/ 5 = 8 credits Project complies without credits		
Total Parking Req	100	90	29		85
Total Proposed Parking Provided	101	93	37		94
* Occupant loads calculated for egress purposes are typically higher than actual loads and parking counts. These numbers apply assembly occupant load factors to the porches as well as the conditioned spaces.					

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2 SECOND FLOOR PLAN
Scale: 1/4" = 1'-0"

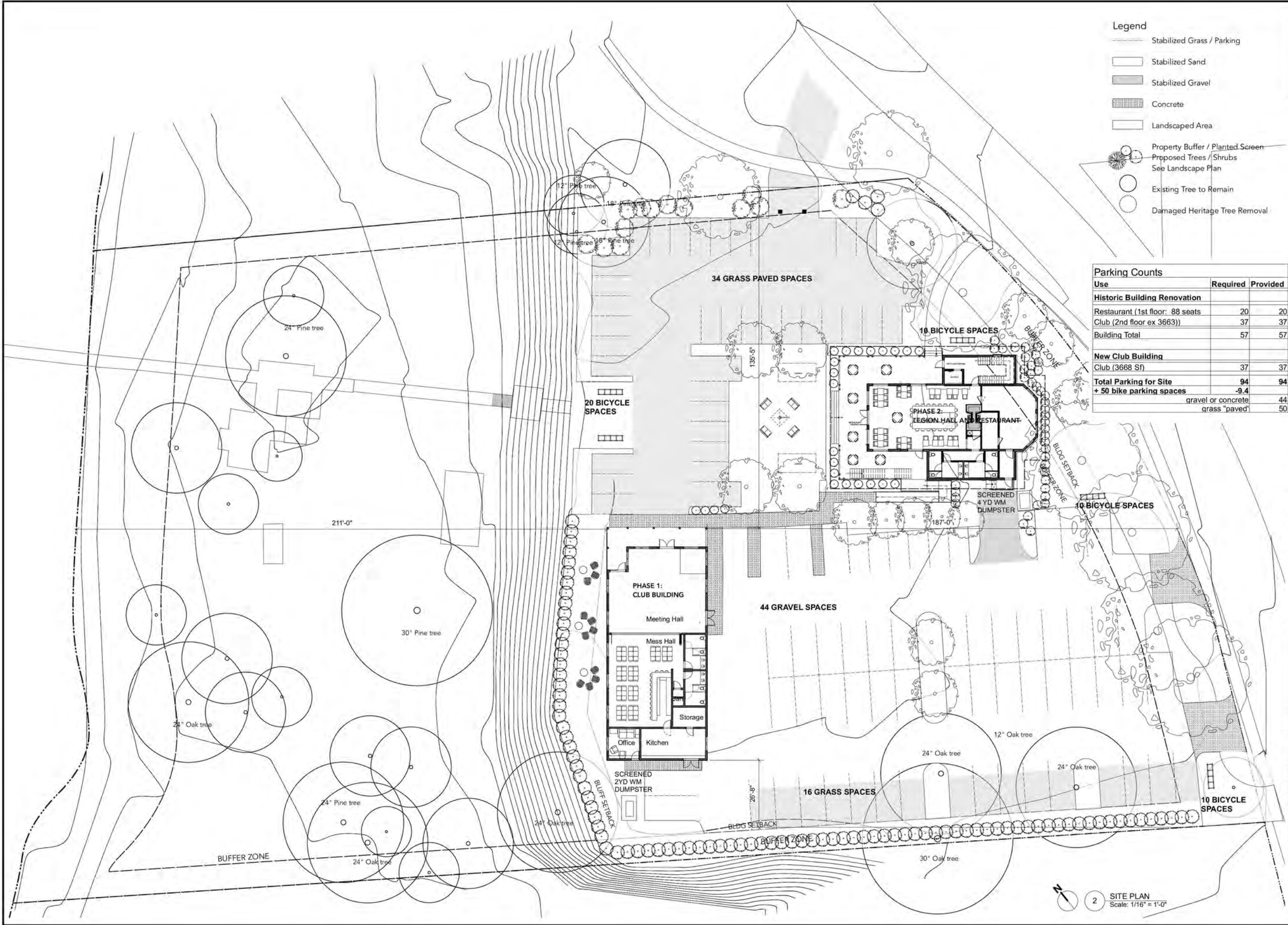
ORIGINAL SUBMISSION CASG 22.05



REVITALIZATION OF AMERICAN LEGION POST 0199

WATER SHED

LOOKING SOUTHEAST



- Legend**
- Stabilized Grass / Parking
 - Stabilized Sand
 - Stabilized Gravel
 - Concrete
 - Landscaped Area
 - Property Buffer / Planted Screen
 - Proposed Trees / Shrubs
See Landscape Plan
 - Existing Tree to Remain
 - Damaged Heritage Tree Removal

Parking Counts		
Use	Required	Provided
Historic Building Renovation		
Restaurant (1st floor: 88 seats	20	20
Club (2nd floor ex 3663))	37	37
Building Total	57	57
New Club Building		
Club (3668 Sf)	37	37
Total Parking for Site	94	94
+ 50 bike parking spaces	-9.4	
gravel or concrete	44	
grass "paved"	50	

AMERICAN LEGION

EASTERN SHORE POST 0199

700 S MOBILE STREET

FAIRHOPE, AL

Seal

Date Issued: JULY 17, 2024
CLUB BUILDING

REVISION SCHEDULE	
DATE	NO. DESCRIPTION

C1.2

ARCHITECTURAL SITE
PLAN PHASE II

AMERICAN LEGION

EASTERN SHORE POST 0199

700 S MOBILE STREET
FAIRHOPE, AL



CANNON

FLAGPOLE LEGION MEMORIAL
GREEN SPACE

CANNON

PORCH
RESTAURA
SEATING

RESTAURANT BAR
88 seats total;
64 interior and 24 on porch

KITCHEN
BACK OF HOUSE

CLUB OFFICE SPACE

Seal

Date issued: JULY 17, 2024
CLUB BUILDING

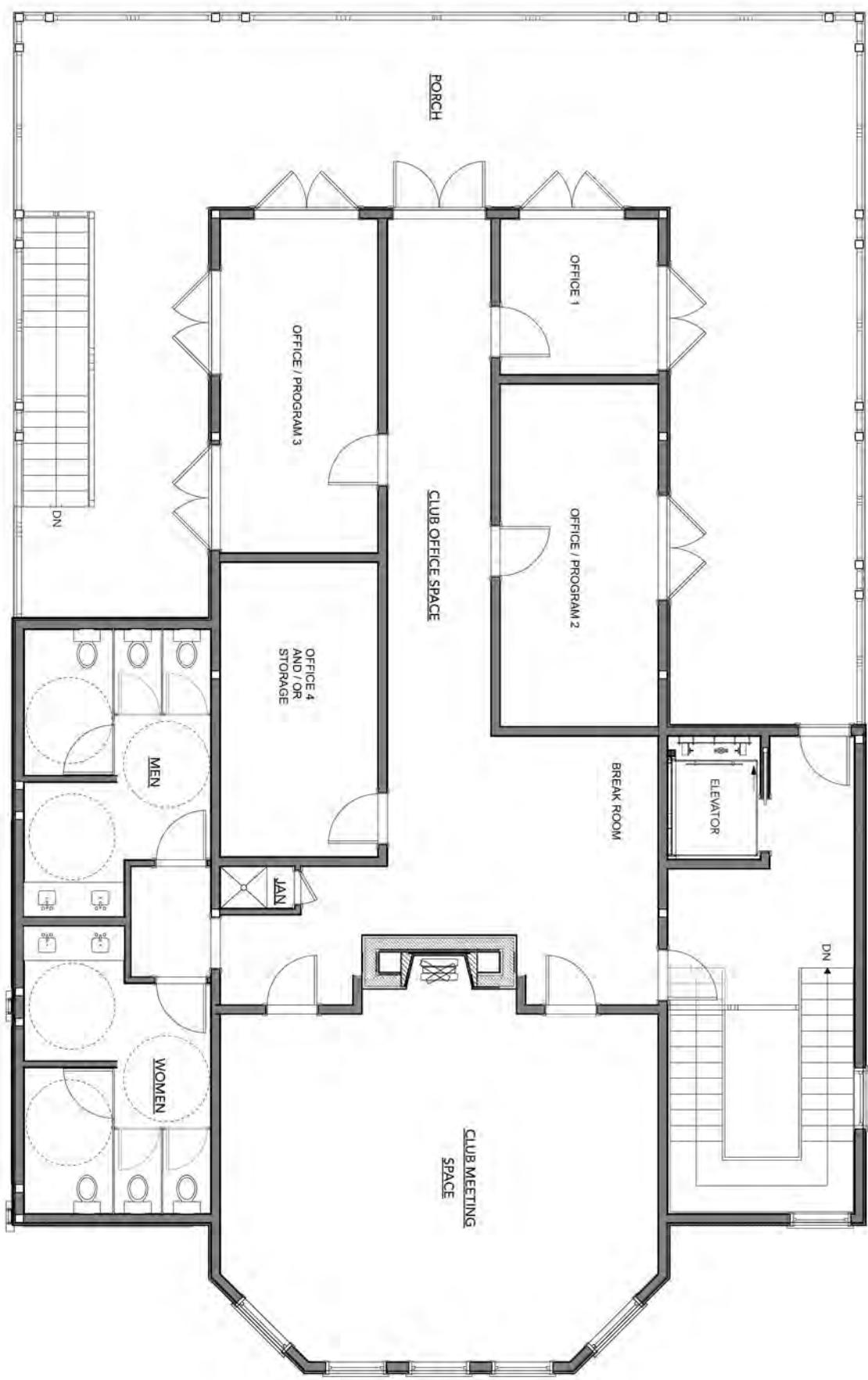
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A1.1

FIRST FLOOR PLAN
PHASE II

  **FIRST FLOOR PLAN**
Scale: 1/4" = 1'-0"

FIRST FLOOR PLAN
Scale: 1/4" = 1'-0"



1 SECOND FLOOR PLAN
Scale: 1/4" = 1'-0"

Sheet

DATE

REVISION

DATE

DESCRIPTION

1

7/17/2024

CLUB BUILDING

AMERICAN LEGION

EASTERN SHORE POST 0199

700 S MOBILE STREET

FAIRHOPE, AL

A1:2

SECOND FLOOR
PLAN PHASE II

PLANT USE SCHEDULE

4	BOTANICAL / COMMON NAME	CONT	CAL	SIZE	HEIGHT	
4	AMELANCHIER X GRANDIFLORA / AUTUMN BRILLIANCE / DOWNY SERVICEBERRY	#50	3" CAL	7'-8" H X 4'-5" W	M.T. 3.5 SHOOTS, 4" MIN CLEAR TRUNK	
6	ELAEAGARUS DECIPENS / JAPANESE BLUEBERRY TREE	#50	2.5" CAL	8'-10" H X 5'-6" W	6" CLEAR TRUNK	
1	MAGNOLIA VIRGINIANA / SWEET BAY MAGNOLIA	#45	MULTI-TRUNK (3-5 SHOOTS)	10' - 12' HEIGHT	M.T. 3.5 SHOOTS, 4" MIN CLEAR TRUNK	
2	QUERUS NUTTALLII / NUTTALL OAK	#45	3" CAL	12'-14" H X 8'-9" W	6" CLEAR TRUNK	
3	QUERUS PHILLOIDES / WILLOW OAK	#45	3" CAL	14'-16" H X 9'-10" W	6" CLEAR TRUNK	
6	QUERUS VIRGINIANA / WHITE / HIGHRISE LIVE OAK	#45	4" CAL	14'-16" H X 9'-10" W	6" CLEAR TRUNK	
EXISTING SITE TREE	BOTANICAL / COMMON NAME	CONT	CAL	SIZE	HEIGHT	
2	PNUS PALUSTRIS / LONGLEAF PINE	#30				
SHRUBS	BOTANICAL / COMMON NAME	CONT	PLANTING SIZE	MATURE HEIGHT	MATURE WIDTH	SPACING
11	BUDLEIA X 'SMOUL' / PUOSTERIE BUTTERFLY BUSH	#3	12"-18" H X 12"-18" W	24'-36" H	24'-36" W	36" c.c.
6	CAMELLIA X TAYLOR'S PERFECTION / TAYLOR'S PERFECTION ESPALIER CAMELLIA	#15	5' HEIGHT	48'-60" H	48'-60" W	72" c.c.
3	HYDRANGEA PANICULATA 'JANE' / LITTLE LIMEB PANICLE HYDRANGEA	#15	24"-32" H X 24"-32" W	48'-60" H	36'-48" W	48" c.c.
3	ILEX X 'CONTY' / LIBERTY HOLLY	#10	6" HEIGHT	72'-84" H	48'-60" W	60" c.c.
14	LIGUSTRUM SINENSIS 'SUNSHINE' / SUNSHINE LIGUSTRUM	#7	12"-18" H X 12"-18" W	36'-48" H	36'-48" W	48" c.c.
8	MISCANTHUS SINENSIS 'ADAGIO' / ADAGIO EULALIA GRASS	#3	12"-18" H X 12"-18" W	36'-48" H	36'-48" W	42" c.c.
59	MYRTICA CERIFERA / SOUTHERN WAX MYRTLE	#3	24"-32" H X 24"-32" W	60'-72" H	48'-60" W	72" c.c.
9	MYRTICA CERIFERA 'DONS DWARF' / DONS DWARF WAX MYRTLE	#3	12"-18" H X 12"-18" W	60'-72" H	60'-72" W	72" c.c.
38	PROCARPUS MACROPHYLLUS / UPRIGHT JAPANESE YEW	#15	36"-42" H X 36"-42" W	60'-72" H	36'-48" W	42" c.c.
26	SERENOA REPENS / SAW PALMETTO	#3	36"-42" H X 36"-42" W	72'-84" H	72'-84" W	84" c.c.
SHRUB AREAS	BOTANICAL / COMMON NAME	CONT	TYPE	SPACING TYPE		
59	CALLICARPA DICHOTOMA / DWARF BEAUTYBERRY	#3	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	36" c.c.	
249	DIETES BICOLOR / BI-COLOR AFRICAN IRIS	#1	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	18" c.c.	
21	HYDRANGEA PANICULATA 'JANE' / LITTLE LIMEB PANICLE HYDRANGEA	#3	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	36" c.c.	
40	LIGUSTRUM SINENSIS 'SUNSHINE' / SUNSHINE LIGUSTRUM	#3	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	36" c.c.	
284	PENNISETUM ALOPECUROIDES 'YAKAHATCHEE' / DWARF FAKAHATCHEE GRASS	S1	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	36" c.c.	
482	PENNISETUM ALOPECUROIDES 'YAKAHATCHEE' / DWARF FAKAHATCHEE GRASS	S1	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	24" c.c.	
60	ROSA X 'WINTERFRA' / CORAL DRIFTB GROUNDCOVER ROSE	#3	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	36" c.c.	
43	SABAL MINOR / DWARF PALMETTO	#3	CONTINUOUS HEDGE / MASSING	RECTANGULAR SPACING	48" c.c.	
45	SERENOA REPENS / SAW PALMETTO	#3	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	48" c.c.	
64	SPARTINA BAKERI / SAND CORDGRASS	#3	CONTINUOUS HEDGE / MASSING	TRIANGULAR SPACING	48" c.c.	
SODDING	BOTANICAL / COMMON NAME	CONT	MATURE HEIGHT	SPACING TYPE		
8 555 SF	CYNODON DACTYLON 'TIF 419' / TIF 419 BERMUDA GRASS	SOD				
4 055 SF	ZOYSIA X 'PALSADES' / PALSAD'S ZOYSIA	SOD				

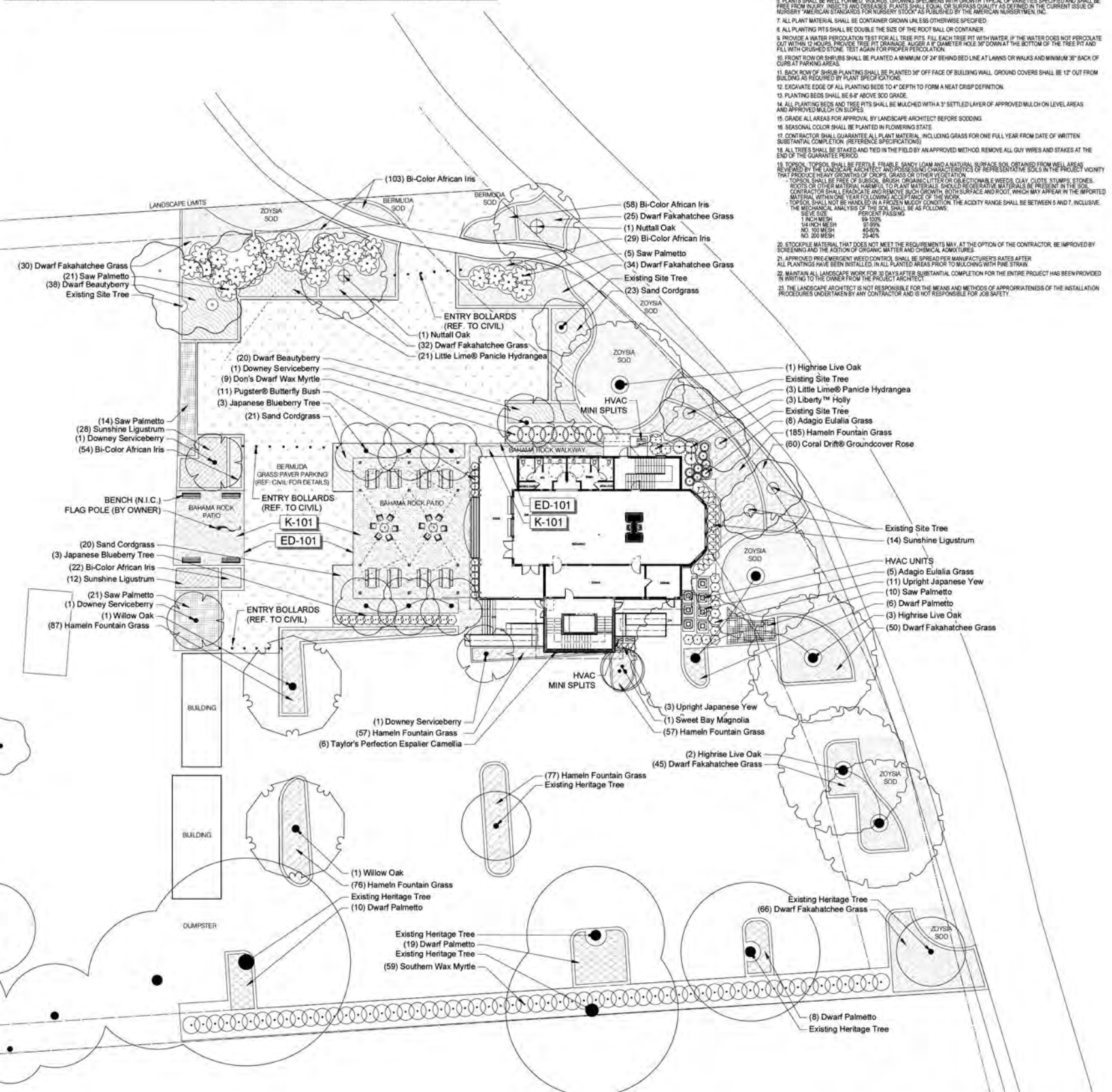
NOTE: QUANTITIES SHOWN IN THE "PLANT USE LIST" ARE SOLELY FOR THE CONVENIENCE OF THE LANDSCAPE CONTRACTOR. CONTRACTOR TO VERIFY QUANTITIES SHOWN ON THE "PLANTING PLAN" AGAINST THOSE SHOWN IN THE "PLANT USE LIST" AND PLANT THOSE QUANTITIES SHOWN ON THE "PLANTING PLAN".
PLANTS LANDSCAPE CONTRACTOR SHALL SUBMIT PHOTOS WITH SCALE REFERENCES OF ALL PLANTS & TREES TO THE LANDSCAPE ARCHITECT FOR APPROVAL IN WRITING PRIOR TO HAVING THEM DELIVERED TO THE SITE.

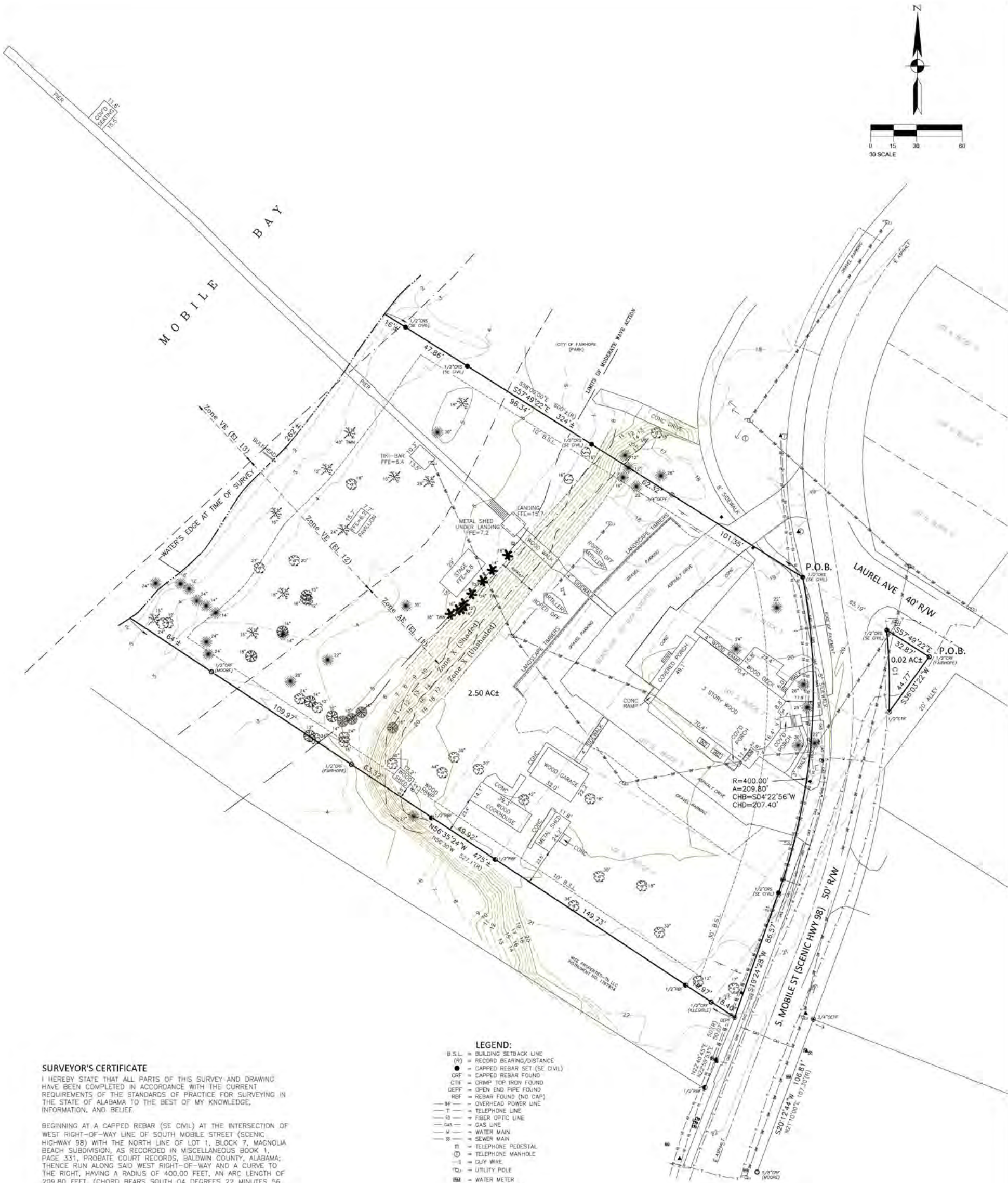
HARDSCAPE SCHEDULE

SYMBOL	EDGING	QTY	DETAIL	MFG.	MATERIAL	TYPE	SIZE	COLOR
ED-101	METAL EDGING	345 LF	91-200	CURVERITE	ALUMINUM	3500 SERIES	18" X 3.5" X 8"	BLACK
SYMBOL	ROCK	QTY	DETAIL	MATERIAL	SIZE	DEPTH	FABRIC TYPE	STAPLES
K-101	BAHAMA ROCK PATIO	2 954 SF		BAHAMA ROCK	VARIES	8"	4 OZ. NON-WOVEN	36" O.C.

GENERAL PLANTING NOTES:

- CONTRACTOR SHALL BE RESPONSIBLE FOR THE SITE INSPECTION PRIOR TO LANDSCAPE CONSTRUCTION IN ORDER TO ACCOUNT FOR ANY EXISTING UTILITIES AND TO VERIFY THE LOCATION OF ALL EXISTING UNDERGROUND UTILITIES PRIOR TO BEGINNING CONSTRUCTION.
- CONTRACTOR SHALL VERIFY PLANT QUANTITIES FROM THE PLAN AND REPORT DIFFERENCES TO THE OWNER'S REPRESENTATIVE FOR ADJUSTMENTS.
- ALL PLANT MATERIALS ARE SUBJECT TO APPROVAL OR REJECTION BY THE OWNER'S REPRESENTATIVE AT THE JOB SITE.
- CONTRACTOR SHALL LAYOUT ALL PLANT MATERIAL FOR REVIEW BY OWNER'S REPRESENTATIVE APPROVAL PRIOR TO PLANTING. A MINIMUM 48 HOURS NOTICE SHOULD BE GIVEN AND ANTICIPATED BY THE CONTRACTOR FOR THIS REVIEW.
- CONTRACTOR SHALL MAINTAIN ALL PLANTING AREAS WITHIN APPROVED ORGANIC SOIL MIX AND 40% APPROVED SANDY LOAM TOPSOIL. PROPER DRAINAGE SHALL BE OBTAINED IN ALL AREAS. DO NOT BACK FILL HOLES WITH EXISTING SUBGRADE.
- PLANTS SHALL BE WELL FORMED, VIGOROUS, GROWING SPECIMENS WITH GROWTH TYPICAL OF VARIETIES SPECIFIED AND SHALL BE FREE FROM INJURY, INSECT AND/OR DISEASE. PLANTS SHALL BE EQUAL OR SUPERIOR QUALITY AS DEFINED IN THE CURRENT ISSUE OF NURSERY AMERICAN STANDARDS FOR NURSERY STOCK AS PUBLISHED BY THE AMERICAN NURSERMEN, INC.
- ALL PLANT MATERIAL SHALL BE CONTAINER GROWN UNLESS OTHERWISE SPECIFIED.
- ALL PLANTING RTS SHALL BE DOUBLE THE SIZE OF THE ROOT BALL OR CONTAINER.
- PROVIDE A WATER PERCOLATION TEST FOR ALL TREE FITS. FILL EACH TREE PIT WITH WATER. IF THE WATER DOES NOT PERCOLATE OUT WITHIN 12 HOURS, PROVIDE TREE PIT DRAINAGE. AUGER A 4" DIAMETER HOLE 36" DOWN AT THE BOTTOM OF THE TREE PIT AND FILL WITH CRUSHED STONE. TEST AGAIN FOR PROPER PERCOLATION.
- FRONT ROW OR SHRUBS SHALL BE PLANTED A MINIMUM OF 24" BEHIND BED LINE AT LAWNS OR WALKS AND MINIMUM 36" BACK OF CURB AT PARKING AREAS.
- BACK ROW OF SHRUB PLANTING SHALL BE PLANTED 30" OFF FACE OF BUILDING WALL. GROUND COVERS SHALL BE 12" OUT FROM BUILDING AS REQUIRED BY PLANT SPECIFICATIONS.
- LOCATE EDGE OF ALL PLANTING BEDS 10'-12" DEPTH TO FORM A NEAT CRISP DEFINITION.
- PLANTING BEDS SHALL BE 6" ABOVE SOD GRADE.
- ALL PLANTING BEDS AND TREE RTS SHALL BE MULCHED WITH A 3" SETTLED LAYER OF APPROVED MULCH ON LEVEL AREAS AND APPROVED MULCH ON SLOPES.
- GRADE ALL AREAS FOR APPROVAL BY LANDSCAPE ARCHITECT BEFORE SODDING.
- SEASONAL COLOR SHALL BE PLANTED IN FLOWERING STATE.
- CONTRACTOR SHALL GUARANTEE ALL PLANT MATERIAL, INCLUDING GRASS FOR ONE FULL YEAR FROM DATE OF WRITTEN SUBSTANTIAL COMPLETION. (REFERENCE SPECIFICATIONS)
- ALL TREES SHALL BE STAKED AND TIED IN THE FIELD BY AN APPROVED METHOD. REMOVE ALL GUY WIRES AND STAKES AT THE END OF THE GUARANTEE PERIOD.
- TOPSOIL, TOPSOIL SHALL BE FERTILE, STABLE, SANDY LOAM AND A NATURAL, SURFACE SOIL OBTAINED FROM NEARBY AREAS. TOPSOIL SHALL BE FREE OF STONES, BRICKS, ORGANIC DEBRIS OR OTHER UNDESIRABLE MATERIALS. CLAY, CLOTS, STUMPS, STONES, ROOTS OR OTHER MATERIAL HARMFUL TO PLANT MATERIALS SHOULD BE REGENERATED MATERIALS BE PRESENT IN THE SOIL. CONTRACTOR SHALL FRAGULATE AND REMOVE SUCH GROWTH, BOTH SURFACE AND ROOT, WHICH MAY APPEAR IN THE IMPORTED MATERIAL WITHIN ONE YEAR FOLLOWING ACCEPTANCE OF THE WORK.
- TOPSOIL SHALL NOT BE HANDLED AS A FERTILIZER. THE ACIDITY RANGE SHALL BE BETWEEN 5 AND 7, INCLUSIVE. THE MECHANICAL ANALYSIS OF THE SOIL SHALL BE AS FOLLOWS:
SIEVE SIZE: 100 MESH 95-100%
1/4" MESH 85-100%
NO. 100 MESH 45-60%
NO. 200 MESH 25-40%
- STOCKPILE MATERIAL THAT DOES NOT MEET THE REQUIREMENTS MAY, AT THE OPTION OF THE CONTRACTOR, BE IMPROVED BY SCREENING AND THE ADDITION OF ORGANIC MATTER AND OTHER AMENDMENTS.
- APPROVED PRE-EMERGENT WEED CONTROL SHALL BE SPREADER MANUFACTURER'S RATES AFTER ALL PLANTINGS HAVE BEEN INSTALLED. IN ALL PLANTED AREAS PRIOR TO MULCHING WITH PINE STRAW.
- MAINTAIN ALL LANDSCAPE WORK FOR 30 DAYS AFTER SUBSTANTIAL COMPLETION FOR THE ENTIRE PROJECT HAS BEEN PROVIDED IN WRITING TO THE OWNER FROM THE PROJECT ARCHITECT.
- THE LANDSCAPE ARCHITECT IS NOT RESPONSIBLE FOR THE MEANS AND METHODS OF APPROPRIATENESS OF THE INSTALLATION PROCEDURES UNDERTAKEN BY ANY CONTRACTOR AND IS NOT RESPONSIBLE FOR JOB SAFETY.





SURVEYOR'S CERTIFICATE

I HEREBY STATE 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.

BEGINNING AT A CAPPED REBAR (SE CIVIL) AT THE INTERSECTION OF WEST RIGHT-OF-WAY LINE OF SOUTH MOBILE STREET (SCENIC HIGHWAY 98) WITH THE NORTH LINE OF LOT 1, BLOCK 7, MAGNOLIA BEACH SUBDIVISION, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGE 331, PROBATE COURT RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY AND A CURVE TO THE RIGHT, HAVING A RADIUS OF 400.00 FEET, AN ARC LENGTH OF 209.80 FEET, (CHORD BEARS SOUTH 04 DEGREES 22 MINUTES 56 SECONDS WEST, A DISTANCE OF 207.40 FEET) TO A CAPPED REBAR (SE CIVIL); THENCE RUN SOUTH 19 DEGREES 24 MINUTES 28 SECONDS WEST, ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 86.57 FEET TO AN IRON PIPE; THENCE DEPARTING SAID WEST RIGHT-OF-WAY, RUN NORTH 56 DEGREES 35 MINUTES 24 SECONDS WEST, A DISTANCE OF 475 FEET, MORE OR LESS, TO THE EASTERN MARGIN OF MOBILE BAY; THENCE NORTHEASTERLY ALONG THE MEANDERS OF SAID EASTERN MARGIN, A DISTANCE OF 262 FEET, MORE OR LESS, TO THE WESTERLY EXTENSION OF THE AFOREMENTIONED NORTH LINE OF LOT 1; THENCE RUN SOUTH 57 DEGREES 49 MINUTES 22 SECONDS EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 324 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. TRACT CONTAINS 2.50 ACRES, MORE OR LESS.

TOGETHER WITH:

BEGINNING AT A CAPPED REBAR (FAIRHOPE) AT THE NORTHEAST CORNER OF LOT 1, BLOCK 7, MAGNOLIA BEACH SUBDIVISION, AS RECORDED IN MISCELLANEOUS BOOK 1, PAGE 331, PROBATE COURT RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 36 DEGREES 03 MINUTES 22 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 44.77 FEET TO AN IRON PIPE ON THE EAST RIGHT-OF-WAY OF SOUTH MOBILE STREET (SCENIC HIGHWAY 98); THENCE ALONG SAID EAST RIGHT-OF-WAY AND A CURVE TO THE LEFT, HAVING A RADIUS OF 450.00 FEET, AN ARC LENGTH OF 53.75 FEET, (CHORD BEARS NORTH 01 DEGREES 34 MINUTES 16 SECONDS WEST, A DISTANCE OF 53.72 FEET) TO A CAPPED REBAR (SE CIVIL) ON THE NORTH LINE OF AFOREMENTIONED LOT 1; THENCE RUN SOUTH 57 DEGREES 49 MINUTES 22 SECONDS EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 32.87 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 0.02 ACRES, MORE OR LESS.

- LEGEND:**
- B.S.L. = BUILDING SETBACK LINE
 - (R) = RECORD BEARING/DISTANCE
 - = CAPPED REBAR SET (SE CIVIL)
 - = CAPPED REBAR FOUND
 - CTIF = CRIMP TOP IRON FOUND
 - = OPEN END PIPE FOUND
 - RBF = REBAR FOUND (NO CAP)
 - = OVERHEAD POWER LINE
 - = TELEPHONE LINE
 - = FIBER OPTIC LINE
 - = GAS LINE
 - = WATER MAIN
 - = SEWER MAIN
 - = TELEPHONE PEDESTAL
 - = DUY WIRE
 - = UTILITY POLE
 - = WATER METER
 - = AIR CONDITIONER
 - = GAS VALVE
 - = GAS METER
 - = FLAG POLE
 - = SIGN
 - ▲ = FIBER OPTIC MARKER
 - = POST
 - = GAS METER
 - = SEWER CLEAN OUT

- TREE LEGEND:**
- = MAGNOLIA
 - = OAK
 - = PINE
 - = POPCORN
 - = CYPRESS
 - = SWEETGUM
 - = PALM
 - = CREPE MYRTLE

BUILDING SETBACKS AS PER FAIRHOPE ZONING
B-3a TOURIST RESORT LODGING DISTRICT:
FRONT: 30 FT.
REAR: 35 FT.
SIDE: 10 FT.

FLOOD STATEMENT

PROPERTY LIES IN FLOOD ZONE X (UNSHADED). X (SHADED), AE (EL. 11), VE (EL. 12) AND VE (EL. 13) AS SCALED FROM FLOOD INSURANCE RATE MAP NUMBER 01003C0643M, COMMUNITY NUMBER 010006, PANEL 0643, SUFFIX "M", DATED APRIL 19, 2019.

DAVID E DIEHL AL P.L.S. NO. 26014 DATE

SURVEY NOT VALID WITHOUT ORIGINAL SIGNATURE AND SEAL



BOUNDARY & TOPOGRAPHIC SURVEY

AMERICAN LEGION



DRAWN	RDG
CHKD.	DED
PROJ MGR	DED
SCALE	1"=30'
PROJECT	20200650
FILE	LEGION-FULL SURVEY
SHEET	1 OF 1

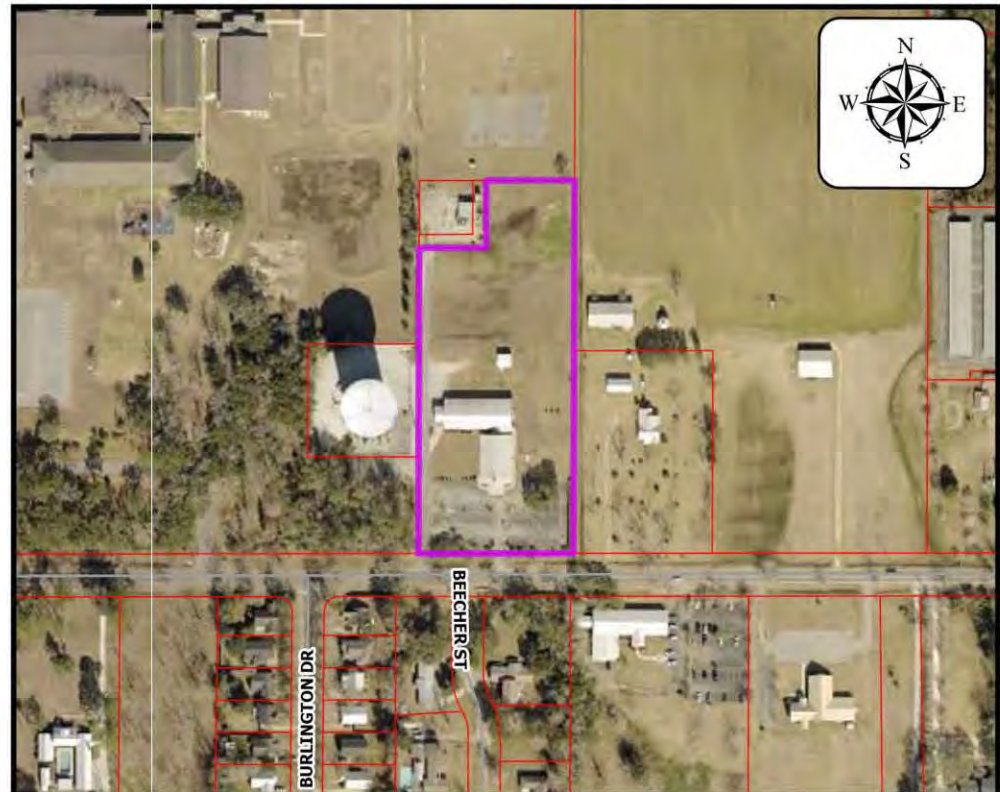
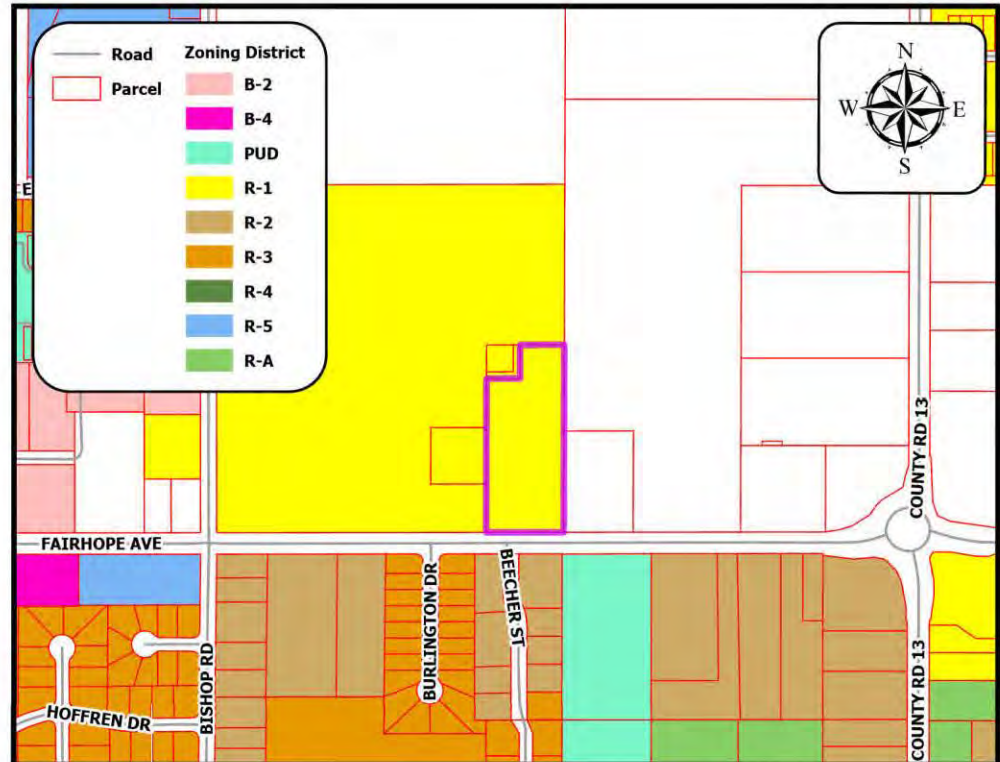
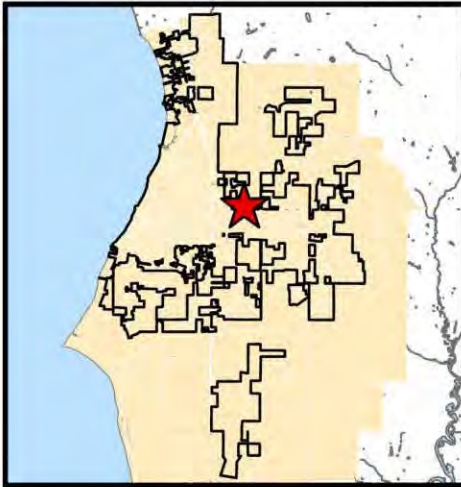
City of Fairhope

Board of Adjustments

October 21, 2024



SD 24.15 - Fairhope Avenue Baptist Church



Project Name:

Fairhope Avenue Baptist Church

Site Data:

4.29 acres

Project Type:

Allow for church expansion

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

R-1 Low Density Single-Family
Residential District

PPIN Number:

13305

General Location:

North of intersection of Beecher St &
Fairhope Ave

Surveyor of Record:

Element 3 Engineering, LLC

Engineer of Record:

Element 3 Engineering, LLC

Owner / Developer:

Fairhope Avenue Baptist Church

School District:

Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Approve

Prepared by:

Name : Michelle Melton



APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☒ Variance (Use Variance)

Property Owner / Leaseholder Information

Name: Fairhope Avenue Baptist Church Phone Number: (251) 928-0890
Street Address: 8717 Fairhope Avenue
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: Fairhope Avenue Baptist Church Phone Number: (251) 928-0890
Street Address: 8717 Fairhope Avenue
City: Fairhope State: AL Zip: 36532

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.

Fairhope Avenue Baptist Church
Property Owner/Leaseholder Printed Name

Signature Trustee

09/09/2024
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) |
- A Use not provided for

Describe the indicated conditions: The church facility was built prior to being in the City of Fairhope jurisdiction. Property was later annexed into the City. The proposed expansion requires BOA approval and will lock in the use for the property.

(Please see attached email from Mike Jeffries)

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

Please see above description of conditions

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

Use variance to be able to construct the building addition and lock in the use for the property

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

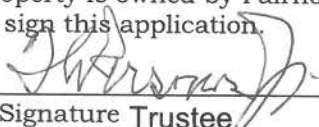
"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit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

Fairhope Avenue Baptist Church
Property Owner/Leaseholder Printed Name


Signature Trustee

09/09/2024
Date

Fairhope Single Tax Corp. (If Applicable)

Summary of Request:

The subject property is located at 8717 Fairhope Avenue and is zoned R-1 - Low Density Single-Family Residential District. The property is currently used by Fairhope Avenue Baptist Church. The applicant is requesting to expand the Sunday School classrooms, choir room, and pastor's office of the existing church to accommodate the growing church congregation. Currently, a church or *Place of Worship*, per the Zoning Ordinance, is not indicated as a use allowed by right; a use allowed subject to special conditions; nor a use allowed on appeal to the board of adjustments as defined in *Table 3-1: Use Table*. Consequently, and as set by historical precedent, the proposed use is brought to the board as a "use not provided for".

The applicant provided a narrative stating the classrooms will be used during Sunday and/or Wednesday services. The choir room will be used on Sundays and one night per week for choir practice. The church requested and received annexation into the city in March of 1989. The R-1 zoning is the default zoning for all properties that request to annex into the City of Fairhope. This request, if approved will allow for the current expansion as well as solidify the church as an allowed use for the property for any future expansions.

Comments:

The Board of Adjustments is authorized to grant relief for a use not provided for through Article II.A.4.d(4) which says the following:

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

(4) Whenever, in any district established under this ordinance, a use is neither specifically permitted or denied and an application is made by a property owner to the Director of Planning and Building for use, the Director shall refer the application to the board of adjustment which shall have the authority to permit the use or deny the use. The use may be permitted if it is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purpose and intent of this ordinance.

Analysis and Recommendation:

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;
- (b) Compliance with any other approved planning document;
- (c) Compliance with the standards, goals, and intent of this ordinance;
- (d) The character of the surrounding property, including any pending development activity;
- (e) Adequacy of public infrastructure to support the proposed development;
- (f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
- (g) Compliance with other laws and regulations of the City;
- (h) Compliance with other applicable laws and regulations of other jurisdictions;
- (i) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;
- (j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.
- (k) Overall benefit to the community;
- (l) Compliance with sound planning principles;
- (m) Compliance with the terms and conditions of any zoning approval; and
- (n) Any other matter relating to the health, safety, and welfare of the community.

Staff has reviewed the above criteria and this application meets the standard requirements for approval.

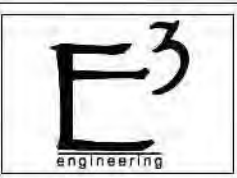
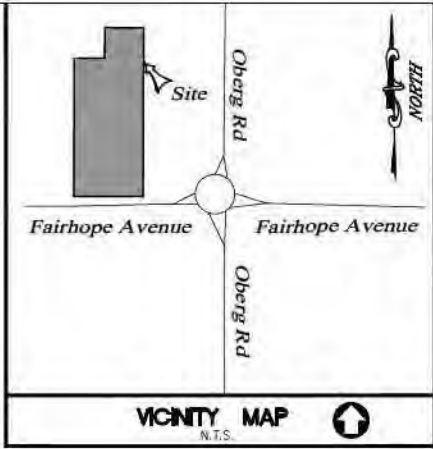
Staff Recommendation:

Staff Recommends **Approval** of case BOA 24.15 to allow the Fairhope Avenue Baptist Church to operate at 8717 Fairhope Avenue. (PIN# 13305)

Fairhope Avenue Baptist Church Building Addition

The proposed project is a 5,656 S.F. building addition containing Sunday School classrooms, choir room, and pastor's office, to accommodate the growing church congregation. The classrooms will be used during Sunday and/or Wednesday services. The choir room will be used on Sundays and one night per week for choir practice. The pastor and staff are at the church during regular business hours throughout the week.

Since the church was built prior to being in the City and then annexed in, Planning & Zoning staff has directed us to submit an application to the Board of Adjustment for approval of the proposed project.



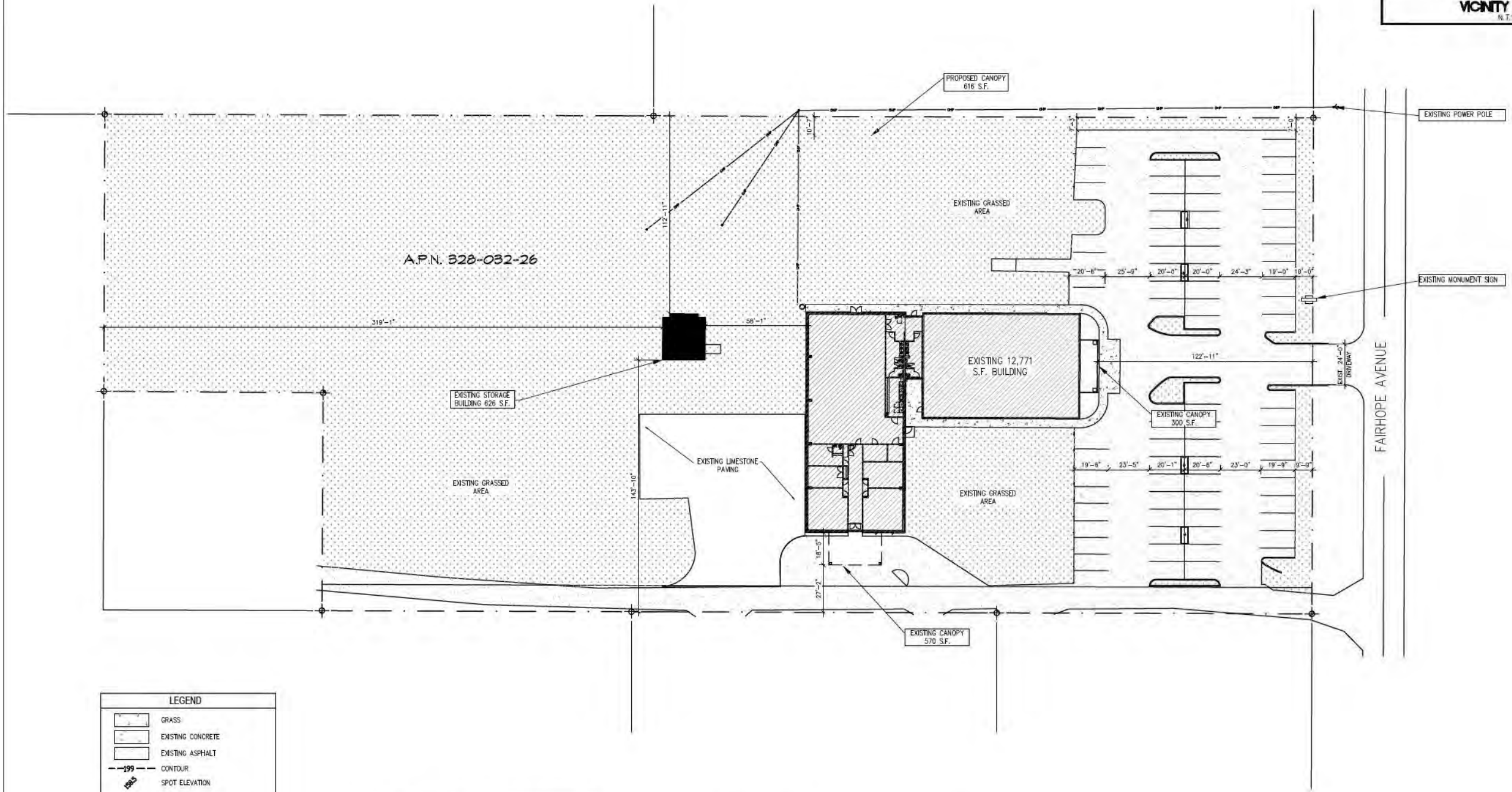
Element³
engineering
3938 GOVERNMENT BLVD
SUITE 104
MOBILE, AL
36693

REVISIONS	Description	Date	Approved

**FAIRHOPE AVENUE BAPTIST
CHURCH**
BUILDING ADDITION
8717 FAIRHOPE AVENUE
FAIRHOPE, AL 36532

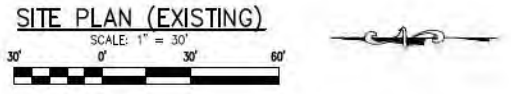
PRE-PERMIT
SUBJECT TO
CHANGE

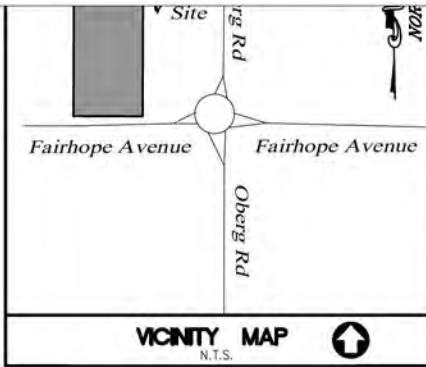
JOB NO. 24-031
DATE: 06/05/2024
DRAWN BY: SJF
SCALE: SHOWN
SHEET NO.
C1.0
EXISTING SITE PLAN



LEGEND	
	GRASS
	EXISTING CONCRETE
	EXISTING ASPHALT
	CONTOUR
	SPOT ELEVATION
	RIGHT OF WAY
	POWER POLE
	GUY WIRE
	OVERHEAD POWER LINE
	OVERHEAD UTILITY LINE (TELEPHONE, CABLE TV, ETC.)

LEGAL DESCRIPTION
283.3' X 691.2' IRR FM THE SE COR. OF SW1/4 OF NE1/4 OF SEC 16 RUN TH N 40° TO N R/W OF FAIRHOPE AVE FOR POB TH CONT N 69 1.2', TH W 150'(S), TH S 125', TH W 125'(S), TH S 565'(S), TH E 283.3' TO POB IN THE CITY OF FAIRHOPE SEC 16-T8S-R2E







engineering



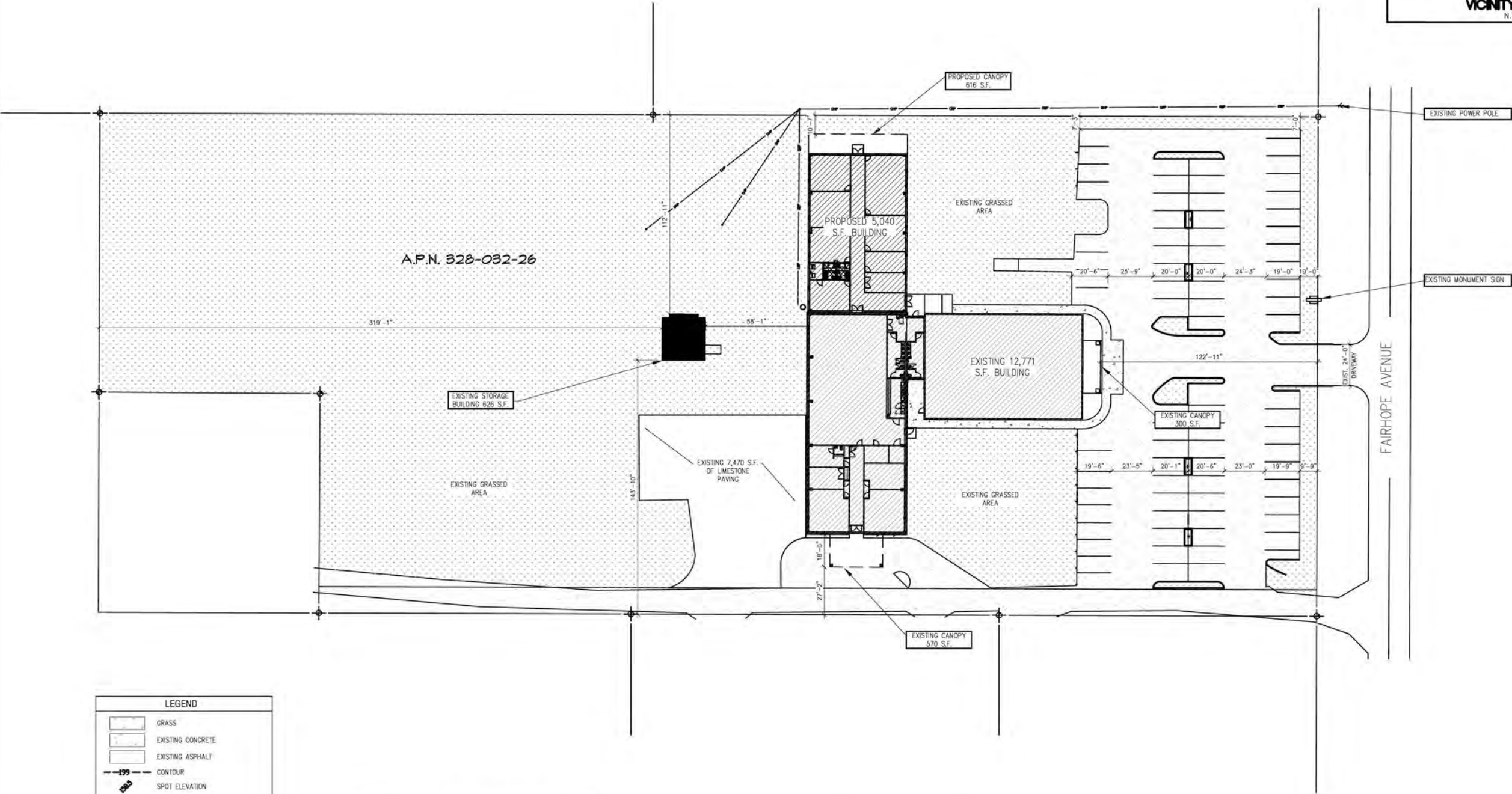
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SUITE 104
MOBILE, AL.
36693

REVISIONS		Approved
Description	Date	

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CHURCH
BUILDING ADDITION
8717 FAIRHOPE AVENUE
FAIRHOPE, AL 36532

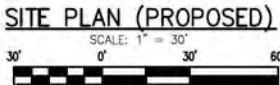
PRE-PERMIT
SUBJECT TO
CHANGE

JOB NO. 24-031
DATE: 06/05/2024
DRAWN BY: SJF
SCALE: SHOWN
SHEET NO.
C1.1
PROPOSED SITE PLAN



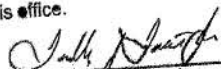
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Parcel Number	Pin	Owner Name	Address	City	State	Zip	Property Street Number	Property Street Name
05-46-05-16-0-000-025.001	102532	FAIRHOPE, CITY OF	P O DRAWER 429	FAIRHOPE	AL	36533	8695	FAIRHOPE AVE
05-46-05-16-0-000-001.001	24108	KLEIN, RAYMOND W JR	8779 FAIRHOPE AVE	FAIRHOPE	AL	36532	8779	FAIRHOPE AVE
05-46-05-16-0-000-001.000	24127	KLEIN, RAYMOND W JR	8779 FAIRHOPE AVE	FAIRHOPE	AL	36532	20727	CO RD 13
05-46-05-16-0-000-025.000	62150	BALDWIN COUNTY BOARD OF ED					20640	FAIRHOPE AVE
05-46-05-16-0-000-026.001	211275	FIRST BAPTIST CHURCH OF FAIRHOPE	300 S SECTION ST	FAIRHOPE	AL	36532	0	
05-46-05-16-0-000-026.000	13305	FIRST BAPTIST CHURCH OF FAIRHOPE	300 S SECTION ST	FAIRHOPE	AL	36532	8717	FAIRHOPE AVE
05-46-05-16-0-000-028.505	14656	FST AND FAUST, TEDDY JOE ETUX SHAR	20452 BEECHER ST	FAIRHOPE	AL	36532	20452	BEECHER ST
05-46-05-16-0-000-026.002	236709	FAIRHOPE, CITY OF	P O DRAWER 429	FAIRHOPE	AL	36533	0	CO RD 48
05-46-05-16-0-000-028.504	14657	FST BOOTH RICHARD KEITH AND FST BC 510	EQUALITY AVE	FAIRHOPE	AL	36532	20451	BEECHER ST
05-46-05-16-0-000-028.506	14830	FST AND WOODLAND CREEK INVESTME	8825 MORPHY AVE	FAIRHOPE	AL	36532	8720	FAIRHOPE AVE
05-46-05-16-0-000-028.604	78876	FST FAUST TOMMY B JR AND FAUST MY	20397 BEECHER ST	FAIRHOPE	AL	36532	336	FAIRHOPE AVE
05-46-05-16-0-000-028.626	93402	FST AND HULON, SHARON A	3 BURLINGTON DR	FAIRHOPE	AL	36532	3	BURLINGTON DR
05-46-05-16-0-000-028.627	93403	FST AND YOUNG, PHILIP RHETT ETUX KI	5 BURLINGTON DR	FAIRHOPE	AL	36532	5	BURLINGTON DR
05-46-05-16-0-000-028.625	93219	FST AND VESTAL JASON AND VESTAL JEI	1 BURLINGTON DR	FAIRHOPE	AL	36532	1	BURLINGTON DR

STATE OF ALABAMA
BALDWIN COUNTY
I, TEDDY J. FAUST, JR., Revenue Commissioner
in and for said State and County, do hereby
certify that this is a true and correct copy of the
records of this office.


Revenue Commissioner