



City of Fayetteville

433 Hay Street
Fayetteville, NC
28301-5537
(910) 433-1FAY (1329)

Meeting Agenda - Final Zoning Commission

Tuesday, August 13, 2024

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

3.01 A24-25. Order of Approval - Findings of Fact: Variance to reduce the minimum side yard setback at 1921 Skibo Road (REID 0417090398000) and being the property of Skibo Square LLC.

3.02 Approval of Minutes: July 9, 2024

4.0 EVIDENTIARY HEARINGS

4.01 A24-34. Variance to reduce the minimum front yard setback at 1512 Paisley Avenue (REID 0406567253000) and being the property of Andre and Brianna Outlaw.

4.02 A24-35. Variance request for a 0.21-acre ± property in the SF-10 Zoning District, located at 0 McRae Drive (REID #: 0427432094000), owned by Thomas Michael Lecka.

5.0 OTHER ITEMS OF BUSINESS

6.0 ADJOURNMENT



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 24-4140

Agenda Date: 8/13/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: August 13, 2024

RE:

A24-25. Order of Approval - Findings of Fact: Variance to reduce the minimum side yard setback at 1921 Skibo Road (REID 0417090398000) and being the property of Skibo Square LLC.

COUNCIL DISTRICT(S):

9 - Deno Hondros

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 2: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1: To ensure a diverse City tax base
- Objective 2.4: To sustain a favorable development climate to encourage business growth

Executive Summary:

The applicant is requesting a variance to reduce the minimum side yard setback from 3 feet to 0 feet to accommodate a new drive through canopy.

This item was originally scheduled for the June 11, 2024, Zoning Commission however, a quorum was not available and the item was moved to the July 9, 2024 meeting.

On July 9, 2024, the Zoning Commission held an evidentiary hearing regarding this case. After receiving all evidence and testimony, the Commission voted unanimously to approve the variance request.

30.2.C.14 Variance:

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in

permitted uses or applicable conditions of approval may be authorized by variance.

Background:

Owner: Skibo Square LLC

Applicant: Bohler Engineering

Requested Action: Reduce minimum side yard setback from 3 feet to 0 feet

Zoning District: Community Commercial (CC)

Property Address: 1921 Skibo Road

Size: 1.19 acres ±

Existing Land Use: Drive through restaurant

Surrounding Zoning and Land Uses

- North: CC - Car wash (USA Express)
- South: CC - Drive through restaurant (Taco Bell)
- East: CC - Large retail establishment (Lowe's)
- West: CC - Retail (David's Bridal, 2nd & Charles)

Letters Mailed: 15

Issues/Analysis:

The subject property is the location of a freestanding Chick-Fil-A restaurant. The original Chick-Fil-A was constructed between 1994 and 1995. The site was redeveloped in 2014. The current building was built next to the original to allow the business to remain open and serve customers. This resulted in the current building being located closer to the side yard setback than the original. The original structure was located closer to Campground Church Road.

The surrounding area is an existing retail shopping center located along one of Fayetteville's major corridors, Skibo Road. The property immediately adjacent to the proposed canopy is an existing Taco Bell restaurant.

Due to an increased demand for drive through service, many Chick-Fil-A sites are being updated to accommodate a double drive through with a canopy. The subject property currently has a double drive through that converges into a single drive through under a single canopy. A variance to reduce the side yard setback to 0 feet is needed to accommodate the double drive through and larger canopy that has become standard for Chick-Fil-A.

The requested variance would only reduce the required setback and would not change any landscaping or buffering requirements outlined by the Unified Development Ordinance.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district;
- or
3. Economic hardship or the fact that property may be utilized more profitably with a

Variance.

Subsequent Development

The applicant is requesting to reduce the side yard setback to 0 feet to allow a larger double canopy to be constructed. This larger canopy will cover the planned drive through expansion.

Findings of Fact Statements as reviewed by the Planning Staff:

1. **There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:**

The applicant states "This parcel has a setback restriction that would create an unnecessary hardship as the building canopy would not be able to cover the second drive through lane."

2. **There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:**

The applicant states "This parcel has a setback restriction that would prohibit the building canopy from covering the proposed second lane. With this variance, the parcel would conform to the design standards of surrounding lots."

3. **There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:**

The applicant states "Proposed canopy is minimum width that would be required to cover both proposed pick up lanes at the meal delivery window."

4. **There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:**

The applicant states "Proposed two lane pick up point with dual-lane canopy is proposed to better enhance traffic flow through the site and minimize traffic queuing/back up into adjacent parcels."

5. **There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:**

The applicant states "With reducing queuing in the drive through that will be allowed by the dual lane pick up window, safer traffic flow will occur throughout the shopping center."

Budget Impact:

There is no immediate budgetary impact.

Options:

Approve

Remand to staff for revisions

Recommended Action:

Attachments:

1. Order of Approval - Findings of Fact
2. Application
3. Aerial Notification Map
4. Zoning Map
5. Land Use Map
6. Subject Property Photos
7. Surrounding Property Photos
8. Site Plan

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO APPROVE A VARIANCE**

To reduce the minimum side yard setback at 1921 Skibo Road (REID 0417090398000)

VARIANCE A24-25

Property Address: 1921 Skibo Road
REID Numbers: 0417090398000
Property Owner: Skibo Square LLC

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on June 11, 2024, to consider a Variance request filed by Bohler Engineering (“Applicant”) on behalf of Skibo Square LLC (“Owner”) to reduce the side yard setback in the Community Commercial (CC) zoning district, located at 1921 Skibo Road (REID # 0417090398000) (“Subject Property”).

On May 31, 2024, a notice of public hearing was mailed to the Property Owner and all the owners of property within 300 feet of the Subject Property. On May 24, 2024, a notice of public hearing sign was placed on the Subject Property. On May 31 and June 7, 2024, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

Having considered all of the sworn testimony, evidence, and oral arguments submitted at the hearing by the parties, the Zoning Commission makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

Findings of Fact

1. Chapter 30, Article 3, Section E.5 of the City of Fayetteville’s Code of Ordinances establishes the minimum side yard setback in the Community Commercial (CC) zoning district.
2. Skibo Square LLC is the owner of a commercially zoned property located at 1921 Skibo Road (REID # 0417090398000), which contains approximately 1.19 acres in the City of Fayetteville.
3. The Applicant filed an application for a Variance on May 10, 2024.
4. The Subject Property is zoned Community Commercial (CC).
5. The Applicant is requesting to reduce the minimum side yard setback in the Community Commercial (CC) zoning district.
6. The Applicant has the burden of proof to show that the Variance meets the following statutory requirements:
 - a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship.

- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown.
 - c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
 - d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - e. In granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.
7. The Subject Property is zoned as Community Commercial (CC) and is situated among other commercially zoned properties.
8. The Subject Property is approximately 1.19 acres located east of Skibo Road.
9. The Subject Property is developed as a drive-through restaurant, Chick-Fil-A.
10. This Variance addresses the Ordinance requirement that structures in the CC zoning district meet a minimum side yard setback of 3 feet.
11. The reduction of the side yard setback from 3 feet to 0 feet will allow for the installation of a larger canopy over the drive-through area of the existing restaurant.
12. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because, as per the evidence provided by the applicant, keeping the employees in the shade and out of the heat is a major factor.
13. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner based on the minimum size of the site and the need for shade due to the lack of tree coverage, they needed cover for the safety of the employees.
14. The Variance is the minimum action that will make possible a reasonable use of land or structures because the evidence provided by the applicant shows this is the minimum canopy size needed to meet the safety needs of the store employees.
15. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the existing use of the site will continue and the reduction from 3 feet to 0 feet is fairly minimal.
16. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured and based on testimony of the applicant, the proposal will improve pedestrian and employee safety.

Conclusions of Law

1. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to establish that “This Ordinance consolidates the City’s zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes”.

2. The Applicant submitted a timely application in compliance with the UDO.

3. Notice was properly given, and an evidentiary public hearing was held by the City of Fayetteville’s Zoning Commission in compliance with the laws of North Carolina.

4. The City Development Services Department is responsible for the coordination and enforcement of the UDO.

5. All of the general and specific conditions precedent to the issuance of the requested Variance HAS been satisfied as:

- a. The strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships.
- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner.
- c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
- d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- e. The granting of the Variance assures the public safety and welfare, and that substantial justice has been done.

WHEREFORE, BASED ON THE FOREGOING FINDINGS OF FACTS AND CONCLUSIONS OF LAW, it is ORDERED by the City of Fayetteville’s Zoning Commission that the application for the issuance of the Variance be APPROVED with no conditions.

VOTE: 5 to 0

This the _____ day of _____ 2024.

PAVAN PATEL
Zoning Commission Chair

Project Overview**#1310670****Project Title:** Chick-Fil-A #00875 - SKIBO SQUARE FSU**Jurisdiction:** City of Fayetteville**Application Type:** 5.4) Variance**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 1921 SKIBO RD (0417090398000) **Zip Code:** 28314Is it in Fayetteville? [Click this link to the Cumberland County Tax Office GIS system](#)**GIS Verified Data****Property Owner: Parcel**

- 1921 SKIBO RD: SKIBO SQUARE LLC

Acreage: Parcel

- 1921 SKIBO RD: 1.19

Zoning District: Zoning District

- 1921 SKIBO RD: CC

Subdivision Name:**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****Variance Request Information****Requested Variances:** Minimum yard/setback**Section of the City Code from which the variance is being requested.:** Specific Lot Requirement - Not City Code Related**Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:**

Request for the building/buffer setback to be reduced to 0' to conform to the surrounding parcels

Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:

Zoning designation is CC, all existing use surrounding the parcel is commercial.

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional sheets if necessary).The Variance Standards states: A variance application shall be approved only upon a finding that all of the following standards are met.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. Any practical difficulties or unnecessary hardships result from unique

3. circumstances related to the land, such as location, size, or topography, and are not the result from conditions that are common to the neighborhood or the general public be the basis from granting a variance;
4. The Variance is the minimum action that will make possible a reasonable use of land or structures;
5. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
6. In the granting of this Variance, the public safety and welfare have been assured and substantial justice has been done.

Expiration - Variance

30-2.C.14.e.5.- Variance approval shall automatically expire if the applicant does not record the Variance with the Cumberland County Register of Deeds within 30 days after the date the Variance is approved.

Please complete the following five (5) questions to verify the evidence that all the required standards are applicable to your property and/or situation.

Please describe how strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.:

1. Unsure how to answer.
2. This parcel has a setback restriction that would create an unnecessary hardship as the building canopy would not be able to cover the second drive through lane.
3. Correct, with the variance, a reasonable use of the canopy structure would be allowed.
4. Correct, the variance is in harmony with the design standards of the surrounding parcels.
5. Correct, the variance will enhance public safety and welfare as the drive through pickup area would be fully covered.

Please describe how any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the actions of the landowner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance.:

This parcel has a setback restriction that would prohibit the building canopy from covering the proposed second lane. With this variance, the parcel would conform to the design standards of surrounding lots.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:

Proposed canopy is minimum width that would be required to cover both proposed pick up lanes at the meal delivery window.

Please describe how the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.:

Proposed two lane pick up point with dual-lane canopy is proposed to better enhance traffic flow through the site and minimize traffic queuing/back up into adjacent parcels.

Please describe how, in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.:

With reducing queuing in the drive through that will be allowed by the dual lane pick up window, safer traffic flow will occur throughout the shopping center.

Height of Sign Face : 0

Height of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Height of Sign Face: 0

Square Footage of Sign Face : 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Primary Contact Information

Contractor's NC ID#:

Project Owner

Andrew Ber
Skibo Square LLC
5200 Buffington Road
Atlanta, GA 30349
P:7044494530
Andrew.Bernard@jll.com

Project Contact - Agent/Representative

Ryan Gallagher
Bohler
4130 Parklake Ave., Suite 200
Fayetteville, NC 27612
P:9195789000
rgallagher@bohlereng.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

NC State General Contractor's License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Mechanical Contractor's #1 License Number:

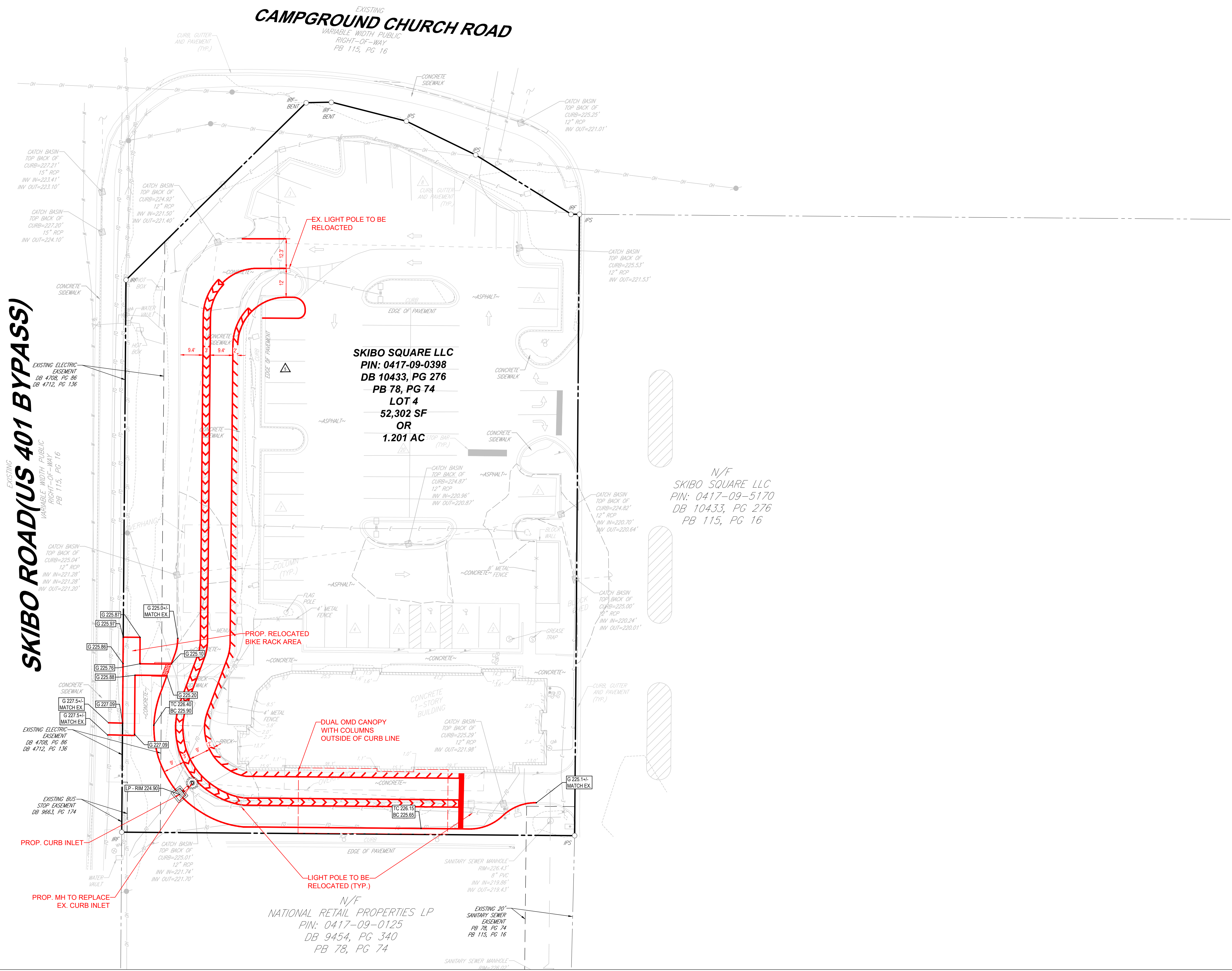
NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Engineer



- CONCEPT PLAN NOTES**
1. THIS CONCEPT WAS PREPARED STRICTLY AND SOLELY BASED UPON INFORMATION IDENTIFIED IN THE PLAN REFERENCES.
 2. THE CONCEPT REPRESENTED HEREIN IDENTIFIES A DESIGN CONCEPT RESULTING SOLELY FROM LAYOUT PREFERENCES AND GUIDANCE DICTATED AND IDENTIFIED SOLELY BY THE CLIENT. THE FEASIBILITY WITH RESPECT TO OBTAINING LOCAL, COUNTY, STATE, AND OTHER APPLICABLE APPROVALS IS NOT WARRANTED, AND CAN ONLY BE ASSESSED AFTER FURTHER EXAMINATION AND VERIFICATION OF APPLICABLE REQUIREMENTS AND THE PROCUREMENT OF ALL NECESSARY JURISDICTIONAL APPROVALS.
 3. THIS CONCEPTUAL PLAN IS PREPARED FOR CONCEPTUAL PRESENTATION PURPOSES ONLY, AND IS NOT INTENDED TO AND SHOULD NOT BE UTILIZED AS A ZONING AND CONSTRUCTION DOCUMENT.
 4. IT IS STRONGLY RECOMMENDED THAT A ZONING CONFORMANCE ANALYSIS BE PERFORMED TO DETERMINE AND EVALUATE IF THERE ARE ANY RESTRICTIONS AND/OR ZONING ISSUES, CONCERNS OR RESTRICTIONS THAT MAY OR COULD IMPACT THE FEASIBILITY OF THIS PROJECT AS THE OWNER HAS DESCRIBED IT.

PRELIMINARY INFORMATION	
PARCEL SIZE FROM SURVEY	± 1.200 AC
ZONING (CITY OF FAYETTEVILLE)	CC
MINIMUM ALLOWED PARKING (CITY OF FAYETTEVILLE)	1 SPACE FOR EACH ONE-HUNDRED FIFTY (150) SQUARE FEET (INCLUDING OUTDOOR WAITING/SEATING/DINING AREAS)= 36 SPACES
PROPOSED SPACES	57
FRONT BUILDING SETBACK	25'
REAR BUILDING SETBACK	N/A
SIDE BUILDING SETBACK	25' (LEFT)
FRONT LANDSCAPE BUFFER	10'
REAR LANDSCAPE BUFFER	N/A
TOTAL QUEUE LENGTH	660'





City of Fayetteville

433 Hay Street
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City Council Action Memo

File Number: 24-4149

Agenda Date: 8/13/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.02

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Catina Evans - Office Assistant II

DATE: August 13, 2024

RE: Approval of Meeting Minutes: July 9, 2024

COUNCIL DISTRICT(S):

All

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2026

Goal VI: Collaborative Citizen & Business Engagement

- Objective 6.2 - Ensure trust and confidence in City government through transparency & high-quality customer service.

Executive Summary:

The City of Fayetteville Zoning Commission conducted a meeting on the referenced date, which they considered items of business as presented in the draft.

Background:

NA

Issues/Analysis:

NA

Budget Impact:

NA

Options:

1. Approve draft minutes;
2. Amend draft minutes and approve draft minutes as amended; or
3. Do not approve the draft minutes and provide direction to Staff.

Recommended Action:

Option 1: Approve draft minutes.

Attachments:

Draft Meeting Minutes: July 9, 2024

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
FAST TRANSIT CENTER COMMUNITY ROOM
JULY 09, 2024 @ 6:00 P.M.**

MEMBERS PRESENT

Pavan Patel, Chair
Alex Keith, Vice-Chair
Stephen McCorquodale
Tyrone Simon
Kevin Hight
Clabon Lowe, Alternate

STAFF PRESENT

Clayton Deaton, Planning and Zoning Division Manager
Craig Harmon, Senior Planner
Heather Eckhardt, Planner II
Demetrios Moutos, Planner I
La-Deidre Matthews, Attorney at Law, Fox Rothchild
Catina Evans, Office Assistant II

The Zoning Commission Meeting on Tuesday, July 9, 2024, was called to order by Chair Pavan Patel at 6:01 p.m. The members introduced themselves.

I. APPROVAL OF THE AGENDA

MOTION: Kevin Hight made a motion to approve the agenda for the meeting.

SECOND: Tyrone Simon

VOTE: Unanimous (5-0)

II. APPROVAL OF THE CONSENT AGENDA TO INCLUDE THE MINUTES FROM THE JUNE 11, 2024, MEETING

MOTION: Stephen McCorquodale made a motion to approve the minutes from the June 11, 2024, meeting.

SECOND: Kevin Hight

VOTE: Unanimous (5-0)

I. EVIDENTIARY HEARING

Mr. Patel discussed the aspects of the evidentiary hearing. Legal counsel, Ms. Matthews, swore in all witnesses. Mr. Patel inquired if any board members had conflicts of interest related to the evening's agenda items, and none were reported. Attorney Matthews swore in the speakers. Before Mrs. Eckhardt's presentation, she was also sworn in by Ms. Matthews.

A24-25. Variance to reduce the minimum side yard setback at 1921 Skibo Road (REID #0417090398000) and being the property of Skibo Square LLC.

Heather Eckhardt presented case A24-25, involving the property at 1921 Skibo Road, known as the Skibo Road Chick-Fil-A. The site is zoned Community Commercial (CC), with the Future Land Use Plan designating it as commercial. The area is surrounded by a car wash, 2nd and Charles, and Taco Bell. The applicant seeks to reduce the side setback from 3 feet to 0 feet to accommodate two drive through lands and a larger canopy. Heather informed the Board about their voting options.

Mr. Patel opened the hearing for case A24-25.

Speakers in favor:

Ryan Gallagher, 4130 Parklake Avenue, Suite 200, Raleigh, NC 27612

- Mr. Gallagher showed the board the site plan.
- He noted the area near the bike rack where there is one lane. Mr. Gallagher stated that they want to increase the driving lanes to two lanes with two lane striping.
- They are proposing the two-lane pickup area because two drive thru lanes would allow for increased traffic flow. Additionally, the owners would have increased traffic flow all the way around to the parking lot exit, which would allow the employees to move safely through the drive thru.
- Mr. Gallagher mentioned that Cody Hoper the owner of the Chick-Fil-A was present to answer any questions.

Cody Hopper, 1126 Longleaf Drive, Fayetteville, NC 28305

- Mr. Hopper emphasized that the safety of his 150 employees is important, and he stressed the need to decrease the traffic congestion coming off of Campground Road. This would alleviate the traffic in the Lowe's parking lot.
- He stressed the safety aspect of creating a walking space and the need for lighting in the area because of employees working after dark. He said the canopy would create increased lighting in the area.
- Mr. Hopper thanked the Board for their time.

Mr. Hight noted the visibility issue when exiting the area, making it difficult to see oncoming traffic. He asked Mr. Gallagher if they had plans to address this, but Mr. Gallagher explained they do not own the surrounding land and cannot address it as part of the variance request, although they may consider it in the future. The owners propose a single exit to ensure pedestrian safety.

Mr. Patel inquired about alternatives to the variance. Mr. Gallagher stated that the variance is essential for employee safety, as reducing the canopy size would compromise this.

Mr. McCorquodale asked about the lane width. Mr. Gallagher demonstrated the width and emphasized the necessity of maintaining the striping for safety. He noted that having two lanes around the building would ensure employees can safely manage customer exits.

Mr. Patel closed the hearing for case A24-25.

MOTION: Alex Keith made a motion to approve the variance for case A24-25 based on the following findings of fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: Based on the evidence presented by the applicant, keeping the employees in the shade and out of the heat is a major factor.
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown by the following evidence: Based on the minimum size of the site and the need for shade due to the lack of tree coverage, they needed cover for the safety of the employees.

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: Based on the evidence provided by the applicant regarding the minimum canopy size needed to meet the safety needs of the store employees.
4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence: The property owner is going to continue with the current use and the 3 feet to 0 feet is fairly minimal.
5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence: Based on testimony of the applicant, the proposal will improve pedestrian and employee safety.

SECOND: Tyrone Simon
VOTE: Unanimous (5-0)

II. LEGISLATIVE HEARING

Mr. Patel outlined the legislative hearing procedures and inquired if any Board members had conflicts of interest regarding the evening's cases. None were reported. He then asked if any members had engaged in ex parte communications, such as site visits or discussions with parties, including staff or the public. Again, no such communications were disclosed.

P24-28. Rezoning of two properties from Office and Institutional (OI) to Limited Commercial (LC), located at 6966 & 6962 Nexus Court (REID #'s 9496579924000 & 9496579996000), totaling 0.79 acres ± and being the properties of MCNL Enterprises, LLC, represented by Tejwant Chandi.

Demetrios Moutos presented case P24-28, stating that the rezoning involves a property off Nexus Court, currently zoned Office Institutional (OI). The Future Land Use Plan designates this area as OI. He highlighted that the property is vacant amidst nearby construction. Nexus Court provides access to businesses, with developed lanes on Raeford Road and surrounding single-family homes. Nearby landmarks include a medical office and the First Impressions school. Mr. Moutos emphasized that the rezoning aligns with the City's strategic goals, promoting retail growth and sustainable development.

The proposed rezoning aligns with the institutional zoning opportunities and enhances walkability in the area. It will positively impact the community and improve traffic flow, increasing visibility. The OI rezoning fosters a live, work, and play environment, aligning with the City's goals and supporting a vibrant, sustainable community. The staff recommends approval.

Mr. Patel opened the hearing for case P24-28. Mr. Moutos noted that a representative for the applicant was present. Mr. Patel asked if there were any questions for the applicant. He then closed the hearing for case P24-28.

MOTION: Tyrone Simon made a motion to approve case P24-28 based on the Future Land Use Plan. He recommended the rezoning be approved by the Board based on the evidence submitted and because it is consistent with the Land Use Plan as demonstrated by the Staff.

SECOND: Kevin Hight
VOTE: Unanimous (5-0)

P24-30. Rezoning from Agricultural Residential (AR) to Single-Family Residential 15 (SF-15) located at 0 Dundle Road (REID #9495269866000), totaling 0.45 acres ± and being the property of L J Bruton Living Trust.

Heather Eckhardt presented the rezoning proposal for a property off Dundle Road, shifting from Agricultural Residential (AR) to Single-Family Residential 15 (SF-15). She highlighted the area on the subject property map, noting the Gates Four subdivision to the south. The entrance to Tarleton Plantation is already zoned SF-15, and the applicant seeks consistency with this zoning. The Future Land Use Plan designates the area as Low-Density Residential. This rezoning will ensure the area aligns with the surrounding land use.

Mr. Patel opened the hearing for case P24-30.

Speaker in favor:

Lorraine Mohler, 2148 Rim Road, Fayetteville, NC 28314

- Ms. Mohler, the property owner, was present to answer any questions.

Mr. Simon inquired about the designation of the property. Mrs. Eckhardt clarified that the applicant wishes to rezone the property to Single-Family Residential 15 (SF-15).

MOTION: Pavan Patel made a motion to approve case P24-30 based on the consistency and reasonableness statement presented by Staff.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

P24-31. Rezoning a portion of one property from Single-Family Residential 10 (SF-10) to Limited Commercial (LC), located at 0 ? Drive (REID #9497959572000), totaling 1.35 acres ± and being the property of Judith Knowles Bunce, John O. Bunce, and Homeplace Holdings LLC, represented by Ashley Ballard of Deaco Group.

Demetrios Moutos presented case P24-31, showing the Board the subject property map and explaining that the property had not been subdivided yet, so the current map did not reflect the total area. He highlighted the portion of land to be rezoned, aiming to match another triangular piece. The Future Land Use Plan designates the area as Medium Density Residential (MDR). Nearby landmarks include the 365 Mart to the west, Diamond Products to the south, and the entrance to Eagle Village Apartments. The land has been undeveloped since 1968 and has undergone boundary changes. The rezoning supports commercial activity and aligns with the neighborhood mixed-use designation, potentially improving walkability by combining residential and commercial uses. The applicant will need to go through the review process with the Technical Review Committee (TRC), the North Carolina Department of Transportation, and the City Traffic Department. According to County GIS data, the soil in the area is suitable for construction. The TRC has reviewed a preliminary site plan, and the staff recommends approval of the map amendment to Limited Commercial. Mr. Moutos informed the Board of their voting options.

Mr. Patel opened the hearing for case P24-31.

Speakers in favor:

Crawford McKethan, 2814 Skye Drive, Fayetteville, NC 28303

- Mr. McKethan, with over 50 years in the real estate business, expressed appreciation for the staff's work.
- Representing the Bunce family, he also mentioned that Larry Boney, the adjoining property owner, is present and available to answer any questions.

Mr. McCorquodale asked Mr. McKethan about the total land acreage. Mr. McKethan explained that the total acreage is 28 acres, with 1.3 acres proposed for rezoning. He added that the lower portion of the land is owned by Mr. Boney, while the upper half belongs to the Bunce family.

Larry Boney, 535 Bunce Road, Fayetteville, NC 28314

- Mr. Boney stated he would be happy to answer any questions.

Mr. Patel closed the hearing for case P24-31.

MOTION: Alex Keith moved to approve the rezoning of 1.25 acres to Limited Commercial (LC) for case P24-31, citing consistency and reasonableness statements.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

P24-32. Rezoning from Single-Family Residential 10 (SF-10), Office & Institutional (OI), and Community Commercial (CC) to Community Commercial (CC) located at 2620 Bragg Boulevard (REID #0428216810000), totaling 16.30 acres \pm and being the property of Eutaw Village Shopping LLC.

Heather Eckhardt presented case P24-32, which involves rezoning 2620 Bragg Boulevard, known as the Eutaw Shopping Center. The property is currently split-zoned with residential and Office Institutional (OI) areas. The owner has requested to rezone the entire parcel to Community Commercial (CC). The Future Land Use Plan designates the area as a Community Center. Nearby landmarks include a skating rink to the rear, Eutaw Village North to the west, residential properties to the east, and additional commercial properties along Fort Bragg Road to the south. Staff recommends approval of the rezoning to Community Commercial.

Mr. Patel opened the hearing for case P24-32.

Speaker in favor:

Zachary Fisher, 11010 Lake Grove Boulevard, Suite 100-313, Morrisville, NC 27560

- Mr. Fisher, the property owner, was available to answer any questions.

Mr. Keith sought clarification that the entire property is up for rezoning, to which Mr. Fisher confirmed. Mr. Fisher then showed the Board the specific area needing rezoning and discussed the surrounding area. Mr. Patel requested to review the land use map.

Mr. Patel closed the hearing for case P24-32.

MOTION: Pavan Patel moved to approve case P24-32, citing the consistency and reasonableness statement provided by staff.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

III. OTHER BUSINESS

Mr. Harmon announced that there are two cases scheduled for the meeting on Tuesday, August 13, 2024. Additionally, he mentioned the possibility of an extra case being presented, as the owner would like to make changes to a previously approved request.

IV. ADJOURNMENT

MOTION: Alex Keith made a motion to adjourn the July 9, 2024, meeting.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

The meeting adjourned at 6:54 p.m.

Respectfully submitted by Catina Evans

DRAFT



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 24-4136

Agenda Date: 8/13/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: August 13, 2024

RE:

A24-34. Variance to reduce the minimum front yard setback at 1512 Paisley Avenue (REID 0406567253000) and being the property of Andre and Brianna Outlaw.

COUNCIL DISTRICT(S):

7 - Brenda McNair

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 2: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1: To ensure a diverse City tax base

Goal 4: Highly Desirable Place to Live, Work, and Recreate

- Objective 4.5: To ensure a place for people to live in great neighborhoods

Executive Summary:

The applicant is requesting a variance to reduce the minimum front yard setback from 30 feet to 25 feet.

30.2.C.14 Variance:

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by variance.

Background:

Owner/Applicant: Andre & Brianna Outlaw

Requested Action: Reduce minimum front yard setback from 30 feet to 25 feet

Zoning District: Single Family Residential 10 (SF-10)

Property Address: 1512 Paisley Avenue

Size: .28 acres ±

Existing Land Use: Drive through restaurant

Surrounding Zoning and Land Uses

- North: SF-10 - Single family residential
- South: SF-10 - Single family residential
- East: SF-10 - Single family residential
- West: SF-10 - Vacant woodlands - previously Arran Lake

Letters Mailed: 22

Issues/Analysis:

The subject property is located within the Arran Lakes subdivision. This section of the Arran Lakes subdivision was platted in 1965. The single-family house was constructed in 1972 per Cumberland County tax records. The current owners purchased the property in 2022.

In February 2024, the City of Fayetteville's Code Enforcement division contacted the property owner regarding the construction of a front porch without the required building permit. Subsequently, the owner reached out to the Planning division regarding the process of obtaining a variance and began the process of obtaining a survey.

Section 30-3.D.3 of the City of Fayetteville's Unified Development Ordinance requires a 30 foot front yard setback from the front of a single family house to the front property line.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district;
or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development:

The applicant is requesting to reduce the minimum front yard setback from 30 feet to 25 feet. The newly constructed front porch encroaches into the front yard setback by 4.57 feet. Without an approved variance, the owner will need to reduce the size of the front porch.

The new porch is 23.6 feet wide and 7.9 feet deep. Prior to the construction of the new front porch, the house had a front stoop that was roughly 10 feet wide and 3 feet deep (without the stairs).

The following findings are based on the responses submitted in the application by the applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

1. **There is sufficient evidence that the strict application of the Ordinance**

requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

The applicant states "The prior existing porch was failing and needed to be replaced. I was never made aware of the need for a permit from any of the companies I spoke to about repairing the porch. Once I finished the repairs, received the citation and submitted the permit, which was denied, I spoke to a gentleman in the zoning department who informed me my old porch was also likely out of compliance. Had I not replaced the porch injury would've resulted by using the front door. The front of my house is unreasonably close to the set back line; virtually any porch installed will likely violate the limit. My spouse is a disabled veteran, so using the garage as a permanent entry is not possible for her due to the difficulties associated with climbing the stairs from the basement to the main floor."

- 2. There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:**

The applicant states "There is a 45 degree decline walking down the driveway heading to the garage. Due to my spouse's disability walking down that hill then back up the stairs to access the main floor causes immense stress and discomfort. Not using the front door due to the existing home being non compliant even without a front porch is unrealistic."

- 3. There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:**

The applicant states "Previous front porch was 26 feet from setback line. current porch is approximately 23 feet from setback line. requesting a two feet exemption due to not having access to the front door without a front porch."

- 4. There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:**

The applicant states "Current front porch increases neighborhood average home value and regularly receives compliments."

- 5. There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:**

The applicant states "The extended porch and roof offers protection from the elements preventing mold buildup in the basement."

Budget Impact:

None

Options:

The Board's Authority: The board has the authority to approve or deny the request and must base its decision on the answers to the following five required findings of fact:

If a member believes that the evidence presented is substantial, competent, and sufficient to meet the required findings of fact then the member may make a motion to approve the variance and the members must state all of the following five findings of fact along with the evidence that was presented to satisfy each finding.

If the members cannot find specific supporting facts under all five findings of fact, the members must consider a motion of denial. A motion of denial should indicate which of the five (5) of the findings of fact cannot be met.

The board can also place reasonable conditions on any variance approval.

If a member wishes to make a motion to approve the variance they should make a brief statement that recaps the evidence showing each of the five findings of fact. Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve a variance to reduce the required front yard setback to 25 feet.

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

—

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

—

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

—

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

—

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

—

Motion to approve the variance(s) as requested but with added conditions

Findings of Fact Required to Approve this Request with added conditions:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

—
2. There is not sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following

evidence:

4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:
- _____

5. There is not sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:
- _____.

Recommended Action:

Attachments:

1. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Map
5. Subject Property Photos
6. Surrounding Property Photos
7. Site Plan

Project Overview

#1394841

Project Title: 1512 paisley ave
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 1512 PAISLEY AVE
(0406567253000)

Zip Code: 28304

Is it in Fayetteville? [Click this link to the Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:
Downtown Historic District:

Project Address: 1512 PAISLEY AVE
Haymount Historic District:

Variance Request Information

Requested Variances: Minimum yard/setback

Section of the City Code from which the variance is being requested.: 30-3.D.3. Single-Family Residential 10 (SF-10) District

Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:

repaired a failing front porch to prevent injury. Portion of my porch are not within setback limits

Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:

SF-10 and residential in nature.

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional sheets if necessary).

The Variance Standards states: A variance application shall be approved only upon a finding that **all** of the following standards are met.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. Any practical difficulties or unnecessary hardships result from unique
3. circumstances related to the land, such as location, size, or topography, and are not the result from conditions that are common to the neighborhood or the general public be the basis from granting a variance;
4. The Variance is the minimum action that will make possible a reasonable use of land or structures;
5. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
6. In the granting of this Variance, the public safety and welfare have been assured and substantial justice has been done.

Expiration - Variance

30-2.C.14.e.5.- Variance approval shall automatically expire if the applicant does not record the Variance with the

Cumberland County Register of Deeds within 30 days after the date the Variance is approved.

Please complete the following five (5) questions to verify the evidence that all the required standards are applicable to your property and/or situation.

Please describe how strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.:

The prior existing porch was failing and needed to be replaced. I was never made aware of the need for a permit from any of the companies I spoke to about repairing the porch. Once I finished the repairs, received the citation and submitted the permit, which was denied, I spoke to a gentleman in the zoning department who informed me my old porch was also likely out of compliance. Had I not replaced the porch injury would've resulted by using the front door. The front of my house is unreasonably close to the set back line; virtually any porch installed will likely violate the limit. My spouse is a disabled veteran, so using the garage as a permanent entry is not possible for her due to the difficulties associated with climbing the stairs from the basement to the main floor.

Please describe how any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the actions of the landowner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance.:

There is a 45 degree decline walking down the driveway heading to the garage. Due to my spouses disability walking down that hill then back up the stairs to access the main floor causes immense stress and discomfort. Not using the front door due to the existing home being non compliant even without a front porch is unrealistic.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:

Previous front porch was 26 feet from setback line. current porch is approximately 23 feet from setback line. requesting a two feet exemption due to not having access to the front door without a front porch.

Please describe how the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.:

Current front porch increases neighborhood average home value and regularly receives compliments.

Please describe how, in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.:

The extended porch and roof offers protection from the elements preventing mold buildup in the basement.

Height of Sign Face : 10

Height of Sign Face: 10

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Height of Sign Face: 10

Square Footage of Sign Face : 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Square Footage of Sign Face: 25

Primary Contact Information

Contractor's NC ID#:

Project Owner

andre outlaw

1512 PAISLEY AVE

FAYETTEVILLE, NC 28304

P:8562301796

Project Contact - Agent/Representative

andre outlaw

1512 PAISLEY AVE
FAYETTEVILLE, NC 28304
P:8562301796
dreoutlaw85@gmail.com

**Project Contact - Primary Point of Contact for the
Unlicensed Contractor (under \$40,000 of total construction
cost)**

andre outlaw

1512 PAISLEY AVE
FAYETTEVILLE, NC 28304
P:8562301796
dreoutlaw85@gmail.com

**As an unlicensed contractor, I am aware that I cannot enter
into a contract that the total amount of the project exceeds
\$40,000. : Yes**

NC State General Contractor's License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Mechanical Contractor's #1 License Number:

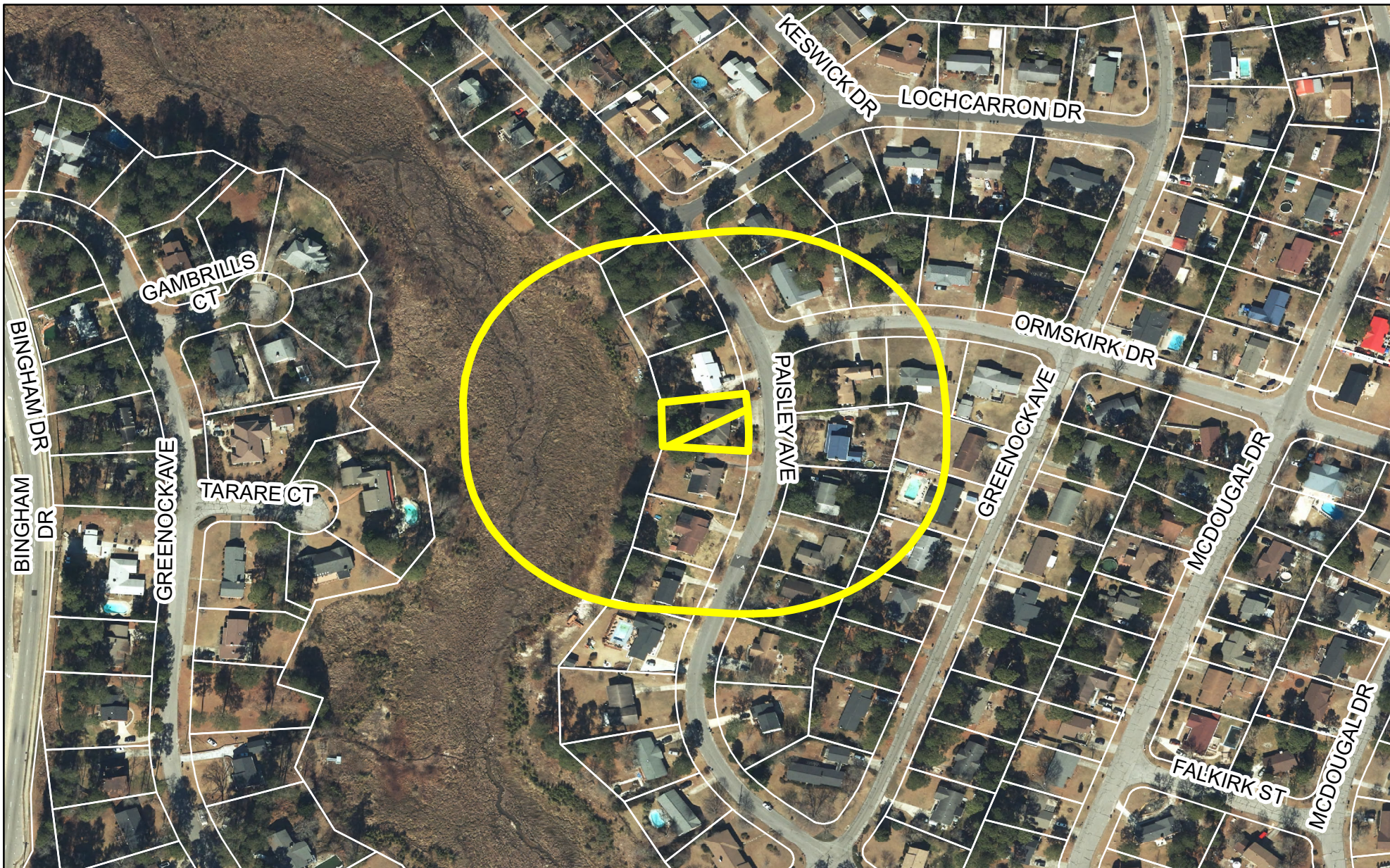
NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

**Indicate which of the following project contacts should be
included on this project: Unlicensed Contractor**



Aerial Notification Map

Case #: A24-34

Request: Variance

Location: 1512 Paisley Avenue

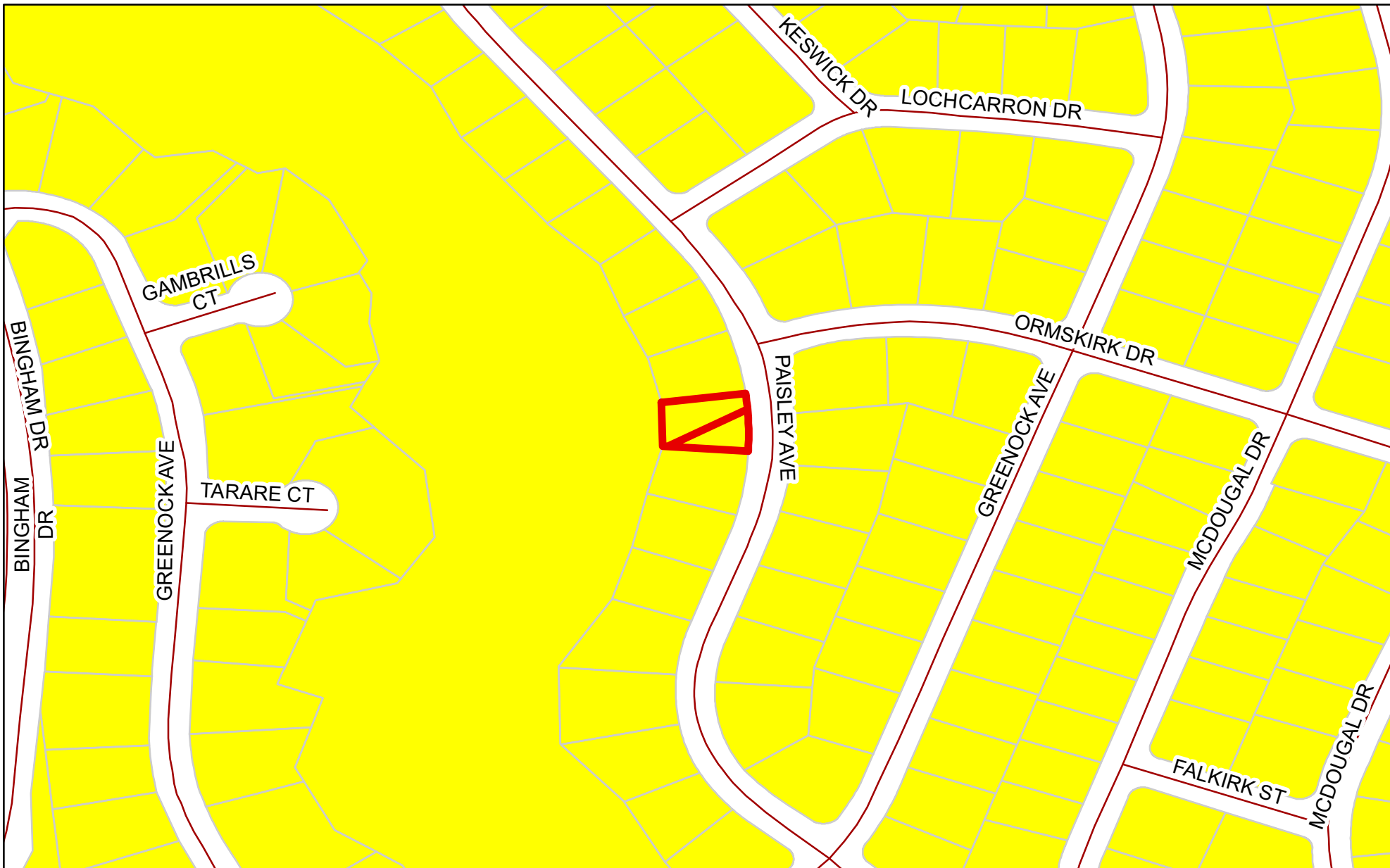
Legend

-  A24-34
-  A24-34 Buffer



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Zoning Map

Case #: A24-34

Request: Variance

Location: 1512 Paisley Avenue

Legend



A24-34



SF-10 - Single-Family Residential 10



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Land Use Map

Case #: A24-34

Request: Variance

Location: 1512 Paisley Avenue

Legend



A24-34

Land Use Plan 2040

Character Areas



PARKOS - PARK / OPEN SPACE



LDR - LOW DENSITY



HDR - HIGH DENSITY RESIDENTIAL

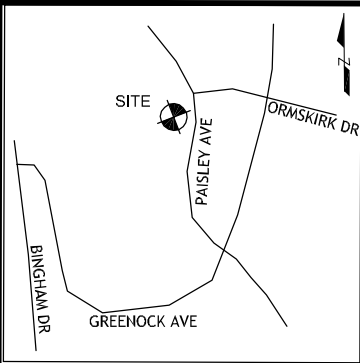


Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.









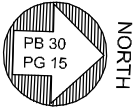
Vicinity Map
(Not to Scale)

LEGEND

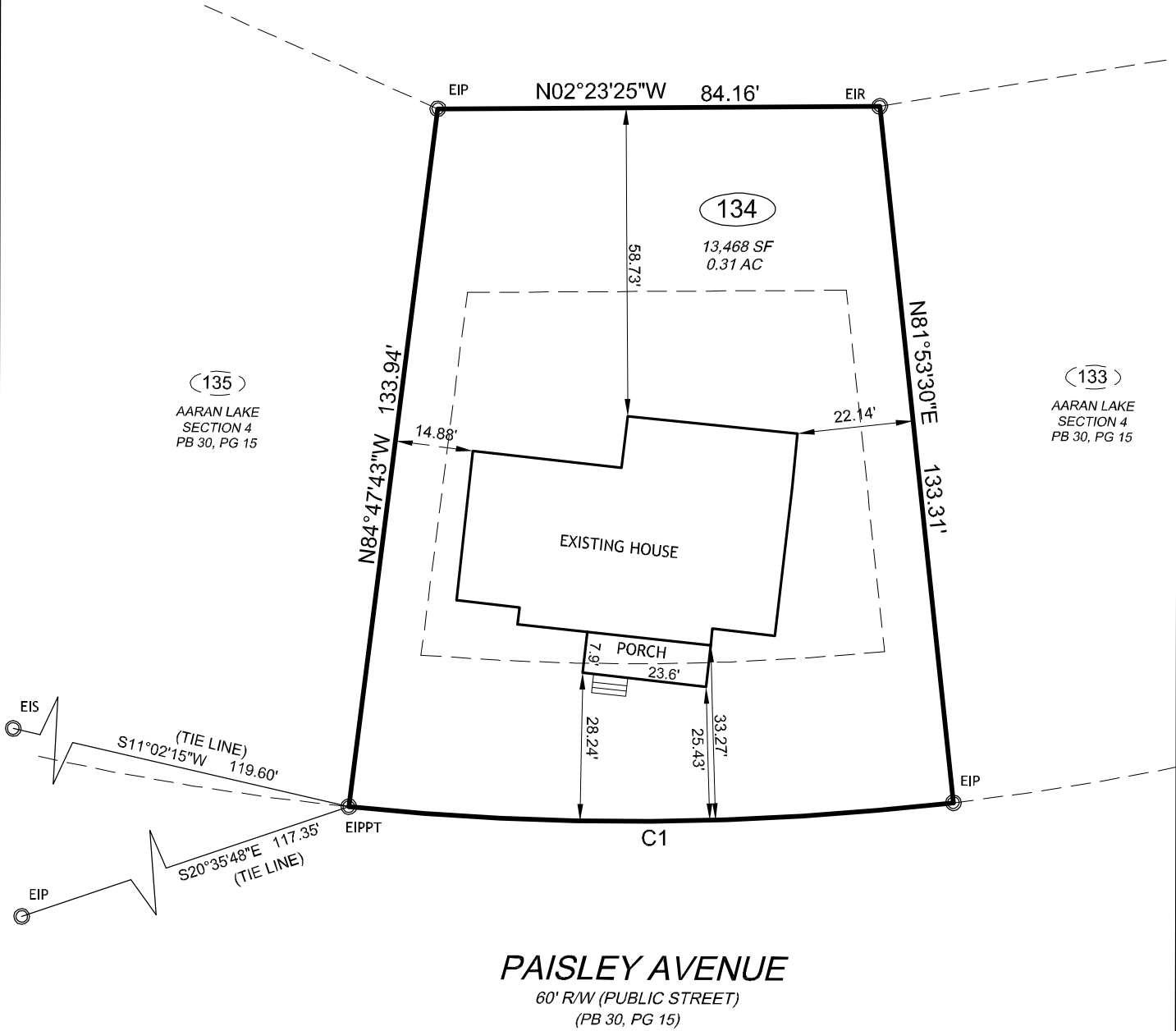
- R/W-RIGHT OF WAY
DB-DEED BOOK
PG-PAGE
EIR-EXISTING IRON REBAR
SF-SQUARE FEET
AC-ACRE(S)
PB-PLAT BOOK
AG-ABOVE GROUND
BG-BELOW GROUND
EIP-EXISTING IRON PIPE
EIPPT-EXISTING IRON PIPE (PINCH TOP)
EIS-EXISTING IRON STAKE
- SURVEYED LINE
- - - EASEMENT LINE
- - - - - LINE NOT SURVEYED

CURVE TABLE

CURVE	RADIUS	LENGTH	CH. BEARING	CHORD
C1	624.54'	115.38'	S02°27'03"E	115.15'



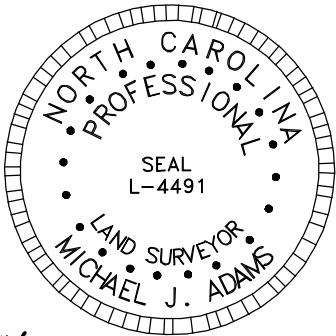
ARRAN LAKES HOMEOWNERS ASSOC INC
0406561745000
DB 6825, PG 695



PAISLEY AVENUE
60' R/W (PUBLIC STREET)
(PB 30, PG 15)

PHYSICAL SURVEY

PROPERTY OF: ANDRE & BRIANNA OUTLAW
ADDRESS: 1512 PAISLEY AVE
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
TAX PIN: 0406567253000



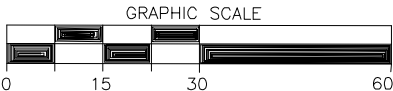
DocuSigned by:
Michael Adams
92592CBA7070458...

MICHAEL J. ADAMS

PLS-L-4491
CFS NC-075

TOWNSHIP: SEVENTY-FIRST
DATE: APRIL 8, 2024
SCALE: 1" = 30'
REFERENCE: LOT 134
ARRAN LAKE
SECTION 4
PB 30, PG 15

MINIMUM SETBACKS: (ZERO LOT LINE)
30'-FRONT
10'-SIDE
35'-REAR



M.A.P.S. SURVEYING, INC.
C-2589
216 MASON ST
FAYETTEVILLE, NC 28301
PHN: (910)484-6432
MAPS@MAPSSURVEYING.COM

DRAWN BY: MJA

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED DESCRIPTION RECORDED IN PB 30, PG 15, THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN PB 30, PG 15; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS GREATER THAN 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS MAP IS NOT DRAWN IN ACCORDANCE WITH GS 47-30, THIS 7TH DAY OF APRIL, 2024



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 24-4152

Agenda Date: 8/13/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: August 13, 2024

RE:

A24-35. Variance request for a 0.21-acre ± property in the SF-10 Zoning District, located at 0 McRae Drive (REID #: 0427432094000), owned by Thomas Michael Lecka.

COUNCIL DISTRICT(S):

5 - Lynne Greene

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 2: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 4.5 - Ensure a place for people to live in great neighborhoods.

Executive Summary:

The applicant is requesting a variance to reduce the property's size, width, and setbacks from property lines. This means making the property smaller than zoning rules allow.

A variance is a special exception to zoning rules. It's granted only when unique property conditions create extreme hardship. The property owner must demonstrate hardship and that the variance won't harm the neighborhood. Variances don't change what can be built on the property, just its size and placement.

This property previously received a variance on March 12, 2024. However, due to survey errors, a new variance is needed. The property line will be adjusted, making the lot narrower, requiring a smaller minimum lot size. The proposed building's location is shown on the survey in relation to the requested setback changes.

Background:

Applicant: Michael Adams

Owner: Michael Lecka

Requested Action: Reduce minimum lot size requirement in SF-10

Zoning District: Single Family Residential 10 (SF-10)

Property Address: 0 McRae Drive (0427432094000)

Size: 0.21 acres ±

Existing Land Use: Vacant/Wooded

Surrounding Zoning and Land Uses

- North: SF-10 - Single Family Residence
- South: SF-6 - Single Family Residence
- East: SF-10 - Single Family Residence
- West: SF-6 - Single Family Residence

Postcards Mailed: 34

Issues/Analysis:

Property History and Request

The subject property was conveyed to Thomas Michael Lecka from Sanjay Khazanchi on June 5, 2023. The property's most recent plat was recorded in January 1953 (DB 11760-0103; PB 0016-0003).

The applicant seeks to recombine two existing lots, one of which is non-compliant, to create two buildable lots. While one resulting lot meets the minimum square footage requirement, the second does not. Consequently, a variance is requested to permit development of the undersized lot. Additionally, a property line adjustment to further reduce lot width necessitates a variance from the minimum lot width requirement.

To accommodate the desired placement of a future residence on the smaller lot, the applicant requests variances from the required side and rear setbacks.

Zoning Standards and Variance Requests

Section 30-3.D.3 of the Unified Development Ordinance establishes dimensional standards for the Single Family Residential 10 (SF-10) zoning district. The specific standards relevant to this request are as follows:

- Minimum lot area: 10,000 square feet
- Minimum lot width: 75 feet
- Minimum side setback: 10 feet
- Minimum rear setback: 35 feet

The applicant is requesting variances to reduce the minimum lot area to 7,793 square feet, the minimum lot width to 40 feet, the rear setback to 31 feet, and the side setback to 5 feet, as depicted on the attached site plan.

Insufficient Justification for Variance

The following shall not constitute grounds for a variance:

1. The existence of other nonconforming or conforming land uses or structures within the same or different zoning districts.
2. A request for a land use expressly or implicitly prohibited by the zoning district regulations.
3. Economic hardship or the potential for increased property value or profitability through a variance.

Subsequent Development

The applicant intends to construct a house on the subject property in the future.

The following findings are based on the responses submitted in the application by the applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

1. There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

The applicant states “Reducing the 10 feet from 75 to 65 which gives both neighbors symmetrical distance in their backyards, which makes it fair to their property. And the extra five feet in the new backyard request so that the future home can be five feet deeper into the lot.”

2. There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

The applicant states “I want to keep each lot fair and symmetrical to each adjacent property.”

3. There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

The applicant states “Referring back to the initial variance, this must be done to ensure all three lots are symmetrical, buildable, and aesthetically pleasing.”

4. There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

The applicant states “This variance would increase the symmetry and beauty of the properties on this portion of McRae.”

5. There is sufficient evidence that in the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

The applicant states “This variance will ensure that everybody’s yard will be symmetrical and aesthetically pleasing.”

Budget Impact:

There are no anticipated budgetary implications at this time.

Options:

The Board's Authority: The board has the authority to approve or deny the request and must base its decision on the answers to the following five required findings of fact:

If a member believes that the evidence presented is substantial, competent, and sufficient to meet the required findings of fact then the member may make a motion to approve the variance and the members must state all of the following five findings of fact along with the evidence that was presented to satisfy each finding.

If the members cannot find specific supporting facts under all five findings of fact, the members must consider a motion of denial. A motion of denial should indicate which of the five (5) of the findings of fact cannot be met.

The board can also place reasonable conditions on any variance approval.

If a member wishes to make a motion to approve the variance they should make a brief statement that recaps the evidence showing each of the five findings of fact. Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve the variance as requested

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

—
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

—
3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

—

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to approve a portion/portions of the variance as requested, with or without added conditions:

Findings of Fact Required to Approve this Request with or without added conditions:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to approve the variance as requested but with added conditions

Findings of Fact Required to Approve this Request with added conditions:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. The Variance is in harmony with the general purpose and intent of this Ordinance and

preserves its spirit as shown by the following evidence:

5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. There is not sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

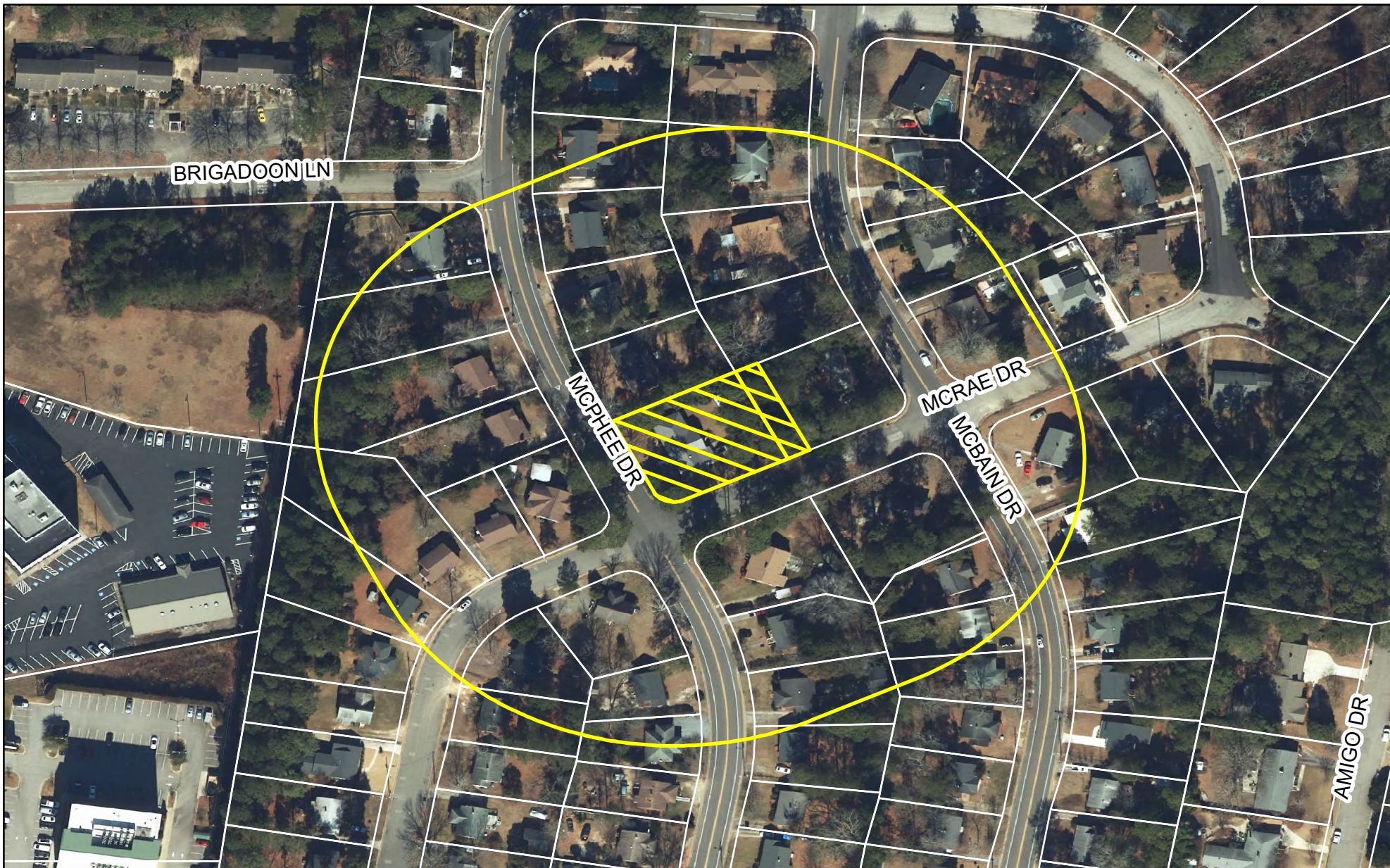
4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. There is not sufficient evidence that in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Recommended Action:

Attachments:

1. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Map
5. Subject Property Photos
6. Surrounding Property Photos
7. Site Plan



Aerial Notification Map

Case #: A24-35

Request: Variance

Location: 0 McRae Drive

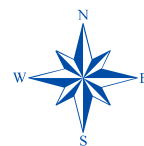
Legend



A24-35 Buffer

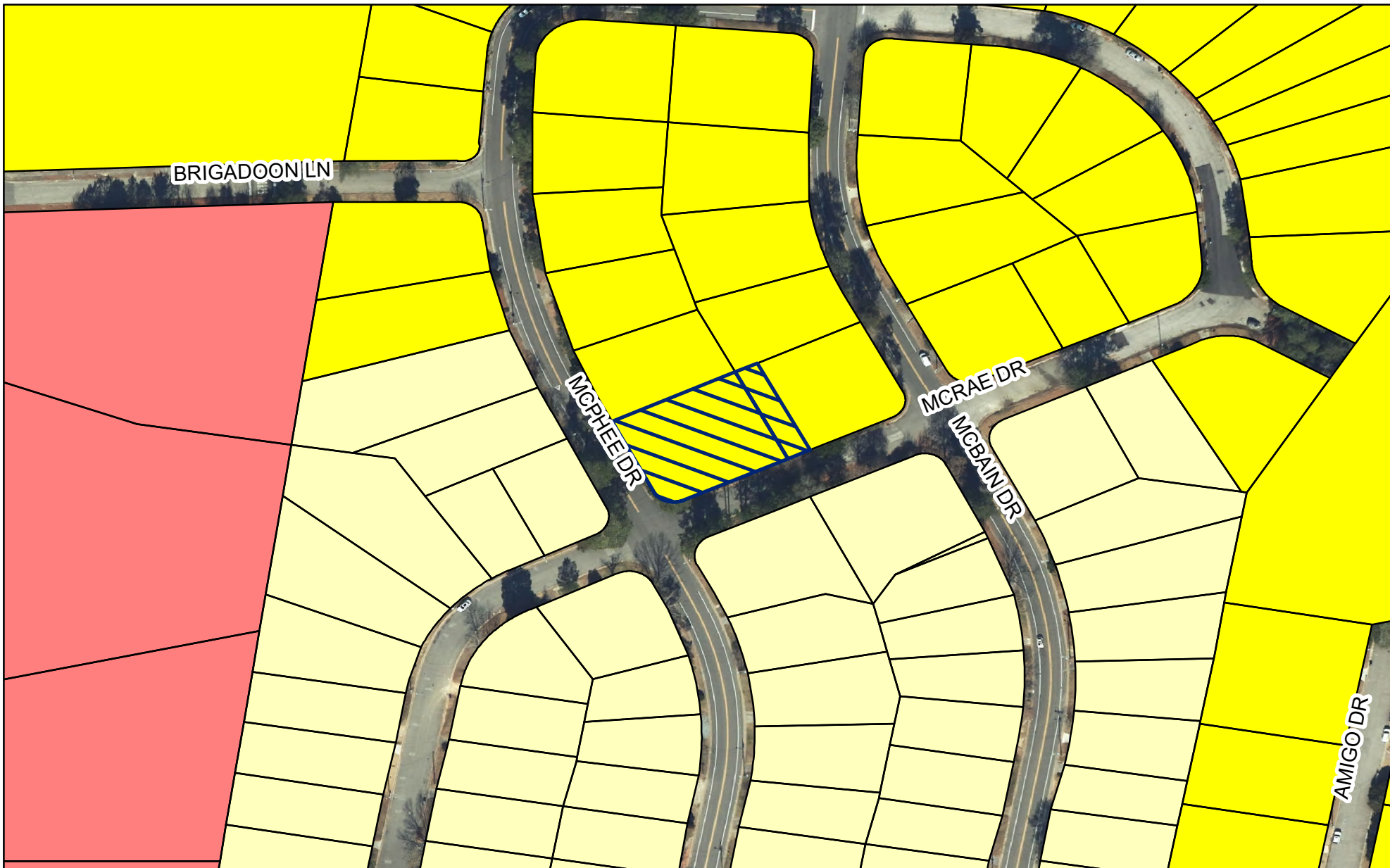


A24-35



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Zoning Map

Case #: A24-35

Request: Variance

Location: 0 McRae Drive

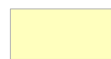
Legend



A24-35



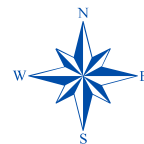
LC - Limited Commercial



SF-6 - Single-Family Residential 6

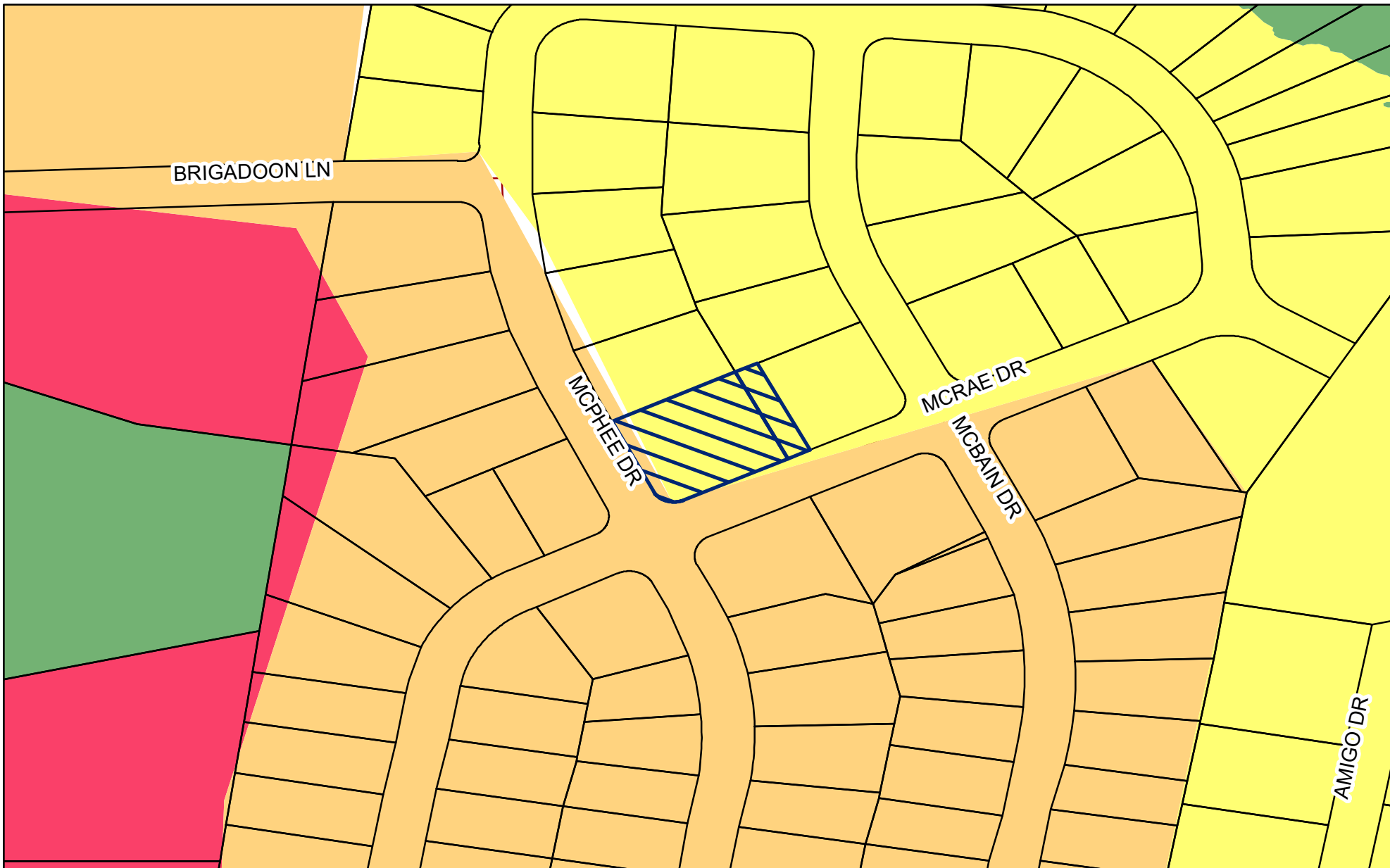


SF-10 - Single-Family Residential 10



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Future Land Use Map

Case #: A24-35

Request: Variance





Location: 0 McRae Drive

Legend

 A24-35

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  LDR - LOW DENSITY
-  MDR - MEDIUM DENSITY
-  CC - COMMUNITY CENTER

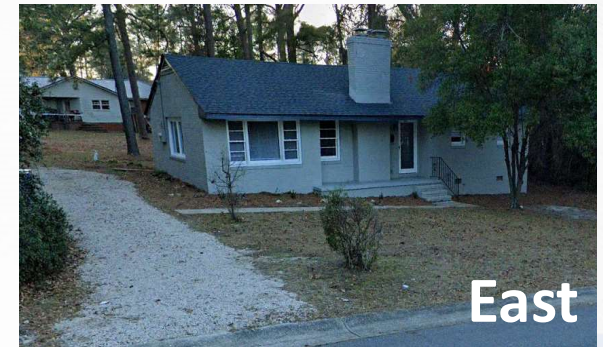


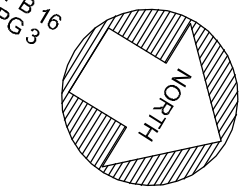
Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Surrounding Properties





SCALE: 1" = 20'
DATE: JUNE 28, 2024
ZONING: SF-10
CITY: FAYETTEVILLE, NC

