

**BOARD OF ADJUSTMENT NUMBER 1**  
**AGENDA**  
**January 17, 2023**  
**Regular Meeting**  
**4:00 p.m.**  
**Central Annex Auditorium**  
**22251 Palmer Street**  
**Robertsdale, Alabama**

1. Call to Order
2. Roll Call
3. Approval of Previous Meeting Minutes (December 20, 2022)
4. Election of Officers for 2023
5. Announcements/Registration to Address the Board of Adjustment
6. Consideration of Applications and Requests

**ITEMS:**

**a.) Case No. ZVA22-101 Moody Property**

*Request:* Approval of variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback to allow for a single -family home.

*Location:* The subject property is located at 12177 County Road 1 in Planning District 26.

*Attachments:* Within Report:

**b.) Case No. ZVA22-102 Torres Property**

*Request:* Approval of variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback to allow for drive to be paved.

*Location:* The subject property is located at 19070 Greeno Rd in Planning District 8

*Attachments:* Within Report

7. Old Business

**(a) Case No. ZVA22-81 Zuercher Property**

*Request:* Approval of variance from Section 2.3.10.3 of the Baldwin County Zoning Ordinance as it pertains to the required fence height in Planning District 10, to allow for existing non-conforming fence to remain.

*Location:* The subject property is located a 2 Armadillo Dr in Planning District 10.

*Attachments: Within Report:*

**(b) Case No. ZVA22-98 Morgan Property**

*Request:* Approval of variance from Section 4.4.5 and 12.5.2 of the Baldwin County Zoning Ordinance as it pertains to the side yard setback requirement and the front yard setback requirement to allow for construction of a single - family dwelling.

*Location:* The subject property is located at 21399 Brick Stack Ln in Planning District 37.

*Attachments: Within Report:*

8. New Business
9. Adjournment

To view maps/plats in higher resolution please visit the ‘Upcoming Items’ Planning and Zoning webpage”

<https://baldwincountyal.gov/departments/planning-zoning/meeting-agenda>

**Planning and Zoning  
Board of Adjustment Number 1  
December 20, 2022  
Regular Meeting Minutes  
Central Annex Auditorium**

The Board of Adjustment Number 1 met in a regular session on December 20, 2022, at 4:00 p.m., in the Baldwin County Central Annex Auditorium. The meeting was called to order Jamal Allen. Members present included: James Guffy, Jamal Allen, Tracey Frost, Norman Bragg, Leslie Stejskal, Rosellen Coggin, Clarice Hall Black. Staff members present were Crystal Bates, Planning Technician II, and Buford King, Deputy Planning Director.

**Approval of Previous Meeting Minutes**

A motion to approve the previous meeting minutes was made by Leslie Stejskal with a second by Norman Bragg and carried unanimously. A short training video was played for Board members.

**ZVA22-98 Morgan Property**

Mr. Buford King presented the staff report for Fabia Waters as she couldn't be present. The applicant's request for variance from Section 4.4.5 and 12.5.2 of the Baldwin County Zoning Ordinance as it pertains to the front and side yard building setback to allow construction of a single -family dwelling.

Staff made aware Clarice Hall Black was also a present member.

Chairman called, applicant Ms. Morgan to podium to speak, Chairman also called a Mr. Labrato to the podium to speak but was not attendance.

Board member Tracey Frost made motion to table the case until the next meeting and the motion was second by Clarice Hall Black, to give the applicant time to make sure of the exact location and the amount variance needed. Motion to table the variance passed to a 6-2 vote.

**ZVA22-100 Williams Property**

Mrs. Bates presented the applicants request for variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the wetland buffer setback in order for fill to access the property.

Chairman called the applicant Mr. Williams to the podium to speak. He didn't have anymore to add to staff's report.

Board member Norman Bragg made a motion to approve staff's recommendation and second by James Guffy Motion to approve variance passed to a 4 to 3 vote.

Brief discussion under New Business about Our Vision website and upcoming meeting.

**Adjournment**

There being no further business to come before the board Ms. Frost made a motion to adjourned the meeting at 5:19 p.m.

Respectfully Submitted

Crystal Bates, Planning Technician

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I hereby certify that the above minutes are true, correct and approved this \_\_\_\_ day of \_\_\_\_\_ 2022.

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Jamal Allen, Chairman





**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

**BALDWIN COUNTY BOARD OF ADJUSTMENT #1**

**REGULAR MEETING**

**JANUARY 17, 2022**

**BALDWIN COUNTY CENTRAL ANNEX**

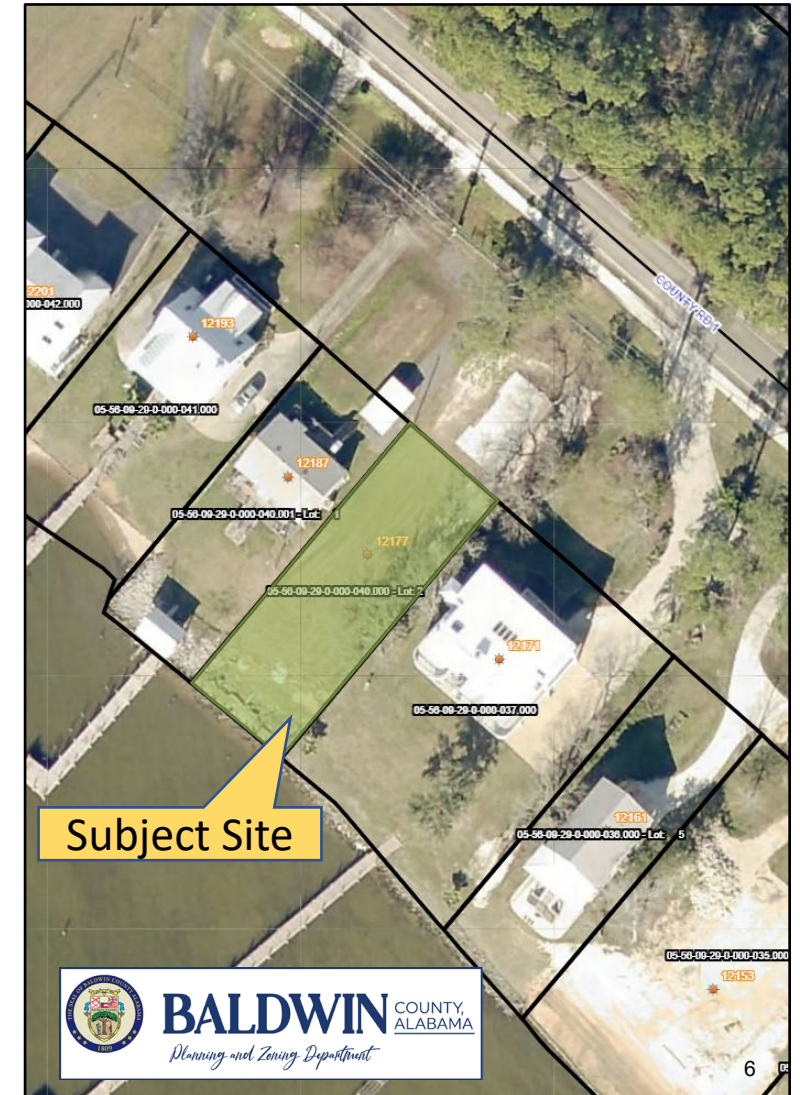
**ROBERTSDALE, AL**

# ZVA22-101 MOODY PROPERTY

## VARIANCE REQUEST

Lead Staff: Fabia Water, Planning Tech

- **Planning District:** 26    **Zoned:** RSF-2  
Residential Family District
- **Location:** Lot 2 Block B Jubilee Point
- **PID:** 05-56-09-29-0-000-040.000
- **PPIN:** 822
- **Acreage:** 0.16 +/- acres
- **Physical Address:** 12177 County Rd 1
- **Applicant:** JJR Investments- Justin Moody
- **Owner:** JJR Investments- Justin Moody



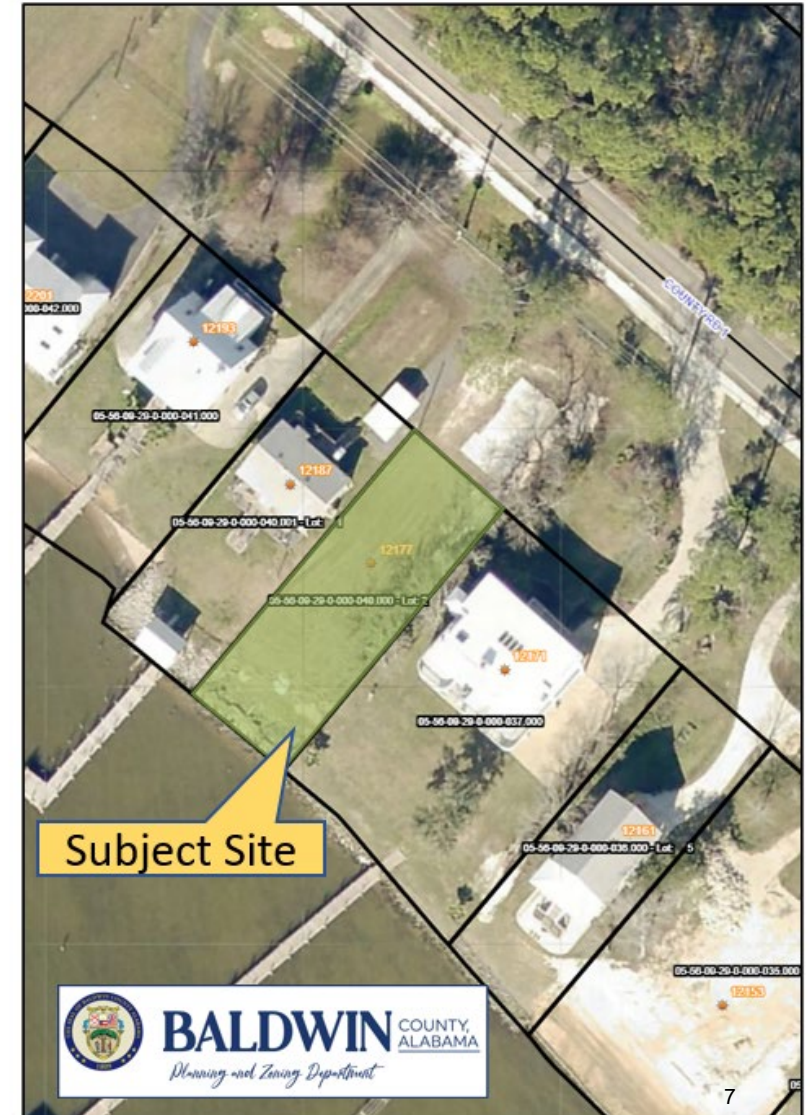
# ZVA22-101 MOODY PROPERTY

## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Fabia Waters, Planning Tech

The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30 ft non-disturbed wetland setback.

Staff could establish a hardship on the property therefore recommends Case ZVA22-105 to be **Approved** unless information otherwise is revealed at the public hearing.





# Locator Map



# Site Map



## Adjacent Zoning

North

RA-Rural Agricultural

South

Mobile Bay

East

RSF2- Single Family District

West

RSF2- Single Family District

## Adjacent Land Use

Vacant

N/A

Residential

Residential



# Property Images

Subject Property





# Property Images

Adjoining Property to the North





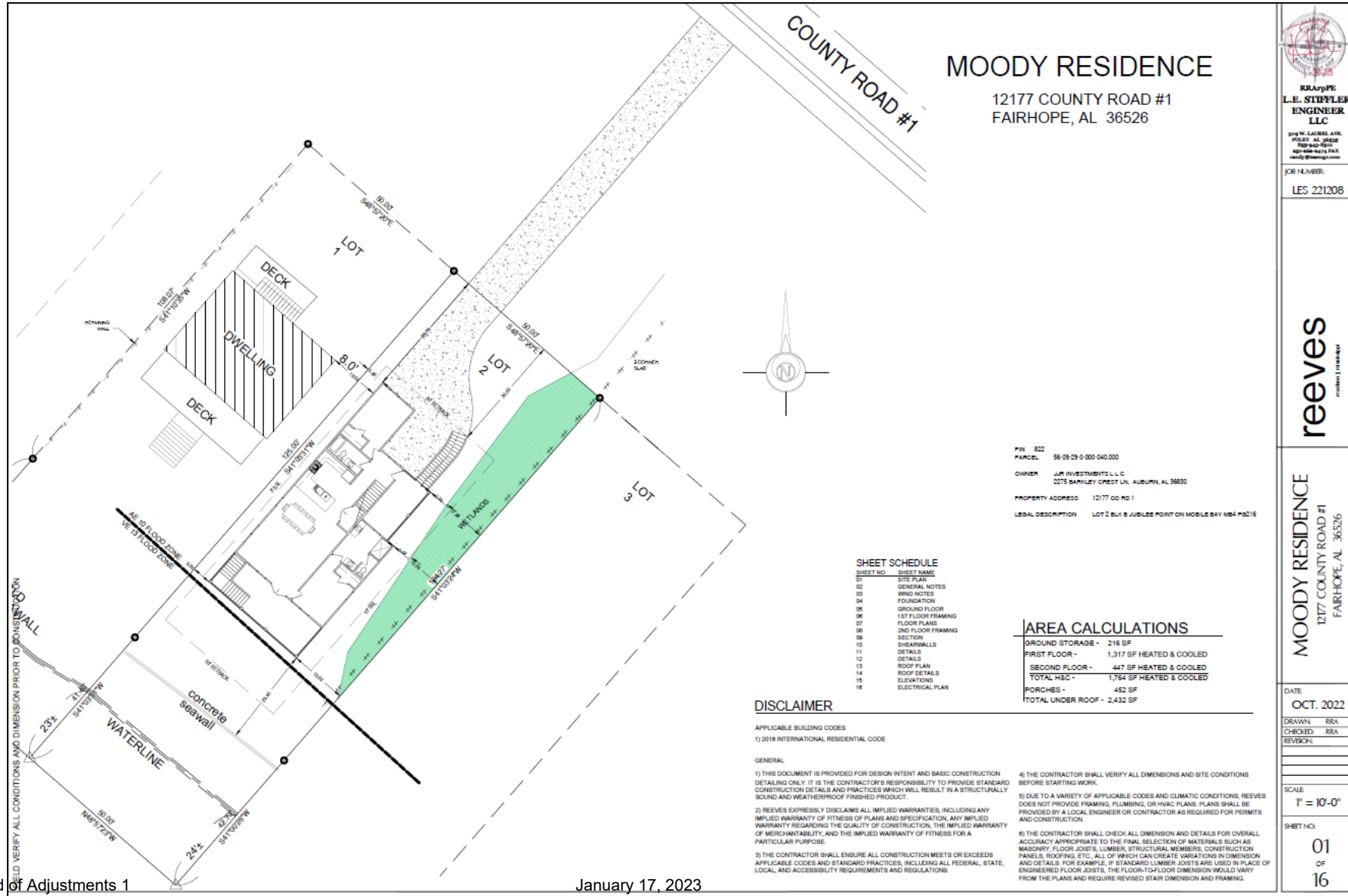
# Property Images

Adjoining Property Across the Street



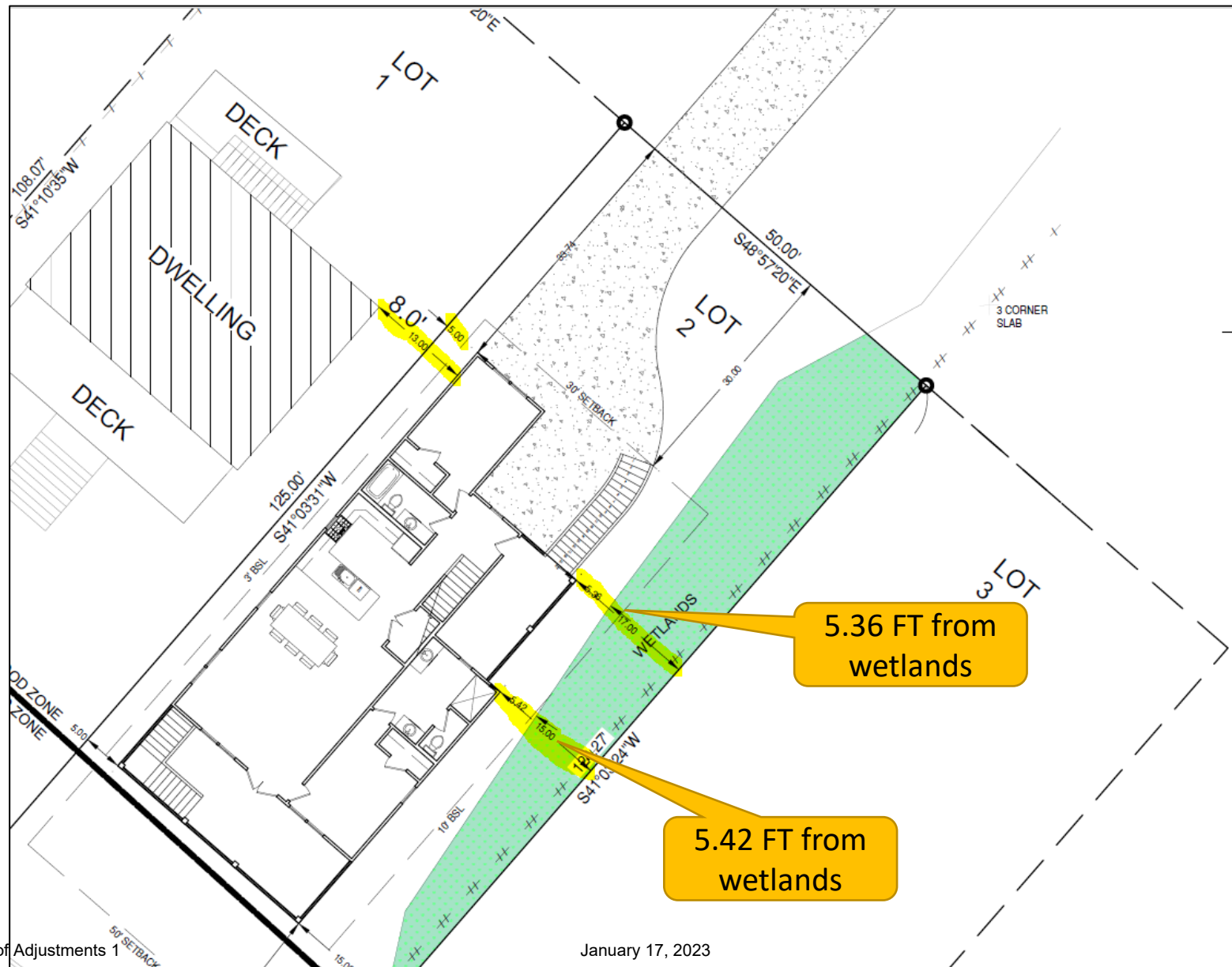


# Site Plan

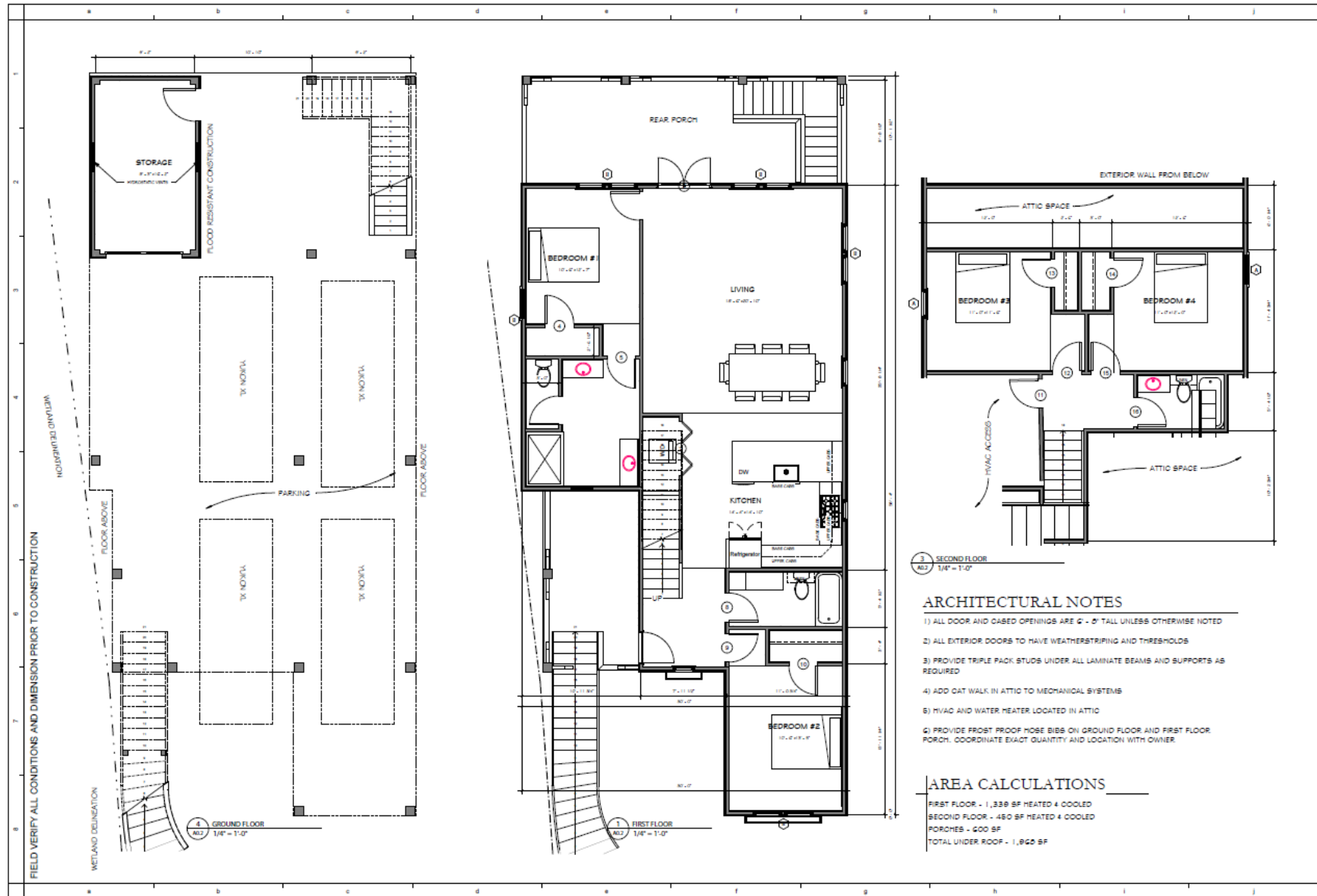




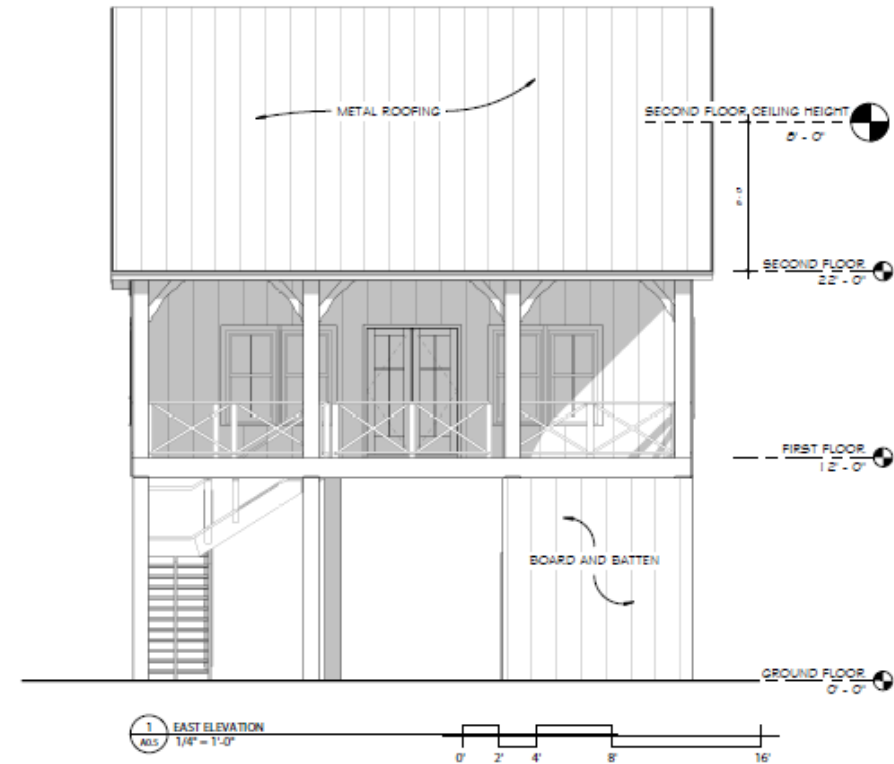
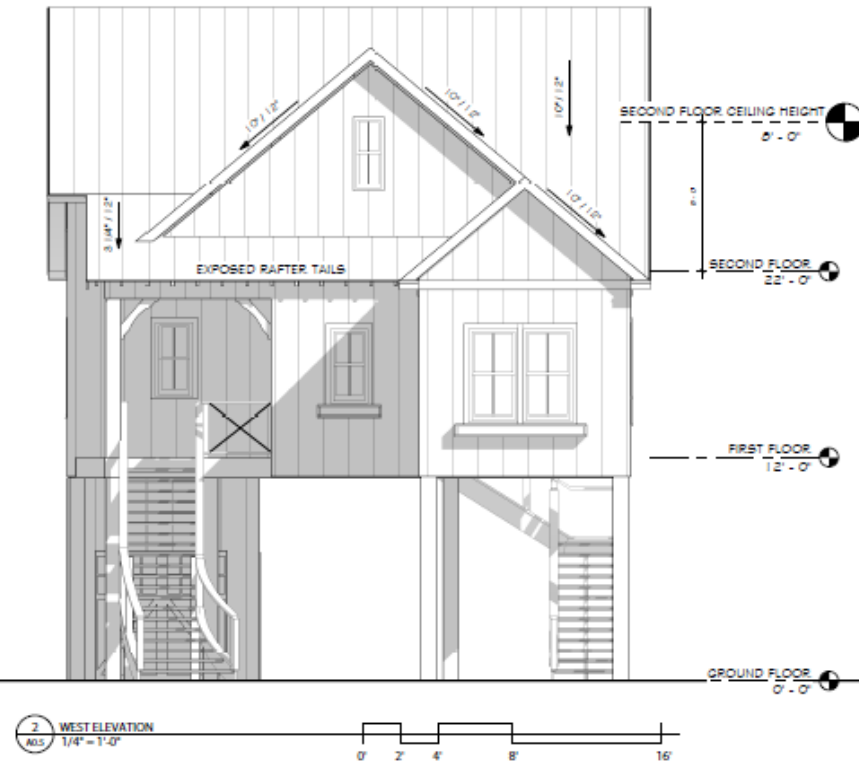
# Enlarged Site Plan



## Floor Plan



# Elevations



# Wetland Delineation



September 28, 2022

Justin Moody  
213 Hunter Trail  
Pike Road, AL 36064

Re: **Wetland Jurisdictional Assessment Report**  
**12187 County Road 1, Baldwin County, AL**  
**WSI Reference #2022-777**

Dear Mr. Moody,

As requested, Wetland Sciences, Inc. has completed a field wetland delineation on a +/- 0.192-acre parcel of property located at 12187 County Road 1 in Fairhope, Baldwin County, Alabama. The property is identified by the Baldwin County Revenue Commission with the Parcel Identification Number (PIN): 000822. During this determination, Wetland Sciences, identified a wetland complex within the property that will be subject to the regulatory jurisdiction of the US Army Corps of Engineers (Corps), Alabama Department of Environmental Management (ADEM), and Baldwin County within the subject property. See attached wetland sketch – **Exhibit A**). The following is a summary of our findings.

The purpose of performing the wetland assessment was to assess if wetlands or Waters of the United States (WOTUS) are present and, if so, to identify the boundaries. The wetland delineation was performed in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual, the 2012 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic & Gulf Coast Supplement (2010). According to both U.S. Army Corps of Engineers (USACE) and the Alabama Department of Environmental Management guidelines.

During inspection of the property I used technical criteria, field indicators, historic aerial photographs, and other sources of information to assess the site. Wetlands generally have three essential characteristics: hydrophytic vegetation, hydric soils, and wetland hydrology. The techniques for evaluating the plant community, soils, and hydrology are described in the following sections.

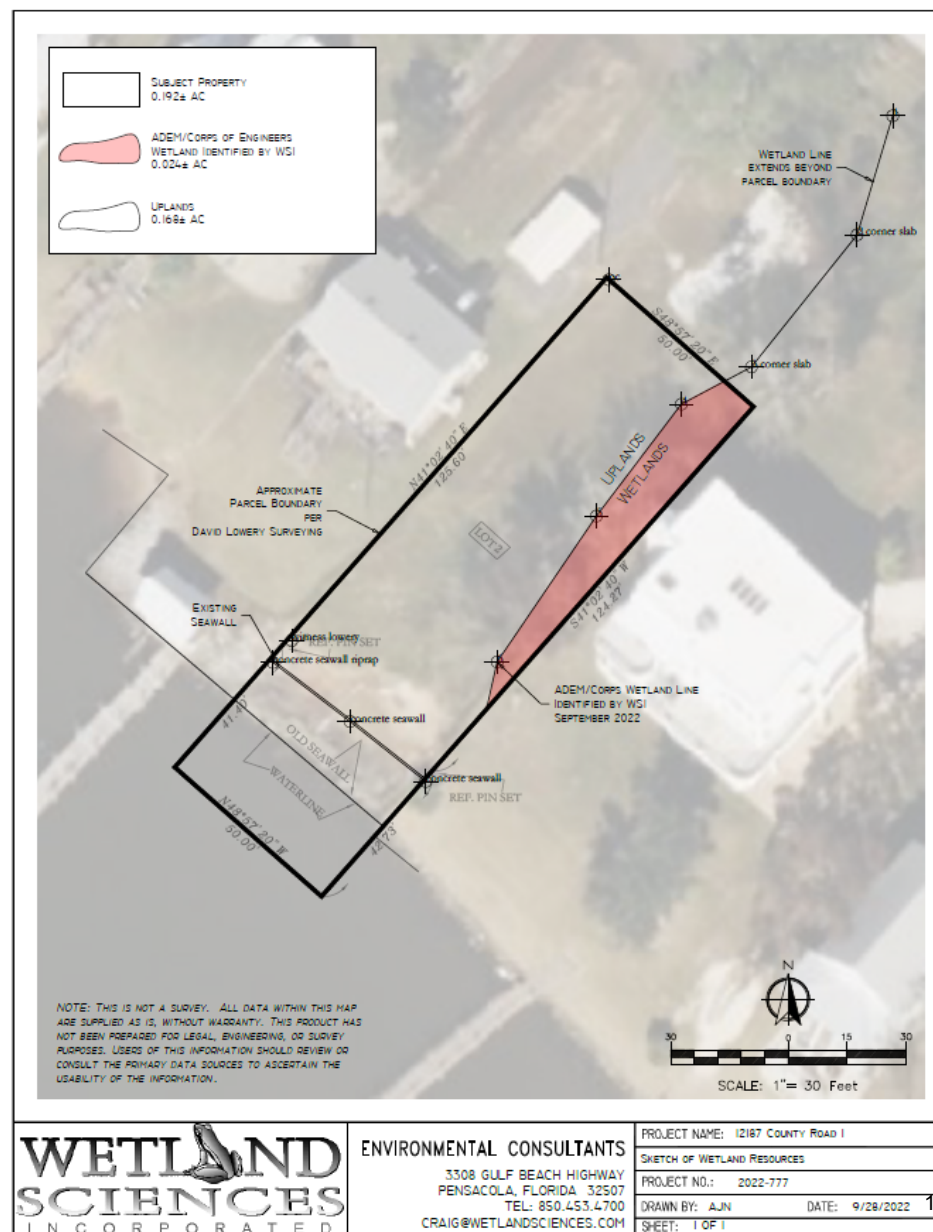
## Hydric Soils Assessment

Several soil test holes were evaluated to identify field indications of hydric soils. WSI utilized the hydric soil definition provided by the National Technical Committee for Hydric Soils and criteria to determine whether soils within the site are considered hydric. During our field inspection of the property, we verified the presence of hydric soils in the northeast margins of the property.

## Wetland Hydrology Assessment

Visual indicators of wetland hydrology were evaluated. Examples of primary wetland hydrology indicators include, but are not limited to, surface water, high water table, soil saturation, water marks, sediment deposits, drift deposits, iron deposits, inundation visible on aerial imagery, sparsely vegetated concave surface, and water-stained leaves. If at least one primary or two secondary indicators are observed, the

3308 Gulf Beach Highway | Pensacola, Florida 32507 | 850.453.4700 | craig@wetlandsciences.com



# Additional Information

11/17/22

To Whom it may concern:

The subject lot PPIN # 822 has no active association.

Legal description: 50' X 145'(S) IRR LOT 2 BLK B JUBILEE POINT ON MOBILE BAY SE C 29-T7S-R2E  
(WD/SURVIVORSHIP)

PPIN number: 822

Parcel number: 56-09-29-0-000-040.000

Kind regards,

 Date: 11/17/2022

Justin Moody

Managing member JJR Investments, LLC

# Staff Analysis and Findings

## **1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.**

The subject property is zoned RSF2 Single Family District and is located on Lot 2 Block B Jubilee Point. Per Revenue the parcel consists of approximately 0.16+- acres with 50' x 145'. Planning District 26 came into effect on September 21<sup>st</sup>, 1993. The required minimum lot size for RSF2 is 15,000 sqft therefore staff does perceive the subject parcel to be exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

## **2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.**

Staff established the existing wetlands to be exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property which require a variance.

# Staff Analysis and Findings

**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.**

The subject property is zoned RSF2, Single Family District which allows a Single Family Dwelling. The applicant has submitted information supporting a hardship on the land therefore staff feels the granting of this variance necessary and does perceive necessity for preservation of a property right that would require a variance.

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

Staff anticipates no major impacts, therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.



# Staff Analysis and Findings

## 5.) Other matters which may be appropriate.

### *Section 10.4 Wetland and Stream Protection Overlay District.*

10.4.4 *Permit requirements.* The non-disturbed setback for development from a jurisdictional wetland and/or stream must be a **minimum of 30 feet** unless exempted by Section 10.4.7 below. The stream setback shall be from the top of bank on both sides of the waterway. When a stream is located within a gully, the top of bank shall be the top of the bank of the gully.

### *Local Provisions for Planning District 26*

2.3.26.3(b) The required side yard setbacks for RSF-1 and RSF-2 lots existing on or before May 19, 2020, and which do not meet the minimum lot width requirements for the underlying zoning designation, may be reduced to 3-feet on one side and 10-feet on the other side provided a minimum of 13-feet separation remains between buildings.



# ZVA22-101 MOODY PROPERTY

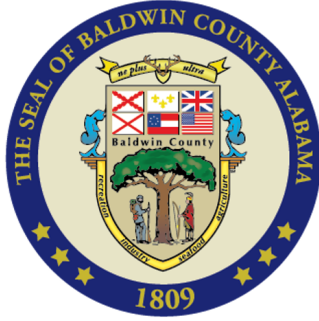
## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Fabia Waters, Planning Tech

The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30 ft non-disturbed wetland setback.

Staff could establish a hardship on the property therefore recommends Case ZVA22-105 to be **Approved** unless information otherwise is revealed at the public hearing.





**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

**BALDWIN COUNTY BOARD OF ADJUSTMENT #1**

**REGULAR MEETING**

**JANUARY 17, 2022**

**BALDWIN COUNTY CENTRAL ANNEX**

**ROBERTSDALE, AL**

# ZVA22-102 TORRES PROPERTY

## VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

- **Planning District:** 8    **Zoned:** B-2
- **PID:** 05-46-05-21-0-000-025.001
- **PPIN:** 41428
- **Acreage:** 0.36 acres +/- (15,900sf approx.)
- **Physical Address:** 19070 Greeno Rd
- **Applicant:** Jorge Torres
- **Owner:** Jorge Torres





# ZVA22-102 TORRES PROPERTY

## VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

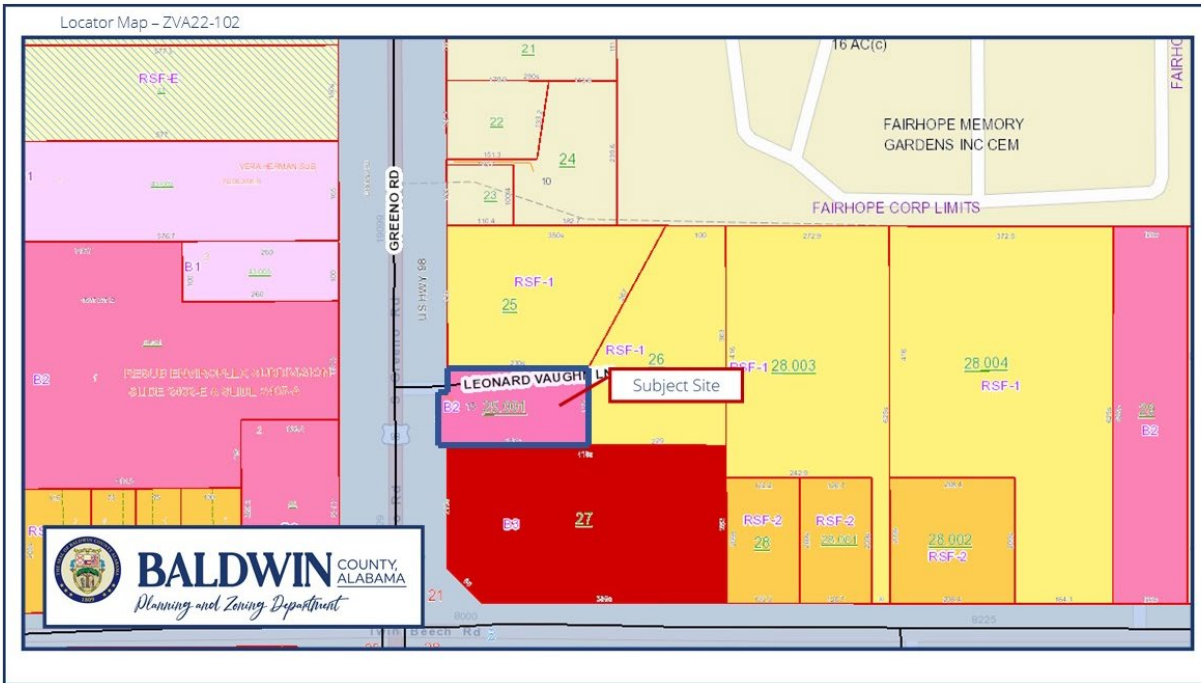
The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' wetland setback buffer to allow for the current access to be paved. The existing driveway is 2' below elevation of the existing driveway next to the building by elevating the existing gravel drive and adding a short protective wall will provide much needed protection from future washouts.

Staff recommends Case ZVA22-102 be **approved**.



# Locator Map

# Site Map



	Adjacent Zoning	Adjacent Land Use
North	RSF-1, Single Family District	Vacant
South	B-3, General Business	Commercial
East	RSF-1, Single Family District	Single Family
West	B-2, Neighborhood Business District	Commercial



# Property Images



# Property Images





# Property Images

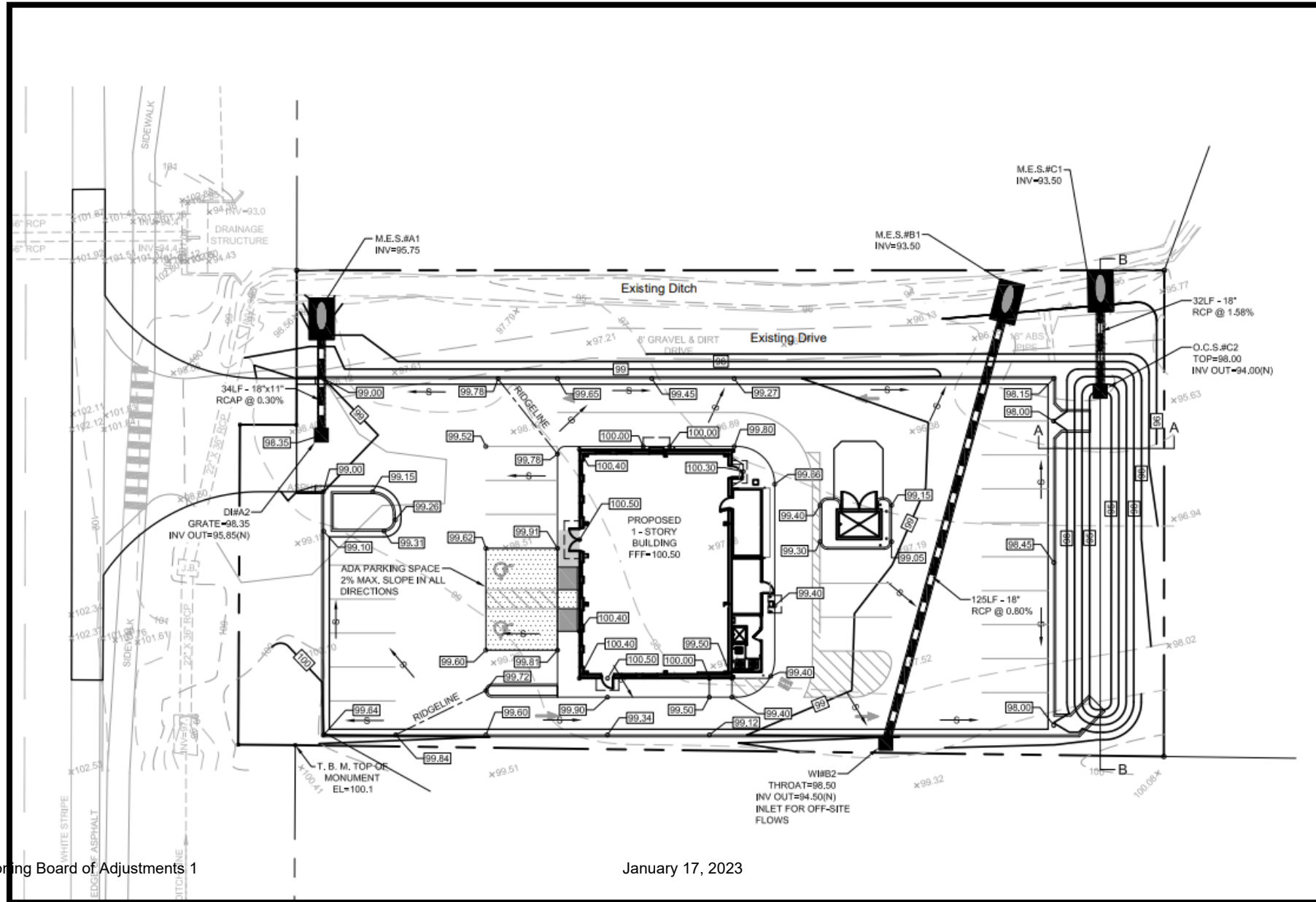




# Property Images

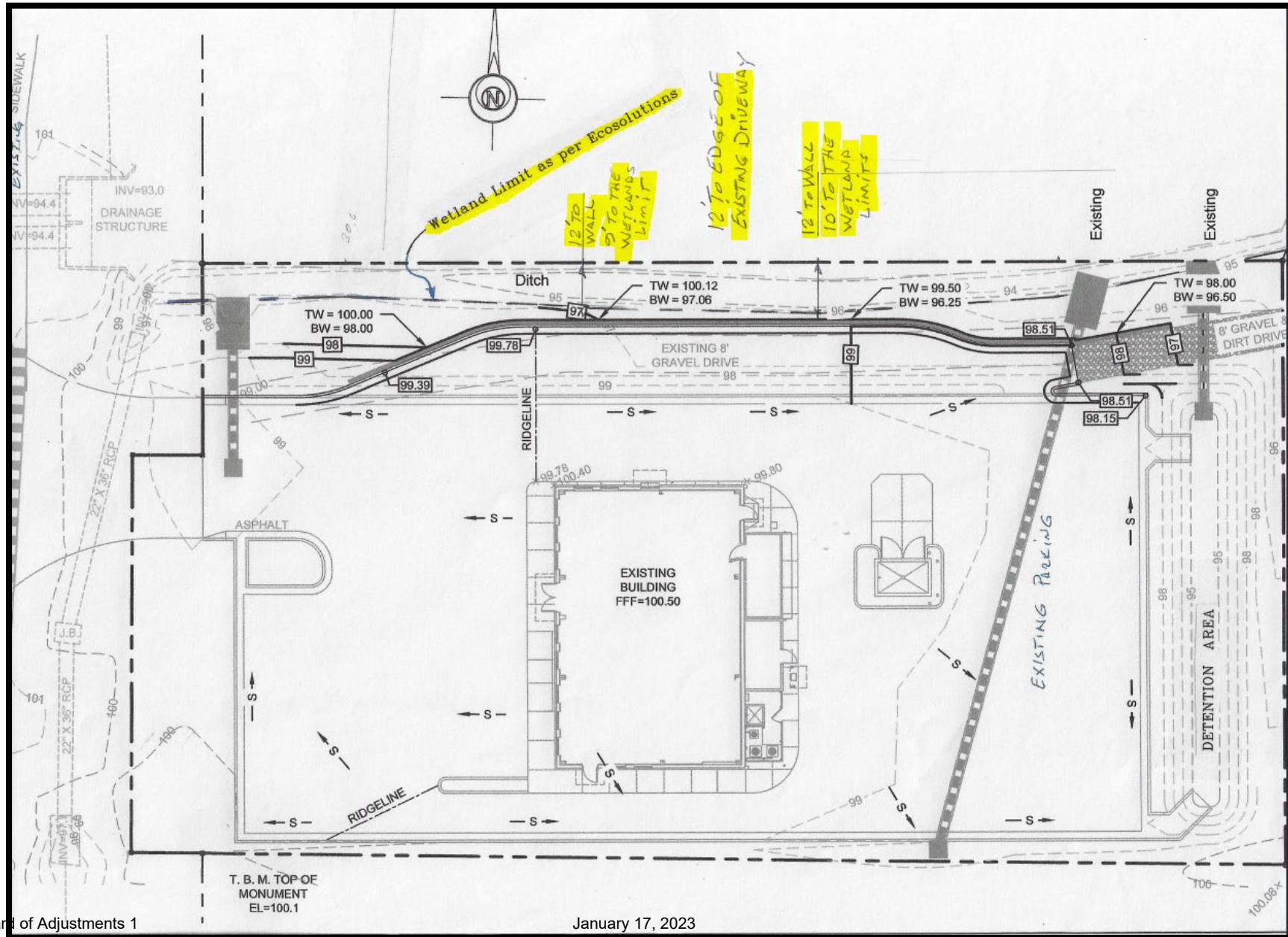


# Existing Site Plan

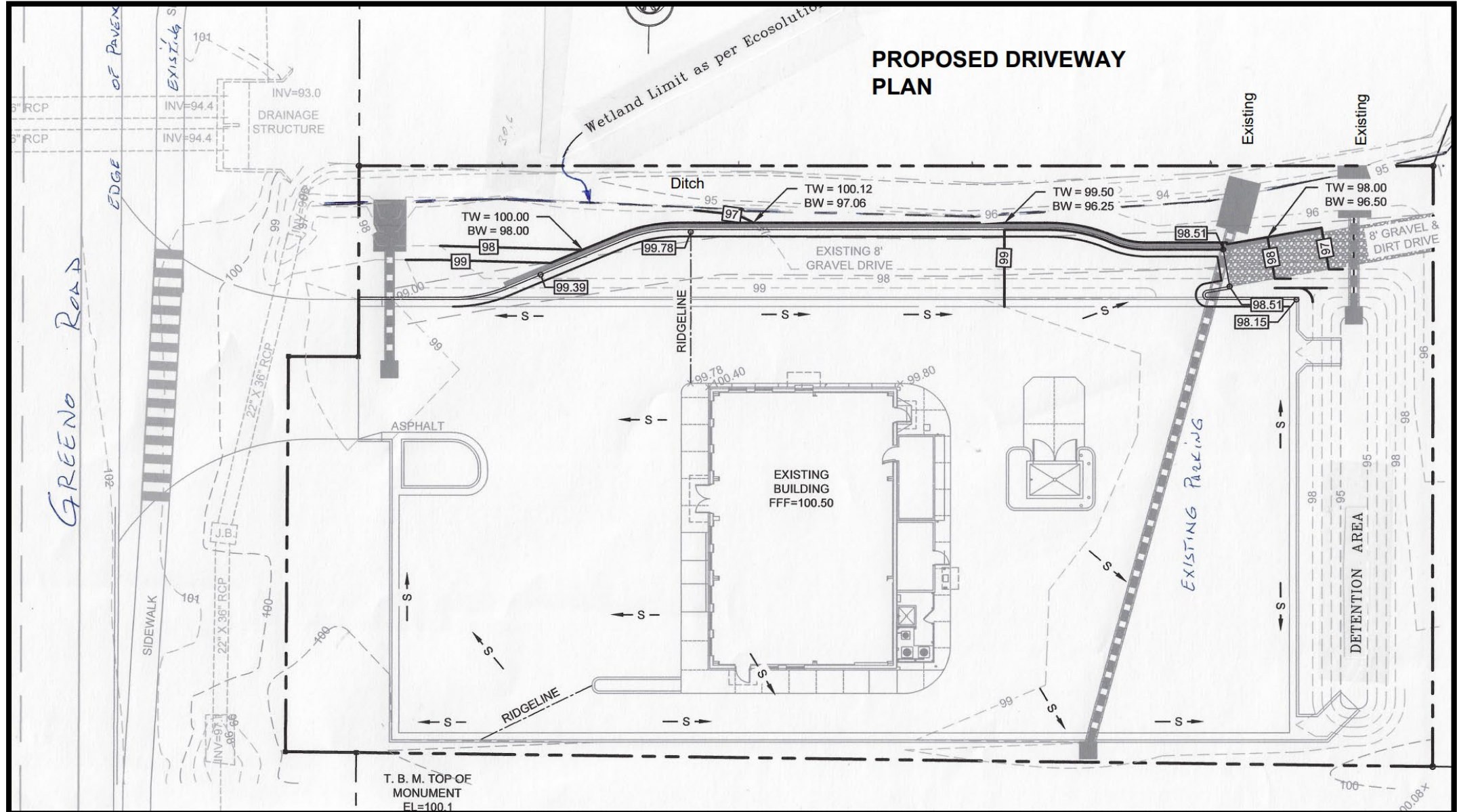




# Proposed Site Plan



# Addition Existing Site Plan







November 11, 2022

Jorge Torres  
251-581-5391  
goldenautofairhope@icloud.com

RE: Wetland Delineation of Los Tacos (PPINs 41428, & 43848) in Fairhope, AL

Mr. Torres,

EcoSolutions Inc. was asked to conduct a wetland delineation of the parcels off S. Greeno Road (PPINs 41428& 43848). The field work was conducted on November 9<sup>th</sup>, 2022. Portions in each parcel have met the definition of a wetland as defined by the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual.

The subject area includes the parcel numbers 05-46-05-21-0-000-025.001 (PPIN 41428) and 05-46-05-21-0-000-026.000 (PPIN 43848) located in Fairhope, AL. The parcels are located west of S. Greeno Rd and north of CR44 and are approximately 2.3 acres total. The west parcel (PPIN 41428) consists of an existing building (Los Tacos Restaurant), a parking lot, and a gravel drive; the wetlands within the ditch are at the north end of this parcel. The east parcel (PPIN 43848) consists of mature trees along with a mowed lawn, a house and other associated structures; the wetlands within the ditch are on the west end of this parcel. Approximately 0.2 acres throughout the parcels have met the definition of a wetland as defined by the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual. The wetlands are located within a ditch and consist of trees including Water Oak (*Quercus nigra*), Camphor Tree (*Cinnamomum camphora*), and Chinese Tallowtree (*Triadica sebifera*), a shrub layer including Chinese Privet (*Ligustrum sinense*), and an herbaceous layer including Virginia Chainfern (*Woodwardia virginica*). The soils within the parcels consist of Irvington loam, Local alluvial land, Malbis fine sandy loam, and Tifton very fine sandy loam. During our field work on site we found light brownish gray, very dark grayish brown, and yellowish brown loam consistent with the mapped soils.

The site was evaluated for jurisdictional wetland areas as defined by the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual and all, supplements and amendments thereto. Portions in each of the parcels have met the USACE criteria for wetlands and it is my professional opinion that the wetlands on the site are under the jurisdiction of USACE. All comments are based on the professional judgment of the inspector and the conditions that existed on the site at the time of the inspection.

Please give us a call (251-621-5006) or email [Lewis@EcoSolutionsinc.net](mailto:Lewis@EcoSolutionsinc.net) if you have any questions or need any additional information.

Best regards,  
  
Lewis Cassidey  
EcoSolutions, Inc.

P.O. Box 361    MONTROSE, AL 36559    251.621.5006  
Ecosolutionsinc@bellsouth.net



**EcoSolutions**  
ENVIRONMENTAL MEDIATION, MANAGEMENT & PLANNING  
P.O. Box 361    Montrose, AL 36559  
Phone: 251-621-5006 Fax: 251-621-5058

Project: Torres Los Tacos  
Applicant: Jorge Torres  
1 inch = 100 feet  
T-6-S, R-2-E, Sect. 21  
Fairhope, AL  
Wetland Delineation: Nov. 2022



# Miscellaneous Documents

Baldwin County Planning and Zoning Department

To Whom it may concern:

The property located at 19070 Greeno Road South, Fairhope, Alabama does not lie within a subdivision and there is not a property owners association or a neighborhood association attached to this property.

Sincerely

*Seth Moore*

Seth Moore

Authorized Agent for

Jorge Torres.

# Zoning Requirements

## Section 5.2.5 Area and Dimensional Ordinances

### 5.1.5 Area and dimensional ordinances.

Maximum Height of Structure 35-Feet

Maximum Height of Structure in Habitable Stories 2½

Minimum Front Yard 30-Feet

Minimum Rear Yard 25-Feet

Minimum Side Yards 15-Feet

Minimum Lot Area 20,000 Square Feet

Maximum Impervious Surface Ratio .60

Minimum Lot Width at Building Line 80-Feet

Minimum Lot Width at Street Line 60-Feet

## Section 10.4.4 Wetland and Stream Protection Overlay District

10.4.4 Permit requirements. The non-disturbed setback for development from a jurisdictional wetland and/or stream must be a minimum of 30 feet unless exempted by Section 10.4.6 below. The stream setback shall be from the top of bank on both sides of the waterway. When a stream is located within a gully, the top of bank shall be the top of the bank of the gully.

# Staff Analysis and Findings

## **1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.**

Per Revenue Commission records the parcel consists of approximately 17, 114 square feet and approximately 86' x 199' the property fronts on Greeno Road. Zoning in Planning District 37 came into effect on July 19, 2022. The required minimum lot size for B-2 Neighborhood Business District is 20,000 square feet and a minimum lot width of 80' at building line, and a 60' minimum lot width at street line. Although the lot is not exceptional narrow or shallow it is smaller than the minimum lot area required for B-2 zoning. Staff perceives the evaluation of this section as not applicable to the requested variance because the requested variance involves a topographical feature of the site and no request related to lot size or lot width was requested.

## **2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.**

Staff perceives the wetlands located on the subject property to be an exceptional topographic condition or other extraordinary situation, or condition contained on the subject property which require a variance.



# Staff Analysis and Findings

**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.**

The subject property is zoned B-2, Neighborhood Business District which allows for restaurant uses. The request is to allow for paving of a current road access into the restaurant. The proposed work would protect the wetlands from future washouts. **Staff perceives the presence of wetlands on the subject property disallows construction of paved road.**

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

**Staff anticipates no major impacts,** therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

# Staff Analysis and Findings

## 5.) Other matters which may be appropriate.

- The applicant has submitted written documentation stating there is no POA for the subject property.
- The applicant has a wetland delineation for the subject property.
- Staff perceives the wetlands on the subject property could establish a hardship, therefore staff recommends Case ZVA22-102 be approved.

# ZVA22-102 TORRES PROPERTY

## VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' wetland setback buffer to allow for the current access to be paved. The existing driveway is 2' below elevation of the existing driveway next to the building by elevating the existing gravel drive and adding a short protective wall will provide much needed protection from future washouts.

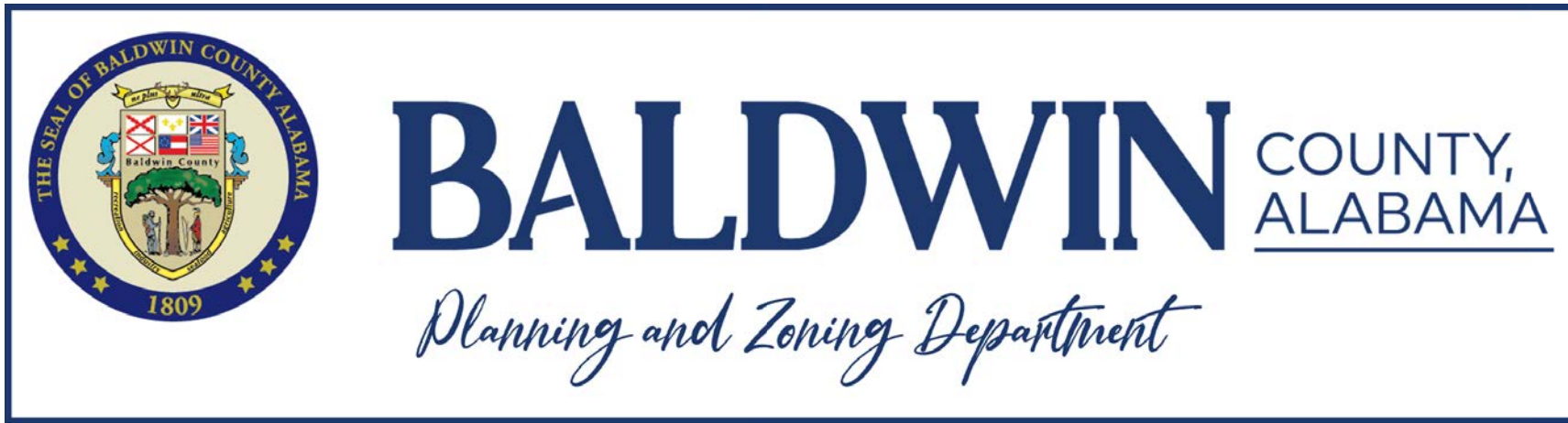
Staff recommends Case ZVA22-102 be **approved**.



### GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.



BALDWIN COUNTY BOARD OF ADJUSTMENT #1

REGULAR MEETING

JANUAR7 17, 2023

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL



# ZVA22-81 ZUERCHER PROPERTY

## VARIANCE REQUEST

Lead Staff: J. Buford King, Deputy Director

**Parcel#:** 05-32-04-39-0-000-001.297

**PIN:** 248143

**Planning District:** 10   **Zoning:** RSF-2  
Residential Single Family

**Subdivision:** Lot 20, Phase One, Twenty-Fourth Addition, Spanish Fort Estates

**Lot size:** 17,261sf

**Physical Address:** 2 Armadillo Run

**Applicant:** Daniel Zuercher

**Owner:** Daniel Zuercher

Planning and Zoning Board of Adjustments 1

January 17, 2023



# ZVA22-81 ZUERCHER PROPERTY

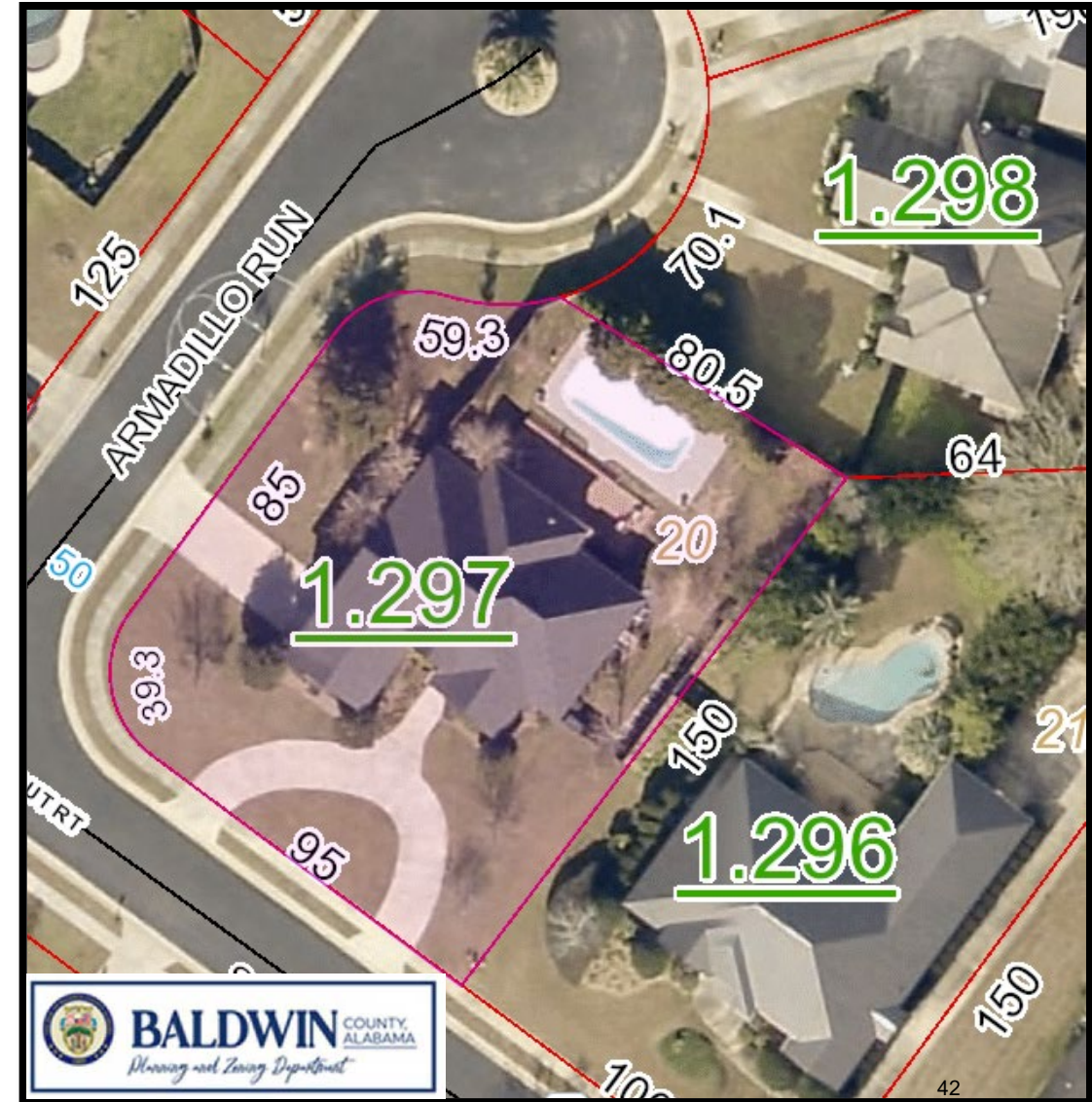
## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: J. Buford King, Deputy Director

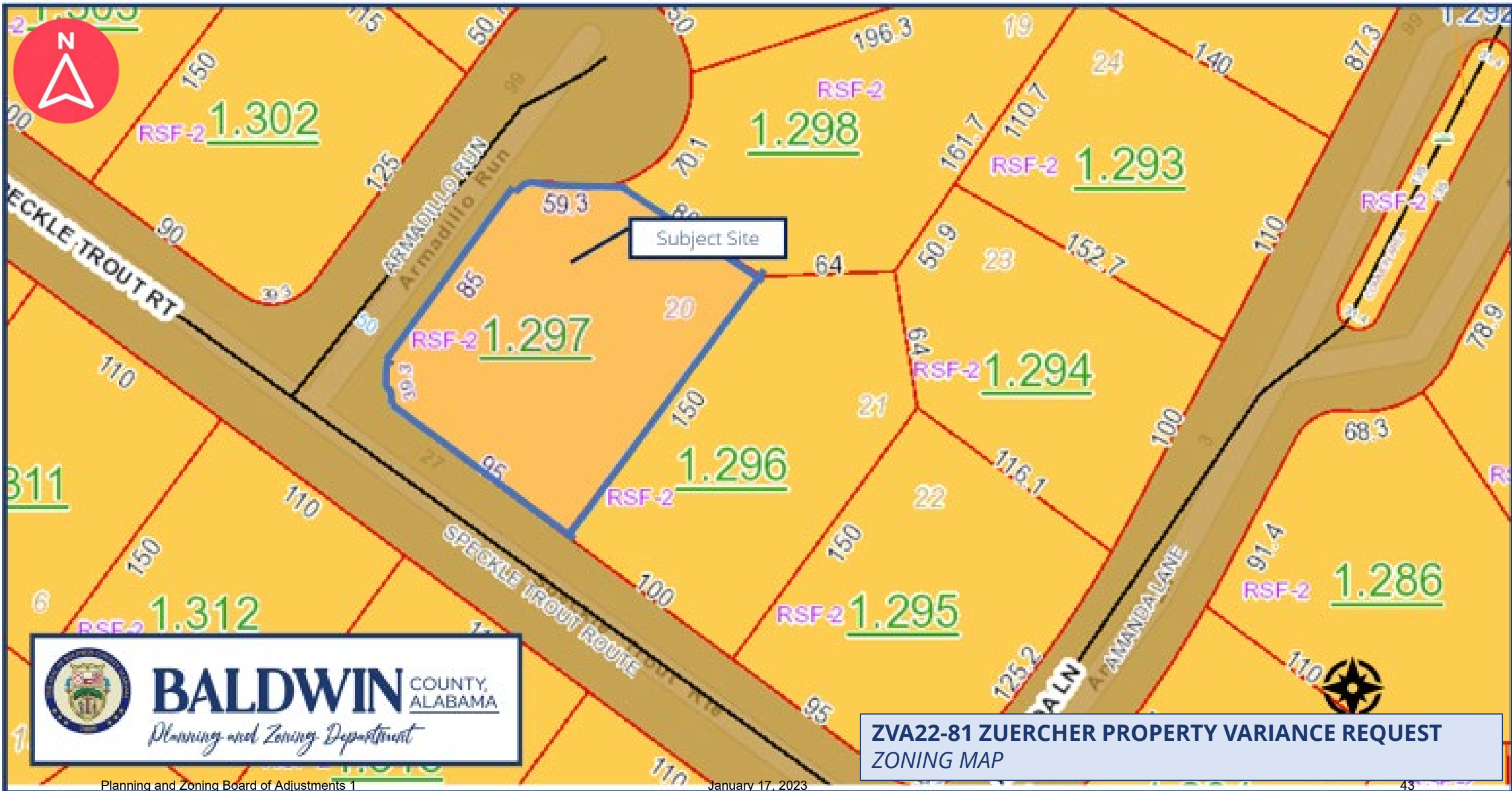
The applicant is requesting a variance from Section 2.3.10.3 of the *Baldwin County Zoning Ordinance* related to the required fence height in Planning District 10. The applicant has built a 6-foot-tall fence on a corner lot which exceeds the requirements of the local provisions of Planning District 10 which limits fences on corner lots to 4 feet tall in certain situations and the applicant desires for the fence to remain in place rather than being brought into conformance with the Zoning Ordinance.

It appears the fence was installed without first obtaining a building permit and thus the fence was installed without a zoning site plan review which would have identified the fence height requirement as well as the fencing material requirement.

Staff recommends **DENIAL** of the variance request due to the lack of hardship on the land.



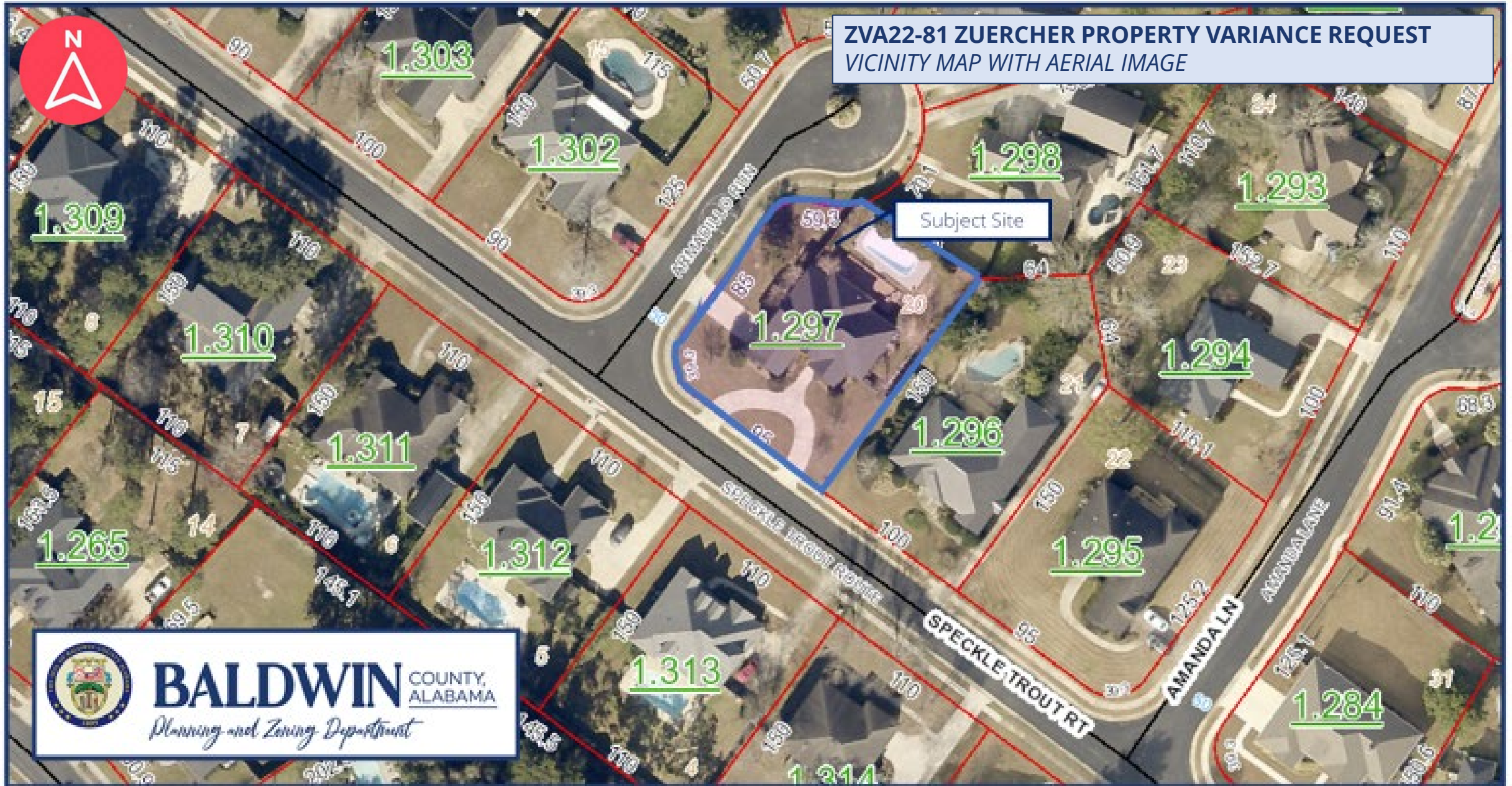




**BALDWIN** COUNTY, ALABAMA

*Planning and Zoning Department*

**ZVA22-81 ZUERCHER PROPERTY VARIANCE REQUEST**  
**ZONING MAP**





# Locator Map

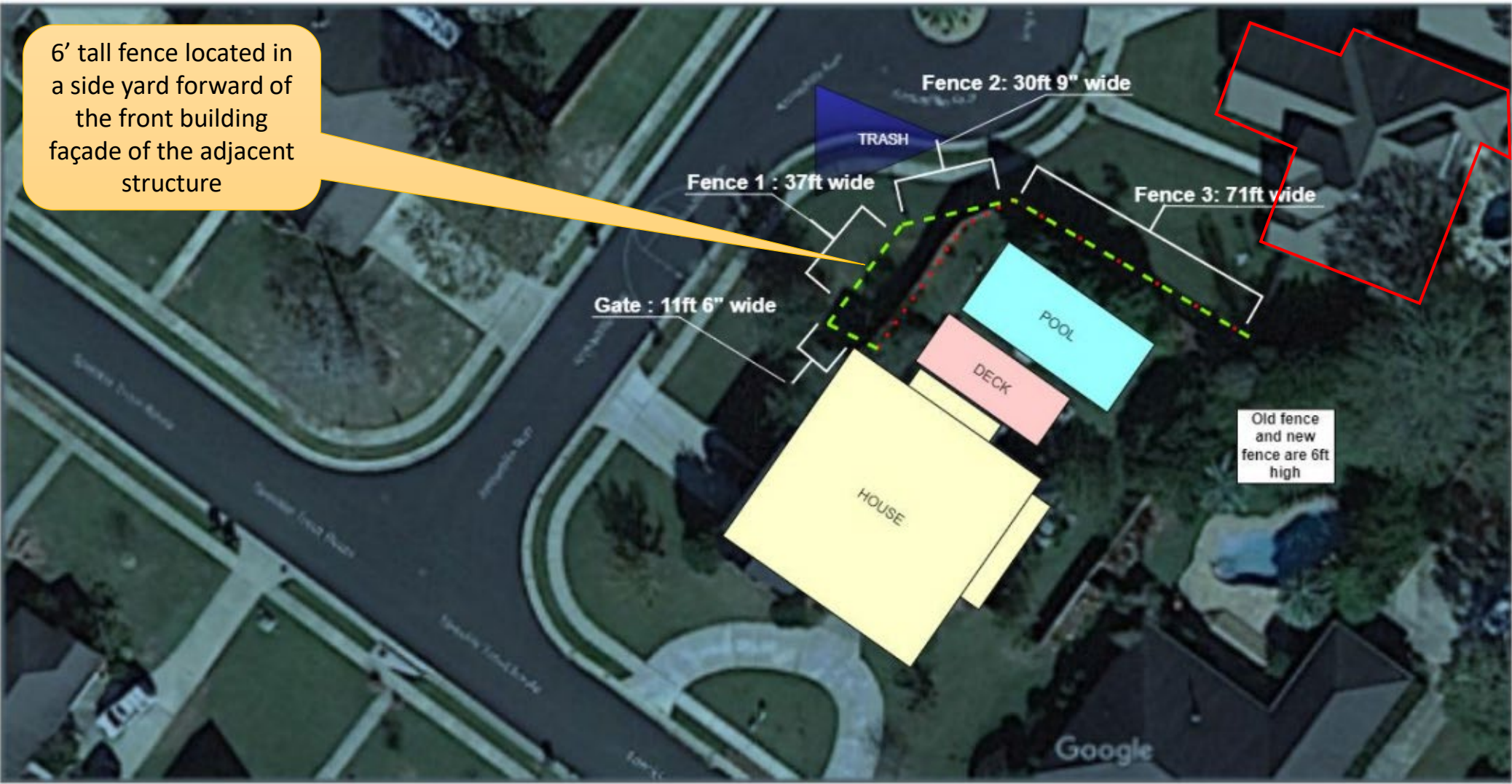
# Site Map



	Adjacent Zoning	Adjacent Land Use
North	RSF-2 Single Family District	Residential
South	RSF-2 Single Family District	Residential
East	RSF-2 Single Family District	Residential
West	RSF-2 Single Family District	Residential



6' tall fence located in a side yard forward of the front building façade of the adjacent structure



**LEGEND**

OLD FENCE . . . . .

NEW FENCE - - - - -

**Project Info**  
 Start - 8/1/2022  
 End - 8/15/2022

Construction material and old fence were hauled away via trailer parked on Armadillo Run and hauled to an appropriate landfill for construction material

**Dimensions:**  
 Gate - 11ft 6" w x 6ft h  
 Fence 1 - 37ft w x 6ft h  
 Fence 2 - 30ft 9" w x 6ft h  
 Fence 3 - 71ft w x 6ft h



Subject  
Property

2058-A

2058 A

State of Missouri, Boone County  
I certify this instrument was filed  
and taxes collected on:

2001 October -10 2:20PM

Instrument Number 629575 Pages 1.00  
Recording Fee 1.00  
Base 21.00 Plus Tax 1.00  
Index 1.00 SF  
Review  
Gloria T. Johns, Judge of Probate

2058 A

State of Alabama, Baldwin County  
I certify this instrument was filed  
and taxes collected on:

2001 October -10 2:25PM

Instrument Number 629575 Pages 1  
Recording Mortgage 1.00  
Bond 31.00 Min Tax  
Index 3.00 BP  
Archive  
Adrian T. Johns, Judge of Probate


VICINTY MA

Age Group	Percent
18-24	10
25-34	15
35-44	20
45-54	25
55-64	28
65-74	25
75-84	15
85+	10

3Y	4Y	5Y
180.00	180.00	180.00
25.00	25.00	25.00
25.00	25.00	25.00
78.54	78.54	78.54

SETBACK FROM ALL STREETS EXCEPT  
 HER LOTS 30' MINIMUM BUILDING  
 ( SIDE WITH LEAST FRONTAGE ON  
 LONG SETBACK ON SIDE STREET  
 SETBACK FROM ALL SIDE LOT LINES

SETBACK FROM ALL REAR LOT LINE

4 —  DENOTES CONCRETE MONUMENT  
5 H & C CAPPED REBAR LOCATED AT ALL CORNERS EXCEPT  
6 WHERE CONCRETE MONUMENTS ARE SHOWN  
7 ALL LOTS ARE SINGLE FAMILY RESIDENTIAL  
8 SMALLEST LOT SIZE = 15,000 SQ. FT.  
9 TOTAL NUMBER OF LOTS = 57  
10 TOTAL LINEAR FEET OF STREETS = 3,996.75'  
11 NO ACCESS TO ALABAMA STATE HIGHWAY NO. 225 EXCEPT  
12 VIA GENERAL CANNETT BOULEVARD  
13 (E) DENOTES STREET ADDRESS.

SPANISH FORT ESTATES  
TWENTY-FOURTH ADDITION, PHASE ONE

RESTER AND COLEMAN  
ENGINEERS, INC.

66 MIDTOWN PARK WEST MOBILE, ALABAMA 36606-414  
TELEPHONE NO. (334)-479-4518

DWG BY:		DATE:		REVISIONS						SCALE	
DW		4/5/00		BY:	DATE:	BY:	DATE:	BY:	DATE:	1"=100'	
CHKD BY:		DATE:		BY:	DATE:	BY:	DATE:	BY:	DATE:	FILE NO	
DEC		10/00		BY:	DATE:	BY:	DATE:	BY:	DATE:	S-22	

**ZVA22-81 ZUERCHER  
PROPERTY VARIANCE  
REQUEST**  
*RECORDED SUBDIVISION  
PLAT*

4



August 16, 2022

Open mesh fence  
design required by  
Planning District 10  
local provisions

**ZVA22-81 ZUERCHER  
PROPERTY VARIANCE  
REQUEST**  
*SUBJECT PROPERTY LOOKING  
SOUTHEAST FROM CUL DE SAC*<sup>48</sup>



# Previous Fence Image



**ZVA22-81 ZUERCHER PROPERTY  
VARIANCE REQUEST**  
*SUBJECT PROPERTY LOOKING SOUTHEAST  
FROM CUL DE SAC*



# Zoning Requirements and POA Letter

## 2.3.10 Planning District 10.

### 4. Height

A. *Determination of Height.* The height of fences and walls shall be measured from the ground level at the fence location. However, if the Planning Director determines that ground levels have been altered so as to provide for a higher fence, the Planning Director shall determine the ground level for the purposes of measuring the fence or wall height. In determining whether the ground level has been altered to increase height, the Planning Director may consider, but will not be limited to, the following:

- i. General ground elevation of the entire lot
- ii. Average elevation over the length of the fence
- iii. Ground elevation on both sides

B. *Front Yard.* A fence or wall located in the front yard shall not exceed four (4) feet in height and shall not be constructed in a manner in which results in a solid wall or fence. The fence or wall should be of an open mesh design.

For the purposes of this section, open mesh design may include picket type fencing provided that the minimum space between vertical members must be of one and one-half times the width and thickness of the vertical members or bars. In no case may the space between vertical members or bars be less than four inches.

C. *Side and Rear Yard.* A fence or wall located in the side or rear yard shall not exceed eight (8) feet in height and may be constructed in a manner in which a solid wall or fence is created.

D. *Corner lots and Double Frontage Lots.* On lots which have frontage on more than one street, fence in the front yards shall not exceed a maximum height of four (4) feet. A fence or wall in a side yard shall not exceed a maximum height of four (4) feet, forward of the front primary façade of adjoining homes or structures and must be of open mesh design.

A primary façade is the side of a building that faces the roadway or has the primary entrance. For the purposes of side yard fencing, the line which delineates the primary façade shall be drawn from a point of the façade which has the greatest length facing the roadway or side which includes the primary entrance.

E. *Decorative Features.* Decorative caps or ornamental features of up to twelve (12) inches may be added along the top of fence posts.

2 Armadillo Run

Daphne, AL 36527

The above property is not part of an active neighborhood association. Spanish Fort Estates is not run by an association so no approval from the association for this property.

Sincerely,



Recoverable Signature

X

Daniel Zuercher

Signed by: cf35dffa-0de5-48ba-96f3-1781e70acbcf

# Public Comments

(may not be an exhaustive list of all public comments)

Baldwin County Planning & Zoning Board

Case No: ZVA22-81

This letter is in response to the notice we received concerning our neighbors newly constructed and extended fence at 2 Armadillo Run which is a corner lot. We live next door behind their property at 4 Armadillo Run in the central portion of a cul-de-sac.

We would like to voice our disapproval of any variance given to this fence. The fence is not only in violation of set rules and regulations, but it also completely blocks our view in our front yard. Our home is located on a cul-de-sac for a reason. We are new grandparents to a baby girl that we will no longer be able to watch her play in the cul-de-sac from our porch like we were able to do with her brother, our only grandson.

Most residential homes have a fence located in the back yard, but when living on a cul-de-sac, your front view is very easily obstructed, especially by a fence that is 6' tall and extends well beyond the length of the previous fence by an additional 10' – 12' and stands 6' high. This is very substantial not to mention the design of the fence is solid and matches no other fence in our neighborhood.

Once we realized the new fence was 6' tall, solid, and appeared to be extending well beyond the previous footprint by 10'-12', we asked the contractor if they were aware the fence was not in compliance with our neighborhood standards/guidelines. The contractors stated they were aware and even advised the customers/homeowners against it, but they were not concerned and wished to continue building the fence as initially planned.

It does appear that a proper building permit was not obtained, and they are now asking for forgiveness/permission. In my opinion, if this variance is allowed it will forever change the dynamics of any future planning and zoning issues that arise of a similar nature.

Purchasing a corner lot always comes with restrictions and is 100% the buyer's choice. The rules and regulations regarding a corner lot is that the fence be no more than 4' tall or that it must be transparent/see through. In this case, it is neither. Should a variance be approved, it will set a precedent that others can do the same, including building a structure/fence that is against code and that clearly obstructs others view.

Years ago, I as well as several others in our neighborhood assisted Blayne Pierce to get these rules and regulations put in place regarding corner lot restrictions for District 10 to prevent this from happening. Hopefully, our hard work that not only benefits us, but all residents will prevail in this matter.

We sincerely ask that you please deny this request allowing us to have the view we've had for over 18 years, as well as any future homeowner who will also not want an obstructed view from their front yard.

Thank you for your time and consideration,

Pamela Campbell  
4 Armadillo Run  
Spanish Fort, AL 36527

Planning and Zoning Board of Adjustments 1

I would like to express a disapproval of the legal fence constructed on 2 Armadillo Run. In my opinion this was an outright disregard for rules and regulations by not getting a proper permit and to research current rules. It is the home owners responsibility to know and understand rules, regulations and ordinance's. To get a variance one must prove a 'hardship' as you well know and the residents/owners made their own decision to construct not only a larger foot print structure but to cutoff and block neighbor's views. They decided to construct a fence that goes against codes and in place ordinance's.

Please stand firm to the current rules, as any bending would set a precedent to any and all future neighbors and residents.

I would like to note also, the county sign stating an upcoming meeting about the change was only in the yard for a few days. I was under the impression it stayed until the meeting time. Forgive me if I have a misunderstanding on the sign notice timeframe. I just find it odd it only stayed up a few days.

Thanks  
SFE Resident

To the Planning and Zoning Board of Adjustments:

We are the owners and occupants of [1 Armadillo Run, Spanish Fort, AL 36527](#). We live on the corner directly looking at the fence on Daniel Zucher's property on the corner of [2 Armadillo Run, Spanish Fort AL 36527](#). The fence is set in from the sidewalk and is a new wooden construction and looks good - not unsightly. We have no problem with the height of the fence and agree to the variance on the fence.

James & Annette Sebastian  
[1 Armadillo Run, Spanish Fort, AL 36527](#)  
251-654-2596

We are the owners and occupants of [25 Speckle Trout Route Spanish Fort AL 36527](#). We live directly across looking at the home of Daniel Zucher's property on the corner of [2 Armadillo Run, Spanish Fort AL 36527](#). The fence is not in our daily view but it appears to be of quality made, appears to be sturdy - not unsightly. We have no problem with the height of the fence and agree to the variance on the fence for this home.

Thank you,  
Tony and Amy Palazzo

January 17, 2023

51



# Staff Analysis and Findings

## 1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

Zoning within Planning District 10 was adopted by the County Commission on May 15, 2007. According to the subdivision plat for Lot 20, Phase One, Twenty-Fourth Addition, Spanish Fort Estates, subject property is 17,261sf in size, and thus exceeds the lot size requirement of RSF-2 zoning. Further, subject property is 95' wide along Speckle Trout Route, and thus exceeds the lot width requirements of RSF-2 zoning. Subject property contains some radiused lot lines but is generally a typical rectangular-shaped lot. The shape and size of the lot have not prevented the use of the lot for a single-family residential home that includes a swimming pool. Though the subdivision pre-dates the adoption of zoning, the information included on subdivision slide # 2058-A, recorded October 10, 2001 exceeds the requirements of RSF-2 zoning. Staff does not perceive any exceptional narrowness, shallowness, or shape of the subject property that justifies a variance to allow the non-compliant fence to remain in place. The subdivision in which subject property is located pre-dates the establishment of zoning in Planning District 10, but exceeds the zoning requirements as described above.

RSF-2 Required minimum lot size: <b>15,000sf</b>	Actual size: <b>17,261sf</b>	Lot shape hardship:	<b>NONE</b>
RSF-2 Required minimum lot width: <b>80ft</b>	Actual lot width: <b>95ft</b>	Lot narrowness/shallowness hardship:	<b>NONE</b>

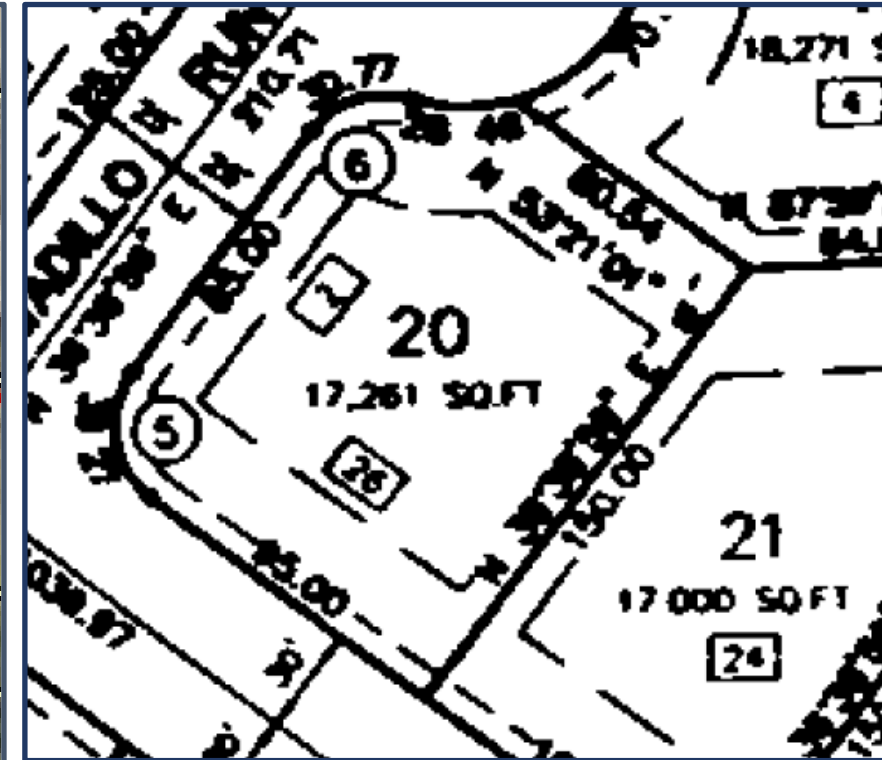
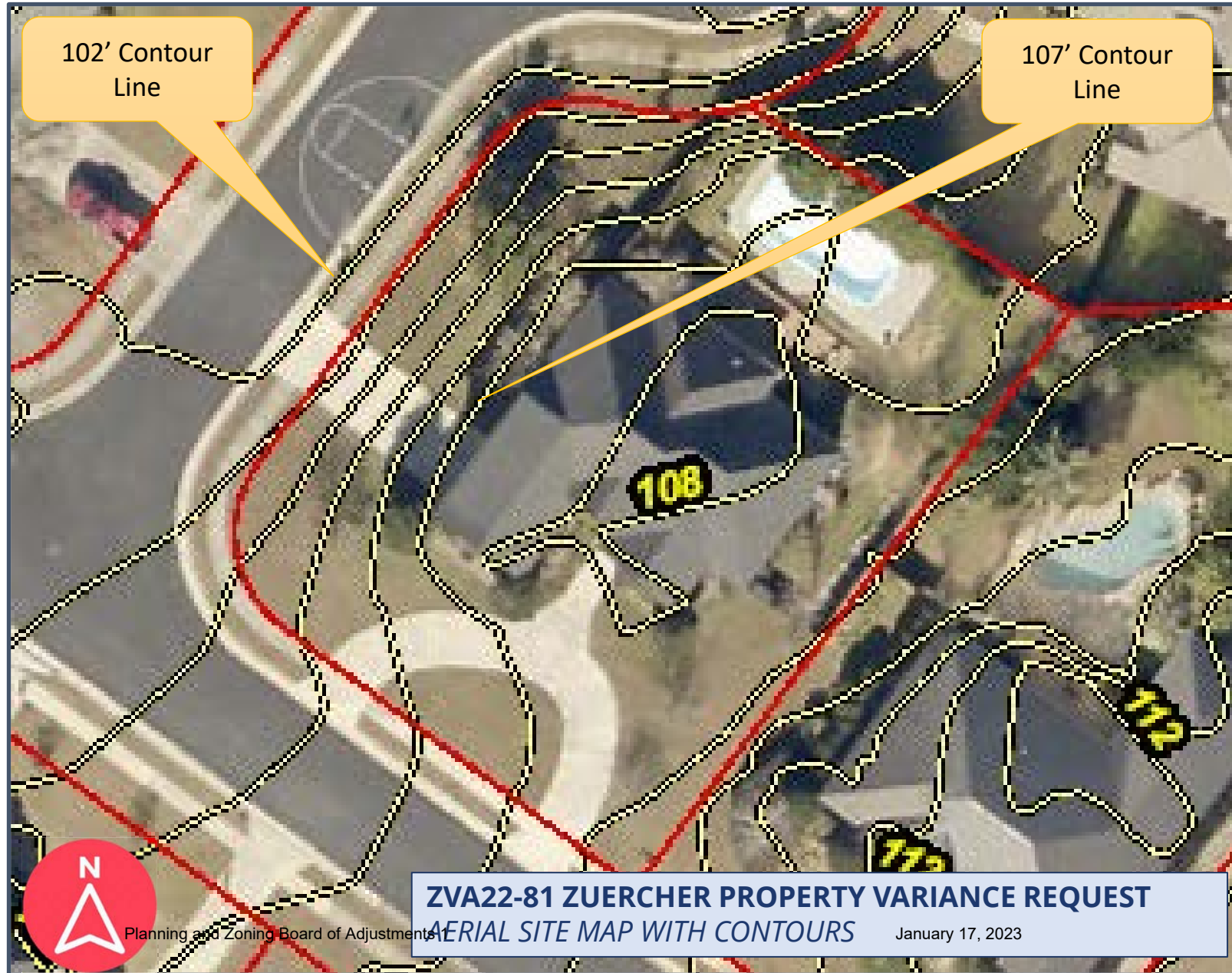
# Staff Analysis and Findings

## **2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.**

As mentioned previously, the subdivision plat was recorded in 2001 and the subdivision plat would not have been recorded unless all the necessary improvements required for the development to function were installed. This development includes sidewalks, curb and gutter, etc. for which the original developer would have been required to furnish and install as well as conduct necessary grading and earthwork so that the storm drainage system for the development would function to the satisfaction of the County Engineer. The topography lines from the parcel viewer appear to show the lot sloping from an elevation of 107' near the existing home to an elevation of 102' at the edge of curb along Armadillo Run. This topography was likely a result of the drainage requirements of the original development to sheet flow storm water from the lot to the curb and gutter so that storm water would be handled by the stormwater drainage system. Staff perceives that improvements made by a developer to a lot within a subdivision for which those improvements were installed prior to the construction of homes do not qualify for a hardship. Because those improvements were necessary to meet a technical engineering standard, staff asserts those improvements are a self-created or self-imposed condition not created by the land itself. As a result, staff does not perceive that the subject property establishes exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property which require a variance to allow the non-compliant fence to remain.



# Staff Analysis and Findings



Excerpt of Slide 2058-A of subdivision plat to indicate Lot 20 of Phase One, Twenty-Fourth Addition, Spanish Fort Estates

# Staff Analysis and Findings

**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.**

The subject property is zoned RSF-2, Single Family District which allows for single-family dwelling and related accessory uses. A single family residential home as well as a swimming pool are currently in place on subject property and thus the property has successfully accomplished the land use allowed by RSF-2 zoning. Staff perceives the request to allow the fence with its height and configuration not in conformance with the zoning ordinance as a convenience for subject property. The non-compliant fence is not required to preserve a property right on the subject property because the subject property is already in use as allowed by RSF-2 zoning. Further, denial of the variance does not prevent utilization of the property for single family residential purposes because the single-family residential use is currently in operation.



# Staff Analysis and Findings

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

Staff does not believe the granting of this application, **in general**, will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

*However, staff is unable to determine if approved the requested variance will unreasonably diminish or impair established property values within the surrounding areas because it is not feasible to gather sufficient data to make that determination for presentation at the public hearing. The effect of allowing a “for convenience” item not otherwise allowed by the zoning ordinance may affect the property value of subject property and surrounding properties in a way that cannot be reasonably quantified for a variance request public hearing. Further, in many cases it is not possible to conduct an exhaustive search of prior records regarding local provisions of planning districts that were approved several years in the past, a present that information to a BOA in the time allotted to prepare staff reports. Staff examined the meetings minutes of both the County Commission meeting and the Planning Commission meeting at which Planning District 10 was adopted and found no explanation for the fencing height requirements of the local provisions. Staff may possibly be able to verbalize more information regarding the origin of the fencing requirements of Planning District 10’s local provisions at the Board of Adjustment meeting. It is possible the lower fence height is required to improve natural surveillance within Planning District 10, but that information could not be found from a cursory review of the minutes of prior meetings.*


# Staff Analysis and Findings

**5.) Other matters which may be appropriate.** The property is not part of an active neighborhood association per correspondence from the applicant. Per tax records, the swimming pool was built in 2003 prior to zoning to the adoption of Planning District 10. If the previous fence was installed prior to the adoption of zoning, the previous fence was “grandfathered” and was an existing nonconformity. However, because the previous fence was demolished the replacement fence is required to comply with the zoning ordinance.

2 Armadillo Run  
Daphne, AL 36527

The above property is not part of an active neighborhood association. Spanish Fort Estates is not run by an association so no approval from the association for this property.

Sincerely,

 Recoverable Signature

X Daniel Zuercher

Signed by: cf35dffa-0de5-48ba-96f3-1781e70acbcf



# ZVA22-81 ZUERCHER PROPERTY

## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: J. Buford King, Deputy Director

The applicant is requesting a variance from Section 2.3.10.3 of the *Baldwin County Zoning Ordinance* related to the required fence height and fence material required by the local provisions of Planning District 10.

Staff recommends **DENIAL** of the variance request due to the lack of hardship on the land.

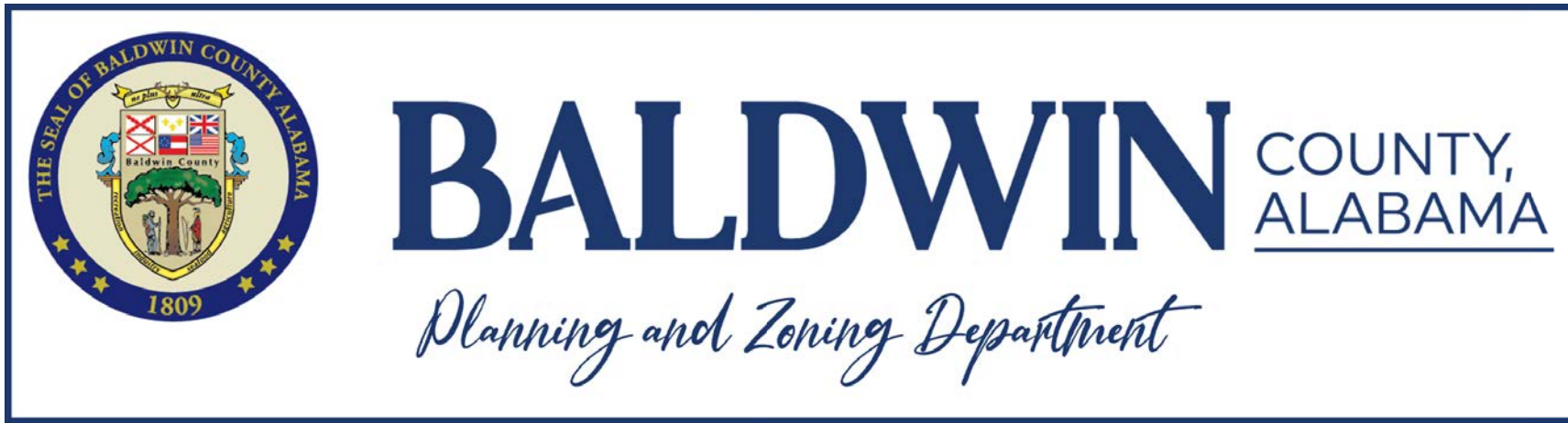
### GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.

January 17, 2023





BALDWIN COUNTY BOARD OF ADJUSTMENT #1

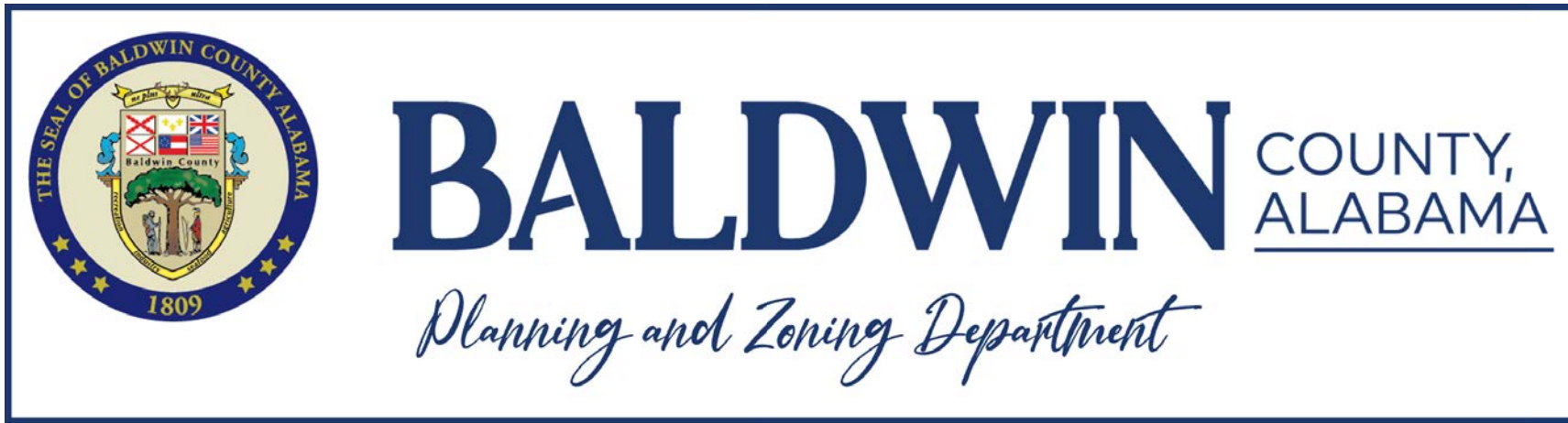
NEXT REGULAR MEETING

FEBRUARY 28, 2023 @ 4:00PM

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL





BALDWIN COUNTY BOARD OF ADJUSTMENT #1

REGULAR MEETING

JANUARY 17, 2023

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL

# ZVA22-000098 MORGAN PROPERTY

## VARIANCE REQUEST

Lead Staff: J. Buford King, Deputy Director

- **Planning District:** 37 **Zoned:** RSF-3
- **Location:** Subject property is located in the Stuart Park Subdivision, Lot 22
- **Parcel ID:** 05-46-02-10-0-000-041.576
- **PPIN:** 294660
- **Lot Size:** 17,280sf
- **Physical Address:** 21399 Brick Stack Ln
- **Applicant:** Viktoriya Morgan
- **Owner:** Viktoriya Morgan





# ZVA22-000098 MORGAN PROPERTY

## VARIANCE REQUEST

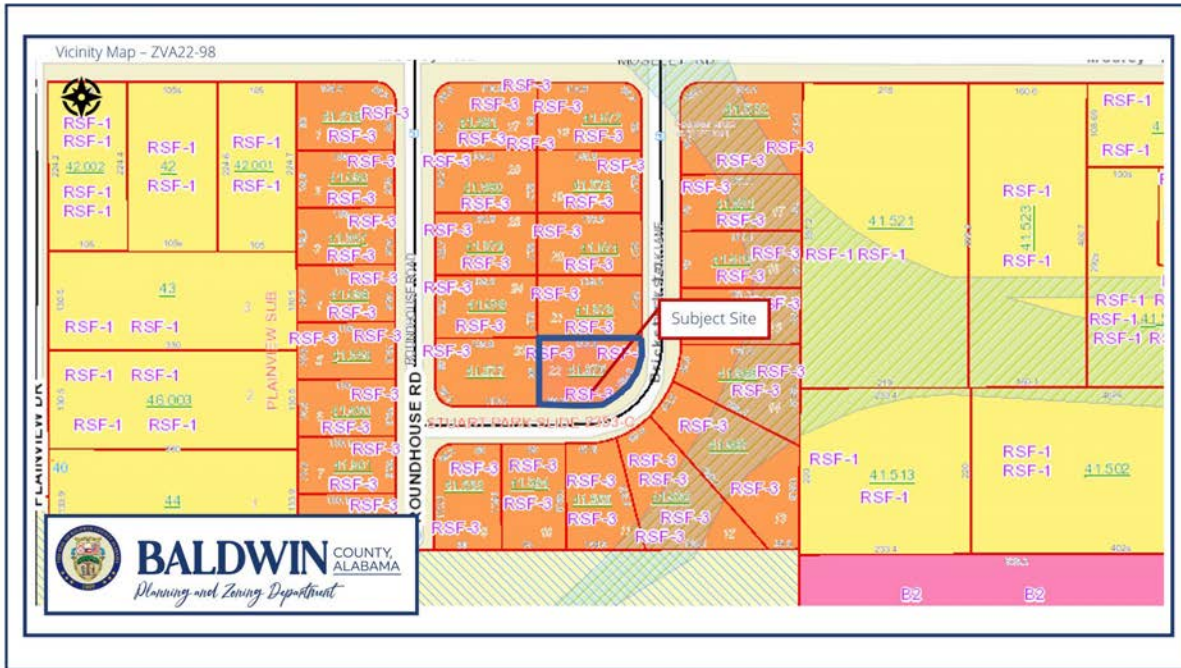
Lead Staff: J. Buford King, Deputy Director

The applicant is requesting a variance from Section 4.4.5 and 12.5.2 of the Baldwin County Zoning Ordinance as it pertains to the front and side yard building setback to allow construction of a single-family dwelling *that will cross the building setback lines indicated on the recorded subdivision plat.*

Staff could not perceive a hardship on the property therefore recommends Case ZVA22-95 be **DENIED** due to lack of a hardship on the land unless information otherwise is revealed at the public hearing.



# Locator Map



# Site Map



## Adjacent Zoning

North	RSF-3, Residential Single Family District
South	RSF-3, Residential Two Family District
East	RSF-1, Residential Single Family District
West	RSF-1, Residential Single Family District

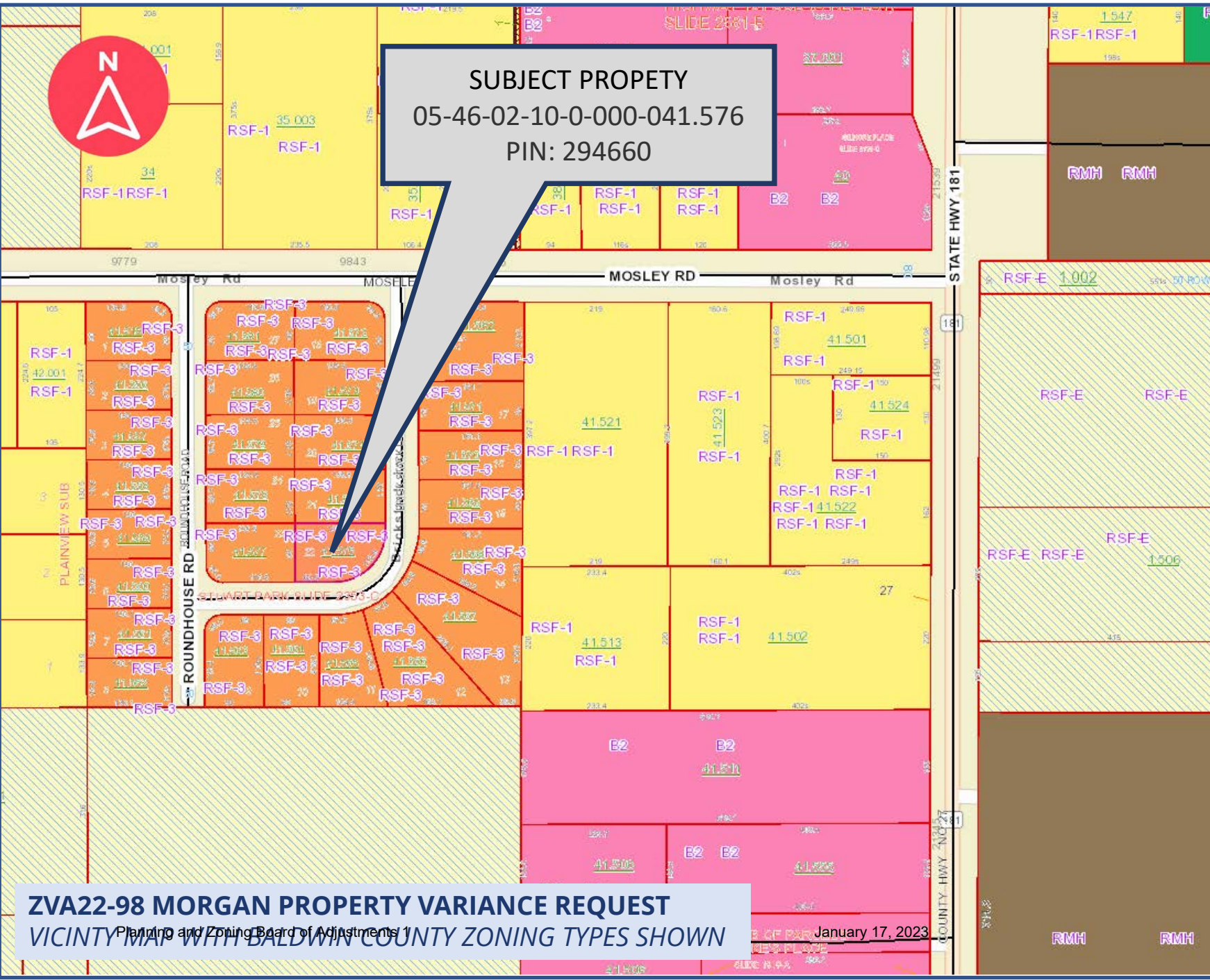
## Adjacent Land Use

Residential
Residential
Residential
Residential





SUBJECT PROPERTY  
05-46-02-10-0-000-041.576  
PIN: 294660

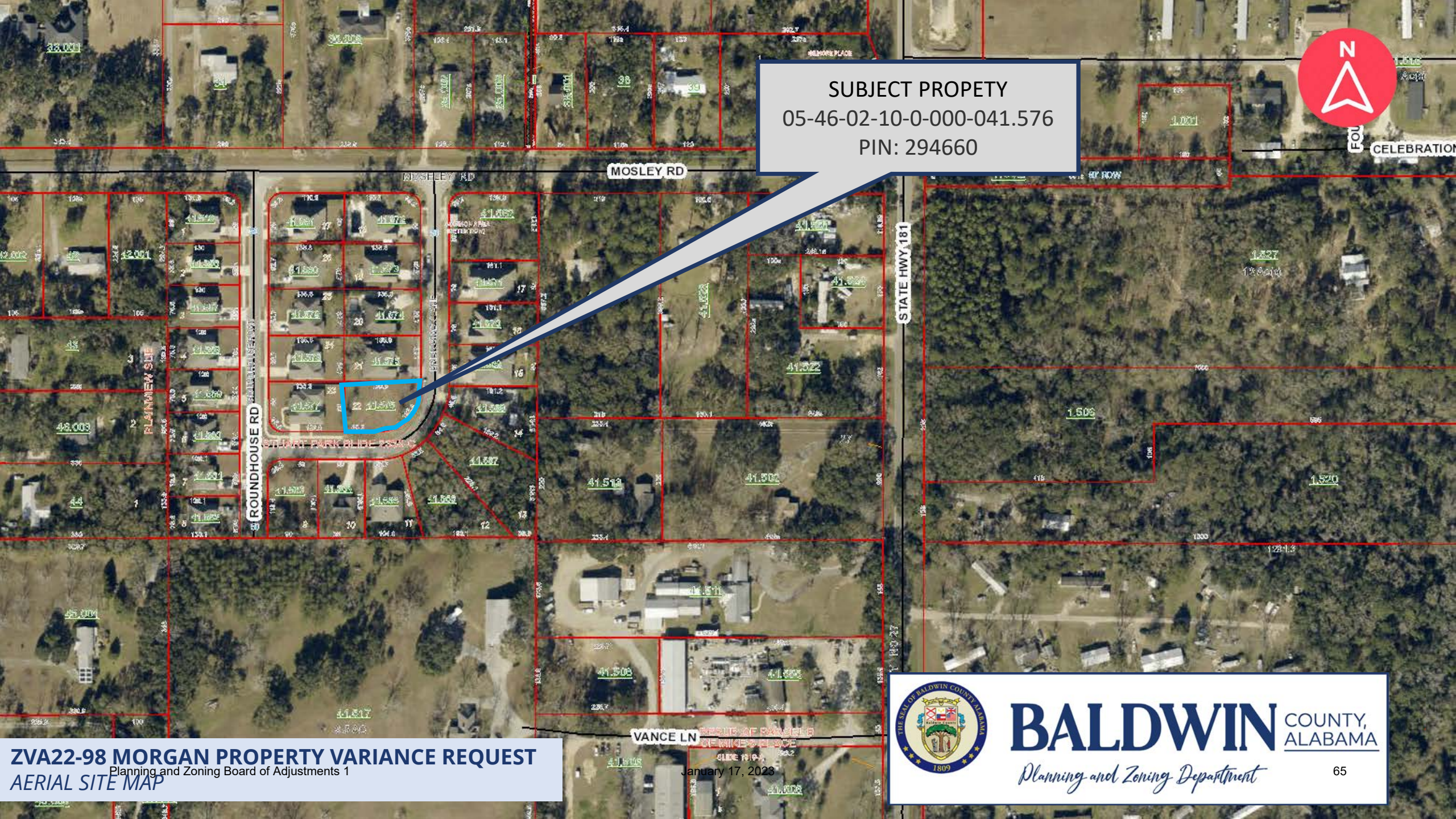


- Rural District (RR)
- Rural Agricultural District (RA)
- Conservation Resource District (CR)
- Residential Single Family Estate District (RSF-E)
- Residential Single Family District (RSF-1)
- Residential Single Family District (RSF-2)
- Residential Single Family District (RSF-3)
- Residential Single Family District (RSF-4)
- Residential Two Family District (RTF-4)
- Residential Single Family District (RSF-6)
- Residential Two Family District (RTF-6)
- Residential Multiple Family District (RMF-6)
- Residential Manufactured Housing Park District (RMH)
- Marine Recreation District (MR)
- Outdoor Recreation District (OR)
- Tourist Resort District (TR)
- Recreational Vehicle Park District (RV-1)
- Recreational Vehicle Park District (RV-2)
- Professional Business District (B-1)
- Neighborhood Business District (B-2)
- General Business District (B-3)
- Major Commercial District (B-4)
- Limited Business District (LB)

**ZVA22-98 MORGAN PROPERTY VARIANCE REQUEST**  
Planning and Zoning Board of Adjustments  
VICINITY MAP WITH BALDWIN COUNTY ZONING TYPES SHOWN

January 17, 2023





SUBJECT PROPERTY  
05-46-02-10-0-000-041.576  
PIN: 294660





# Property Images

Nov 30, 2022 at 11:01:31 AM

Subject Property





# Property Images

Adjoining Property to The East

Nov 30, 2022 at 11:05:03 AM





# Property Images

Adjoining Property to the West

Nov 30, 2022 at 11:03:03 AM





# Property Images

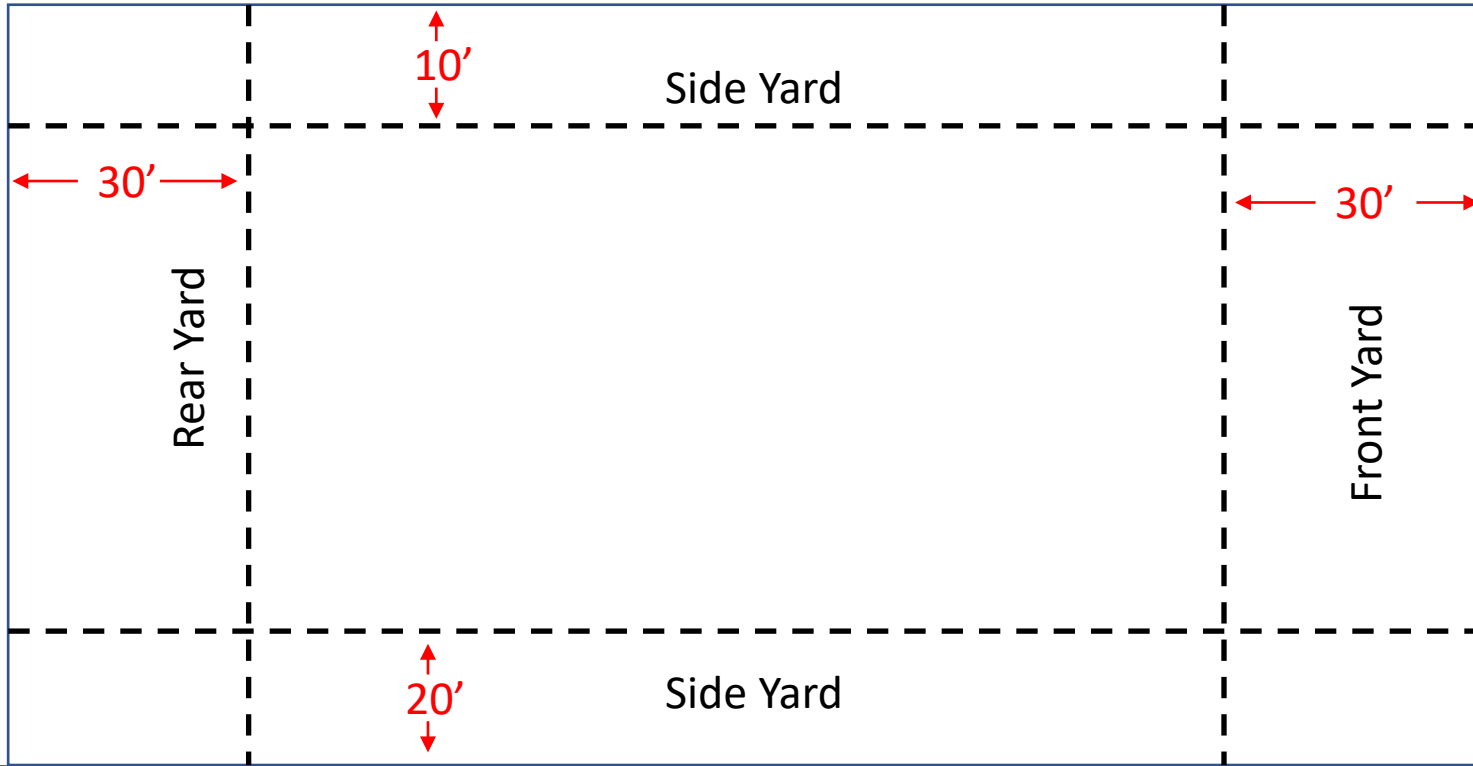
Adjoining Property Across the street

Nov 30, 2022 at 11:01:51 AM





In unzoned areas, 30' Front, 30' Rear, and 10' Side setbacks are the most common Building Setback Lines as determined by the **Subdivision Regulations**



Side Street Right-Of-Way (typically 50' wide with two, 10' travel lanes)

Right-Of-Way (typically 50' wide with two, 10' travel lanes)



FOR EXAMPLE  
PURPOSES ONLY  
**NOT TO SCALE**

A STREET SIDE SETBACK IS  
TYPICALLY LARGER THAN A  
CONVENTIONAL SIDE  
SETBACK TO ACCOUNT  
FOR UTILITIES THAT MAY  
BE PLACED WITHIN  
EASEMENTS ALONG THE  
EDGE OF THE ROW  
(AMONG OTHER THINGS)

# Subdivision Plat

## SITE DATA:

TOTAL ACREAGE OF TRACT = 9.41± ACRES  
SMALLEST LOT SIZE IS LOT 2 = 0.23± ACRES  
TOTAL NO. OF LOTS = 27  
LINEAR FEET OF STREETS = 1430  
PROPOSED LAND USE: SINGLE FAMILY RESIDENTIAL  
CURRENT ZONING: UNZONED  
CURRENT CONTIGUOUS LAND ZONING: UNZONED

## OWNER OF RECORD & SUBDIVIDER:

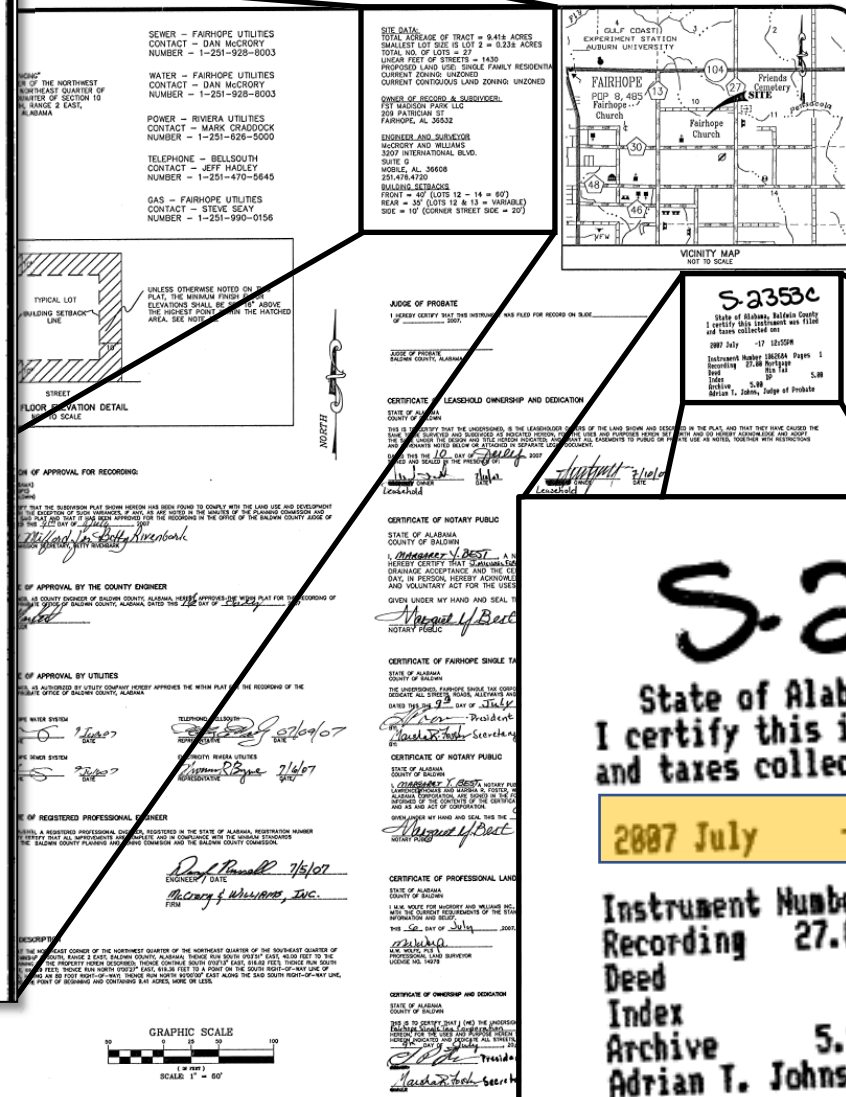
FST MADISON PARK LLC  
209 PATRICIAN ST  
FAIRHOPE, AL 36532

## ENGINEER AND SURVEYOR

McCRORY AND WILLIAMS  
3207 INTERNATIONAL BLVD.  
SUITE G  
MOBILE, AL. 36608  
251.476.4720

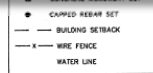
## BUILDING SETBACKS

FRONT = 40' (LOTS 12 - 14 = 60')  
REAR = 35' (LOTS 12 & 13 = VARIABLE)  
SIDE = 10' (CORNER STREET SIDE = 20')



1. 05/04/2007: MINOR REVISIONS PER 04/30/2007 REVIEW BY W. WOLFE.
2. CHANGED BEARING SET BACKS TO 10' AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.
3. BEARS SHALL BE PLACED AT LEAST 20 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
4. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
5. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
6. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
7. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
8. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
9. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
10. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
11. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
12. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.
13. BEARS SHALL BE PLACED AT LEAST 10 FEET FROM EVERY INTERSECTION AND AT LEAST EVERY 10 FEET THEREAFTER.

LOT	BEARING	DISTANCE	BEARING	DISTANCE
CS	147.00'	140.00'	N45°00'00"E	141.42'
OS	38.27'	25.00'	S45°00'00"W	35.30'
CS	38.27'	25.00'	N45°00'00"W	35.30'



**McCrory & Williams**  
INCORPORATED  
ENGINEERS SURVEYORS

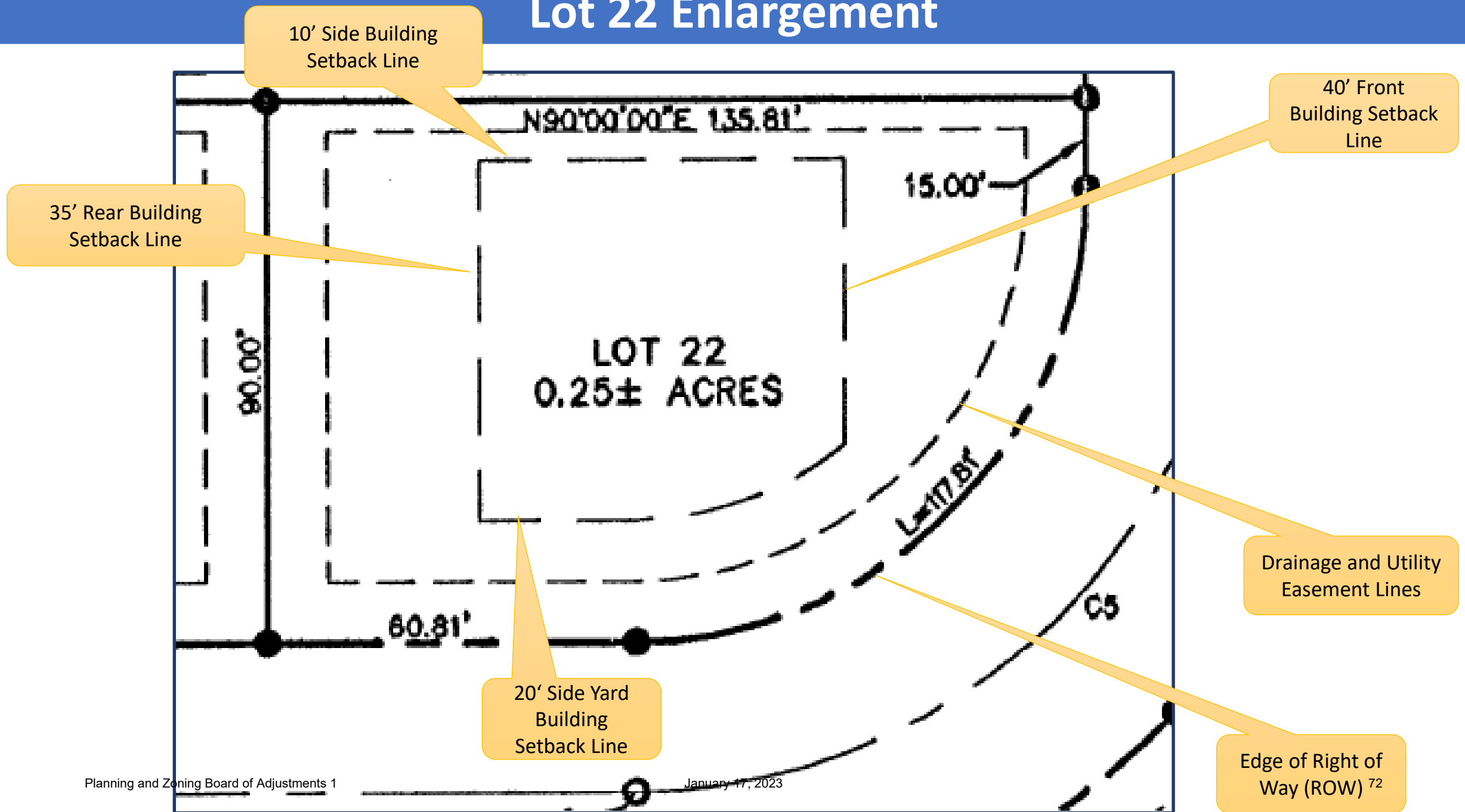
3207 INTERNATIONAL DRIVE, SUITE G  
MOBILE, ALABAMA 36608  
PHONE: (251) 476-4720  
FAX: (251) 476-4721  
EMAIL: mcrory@mcwilliams.com

SECTION 10 TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA

SCALE: 1"=50' DATE: Jun. 18, 2007 DRAWN BY: NAR APPROVED BY: SHEET 1 OF 1

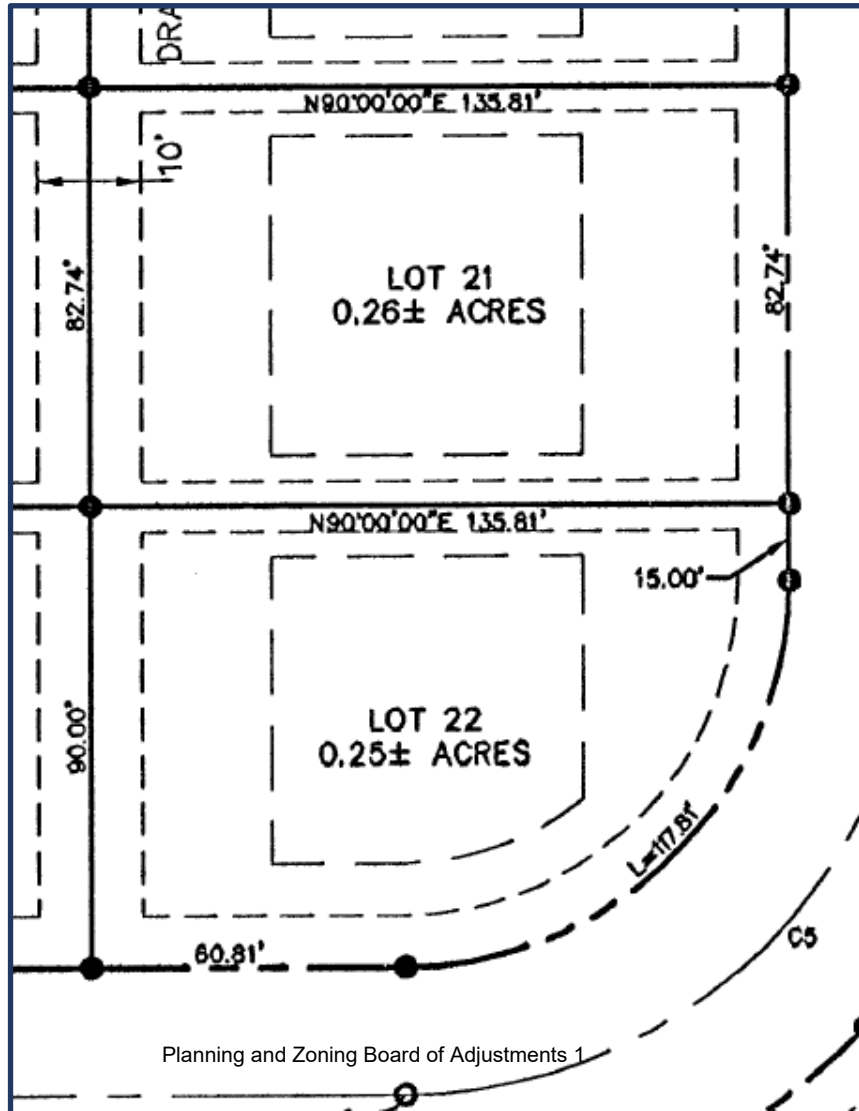


# Lot 22 Enlargement

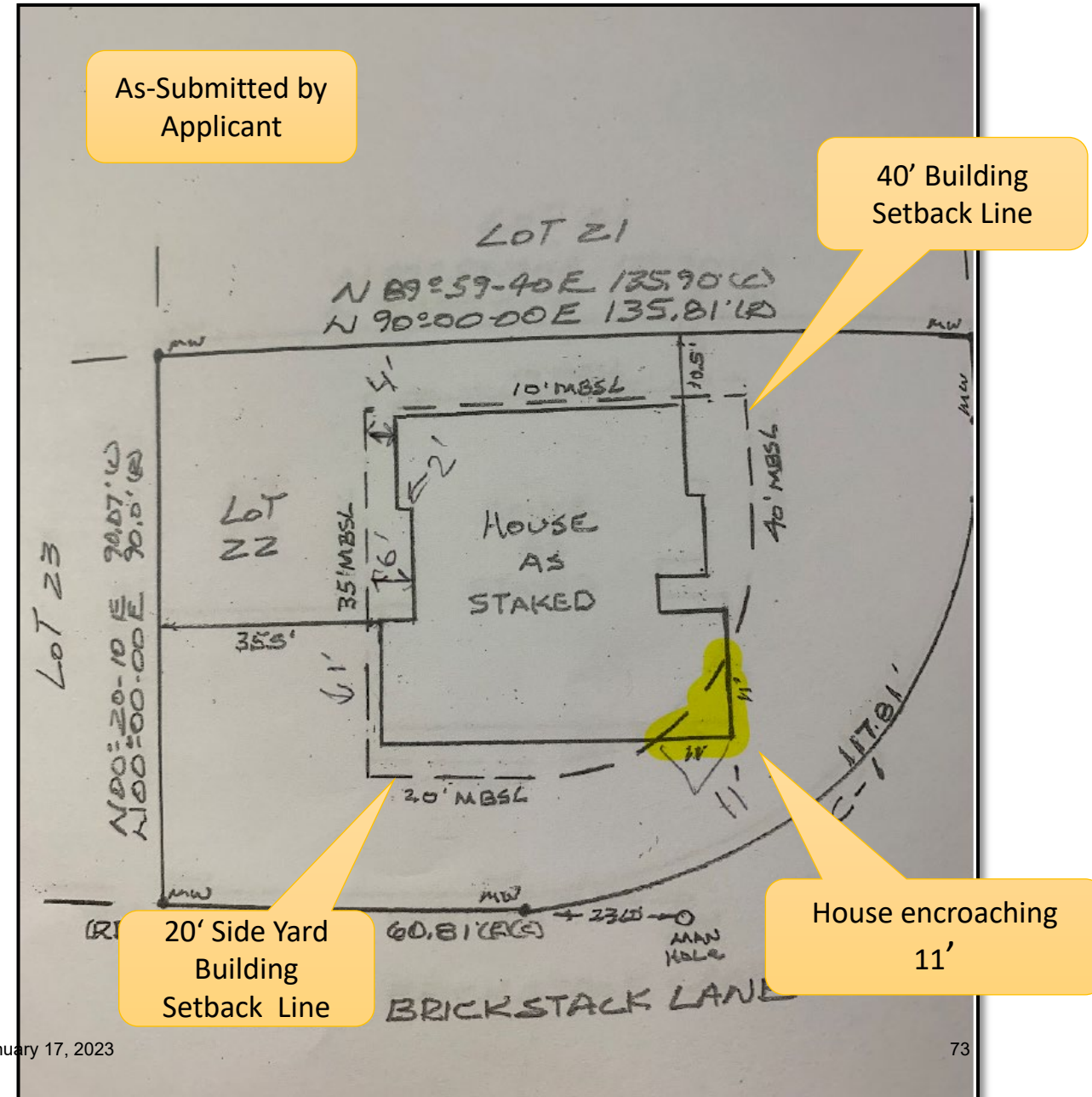


BUILDING SETBACKS

FRONT = 40' (LOTS 12 - 14 = 60')  
 REAR = 35' (LOTS 12 & 13 = VARIABLE)  
 SIDE = 10' (CORNER STREET SIDE = 20')



As-Submitted by  
Applicant



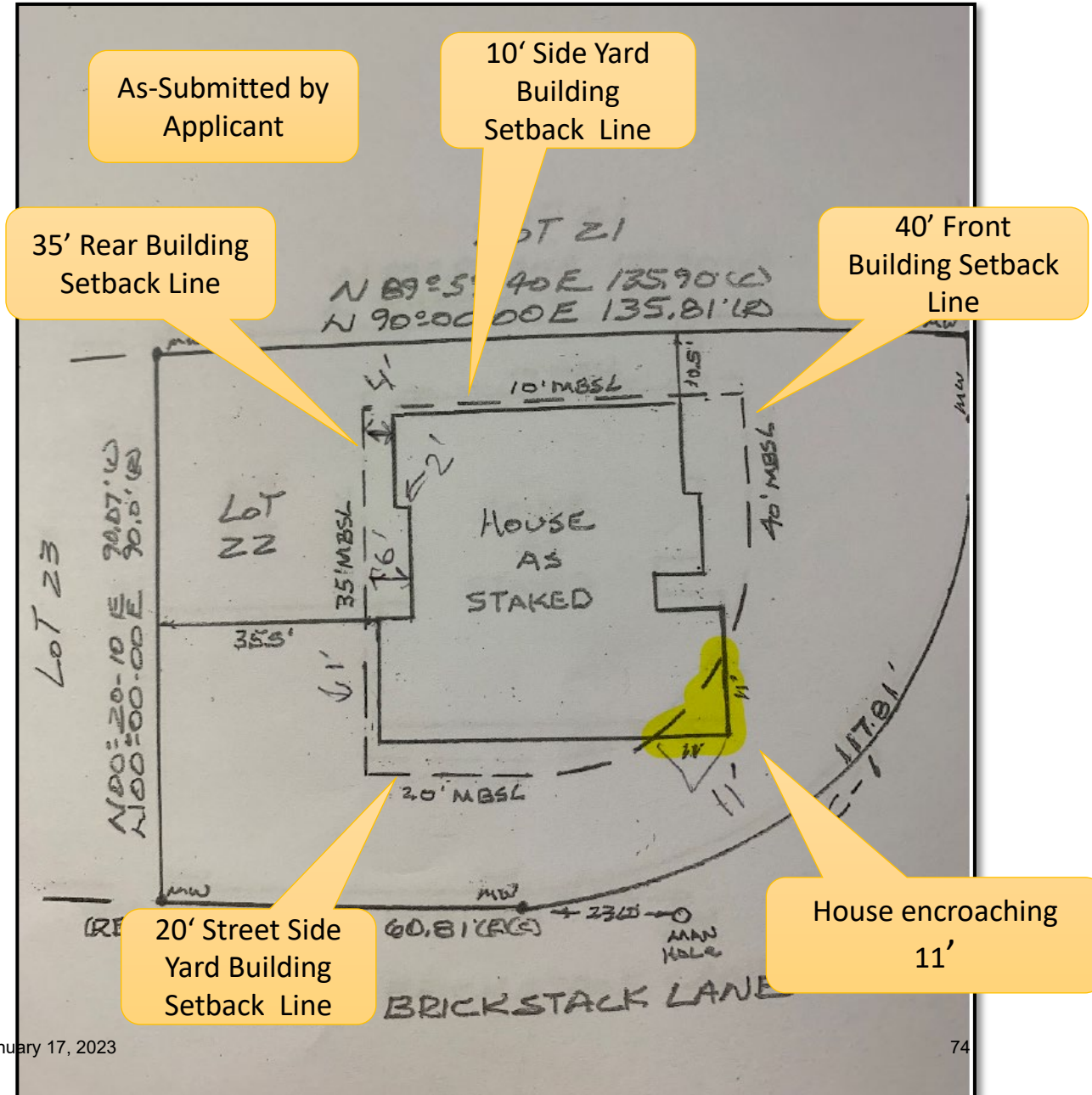
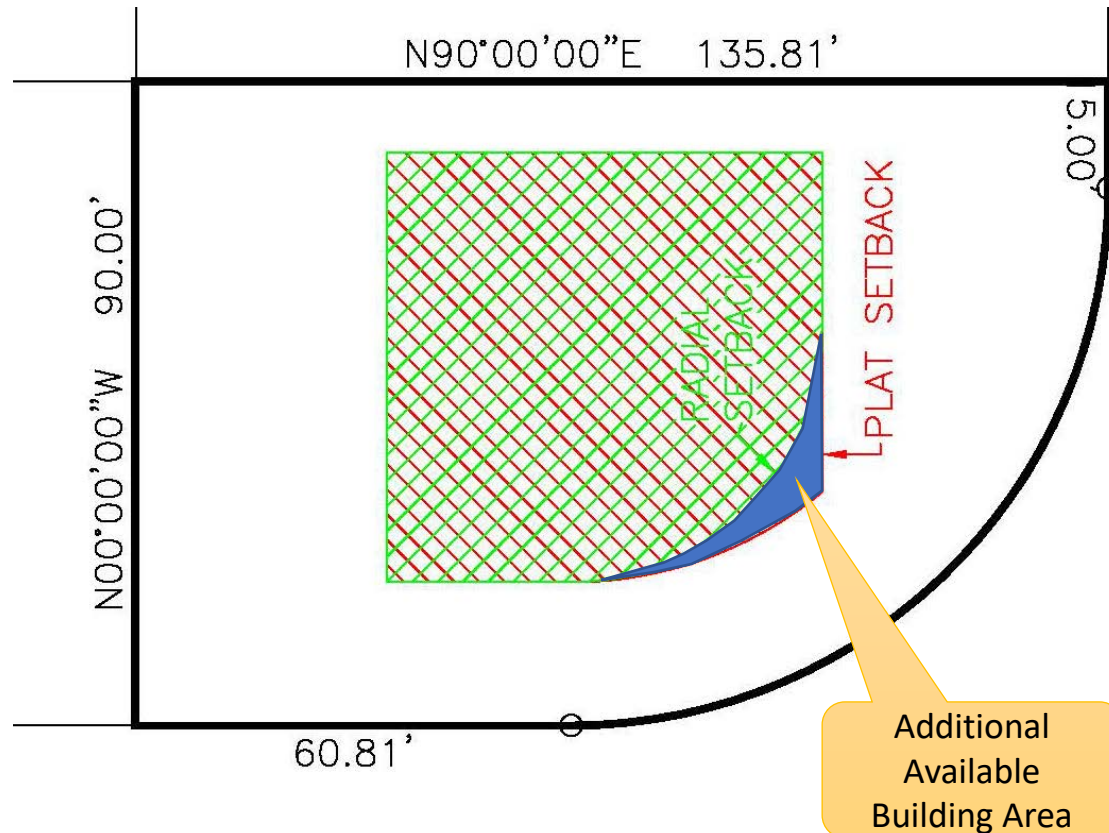


# Site Plan

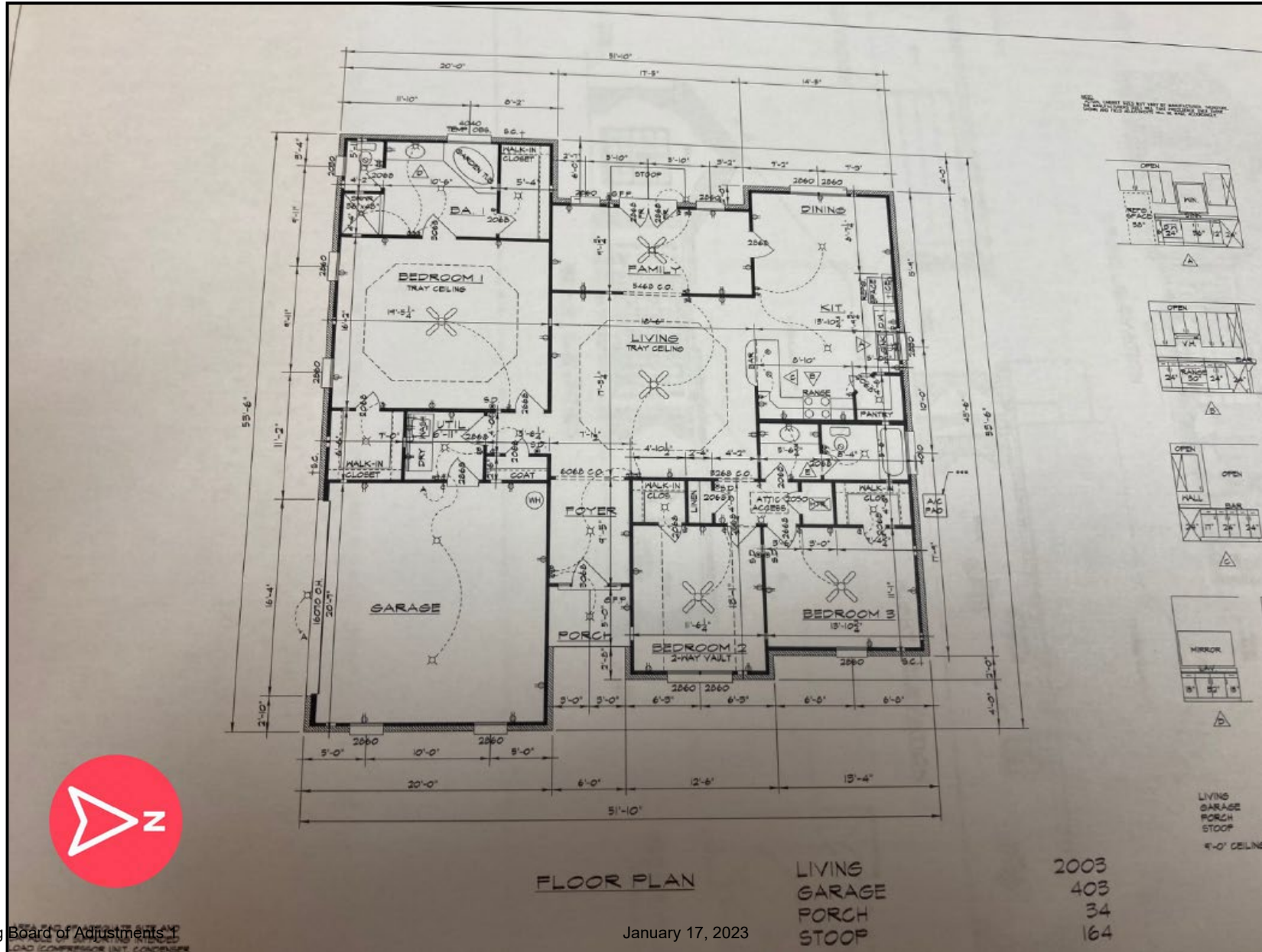
## BUILDING SETBACKS

FRONT = 40' (LOTS 12 - 14 = 60')  
 REAR = 35' (LOTS 12 & 13 = VARIABLE)  
 SIDE = 10' (CORNER STREET SIDE = 20')

Platted vs  
Submitted  
Overlay



# Floor Plan





# Zoning Requirements

## Section 12.5 Yard Requirements

12.5.1 Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend more than 2-feet beyond the yard area requirements. (For additional provisions see Section 22.2, Definitions "Accessory Structure" and "Structure")

12.5.2 Yard requirements shall be modified subject to the following conditions:

- (a) Through lots shall provide the required front yard on each street.
- (b) Decks and unroofed porches may project into a required front yard for a distance not to exceed 5-feet and a required rear yard not to exceed 10-feet.
- (c) Uncovered steps and handicap ramps may project into a required front, or side yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.
- (d) On a corner lot, the side yard from the side lot line which abuts a street shall be a minimum of 20-feet.
- (e) Where a subdivision has been approved by the Planning Commission in accordance with the *Baldwin County Subdivision Regulations* prior to the enacting of zoning ordinances with front, rear or side yard setbacks different than the minimums required herein, the setbacks as recorded on the plat shall apply.

4.4.4 *Special exception.* Except as provided by Section 2.3: *Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception: Not Applicable

4.4.5 *Area and dimensional ordinances.* Except as provided by Section 2.3: *Establishment of Zoning in Planning Districts*, Section 12.4: *Height Modifications*, Section 12.5: *Yard Requirements*, Section 12.6: *Coastal Areas*, Section 12.8: *Highway Construction Setbacks*, Section 18.4 *Variances*, and Article 20: *Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure	35-Feet
Maximum Height in Habitable Stories	2 ½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	10,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

# Staff Analysis and Findings

## 1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

Zoning within Planning District 37 was adopted by the County Commission on July 19<sup>th</sup>, 2022. Per the Site Plan submitted by the applicant, the parcel is 17,820 square feet, measuring approximately 132.8" x 135.8". The required minimum lot size for RSF-3 is 10,000 square feet with an 80' minimum lot width at building line, and a 40' minimum lot width at street line. Staff does not perceive any exceptional narrowness, shallowness, or shape of the subject property. Though a portion of the lot has a radiused shape, the surveyor of record explicitly indicated rectangular building setback lines as would typically be included on a rectangular lot onto subject property's recorded subdivision plat, likely in an effort to eliminate confusion regarding the location of the building setback lines. The subdivision plat was recorded on July 17, 2007 and thus the setback requirements of subject property have existed in the public realm for just over fifteen (15) years.

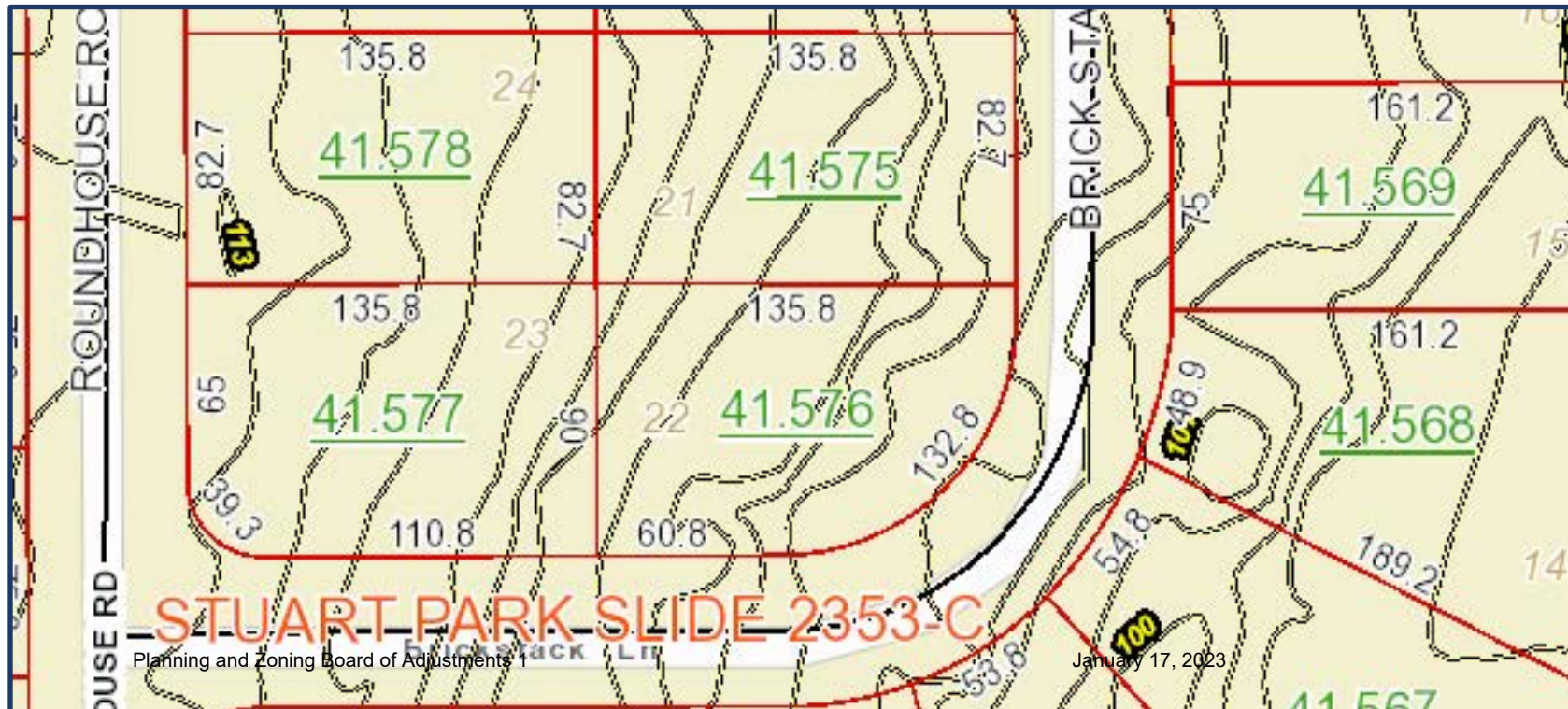
RSF-3 Required minimum lot size: <b>10,000sf</b>	Actual size: <b>17,820sf</b>	Lot size hardship:	<b>NONE</b>
RSF-3 Required minimum lot width: <b>80ft</b>	Actual lot width: <b>90ft</b>	Lot narrowness/ shallowness hardship:	<b>NONE</b>



# Staff Analysis and Findings

## 2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

As mentioned previously, the subdivision plat was recorded in 2007 and the plat would not have been recorded unless all the necessary improvements required for the development to function were installed. This would include, but not be limited to necessary grading of the site to allow the drainage system for the development to function. Staff does not perceive that the subject property establishes exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property which require a variance.



# Staff Analysis and Findings

**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.**

The subject property is zoned RSF-3, Single Family District which allows for single-family dwelling and accessory uses to that. Staff perceives the proposed building setback line crossing as a convenience on the proposed location. Denial of the variance does not prevent utilization of the property for single family residential purposes because a different home design may be selected that does not require crossing of a building setback line. Further, it may be possible to re-plat the lot within the subdivision in such a way that no zoning variance is required provided that the re-plat procedures are followed, and a re-plat of Lot 22 is properly-recorded with the Office of the Judge of Probate.



# Staff Analysis and Findings

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

Staff anticipates no major impacts therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. *However, staff is unable to determine if approved the requested variance will unreasonably diminish or impair established property values within the surrounding areas because it is not feasible to gather sufficient data to make that determination for presentation at the public hearing. The effect of allowing a “for convenience” item not otherwise allowed by the zoning ordinance may affect the property value of subject property and surrounding properties in a way that cannot be reasonably quantified for a variance request public hearing.*

# ZVA22-000098 MORGAN PROPERTY

## VARIANCE REQUEST

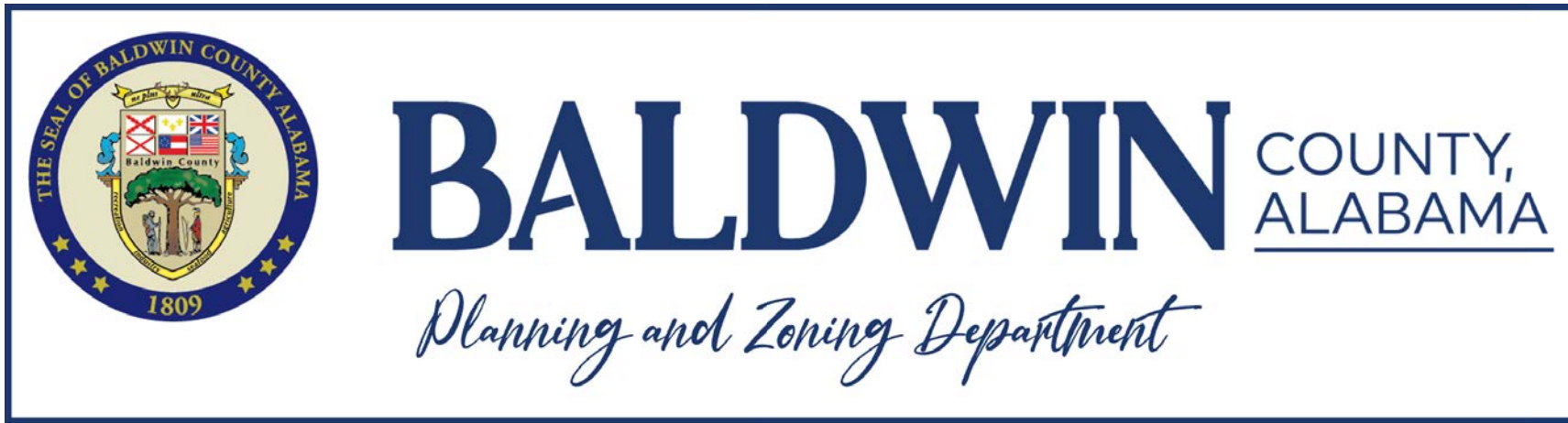
Lead Staff: Fabia Waters, Planning Technician

The applicant is requesting a variance from Section 4.4.5 and 12.5.2 of the Baldwin County Zoning Ordinance as it pertains to the front and side yard building setback to allow construction of a single-family dwelling.

Staff could not perceive a hardship on the property therefore recommends Case ZVA22-95 be **DENIED** unless information otherwise is revealed at the public hearing.







BALDWIN COUNTY BOARD OF ADJUSTMENT #1

NEXT REGULAR MEETING

FEBRUARY 28, 2023 @ 4:00PM

BALDWIN COUNTY CENTRAL ANNEX

ROBERTSDALE, AL