

BOARD OF ADJUSTMENT NUMBER 1

AGENDA

November 16, 2021

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 (October 19, 2021)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

ITEMS:

a.) Case No. ZVA21-000001 Schambeau Development LLC Property

Request: Approval of a variance from the landscaped buffer setback requirement to allow for a building destroyed by fire to be rebuilt

Location: The subject property is located at 10430 County Road 64 in Planning District 15

Attachments: Within Report

b.) Case No. ZVA21-000010 Whitacre Property

Request: Approval of a variance from section 2.3.15.3(f) as it pertains to accessory dwellings to allow for a detached accessory dwelling

Location: The subject property is located at 25145 County Road 54 in Planning District 15

Attachments: Within Report

c.) Case No. ZVA21-000012 Triple E Holdings LLC Property

Request: Approval of a variance from the landscaped buffer setback requirement to allow for the construction of a new building

Location: The subject property is located at 10758 County Road 64 in Planning District 15

Attachments: Within Report

6. Old Business
7. New Business
8. Adjournment

**Planning and Zoning
Board of Adjustment Number 1
October 19, 2021
Regular Meeting Minutes
Central Annex
Auditorium**

The Board of Adjustment Number 1 met in a regular session on September 20, 2021 at 4:03 p.m., in the Baldwin County Central Annex Auditorium. The meeting was called to order by Chairman Brandon Bias. Members present included: Jamal Allen, Mary Shannon Hope, John Cooper, Carolyn King, and Rosellen Coggin. Staff members present were Matthew Brown, Planning Director; Celena Boykin, Senior Planner; Crystal Bates, Planning Technician, and Linda Lee, Planner.

Approval of Previous Meeting Minutes

A motion to approve the previous meeting minutes was made by Ms. Hope with a second by Mr. Cooper and carried unanimously.

Mr. Brown gave a presentation explaining the variance process and regulations.

V-210031, Stimpson Property

Mrs. Boykin presented the applicant's request for a variance from the wetlands setback requirement to allow for wetland fill and the construction of a driveway, parking pad and house. Staff recommended approval of the variance request contingent upon no more than 0.10 acres of jurisdictional wetlands to be filled.

Louis Cassidey spoke in favor of the variance request and answered questions from board members pertaining to issues in the right of way.

Board Member John Cooper made a motion to approve the request. The motion received a second from Board Member Rosellen Coggin. **Motion to approve the variance request carried on a vote of 6-0**

V-210036, Whitney Property

Mrs. Bates presented the applicant's request for a variance from the wetlands setback requirement to allow for future residential development. Staff recommended approval of the variance request.

Mr. Matthew Brown explained the loophole from the past interpretation of the zoning ordinance pertaining to wetland fill and that it has now been closed.

Tammy Whitney spoke in favor of the variance request and answered questions from the board.

Board Member Jamal Allen made a motion to approve the request. The motion received a second from Board Member Carolyn King. **The motion to approve the variance request carried on a vote of 6-0.**

Approval of 2022 Meeting and Deadline Calendar

Ms. Lee reviewed the proposed calendar for 2022. Board Member John Cooper made a motion to approve the 2022 Meeting and Deadline Calendar. The motion received a second from Board Member Jamal Allen and carried unanimously.

Adjournment

There being no further business to come before the board the chairman adjourned the meeting at 4:27 p.m.

Respectfully Submitted

Linda Lee, Planner

I hereby certify that the above minutes are true, correct and approved this ____ day of _____ 2021.

Brandon Bias, Chairman



Baldwin County Planning & Zoning Department

Board of Adjustment Number 1

Board of Adjustment Staff Report

Case No. ZVA21-000001

Schambeau Development LLC Property

Variance from the Landscaped Buffer Setback Requirements to allow for a Building to be rebuilt
November 16, 2021

Subject Property Information

Planning District: 15
General Location: South side of County Road 64, West of Austin Road
Physical Address: 10430 County Road 64
PID: 05-43-06-23-0-000-009.000
Zoning: RSF-1, Residential Single Family
Acreage: 3.70, more or less
Applicant: Lieb Engineering Company
1290 Main Street
Daphne, AL 36526
Owner: Schambeau Development LLC
PO Box 2730
Daphne, AL 36526
Lead Staff: Linda Lee, Planner
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-E, Single-Family Estate District
South	Residential	RSF-E, Single-Family Estate District
East	Residential	RSF-E, Single-Family Estate District
West	Residential	RSF-E, Single-Family Estate District

Summary and Recommendation

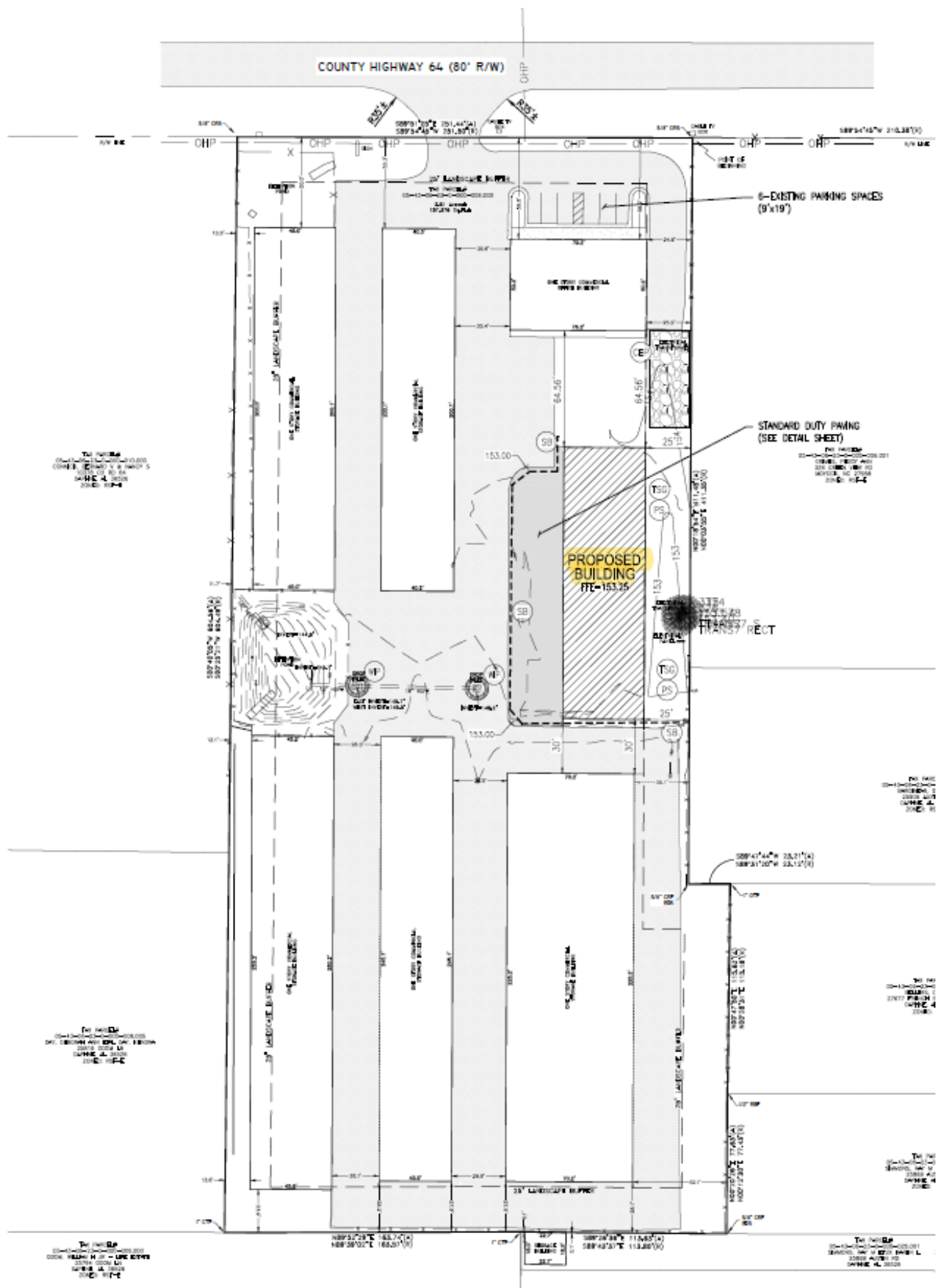
The applicant is requesting a variance from the landscaped buffer setback requirements to allow for a building destroyed by fire to be rebuilt. The original buildings on this site were built prior to the enactment of zoning in August 2006. Staff recommends **APPROVAL** of the variance request.

Variance Request

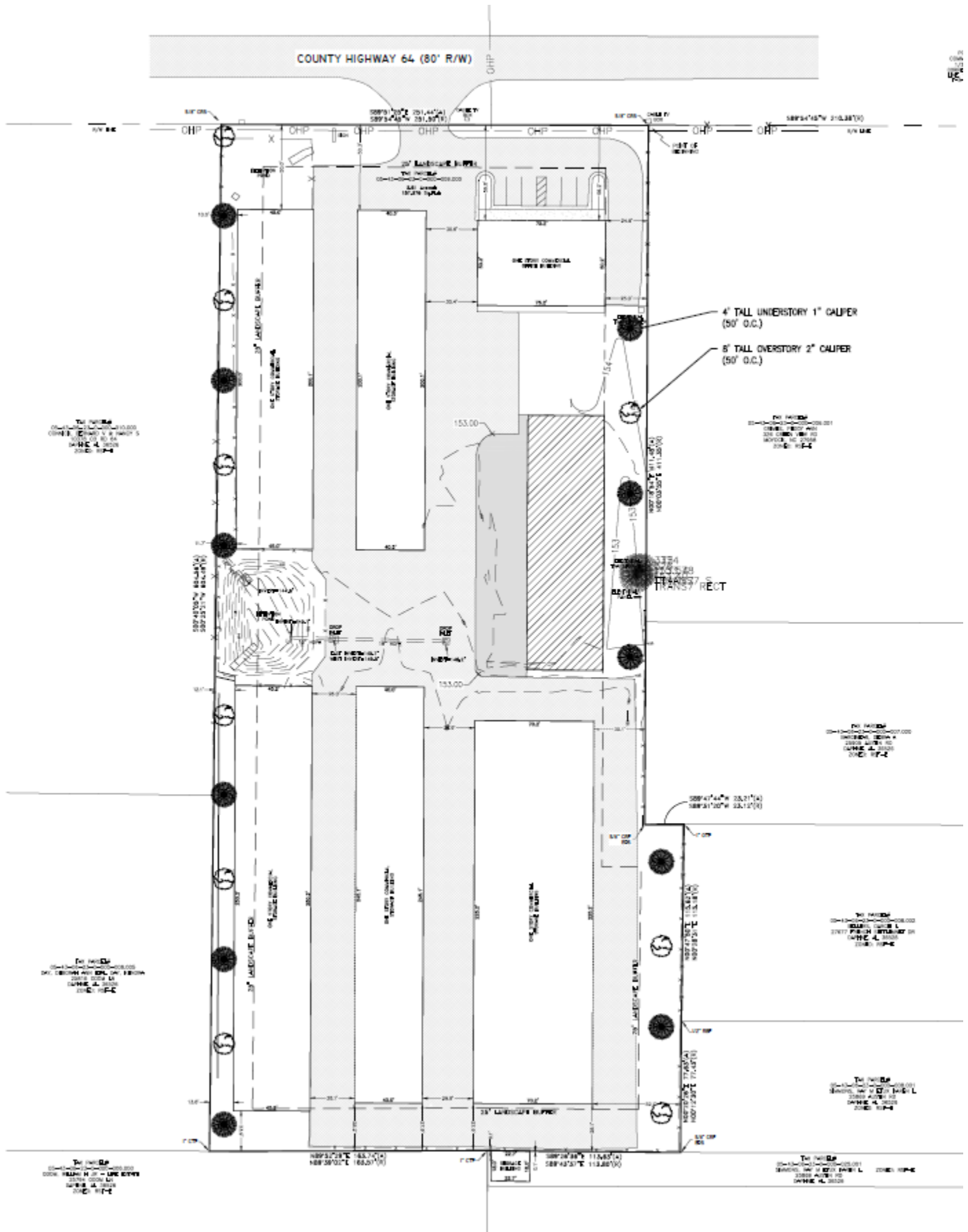
The applicant is requesting a variance from the landscaped buffer setback requirements to allow for a building destroyed by fire to be rebuilt.

The proposed new building will meet the landscaped buffer setback requirements, however whenever there is new construction on a site, the entire site has to meet zoning requirements. Due to the other buildings being constructed prior to the implementation of zoning, a variance from the landscaped buffer setback requirement is needed for those pre-existing buildings.

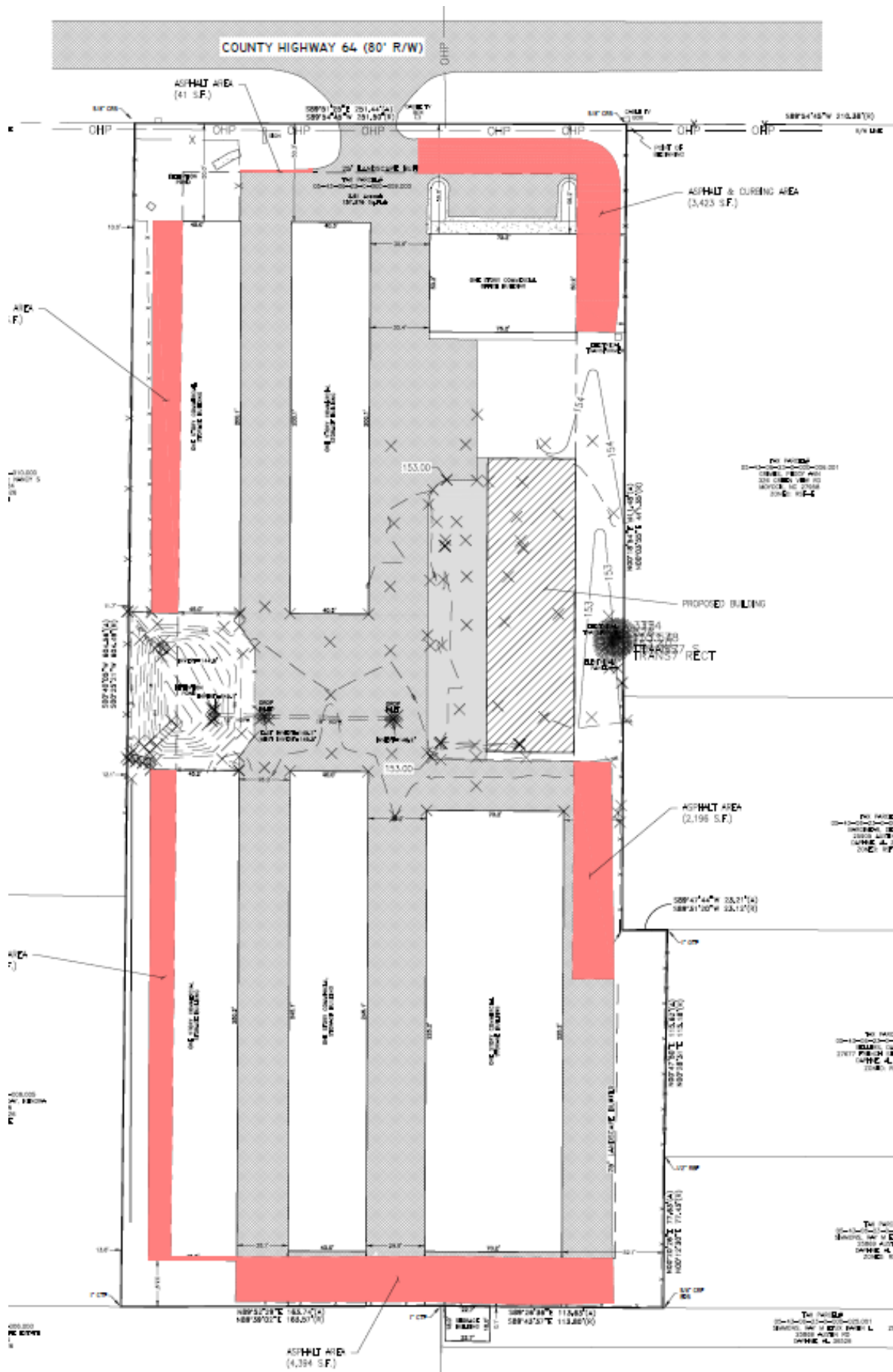
Proposed Site Plan



COUNTY HIGHWAY 64 (80' R/W)



Variance Exhibit



The following sections from the *Baldwin County Zoning Ordinance* are relevant to this application:

Article 17 Landscaping and Buffers

Section 17.1 Landscaping Plan

A landscaping plan is required for all major projects. Such plan shall be submitted in conjunction with an application for a site plan approval as herein provided. The plan shall clearly show what existing trees, shrubbery, and other vegetation will be retained, and what trees, shrubbery, and other vegetation will be added to complete the landscaping of the property. The developers shall attempt to retain as many trees as possible on the property unless the trees are a safety hazard to pedestrians, property, or vehicular traffic, or that their removal is necessary to construct the proposed improvements. In such case, the landscape plan shall indicate replacement trees at least 6 feet tall and one inch in diameter for each indigenous tree of at least three (3) inches in diameter removed, unless the property already has a tree density which does not allow adequate space or light for additional trees. The landscape plan shall show the locations of the proper number of replacement trees. Replacement trees and other vegetation to be installed shall be native species or noninvasive exotics which are not likely to out-compete native vegetation and do not require excessive pesticides, fertilizer, or water to maintain growth.

(a) A major project which abuts a freeway/expressway, arterial or collector shall maintain a minimum of ten (10) feet of the required setback as a buffer along the entire width of the property which abuts said freeway/expressway, arterial or collector except where curb cuts provide ingress and egress. Said buffer shall be planted with trees, shrubs and grass or other ground cover so that an attractive appearance is presented as detailed in the required landscape plan.

(b) A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities. If required, such areas shall be planted with a combination of trees, shrubs and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Zoning Administrator. Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets the requirement of this Section; provided that such agreement and the planting and maintenance of the common area shall be binding upon both parties and their successors, interests and assigns.

(c) Junk yards shall be buffered with vegetation so as to achieve a complete visual screen of the yard and its ancillary operations.

Section 17.2 Buffers of Unlike Land Uses and Zoning Designations

17.2.1 Purpose and intent. Where unlike land uses or zoning designations occur, a buffer shall be required along the entire length of all such common boundaries. Said buffer shall be of the width specified below and shall be planted with canopy trees, understory trees and shrubs of sufficient density and of sufficient height (but in no case less than 8-feet high at the time of planting for canopy trees and 4-feet high at the time of planting for understory trees) to afford adequate sight, sound and debris protection. All screen planting shall be maintained in a clean and healthy condition.

17.2.2 Buffer Requirements. Landscaped buffers shall be located at the perimeter of the building site for any given use, and shall not be located in any portion of a public right-of-way. The required buffer widths are listed below. Additional information may be found at Appendix B:

(a) Multiple Family uses (RMF-6) when adjacent to a Rural District (RR, RA and CR), Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

(b) Multiple Family uses (RMF-6) when adjacent to a Two Family District (RTF-4 and RTF-6) or Professional Business District (B-1) shall require a minimum buffer of **10-feet**.

(c) Institutional uses, Professional Business uses (B-1), Neighborhood Business uses (B-2), General Business uses (B-3), Major Commercial uses (B-4) and Marine Recreation (MR) uses when adjacent to a Rural District (RR, RA and CR), Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

(d) Institutional uses, Professional Business uses (B-1), Neighborhood Business uses (B-2), General Business uses (B-3), Major Commercial uses (B-4) and Marine Recreation (MR) uses when adjacent to a Two Family District (RTF-4 and RTF-6) or Multiple Family District (RMF-6) shall require a minimum buffer of **10-feet**.

(e) Manufactured Housing Parks (RMH) when adjacent to a Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

(f) Manufactured Housing Park (RMH) when adjacent to a Two Family District (RTF-4 and RTF-6), Multiple Family District (RMF-6) or Professional Business District (B-1) shall require a minimum buffer of **10-feet**.

(g) Light Industrial uses (M-1), General Industrial uses (M-2) and Transportation, Communication and Utility uses when adjacent to any residential property shall require a minimum buffer of **75-feet**.

(h) Light Industrial uses (M-1), General Industrial uses (M-2) and Transportation, Communication and Utility uses when adjacent to any Business District (B-1, B-2, B-3 and B-4) shall require a minimum buffer of **50-feet**.

17.2.3 *Landscaped buffer design and materials.*

(a) *Existing native plant material.* The use of existing native species of plant material is strongly encouraged in landscaped buffers. Existing natural ground cover should be retained where possible by avoiding scraping, grading and sodding within the landscaped buffer. Where the planting requirements of *Section 17.2.2* require additional trees or shrubs to be installed in an existing natural area, it should be done in a manner which minimizes disturbances to native species.

(b) *Mixed-use development.* Where a building site is used for a single mixed-use development, landscaped buffers shall not be required between the various constituent uses. Landscaped buffers required at the perimeter of the development shall be based upon the individual uses on each portion of the property.

17.2.4 *Use of landscaped buffers.*

(a) *Open space.* Landscaped buffers may be counted toward satisfying open space requirements, and may be used for passive recreation. They may contain pedestrian or bike trails, provided that the total width of the buffer yard is maintained. In no event, however, shall the following uses be permitted in landscaped buffers: playfields, stables, swimming pools, tennis courts, parking lots and vehicular use areas, dumpsters, equipment storage and other open storage, buildings or overhangs.

(b) *Stormwater retention/detention facilities.* The Planning and Zoning Director shall be authorized to allow stormwater retention/detention facilities to encroach into landscaped buffers a maximum of twenty-five (25) percent of buffer width, where it is found that all planting requirements of this section are met and the visual screen provided by the landscaped buffer will be fully achieved.

(c) *Ingress and Egress.* Ingress and egress to the proposed use and utilities may cross the buffer provided they minimize the amount of buffer devoted to this use.

(d) *Lighting, fences, walls and Signs.* Lighting, fences, walls and identification signs may be located within the required buffer.

(e) *Pedestrian walkways.* Sidewalks, walkways and paths may be allowed within the required buffer, provided that:

1. The total width of buffer is maintained.
2. All other requirements of this ordinance are met.

17.2.5 Definitions.

(a) *Canopy Trees.* For the purposes of this section, a tree is defined as a plant species having an average mature crown spread of fifteen (15) feet or greater when growing in Baldwin County and having a trunk(s) that eventually can be maintained in a clean condition, clear of lateral woody growth of five (5) feet or greater. Canopy tree species as defined shall be a minimum of eight (8) feet overall height immediately after planting with at least a two (2) inch diameter (caliper). Trees having average, eventual mature crown spread of less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot crown spread. A grouping of three (3) large growing palms will be the equivalent to one (1) required canopy tree. All trees shall be located no closer than three (3) feet from the edge of any designated planting area.

(b) *Understory trees.* Understory tree species as defined shall be a minimum of four (4) feet overall height immediately after planting with at least a one (1) inch diameter (caliper).

(c) *Shrubs.* For the purposes of this section a shrub shall be defined as any self supporting woody evergreen or flowering species generally growing or maintained at a height of five (5) feet or less. Shrubs shall be a minimum of twenty-four (24) inches in height when measured immediately after planting and planted a maximum of thirty-six (36) inches on center.

17.2.6 Plant and Structure Location. All plant materials shall be installed to achieve the purposes for which that planting is required. The required planting should generally be in an irregular line and should be spaced at random intervals in order to achieve maximum growth for each plant and tree species.

(a) Canopy trees shall be located no closer than ten (10) feet from any structure. Under story trees and shrubs shall be planted no closer than three (3) feet from any structure.

(b) To avoid a power line conflict, vegetation that exceeds twenty-five (25) feet in height at maturity shall not be included closer than thirty (30) feet of the vertical plane of an existing power line.

(c) Visibility Triangles contained in *Section 16.6.3* shall be maintained.

17.2.7 Landscape Plans. Whenever the provisions with this section apply, a landscaping plan shall be submitted for review. The landscape plan may be submitted in conjunction with a Site Plan Approval for a structure or be submitted through a separate Site Plan Approval and may be included on the site plan which is required for Site Plan approval.

The landscape plan must be drawn to scale, with a narrative and any necessary calculations, and include the following:

- (a) Dimensions and North Arrow.
- (b) Preserved trees.
- (c) Locations of proposed signs and lightning.
- (d) Locations of proposed sidewalks or other paths and ingress and egress locations and widths.
- (e) Proposed location and spacing of all required plantings.
- (f) Overhead and underground utilities existing and proposed.
- (g) Subject property zoning and current use and adjoining property zoning and current use.

The landscape buffer plan shall be submitted along with a Site Plan Approval. Prior to the issuance of a Certificate of Occupancy (CO) the Planning and Zoning Department shall conduct an inspection to insure the buffer is installed as required.

5.3.4 Area and dimensional ordinances.

Maximum Height of Structure in Feet	40
Maximum Height of Structure in Habitable Stories	3
Minimum Front Yard	40-Feet
Minimum Rear Yard	25-Feet
Minimum Side Yards	15-Feet
Minimum Lot Area	20,000 Square Feet
Maximum Impervious Surface Ratio	.70
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	60-Feet

Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

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 described as 251.5'x604.5' for a total of 152,031.75 square feet. The lot meets the minimum lot width and area for property zoned B-3. Therefore, the property does not meet the exceptional narrowness, shallowness or shape standard for a variance.

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

Per the contour layer of the ArcGIS map, the property appears to be relatively flat. Therefore, staff believes the property does not meet the extraordinary situation or condition of a specific piece of property standard.

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 property is zoned for commercial use and is currently developed with mini warehouses. The applicant is proposing to rebuild a structure destroyed by fire. Therefore, staff feels the granting of the application is necessary to preserve a property right.

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 anticipate any adverse 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.

5.) Other matters which may be appropriate.

Applicant needs to submit a revised landscaped plan showing they will meet the requirements of section 17.1(a) as it pertains to a 10-foot landscaped buffer adjacent to County Road 64.

Staff Comments and Recommendation

As stated previously, the applicant is requesting a variance from the landscaped buffer setback requirements to allow for a building destroyed by fire to be rebuilt. The original buildings on this site were built prior to the enactment of zoning in August 2006. Staff recommends **APPROVAL** of the variance request.

** A majority vote of the board members will be necessary to approve this request.*

GENERAL NOTES {By-laws}

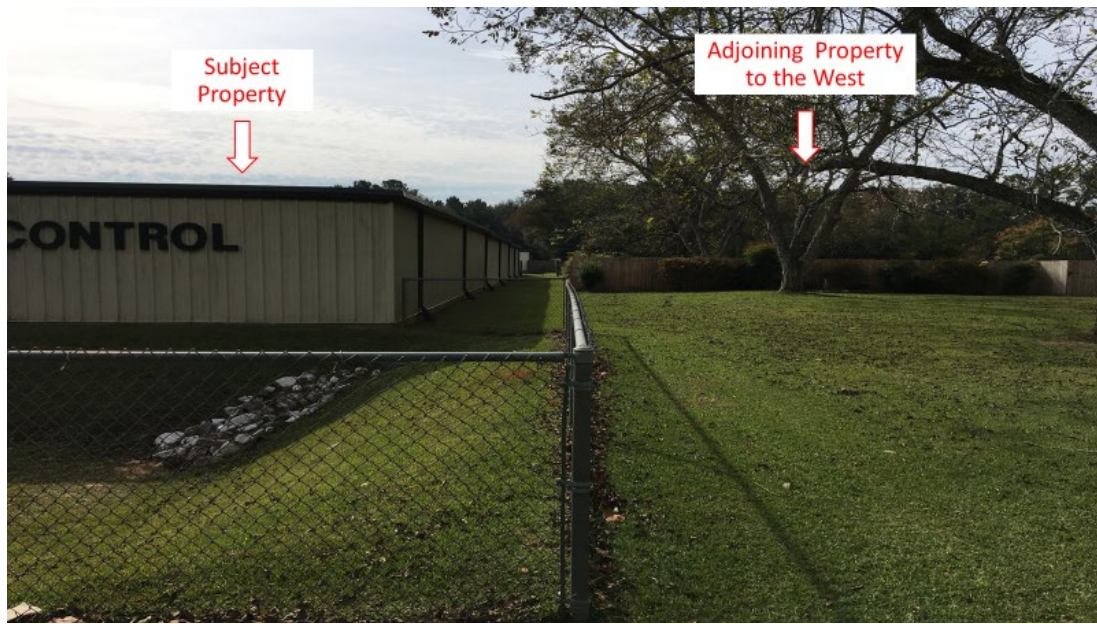
Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal there from to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board 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 the conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.

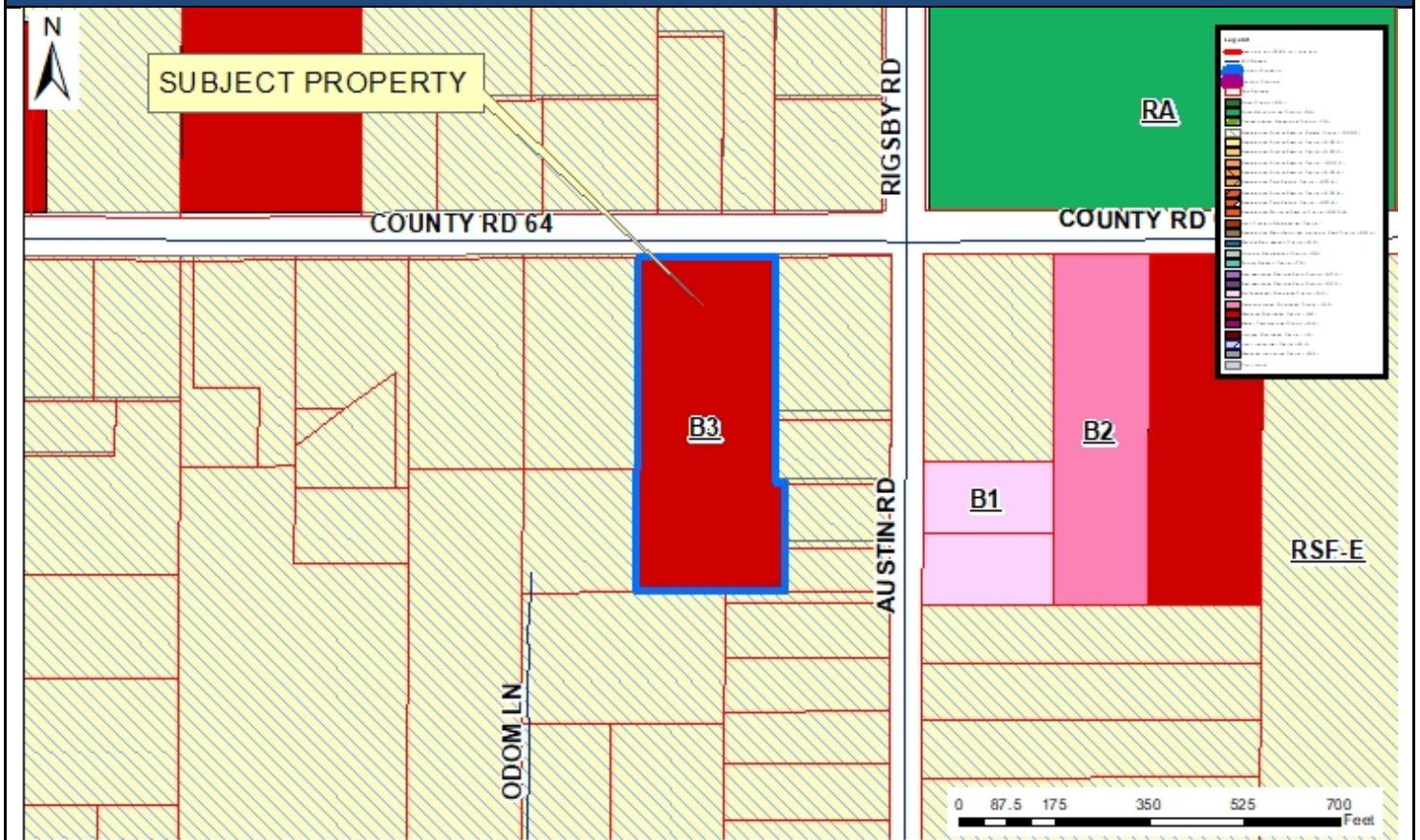
Property Images



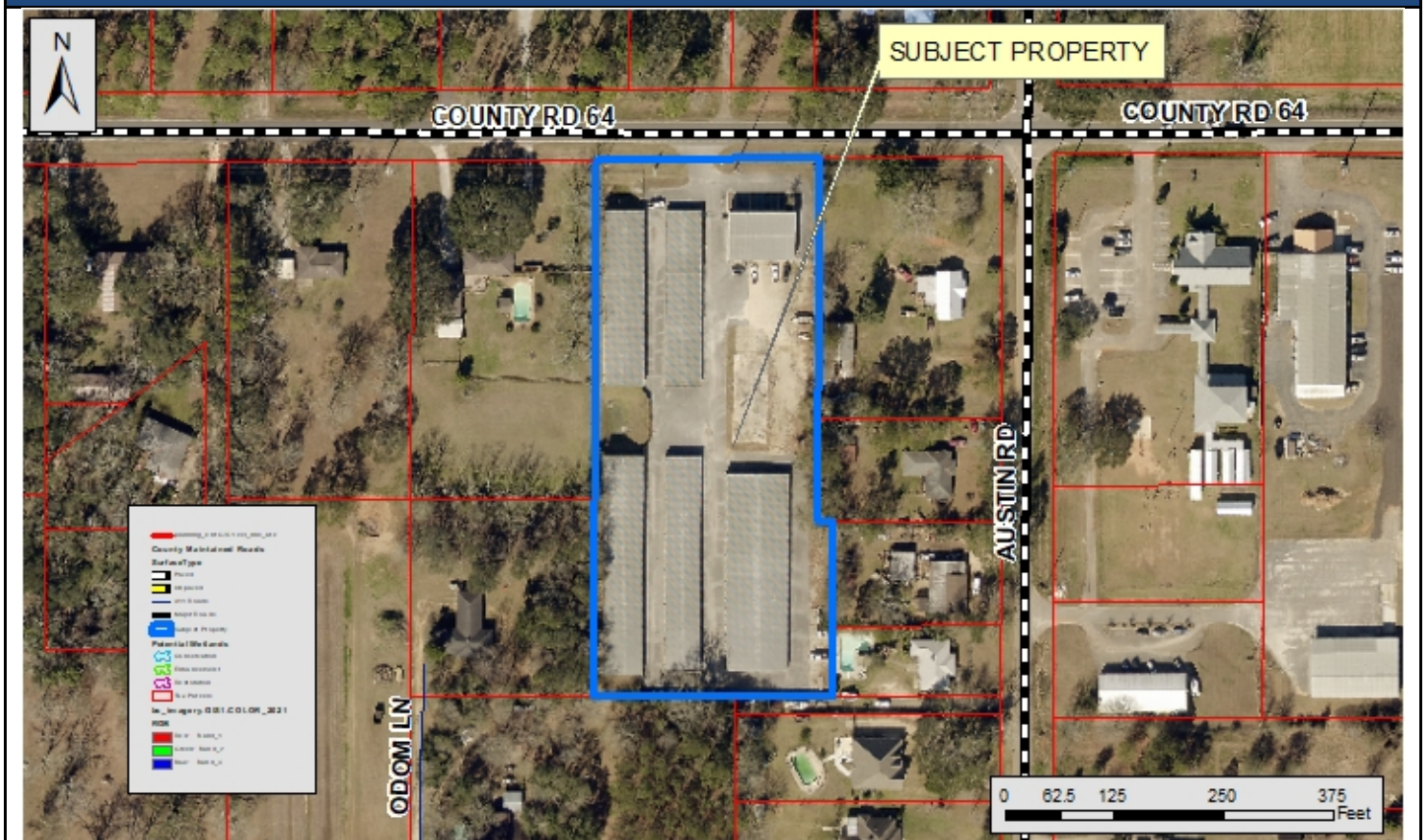




Locator Map



Site Map – 2020 Aerial Photography





Baldwin County Planning & Zoning Department

Board of Adjustment Number 1

Board of Adjustment Staff Report

Case No. ZVA-21000010

Whitacre Property

Variance from the accessory dwelling requirement

Subject Property Information

Planning District: 15
General Location: Lot 2 Hopes Place
Physical Address: 25145 Co Rd 54 E
PID: 05-43-06-24-0-000-026.009
Zoning: RA, Rural Agricultural
Acreage: 1.15
Applicant: Hope Tillett
25145 Co Rd 54
Daphne, AL 36526
Owner: Same
Lead Staff: Crystal Bates, Planning Technician
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RA, Rural Agricultural
South	Residential	RA, Rural Agricultural
East	Residential	RA, Rural Agricultural
West	Undeveloped	RA, Rural Agricultural

Summary and Recommendation

The applicant is requesting a variance from Section 2.3.15 (f) of the Baldwin County Zoning Ordinance as it pertains to Accessory dwellings to be contained entirely within the structure of a single-family dwelling. The applicant wants to convert a 24x24 existing barn into a detached accessory dwelling.

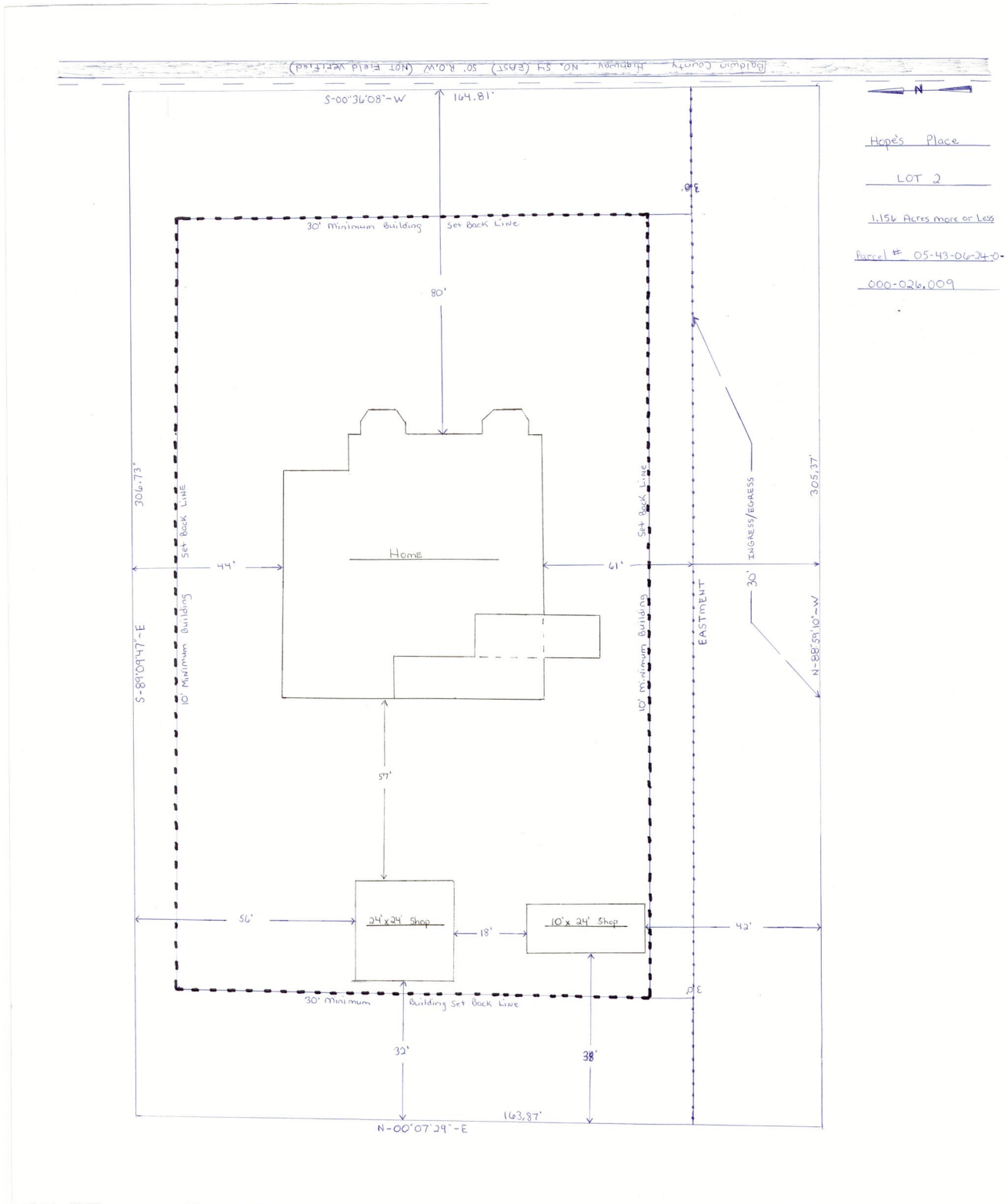
Staff perceives no hardship on the property due to the development of the existing single-family dwelling and considers the build out of the existing 24 x24 barn for an accessory dwelling to be a convenience not a necessity therefore recommends **DENIAL**. The applicant has requested the medical needs of her parents be taken in consideration.

**On Variance applications, the Board of Adjustment makes the final decision*

Variance Request

The applicant is requesting a variance from the accessory dwelling requirement to allow for a 24 x 24 (576) sq. ft. barn to be converted into Accessory dwelling.

Proposed Site Plan



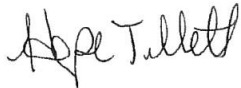
HOA LETTER

October 21, 2021

Dear Baldwin County Planning and Zoning:

The property/subdivision referred to as Hope's Place located at 25145 County Rd 54 East, Daphne, AL 36526 does not have a homeowner's association. There is not a covenant.

Sincerely,

A handwritten signature in black ink, appearing to read "Hope Tillett". The signature is written in a cursive, flowing style.

Hope Tillett

(251) 533-4239

2037-E

Additional Information

(f) Accessory dwellings are permitted by right in the residential districts in Planning District 15 unless restricted by a property owners association and provided they are contained entirely within the structure of a single - family dwelling and provided they do not exceed 60% of the size, in square feet, of the principal residence.

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Section 22 Definitions

22.2 Words and Terms Defined

Accessory dwelling. A second dwelling unit that is either contained within the structure of a single family dwelling unit or in a separate accessory structure on the same lot as the principal residential building for use as a complete, independent living facility with provisions within the accessory dwelling for cooking, eating, sanitation, and sleeping. Such a dwelling is an accessory use to the principal residential building and includes accessory apartments, garage apartments and guest houses.

Dwelling, single-family. A detached building designed for and occupied by one family as a home, with toilets and facilities for cooking and sleeping.

Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

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 Lot 2 of Hope's Place. The dimensions of the lot are approximately; 164.8 x 306.7. the property is 1.15 acres. Staff does not believe the lot is 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.

There are no potential wetlands or other topographic conditions shown. Therefore, staff believes the lot does not meet this standard to warrant a variance.

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 property is zoned for residential use. The granting of the application will allow the applicant to build a detached accessory dwelling. Staff perceives an accessory dwelling as a convenience and not a 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 does not anticipate any adverse 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.

5.) Other matters which may be appropriate.

The applicant is requesting a medical needs variance to allow.

Regina V. Felkner, D.O.
William B. Herron, M.D.
Frank Wang, M.D.
Steven P. Wittmer, M.D.
Mollie Dean, CRNP
Kimberly Nolte, CRNP



150 S. Ingleside St. Suite #6
Fairhope, AL 36532
Phone: (251) 990-1740
Fax: (251) 929-1886

October 21, 2021

Dear Baldwin County Planning and Zoning Board:

My name is Dr. William B. Herron, M.D., and I am the primary care physician for Thomas E. Whitacre and Dorothy Louise Whitacre, and have been for a number of years. Thomas is seventy-eight years old. He is unable to safely care for himself without help, due to both his significant physical and mental diagnoses that negatively impact his ability to do so. He suffers from Alzheimer's disease, which causes a myriad of problems that limit his functional abilities and mental capabilities. His spouse Dorothy is seventy-six years old, who is also my patient, and has a significant number of physical illnesses herself. Their daughter and son in law have moved from South Dakota in with them to assist with Thomas's needs as to not have undo burden on Dorothy. Due to the size of my patient's homestead, they are requesting your permission to convert a detached shop on their property into a livable suite for their daughter and son in law to reside in. Due to Dorothy's health, she requires someone to be quickly assessable for assisting with Thomas's needs. As most are well aware inpatient elder care is extremely expensive, can cause further decline in patients who are out of their normal day to day routine, and brings with it other health care issues being around other patients with sicknesses. Accordingly, for the foregoing reasons, I believe it to be in my patient Mr. Thomas E. Whitacre's, best medical interest to be permitted to have their detached shop converted to a livable suite for their daughter and son in law to be quickly available for my patient's needs. This is the only adequate remedy I see that is available to him. I very much appreciate your time and your reasoned consideration of this letter when evaluating Mr. Thomas E. Whitacre's aforementioned request to have a variance allowed for this conversion of their shop, as I believe him to be most deserving of such an accommodation, under Planning and Zoning criteria. I can be reached for further information or comment, should it become necessary, via the contact information found below.

Sincerely,


William B. Herron, M. D.

188 Hospital Drive
Fairhope, AL 36532
(251 990-1740)

RE: Whitacre, Thomas – MR#: E698355

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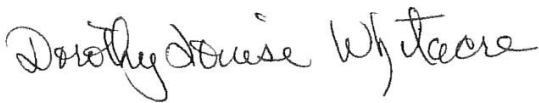
October 21, 2021

Dear Sir/Ma'am of Baldwin County Planning and Zoning:

My name is Dorothy Louise Whitacre. I have been a resident in Baldwin County since my childhood. I am now seventy-six years old. I have been married to the love of my life for fifty-six years. Unfortunately, my husband has dementia. We have been living with this diagnosis for many years now. As his disease progresses, I find myself in need of help with him. My daughter and son in law have uprooted their lives moving from South Dakota to come and help me care for him as my health has deteriorated also and I can no longer do this by myself. I need help quickly available to us due to my husband's disease. His memory last about two minutes. He requires someone be with him and assist with things that we take for granted as simple tasks. We cannot afford to have him placed anywhere nor do I desire to. Due to the limited space in our homestead, I am requesting a variance so my daughter and son in law would be allowed to remodel the interior of our existing detached 24ft x 24ft shop into a livable suite for them to reside on our property. My daughter is a registered nurse, and this would be the best option for our needs to have her quickly available. This will improve appearance and will not have a negative impact on neighboring residents.

I have been committed my entire live to helping my neighbors, church and community. I come to you with the request for the board to assist us by granting our request during this phase of our lives.

Thank you for your consideration and I pray you will grant this request,

A handwritten signature in cursive script that reads "Dorothy Louise Whitacre".

Dorothy Louise Whitacre
25145 County Rd 54 East
Daphne, AL 36526
(251) 533-4239

Staff Comments and Recommendation

Staff perceives no hardship on the property due to the development of the existing single-family dwelling and considers the construction of an accessory dwelling as a convenience not a necessity, therefore recommends denial.

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal there from 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 the conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.

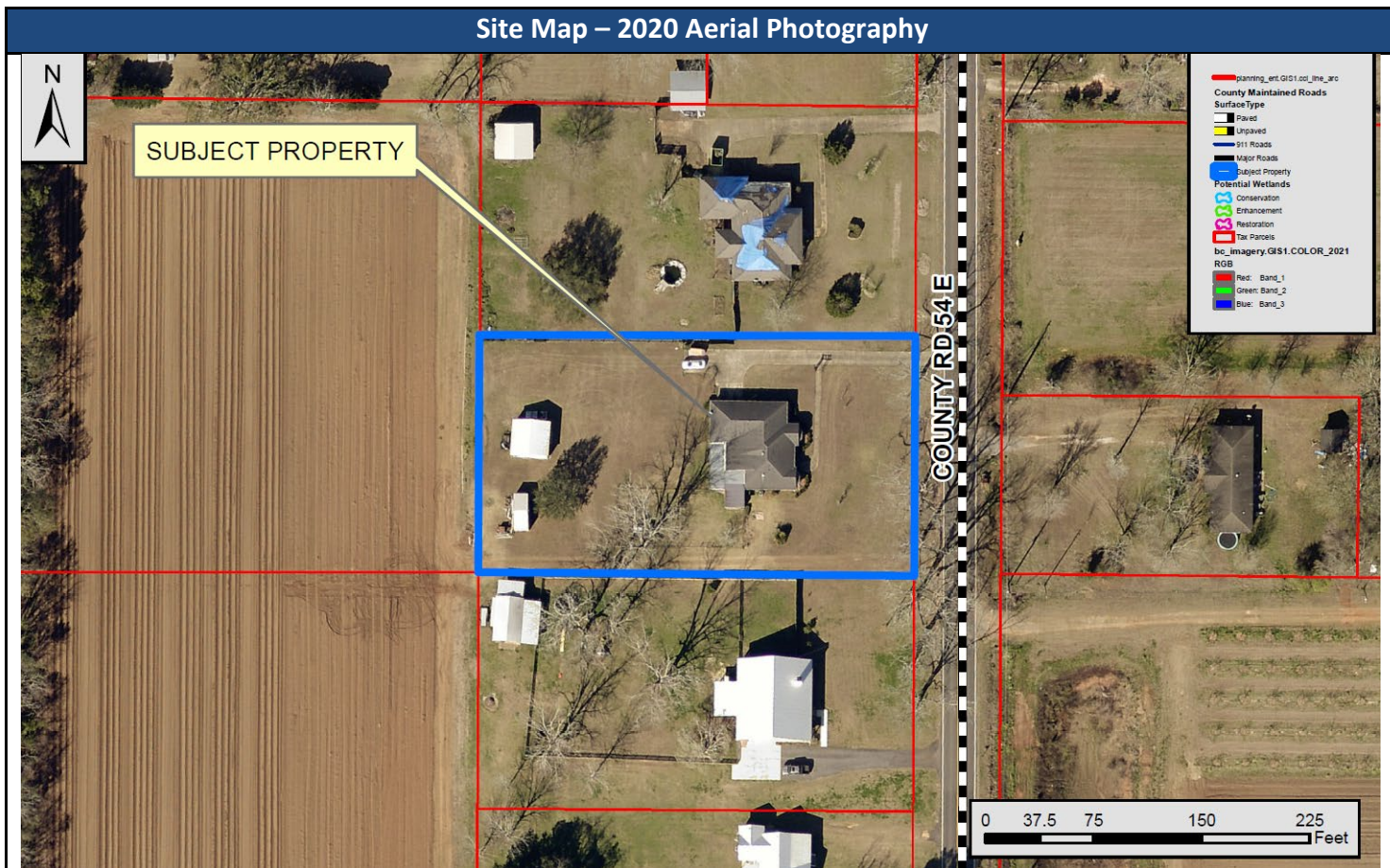
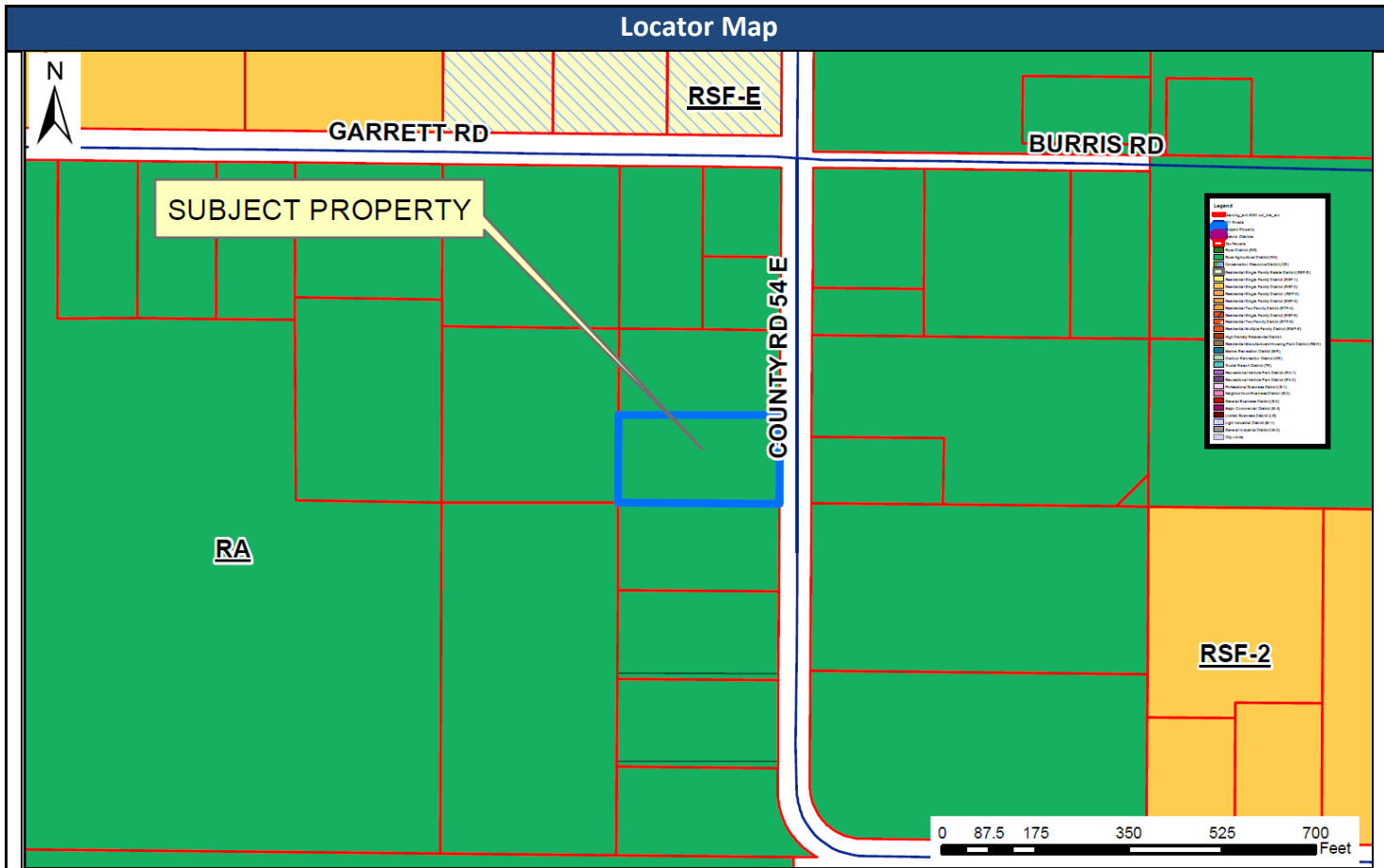
Property Images













Baldwin County Planning & Zoning Department

Board of Adjustment Number 1

Board of Adjustment Staff Report

Case No. ZVA21-000012

Triple E Holdings LLC Property

Variance from the Landscaped Buffer Setback Requirements

November 16, 2021

Subject Property Information

Planning District: 15
General Location: South side of County Road 64, East of Austin Road
Physical Address: 10758 County Road 64
PID: 05-43-06-23-0-000-003.001
Zoning: B-3, General Business District
Acreage: 4.71, more or less
Applicant: SCC Group – Lakin Powell
PO Box 1311
Point Clear, AL 36564
Owner: Triple E Holdings LLC
375 Lambton Street
Fairhope, AL 36532
Lead Staff: Linda Lee, Planner
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Agricultural	RA, Rural Agricultural District
South	Agricultural	RSF-E, Single-Family Estate District
East	Commercial	B-4, Major Commercial District
West	Residential and Agricultural	RSF-E, Single-Family Estate District

Summary and Recommendation

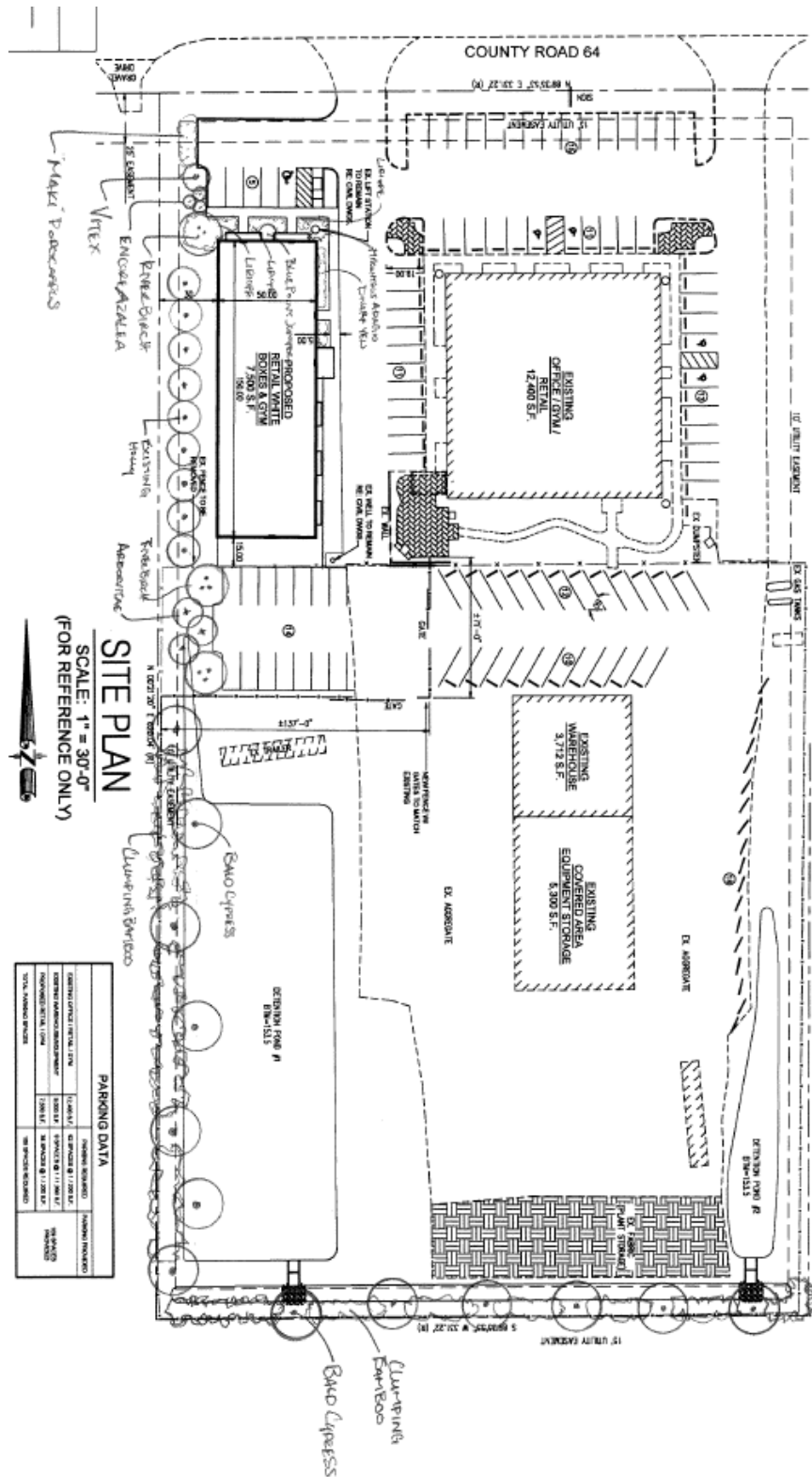
The applicant is requesting a variance from the landscaped buffer setback requirements to allow for the construction of a new building. Staff recommends **APPROVAL** of the variance request.

Variance Request

The applicant is requesting a variance from the landscaped buffer setback requirements to allow for the construction of a new building.

The proposed new building will meet the zoning setback requirements; however, the existing detention pond does not allow room for the required 25-foot landscaped buffer to the west and south. In 2019 a site plan was submitted and approved showing a 25-foot landscaped buffer and detention pond in the same area on the west side of the property.

Proposed Landscape Plan



Note: A 10-foot landscape buffer is required on the north property line

The following sections from the *Baldwin County Zoning Ordinance* are relevant to this application:

Article 17 Landscaping and Buffers

Section 17.1 Landscaping Plan

A landscaping plan is required for all major projects. Such plan shall be submitted in conjunction with an application for a site plan approval as herein provided. The plan shall clearly show what existing trees, shrubbery, and other vegetation will be retained, and what trees, shrubbery, and other vegetation will be added to complete the landscaping of the property. The developers shall attempt to retain as many trees as possible on the property unless the trees are a safety hazard to pedestrians, property, or vehicular traffic, or that their removal is necessary to construct the proposed improvements. In such case, the landscape plan shall indicate replacement trees at least 6 feet tall and one inch in diameter for each indigenous tree of at least three (3) inches in diameter removed, unless the property already has a tree density which does not allow adequate space or light for additional trees. The landscape plan shall show the locations of the proper number of replacement trees. Replacement trees and other vegetation to be installed shall be native species or noninvasive exotics which are not likely to out-compete native vegetation and do not require excessive pesticides, fertilizer, or water to maintain growth.

(a) A major project which abuts a freeway/expressway, arterial or collector shall maintain a minimum of ten (10) feet of the required setback as a buffer along the entire width of the property which abuts said freeway/expressway, arterial or collector except where curb cuts provide ingress and egress. Said buffer shall be planted with trees, shrubs and grass or other ground cover so that an attractive appearance is presented as detailed in the required landscape plan.

(b) A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities. If required, such areas shall be planted with a combination of trees, shrubs and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Zoning Administrator. Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets the requirement of this Section; provided that such agreement and the planting and maintenance of the common area shall be binding upon both parties and their successors, interests and assigns.

(c) Junk yards shall be buffered with vegetation so as to achieve a complete visual screen of the yard and its ancillary operations.

Section 17.2 Buffers of Unlike Land Uses and Zoning Designations

17.2.1 Purpose and intent. Where unlike land uses or zoning designations occur, a buffer shall be required along the entire length of all such common boundaries. Said buffer shall be of the width specified below and shall be planted with canopy trees, understory trees and shrubs of sufficient density and of sufficient height (but in no case less than 8-feet high at the time of planting for canopy trees and 4-feet high at the time of planting for understory trees) to afford adequate sight, sound and debris protection. All screen planting shall be maintained in a clean and healthy condition.

17.2.2 Buffer Requirements. Landscaped buffers shall be located at the perimeter of the building site for any given use, and shall not be located in any portion of a public right-of-way. The required buffer widths are listed below. Additional information may be found at Appendix B:

(a) Multiple Family uses (RMF-6) when adjacent to a Rural District (RR, RA and CR), Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

(b) Multiple Family uses (RMF-6) when adjacent to a Two Family District (RTF-4 and RTF-6) or Professional Business District (B-1) shall require a minimum buffer of **10-feet**.

(c) Institutional uses, Professional Business uses (B-1), Neighborhood Business uses (B-2), General Business uses (B-3), Major Commercial uses (B-4) and Marine Recreation (MR) uses when adjacent to a Rural District (RR, RA and CR), Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

(d) Institutional uses, Professional Business uses (B-1), Neighborhood Business uses (B-2), General Business uses (B-3), Major Commercial uses (B-4) and Marine Recreation (MR) uses when adjacent to a Two Family District (RTF-4 and RTF-6) or Multiple Family District (RMF-6) shall require a minimum buffer of **10-feet**.

(e) Manufactured Housing Parks (RMH) when adjacent to a Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

(f) Manufactured Housing Park (RMH) when adjacent to a Two Family District (RTF-4 and RTF-6), Multiple Family District (RMF-6) or Professional Business District (B-1) shall require a minimum buffer of **10-feet**.

(g) Light Industrial uses (M-1), General Industrial uses (M-2) and Transportation, Communication and Utility uses when adjacent to any residential property shall require a minimum buffer of **75-feet**.

(h) Light Industrial uses (M-1), General Industrial uses (M-2) and Transportation, Communication and Utility uses when adjacent to any Business District (B-1, B-2, B-3 and B-4) shall require a minimum buffer of **50-feet**.

17.2.3 Landscaped buffer design and materials.

(a) *Existing native plant material.* The use of existing native species of plant material is strongly encouraged in landscaped buffers. Existing natural ground cover should be retained where possible by avoiding scraping, grading and sodding within the landscaped buffer. Where the planting requirements of *Section 17.2.2* require additional trees or shrubs to be installed in an existing natural area, it should be done in a manner which minimizes disturbances to native species.

(b) *Mixed-use development.* Where a building site is used for a single mixed-use development, landscaped buffers shall not be required between the various constituent uses. Landscaped buffers required at the perimeter of the development shall be based upon the individual uses on each portion of the property.

17.2.4 Use of landscaped buffers.

(a) *Open space.* Landscaped buffers may be counted toward satisfying open space requirements, and may be used for passive recreation. They may contain pedestrian or bike trails, provided that the total width of the buffer yard is maintained. In no event, however, shall the following uses be permitted in landscaped buffers: playfields, stables, swimming pools, tennis courts, parking lots and vehicular use areas, dumpsters, equipment storage and other open storage, buildings or overhangs.

(b) *Stormwater retention/detention facilities.* The Planning and Zoning Director shall be authorized to allow stormwater retention/detention facilities to encroach into landscaped buffers a maximum of twenty-five (25) percent of buffer width, where it is found that all planting requirements of this section are met and the visual screen provided by the landscaped buffer will be fully achieved.

(c) *Ingress and Egress.* Ingress and egress to the proposed use and utilities may cross the buffer provided they minimize the amount of buffer devoted to this use.

(d) *Lighting, fences, walls and Signs.* Lighting, fences, walls and identification signs may be located within the required buffer.

(e) *Pedestrian walkways.* Sidewalks, walkways and paths may be allowed within the required buffer, provided that:

1. The total width of buffer is maintained.
2. All other requirements of this ordinance are met.

17.2.5 Definitions.

(a) *Canopy Trees.* For the purposes of this section, a tree is defined as a plant species having an average mature crown spread of fifteen (15) feet or greater when growing in Baldwin County and having a trunk(s) that eventually can be maintained in a clean condition, clear of lateral woody growth of five (5) feet or greater. Canopy tree species as defined shall be a minimum of eight (8) feet overall height immediately after planting with at least a two (2) inch diameter (caliper). Trees having average, eventual mature crown spread of less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot crown spread. A grouping of three (3) large growing palms will be the equivalent to one (1) required canopy tree. All trees shall be located no closer than three (3) feet from the edge of any designated planting area.

(b) *Understory trees.* Understory tree species as defined shall be a minimum of four (4) feet overall height immediately after planting with at least a one (1) inch diameter (caliper).

(c) *Shrubs.* For the purposes of this section a shrub shall be defined as any self supporting woody evergreen or flowering species generally growing or maintained at a height of five (5) feet or less. Shrubs shall be a minimum of twenty-four (24) inches in height when measured immediately after planting and planted a maximum of thirty-six (36) inches on center.

17.2.6 Plant and Structure Location. All plant materials shall be installed to achieve the purposes for which that planting is required. The required planting should generally be in an irregular line and should be spaced at random intervals in order to achieve maximum growth for each plant and tree species.

(a) Canopy trees shall be located no closer than ten (10) feet from any structure. Under story trees and shrubs shall be planted no closer than three (3) feet from any structure.

(b) To avoid a power line conflict, vegetation that exceeds twenty-five (25) feet in height at maturity shall not be included closer than thirty (30) feet of the vertical plane of an existing power line.

(c) Visibility Triangles contained in Section 16.6.3 shall be maintained.

17.2.7 Landscape Plans. Whenever the provisions with this section apply, a landscaping plan shall be submitted for review. The landscape plan may be submitted in conjunction with a Site Plan Approval for a structure or be submitted through a separate Site Plan Approval and may be included on the site plan which is required for Site Plan approval.

The landscape plan must be drawn to scale, with a narrative and any necessary calculations, and include the following:

- (a) Dimensions and North Arrow.
- (b) Preserved trees.
- (c) Locations of proposed signs and lightning.
- (d) Locations of proposed sidewalks or other paths and ingress and egress locations and widths.
- (e) Proposed location and spacing of all required plantings.
- (f) Overhead and underground utilities existing and proposed.
- (g) Subject property zoning and current use and adjoining property zoning and current use.

The landscape buffer plan shall be submitted along with a Site Plan Approval. Prior to the issuance of a Certificate of Occupancy (CO) the Planning and Zoning Department shall conduct an inspection to insure the buffer is installed as required.

Section 5.3 B-3, General Business District

5.3.4 Area and dimensional ordinances.

Maximum Height of Structure in Feet	40
Maximum Height of Structure in Habitable Stories	3
Minimum Front Yard	40-Feet
Minimum Rear Yard	25-Feet
Minimum Side Yards	15-Feet
Minimum Lot Area	20,000 Square Feet
Maximum Impervious Surface Ratio	.70
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	60-Feet

Section 12.8 Highway Construction Setbacks

In accordance with Act No. 94-572 of the Legislature of Alabama enacted April 21, 1994, the following construction setbacks shall apply from any state or county road or highway:

- (a) *Principal arterials*. Principal arterials require a setback of 125-feet from the centerline of the right-of-way.
- (b) *Minor arterials*. Minor arterials require a setback of 100-feet from the centerline of the right-of-way.
- (c) *Major collectors*. Major collectors require a setback of 75-feet from the centerline of the right-of-way.
- (d) *Minor collectors*. Minor collectors require a setback of 50-feet from the centerline of the right-of-way.

Per the Federal Highway Administration, the functional classification of County Road 64 in this area is minor arterial.

Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

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 described as 331.3' x 620 for a total of 205,406 square feet. The lot meets the minimum lot width and area for property zoned B-3. Therefore, the property does not meet the exceptional narrowness, shallowness or shape standard for a variance.

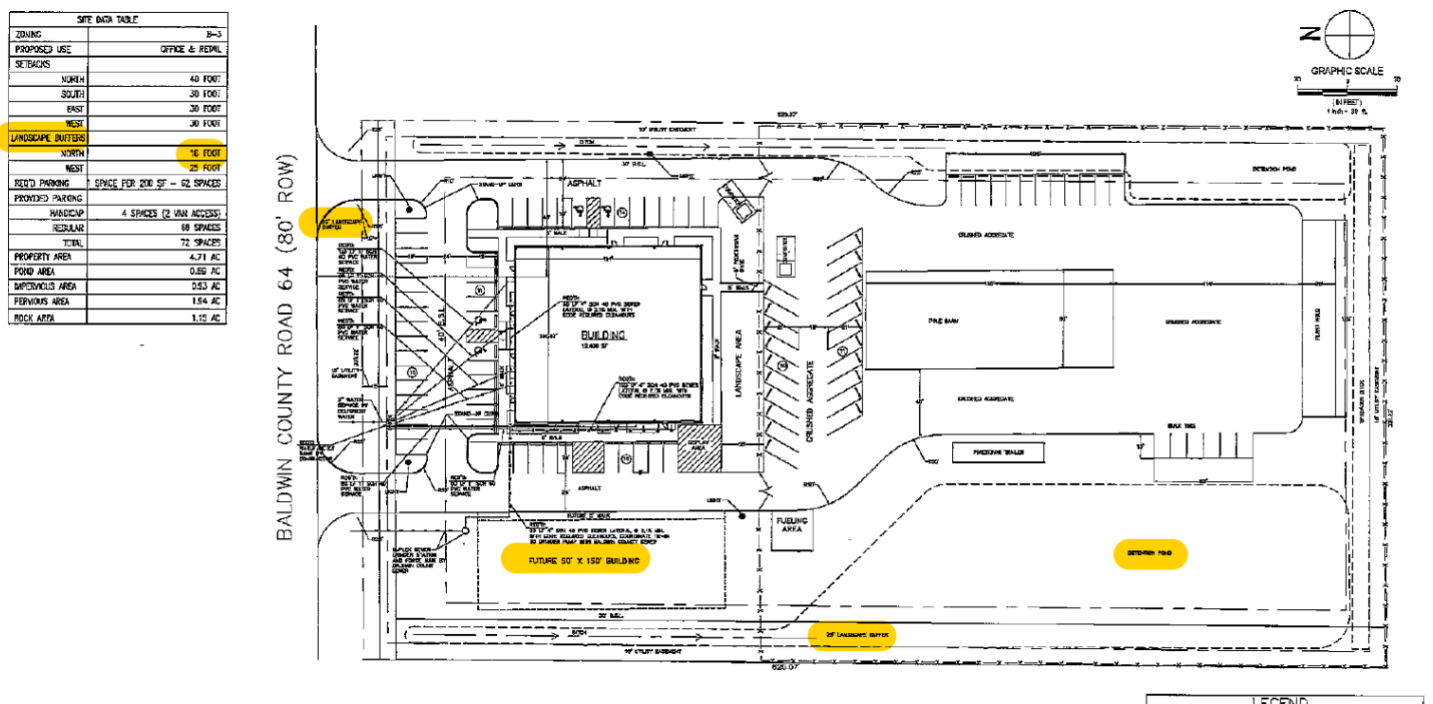
2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

Per the contour layer of the ArcGIS map, the property appears to be relatively flat. When the existing office building was constructed in 2019, detention ponds were installed for storm water management. These ponds prevent the applicant from having sufficient space for the required landscape buffers. Therefore, staff believes the property does meet the extraordinary situation or condition of a specific piece of property standard.

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 property is zoned for commercial use and is currently developed with an office, warehouse and covered storage area. The applicant is proposing to construct a new building for retail/gym. The proposed new building was included on the site plan submitted in 2019 for the existing office as a future building. Therefore, staff feels the granting of the application is necessary to preserve a property right as the proposed structures was in the previous plans.

2019 Site Plan



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 anticipate any adverse 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.

5.) Other matters which may be appropriate.

Applicant needs to submit a revised landscaped plan showing they will meet the requirements of section 17.1(a) as it pertains to a 10-foot landscaped buffer adjacent to County Road 64.

Staff Comments and Recommendation

As stated previously, the applicant is requesting a variance from the landscaped buffer setback requirements to allow for the construction of a new building. Staff recommends **APPROVAL** of the variance request.

** A majority vote of the board members will be necessary to approve this request.*

GENERAL NOTES {By-laws}

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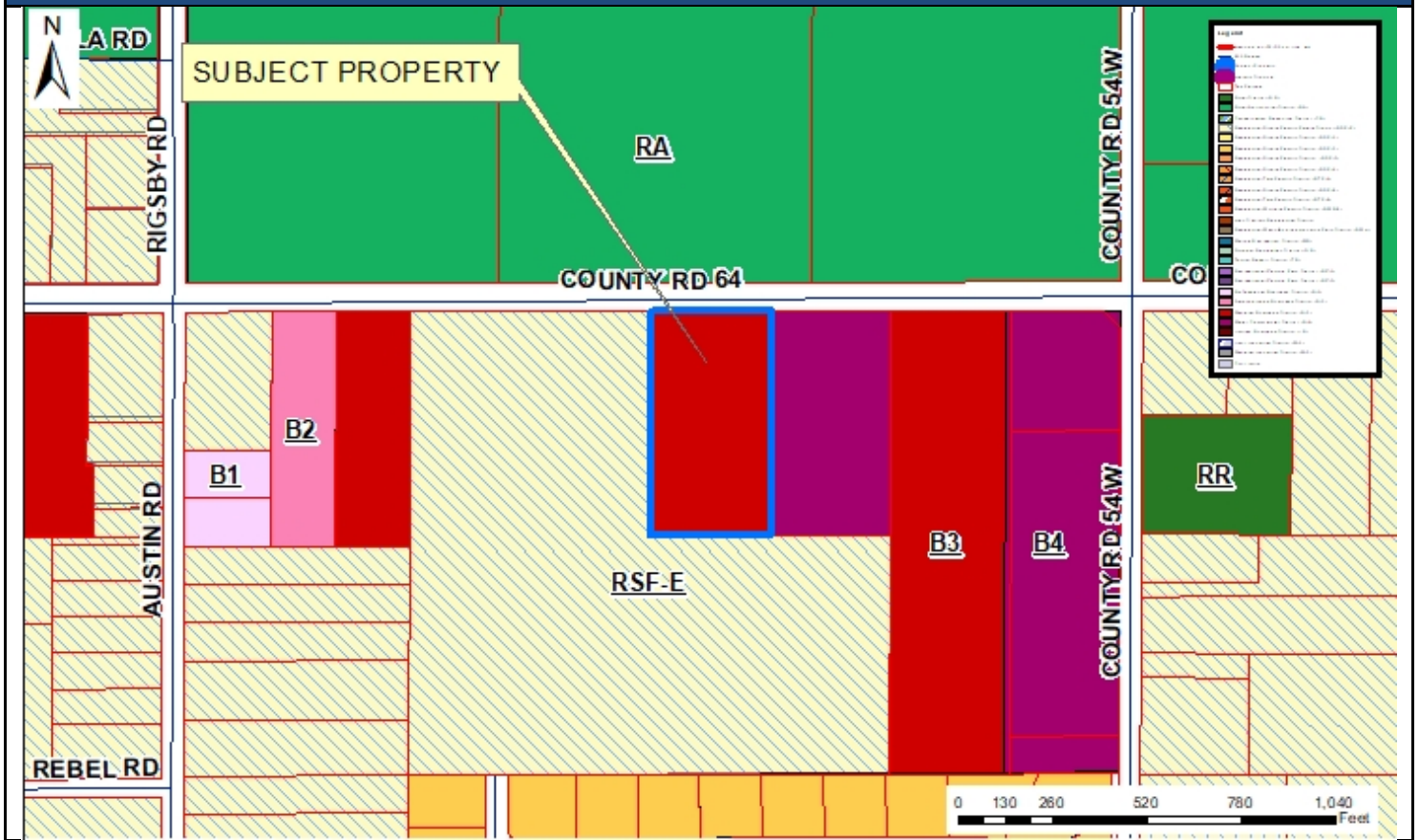
Property Images







Locator Map



Site Map – 2020 Aerial Photography

