

**ORDINANCE NO. 1667**

**AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of **Rosetta Wasp and Mildred Brown** generally located at **309 S. Ingleside Street**, Fairhope, Alabama.

**PPIN #: 25788**

**Legal Description:** (Case number ZC 19.15)

**LOT 1, ROSETTA LEWIS SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED AT MAP BOOK 10, PAGE 113, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA.**

A map of the property to be rezoned is attached as Exhibit A

**The property is hereby rezoned from R-2 Medium Density Single Family Residential District to B-3b Tourist Resort Commercial Service District.** This property shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 1253 and to use said premises for any use permitted or building sought to be erected on said property shall be in compliance with the building laws of the City of Fairhope and that any structure shall be approved by the Building Official of the City of Fairhope and that any structure be erected only in compliance with such laws, including the requirements of Ordinance No. 1253.

**Severability Clause** - if any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

**Effective Date** - This ordinance shall take effect immediately upon its due adoption and publication as required by law.

ADOPTED THIS 23RD DAY OF DECEMBER, 2019

  
Jack Burrell, Council President

ATTEST:

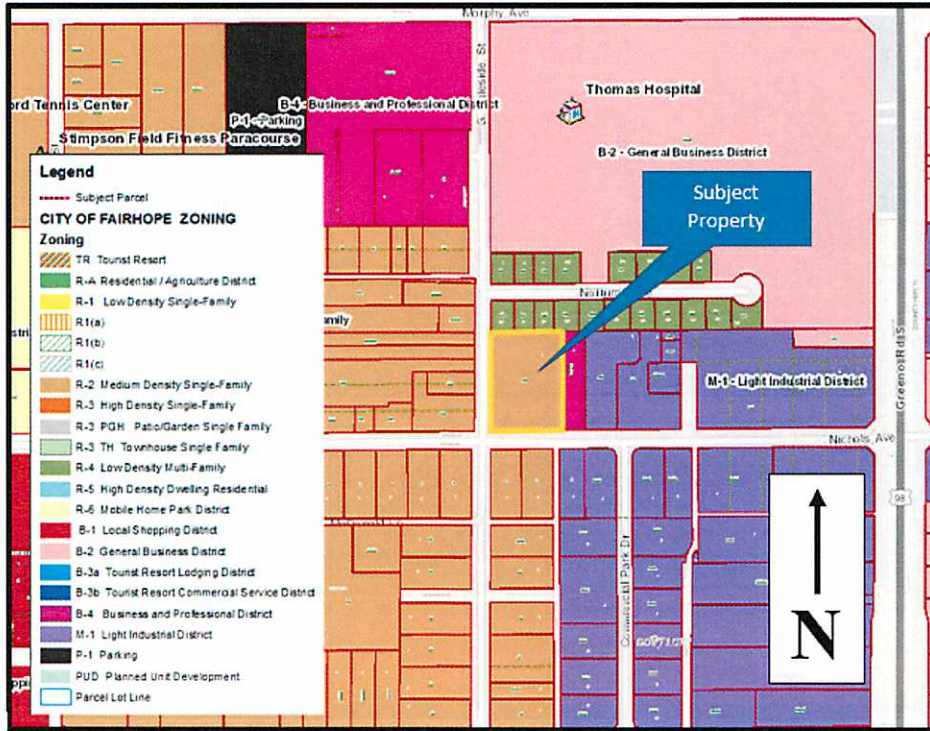
  
Lisa A. Hanks, MMC  
City Clerk

Ord. No. 1667 Published in  
FAIRHOPE COURIER  
on Wednesday, January 8, 2020  
Lisa A. Hanks, City Clerk



# ZC 19.5 309 S. Ingleside St, R-2 to B-3b

LOCATION: 309 S. Ingleside St



ZONING DISTRICT: PUD

OWNER/APPLICANT: Rosetta Wasp/Larry Smith

## Summary

Request to rezone Subject Property from R-2, Single-Family Residential to B-3b with the intent to turn existing house into a restaurant.

## Analysis

The Subject Property is located within Fairhope's Medical Overlay District (MOD). While most of the surrounding properties within the MOD are zoned M-1 Light Industrial, the subject property is zoned R-2. The adjoining lot to the east is zoned B-4 Business and Professional District. Abutting properties to the west, across S Ingleside St, are zoned R-2 Medium Density Residential. Abutting properties to the south, across Nichols Ave, are zoned R-2 and M-1. Adjoining properties to the north are zoned R-4 Low Density Multi-Family.

Setbacks were recorded on a historic plat and differ from the way staff would currently interpret setbacks under R-2 zoning. Regardless, if approved, B-3b zoning will require a front setback (Nichols side) of 20' and a rear setback of 20', and because the property is abutting residentially zoned property to the west, a street side setback of 10' will be required on S Ingleside St. Approval of B-3b zoning will require landscape buffers on the north, west, and south boundaries of the property. The subject property will need to be re-platted to show new setbacks.



## Criteria Review

Fairhope's Zoning Ordinance contains nine (9) criteria by which an application for re-zoning shall be reviewed. Each criteria and review comments for each criterion are discussed in detail below.

(1) Compliance with the Comprehensive Plan;

### Response:

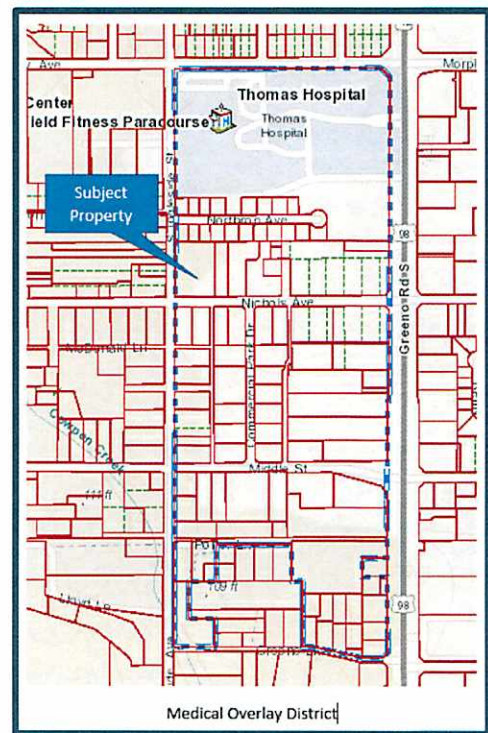
Infill development has changed the dynamic of the neighborhood surrounding the subject property. Locally owned restaurants and businesses have become recent staples of the community. Although the latest comprehensive plan does not explicitly list this area as a "Village", it does acknowledge the area within the Medical Overlay District as "Public Facilities".

As defined by the Comprehensive Plan, *Public Facilities* are city-owned assets, schools, and infrastructure facilities (Thomas Hospital in this case) that "frequently serve as 'anchors' to attract compatible development". A restaurant use is compatible with a hospital as addressed in the Medical Overlay District, which is further described below.

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

Response: The Medical Overlay District (shown in the map right) acknowledges the need for "appropriate facilities for the medical community it serves". Logically, workers and patrons need places to eat. To that extent, restaurants were recently added to the list of allowable uses within M-1 zoning, the most prominent zoning type south of the hospital to Porter Ln.

In addition, the Medical Overlay District allows restaurants as an "Accessory Use" regardless of the underlying zoning.



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

Response: There are two established restaurants within the same block as the subject property. Therefore, the currently proposed restaurant use is consistent with surrounding properties and zoning. However, other allowable uses within B-3b zoning must be considered, especially considering the subject property is adjacent to residential because future owners/developers inherit all allowable uses. Listed below are allowable uses in the B-3b, along with comments about potential concerns as it relates to the character of the surrounding property:

Single Family Residential ("Allowed by Right")

– No Concerns

Two-Family Residential ("Allowed by Right")

– No Concerns

Multiple-Family/Apartment (Requires BOA Approval)

– No Concerns since BOA must approve and can institute conditions of approval.

Mixed-Use ("Allowed by Right")

– No Concern. Conceptually, mixed-use could offer a transition between adjacent M-1 Light Industrial and the adjacent residential zoning, but there is often hesitation rezoning to allow higher

density development where it does not currently exist. In this case, however, it is important to once again note the Subject Property is located within the Medical Overlay District. Within the entirety of the MOD, Mixed-use is allowable “by right”. Special restrictions within the MO District apply, specifically; ‘The residential use shall make up 33% of the total area of the building and be located of the upper floors only’ and “Mixed-use buildings shall be vertically mixed in use. Retail uses shall be placed at street level”.

Accessory Dwelling (“Allowed with Restrictions”)

– No Concerns

Schools and Library (“Allowed by Right”)

– No Concerns

General Office (“Allowed by Right”)

– No Concerns

Professional Office (“Allowed by Right”)

– No Concerns

Home Occupation (“Allowed with Restrictions”)

– No Concerns.

Grocery (“Allowed by Right”)

– No Concerns

Convenience Store (“Allowed with Restrictions”)

– No Concerns. A convenience store is not allowed within 100ft of residential property.

General Merchandise (“Allowed by Right”)

– No Concerns

Outdoor Recreation Facility (“Allowed by Right”)

– No Concerns

Indoor Recreation (Requires BOA Approval)

– No Concerns since BOA must approve and can institute conditions of approval.

Personal Storage (“Allowed with Restrictions”)

– No Concerns. *Special Conditions for Use* would not allow the subject property to be used for personal storage.

Hotel/Motel (“Allowed by Right”)

– No Concerns. Height limit of 30ft and subject to MOP review.

Recreational Vehicle Park (“Allowed with Restrictions”)

– No Concerns. *Special Conditions for Use* require 3 acres, which is larger than the Subject Property.

Restaurant (“Allowed by Right”)

– No Concerns

Bar (“Allowed by Right”)

– No Concerns

Entertainment Venue (Requires BOA Approval)

– No Concerns since BOA must approve and can institute conditions of approval.

Marina (Requires BOA Approval)

– No Concerns. No Water.

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

Response: Utilities are available. Capacity can be evaluated via building permit/subdivision regulations.

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

Response: No known detrimental impacts are currently foreseen.

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

Response: At the time of development all applicable laws will be applied.

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

Response: At the time of development all applicable laws will be applied.

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

Response: Commercial property may have different laws and regulations than residentially zoned property, such as, but not limited to landscape buffer requirements of the City's Tree Ordinance. Subject Property, upon approval of this application, will be subject to laws and regulations as required of commercial property.

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

Response: Staff does not anticipate significant issues relating to this criterion.

### **Background**

The existing building on the site has been used as a single-family home in R-2.

On 12/12/2019, the City of Fairhope established the Medical Overlay District, within which the subject property lies.

### **Staff Recommendation:**

Approve with Conditions

### **Conditions of Approval:**

Re-plat to remove old setbacks and add new setbacks that reflect the new zoning (B-3b if approved). This will not require another case and can be approved at staff level.

### **Planning Commission Recommendation:**

Hollie MacKellar made a motion to accept the staff recommendation to **APPROVE** with the following conditions:

1. Re-plat to remove old setbacks and add new setbacks that reflect the new zoning (B-3b, if approved). This will not require another case and can be approved at staff level.
2. Sidewalks shall be required at the time of development.

Rebecca Bryant 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE – Art Dyas, Rebecca Bryant, Harry Kohler, Lee Turner, Hollie MacKellar, and Richard Peterson. NAY – none.

### **Appends**

Appx. 1: Aerial of Subject Property

Appx. 2: Rezoning Application

Appx. 3: Applicant's Narrative/Letter

Appx. 4: Historic Plat

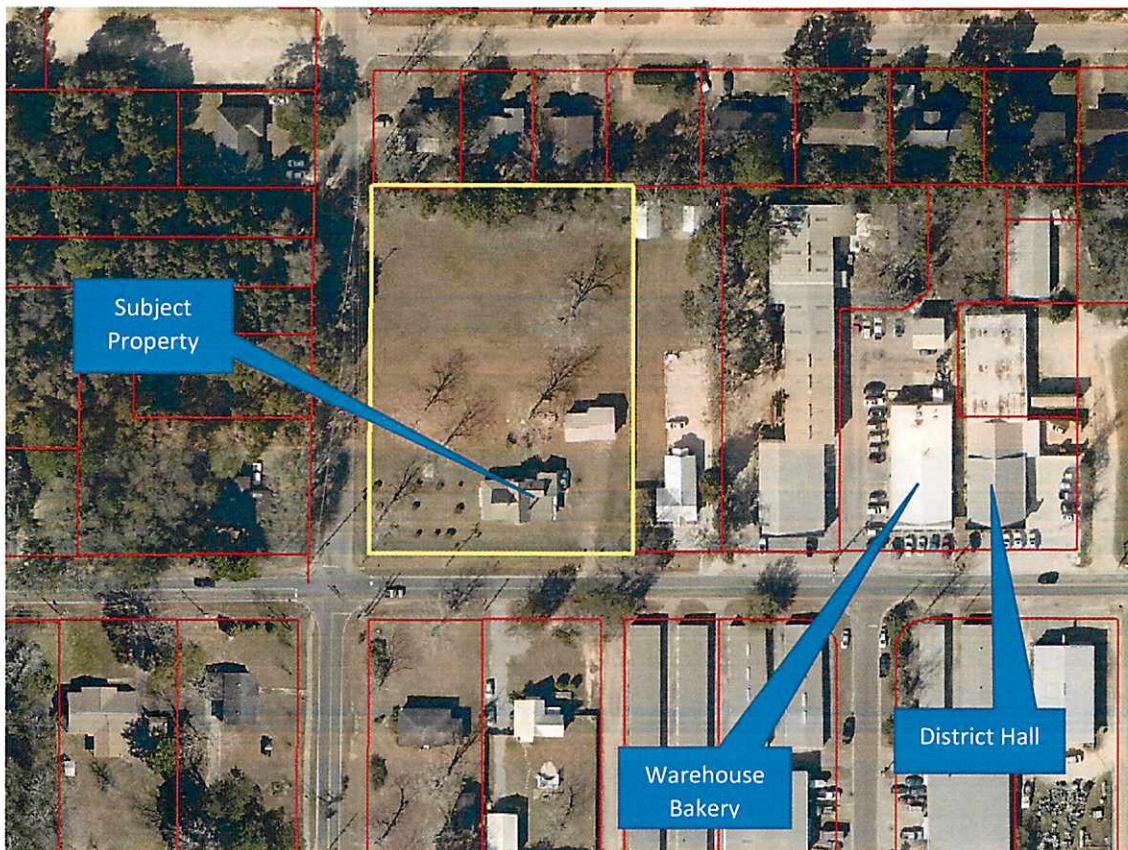
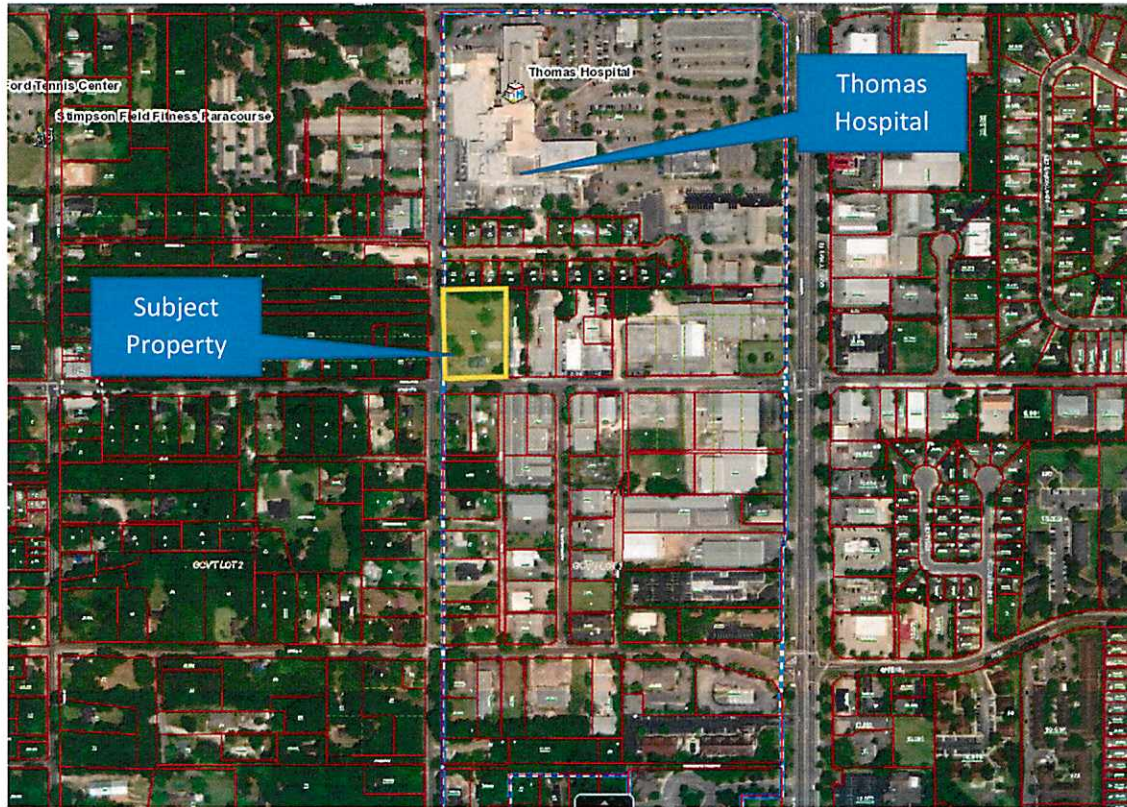
Appx. 5: Boundary and Topographic Survey

Appx. 6: Proposed Site Plan

Appx. 7: Proposed Architectural Plans



# Appendix 1: Aerial Images of Site





# Appendix 2: Rezoning Application



## APPLICATION FOR ZONING DISTRICT CHANGE

<b>Property Owner / Leaseholder Information</b>			
Name: <u>Wasp, Rosetta Young ETAL Brown, Mildred</u>	Phone Number: _____		
Street Address: <u>309 S Ingleside Ave</u>			
City: <u>Fairhope</u>	State: <u>AL</u>	Zip: <u>36532</u>	

<b>Applicant / Agent Information</b>	
If different from above. Notarized letter from property owner is required if an agent is used for representation.	
Name: <u>Larry Smith, PE</u>	Phone Number: <u>(251)990-6566</u>
Street Address: <u>880 Holcomb Blvd, Suite 2F</u>	
City: <u>Fairhope</u>	State: <u>AL</u> Zip: <u>36532</u>

Current Zoning of Property: <u>R-2</u>
Proposed Zoning/Use of the Property: <u>B-3b, Restaurant</u>
Property Address: <u>309 S. Ingleside Ave</u>
Parcel Number: <u>05-46-04-17-4-000-139.00</u>
Property Legal Description: <u>Lot 1, Rosetta Lewis Subdivision</u>
Reason for Zoning Change: <u>Allow restuarant use on the property</u>

- |   |                                      |    |
|---|--------------------------------------|----|
| Property Map Attached   | <input checked="" type="radio"/> YES | NO |
| Metes and Bounds Description Attached   | <input checked="" type="radio"/> YES | NO |
| Names and Address of all Real Property Owners within 300 Feet of Above Described Property Attached. | <input checked="" type="radio"/> YES | NO |

Character of Improvements to the Property and Approximate Construction Date: <u>Renovate existing structure to add commercial kitchen, restrooms, parking, etc. Spring 2020.</u>
--

Zoning Fee Calculation:  
Reference: Ordinance 1269

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

Mildred Brown and Rosetta Wasp	<i>Mildred Brown</i>	<i>Rosetta Wasp</i>
Property Owner/Leaseholder Printed Name	Signature	
Date	Fairhope Single Tax Corp. (If Applicable)	

dotloop verified  
09/05/19 9:37 AM EDT  
UD07-SQF9-1D8B-IPUI





September 25, 2019

**Hunter Simmons**  
City of Fairhope  
555 S. Section Street  
Fairhope, AL 36532

**Re: El Barrio**

Dear Hunter:

The applicant is requesting to open a restaurant at 309 S Ingleside Avenue South. The parcel number is 05-46-04-17-4-000-139.000. The current parcel is lies in the Medical Overlay District and is zoned R-2. The properties to the East are B-4 and M-1. Since this property is in the Medical Overlay District, one would infer that the intent would be for this property to become commercial. We are requesting a rezoning to B-3b which will allow the restaurant use. The purchaser is going to renovate and expand the existing residence on the property. As part of the site plan review that will be required, we will install any required buffers between the development and the residential properties.

Mr. Chris Cullen will be moving his family to Fairhope from Birmingham to open his second location of El Barrio Restaurante. Chris's wife is from Fairhope, and opening a restaurant here has always been a dream of theirs. From their Website: El Barrio brings an exciting, different flavor... Inspired by multi-regional Mexican Cuisine, urban design and locally sourced ingredients, El Barrio bridges the gap between the typical Mexican restaurant and bustling bar and grill. <http://elbarriobirmingham.com/>

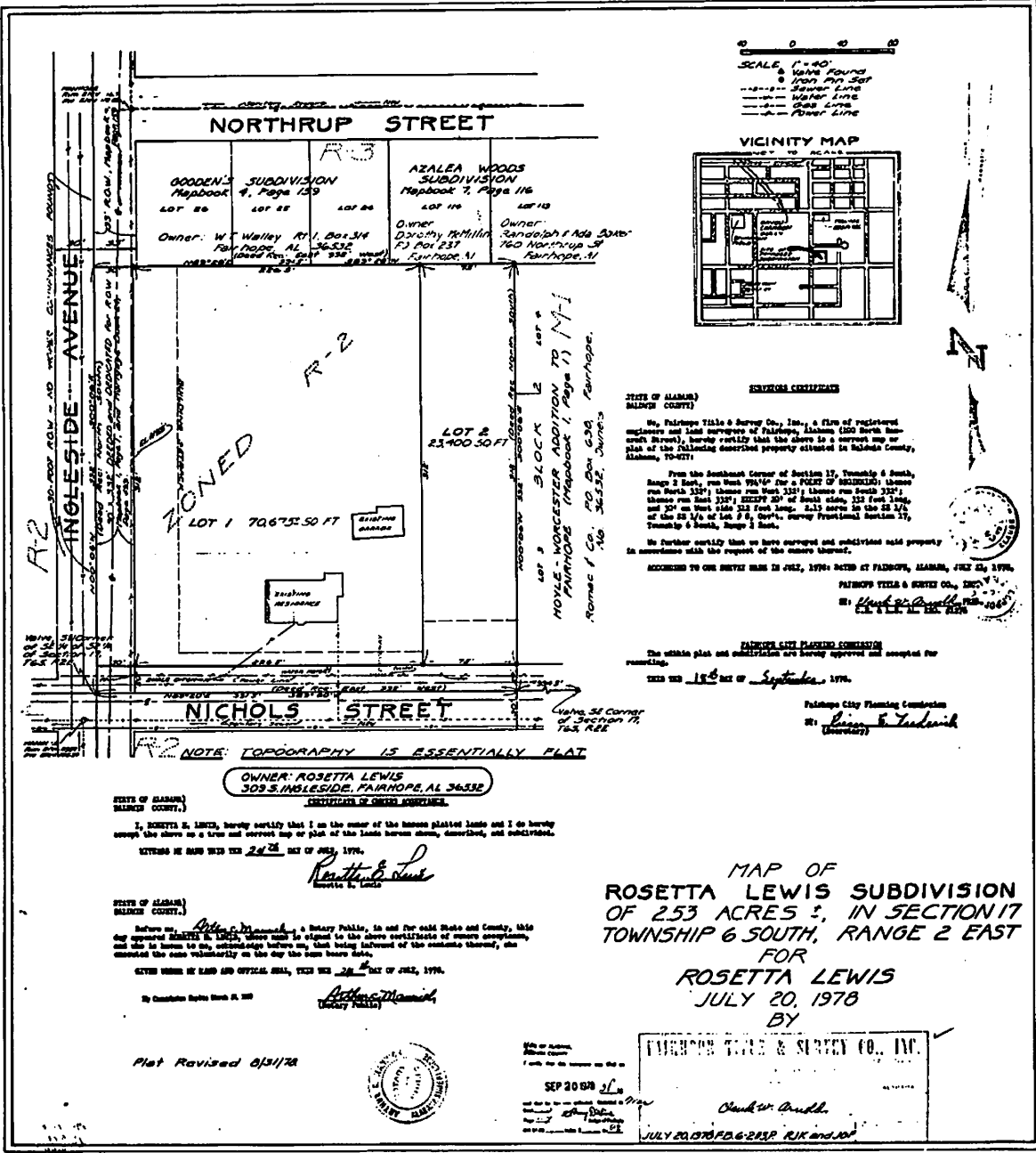
This use will be in line with the other commercial properties on this block of Nichols which include two restaurants: Warehouse Bakery and District Hall.

We respectfully request that this application be referred to the Planning Commission and City Council for approval.

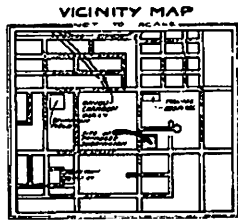
Sincerely,

A handwritten signature in black ink, appearing to read 'Larry Smith', written over a thin horizontal line.

**Larry Smith, PE**  
larry@secivil.pro



SCALE 1"=40'  
 - - - - - WARE FOUND  
 - - - - - 1200' R/W STOP  
 - - - - - Sewer Line  
 - - - - - Water Line  
 - - - - - Gas Line  
 - - - - - Power Line



**SECTION CERTIFICATE**  
 STATE OF ALABAMA  
 BALDWIN COUNTY  
 We, Fairhope Title & Survey Co., Inc., a firm of registered engineers and land surveyors of Fairhope, Alabama (250 North Hancock Street), hereby certify that the above is a correct map or plat of the following described property situated in Baldwin County, Alabama, TO-WIT:

From the Southeast Corner of Section 17, Township 6 South, Range 2 East, run West 984'6" for a POINT OF BEGINNING; thence run North 120°; thence run West 335'; thence run South 332'; thence run East 332' EXCEPT 20' of South side, 213 Feet long, and 30' on West side 213 Feet long, 2.15 acres in the SE 1/4 of the SW 1/4 of lot 2, 204', every fractional Section 17, Township 6 South, Range 2 East.

We further certify that we have surveyed and subdivided said property in accordance with the request of the owners hereof.

WITNESSED OUR SURVEYORS HANDS IN JUNE, 1978; DATED AT FAIRHOPE, ALABAMA, JULY 20, 1978.  
 FAIRHOPE TITLE & SURVEY CO., INC.  
 By: *Chuck W. Ornduff* (Surveyor)  
 C. W. ORNDUFF, No. 2088

**FAIRHOPE CITY PLANNING COMMISSION**  
 The within plat and subdivision are hereby approved and accepted for recording.  
 THIS 18th DAY OF September, 1978.

Fairhope City Planning Commission  
 By: *William E. Ludwick* (Secretary)

**OWNER: ROSETTA LEWIS**  
 303 S. INGLESIDE, FAIRHOPE, AL 36532

STATE OF ALABAMA  
 BALDWIN COUNTY  
**CERTIFICATE OF OWNER ASSUMPTION**  
 I, ROSETTA E. LEWIS, hereby certify that I am the owner of the herein platted lands and I do hereby accept the above as a true and correct map or plat of the lands herein shown, described, and subdivided.  
 WITNESSED ME HAND THIS 20th DAY OF JULY, 1978.  
*Rosetta E. Lewis*  
 Rosetta E. Lewis

STATE OF ALABAMA  
 BALDWIN COUNTY  
 Before me, *Arthur C. D...* a Notary Public, in and for said State and County, this day appeared **ROSETTA E. LEWIS**, whose name is signed to the above certificate of owner assumption, and she is known to me, notwithstanding before me, that being informed of the contents thereof, she manifested the same voluntarily on the day the same were taken.  
 GIVEN UNDER MY HAND AND OFFICIAL SEAL, THIS 20th DAY OF JULY, 1978.  
 By Commission Expires March 21, 1980  
*Arthur C. D...*  
 (Notary Public)

MAP OF  
**ROSETTA LEWIS SUBDIVISION**  
 OF 2.53 ACRES ±, IN SECTION 17  
 TOWNSHIP 6 SOUTH, RANGE 2 EAST  
 FOR  
**ROSETTA LEWIS**  
 JULY 20, 1978  
 BY

**FAIRHOPE TITLE & SURVEY CO., INC.**

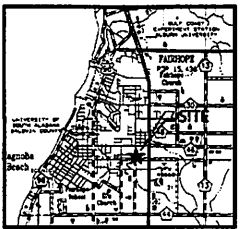
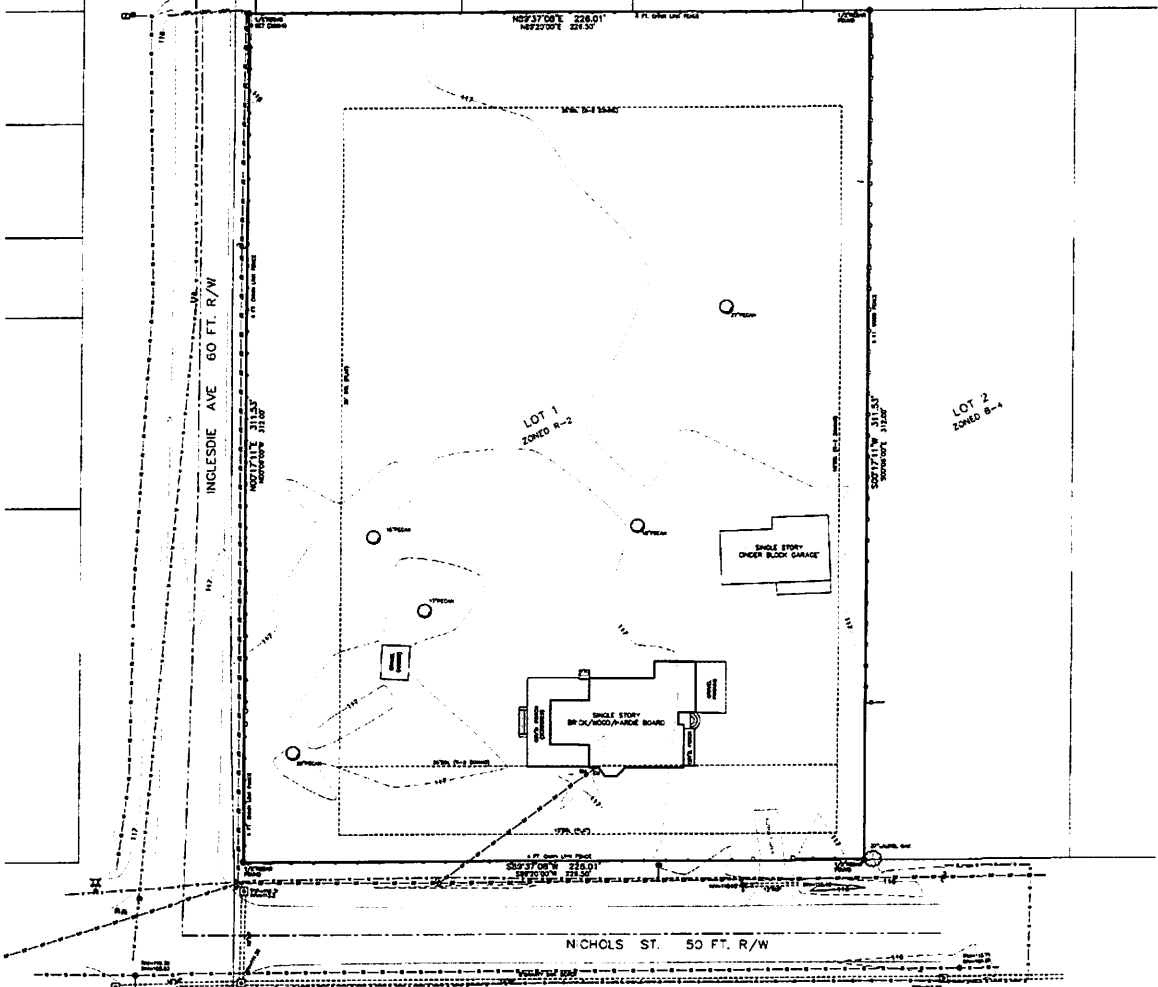
SEP 20 1978  
 SEP 20 1978  
 JULY 20 1978 FB-6-2832 RJK and JAF



Vertical text on the left margin: 'R-2 INGLESIDE AVENUE' and other survey notes.

891

LOT 28 GOODENS SUB. MB 4 PG 159 LOT 25 LOT 24 AZALEA WOODS SUB. MB 7 PG 116 LOT 114



- LEGEND**
- (R) RECORD BEARING/DISTANCE
  - (dms) ACTUAL & RECORD
  - o CAPMED BEAM FOUND
  - o CAPMED BEAM SET
  - o BEAM FOUND (NO CAP)
  - o DRAINAGE HOLE
  - o SEWER MANHOLE
  - o WATER VALVE
  - o SEWER MANHOLE
  - o SEWER QUANTITY MARK
  - UNDERGROUND GAS LINE
  - UNDERGROUND TELEPHONE LINE
  - UNDERGROUND TELEPHONE LINE
  - UNDERGROUND FIBER OPTIC LINE
  - UNDERGROUND POWER LINE

**FLOOD STATEMENT**  
 PROPERTY LIES IN FLOOD ZONE "X", AS  
 SCALED FROM FLOOD INSURANCE RATE  
 MAP NUMBER 0700300644M, DATED  
 APRIL 19, 2015

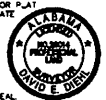
**SURVEYOR'S NOTES:**

1. THERE MAY BE RECORDS OR UNRECORDED DEEDS, EASEMENTS, RIGHT-OF-WAYS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OF SAID PROPERTY.
2. THERE WAS NO ATTEMPT TO DETERMINE THE EXISTENCE, LOCATION, OR EXTENT OF ANY SUB-SURFACE UTILITIES.
3. THE LINES REPRESENTING THE CENTERLINE AND RIGHT-OF-WAYS OF THE STREETS ARE SHOWN FOR INFORMATION ONLY AND HAVE NOT SURVEYED. UNLESS INDICATED OTHERWISE.
4. SURVEY WAS CONDUCTED ON SAT. 16. 2015, AND IS RECORDED IN AN ELECTRONIC FIELD BOOK.
5. BEARINGS AND DISTANCES SHOWN HEREIN WERE "COMPUTED" FROM ACTUAL FIELD TRAVERSE AND ARE BASED ON STATE PLANE GRID, ALABAMA WEST ZONE, USING GPS OBSERVATIONS.
6. ELEVATIONS SHOWN HEREIN ARE BASED ON NAVD 1983 DATUM.
7. THIS SURVEY HAS BEEN CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATUTES OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA, EFFECTIVE JANUARY 1, 2015.

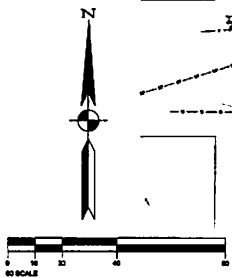
**SURVEYOR'S CERTIFICATE**  
 I HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA, TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

LOT 1, ROSETTA LEWIS SUBDIVISION, AS SHOWN BY MAP OR PLAN THEREOF, RECORDED AT MAP BOOK 10, PAGE 113, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA.

DAVID E. DEHL, AL P.L.S. NO. 26014 DATE 07-24-2015



SURVEY NOT VALID WITHOUT ORIGINAL SIGNATURE AND SEAL.



**BOUNDARY & TOPOGRAPHIC SURVEY**  
 EL BARIRIO RESTAURANTE  
 Y BAR



DRAWN	CDJ
CHECKED	CDJ
PROJ/MGR	CDJ
SCALE	1"=20'
PROJECT	2106287
FILE	20160228
SHEET	1 of 1







**Poole & Co**  
architects

1000 WEST 10TH AVENUE SUITE 100 DENVER, CO 80202  
TEL: 303.733.8800 FAX: 303.733.8801

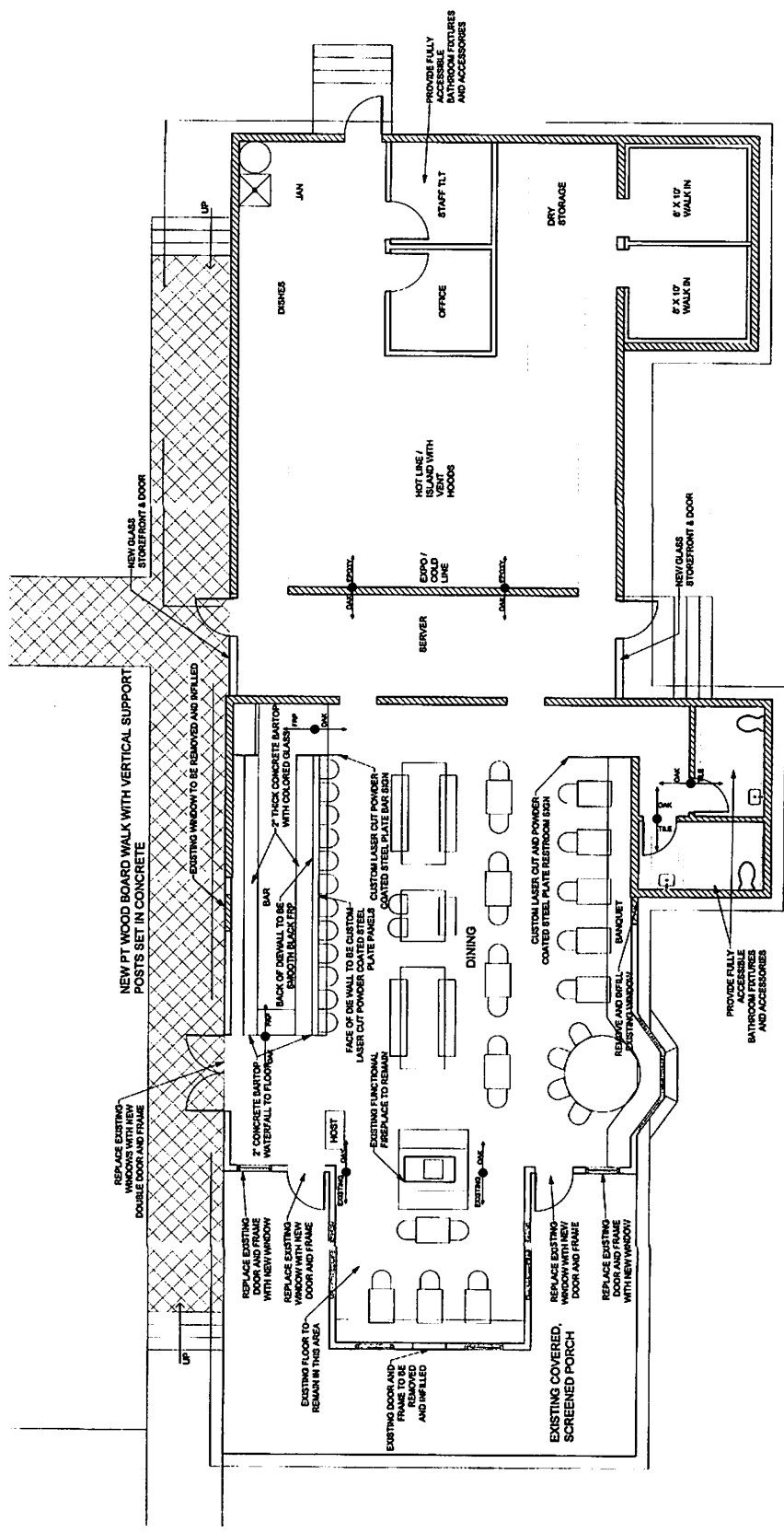
**LEGEND**

- NEW WALLS
- NEW WALLS WITH EXISTING WALLS TO BE 7/8" REINFORCED
- NEW WALLS WITH EXISTING WALLS TO BE 7/8" REINFORCED AND AN IRON ANCHOR
- ALL NEW INTERIOR WALLS TO BE 5/8" GYPSUM BOARD TO BE 2X4 STUDS
- EXISTING WALLS
- EXISTING WALLS TO BE REINFORCED WITH 1/2" REINFORCING BARS
- EXISTING WALLS TO BE REINFORCED WITH 1/2" REINFORCING BARS AND ANCHORS
- NEW 1/2" WOOD SOUNDBREAK

**GENERAL NOTES:**

1. REMOVE ALL EXISTING WALLS TO BE REMOVED AND INFILL WITH CONCRETE.
2. REMOVE ALL EXISTING WALLS TO BE REMOVED AND INFILL WITH CONCRETE.
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18. REMOVE ALL EXISTING WALLS TO BE REMOVED AND INFILL WITH CONCRETE.
19. REMOVE ALL EXISTING WALLS TO BE REMOVED AND INFILL WITH CONCRETE.
20. REMOVE ALL EXISTING WALLS TO BE REMOVED AND INFILL WITH CONCRETE.

DATE	11/15/13
BY	WLS
PROJECT	POOLE & COMPANY #
CLIENT	EL BARRIO FAIRHOPE
ARCHITECT	POOLE & COMPANY
SHEET	A201



**NEW FLOORPLAN**  
SCALE: 1/4" = 1'-0"

AUG 15 2013



**Poole & Co**  
architects  
11000 W. 11th Street, Suite 100  
Denver, CO 80202  
Tel: 303.733.1000  
Fax: 303.733.1001

LEGEND  
 NEW PT WOOD BOARDWALK

GENERAL NOTES:

- ① INSULATION SHALL BE INSTALLED OVER ALL NEW AND EXISTING ROOF MEMBRANE ON ALL ROOF SLOPES OR FLATS BY THE CONTRACTOR.
- ② NEW ROOF FRAMING TO BE DIMENSIONED LUMBER JOISTS

DATES: PRE DESIGN: 11/15/17  
 11/15/17

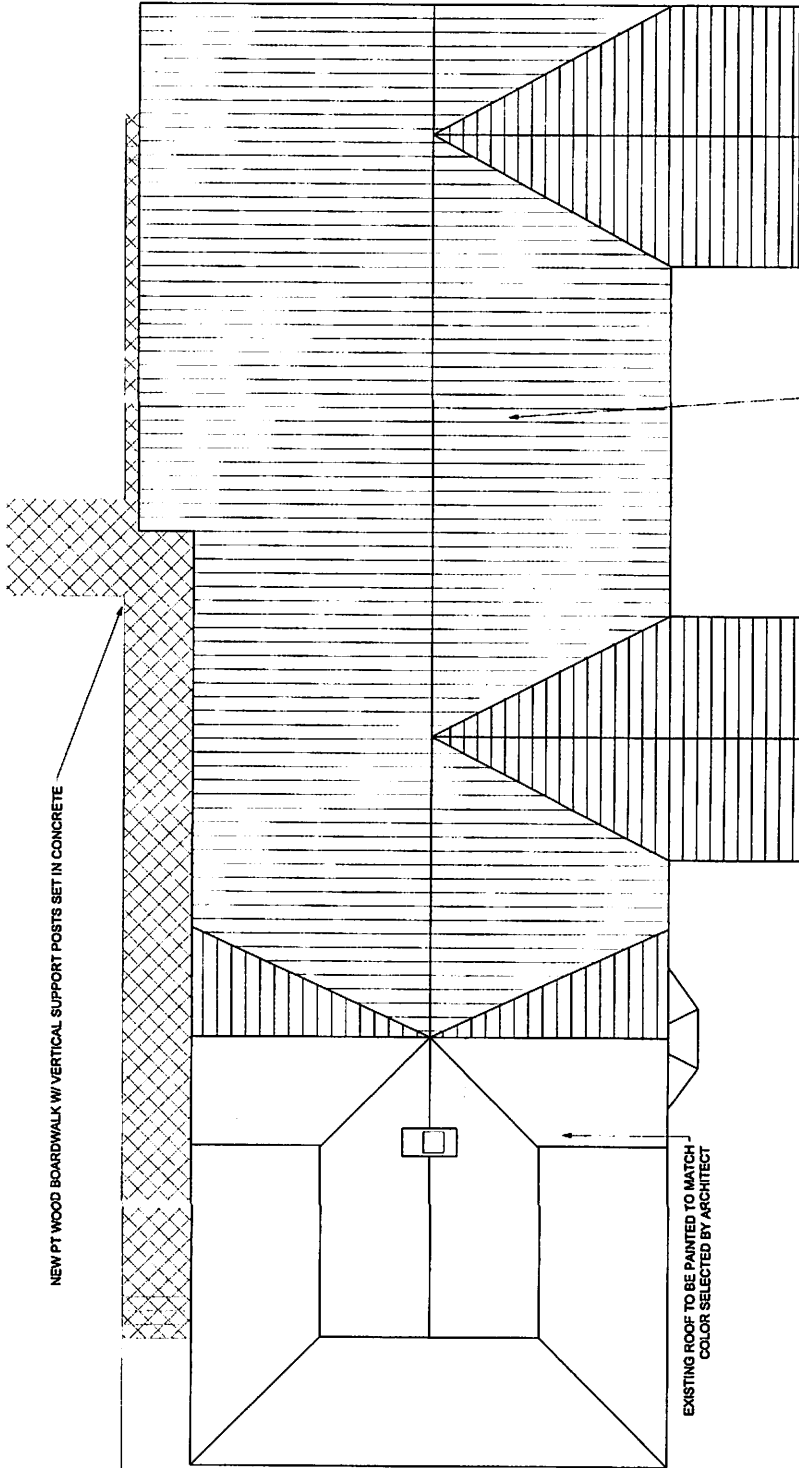
DRAWING: ROOF PLAN

PROJECT: POOLE & COMPANY'S

EL BARRIO FAIRHOPE

FAIRHOPE, UTAH

SHEET: A202



NEW PT WOOD BOARDWALK W/ VERTICAL SUPPORT POSTS SET IN CONCRETE

EXISTING ROOF TO BE PAINTED TO MATCH COLOR SELECTED BY ARCHITECT

NEW PD STL. EXPOSED FASTENER. CORRUGATED ROOF TO MATCH EXISTING. COLOR SELECTED BY ARCHITECT. EXISTING ROOF TO BE PAINTED TO MATCH COLOR SELECTED BY ARCHITECT

ROOF PLAN  
 SCALE: 1/8" = 1'-0"



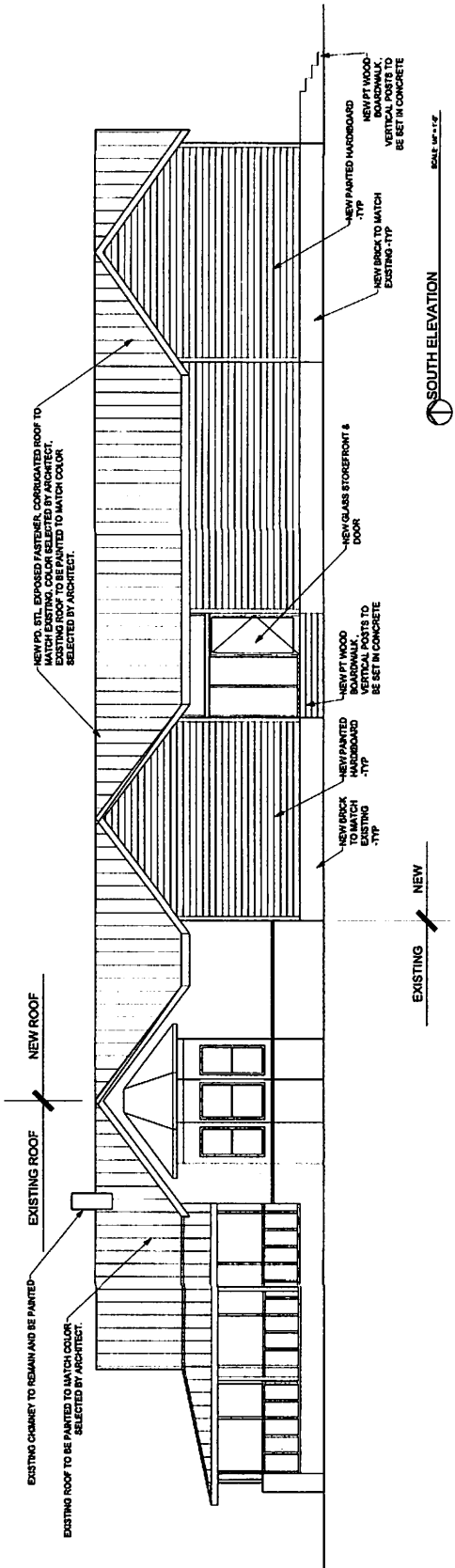


**Poole & Co**  
architects

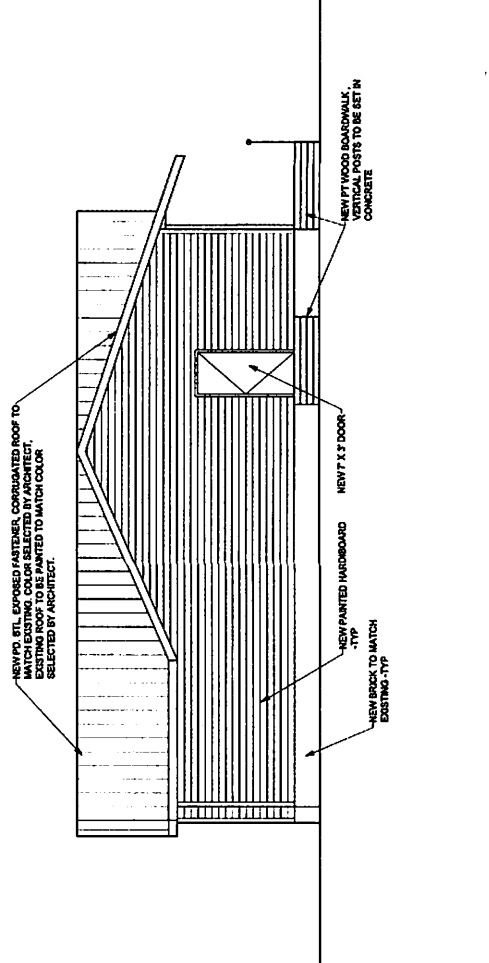
1000 S. GARDEN AVENUE, SUITE 100  
DENVER, CO 80202  
PHONE: 303.733.1000  
FAX: 303.733.1001

DATE	FILE DESIGN	SCALE
DRAWING		
ELEVATIONS		
PROJECT		
POOLE & COMPANY'S		
EL BARRIO FAIRHOPE		
FAIRHOPE, ALABAMA		
SHEET		

A301



**SOUTH ELEVATION**



**EAST ELEVATION**

AUG 15 2013

SCALE 1/4\"/>