



**City of Fairhope  
Board of Adjustments Agenda  
5:00 PM  
Council Chambers  
April 17, 2023**

Sherry Sullivan  
*Mayor*

*Council Members*

Kevin G. Boone

Jack Burrell, ACMO

Jimmy Conyers

Corey Martin

Jay Robinson

Lisa A. Hanks, MMC  
*City Clerk*

Kimberly Creech  
*City Treasurer*

1. Call to Order
2. Approval of Minutes
  - December 19, 2022
3. Appointment of Board of Adjustments Secretary
4. Consideration of Agenda Items

**A. BOA 23.01** Public hearing to consider the request of the Owner, Virginia Davis Parr, for a 10.6' variance to the front setback requirement for property zoned R-2, Medium Density Single-Family Residential District. The property is approximately 8,500 SF and is located at 610 N. Mobile St.

**PPIN #: 32193**

**B. BOA 23.02** Public hearing to consider the request of the Applicant, RW LLC/David Ryan, acting on behalf of the owner, FST Magnolia Church LLC, for a use not provided for. The property is zoned B-2, General Business District. The property is approximately .52 acres and is located at 301 Magnolia Avenue.

**PPIN #: 15164**

5. Old/New Business
6. Adjourn

161 North Section Street

P.O. Drawer 429

Fairhope, Alabama 36553

251-928-2136

251-928-6776 Fax

[www.fairhopeal.gov](http://www.fairhopeal.gov)

*Printed on recycled paper*

The Board of Adjustments met Monday, December 19, 2022, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle, Vice-Chair; Frank Lamia; Ryan Baker; David Martin, Alternate I; Mike Jeffries, Development Services Manager; Michelle Melton, City Planner; and Allie Knutson, Secretary.

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

**Approval of Minutes**

Ryan Baker made a motion to approve the minutes from the November 21, 2022, meeting.

David Martin seconded the motion and the motion carried with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and David Martin.  
Nay: None.

**BOA 22.15 Public hearing to consider the request of the Owner, Winston Smith, for a 5' variance to the driveway side setback requirements as well as a variance for the 3' separation to the side lot line, to allow for the construction of a shared driveway on the adjoining lots, Lot 12 and Lot 14 on School Street. The properties are zoned R-2, Medium Density Single-Family Residential District and are approximately 0.48 acres. PPIN #: 2472**

Michelle Melton, City Planner, presented the case summary, showed an aerial of the property, and the site plan.

The Applicant, R. Winston Smith, is requesting a 5' variance to the driveway side setback requirements as well as a variance for the 3' separation to the side lot line, to allow for a shared driveway on the adjoining lots. The approval of the variance would result in a 10' side setback instead of 15' as is called for when a driveway extends past the front line of the principle structure. The proposed shared driveway will be designed to be pervious geoweb or concrete. The Applicant makes the request due to the smaller than average lot size for R-2 zoning and steep topography.

**Recommendation:**

Staff recommends approval of Case BOA 22.15 with the following conditions:

1. Driveway shall be made from pervious material and approved by the Planning Department.
2. Driveway shall be split along the common lot line 5' on each side.
3. Driveway shall be a maximum of 10' wide.
4. Provide a 20' Ingress/Egress easement between lots 12 and 14.

Chairman Vira asked what the sizes of the lots were, Michelle Melton stated that the site plan reflects one lot being approximately 51' wide and one lot being approximately 76' wide.

Ryan Baker asked where the 20' easement would be located. Ms. Melton stated that there is an existing easement off of School Street and will be extended to the subject lots. Mike Jeffries, Development Services Manager, added that there is an existing easement, but there would be an additional easement where the shared driveway would be to give the owners of lot 12 and lot 14 permission to use the shared driveway.

Cathy Slagle asked if the lots were flag lots. Mr. Jeffries replied that they were not. They are historical lots that were platted in the 50's or 60's designed and intended to front on Fels Avenue. Due to the topography and drainage area of the backside of Fels Avenue, it was never extended. The only way to access the subject lots, is through an easement.

Ryan Baker asked if there would be any issues with the easement regarding fire access. Mr. Jeffries replied that it would be looked at during the building permit. Winston Smith, the Applicant, stated that he had spoken with Erik Cortinas, the Building Official, about fire access as well.

Mr. Smith stated that the lots are narrow that technically front Fels Avenue. There are two existing homes and two more will be added. The lots are squeezed on all sides and there is a difficult slope and a drainage ditch. He is planning on building two homes that have drive-under garages.

Chairman Vira opened the public hearing. Having no one present to speak, the public hearing was closed.

**Motion:**

Ryan Baker made a motion to approve Case BOA 22.15, subject to staff's recommendations.

David Martin seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and David Martin.

Nay: None.

**Old/New Business**

Mr. Jeffries stated that the Planning Department did not receive any applications for the January meeting so there would not be a meeting next month.

**Adjournment**

Cathy Slagle made a motion to adjourn, and the motion carried with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and David Martin.

Nay: None.

Adjourned at 5:11 p.m.

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Anil Vira, Chairman

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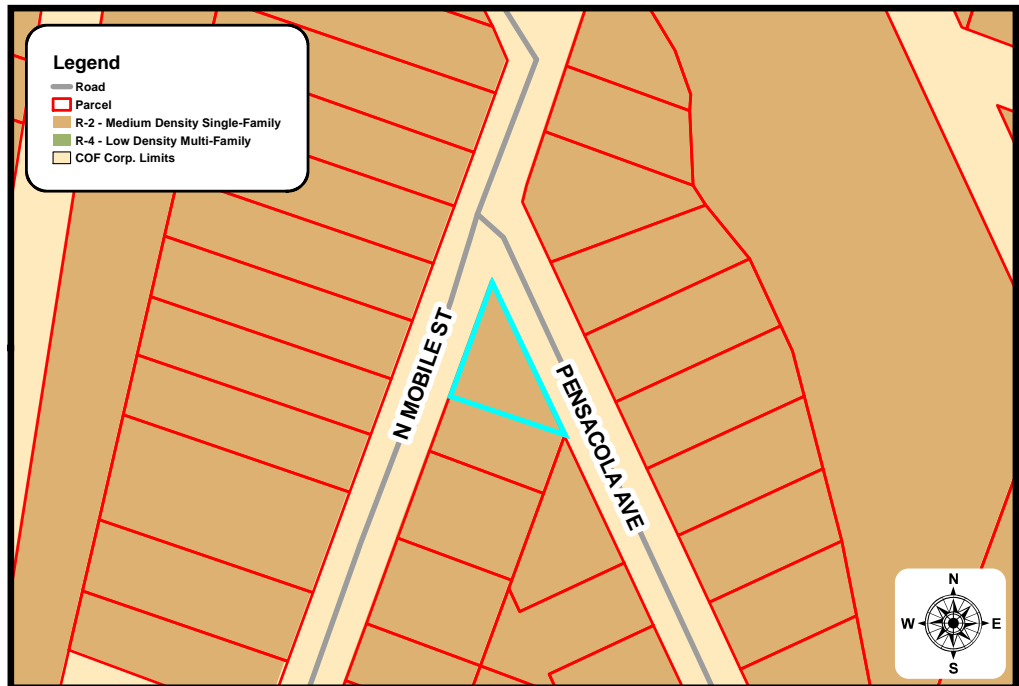
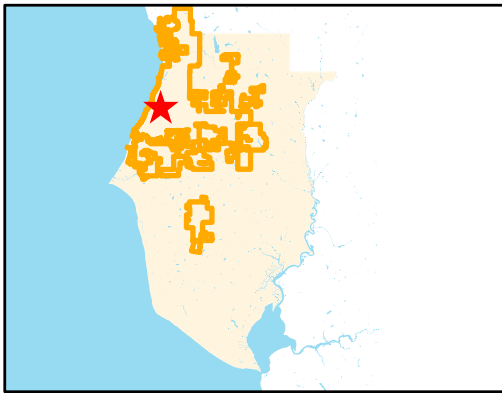
Allie Knutson, Secretary

# City of Fairhope Board of Adjustment

April 17, 2023



## BOA 23.01 - 610 North Mobile Street



<b>Project Name:</b>	610 N. Mobile Street
<b>Site Data:</b>	8,500 SF
<b>Project Type:</b>	10.5' Front Setback Variance
<b>Jurisdiction:</b>	Fairhope
<b>Zoning District:</b>	R-2
<b>PPIN Number:</b>	32193
<b>General Location:</b>	Intersection of N. Mobile Street & Pensacola Ave.
<b>Surveyor of Record:</b>	
<b>Engineer of Record:</b>	
<b>Owner / Developer:</b>	Virginia Davis Parr
<b>School District:</b>	Fairhope Elementary School Fairhope Middle and High Schools
<b>Recommendation:</b>	Approve
<b>Prepared by:</b>	Mike Jeffries





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: [ ] Administrative Appeal [ ] Special Exception [X] Variance

Property Owner / Leaseholder Information
Name: VIRGINIA DAVIS PARR Phone Number: 214-662-5398
Street Address: 610 North Mobile St
City: Fairhope State: AL Zip: 36532

Applicant / Agent Information
If different from above.
Notarized letter from property owner is required if an agent is used for representation.
Name: Phone Number:
Street Address:
City: State: Zip:

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

Applications for Administrative Appeal or Special Exception:
Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal.

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

VIRGINIA DAVIS PARR
Property Owner/Leaseholder Printed Name
23 February 2023
Date

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

Rec'd
FEB 23 2023
[Signature] 1st



RECEIVED  
FEB 23 2023  
M. Ist.

FEB 23 2023

**VARIANCE REQUEST INFORMATION**

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

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

Describe the indicated conditions: Lot is a triangle and does not have a 35' rear setback

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

Lot size and shape is odd.

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

Set back variance of ten feet six inches on Pennsacola Ave. side

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

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

BOA Fee Calculation:

	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
<b>TOTAL:</b>	<b>\$ 120.00</b>	

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.

VIRGINIA DAVIS PARR  
Property Owner/Leaseholder Printed Name

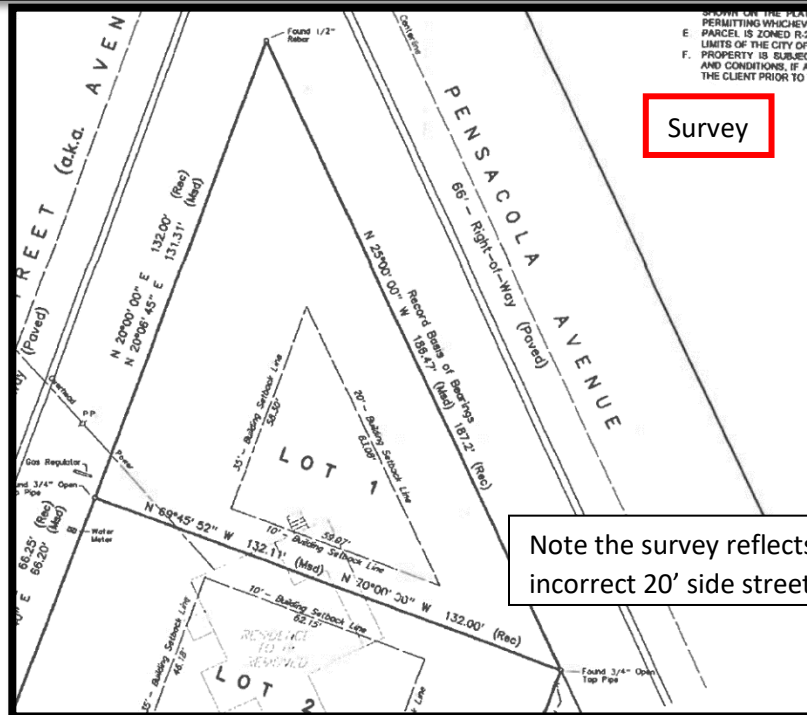
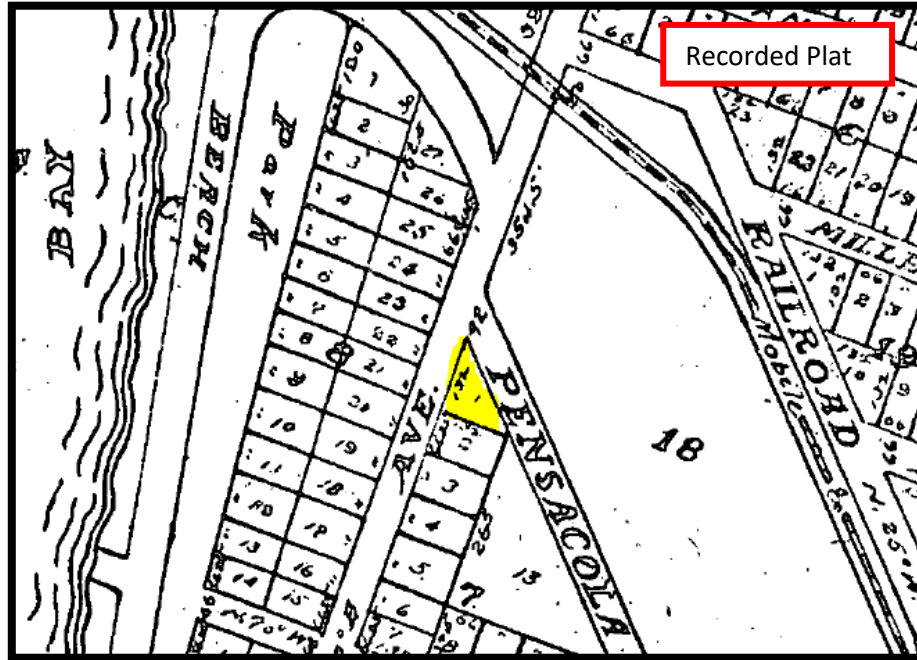
[Signature]  
Signature

23 February 2023  
Date

Fairhope Single Tax Corp. (If Applicable)

**Summary of Request:**

The applicant, Virginia Davis Parr, is requesting a 10.5' variance to the front setback (property line along Pensacola Avenue) requirement for property zoned R-2, Medium Density Single-Family Residential District. The property is approximately 8,500 SF and is located at 610 N. Mobile St. The request is for Lot 1 of the Volanta Subdivision MISC BK1 PG341. The recorded plat from the early 1900's does not reflect setbacks. The result would be a setback of 24.5' setback off Pensacola Avenue.





The Zoning Ordinance has dimension standards for each Zoning District within the municipal limits. The subject property is zoned R-2, which has the following dimensional standards:

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

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by all structures	Max. height
			Front	Rear	Side	Street side		
R/A	3 acres/ -	198'	75'	75'	25'	50'	none	30'
R-1	15,000 s.f./ -	100'	40'	35'	10' <sup>b</sup>	20'	40%	30' <sup>a</sup>
R-1a	40,000 s.f./ -	120'	30'	30'	10' <sup>b</sup>	20'	25%	35'
R-1b	30,000 s.f./ -	100'	30'	30'	10' <sup>b</sup>	20'	25%	35'
R-1c	20,000 s.f./ -	80'	30'	30'	10' <sup>b</sup>	20'	25%	35'
R-2	10,500 s.f./ -	75'	35'	35'	10' <sup>b</sup>	20'	37%	30' <sup>a</sup>

**Analysis and Recommendation:** Variance Criteria

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

Response: The lot is substandard in size and is a triangle with two 35' setbacks and one 10' setback.

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

Response: The required setbacks do not allow for a house to be built of comparable size to the surrounding neighborhood.

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

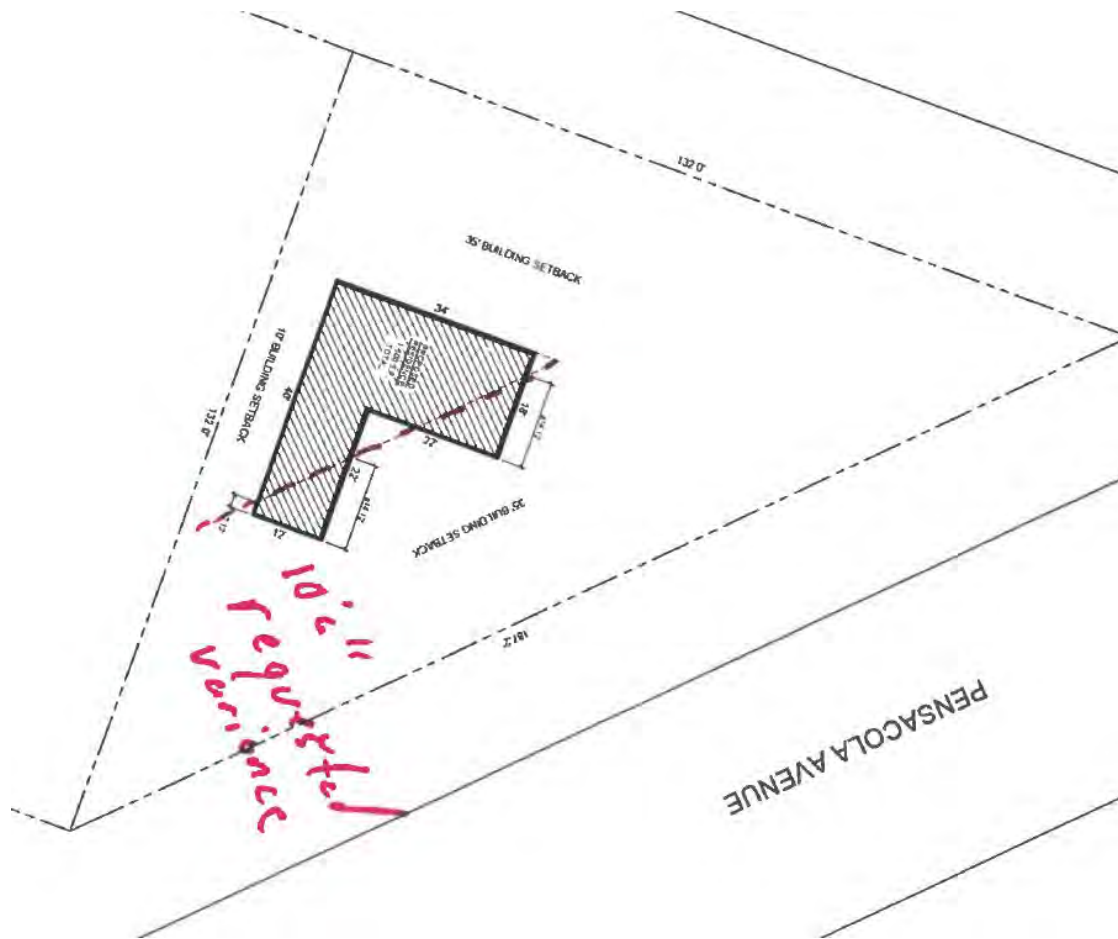
Response: The subject property is triangular and about half the size of the surrounding properties.

***(d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.***

Response: Relief would not cause substantial detriment to the public good

**Comments:**

The property being a triangular three-sided lot results in a 35' setback along N. Mobile St. a 35' setback along Pensacola Ave., and a side lot line setback of 10'. The proposed request is to allow for a 24.5' setback along Pensacola Ave. which is more than a standard street side setback of 20'. The applicant is requesting the minimum deviation to build a home on the lot. Currently a home is built across two lots of record, Lot-1 and Lot-2. Before anything could be built on Lot-1 and the variance acted upon all structures would have to be removed from both lots. Below is a proposed site plan.



**Recommendation:**

Staff recommends Approval of the 10.5' setback variance on the Pensacola Avenue lot line.

**Zoning Ordinance Requirements:**

The City of Fairhope Zoning Ordinance defines a variance as follows:

Variations: A modification of the strict terms of the relevant regulations in a district with regard to placement of structures, developmental criteria or provision facilities. Examples would be: allowing smaller yard dimensions because an existing lot of record is of substandard size; waiving a portion of required parking and/or loading space due to some unusual circumstances; allowing fencing and/or plant material buffering different from that required due to some unusual circumstances. Variations are available only on appeal to the Board of Adjustment and subject to satisfaction of the standards specified in this ordinance.

The Board of Adjustments is authorized to grant variances through Article II.A.d(3) which says the following:

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

(3) Variations - To authorize upon appeal in specific cases variance from the terms of this ordinance not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Prior to granting a variance, the Board shall find that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of this ordinance to the particular piece of property would create an unnecessary hardship;
- (c) Such conditions are peculiar to the particular piece of property involved; and,
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

The Ordinance provides guidance for variance requests through the following criteria:  
Article II.C.3.e.

Criteria – (1) An application for a variance shall be granted only on the concurring vote of four Board members finding that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.
- (c) Such conditions are peculiar to the particular piece of property involved; and
- (d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

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

Article II.C.3.g.

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

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

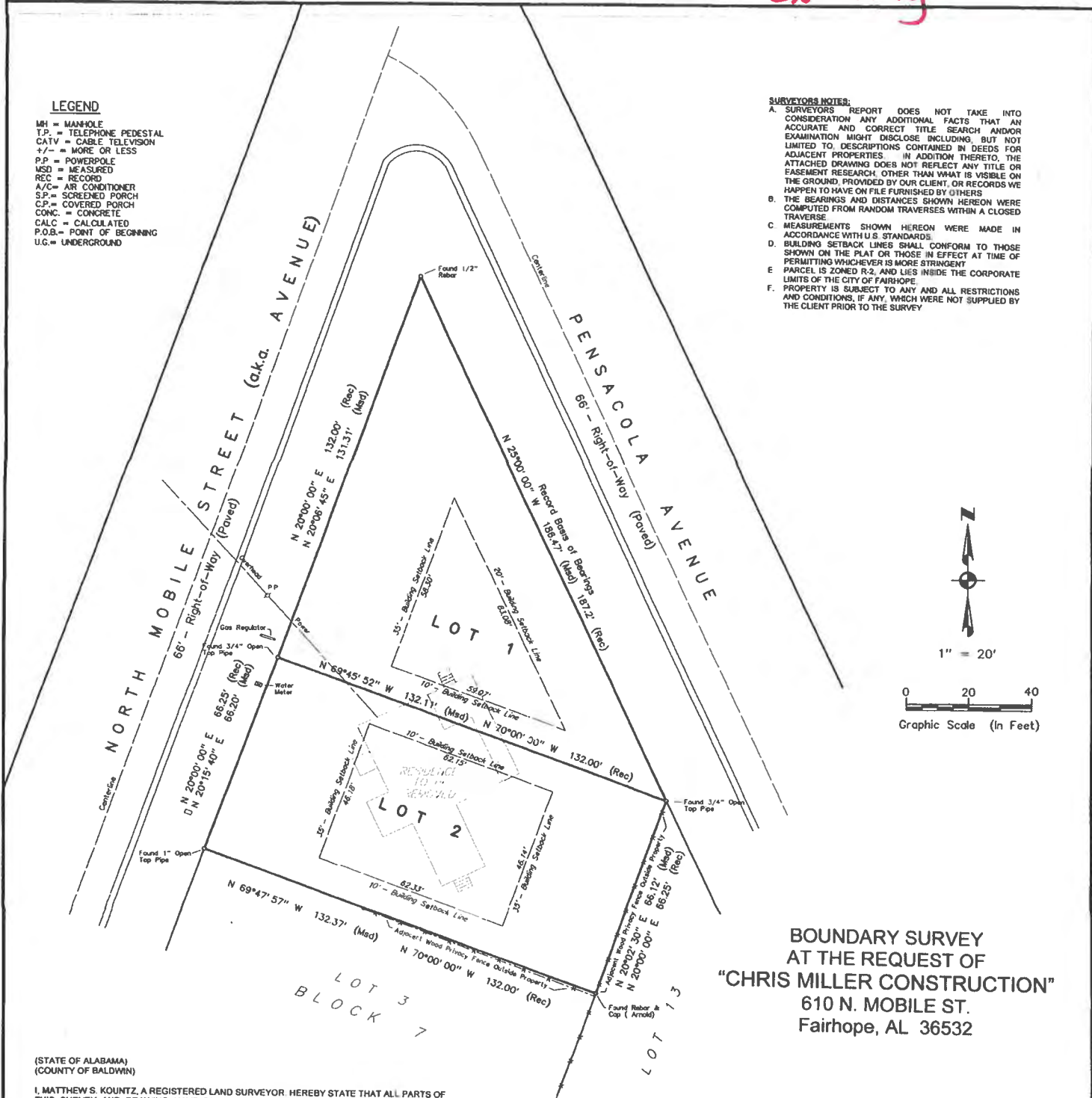
Existing

**LEGEND**

- MH = MANHOLE
- T.P. = TELEPHONE PEDESTAL
- CAV = CABLE TELEVISION
- +/- = MORE OR LESS
- P.P. = POWERPOLE
- MSD = MEASURED
- REC = RECORD
- A/C = AIR CONDITIONER
- S.P. = SCREENED PORCH
- C.P. = COVERED PORCH
- CONC. = CONCRETE
- CALC. = CALCULATED
- P.O.B. = POINT OF BEGINNING
- U.G. = UNDERGROUND

**SURVEYORS NOTES:**

- A. SURVEYORS REPORT DOES NOT TAKE INTO CONSIDERATION ANY ADDITIONAL FACTS THAT AN ACCURATE AND CORRECT TITLE SEARCH AND/OR EXAMINATION MIGHT DISCLOSE INCLUDING BUT NOT LIMITED TO DESCRIPTIONS CONTAINED IN DEEDS FOR ADJACENT PROPERTIES. IN ADDITION THERETO, THE ATTACHED DRAWING DOES NOT REFLECT ANY TITLE OR EASEMENT RESEARCH, OTHER THAN WHAT IS VISIBLE ON THE GROUND, PROVIDED BY OUR CLIENT, OR RECORDS WE HAPPEN TO HAVE ON FILE FURNISHED BY OTHERS.
- B. THE BEARINGS AND DISTANCES SHOWN HEREON WERE COMPUTED FROM RANDOM TRAVERSES WITHIN A CLOSED TRAVERSE.
- C. MEASUREMENTS SHOWN HEREON WERE MADE IN ACCORDANCE WITH U.S. STANDARDS.
- D. BUILDING SETBACK LINES SHALL CONFORM TO THOSE SHOWN ON THE PLAT OR THOSE IN EFFECT AT TIME OF PERMITTING WHICHEVER IS MORE STRINGENT.
- E. PARCEL IS ZONED R-2, AND LIES INSIDE THE CORPORATE LIMITS OF THE CITY OF FAIRHOPE.
- F. PROPERTY IS SUBJECT TO ANY AND ALL RESTRICTIONS AND CONDITIONS, IF ANY, WHICH WERE NOT SUPPLIED BY THE CLIENT PRIOR TO THE SURVEY.



**BOUNDARY SURVEY  
AT THE REQUEST OF  
"CHRIS MILLER CONSTRUCTION"  
610 N. MOBILE ST.  
Fairhope, AL 36532**

(STATE OF ALABAMA)  
(COUNTY OF BALDWIN)

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

I FURTHER STATE THAT THE IMPROVEMENTS PRESENTLY SITUATED ON SAID PROPERTY ARE LOCATED WITHIN THE BOUNDARIES THEREOF. THAT THERE ARE NO ENCROACHMENTS UPON SAID PROPERTY BY BUILDINGS OR FENCES SITUATED ON ADJOINING PROPERTY, AND THAT THERE ARE NO JOINT DRIVEWAYS, EASEMENTS, NOR RIGHTS-OF-WAYS EXCEPT AS NOTED HEREON.

ALL ACCORDING TO MY SURVEY MADE THIS THE 22nd DAY OF JANUARY, 2023.

I ALSO STATE THAT THIS DRAWING AND OR CERTIFICATION DOES NOT REFLECT ANY TITLE OR EASEMENT RESEARCH, OTHER THAN WHAT IS VISIBLE ON THE GROUND OR PROVIDED BY THE CLIENTS AT TIME OF SURVEY.

MATTHEW S. KOUNTZ, P.L.S.  
ALABAMA REG. NO. 20359

**DESCRIPTION:**  
LOTS 1 & 2, BLOCK 7, VOLANTA, A SUBDIVISION OF THE TOWN OF FAIRHOPE, AL. AS PER PLAT RECORDED IN MISC. BOOK 1, PAGE 341, IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA.

RECEIVED  
FEB 23 2023  
MM 1st

"NOT VALID WITHOUT EMBOSSED SEAL"

Matthew S. Kountz, P.L.S.  
Professional Land Surveyor  
129 Club Drive, Fairhope, AL 36532  
Phone: 251-597-0767 Fax: 251-990-0866



PRELIMINARY SITE PLAN  
SCALE: 1" = 10'-0"

FEB 23 2023  
BY: *(Signature)* 1st

<p><b>SP1.0</b></p> <p>PRELIMINARY SITE PLAN</p>	<p>NOT FOR PRELIMINARY CONSTRUCTION</p>	<p><b>PRELIMINARY SITE PLAN</b></p>		<table border="1"> <thead> <tr> <th>REV</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	REV	DATE	DESCRIPTION																															<p>Gillian McGee Architect</p> <p>Mobile, Alabama 251.534.9141 studio@gilliammccgee.com</p>
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<p>NEW CONSTRUCTION 610 NORTH MOBILE STREET FAIRHOPE, ALABAMA 36532</p>																																						

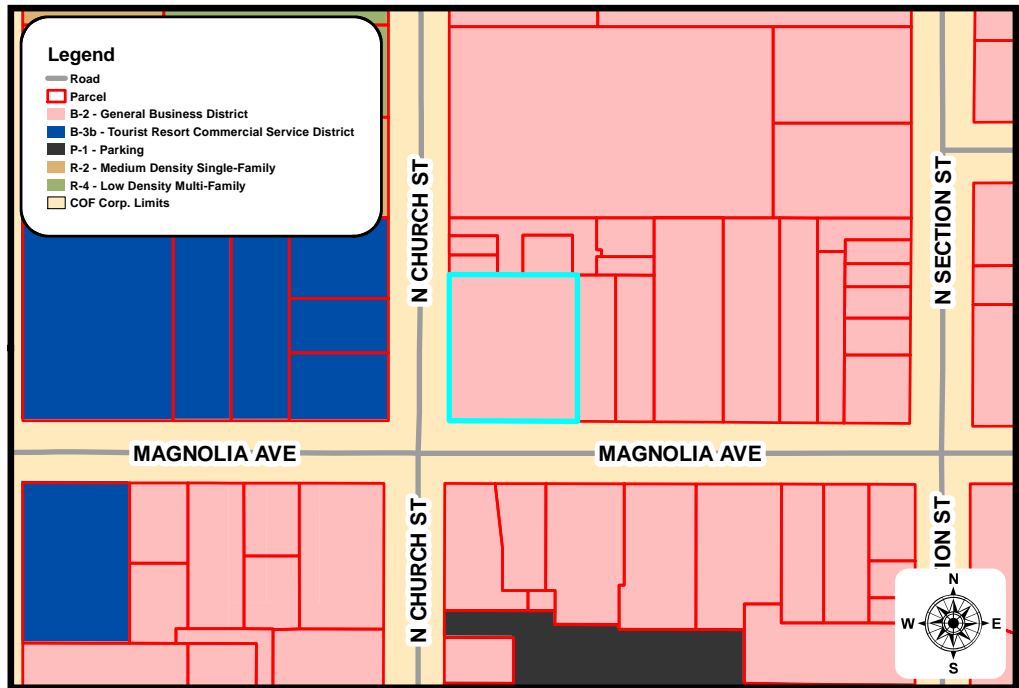
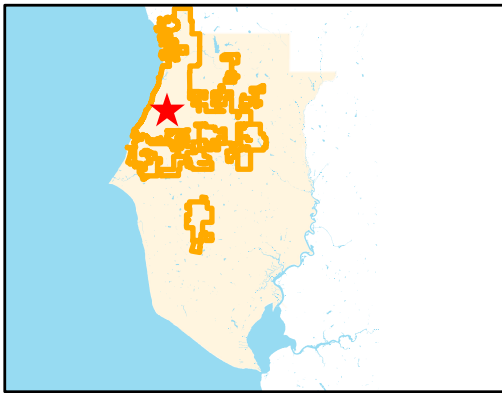


# City of Fairhope Board of Adjustment

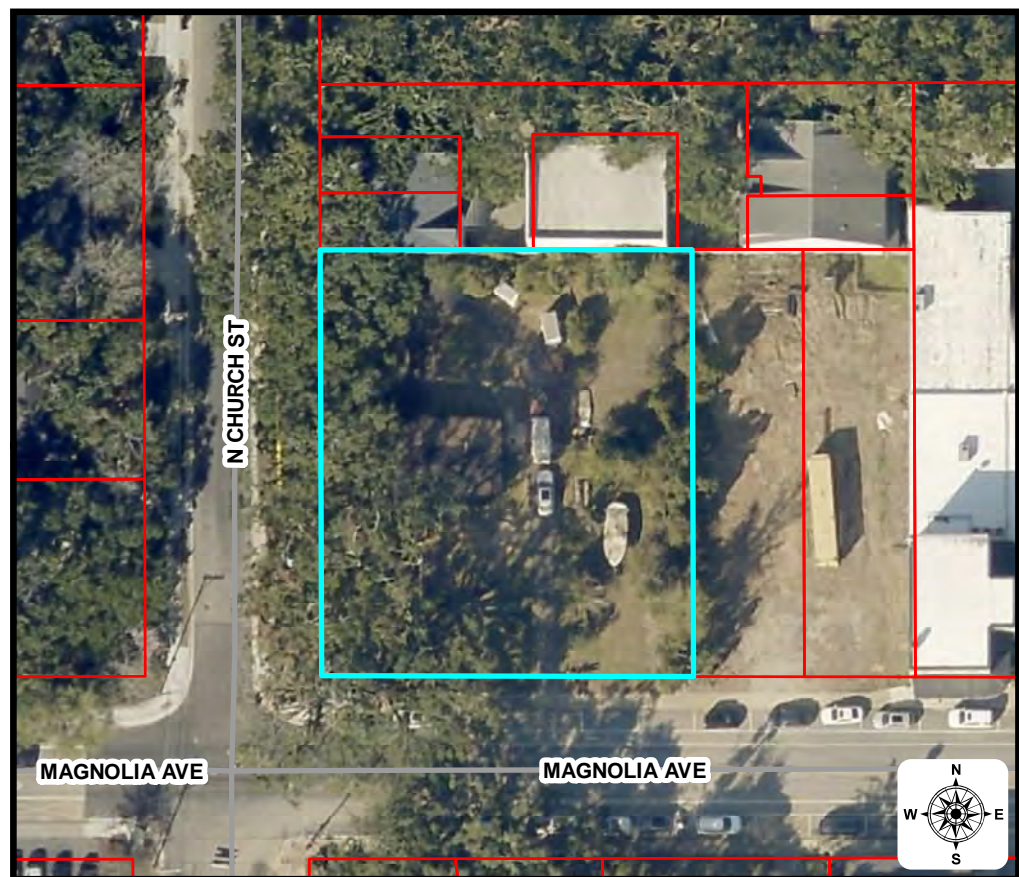
April 17, 2023



## BOA 23.02 - 301 Magnolia Avenue



<b>Project Name:</b>	301 Magnolia Avenue
<b>Site Data:</b>	0.52 Acres
<b>Project Type:</b>	Special Exception
<b>Jurisdiction:</b>	Fairhope
<b>Zoning District:</b>	B-2
<b>PPIN Number:</b>	15164
<b>General Location:</b>	Northeast corner of the intersection of N. Church St & Magnolia Ave.
<b>Surveyor of Record:</b>	
<b>Engineer of Record:</b>	
<b>Owner / Developer:</b>	FST Magnolia Church LLC
<b>School District:</b>	Fairhope Elementary School Fairhope Middle and High Schools
<b>Recommendation:</b>	Approval
<b>Prepared by:</b>	Michelle Melton





**CITY OF FAIRHOPE**

P.O. Box 429  
Fairhope, AL 36533  
(251) 928-8003



**BOARD OF ADJUSTMENTS & APPEALS  
APPLICATION**



## **BOARD OF ADJUSTMENTS (BOA) APPLICATION**

Authority: The City of Fairhope is authorized under the Code of Alabama, 1975 to create and establish a Board of Adjustment whose duties are quasi-judicial.

Public Notice: All BOA applications are required by State Law to give notice in both the newspaper and to all real property owners with 300 feet of the proposed change. The cost of this notice is paid by the applicant. All notice charges are paid at the time of application submission.

The BOA must conduct public hearings in conjunction with all applications. At the time of the BOA meeting all interested persons will be given the opportunity to speak either pro or con for the proposal.

BOA Functions: The BOA performs several functions: 1) hear and decides appeals from a decision made by an administrative official of the City of Fairhope; 2) hear and decide on granting special exceptions as permitted in the Zoning Ordinance, and; 3) authorize on appeal in specific cases variances to the regulations established in the Zoning Ordinance.

Decision and Voting: The BOA is a 5 member Board. The Board will conduct a public hearing and consider the request of the applicant. The Board has three (3) options: 1) approve the request; 2) deny the request; table the request.

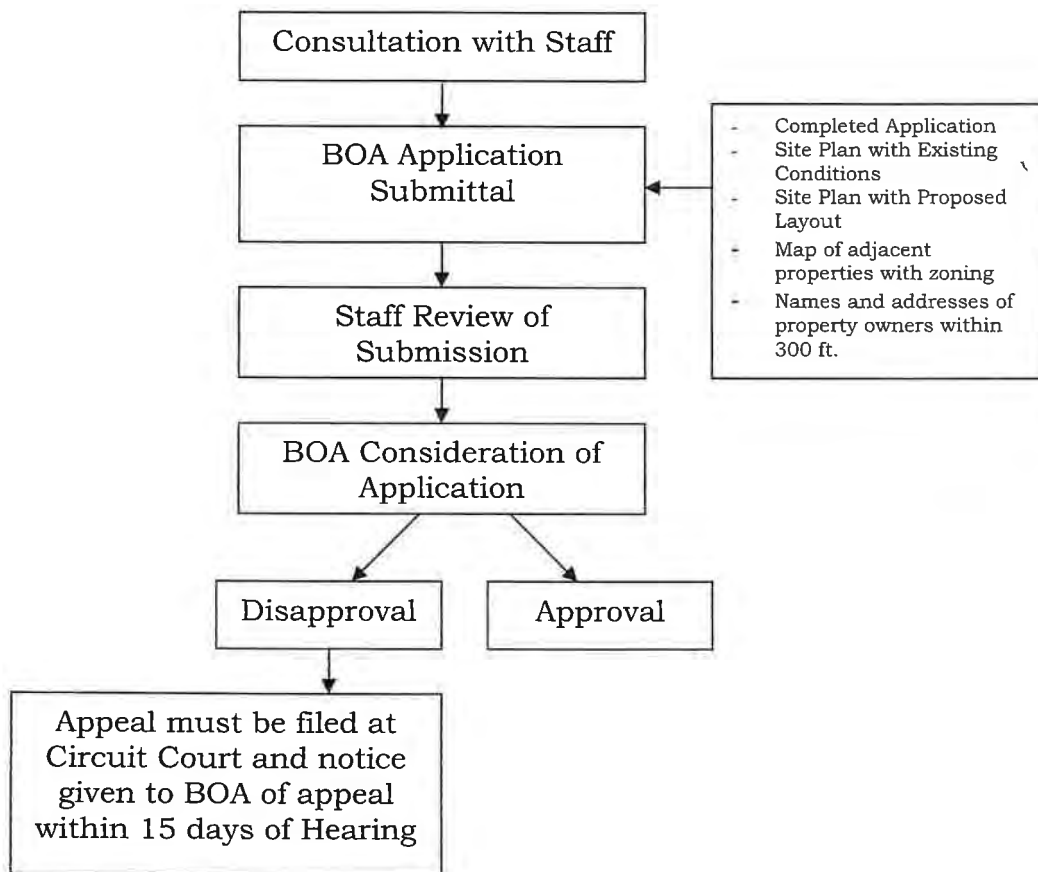
Approval of the request requires 4 of the 5 members of the BOA to vote in favor. A simple majority does not pass.

BOA Application Submission: The BOA application must be complete. An application is not considered complete unless all required documents are provided at the time of submission. An incomplete application may not be accepted by staff.

Deadlines: The City of Fairhope wishes to expedite the BOA process in the best and most effective manner possible. To that end, it is important that deadline times and dates are adhered to by the applicant (refer to the attached schedule for dates and times)



### BOARD OF ADJUSTMENTS (BOA) FLOW CHART





### APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type:  Administrative Appeal  Special Exception  Variance

**Property Owner / Leaseholder Information**

Name: <sup>FST</sup> MAGNOLIA CHURCH LLC Phone Number: 251-331-4202  
 Street Address: 301 MAGNOLIA AVE  
 City: FAIRHOPE State: AL Zip: 36532

**Applicant / Agent Information**  
If different from above.  
Notarized letter from property owner is required if an agent is used for representation.

Name: RW LLC / David Ryan Phone Number: 251-232-6005  
 Street Address: 71 N. Section Street Suite B  
 City: Fairhope State: AL Zip: 36532

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

**Applications for Administrative Appeal or Special Exception:**

Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal. *Please see attached.*

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.

<sup>FST</sup> MAGNOLIA CHURCH LLC  
 Property Owner/Leaseholder Printed Name  
3/15/2023  
 Date

T. Van  
 Signature  
 Fairhope Single Tax Corp. (If Applicable)



### VARIANCE REQUEST INFORMATION

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

- |                                      |                                    |  |
|--------------------------------------|------------------------------------|--|
| <input type="checkbox"/> Too Narrow  | <input type="checkbox"/> Elevation | <input type="checkbox"/> Soil            |
| <input type="checkbox"/> Too Small   | <input type="checkbox"/> Slope     | <input type="checkbox"/> Subsurface      |
| <input type="checkbox"/> Too Shallow | <input type="checkbox"/> Shape     | <input type="checkbox"/> Other (specify) |

Describe the indicated conditions: \_\_\_\_\_

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

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

Hardship (taken from Code of Alabama 1975 Section 11-52-80):  
 "To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done."

BOA Fee Calculation:		
	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
<b>TOTAL:</b>	<b>\$ 520</b>	

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.

FST MAGNOLIA CHURCH LLC  
 Property Owner/Leaseholder Printed Name

[Signature]  
 Signature

3/15/2023  
 Date

\_\_\_\_\_  
 Fairhope Single Tax Corp. (If Applicable)



**CERTIFICATION OF PROPERTY OWNER NOTIFICATION LIST**  
As Required by the City of Fairhope

Hearings on Board of Adjustments & Appeals applications require notification to all property owners within 300 feet of the property under consideration for the change. This list must be the most current property owners' records available from the Baldwin County Revenue Office.

By signing below, I RW LLC / David Ryan (applicant) do hereby certify that the property owner list attached to this application was obtained from the Baldwin County Revenue Office and is a complete list of all real property owners/lessees within 300 feet of the parcel submitted for consideration by the Board of Adjustments & Appeals.

RW LLC  
By: David A. Ryan, member & authorized agent 3-15-23  
Signature of Applicant or Authorized Agent Date of Application

PLEASE NOTE: Russell Washer and Brian Puckett of WHLC, Architects are also both Authorized Agents of Applicant.

RW LLC  
By: David A. Ryan, member & authorized agent



Certified Adjacent Property Owners  
Request Process

Sherry Sullivan  
*Mayor*

*Council Members:*

Kevin G. Boone  
Jay Robinson  
Jack Burrell, ACOMO  
Jimmy Conyers  
Corey Martin

Lisa A. Hanks, MMC  
*City Clerk*

Kimberly Creech  
*Treasurer*

The City of Fairhope Subdivision and Multiple Occupancy Project applications require a copy of the most current property owners' records available from the Baldwin County Revenue Office. The list must be obtained from the Baldwin County Revenue Office and be a complete list of all real property owners/lessees adjacent to the property submitted for approval. The certified list can be acquired through the following process:

1. Draft an email request for certified adjacent property owners.
  - a. Include the PPIN or Parcel Number and the radius of search (example: 300ft).
  - b. Reach out to Edith or Joni at Baldwin County Revenue Office  
Edith: [eharris@baldwincountyal.gov](mailto:eharris@baldwincountyal.gov)  
Joni: [jone.ayres@baldwincountyal.gov](mailto:jone.ayres@baldwincountyal.gov)
2. If applicable, pay the fee.
3. Provide a copy of the certified list with your application to the City of Fairhope.

Please contact the City of Fairhope Planning Department at (251) 928 8003 with any questions.

161 North Section St.  
PO Drawer 429  
Fairhope, AL 36533

251-928-2136 (p)  
251-928-6776 (f)  
[www.fairhopeal.gov](http://www.fairhopeal.gov)

**Summary of Request:**

The Applicant is RW LLC/David Ryan on behalf of the Owners, FST and Magnolia Church, LLC. The subject property is located at 301 Magnolia Avenue on the corner of Magnolia Avenue and Church Street and is comprised of 0.52 acres. It is zoned B-2 “General Business District” and is located within the Central Business District (“CBD”). The proposed project is a mixed-use development with seven (7) separate structures.

The buildings will be 40 ft tall pursuant to the dimension standards of the CBD. However, the subject property fluctuates in elevation from 97 ft to 111 ft above sea level. The Applicant is developing the subject property using the existing natural topography. Applicants are to use the average elevation of each condominium lot, which will result in the structures following the existing grade. “Building Height” is defined in the Zoning Ordinance as “the vertical distance measured from the average natural elevation of the lot to the mean point of the roof of the building.” Thus, the structures may appear to be different heights, but, in fact, they all will be 40 ft tall or less.

It is the intent of the Applicant to have a dedicated 1,200ft<sup>2</sup> retail/commercial component in each first floor of the two (2) structures facing Magnolia Avenue with one (1) residential unit occupying the second and third floor of each structure. The remaining five (5) structures will be single family dwelling units. In total, seven (7) residential units and two (2) commercial units are proposed on one lot with shared areas under common ownership. This case comes to the Board of Adjustments because this type of combined use is unique. *Table 3-1: Use Table* allows for single family dwellings and mixed use in B-2 zones. More specifically, general and professional offices, general professional services, as well as retail (grocery and general merchandise) are allowed by right. Although mixed use, residential, and retail/commercial are allowed by right to some degree in B-2, having all of the uses on one (1) lot with not every structure being “mixed use” *per se* is a different concept that translates to a “Uses Not Provided For” review pursuant to Art. II(A)(4)(d)(4).

- (4) *Uses Not Provided For:* Whenever, in any district established under this ordinance, a use is neither specifically permitted or denied and an application is made by a property owner to the Director of Planning and Building for use, the Director shall refer the application to the board of adjustment which shall have the authority to permit the use or deny the use. The use may be permitted if it is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purpose and intent of this ordinance.

**Analysis and Recommendation:**

There is not a specific application for “Uses Not Provided For.” However, Art. II(C)(3)(e)(2) sets forth the criteria for “Any other application to the Board shall be reviewed under the following criteria and relief granted only upon the concurring vote of four Board members:



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

Since the property is within the CBD there are more options and/or interpretations available to the project. Moreover, the Applicant has taken calculated measures to preserve, encourage, and implement a plan for the project that satisfies several important facets to the community.

Going through the criteria, the project satisfies subsections (a) – (c) as designed.

Subsection (d) is also satisfied. The seven (7) structures are architecturally alike and also favor existing and future approved buildings along Church and Magnolia.

Subsection (e) is met. Applicant has already met with Fairhope Utilities and all utilities are available. Two (2) transformers may be added.

The Applicant has taken great strides to preserve the heritage oaks on the property and in the Church Street and Magnolia Avenue ROWs. Applicant is also providing a small green space and possibly installing a flower bed on the corner to be maintained by the City; thus, meeting the requirements of subsection (f).

Subsections (g) and (h) are met as designed.

Subsections (i) and (j) are satisfied because the project lies within with Central Business District (CBD), which has reduced setbacks and buffers. With the density expected in the CBD, along with build-to lines, buffers are less important. Residents living within the CBD should expect more noise than typically single-family neighborhoods. The project encourages less vehicular traffic with a single entry/exit and further encourages bicycle and pedestrian traffic; thus, reducing noise and potential physical impacts. Unlike previous iterations, this project does not include multiple driveways fronting Church St.

The project satisfies subsection (k) because it will provide mixed use options in the CBD, provides for motor vehicle alternatives (low speed vehicles, pedestrian, and bicycle), and further provides ample parking that is twice the minimum for the project within the CBD.

By using the property to the best it can possibly be used and by preserving trees and slopes the project as designed meets the planning principles of subsection (l).

Subsection (m) is met as the project as designed falls in line with the Zoning Ordinance as it relates to what can be done within the CBD (and B-2) and the Applicant is not requesting any waivers or variances.

By preserving trees and adding vegetation, encouraging alternative forms of transportation, and a single ingress/egress point, the project as designed meets subsection (n).

**Staff Recommendation:**

Staff recommends **Approval** of case BOA 23.02 to allow for a mixed mixed-use development on the lot located at 301 Magnolia Avenue.

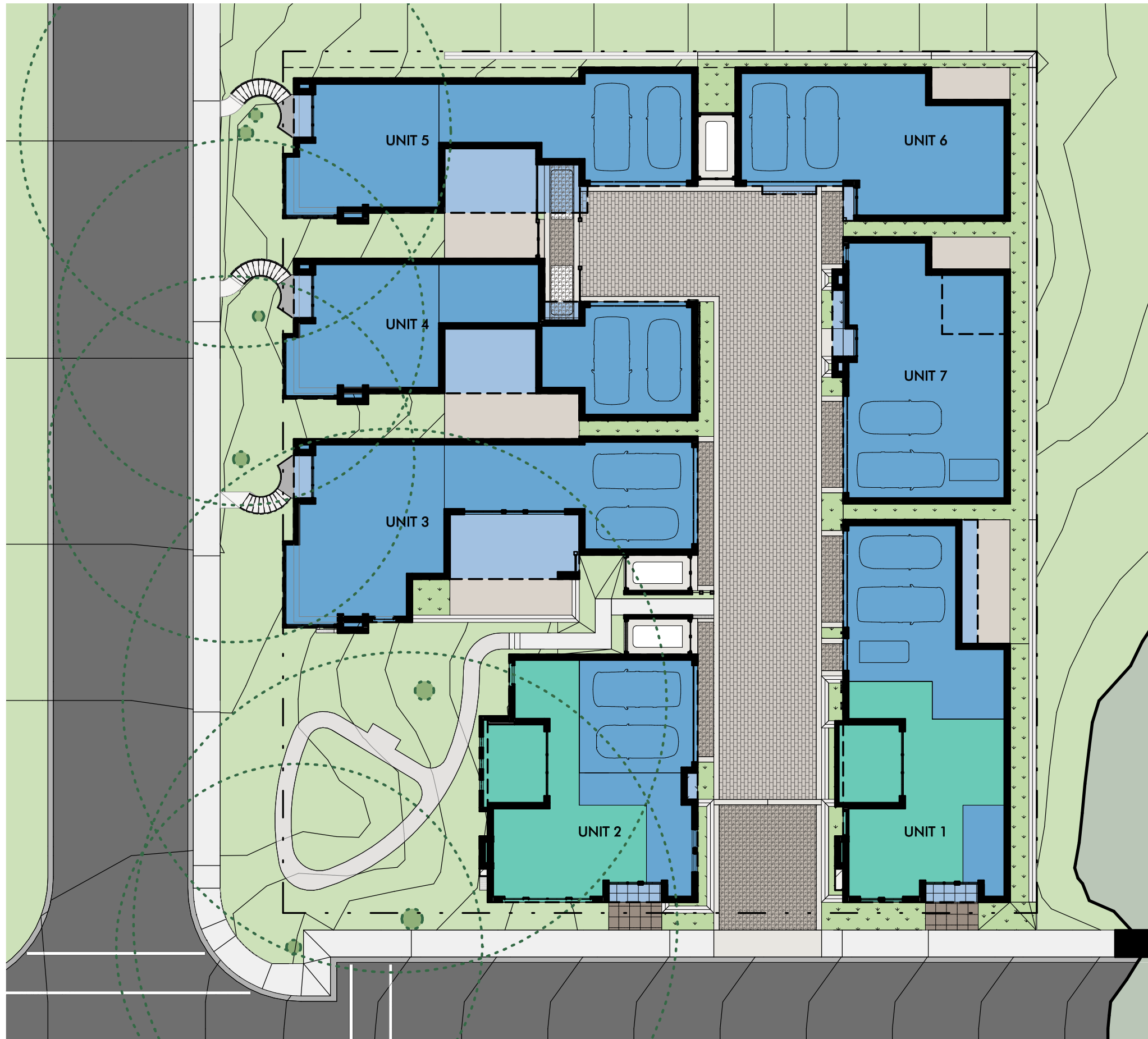
**ATTACHMENT TO APPLICATION FOR  
BOARD OF ADJUSTMENTS (FOR PROPERTY PIN #15164)  
LOCATED AT THE CORNER OF MAGNOLIA AVENUE  
AND CHURCH STREET IN FAIRHOPE, ALABAMA  
(3-15-23)**

The proposed Project for the Property is depicted on the attached Site Plan with Proposed Conditions. This Project is a mixed-use development comprised of 7 architecturally compatible and separate structures. The dedicated retail/commercial component consists of first floor space in the two structures fronting Magnolia Avenue, with each retail/commercial space being approximately 1,200 square feet and being intended to serve small scale retail/commercial tenants.

Substantial planning has been undertaken to ensure that the Project, while it constitutes a Use Not Accounted For, is consistent with the zoning and applicable regulations within the zoning for the Property and the Central Business District of Fairhope. Project attributes include:

- a. a single entry/exit to and from the Property for vehicular traffic, promoting traffic safety;
- b. on-site parking that is twice the minimum number of spaces required in the CBD;
- c. dedicated golf cart parking for each structure located on the Property;
- d. a site plan and design that makes every effort to preserve the trees located both on the Property and in the Magnolia Avenue and Church Street right-of-ways;
- e. the Project is complimentary of the residential, commercial and mixed-use developments in the immediate vicinity of the Property; and
- f. the Project is supportive of and promotes multiple of the objectives specifically applicable to the CBD in the Fairhope Zoning Ordinance, including:
  - generating high levels of pedestrian and bicycle traffic;
  - providing a mix of uses;
  - strengthening non-automotive connections to adjacent neighborhoods;
  - buffering surrounding neighborhoods from any adverse impacts of activities in the CBD; and
  - providing a small park/green space for Property occupants

The Site Plan with Proposed Conditions and the arrangement of structures on the Property compliment the natural topography of the Property, which ranges from 111 feet above sea level to 97 feet above sea level. The Site Plan with Proposed Conditions, Project design and Project configuration are all intended to promote the highest and best use of the Property and to also further enhance the CBD and general downtown area of Fairhope.



Corner Detail (looking Northeast toward Greenspace)



# Elevations along Church St.



© 2023 WHLC | ARCHITECTURE

# VATAN

A Downtown Fairhope Central Business District Mixed-Use Development

## Elevations along Magnolia (Two Mixed-Use Buildings)



Another view from Magnolia



VATAN

A Downtown Fairhope Central Business District Mixed-Use Development



Detail of internal drive (looking north)



VATAN

A Downtown Fairhope Central Business District Mixed-Use Development



# VATAN

A Downtown Fairhope Central Business District Mixed-Use Development

Detail of internal drive (looking south)



View of greenspace and residential unit from NE corner of Church and Magnolia



View of greenspace (looking SE toward Mixed-Use Building).

