

**AGENDA
NORTHPORT ZONING BOARD OF ADJUSTMENT
THURSDAY, JULY 20, 2023**

- 1. CALL TO ORDER - CHAIRMAN**
- 2. ROLL CALL - SECRETARY**
- 3. APPROVAL OF MINUTES**
 - A. June 15, 2023**
- 4. APPROVAL OF THE AGENDA**
- 5. VERIFICATION OF PROPER NOTIFICATION**
- 6. VERIFICATION OF NO CONFLICT OF INTEREST**
- 7. NOTICE OF RIGHT TO APPEAL - INFORMATION ON BACK OF AGENDA**
- 8. OLD BUSINESS**
 - A. V-23-11 – James Outdoor, LLC requests a variance from the billboard standards found in Section 804.01.C for the property located at 13512 Highway 43 N.**
- 9. NEW BUSINESS**
 - A. V-23-15 – John & Brenda Nuckols requests a variance from the accessory structure standards found in Section 607 to allow a pole barn for the property located at 13070 Jace Lane.**
 - B. V-14-16 – Michael Tilford requests a variance from maximum allowed ISR found in Table 6-2 for the property located at 11731 Arbor Oaks Road.**
- 10. DISCUSSION**
- 11. CITIZEN COMMUNICATIONS**
- 12. ADJOURNMENT**

**OFFICIAL MINUTES
NORTHPORT BOARD OF ZONING ADJUSTMENT
THURSDAY, JUNE 15, 2023**

The Northport Zoning Board of Adjustment was called to order at 6:00 p.m. on Thursday, June 15, 2023, in the Council Chambers of the Northport City Hall by Chair Jon Garner.

Upon roll call the following members were found to be present: Mr. Aubrey Dale, Mr. Jon Garner, Mrs. Tena Phifer, Mr. Kevin Shobe, and Mr. Brian Chandler. Absent and failing to vote was Mr. Chad Haynie and Mr. Tyler Walker. Also present were staff members Mrs. Julie Ramm, Mr. Shaun Patten, Ms. Meredith Mullins, Mrs. Morgan Williams, Mr. Chris Cunningham, and Mrs. Holly Phillips.

Approval of Minutes

Motion by Mr. Shobe. to approve the minutes for May 18, 2023. **Seconded by Mr. Chandler.** Roll call vote was as follows: Mr. Shobe – Yes; Mr. Chandler – Yes; Mr. Dale – Yes; Mr. Garner – Yes; and Mrs. Phifer - Yes **Motion Carried.**

Approval of Agenda

Mr. Garner stated we would hear New Business item AA-23-1 first then would proceed with Old Business V-23-7 before continuing the remaining New Business.

Motion by Mr. Garner. to approve the agenda for June 15, 2023. **Seconded by Mr. Chandler.** Roll call vote was as follows: Mr. Garner – Yes; Mr. Chandler – Yes; Mr. Dale – Yes; Ms. Phifer – Yes; and Mr. Shobe – Yes. **Motion Carried.**

Approval of Proper Notification- Mrs. Ramm informed the Board that proper notification was given.

Verification of No Conflict of Interest - None

Notice of Right to Appeal – No conflict of Interest.

New Business

a. AA-23-1 - Lamar Advertising appeals the decision of the Zoning Officer regarding the property located at 3108 Lurleen B. Wallace Blvd.

Darrell Young, 3850 Greensboro Avenue, represented Lamar Advertising, stated he was coming before the board for the administrative appeal regarding the zoning ordinance not specifying the changing of billboard. He stated that they are requesting to change out how the advertising is displayed. Mr. young stated he brought video of a change out vinyl process for the commission to review.

Mr. Garner turned the case over to staff.

Mr. Cunningham stated that they did not get into the specific language on the pictorial content versus is this an erection or installation of a sign. The staff provided that this is erecting or installing a sign which

falls within the ordinance on erecting a sign. He stated that the erecting of a sign is considered to be a structural change of the billboard sign.

Mr. Young presented a video to the board and staff of the process of changing out the face of a billboard. This video was sent in as well.

Mr. Dale asked if you they would have to remove the frame to convert the sign. Mr. Young stated not every time. He stated that Lamar is moving away from paneled signs.

Mr. Shobe asked if the panels were metal. Mr. Young stated he believes their' s are wood panels.

Mr. Garner asked if once the vinyl that is existing on the billboard, then the panels would need to be removed. Mr. Young stated that yes, once we take the vinyl off the face of the billboard, we would need to remove the existing panels on the billboard before facing it with digital. Mr. Garner referenced the V-23-7 case and asked would the panels need to be removed to convert. Mr. Young stated yes, he believes this billboard still has sections that will need to be removed.

Mr. Chandler asked what the weight was of the panels. Mr. Young was not sure of the weight. Mr. Chandler, referenced V-23-7 case, asked it the structure was older. He also asked if the structure had been inspected an engineer. Mr. Young stated they have had this billboard inspected by their own engineers.

Mr. Shobe asked if power was already run to this billboard. Mr. Young stated yes.

Mr. Garner stated that they are here to determine if they would uphold the staff's interpretation of the ordinance and what qualified as a structural change.

Mr. Young stated that as of May 1, 2021, set precedence for the approval of this petition. Mr. Cunningham stated that the 2021 Jack Kubiszyn case was a variance request not an appeal. Mrs. Ramm stated that Mr. Kubiszyn had to conform to the variance. Mr. Patten stated this case was within 100 feet from a residential area.

Motion by Mr. Garner I make a motion to uphold the City's interpretation for the administrative appeal for the sign ordinance pertaining to conversion of billboards. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Garner – Yes, Mr. Shobe – Yes; Mr. Dale – Yes; Mr. Chandler – Yes; and Ms. Phifer - Yes; **Motion Carried.**

Old Business -

- a. A. **V-23-7** – Lamar Advertising requests a variance from the billboard requirements in Section 804.01.c to install a new digital billboard without conforming to the current sign ordinance requirements for the property located at the intersection of U.S. Highway 82 and U.S. Highway 69 at 3107 Lurleen B. Wallace Blvd.

Darrell Young, 3850 Greensboro Avenue, represented Lamar Advertising, stated they are petitioning the ordinance of the conversion of a billboard that they are not being able to convert. He stated that the existing billboard structure is within 570 feet of another billboard.

Mrs. Ramm stated this case was tabled at the May 18, 2023, meeting. The petitioner request of converting the billboard would not meeting the zoning ordinance. She stated the billboard sign shall not

be less than 10 feet from any property line, the billboard is actually 8 feet from the property line. Mrs. Ramm stated the billboard shall be 600 feet from a residence and this billboard is within 295 feet. She also stated the billboard should be 2000 linear feet to another billboard and this is within 570 feet.

Mr. Young stated that they are not asking to build a new billboard but strictly how they are advertising.

Mr. Shobe asked what the hardship was for this case. Mr. Young stated the only hardship is that they are requesting to convert this billboard and they are not being able to do so.

Motion by Mr. Garner I make a motion to grant Lamar Advertising a variance from the billboard requirements for 1) required minimum distance to a residence, 2) required minimum distance between billboards, and 3) required minimum distance to a property line to erect a new digital billboard on the existing sign pole at 3107 Lurleen Wallace Boulevard. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Garner – No, Mr. Shobe – No; Mr. Dale – No; Mr. Chandler – No; and Ms. Phifer - No; **Motion Failed.**

New Business

- a. **V-23-11** - James Outdoor, LLC is requesting a variance from the billboard standards found in Section 804.01.C for the property located at 13512 Highway 43 N.

Adam Webb, 1900 The Exchange Southeast, Ste. 480 Atlanta, GA, represented John James with James Outdoor, LLC. He stated that the petitioner is attempting to place a billboard at 13512 Highway 43 N. He stated the reason for this variance is that the petitioner was told that this location at the time of agreement with the landowners, the Hendrix's, the property was not within the City's limits. Mr. Webb stated that the petitioner then was told from city staff that the GIS map was not up to date when the information was given and that this is indeed in the city limits and the billboard would not be allowed.

John James, 13758 Highland Pointe Drive, stated that he had an opportunity to create income for his family. He stated he decided to advertise local business with a billboard. Mr. James stated he entered into a 30-year lease agreement with the Hendrix's family, the owners the property at 13512 Highway 43 N. He stated he then went through the process and was approved for the state permit and showed the approval notice to the commission. Mr. James then states that he proceeded with making financial agreements and plans after received the information that this was not within the City limits via being verified by the state. Mr. James stated that if he would have known that this location was in the city limits, he would not have pursued a billboard in this location. He stated he knew it would not have been lawful in the city limits for this location. He stated he took out a loan and purchased the materials for the billboard process to start before applying for a Northport building permit and was denied. Mr. James stated he is now stuck with a lease and a loan payment, with no source of income coming in from the billboard business.

Mr. Shobe stated to the petitioner that a hardship for a variance cannot be based off financial reason. He stated that the city has a claim process and encouraged that the petitioner file a claim on the funds lost. Mrs. Ramm stated this is correct and is processed through our legal department. Mr. Webb stated that they agree with money not being a hardship but the hardship being the lack of time it has taken away from the petitioner's family due to the city not updating their zoning and mapping for 8 years. He stated that the variance definition worded the ZBA should only be granted a variance on extreme hardships, acts of God and economic conditions should not be considered for a hardship. He stated that economic conditions are different then economic hardships. He stated they disagree with their interpretation of this definition.

Mrs. Phifer asked who the employee was they spoke with to confirm the location. Mr. James stated the ALDOT received the confirmation, he is not sure who they spoke with from the city.

Mr. Garner stated that the variance on the table was the minimum required distance from a residence is not met. Mrs. Ramm stated that was correct. Mr Garner stated that requirement of the distance of a property line. Mrs. Ramm stated the location of the billboard looks to be on the property line. Mr. Garner requested zoning district for a billboard. Mrs. Ramm stated the permitted zones for billboards are C-6, M1 and M2 and this property is zoned for C-3.

Mr. Garner stated in his opinion to table this case.

Mr. Shobe relayed the claim process to the petitioner.

Mr. James stated that they did sign a lease agreement and that the property owners have held them to this agreement. He stated they are not present tonight, but they are also missing out on this business. Mr. James stated the claim process will be taken into consideration.

Mr. Webb stated that they are just trying to conduct business and does agree in taking the time for the commission to review the case further. He stated they do not want to pursue suing the city over this matter, that is the last thing that they want to do based off the hardship definition.

Mr. Webb stated for the record that the confirmation that the city gave was false statement of the property located out of the city limits since they have not updated their mapping in 8 years. Mr. James stated that he received his confirmation from ALDOT, which they received from the city. He stated they are not present tonight.

Mr. Webb stated that the board is supposed to look at the one issue of being if this is an extreme hardship, based off Section 808 of the ordinance. He requested that the board only look at that one issue.

Mr Garner asked for the window the information was given. Mr. James states the OA2 permit was issued December 15, 2022. Mr Garner asked the staff who the confirmation would come from. Mrs. Ramm stated that she believes that ALDOT, Mrs. Darby, talked to Shaun Patten.

Mr. Garner open the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Garner. I make a motion to table case V-23-11 until the July 20, 2023, meeting.

Seconded by Mr. Shobe. Roll call vote was as follows: Mr. Garner – Yes; Mr. Shobe – No; Mr. Dale – Yes; Mr. Phifer – Yes; and Mr. Chandler - Yes **Motion Carried.**

- b. V-23-12** – Billy Hall requests a variance from the accessory structure standards found in Section 607.03.B for the property located at 1111 18th Avenue.

Celestine Suttles, 1601 12th Street, represented Billy Hall, stated that that her residence is considered lots 1 and 2 and this is adjacent to lots 3 and 4, which is where Billy Hall resides. She showed printed

pictures to the commission on the case and location. Mrs. Suttles stated that Billy Hall purchased from her when she was the representative for Lots 1 and 2, which is owned by James Arthur Greene. She stated Mr. Green gave her a lease agreement in order to lease the property out. Mrs. Suttles stated what Mr. Hall is trying to do is convert the two lots into one. She stated the variance Mr. Hall is requesting is to place a building on one of the lots in order to keep the grounds up for the residences in this area. She stated that his son is DeAndrea Hall, who has given him permission to do so. Mrs. Suttles stated Mr. Hall is requesting that the structure remain on the lot in order to further develop the properties. Mrs. Suttles stated that in the Northport Gazette in 2017, the City of Northport and Woodrow Washington, were wanting to develop this property. She stated that you have a copy of where they are not doing any harm to the neighboring residence or business.

Mr. Garner asked what they are proposing to do with this property. Mrs. Suttles stated that she is needing to put in a driveway to access her home. She stated currently she has to access her property through the Hasson Parking lot. She stated that she needs to have legal access. She stated that her and Mr. Hall are living on lots 1-4.

Mr. Hall stated that all the lots are combined together. Mrs. Ramm stated that the tax maps show that there are 4 separate lots shown. Mr. Hall stated the structure is located on lot 4.

Mr. Garner asked the staff that with the structure being located on lot 4 there would need to be a primary structure. Mrs. Ramm stated yes, in order to have an accessory structure there has to be a primary residence.

Mrs. Suttles stated she needs to know how this can be done. She stated they need access to lots 3 and 4.

Mr. Garner asked where she would need to go to do so. Mr. Shobe stated that the petitioner is asking who they would need to contact to get access to the lots 3 and 4 to be able to put a dwelling on for the structure and how to be able to keep the accessory structure.

Mr. Garner stated he understood that they live on all 4 lots, but the lots are treated separately and to enforce the ordinance you will need to combine the lots. He stated there is a process of combining the 4 lots but it is not handled through the Zoning Board. Mr. Garner stated that according to the ordinance the accessory structure is nonconforming and that your request is to receive approval to have an accessory structure for tonight's consideration. Mrs. Ramm stated that the city would have to walk her through this process and to call city hall.

Mr. Garner opened the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Garner I make a motion to grant Billy Hall a variance to allow an accessory structure on a lot without a primary structure for the property located at 1111 18th Avenue. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Garner – No; Mr. Shobe – Yes; Mr. Dale – Yes; Mrs. Phifer – Yes; and Mr. Chandler – No. **Motion Failed.**

- c. V-23-13 – Bryon Bennett requests a variance from the paved parking requirements found in Section 610 for the business located at 4412 Highway 69 North.

Byron Bennett, 4412 Highway 69 North, stated that the questioning on the gravel parking lot was improved back in February 2022 and we are now coming back to apologize for the violation of the ordinance. He stated the main reason they decided to use gravel was due to an environmental problem that they have with this property. He stated the property is located on a little bit of a hill which caused run off to run into the highway and into the back of the structure. Mr. Bennett stated they tried to use a material to help with absorbing the runoff. He stated that since placing the gravel on the property they have not had any issues with run off. He stated that they decided to also put the gravel in due to the runoff into the channel that runs on the back side of the property. Mr. Bennet stated they were afraid of raising the water table and causing flooding.

Mr. Garner asked how many cars can reasonably fit into the parking area. Mr. Bennett stated depending on a car size we can fit 5 to 7. He stated we only use this parking as overflow.

Mr. Garner Asked the petitioner what their concerns were. Mr. Bennett stated that prior to the gravel it was grass located there. This caused the water to hold and run off.

Mr. Garner asked engineering for their comments. Mrs. Phillips stated that grass does create potential run off. She stated businesses must put in some type of detention for this issue. Mrs. Phillips stated it can be a detention that is made up of permeable paviers, standard detention pond, underground storage that they do to keep the runoff under control.

Mr. Shobe asked if this was a financial issue to not pave the parking. Mr. Bennett stated that it was not. Mr. Shobe stated then installing a detention is not an issue.

Mr. Chandler asked Mrs. Phillips what the petitioner did to alter the ground, did it improve the issue. Mrs. Phillips stated that what she believes the petitioner is describing to be the issue that he was having a runoff issue causing it not to be stable. She stated yes, the area is more stabilized but there are other ways to accomplish that.

Mr. Bennett stated that there is a drain in the front of the property.

Mr. Garner asked Mrs. Phillips which permeable surface materials that would qualify as an alternative. Mrs. Phillips stated yes, there are a lot of ways to accomplish the stabilization and run off at the same time. She stated that even if this is approved as a conditional pavement that is asphalt and concrete you can still go and do a detention pond that would stabilize the area and control the runoff. She stated you could also use permeable paviers that consider stabilizing that area. Mr. Garner asked who would help him with this. Mrs. Phillips stated he would need an engineer to do a site plan and submit to the city. Mr. Bennett asked if that would be someone that they would need to hire. Mrs. Phillips stated yes.

Mr. Bennett asked the board what was considered permanent. Mrs. Phillips stated concrete, asphalt or permeable paviers. Mr. Garner stated this would qualify as a hard surface. Mr. Bennett asked since the gravel has been there for over 14 months if this could be considered permanent. Mr. Garner stated that gravel does not qualify as a permanent surface.

Mr. Bennett asked if this would be a vote to approve what the business has already done to the parking. Mr. Garner stated that if the vote is approved then it will approve the gravel to stay as the parking but if it's denied then you would have to remove the gravel and replace with a permanent surface.

Mr. Garner opened the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Dale I make a motion to grant Byron Bennett a variance to allow a gravel parking lot for the property located at 4412 Highway 69 North. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Dale – Yes; Mr. Shobe – No; Mr. Garner – No; Mrs. Phifer – No; and Mr. Chandler - Yes. **Motion Failed.**

- d. **V-23-14** – Mavis Southeast, LLC requests a variance from the landscape requirements found in Article V, Section 508.01 for the proposed business located west of Highway 69 N and north of Mitt Lary Road.

Bryan Winter, stated they are petitioning to receive a variance for setting the landscape around the front area. He stated that they are trying to mimic the next door building on the landscaping. He stated they are going to have 4 garage bays and putting the landscaping in front of the building would cause issues with the mobility of in and out of the business.

Mr. Garner asked staff on the adjacent buildings how did they bypass the landscaping requirements. Mrs. Ramm stated that she was not the director at that time and is unaware how this was approved. Mr. Garner asked if there was a sidewalk at the adjacent location. Mrs. Ramm stated it was a sidewalk with a change over to asphalt, but this does not mean that the landscaping requirement still could have been met.

Mr. Winter stated that they have added an extra layer of landscaping in front of the business' parking. He stated that they are moving the landscaping from the front of the building to the parking lot area and then again at the street area.

Mr. Garner asked the petitioner if they were requesting this to be removed from the front of the building due to the lack of movement for vehicles. Mr. Winter stated yes, they are moving the landscaping that is required for the front of the building to be moved down to the parking lot area.

Mr. Garner asked if a perimeter landscaping was exceeding what is expected. Mrs. Ramm stated they are not far enough along to state that there is enough landscaping being presented that meets the requirements.

Mrs. Ramm stated that the same variance was granted for Dutch Oil regarding the Sprint Mart in September 15, 2016 minutes.

Mr. Garner stated he does like the trade off in the landscaping requirements for adding the landscaping on both sides of the access road.

Mr. Garner opened the floor for public comments.

With no public comments to be heard, Mr. Garner closed the floor.

Motion by Mr. Chandler I make a motion to grant Mavis Southeast, LLC a variance to remove required foundation planting for the proposed auto service station to be located next door to 1116 Mitt Lary Road with conditions that the landscape meets the requirements of the ordinance and is constructed as

presented in records. **Seconded by Mr. Shobe.** Roll call vote was as follows: Mr. Chandler – Yes; Mr. Shobe – Yes; Mr. Dale – Yes; Mr. Garner – Yes; and Mrs. Phifer – Yes. **Motion Carried.**

X. DISCUSSION

XI. ADJOURNMENT

All members voted yes by a voice vote and the meeting was adjourned.

Mr. Jon Garner, Chairman

Julie Ramm, Secretary

***NORTHPORT ZONING BOARD OF ADJUSTMENT
STAFF REPORT
July 11, 2023***

AGENDA ITEM

Case Number: V-23-11

Request: A variance from required billboard standards

Location: 13512 Highway 43 North

Applicant: James Outdoor

SUBJECT PARCEL

Zoning: C-3 General Commercial

Zoning of Adjacent Property: C-3 General Commercial & AG Agricultural

Proposed Action: Erect a new digital billboard without conforming to sign ordinance requirements for billboards.

STAFF COMMENTS

James Outdoor is seeking a variance from the requirements for billboard signs. Those standards are in section 804.01.C and are included below :

C. Billboards. Off-premise signs with a maximum display area of 672 square feet. All Billboards erected after the adoption of this ordinance shall be of the digital style and have no more than seven (7) messages per minute. For each digital billboard erected at least four (4) non-conforming billboards must be removed within 6 months.

VIII-85

May 10, 2021

1. **Area and Dimensional Requirements.** The following area and dimensional regulations shall apply to all billboards:

Minimum Lot Area: Determined by setback requirements

Minimum Setbacks: Determined by district setback requirements. All billboards must meet the setback requirements of the zone in which they are to be located. No part of the sign, including the sign face, shall extend over a building setback

line. In no case shall any billboard sign be less than 10' from any property line measured from edge of sign face.

Movement: Except for the change of messages on a digital billboard there shall be no movement (i.e. video copy etc.) involved with the messages displayed.

Lighting: All lighting of Billboards shall be done in a manner that will not interfere with commuters' vision. The light intensity of Digital Billboards shall be adjusted for daylight and dark so as not to impair commuters' nighttime vision.

2. **Height and Location Restrictions.** In regard to the height and citing of all billboard signs, the following regulations shall be observed:

No billboard shall be located closer than 600 feet to any residence.

No billboard shall be located within a 2000 foot radius from another billboard

No billboard shall exceed 45 feet in height as measured from grade. (*see standards above*)

No billboards shall be located in the Downtown Historic District, or within a ½ mile radius of the declared center point of said district. (*See Figure 19*)

No billboard may be mounted or displayed as a roof sign or wall sign or on any structure not intended specifically to use as a billboard.

No billboard shall be located on or project over any public property, right-of-way, utility easement or drainage easement.

Exposed backs of signs, poles and other support structures must be painted black, dark green, or dark brown to blend with natural surroundings and present a more attractive appearance.

Billboards shall only be permitted in areas zoned C-6, M-1 or M-2, along the following Roadways:

Highway 43
Highway 69
McFarland Blvd.

STAFF RECOMMENDATIONS:

The standards for variances as outlined in section 1109.3 of the Northport Municipal Code are as follows:

1108.03. Standards for Variances. *The Board of Zoning Adjustment shall grant no variance in the strict application of the provision of this Ordinance unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised. It is the intent of this Ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty to its development and prevents its owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.*

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate in writing that the appeal for the variance conforms to all of the requirements and standards listed below:

A. *The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

B. *The granting of the variance will not permit the establishment of any use, which is not permitted in the district.*

C. *There must be proof of unique circumstances: there must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.*

D. *There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.*

E. *That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Zoning Adjustment is the minimum variance that will accomplish this purpose.*

F. *That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.*

G. *That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.*

The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

Additionally, the zoning ordinance includes the following requirements for variances from the sign ordinance:

Section 808. Variances and Waivers

It is the explicit intent that this section be enacted to accomplish the purposes as set forth in Section 800 and any variance granted by the Board of Zoning Adjustment (BZA) would be detrimental to these purposes. Accordingly, the BZA shall only grant a variance in the case of an extreme hardship. Acts of God and economic conditions shall not be considered hardships for purposes of this section.

In situations where a nonconforming freestanding sign is proposed to be reused within the allowable 60 days as spelled out above and prior to being removed as required by Section 807.02; the Planning Director is hereby granted the ability to allow an administrative waiver of up to five percent (5%) in area and five percent (5%) in height (5 sf. & 1' respectively) to such sign. This waiver does not apply to any sign type other than freestanding signs.

SUMMARY:

James Outdoor proposes to erect a new digital billboard next to McDonald's at 13512 Hwy 43 North. This sign would be nonconforming for the following reasons:

1. Billboards are required to be a minimum of 600 feet from the nearest residence. This sign appears to be approximately 515' from a residence.
2. Billboards are required to be a minimum of 10 feet from a property line. The proposed billboard appears to be more or less directly on the property line.
3. Billboards are only permitted within C-6, M-1, and M-2 zoning. This property is currently zoned C-3.

The applicant has stated as a hardship that they were told during the ALDOT permitting process that the property lies outside of the city limits and based on that, they secured a property lease and made significant financial investment.

City staff have determined that the applicant misrepresented to ALDOT which parcel the proposed sign would be located on by providing the incorrect parcel information to ALDOT. As a result, city staff never gave ALDOT or the applicant incorrect information. Instead, it was the applicant who provided both ALDOT and the City with incorrect information.

This means that any hardship the applicant suffers was self-created hardship. According to relevant case law, a self-created hardship may not be the basis for a variance.

"A self-inflicted or self-created hardship may not be the basis for a variance or for a claim thereof..." CITY OF RUSSELLVILLE ZONING BD. v. Vernon, 842 So.2d 627 (Ala. 2002)

As shown on the included survey dated 5/26/2023, the parcel that contains the location of the proposed sign location falls within the city limits and was shown as such on city and county maps for several years.

The correct location is even shown in the city limits on the maps submitted by the applicant. The applicant was mistaken as to which parcel the proposed billboard would fall within.

The applicant knew or should have known that this sign was always proposed to be located within the city limits of the City of Northport. As the applicant stated during his presentation to the ZBA on June 15, 2023, the applicant was aware that a billboard would not be allowed in this location under city law.

The engineering department has the following primary concerns: There is an existing Ingress and Egress Easement Agreement in place for the drive between Jacks and McDonalds. We would like to make sure that the addition of the billboard does not interfere with the safe operation of vehicles within the ingress/egress easement. There is concern that the proposed billboard will interfere with sight distance for vehicles utilizing the easement. There is also concern that the pole is very close to the travel way.

Additionally, ZBA's bylaws do not allow the granting of a variance to establish a use not permitted within the zoning district. Billboards are not allowed in the zoning district for this property. See quote below from the Board's bylaws:

8.1 **Standards for Variances:** Before any permit for a variance is issued, the Board shall make written findings certifying compliance with the following specific rules:

1. That the variance will not allow the establishment of a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the ordinance in said district.

It is the opinion of staff that granting this variance would violate the Board's by-laws. Staff does not support the granting of this variance.

MOTION:

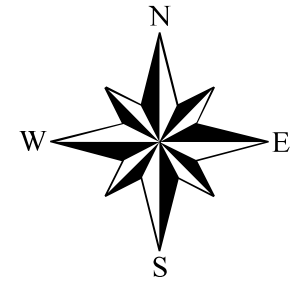
1. I make a motion to grant James Outdoor a variance from the billboard requirements for 1) required minimum distance to a residence, 2) required minimum distance to a property line, and 3) required zoning district for a billboard, to erect a new billboard on the property located at 13512 Highway 43 North.

City of Northport Zoning Board of Adjustment

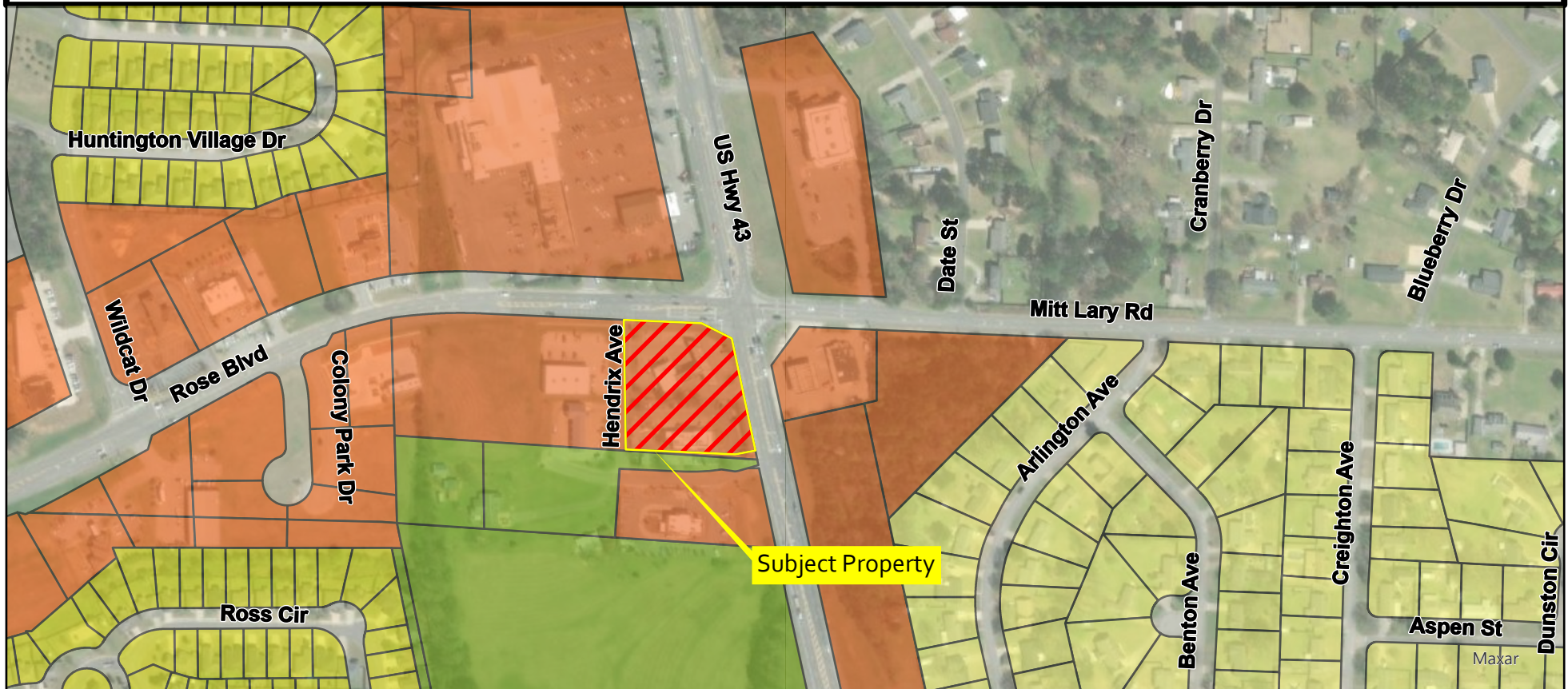
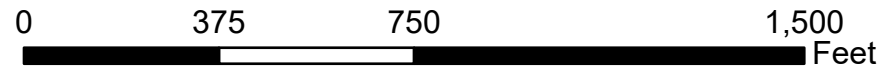
Zoning

-  Agriculture
-  Neighborhood Commercial
-  General Commercial
-  Office and Institutional
-  Residential Single-Family - 2
-  Residential Single-Family - 4
-  Subject Property

Variance Request



While the City of Northport, Alabama makes every effort to maintain and distribute accurate information, No Warranties and/or Representations of Any Kind are made regarding information, data or services provided. In no event, shall the City of Northport, Alabama be liable in any way to the users of this data. Users of this data shall hold the City of Northport, Alabama harmless in all matters and accounts arising from the use and/or accuracy of this data.



GROUND LEASE

THIS LEASE, dated November 15, 1999, is between Hendrix Family Investments, L.L.C. ("Landlord"), of City of Northport, County of Tuscaloosa, State of Alabama, and McDonald's Corporation, a Delaware corporation ("Tenant").

188.25'
C-114

1. **Demised Premises:** Landlord, for and in consideration of the covenants contained in this Lease and made on the part of Tenant, does hereby demise and lease unto Tenant, and Tenant does hereby lease from Landlord, the parcel of land which is located in Northport, County of Tuscaloosa, State of Alabama, having a frontage of not less than 290 feet on US Highway 43, containing not less than 85,575 square feet (not including roads or public rights-of-way), including 47,213 square feet for that portion of the property identified as "Parcel 2" on Exhibit A (the restaurant parcel) and 38,362 square feet for that portion identified as "Parcel 1" on Exhibit A (the corner parcel), being more particularly described on Exhibit A-1, together with all of Landlord's easement rights and appurtenances thereto, all buildings and improvements now located on the property, and all necessary easements and appurtenances in Landlord's adjoining and adjacent land, highways, roads, streets, lanes, whether public or private, reasonably required for the installation, maintenance, operation and service of sewers, water, gas, drainage, electricity and other utilities and for driveways and approaches to and from abutting highways, for the use and benefit of the above described parcel of real estate, including the improvements to be erected on the property (collectively referred to as "Demised Premises"). The easements and appurtenances to be granted to Tenant for such purposes shall be in accordance with the final site plan mutually agreed to by the parties. Tenant shall have the Demised Premises surveyed, then, at Tenant's option, the parties shall execute a recordable amendment by which a survey description shall be inserted in lieu of the description contained in Exhibit A-1, but Tenant shall not be obligated to lease less than is described above.

2. **Lease Term:** Tenant shall have and hold the Demised Premises for a term commencing on the date of the last execution of this Lease and ending twenty (20) years from the date upon which the McDonald's restaurant referred to in this Lease is opened for business to the public. When the term of this Lease is ascertainable and specifically fixed, or otherwise agreed to by Landlord and Tenant, Landlord and Tenant shall enter into a supplement, suitable for recording, which shall specify the actual date for the expiration of the original term of this Lease and for the commencement of accrual of rent payable by Tenant. If Landlord fails to execute and return the supplement within fifteen (15) days after delivery to Landlord, Tenant may execute the supplement on behalf of Landlord and Landlord hereby appoints Tenant as its attorney-in-fact for such purpose.

3. **Rent:** Tenant's liability for rent shall commence to accrue on February 1, 2000. Tenant, in consideration of the covenants made by Landlord, covenants and agrees to pay to Landlord as rent for the Demised Premises the sums outlined in the attached Exhibit C (Rent Addendum). In the event that the commencement date of the rent shall be on a day other than the first day of the month, the first rental payment and last rental payment, if applicable, shall be adjusted for the proportionate fraction of the whole month.

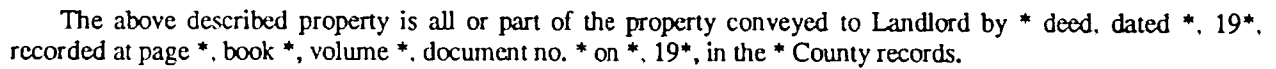
4. **Landlord's Warranties and Covenants:** Landlord covenants, represents and warrants as follows:

6-6-1999
C-114

A. **Zoning:** Landlord represents that the Demised Premises has been annexed to the City of Northport. Landlord shall, if necessary, use its best efforts to obtain the approval of all public and governmental authorities as to all matters relating to zoning, subdivision, lot splits, lot ties, replats or similar requirements for use of the Demised Premises as a McDonald's restaurant in accordance with Tenant's plans and specifications as will permit Tenant to obtain all necessary permits, licenses and approvals referred to in Article 7(A) below. Landlord agrees to pay the expense of application and engineering and any other incidental costs relating to such approval. ~~Landlord further agrees to dedicate or grant any easements for public ways as are agreed to by the parties in accordance with the site plan, and to diligently perform and pay for any improvements shown on the site plan and located off the Demised Premises required as a condition of approval by the City of Northport, Tuscaloosa County and/or the Alabama Department of Transportation.~~

B. **Utilities:** That all water and gas mains, electric power lines, and sanitary and storm sewers are located in the public right-of-way and are available and adequate for Tenant's intended use. Per Exhibit D (Landlord's Work Addendum), Landlord agrees to extend all utilities meeting Tenant's specifications to the Demised

(INSTRUCTIONS: Use deed legal description, if available, and sketch. All easements to be reserved or granted by Landlord must also be described. If lot and block numbers are used, a subdivision map or sketch must be attached.)



Page 18 of 99

LEGAL DESCRIPTION

PARCEL 2

ALL THAT TRACT OR PARCEL OF LAND SITUATED AND LYING IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 20 SOUTH, RANGE 10 WEST, CITY OF NORTHPORT, TUSCALOOSA COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR AND CAP ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43 (STATE ROUTE 13) (OLD BYLER ROAD) (80' R/W), SAID REBAR AND CAP BEING LOCATED NORTH 13°13'20" WEST, A DISTANCE OF 240.88 FEET, FROM THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43 WITH THE SOUTH BOUNDARY LINE OF SECTION 17, TOWNSHIP 20 SOUTH, RANGE 10 WEST; THENCE, SOUTH 76°42'08" WEST, LEAVING SAID RIGHT-OF-WAY LINE OF U.S. ROUTE 43, A DISTANCE OF 47.04 FEET TO A 1/2" REBAR AND CAP; THENCE, NORTH 89°24'02" WEST, A DISTANCE OF 258.28 FEET TO A 1/2" REBAR AND CAP; THENCE, NORTH 00°35'58" EAST, A DISTANCE OF 166.28 FEET TO A 1/2" REBAR AND CAP; THENCE, SOUTH 89°24'02" EAST, A DISTANCE OF 265.81 TO A 1/2" REBAR AND CAP ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43; THENCE, SOUTH 13°13'20" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43, A DISTANCE OF 159.60 FEET TO THE POINT OF BEGINNING AND CONTAINING 47,326 SQUARE FEET OR 1.09 ACRES OF LAND, MORE OR LESS, AS SHOWN ON A BOUNDARY AND TOPOGRAPHIC SURVEY FOR MCDONALD'S CORPORATION, PREPARED BY DONALDSON, GARRETT AND ASSOCIATES, INC., DATED JUNE 24, 1999, LAST REVISED NOVEMBER 18, 1999.

LEGAL DESCRIPTION

PARCEL 1

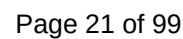
ALL THAT TRACT OR PARCEL OF LAND SITUATED AND LYING IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 20 SOUTH, RANGE 10 WEST, CITY OF NORTHPORT, TUSCALOOSA COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

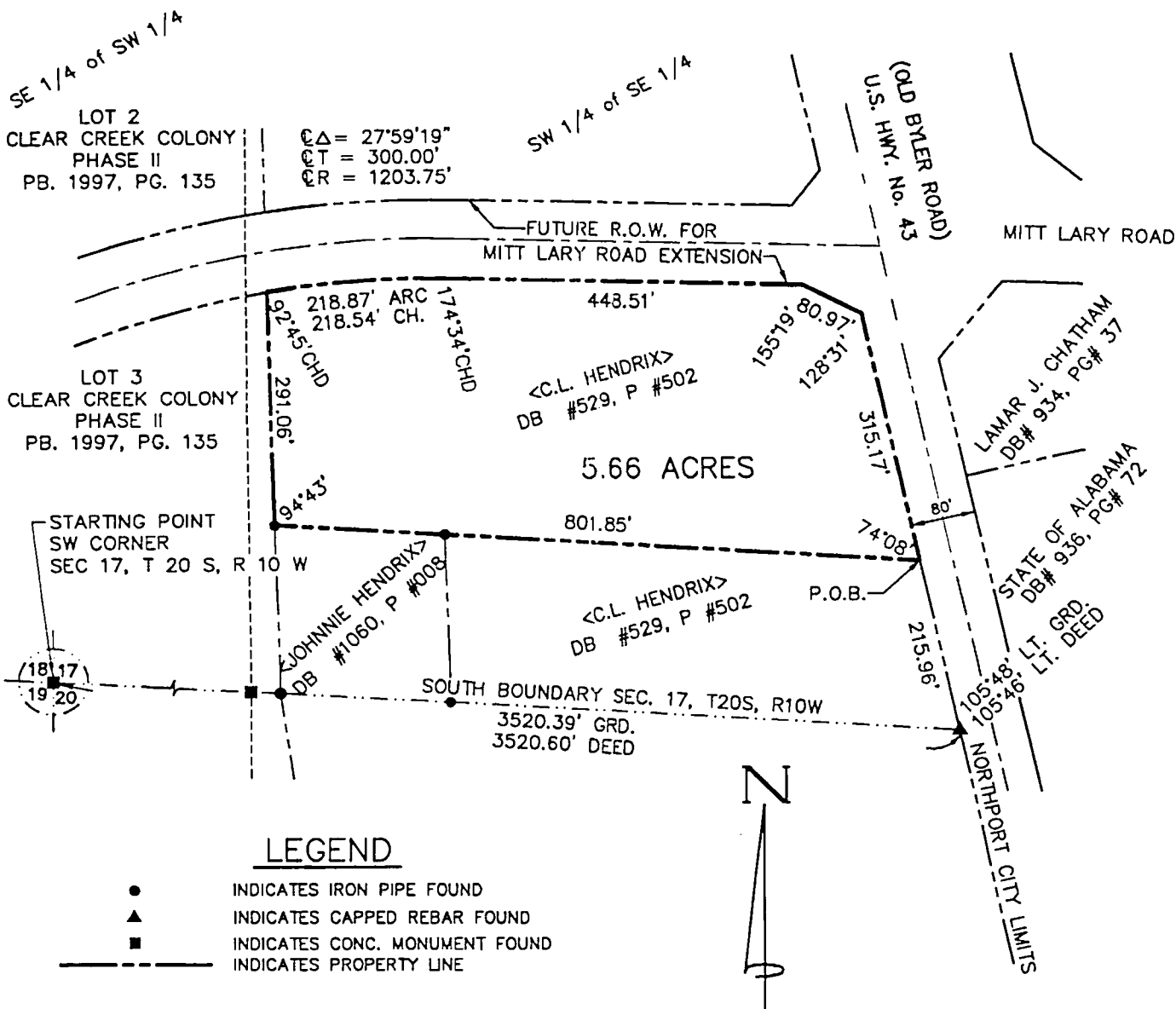
BEGINNING AT A 1/2" REBAR AND CAP ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43 (STATE ROUTE 13) (OLD BYLER ROAD) (80' R/W), SAID REBAR AND CAP BEING LOCATED NORTH 13°13'20" WEST, A DISTANCE OF 400.48 FEET, FROM THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43 WITH THE SOUTH BOUNDARY LINE OF SECTION 17, TOWNSHIP 20 SOUTH, RANGE 10 WEST; THENCE, NORTH 89°24'02" WEST, LEAVING SAID RIGHT-OF-WAY LINE OF U.S. ROUTE 43, A DISTANCE OF 265.81 FEET TO A 1/2" REBAR AND CAP; THENCE, NORTH 00°35'58" EAST, A DISTANCE OF 160.86 FEET TO A 1/2" REBAR AND CAP LOCATED ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MITT LARRY ROAD EXTENSION (C.R. 56) (100' R/W); THENCE, SOUTH 89°24'02" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF MITT LARRY ROAD EXTENSION A DISTANCE OF 160.63 FEET TO A 1/2" REBAR AND CAP; THENCE, SOUTH 64°43'02" EAST, CONTINUING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF MITT LARRY ROAD EXTENSION, A DISTANCE OF 81.41 FEET TO A 1/2" REBAR AND CAP ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43; THENCE, SOUTH 13°13'20" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43, A DISTANCE OF 130.65 FEET TO THE POINT OF BEGINNING AND CONTAINING 38,460 SQUARE FEET OR 0.88 ACRE OF LAND, MORE OR LESS, AS SHOWN ON A BOUNDARY AND TOPOGRAPHIC SURVEY FOR MCDONALD'S CORPORATION, PREPARED BY DONALDSON, GARRETT AND ASSOCIATES, INC., DATED JUNE 24, 1999, LAST REVISED NOVEMBER 18, 1999.

LEGAL DESCRIPTION
COMBINED TRACT

ALL THAT TRACT OR PARCEL OF LAND SITUATED AND LYING IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 20 SOUTH, RANGE 10 WEST, CITY OF NORTHPORT, TUSCALOOSA COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR AND CAP ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43 (STATE ROUTE 13) (OLD BYLER ROAD) (80' R/W), SAID REBAR AND CAP BEING LOCATED NORTH 13°13'20" WEST, A DISTANCE OF 240.88 FEET, FROM THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43 WITH THE SOUTH BOUNDARY LINE OF SECTION 17, TOWNSHIP 20 SOUTH, RANGE 10 WEST; THENCE, SOUTH 76°42'08" WEST, LEAVING SAID RIGHT-OF-WAY LINE OF U.S. ROUTE 43, A DISTANCE OF 47.04 FEET TO A 1/2" REBAR AND CAP; THENCE, NORTH 89°24'02" WEST, A DISTANCE OF 258.28 FEET TO A 1/2" REBAR AND CAP; THENCE, NORTH 00°35'58" EAST, A DISTANCE OF 166.28 FEET TO A 1/2" REBAR AND CAP; THENCE, NORTH 00°35'58" EAST, A DISTANCE OF 160.86 FEET TO A 1/2" REBAR AND CAP LOCATED ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MITT LARRY ROAD EXTENSION (C.R. 56) (100' R/W); THENCE, SOUTH 89°24'02" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF MITT LARRY ROAD EXTENSION, A DISTANCE OF 160.63 FEET TO A 1/2" REBAR AND CAP; THENCE, SOUTH 64°43'02" EAST, CONTINUING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF MITT LARRY ROAD EXTENSION, A DISTANCE OF 81.41 FEET TO A 1/2" REBAR AND CAP ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43; THENCE, SOUTH 13°13'20" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43, A DISTANCE OF 130.65 FEET TO A 1/2" REBAR AND CAP; THENCE, SOUTH 13°13'20" EAST, CONTINUING ALONG THE WESTERLY RIGHT-OF-WAY LINE OF U.S. ROUTE 43, A DISTANCE OF 159.60 FEET TO THE POINT OF BEGINNING AND CONTAINING 85,786 SQUARE FEET OR 1.97 ACRES OF LAND, MORE OR LESS, AS SHOWN ON A BOUNDARY AND TOPOGRAPHIC SURVEY FOR MCDONALD'S CORPORATION, PREPARED BY DONALDSON, GARRETT AND ASSOCIATES, INC., DATED JUNE 24, 1999, LAST REVISED NOVEMBER 18, 1999.





LEGAL DESCRIPTION
C.L. HENDRIX PROPERTY
PROPOSED ANNEXATION

A parcel of land located in the Southwest Quarter of the Southeast Quarter of Section 17, Township 20 South, Range 10 West in Tuscaloosa County, Alabama and being more particularly described as follows:

As a starting point, start at the Southwest corner of said Section 17; thence run in an Easterly direction along the South boundary of said Section 17 for a distance of 3,520.39 feet to a point, said point being on the West Right-of-Way of U.S. Highway No. 43, an 80 foot Right-of-Way; thence with a deflection angle of 105 degrees 48 minutes to the left run in a Northwesterly direction along the West Right-of-Way of said U.S. Highway No. 43 for a distance of 215.96 feet to the POINT OF BEGINNING of the parcel herein described; thence continue in a Northwesterly direction along said Right-of-Way for a distance of 315.17 feet to the intersection of the Future Right-of-Way for the Mitt Lary Road extension; thence with an interior angle of 128 degrees 31 minutes continue in a Northwesterly direction and along said Right-of-Way for a distance of 80.97 feet to a point; thence with an interior angle of 155 degrees 19 minutes run in a Westerly direction along said Right-of-Way for a distance of 448.51 feet to the point of curvature of a curve having a centerline delta of 27 degrees 59 minutes 19 seconds and a centerline radius of 1,203.75 feet; thence with an interior angle of 174 degrees 34 minutes to the chord run in a Southwesterly direction and along said curving Right-of-Way for a chord distance of 218.54 feet (arc distance 218.87 feet) to a point; thence with an interior angle of 92 degrees 45 minutes from the chord run in a Southerly direction for a distance of 291.06 feet to a point; thence with an interior angle of 94 degrees 43 minutes run in an Easterly direction for a distance of 801.85 feet to the POINT OF BEGINNING of the parcel herein described at which point the interior angle is 74 degrees 08 minutes. Said parcel containing 5.66 acres.

ANNEXATION PLAT

McGiffert AND ASSOCIATES
CIVIL ENGINEERS

2814 STILLMAN BLVD. • P.O. BOX 20559
TUSCALOOSA, ALABAMA 35402-0559

TEL. 205-759-1521

FAX 205-759-1524

HENDRIX PROPERTY

A PART OF SECTION 17, T20S, R10W

NORTHPORT

ALABAMA

OWNER: C.L. HENDRIX

SOURCE OF TITLE: DB. 529, PG. 502

REVISION

DATE	DESCRIPTION	BY

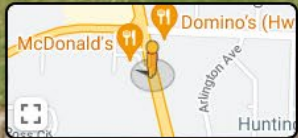
FB.	DRAWN BY: G.N.F.	SHEET No.	DWG No.
D.	FILE NAME: HENDANEX	1 of 1	35-99
JOB NO.	CHECKED BY: W.D.W.		

THIS DRAWING AND ALL INFORMATION SHOWN HEREON IS THE PROPERTY OF THE ENGINEER AND MAY NOT BE REPRODUCED OR USED WITHOUT WRITTEN CONSENT OF THE ENGINEER.

COPYRIGHT © 1999 MCGIFFERT AND ASSOCIATES, INC.

← 13606 AL-13
Northport, Alabama
Google Street View
Aug 2022 See more dates

Approximate Proposed
location



Google

Image capture: Aug 2022

List of Adjacent Property Owners

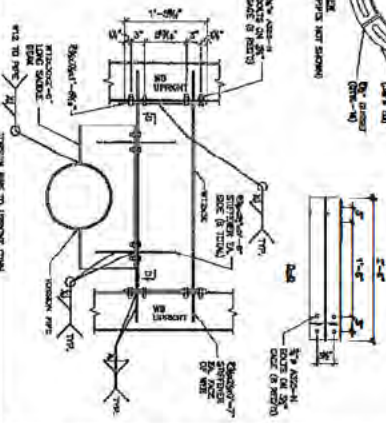
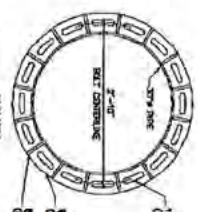
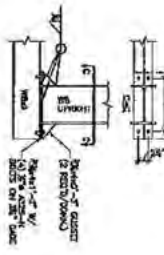
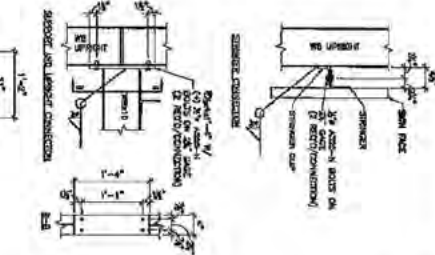
Jack's Family Restuarants, LP
124 W Oxmoor Road
Birmingham, AL 35209

Barze-Hendrix Family
625 Canyon Circle N
Tuscaloosa, AL 35406

Johnnie Hendrix Driggers
13520 Highway 43 N
Northport, AL 35475

Hendrix Family Investments, LLC
13520 Highway 43 N
Northport, AL 35475

McDonalds Corp.
2424 Ridge Road
Rockwall, TX 75087



- [illegible]

Exhibit "A"

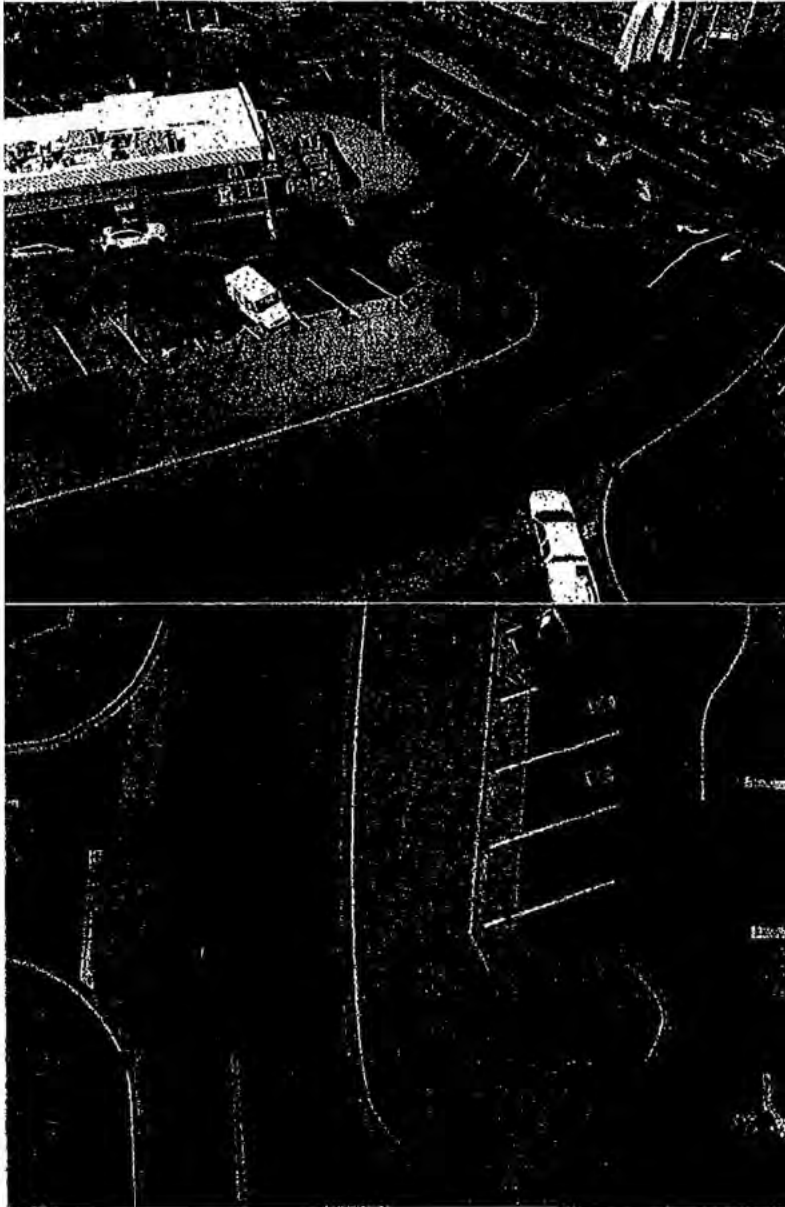
Description of the Property: Self-Serve Car Wash

Property Address: 13520 HWY 43 N, Northport, AL 35475

Parcel #63 20 04 17 0 002 002.000

Tax County: 01 -- County North

Projected Billboard Placement: Outlined with Orange "V" in between Jack's Restaurant and McDonald's



Initials	<u>JAP</u>	<u>JDS</u>
	Lessor	Lessee

SIGN LOCATION LEASE

1. This Lease agreement (the "Lease") is dated and entered into on this 5th day of July, 2022, between **HENDRIX FAMILY INVESTMENTS, LLC** (hereinafter called "LESSOR") and **JAMES OUTDOOR, LLC**, (hereinafter called "LESSEE"). LESSOR hereby leases and grants exclusively to LESSEE the following premises described as the placement by pin on the attached map and located at the coordinates **33.303943 and -87.601237**, in the County of Tuscaloosa, in the State of Alabama (the "Property") (which may be more particularly described on the attached Exhibit "A"), for the purpose of accessing (by vehicle or pedestrian), or erecting, constructing, installing, placing, operating, modifying, relocating, removing, and maintaining LESSEE'S sign(s) thereon including supporting structures, illumination facilities, electrical connections, service ladders and other appurtenances and ancillary equipment (the "Sign"). The Property shall include the area where the Sign is located, the surrounding area, and the airspace above the same. This Sign Location Lease is not valid and cannot be enforced without a written legal permit issued by the State of Alabama Department of Transportation and/or other government entities.

2.

rsary date of the Lease as indicated in paragraph 1 hereinabove. Each and every subsequent annual rental payment shall be made on or before each anniversary date of the Lease as indicated in paragraph 1 hereinabove. LESSEE shall have the right to make any necessary applications with, and obtain permits from, governmental bodies for the construction and maintenance of LESSEE'S signs(s) at the sole discretion of LESSEE. All such permits shall remain the property of LESSEE. LESSOR agrees to execute such other documents, including but not limited to, easements, permit applications, and memorandums, as may be necessary for LESSEE to construct, maintain, illuminate, and remove the Sign.

3. Each party agrees to indemnify and hold harmless the other from any and all claims or demands on account of bodily injury or physical property damage caused by or resulting from any negligent or willful acts or omissions of the indemnifying party or its agents, employees or contractors.
4. This agreement is a Lease, and all signs(s), structure(s), improvements and appurtenances thereto placed on the premises by or for the LESSEE, its agent or predecessor, shall remain the property of the LESSEE and LESSEE shall have the right to remove the same at any time during the term of the Lease and for a reasonable period after the expiration of the

Initials JH JDT
Lessor Lessee

Lease term. If LESSEE removes its structure(s), only all above and below grade portions of said structure(s) shall be removed.

5. The initial term of the Lease will be Thirty (30) years beginning on the Commencement Date.
6. In the event that all or any part of the Property is acquired or sought to be acquired by any entity having or delegated the power of eminent domain, LESSEE shall, at its election and its sole discretion, be entitled to: (i) contest the acquisition or defend against the taking of LESSEE'S Sign and interest in the Property; (ii) relocate the Sign to a mutually agreed upon portion of LESSOR'S Property not acquired or to be acquired (LESSOR's consent to relocation of the Sign shall not be unreasonably withheld); and/or (iii) be compensated from any award or consideration payable by the acquiring entity for all costs, damages and value loss incurred by LESSEE relating to the leasehold as improved with the Sign. LESSOR may not terminate this lease under any right or circumstance if the Property has been taken or is contemplated or threatened to be taken by eminent domain, or if the Property is conveyed to any entity or it's agent with eminent domain authority. In the event the condemning authorities do not negotiate separately with LESSOR and LESSEE for their respective interests, then LESSOR shall not enter in any agreement with or accept any condemnation amount (or compensation in lieu thereof) from the condemning authorities without Grantor and Grantee first agreeing in writing to the total amount of the condemnation or compensation amount and to the respective sharing of such sum between LESSOR and LESSEE. LESSOR agrees to provide copies of any notices, appraisals, or other communications related to any condemnation or threatened condemnation. No contemporary or subsequent modification of this Lease or the foregoing sentence shall be effective unless it specifically references this paragraph and the foregoing sentence.
7. LESSEE shall, at its option, have the right to terminate this Lease upon thirty (30) days' notice in writing to LESSOR, and LESSOR shall refund to LESSEE any rental payment paid in advance for the remainder of the un-expired term if (in LESSEE'S sole opinion) one of the following events occurs: (a) LESSEE is unable to secure or maintain any required permit or license from any appropriate governmental authority; (b) federal, state or local statute, ordinance regulation or other government action which precludes or materially limits use of the Property for outdoor advertising purposes; (c) LESSEE'S signs(s) on the Property become entirely or partially obstructed or destroyed; (d) the view of LESSEE's signs are obstructed or impaired in any way by any object or growth on the Property or on any neighboring premises; (e) the advertising value of the structure(s) is impaired or diminished; (f) there occurs a diversion of traffic from, or a change in, the direction of traffic past the Sign(s); (g) LESSEE is prevented from maintaining electrical power to the Property or illuminating its Sign(s); (h) LESSEE finds that, in LESSEE'S sole opinion, the continued maintenance/operation of the Sign(s), is impractical or uneconomical; or (i) maintenance will be hampered or made unsafe due to conditions caused by nearby properties, land uses, or utilities. Should this Lease be terminated due to

Initials JAD JDS
Lessor Lessee

clauses (d), (e), (f), (g), (h): LESSEE shall pay LESSOR a (1) one-time penalty fee valued at (1) annual rental payment amount.

8. This Lease shall not obligate the LESSEE in any way until it is accepted and executed by LESSEE's Chief Operations Officer or President. It is understood that this written Lease between parties constitutes the entire Lease and understanding between the parties and supersedes all prior representations, understandings, and agreements relating to this Lease. This Lease may not be modified except in writing and signed by LESSOR and an authorized signatory of LESSEE. The parties to this Lease expressly disclaim any reliance on all prior representations, understandings, and agreements relating to this Lease. The parties hereto have each carefully reviewed this Lease and have agreed to each term set forth herein. No ambiguity is presumed to be construed against either party.
9. This Lease shall be binding upon the heirs, executors, personal representatives, successors and assigns for the parties hereto. LESSOR warrants that LESSOR is the owner of the Property and has full authority to enter into this Lease. LESSOR agrees to notify LESSEE of any change of ownership of the Property or of LESSOR's mailing address within thirty (30) days of such change. LESSOR agrees to hold LESSEE harmless from any action resulting from failure to provide said notice. Subject to the provisions of Paragraph 16 of this Lease, LESSOR shall not assign its interest under this Lease or any part thereof except to a party who purchases the underlying fee title to the Property. LESSEE shall not assign its interest under this Lease or any part thereof except to a party who purchased title to the Sign.
10. All rents are to be paid pursuant to this Lease and all notices are to be forwarded to the undersigned LESSOR at the address noted below the LESSOR's signature. If there is any change in LESSOR'S AND/OR LESSEE'S address it is the sole responsibility of the LESSOR AND/OR LESSEE to inform LESSEE/LESSOR within fourteen (14) days of said change in order to avoid interruption of rental payments.
11. In the event that either party is in default under the terms of this Lease, the non-defaulting party shall deliver written notice via the United States Postal Service by certified or registered return receipt mail to the defaulting party, and said party may cure such failure within thirty (30) days of receipt of such notice provided that for any non-monetary default, if a cure cannot reasonably be effected in thirty (30) days, the defaulting party may continue such cure past thirty (30) days from notice if it commences such cure within fourteen (14) days from the notice and pursue such cure to completion.
12. Upon request of one of the parties to this Lease, LESSOR and LESSEE shall execute such other documents, including but not limited to, a short form memorandum of this Lease and/or subordination agreement for recording purposes. The party requesting recordation shall be responsible for payment of any fees or taxes applicable thereto.

Initials JAD JOS
Lessor Lessee

13. To the extent permitted by applicable law, LESSOR hereby waives any statutory right to a landlord's lien or any other lien on any property of LESSEE located on the Property.
14. LESSEE shall have the absolute unencumbered right to trim, cut or remove any trees or other vegetation or any other debris from the Property, which in any way impairs the operation, visibility, or maintenance of the Sign. LESSOR agrees not to place any future improvements, including but not limited to, on premise signage, building appurtenances, or structures, which would diminish the visibility corridor necessary to maintain the visibility of the Sign to adjacent thoroughfares.
15. This Lease shall continue in full forces and effect for its term and thereafter for subsequent successive like terms unless terminated at the end of such term upon prior written notice by either party served no less than ninety (90) days and no more than one hundred eight (180) days before the end of such term.
16. During any term of this Lease and for a period of ninety (90) days following any termination of this Lease, LESSOR grants LESSEE the right of first refusal to match any offer acceptable to LESSOR for the use or purchase of the Property or any portion of the Property. A written copy of any such third-party offer received by LESSOR shall be delivered to LESSEE by certified mail-return receipt requested. LESSEE shall then have twenty (20) business days from the date of receipt in which to a match such offer by giving notice of acceptance to LESSOR.
17. LESSOR shall have the right to enter into agreement and permit any outdoor advertising sign after the execution of this Lease on LESSOR's adjacent property (if any). However, James Outdoor, LLC retains the right to match and/or exceed any competing outdoor advertising's proposal to permit/erect outdoor advertising sign and, upon LESSOR approval, permit the additional outdoor advertising sign up to or within 1,000 ft distance from sign location outlined in this lease. James Outdoor, LLC must be notified within 30 days of LESSOR receiving competing outdoor advertising sign proposal.
18. LESSOR covenants and agrees that LESSEE will at all times have peaceable and quiet enjoyment of the rights granted to LESSEE under this Lease without any manner of hindrance from LESSOR or any person claiming the Property by, through or under LESSOR.
19. The venue for any litigation arising out of this Lease shall be in Tuscaloosa County, Alabama. If LESSEE either party brings any legal proceedings for the enforcement of this Lease, or concerning any breach or default of this Lease, and LESSEE said party is the prevailing party, then LESSEE said party shall be entitled to recover its reasonable attorneys' fees and other costs incurred in such proceeding from LESSOR the other party, in addition to any other relief to which LESSEE said party may be entitled.

Initials Jed JDS
Lessor Lessee

20. Special Provisions: NONE.

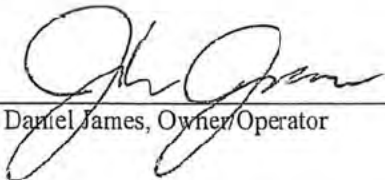
21. Digital Billboard Specs (projected, but not limited to)

- a. 10'x36' Center-Mount 10'V, 45 HAGL (DIGITAL)
- b. Back-to-back Digital Units (North Facing & South Facing)
- c. 36" to 30" Telescoping Base Column
- d. 20" Torsion
- e. Galvanized Plated Fasteners
- f. 25" Interior Walkways
- g. 3" Horizontal Apron
- h. Back-lit LED "James Outdoor" logo plate
- i. Engineered to 2015 IBC (115 mph)
- j. Prime & Painted with Sherwin Williams Finish

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LESSEE:

JAMES OUTDOOR, LLC

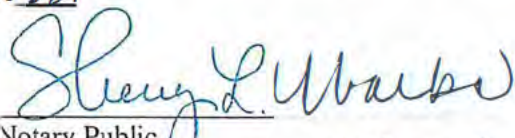

John Daniel James, Owner/Operator

STATE OF ALABAMA

COUNTY OF TUSCALOOSA

I Sherry L. Walker hereby certify that John Daniel James, in his capacity as Owner/Operator of James Outdoor, LLC, whose name is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, he executed the same voluntarily on the day the same bears date. Given under my hand this 5th day of July, 2022.




Notary Public
My Commission Expires: 10/19/2025

Initials Jdn JDT
Lessor Lessee

LESSOR:

HENDRIX FAMILY INVESTMENTS, LLC.

John Driggers

Johnnie Driggers, Member

STATE OF ALABAMA

COUNTY OF TUSCALOOSA

I Sherry L. Walker hereby certify that Johnnie Driggers, in her capacity as Member of Hendrix Family Investments, LLC, whose name is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, she executed the same voluntarily on the day the same bears date. Given under my hand this 5th day of July, 2022.



Sherry L. Walker

Notary Public

My Commission Expires: 10/19/2025

LESSOR: HENDRIX FAMILY INVESTMENTS, LLC
Address: 13520 Highway 43 N, Northport, AL 35475
Federal Tax ID No. 63-1215236

Initials JLD JDJ
Lessor Lessee

5-2-557 - Zoning Map

Note: Sign will be placed in the unzoned area between McDonald's + Jack's



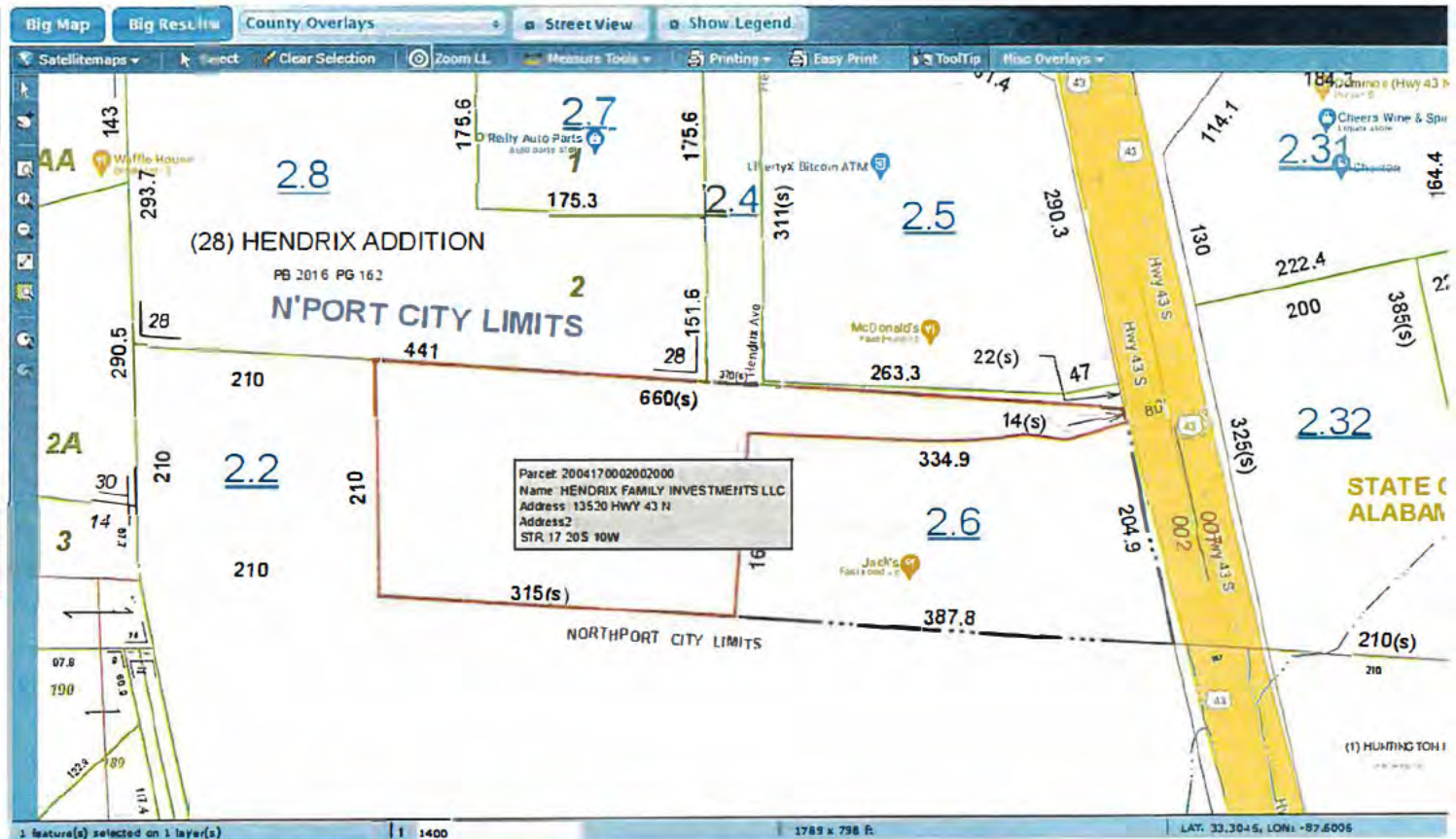
5-2-557

Tuscaloosa County Alabama
Public GIS
 Web19 - H3.5-Tusc - TuscaloosaAL - 09-12-2022
Parcel Details

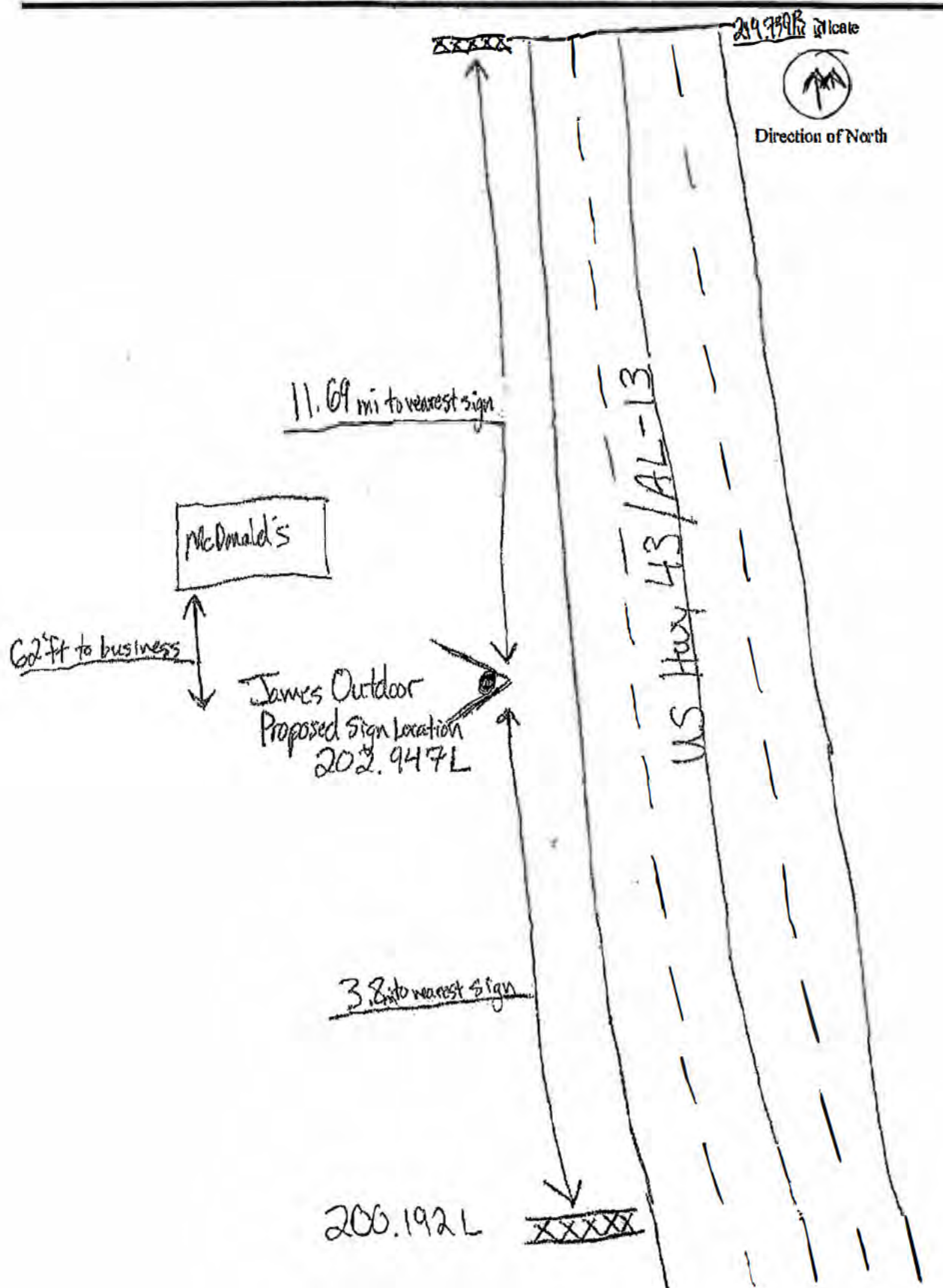
Print Link PRC NewScreen Rock Print

Account Pin STR	21558	17 20 S 10W
Parcel No.	63 20 04 17 0 002 002.000	
Prop Addr.	13512 HWY 43 N	
Tax Dist	01 County North	Exemption Not Exempt
Deeded Acres	0.00ac	Calct 1.83ac
Deed Bk Pg Date	529	00502 03-15-1963
Plat Info	Book	Page
Sub Info	Sub Block	Lot
Subdivision		
Neighborhood	HUNTINGTON PLACE	
Owner		
Name:	HENDRIX FAMILY INVESTMENTS LLC	
Address:	13520 HWY 43 N	
City, State, Zip:	NORTHPORT, AL 35475	
2021 Values		
Land Total:	\$18,300	
Building & Improvements Total:	\$2,000	
Total Appraised Value:	\$20,300	
Yrly Tax:		

1 Parcel



LOCATION SKETCH OF ADVERTISING SIGN





Kay Ivey
Governor

ALABAMA DEPARTMENT OF TRANSPORTATION

West Central Region, District 52
OFFICE OF THE DISTRICT ADMINISTRATOR
2715 East Skyland Boulevard
Tuscaloosa, Alabama 35405
Telephone: 205-554-3280



John R. Cooper
Transportation Director

December 15, 2022

James Outdoor, LLC
1470 Northbank Pkwy #162
Tuscaloosa, AL 35405

Attn: Mr. John James

Re: Permits # 5-2-557-OA
Tuscaloosa County

Dear Mr. James,

Enclosed is an approved permit, as per redlined corrections, to erect an Outdoor Advertising Sign (Form OA No.1) adjacent to AL-13 at milepost 202.947L. **Please notify our office in writing 48 hours prior to construction.** If you have any questions, contact Ms. Darby Campbell at (205) 554-3239.

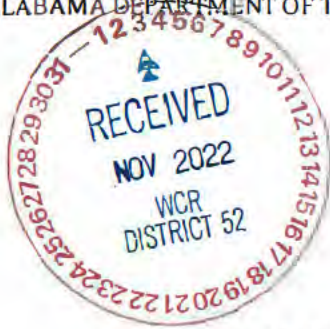
Respectfully,

Kevin Williamson, P.E.
District 52 Administrator

LKW/DC

Enclosures

cc: File w/ Attachment
Mr. Shane Trippany, P.E.



DO NOT WRITE IN THIS BOX

Permit No. OA - 5 - 2 - 557
Sign Identification No. 63 - 013 - 202.9471
County Tuscaloosa Date of Issue 12-12-2022

APPLICATION FOR PERMIT TO ERECT OUTDOOR ADVERTISING SIGN

The undersigned, pursuant to the provisions of Article 9, Division 3, 23-1-271 through 23-1-288 of the Code of Alabama, 1975, as amended by Act No. 383 of the Regular Session of the State of Alabama Legislature, 1978, an rules and regulations promulgated thereunder, hereby applies to erect an outdoor advertising sign which is to be located within six hundred sixty (660) feet of the nearest edge of the right-of-way of a highway on the Interstate or Federal Aid Primary Highway System and furnishes the following information to support this application.

1. Applicant's Company Name is James Outdoor, LLC Email john@jamesoutdoor.com
2. Applicant's Company Address is 1470 Northbank Pkwy #162 (Tel.) 256-509-9730
Tuscaloosa, AL 35406
3. Owner's Name is John James
4. Owner's Address is 13758 Highland Pointe Dr Northport, AL 35475
5. Property Owner's Name is Hendrix Family Investments, LLC Email johnnie.driggs@segnail.com
6. Property Owner's Address is 13520 Hwy 43N Northport, AL 35475 (Tel.) 205-534-0607
7. Permission to erect is by: Written Lease ☒ , Written Agreement _____ , Own Property _____ ,
Other _____
8. Interstate Route Number _____ , Primary Highway Route: U S. Number 43 , Alabama Number 13
9. Milepost Location Number 202.947L LAT. 33.3048017 LONG. -87.608767
(To nearest hundredth of a mile, and designate L for left and R for right. Even routes are west to east and odd routes are south to north).
10. Adjacent Property/Area is: (Check one, (a) Zoned or (b) Unzoned, from the below section)
(a) Zoned: Commercial ☒ , Industrial _____ , Zoning Authority City of Northport
(b) Unzoned: Commercial _____ , Industrial _____ , Distance to nearest premises limits of commercial or industrial activity is _____ feet. Kind of commercial or industrial activity is _____
11. Sign to be located inside _____ , OR outside ☒ zoning authority of incorporated city.
12. Size of sign: Height 10'6" , Length 36' , Square feet one direction 360 378
13. Sign to be: Single Faced _____ , Side by Side _____ , Back to Back _____ , V-Type ☒
14. Message to be Changeable ☒ , Permanent _____ . If permanent, designate subject of message:
~~8 ad circulation with dwell time of 7.5 seconds each for each ad~~
red-lined 12/12/2022 by SLS (see email from applicant) agreeing to 8 second static display time stipulated in Section 450-10-1-013(1) of Alabama's Admin. Code.

15. Distance to nearest sign described in 23-1-274 (3) of the Code of Alabama, 1975, is 4,122 feet.
16. Is sign lighted? Yes ☒ No ☐ Sign Type: Digital/LED ☒ Tri-Vision ☐ Static ☐
17. Sign will meet all requirements of 23-1-274 (1), (2) and (3) of the Code of Alabama, 1975, with regard to size spacings, lighting, and general requirements? Yes ☒ No ☐
18. Sign will not encroach on highway right-of-way.
19. Applicant must erect the sign described in this permit within twelve (12) months from the date of issue.
20. Access to a sign structure located adjacent to interstate or primary freeway where access is controlled or denied for erection, maintenance, changing the message or for any other reason, must be from other than State right-of-way.
21. There is enclosed a check or money order payable to the Alabama Department of Transportation for twenty five dollars (\$25.00) for the location covered by this permit. A fee of ten dollars (\$10.00) will be submitted for each succeeding year thereafter.

Failure by the applicant to conform to the provisions of this permit or any false statement or representation made by the applicant will be cause to revoke this permit and the permit fee forfeited, making the structure become illegal and shall be removed in accordance with 23-1-278 of the Code of Alabama, 1975.

Date 8-1-22

Signature of Applicant

Title Wine

Permit for erection of the above-described sign is hereby approved

FOR OFFICIAL USE ONLY

RECOMMENDED FOR APPROVAL:

DISTRICT: K. Williamson
Printed Name

11/17/22
Date

AREA: BENTI C. CANTRELL
Printed Name

11/29/22
Date

REGION:
Printed Name

Signature

Date

APPROVED:
ALABAMA DEPARTMENT OF TRANSPORTATION
ACTING BY AND THROUGH ITS TRANSPORTATION
DIRECTOR

(PLEASE CHECK APPROPRIATE BOX)

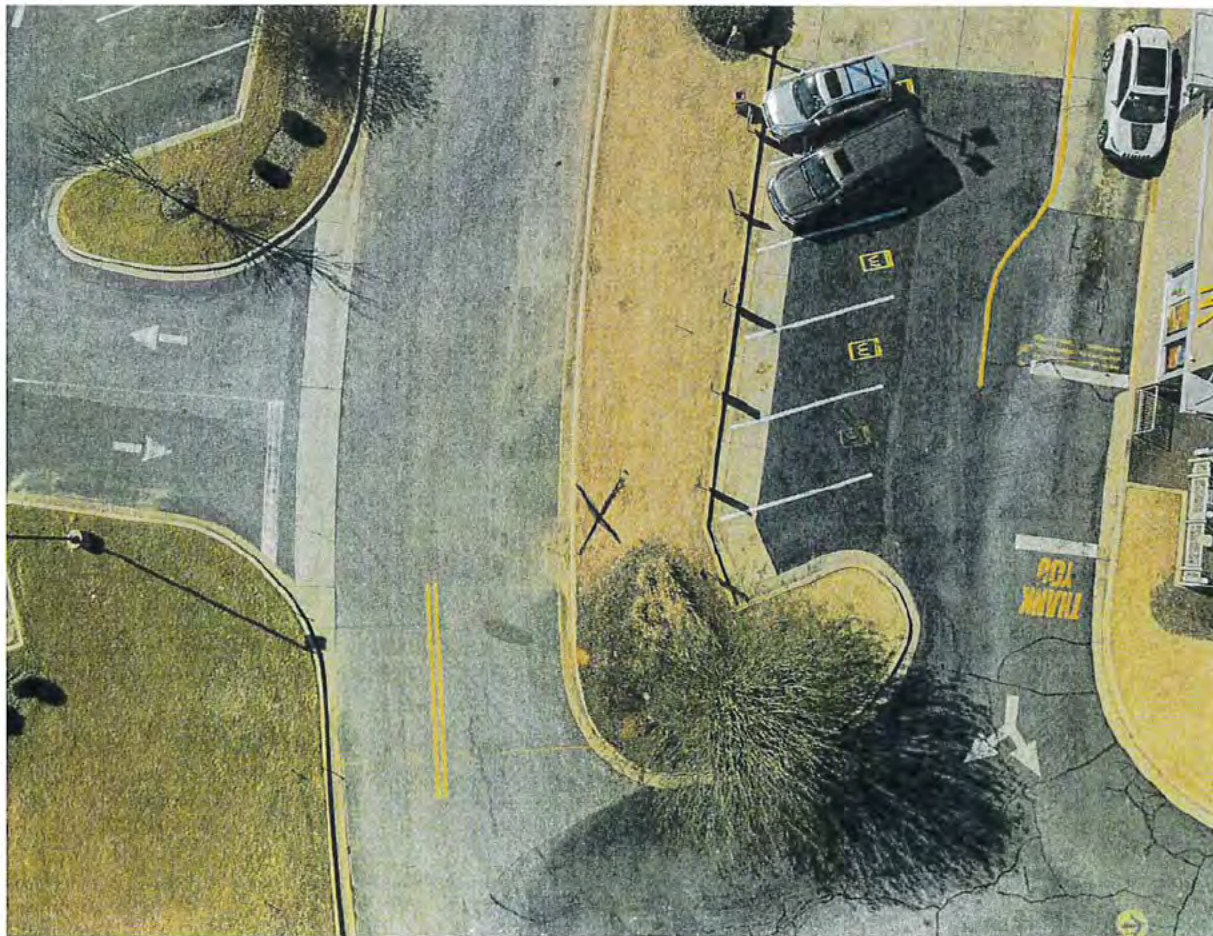
- ☒ CENTRAL OFFICE
☐ REGION

By: Eric J. Christie
Printed Name

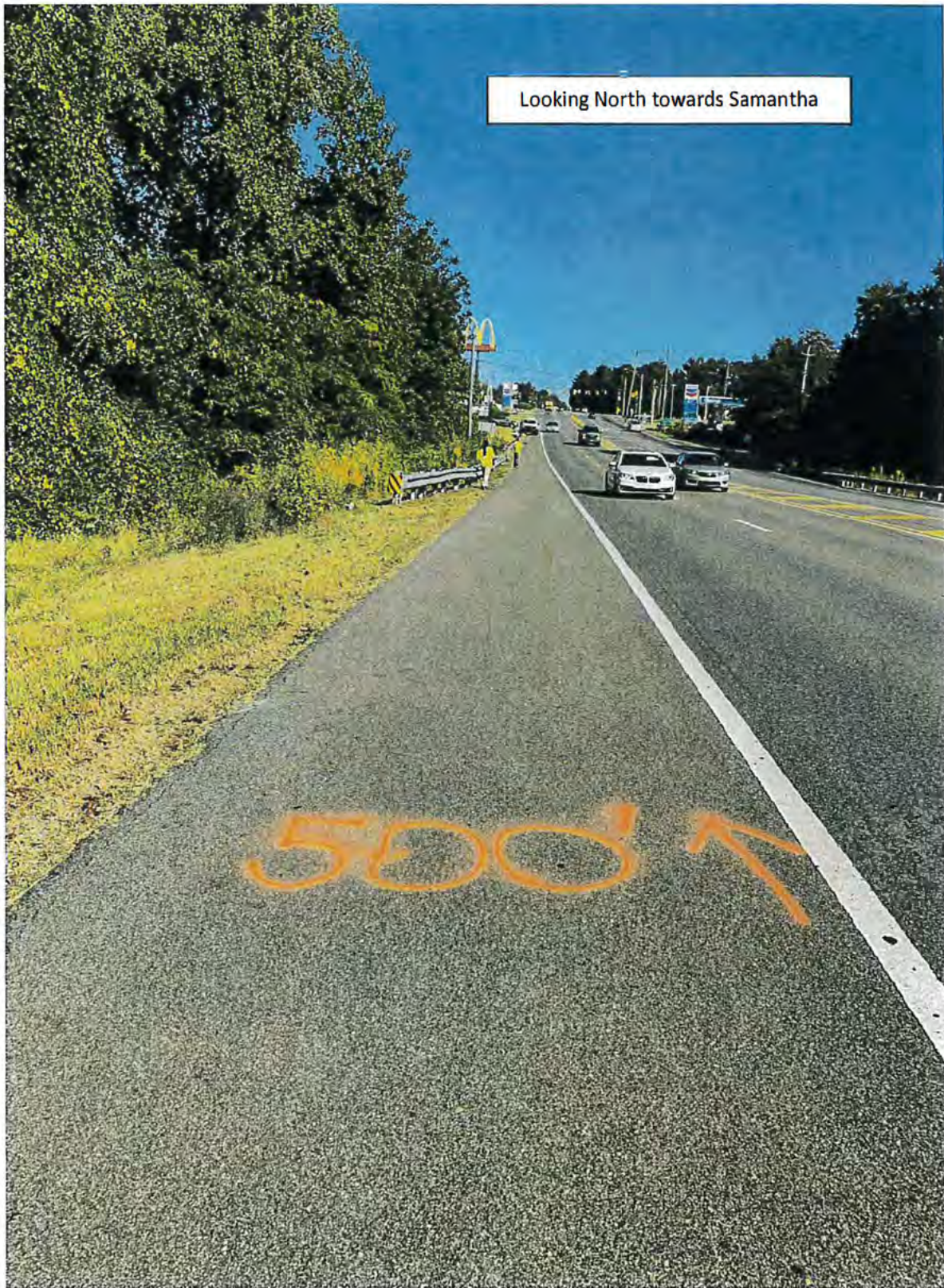
Signature

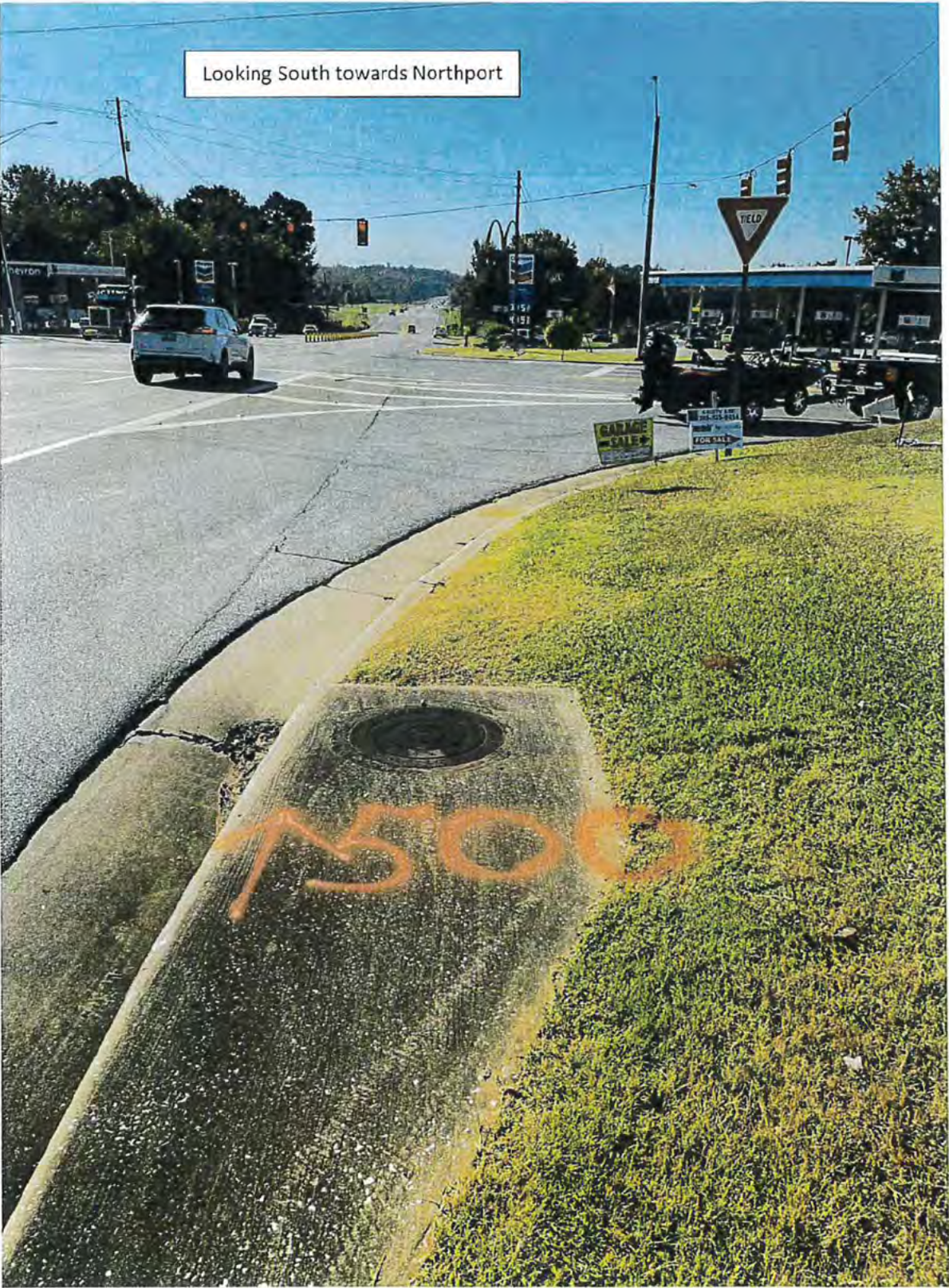
12-12-2022
Date











State of Alabama
Tuscaloosa County

I hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice of Land Surveying in the State of Alabama to the best of my knowledge, information and belief.

Witness my hand this 12th day of January, 2023

Kevin Douglas Hinkle, P.L.S.
Kevin Douglas Hinkle, P.L.S.
Alabama License No. 24024

ADDRESS:
13520 Hwy 43 N
Northport, AL 35475

PART OF THE SW 1/4
OF THE SE 1/4
SECTION 17, T 20 S, R 10 W
TUSCALOOSA COUNTY, AL

SURVEYOR'S NOTES:

1. No title search of the Public Records has been performed by this firm, and lands shown herein were not abstracted for easements and/or rights-of-way, recorded or unrecorded.
2. The parcel shown herein is subject to setbacks, easements, zoning, and restrictions that may be found in the Public Records of said County.
3. Underground portions of foundations, footings, or other structures, including drainage structures, sewers and other utilities, were not located unless otherwise noted.

Montgomery and Hinkle, inc.
Professional Land Surveyors
Kevin@mhissurvey.com



203 Hargrove Road East
Tuscaloosa, Alabama 35401
OFFICE: 205-248-7386
FAX: 205-248-7388

Drawn By
CVW
Scale
1" = 20'

Apix: By
KDH
Source of Information
529-502

Surveyed By
TH
Survey Type
BOUNDARY

Field Work
01/11/2022
Drawing No.
2301-P13-ec

Date
01/11/2022
Job No.
2301-P13

THIS IS NOT A BOUNDARY SURVEY

ALL IMPROVEMENTS NOT SHOWN

BASIS OF SURVEY - GRID NORTH - ALABAMA WEST ZONE

SCALE: 1"=20 FEET



State of Alabama
Tuscaloosa County

I hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice of Land Surveying in the State of Alabama to the best of my knowledge, information and belief.

Witness my hand this the 12th day of January, 2021

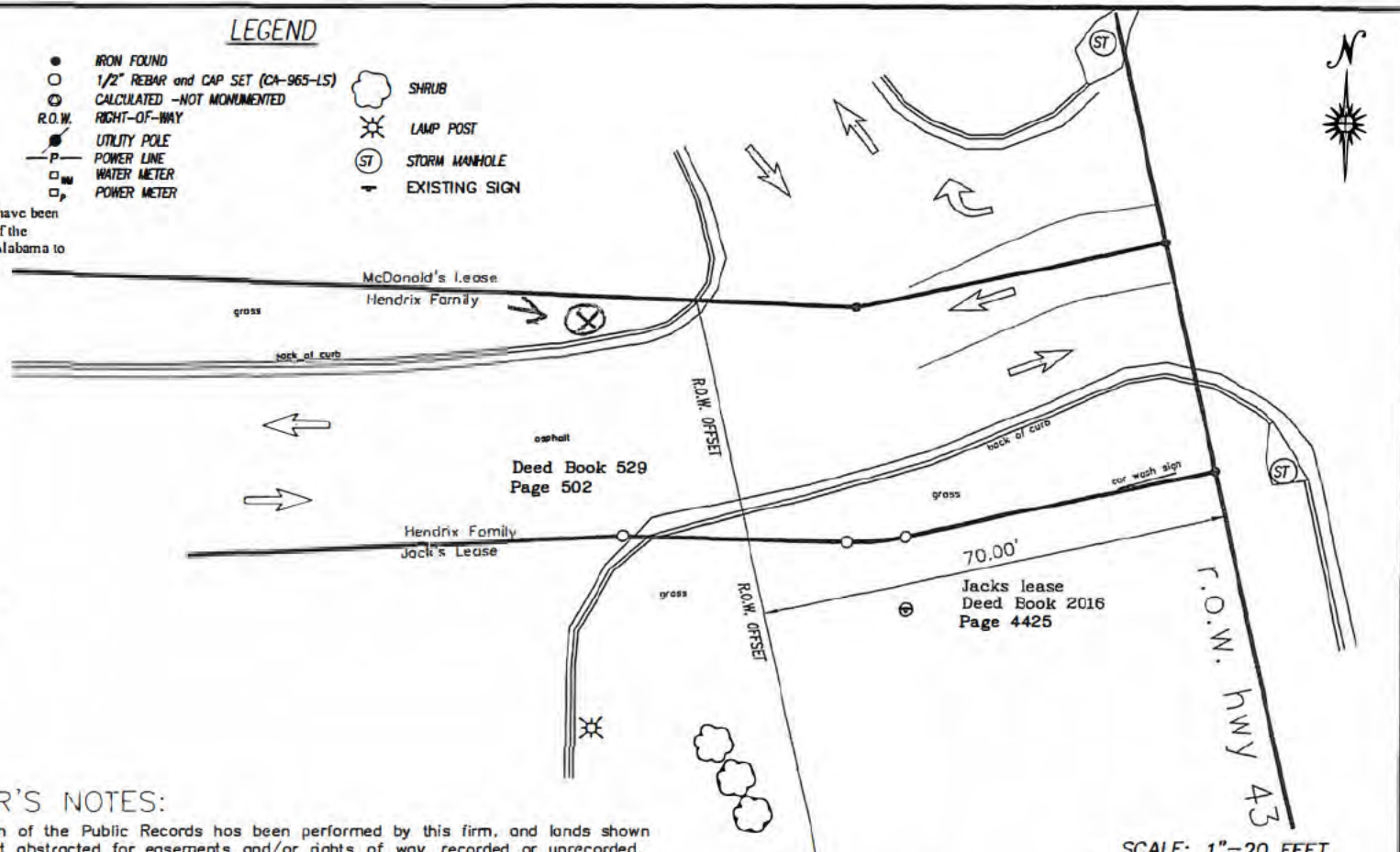
Kevin Douglas Hinkle, P.L.
Kevin Douglas Hinkle, P.L.
Alabama License No. 24024

ADDRESS:
13520 Hwy 43 N
Northport, AL 35475

PART OF THE SW 1/4
OF THE SE 1/4
SECTION 17, T 20 S, R 10 W
TUSCALOOSA COUNTY, AL

LEGEND

- IRON FOUND
- 1/2" REBAR and CAP SET (CA-965-LS)
- CALCULATED -NOT MONUMENTED
- R.O.W. RIGHT-OF-WAY
- UTILITY POLE
- P— POWER LINE
- WATER METER
- POWER METER
- ☼ SHRUB
- ☼ LAMP POST
- ⊙ STORM MANHOLE
- EXISTING SIGN



SURVEYOR'S NOTES:

1. No title search of the Public Records has been performed by this firm, and lands shown hereon were not abstracted for easements and/or rights of way, recorded or unrecorded.
2. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the Public Records of said County.
3. Underground portions of foundations, footings, or other structures, including drainage structures, sewers and other utilities, were not located unless otherwise noted.

THIS IS NOT A BOUNDARY SURVEY

ALL IMPROVEMENTS NOT SHOWN

BASIS OF SURVEY - GRID NORTH - ALABAMA WEST ZONE.

SCALE: 1"=20 FEET
0 10 20 40



Montgomery and Hinkle, inc.
Professional Land Surveyors
Kevin@mhisurvey.com



203 Hargove Road East
Tuscaloosa, Alabama 35401
OFFICE: 205-248-7396
FAX: 205-248-7398

Drawn By
CVW
Scale
1" = 20'

Appd. By
KDH
Source of Information
529-502

Surveyed By
TH
Survey Type
BOUNDARY

Field Work
01/11/2022
Drawing No.
2201 013- ec

Date
01/11/2022
Job No.
2201-013



City of Northport

Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to planning@cityofnorthport.org.

PROCESS

1. You have requested a variance, special exception or interpretation of the Zoning Ordinance. The Zoning Board of Adjustment has the full authority to rule on cases such as this after a public hearing.
2. The Zoning Board of Adjustment meets in City Hall, located at 3500 McFarland Boulevard, in the Council Chamber at 6:00 p.m. on the third Thursday of each month.
3. You or your agent must be present at the meeting to explain your request and answer questions.
4. No later than the closing of business hours four weeks prior to the meeting, the following must be submitted to the Planning and Inspections Department:
 - An Administrative Appeal Application completely filled out and signed (page 2 and 3 of this packet);
 - The names and mailing addresses of all adjoining property owners as obtained from the Tax Assessor on the first floor of the County Courthouse. Adjoining owners include owners on all sides of the property in question and also the property across streets, creeks, power line right-of-ways, etc.;
 - A filing fee of \$75.00, plus certified mailing fees per adjoining property owner and advertising fees;
 - A small drawing (8x11) of the lot in question with dimensions; existing and proposed new construction with dimensions; distance to the property lines of all structures; any other concerns which may be applicable to your case, such as existing and proposed parking spaces, heights of structures, access roads, etc. The drawing are not required to be professionally prepared, but must be legible and accurate.
5. A decision of the Zoning Board of Adjustment is final. The Circuit Court will hear any appeals to the decision of the Zoning Board of Adjustments. Appeals to the Circuit Court must be applied for within 15 days after a final decision of the Zoning Board of Adjustment has been made.



City of Northport

Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

Date of Application: April 28, 2023

SUBMITTAL CHECKLIST

- | | |
|---|--|
| ☒ Completed Application | ☒ Designation of Agent Form (if applicant is not property owner) |
| ☒ \$75 Appeal Fee (additional fees may apply) | ☒ Names and Addresses of all Adjoining Properties |
| ☒ Site Plan/Sketch (showing property lines, existing and proposed structures, and dimensions) | |

PROPERTY INFORMATION

Property Address: 13512 Highway 43 N, Northport, AL 35475
Property Subdivision and Lot Number: Parcel No. 63 20 04 17 0 002 002.000
Property Zoning District: Commercial
Existing Buildings on Property: None
Proposed Construction on Property: Billboard

PETITIONER INFORMATION

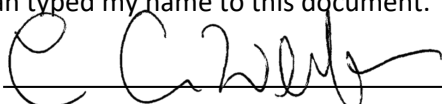
Petitioner Name: James Outdoor, LLC
Petitioner Phone: 256-509-9730 Petitioner Email: john@jamesoutdoor.com
Petitioner Address (if different than property information above):
1470 Northbank Parkway, #162 Tuscaloosa, AL 35406
Petitioner is Owner of Property (if yes, skip owner information): ☒ Yes ☐ No

OWNER INFORMATION

Owner Name and/or Company: Hendrix Family Investments, LLC
Owner Mailing Address: 13520 Highway 43N, Northport, AL 35475
Owner Phone: _____ Owner Email: _____

☒ BY CHECKING THIS BOX, I HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

The information contained in this document is true and correct and may be relied upon by the City of Northport. By typing my name and by checking this box, this acknowledges that I am bound by this document just as if I had signed the document rather than typed my name to this document.

Applicant Signature:  Date: April 28, 2023



City of Northport

Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

REQUEST INFORMATION

Describe the nature of the request:

James Outdoor, LLC ("James") requests a variance from any and all provisions of the City code that allegedly prohibit a billboard from being located on the parcel in question.

Describe the special conditions pertaining to your property (or to your case) which sets your case apart from others in the same zoning district:

In 2022, James began to pursue the installation of a digital billboard on the parcel in question. As part of that pursuit, James applied to the Alabama DOT for a state permit. Alabama DOT contacted the City regarding the application and was told by the City that the parcel was not in the City Limits. Therefor DOT issued the permit. In reliance on the permit, James ordered the digital billboard, which is now ready to install. James's contractor requested an electrical permit from the City and was advised that after James and the contractor obtained city business licenses, they would issue the permit. After paying for these licenses, the City refused to issue the permit claiming that the City map was in error and the parcel is in the City limits and therefore cannot have a billboard. The City's misrepresentations have harmed James Outdoor and created this unique situation.

Describe how your appeal (if granted) would impact neighboring properties or how it would or would not be contrary to the public interest:

Granting this appeal/variance would not be contrary to the public interest and would have little impact on the neighboring properties. The parcel is zoned commercial and is located between two commercial parcels that have a McDonalds and a Jack's on Highway 43. The City has admitted that this location is appropriate for a billboard but for the fact that the City now claims the location is within the City limits.

Any additional information you would like to add to help process your request, including evidence of petitioner's interest in the property if petitioner is not the property owner:

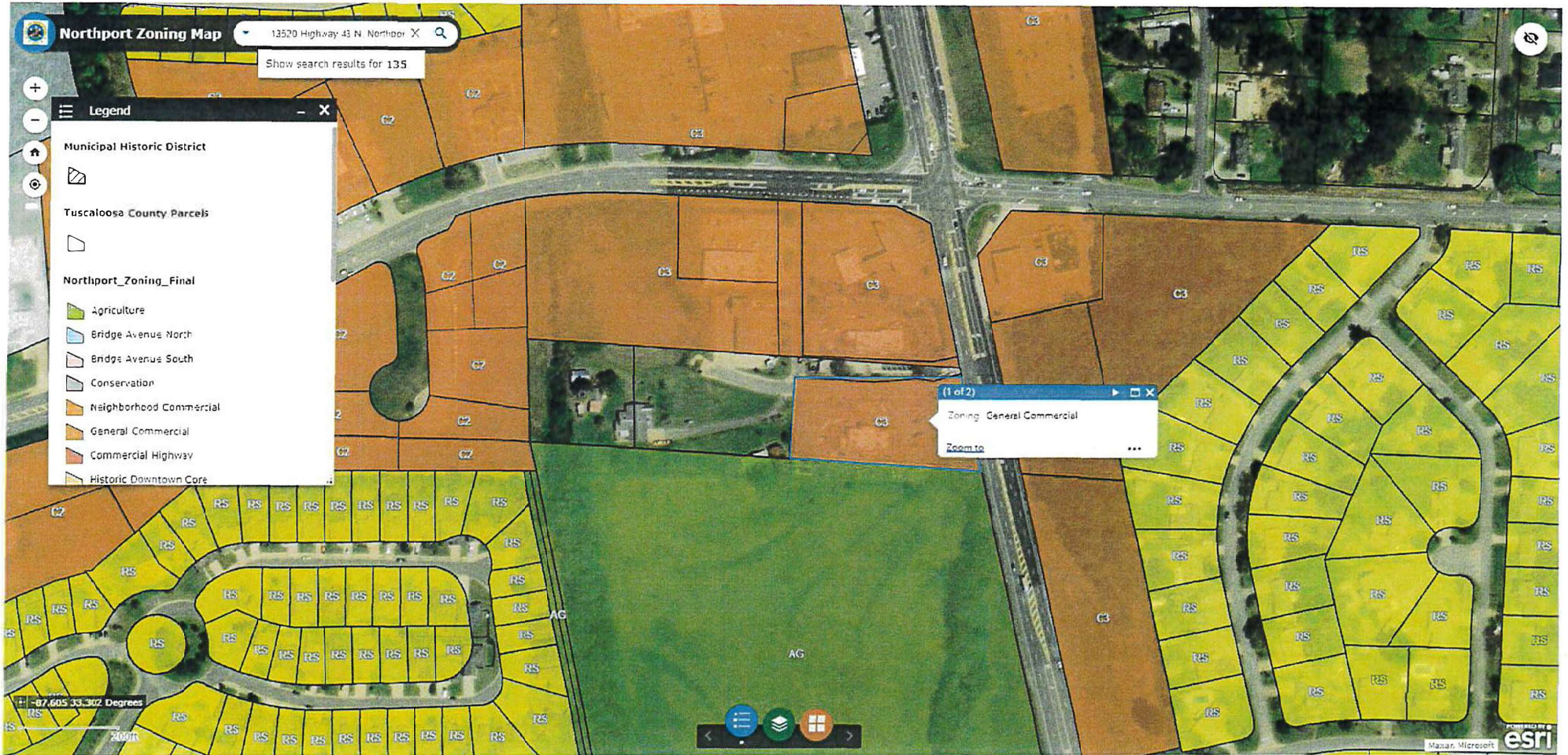
*James Outdoor has a 30 year Sign Location Lease with the property owner, Hendrix Family Investments, LLC to operate the billboard on its property. Hendrix Family Investments stands to make a substantial amount of money in land rent over the life of the lease.

*James Outdoor was issued Permit No. OA-5-2-557 by the Alabama Department of Transportation on December 12, 2022 for a billboard at this location.

*James Outdoor pursued a billboard at this location based on the City's representations to the State that the property was outside the City limits, which is still what the City maps show. Refusing to allow the billboard after James Outdoor expended substantial funds and time on this project would be inequitable.

5-2-557 - Zoning Map

Note: Sign will be placed in the unzoned area between McDonald's + Jack's



LEGEND

PROPERTY LINE —————

SECTION LINE - - - - -

PIPE FOUND ●

CAPPED REBAR FOUND ■

CONCRETE MONUMENT ☐

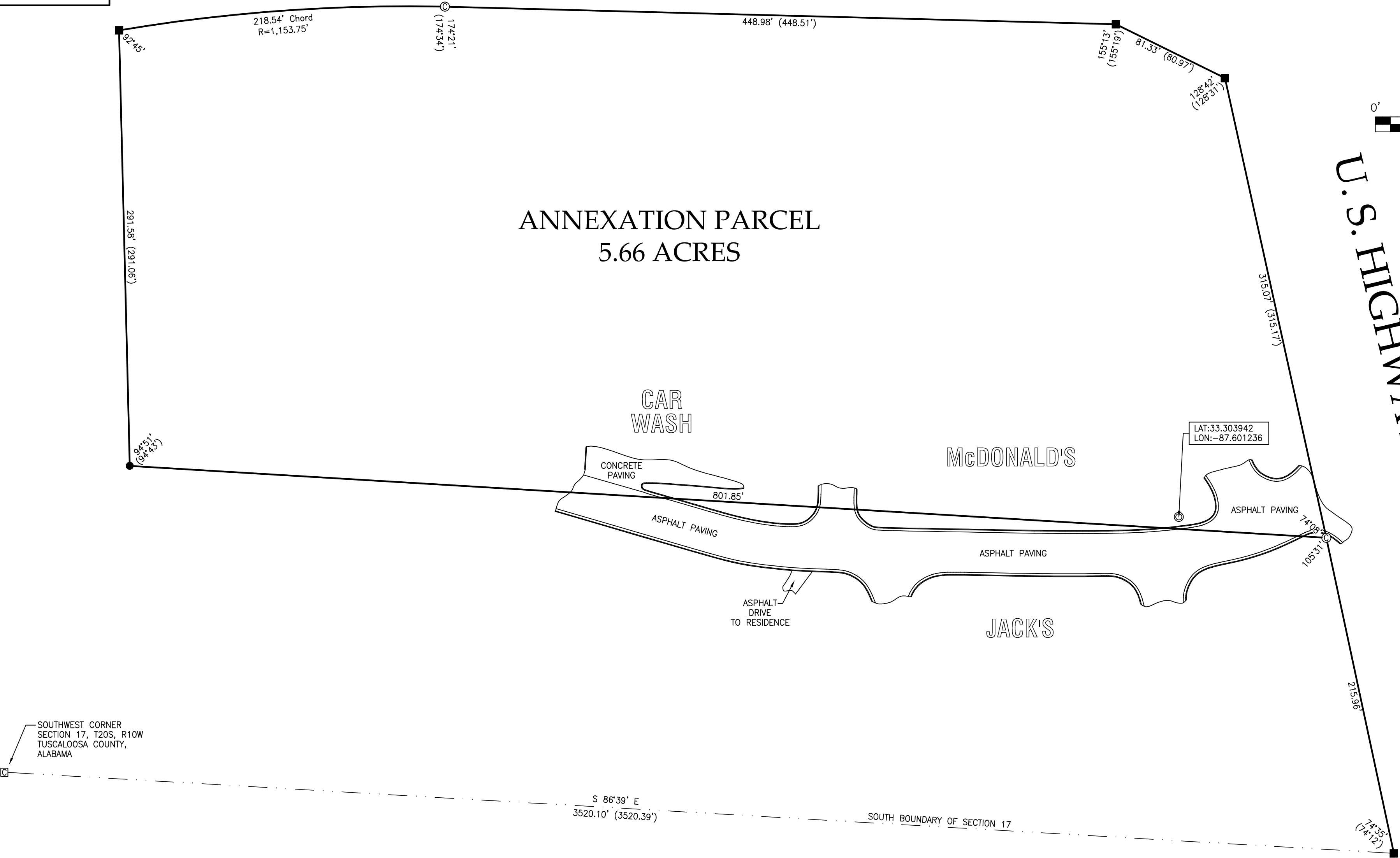
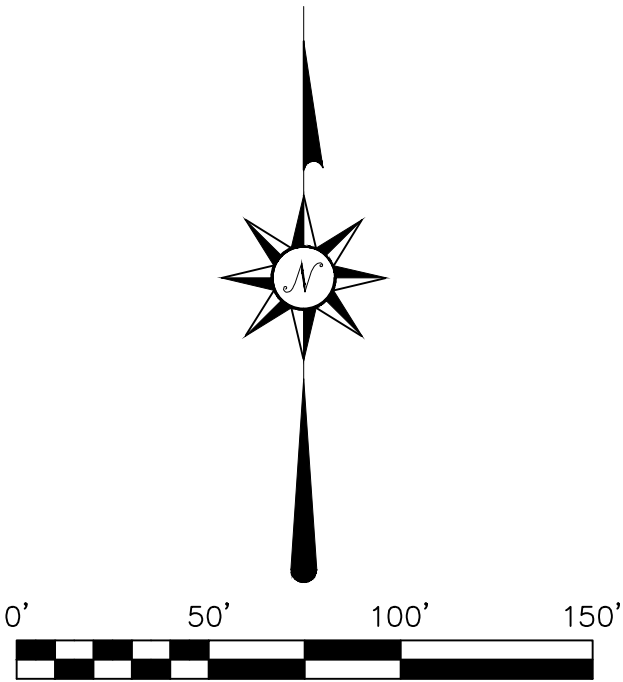
CALCULATED POINT ©

DESCRIPTION DIMENSION (100.00')

ROSE BOULEVARD

ANNEXATION PARCEL
5.66 ACRES

U.S. HIGHWAY NO. 43



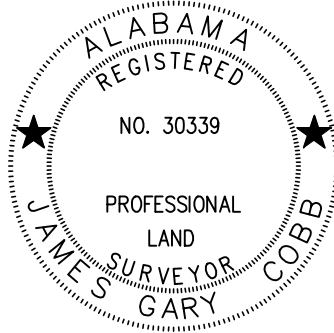
STATE OF ALABAMA
TUSCALOOSA COUNTY

TO WHOM IT MAY CONCERN:

I, James Gary Cobb, a Registered Professional Land Surveyor in the State of Alabama, of the firm of Black Warrior Surveying, LLC, hereby certify that I have surveyed the property shown hereon and that said plat is a true and correct mapping of said survey to the best of my professional knowledge and belief. I further certify 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.

Witness my hand on this the 26th day of May, 2023.

James Gary Cobb
REGISTERED PROFESSIONAL LAND SURVEYOR
ALABAMA REGISTRATION NO. 30339



NOTES:
1.) This survey was prepared without the benefit of a title report and does not indicate all encumbrances on the property.
2.) No instruments of record were supplied to the surveyor regarding easement, right-of-way, etc.
3.) This survey was prepared for the City of Northport. This survey may not be used by any third party without the expressed written permission of the party it was prepared for.
4.) The references to the Rectangular System of Surveys are based on accepted monumentation found in the field.
5.) Basis of bearing derived from GPS observations.
6.) The purpose of this survey is to recreate the annexation plat prepared by McGiffert and Associates, drawing number 35-99.

TYPE OF SURVEY: SPECIFIC PURPOSE
DATE OF SURVEY: 5/25/23
SOURCE OF TITLE: DEED BOOK 529
PAGE 502
FILE NAME : 23-0507 CONPORT
SCALE 1" = 50'

BLACK WARRIOR SURVEYING, LLC
949 PIN BROOK LANE
TUSCALOOSA, ALABAMA 35406
205-391-8878 205-393-4264



JACK'S

\$2 = [McDonald's logo] [McDonald's chicken sandwich]
JAMES

OPEN
INTERVIEWS
9 TO 2
ON FRIDAY

McDonald's

THE
SHAMPOOK
IS BACK



WEBB, KLAKE & LEMON, LLC

ATTORNEYS AT LAW

1900 THE EXCHANGE, S.E. · SUITE 480 · ATLANTA, GEORGIA 30339

(770) 444-9325 · (770) 217-9950 (facsimile)

Author's Direct Dial:
(770) 444-0773

Email Address
Adam@WebbLLC.com

July 10, 2023

VIA EMAIL

City of Northport Zoning Board of Adjustment
% Ms. Julie Ramm, Staff Liaison/Secretary
City of Northport
3500 McFarland Boulevard
Northport, AL 35476
planning@cityofnorthport.org

Re: Supplement to James Outdoor Variance Materials

Dear Board Members:

Based on the feedback from the Board Members at the June hearing, my client James Outdoor wanted to supplement the record with three items relevant to the Board's considerations.

First, let me address the standard for variances under the Northport Sign Ordinance. As you know, under the code the Board is only directed to determine only one thing, that is whether "extreme hardship" has occurred. The text of Section 808 ("Variances and Waivers") states:

The Board shall only grant a variance in the case of an extreme hardship. Acts of God and economic conditions shall not be considered hardships for purposes of this section.

At the June hearing, after Mr. James listed his financial hardships, a Board Member stated that the Board could not consider financial losses when considering the variance. Obviously, at least one Board Member believed the term "economic conditions" includes the financial harm to the applicant. But "economic conditions" has a very particular meaning in this context.

Many trusted resources define "economic conditions." For example, the Corporate Finance Institute defines "economic conditions" to be:

Economic conditions are the present state of affairs in the overall economy of a country or geographical region. The conditions evolve over time through various business and economic cycles.

See <https://corporatefinanceinstitute.com/resources/economics/economic-conditions/>. Another financial encyclopedia states:

What Are Economic Conditions?

Economic conditions refer to the present state of the economy in a country or region. These conditions change over time along with the economic and business cycles, as an economy goes through periods of expansion and contraction. Economic conditions are considered to be sound or positive when an economy is expanding and are seen as adverse or negative when an economy is contracting.

See <https://www.investopedia.com/terms/e/economic-conditions.asp>. The Alabama courts have also accepted this meaning of “economic conditions.” For example, in the case of *Shewbart v. Shewbart*, 64 So. 3d 1080, 1086 (Ala. Civ. App. 2010), the court held economic conditions referred to the present state of the economy where the petitioner lived. Thus, “economic conditions” refers to the general state of the economy and does not refer to the financial harm suffered by the applicant.

So why does the City say that “economic conditions” should not be considered when weighing a variance? Builders and contractors are very affected by economic conditions. In a recession, many projects will be halted or downsized. If a recession, or other economic conditions like high inflation or high unemployment, was an excuse to grant a variance, then the Board would be forced to issue many more variances.

On the other hand, “extreme hardship” does allow – and even require – the Board to consider the financial impact on Mr. James and his family. Indeed, Alabama courts have found that the financial losses of the variance applicant must be taken into account when determining hardship and that financial losses incurred by reliance on prior governmental decisions justify the granting of a variance. See, e.g., *Board of Zoning Adjustment v. Mill Bakery & Eatery, Inc.*, 587 So. 2d 390, 392 (Ala. Civ. App. 1991) (affirming grant of variance because financial losses occurred based on reliance on prior city conduct qualified as hardship); *Johnson v. Board of Adjustment*, 496 So. 2d 86, 89 (Ala. Civ. App. 1986) (reversing denial of variance for larger sign because financial losses incurred by relying on earlier representations by city qualified as hardship).

Under Alabama law, the financial harm to the applicant is directly relevant. As are other elements of hardship, such as time and effort expended. In this instance – where a young local family with a start-up business has spent over \$150,000 and hundreds of hours of work based on a mistake in the City’s records – “extreme hardship” has been proven.

Second, my client spoke with Darby Campbell of the Alabama Department of Transportation (“ALDOT”). She initially stated that she would be glad to prepare a statement about her contact with City officials in November of 2022 but please allow her to speak with the City of Northport first. Ms. Campbell then met with Northport planning officials. She stated that the City officials told her the Board had not requested a statement and that no statement was needed. As a result, we do not have a letter from ALDOT to share with you. I have, however, attached the two relevant pages with hand-written notes of Ms. Campbell in red ink, including her statement that: “City of Northport has confirmed this property is NOT within their City Limits.” The ALDOT records plainly show that the permit was issued to Mr. James based on erroneous information from the City.

City of Northport Zoning Board of Adjustment
July 10, 2023
Page 3

Third, a Board Member requested simulated images of the sign. I have attached two 3D renderings that used real photos and “photoshopped” in the sign to show how it will appear from each direction. As you will see, it is an appropriate use between two busy restaurants.

Thank you for your thorough consideration of this important matter. We look forward to appearing on July 20 and to answering any further questions you may have.

Very truly yours,

E. Adam Webb

E. Adam Webb

EAW/gc

Attachments: Two Pages of ALDOT Permit Package; Two Simulated Images

cc: Mr. John James (via email)

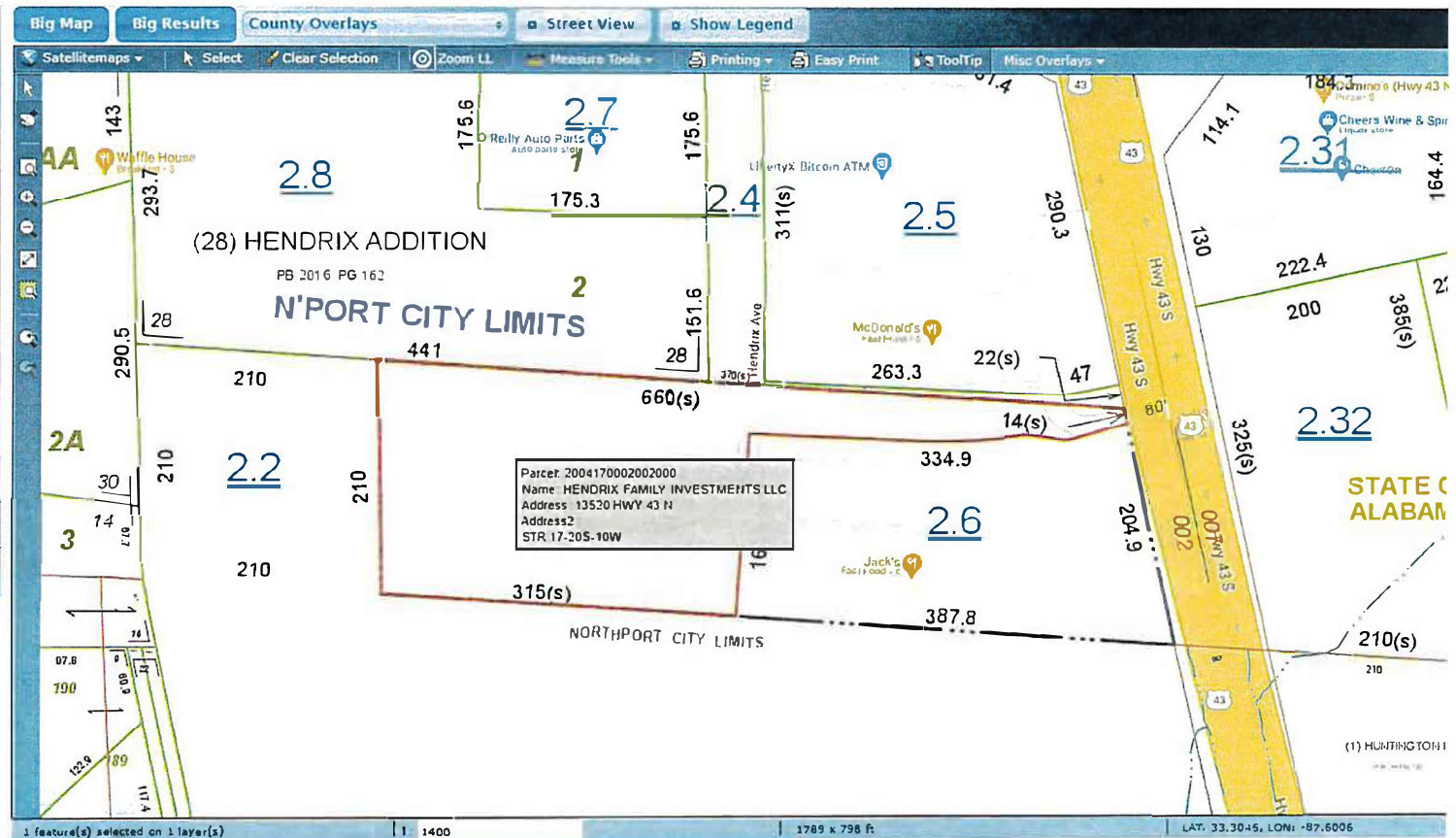
5-2-557

Tuscaloosa County Alabama
Public GIS
 Web19 - 113.5-Tusc - TuscaloosaAL - 09-12-2022
Parcel Details

[FavLink](#)
[PRC](#)
[NewScr](#)
[Back](#)
[Print](#)

Account Pin STR	21558	17-20 S-10W
Parcel No.	63 20 04 17 0 002 002.000	
Prop Addr.	13512 HWY 43 N	
Tax Dist	01 - County North	Exemption Not Exempt
Deeded Acres	0.00ac	Calct 1.83ac
Deed Bk Pg Date	529	00502 03-15-1963
Plat Info.	Book	Page
Sub Info	Sub Block	Lot
Subdivision		
Neighborhood	HUNTINGTON PLACE	
Owner		
Name:	HENDRIX FAMILY INVESTMENTS LLC	
Address:	13520 HWY 43 N	
City, State, ZIP:	NORTHPORT, AL 35475	
2021 Values		
Land Total:	\$18,300	
Building & Improvements Total:	\$2,000	
Total Appraised Value:	\$20,300	
Yrly Tax:		

(1 Parcel)



TuscaloosaAL - PARCEL SUMMARY - 1 Records Sorted: Ascending

Row	Info Links	Account	PPin	Parcel Number	Owner's Name	Parcel Address	S-T-R	Tax District	Land Val	Imp Val	TMkt Val	Acres	DBook	QPage	QDate	Use	Exmt	YrlyTax	Subdivision
1	Q i	21558		63 20 04 17 0 002 002.000	HENDRIX FAMILY INVESTMENTS LLC	13512 HWY 43 N	17-20S-10W	01 - County North	\$18,300										

City of Northport has confirmed this property is NOT within their City Limits.

James Outdoor LLC Billboard Variance

July 20, 2023

State Law Enabling ZBA

Alabama Code 11-52-80(d) The board of adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto;
- (2) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance; and
- (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

Summary

- Entirely Self-Created Hardship
 - Wrong Parcel Information Provided by Applicant
 - Overhanging McDonald's Lease Parcel (Flying V)
 - Buying before permit
- Digital Billboards Pose Safety Risks
 - Impacts Teens More – location close to high school
 - Sight Distance Issues with 30-inch billboard pole

Self-Created Hardship

- Wrong ALDOT Request
- Wrong Request to the City
- Buying Before Permitting
- "A self-inflicted or self-created hardship may not be the basis for a variance or for a claim thereof..." CITY OF RUSSELLVILLE ZONING BD. v. Vernon, 842 So.2d 627 (Ala. 2002)

Applicant Provided Incorrect Parcel

- Applicant provided ALDOT, the City, and ZBA the **wrong parcel ID**
- Applicant provided: 63 20 04 17 0 002 002.000 (incorrect parcel)
- Correct Parcel ID is: 63 20 04 17 0 002 002.004

Exhibit "A"
Description of the Property: Self-Serve Car Wash
Property Address: 13520 HWY 43 N, Northport, AL 35475
Parcel #63 20 04 17 0 002 002.000
Tax County: 01 -- County North

Excerpt from Mr. James' Lease
listing incorrect parcel ID

PROPERTY INFORMATION
Property Address: 13512 Highway 43 N, Northport, AL 35475
Property Subdivision and Lot Number: Parcel No. 63 20 04 17 0 002 002.000
Property Zoning District: Commercial
Existing Buildings on Property: None
Proposed Construction on Property: Billboard

Excerpt from ZBA application
listing incorrect parcel ID

Applicant Provided Incorrect Parcel

5-2-557 - Zoning Map

Note: Sign will be placed in the unzoned area between McDonald's + Jack's



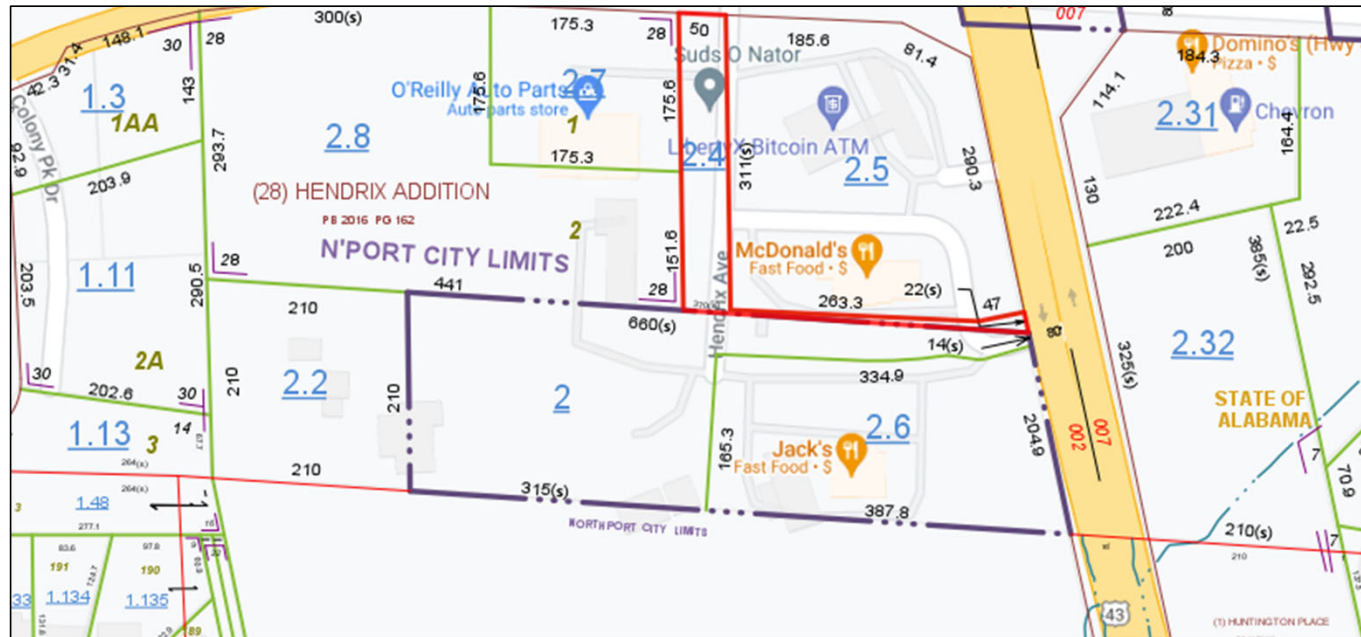
Applicant Provided Incorrect Parcel

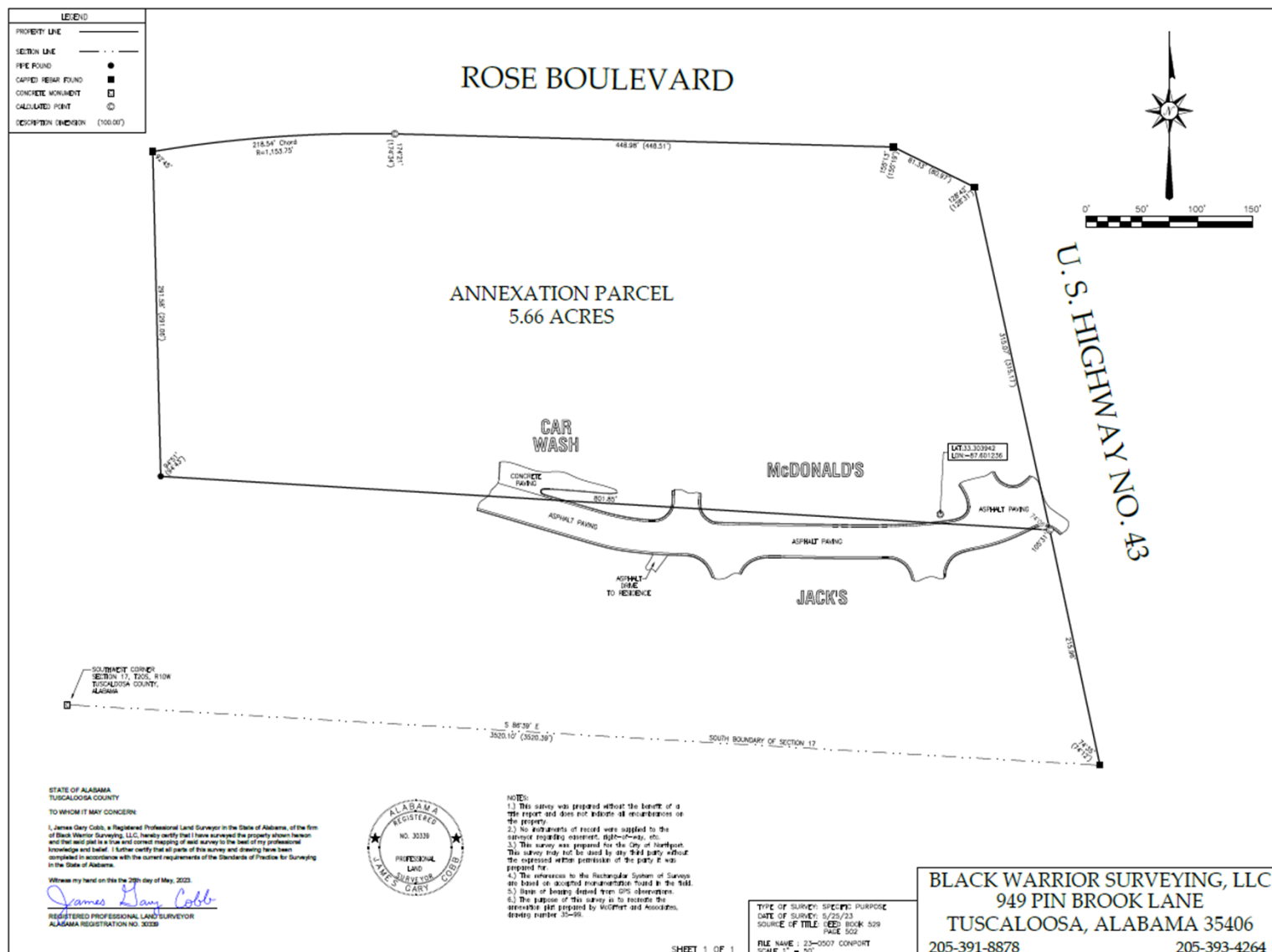
- This is the parcel provided to ALDOT and the City of Northport



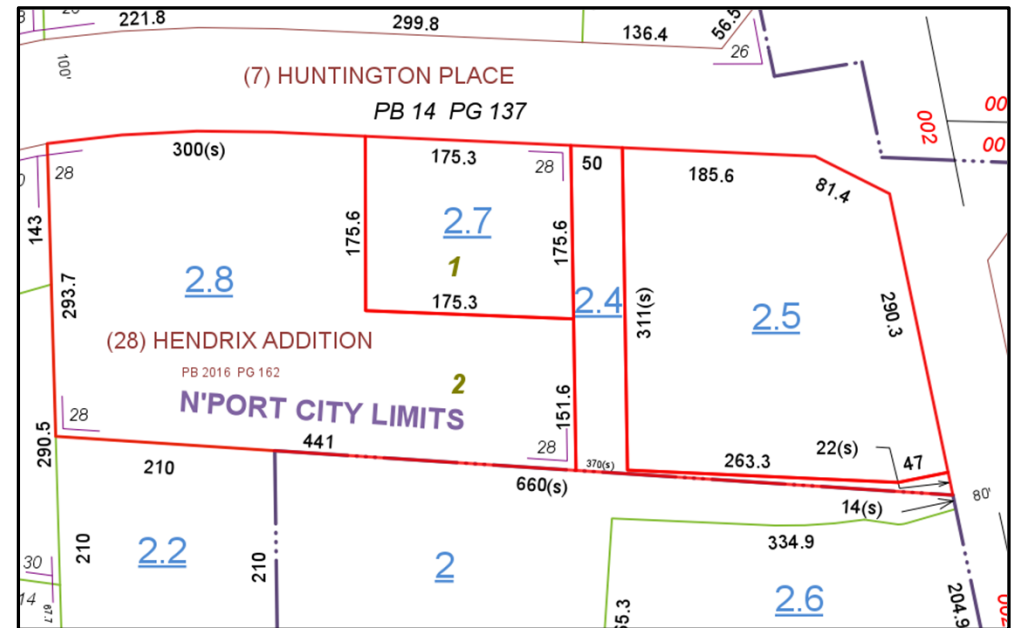
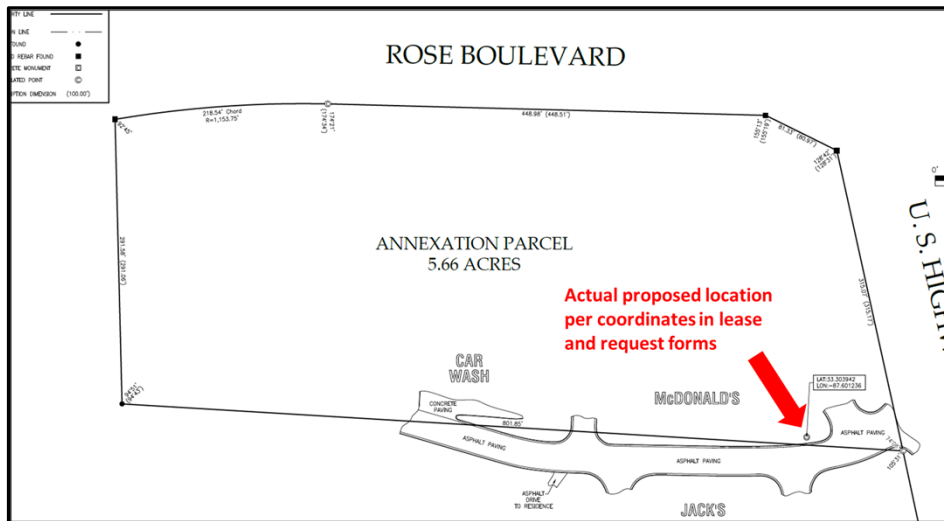
Applicant Provided Incorrect Parcel

- Actual proposed location of the sign is on the adjacent parcel



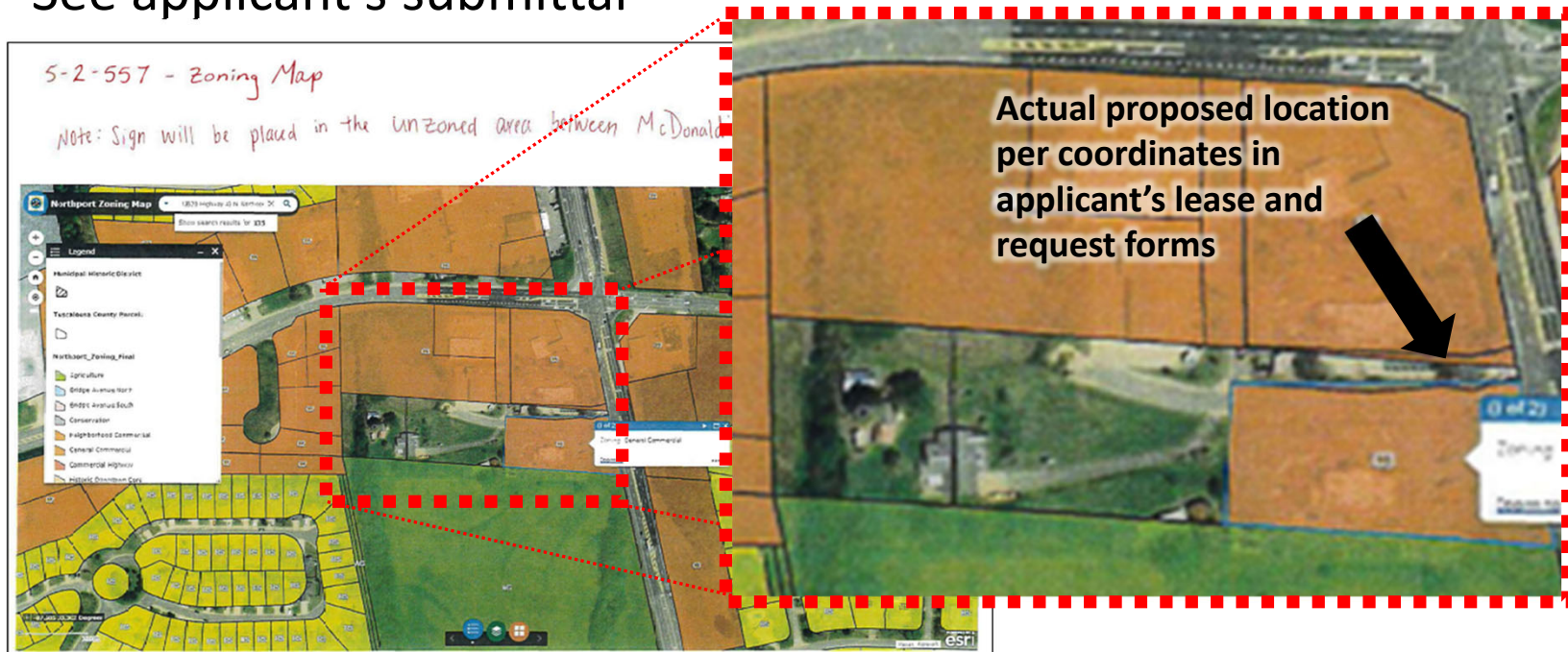


Proposed Location is Within 1999 Annexation

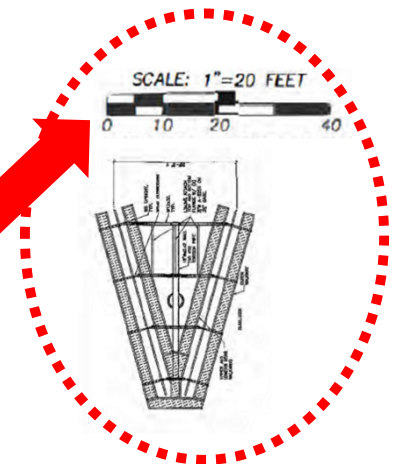
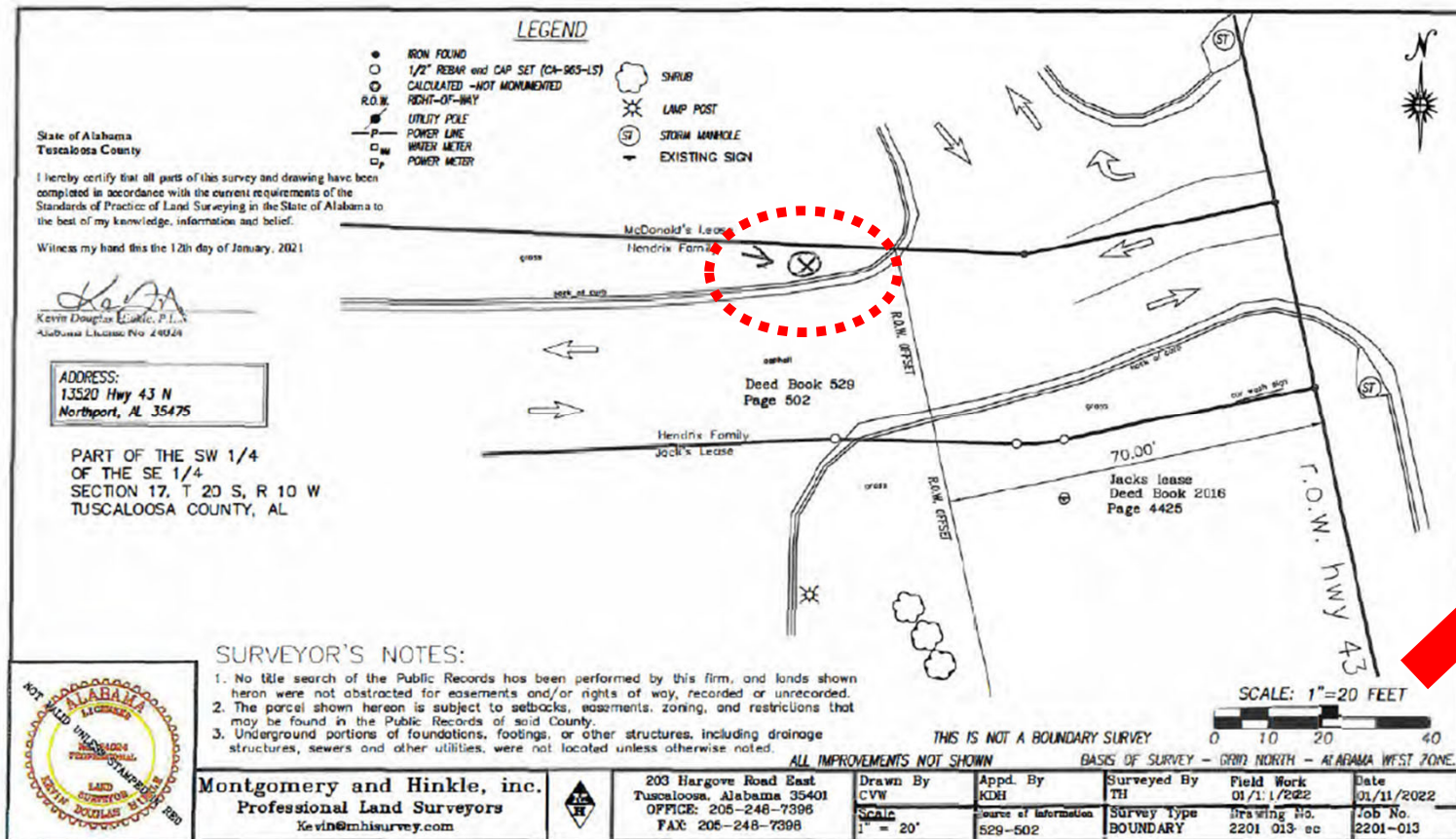


Applicant Provided Incorrect Parcel

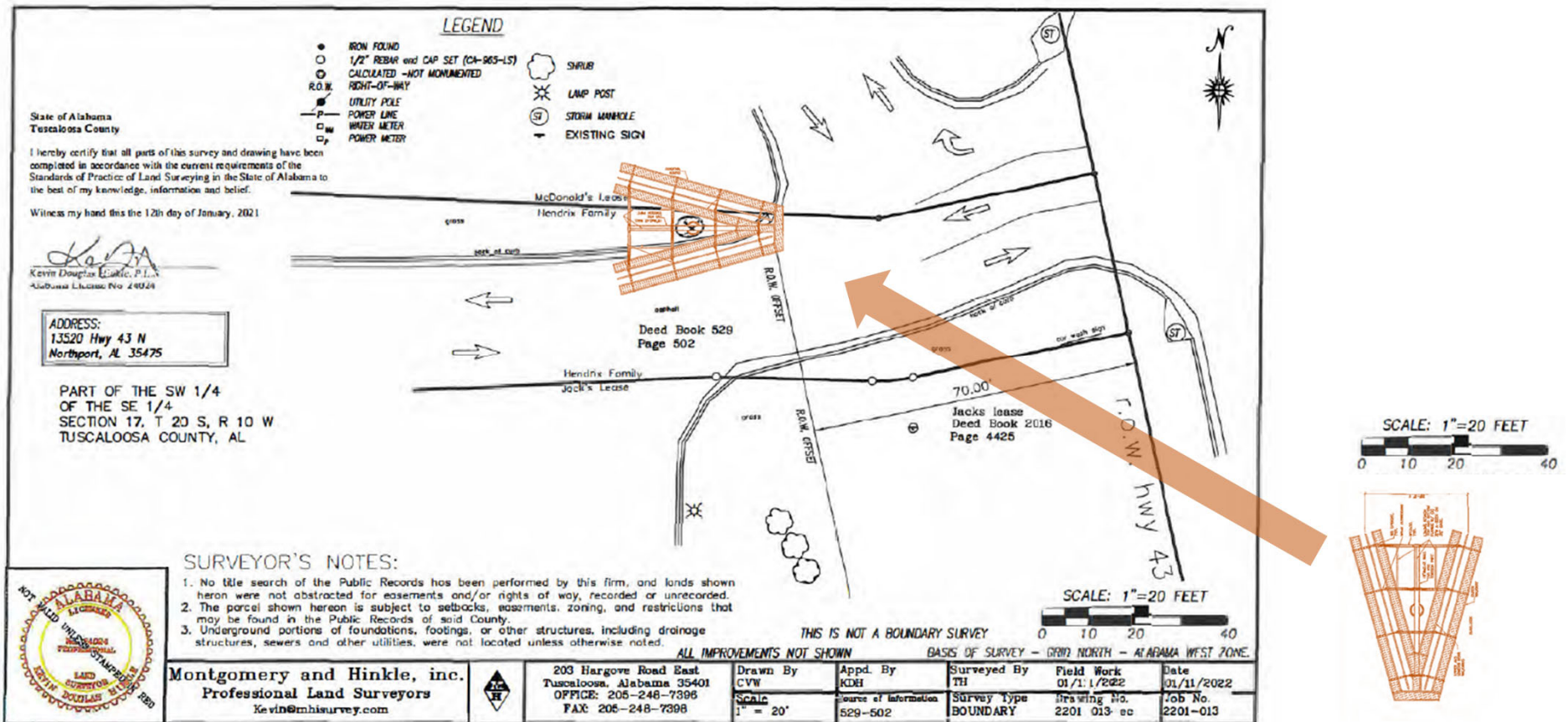
- Correct parcel was ALWAYS shown as in the City Limits on City maps
- See applicant's submittal



Applicant's Survey and Scale of Billboard

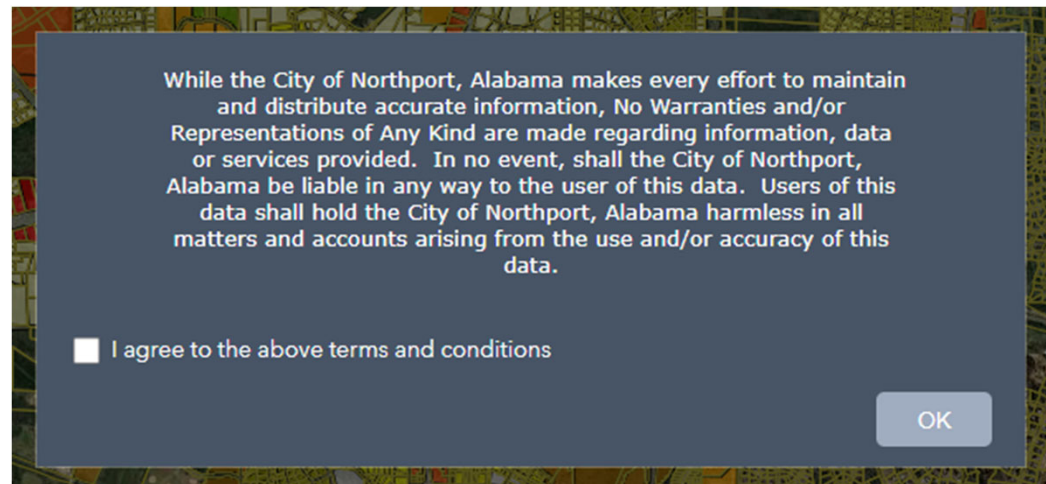


The Flying V



Online GIS Maps are NOT Primary Sources

- Web Maps Disclaimer (requires a user to read and agree)



Permitting Process Never Complete

- Applicant took excessive risk in procuring materials for this project before completing the necessary permitting
- The permitting process caught the applicant's errors as soon as was reasonably possible

Digital Advertising Billboards and Driver Distraction (2015)

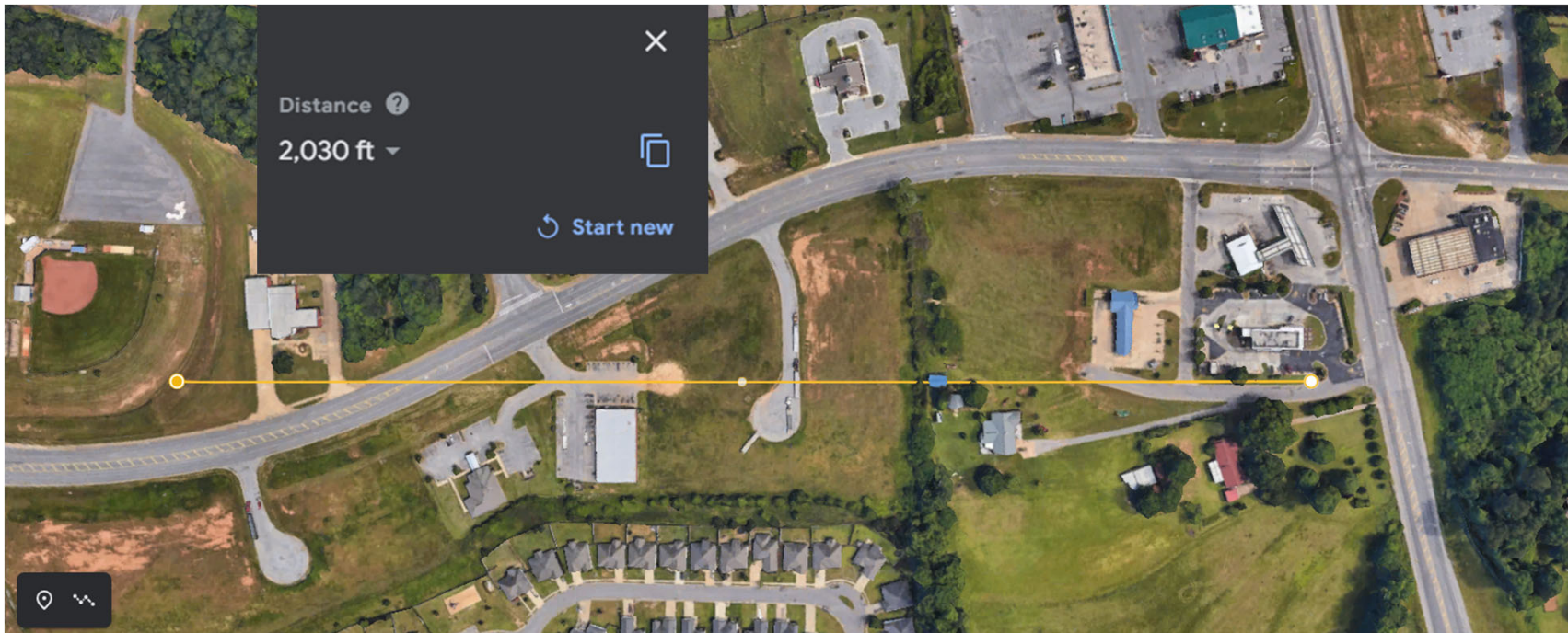
“The crash data analysis at 18 study sites in Alabama and Florida revealed that the presence of digital billboards is correlated with an increase in crash rates”

“Teens were most likely to divert more of their gaze towards billboards, especially digital billboards.”

<https://rosap.nhtl.bts.gov/view/dot/36939>

Location

- About 2,030 ft (0.39 mi) from Tuscaloosa County High School campus
- Over 1,600 students

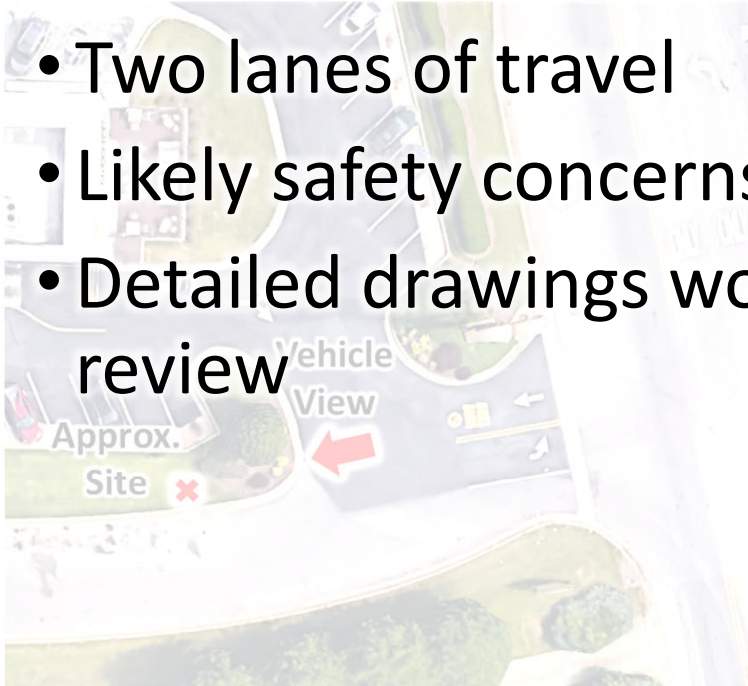


Sight Distance Safety Issue



Sight Distance Safety Issue

- Partially impede view
- Two lanes of travel
- Likely safety concerns in this high traffic area
- Detailed drawings would be required for permit review



Summary

- Entirely Self-Created Hardship
 - Wrong Parcel Information Provided by Applicant
 - Overhanging McDonald's Lease Parcel (Flying V)
 - Buying before permit
- Digital Billboards Pose Safety Risks
 - Impacts Teens More – location close to high school
 - Sight Distance Issues with 30-inch billboard pole

***NORTHPORT ZONING BOARD OF ADJUSTMENT
STAFF REPORT
July 13, 2023***

AGENDA ITEM

Case Number: V-23-13

Request: A variance from accessory structure standards

Location: 13070 Jace Lane

Applicant: John and Brenda Nuckols

SUBJECT PARCEL

Zoning: RS-1 Residential Single Family

Zoning of Adjacent Property: RS-1 Residential Single Family, Unzoned (county)

Proposed Action: To allow an pole barn in a front yard without conforming to materials or setback standards

STAFF COMMENTS

John and Brenda Nuckols are seeking a variance from the accessory structure standards. Those standards are in Section 607.01. and are included below:

607.01. Authorization. Except as otherwise expressly provided or limited by this Ordinance, accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing or permitted within such district. Any question of whether a particular use is permitted as an accessory use by the provision of this Section shall be determined by the Planning Director pursuant to his or her authority to interpret the provisions of this Ordinance.

607.02. Zoning certificate required. No accessory use or structure shall be established or constructed unless a zoning certificate evidencing the compliance of such use or structure with the provisions of this Section, and other applicable provision of this Ordinance and all other City regulations, shall have first been issued in accordance with Section 1004.

607.03. Use limitations. In addition to complying with all other regulations, no accessory use or structure shall be permitted unless it strictly complies with the following restrictions:

A. The principal use or structure, together with any accessory use or structure, shall not jointly exceed the FAR and ISR in any given use class.

VI-24

March 21, 2018

B. No accessory structure or use shall be constructed or established on any lot prior to the time of the substantial completion of the principal structure. This shall not apply to agriculture-related structures in the Agricultural (AG) District.

C. No accessory structure or use on any lot shall cause any impervious surface ratio or exterior storage area to exceed the maximum permitted on the site by this Ordinance.

D. In the case of all nonresidential uses: accessory structures shall maintain the same minimum front, side, and rear yard as is required for the principal structure.

E. No accessory structure shall be closer than ten (10) feet to a principal structure or closer than five (5) feet to any other accessory structure, unless it is attached to such principal or other structure by means of fully enclosed living area.

F. Accessory structures and uses shall comply with all applicable area, bulk, and yard regulations.

G. Accessory structures relating to residential uses shall be placed no less than ten (10) feet to the rear of the front building line or front plane of the structure, whichever is greater. Accessory structures on lots of three (3) acres or more in the Agricultural (AG) District shall be setback a minimum of 100 feet from the front property line.

H. No accessory structure shall be placed within a required bufferyard or located closer than five (5) feet to a property line where no bufferyard is required.

I. On corner lots, no accessory structure shall be located within the required setback for a side yard adjacent to a street.

J. On any one (1) residential lot, the total floor area of all accessory structures shall be limited to 50 percent of the floor area of the principal structure. This shall include open carports, gazebos and greenhouses, but not swimming pools. Lots of three (3) acres or larger in the Agricultural (AG) district shall be exempt from this limitation.

K. Accessory structures shall be constructed of materials compatible with those of the principle structure; with the exception that one (1) metal or prefabricated residential accessory structure not exceeding 200 sq. ft. in size may be allowed in the rear yard.

STAFF RECOMMENDATIONS:

The standards for variances as outlined in section 1109.3 of the Northport Municipal Code are as follows:

1108.03. Standards for Variances. *The Board of Zoning Adjustment shall grant no variance in the strict application of the provision of this Ordinance unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised. It is the intent of this Ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty to its development and prevents its owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.*

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate in writing that the appeal for the variance conforms to all of the requirements and standards listed below:

A. *The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

B. *The granting of the variance will not permit the establishment of any use, which is not permitted in the district.*

C. *There must be proof of unique circumstances: there must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.*

D. *There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.*

E. *That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Zoning Adjustment is the minimum variance that will accomplish this purpose.*

F. *That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.*

G. *That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.*

The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

SUMMARY:

John and Brenda Nuckols seek approval of a variance to allow the installation of a pole barn accessory structure in their front yard. The current ordinance requires that accessory structures of this size 1) be located at least 10 feet behind the front of the house, and 2) be constructed of materials architecturally compatible with the principal structure. The proposed 24'x32' structure would be located approximately 105' from the front property line and would be an open pole barn-style structure. The applicant has stated that the unique shape of their lot would put the structure out of sight, and that it would help to improve the organization of the property.

MOTION:

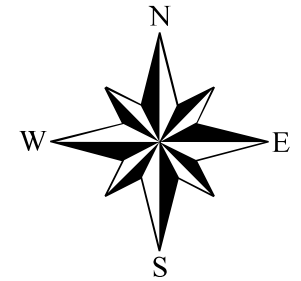
1. I make a motion to grant John and Brenda Nuckols a variance to allow a pole barn no closer than 105 feet from the front property line for the property located at 13070 Jace Lane.

City of Northport Zoning Board of Adjustment

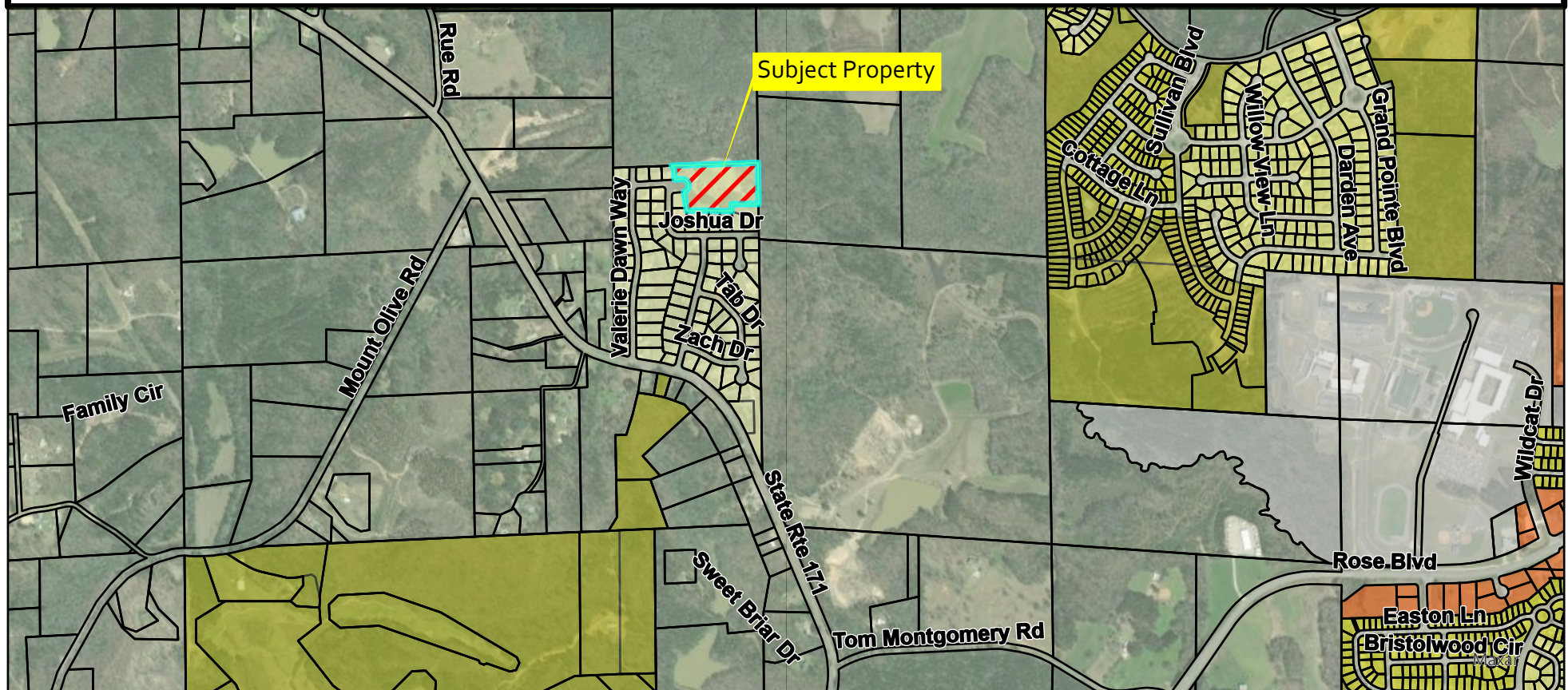
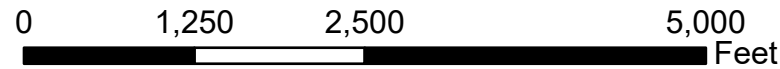
Zoning

-  Neighborhood Commercial
-  General Commercial
-  Office and Institutional
-  Residential Single-Family - SD
-  Residential Single-Family - 1
-  Residential Single-Family - 2
-  Residential Single-Family - 4
-  Parcels
-  Subject Property

Variance Request



While the City of Northport, Alabama makes every effort to maintain and distribute accurate information, No Warranties and/or Representations of Any Kind are made regarding information, data or services provided. In no event, shall the City of Northport, Alabama be liable in any way to the users of this data. Users of this data shall hold the City of Northport, Alabama harmless in all matters and accounts arising from the use and/or accuracy of this data.





City of Northport

Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

Date of Application: 6-8-23

SUBMITTAL CHECKLIST

- | | |
|---|--|
| ☒ Completed Application | ☒ Designation of Agent Form (if applicant is not property owner) |
| ☒ \$75 Appeal Fee (additional fees may apply) | ☒ Names and Addresses of all Adjoining Properties |
| ☒ Site Plan/Sketch (showing property lines, existing and proposed structures, and dimensions) | |

PROPERTY INFORMATION

Property Address: 13070 Jace Lane Northport, AL 35475
Property Subdivision and Lot Number: Montgomery Farms
Property Zoning District: _____
Existing Buildings on Property: House
Proposed Construction on Property: Pole Barn

PETITIONER INFORMATION

Petitioner Name: John & Brenda Nuckols
Petitioner Phone: 205-292-9916 Petitioner Email: bnuckols55@yahoo
Petitioner Address (if different than property information above): _____

Petitioner is Owner of Property (if yes, skip owner information):



Yes



No

OWNER INFORMATION

Owner Name and/or Company: _____
Owner Mailing Address: _____
Owner Phone: _____ Owner Email: _____



BY CHECKING THIS BOX, I HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

The information contained in this document is true and correct and may be relied upon by the City of Northport. By typing my name and by checking this box, this acknowledges that I am bound by this document just as if I had signed the document rather than typed my name to this document.

Applicant Signature: B. Nuckols

Date: 6-8-23



City of Northport Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

REQUEST INFORMATION

Describe the nature of the request:

A Pole barn to cover boat & tractor to extend the life of equipment. It will be in the woods where we presently park these items. It ~~will~~ will help to organize things.

Describe the special conditions pertaining to your property (or to your case) which sets your case apart from others in the same zoning district:

It is out of sight and will improve the value of property.

Describe how your appeal (if granted) would impact neighboring properties or how it would or would not be contrary to the public interest:

They will never notice the addition. We own 7 Acres. This would be out of the line of sight. The roof on it will be clay color which will blend with surrounding and house.

Any additional information you would like to add to help process your request, including evidence of petitioner's interest in the property if petitioner is not the property owner:



City of Northport Designation of Agent Form

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

I, Brenda Nuckols, being owner of the property which is the subject of this application
hereby authorize _____, to act as my representative with the City of Northport's
(Board of Zoning, and/or Planning Commission, and/or City Council), as required by the type of request listed
on the attached application form.

Property Owner Signature:

Date:

6-8-23

Property Owner Mailing Address:

13070 Jace Lane
Northport

Phone Number:

205-292-9916

Authorized Agent Mailing Address:

Phone Number:

STATE OF ALABAMA

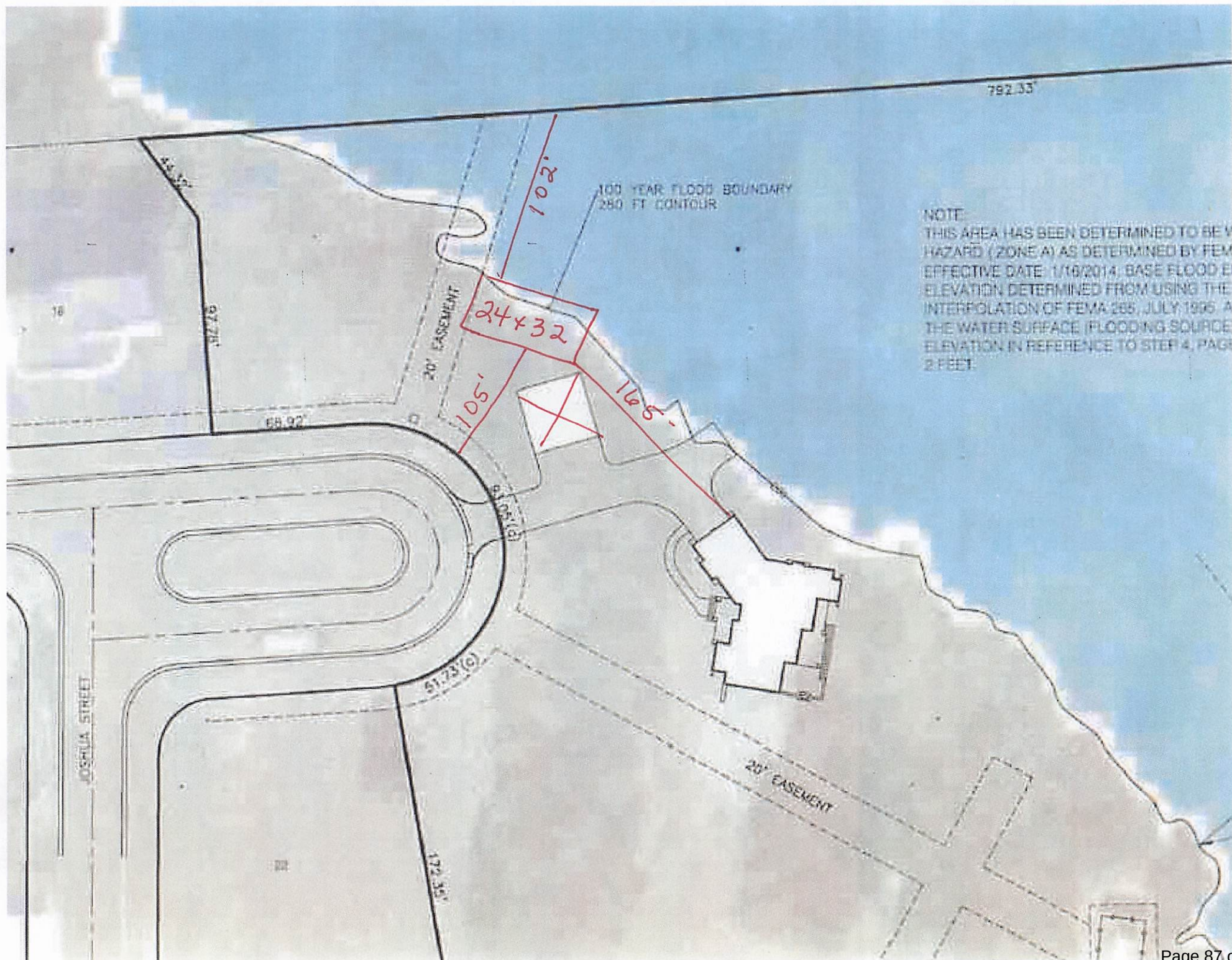
COUNTY OF TUSCALOOSA

I, _____, a Notary Public in and for said County and State, hereby certify
that _____, whose name is signed to the foregoing document, and who is known to
me or acknowledged before me on this day, that being informed of the contents of said document, did
execute the same voluntarily on the day that bears the same date.

Given my hand and seal of office this ____ day of _____, _____

Notary Public

My Commission Expires: _____



NORTHPORT ZONING BOARD OF ADJUSTMENT
STAFF REPORT
July 13, 2023

AGENDA ITEM

Case Number: V-24-13

Request: A variance from ISR standards

Location: 11731 Arbor Oaks Road

Applicant: Michael Tilford

SUBJECT PARCEL

Zoning: RS-1 Residential Single Family

Zoning of Adjacent Property: RS-1 Residential Single Family

Proposed Action: To allow the installation of a new swimming pool, exceeding the maximum ISR for this zoning district

STAFF COMMENTS

Michael Tilford is seeking a variance from the Impervious Surface Ratio standards. Those standards are in Section 607.01. and are included below:

Table 6-2: Lot Area, Setback, Bulk Regulations and Parking Requirements: Conventional Subdivisions.

Zone ¹	Min. Lot Area (Sq. Ft.)	Min. Lot Width ² (Ft.)	Setbacks (in feet)				ISR ³	Height (Ft.)	Off-Street Parking
			Front	Rear	Side Yard	Side yard on Street			
RS-1	15,000	95	40	50	14	25	0.30	35	2
RS-2	12,000	85	35	35	12	25	0.40	35	2
RS-3	9,000	75	30	35	10	20	0.45	35	2
RS-4 ⁴	6,000	60	20	20	7	15	0.50	35	2

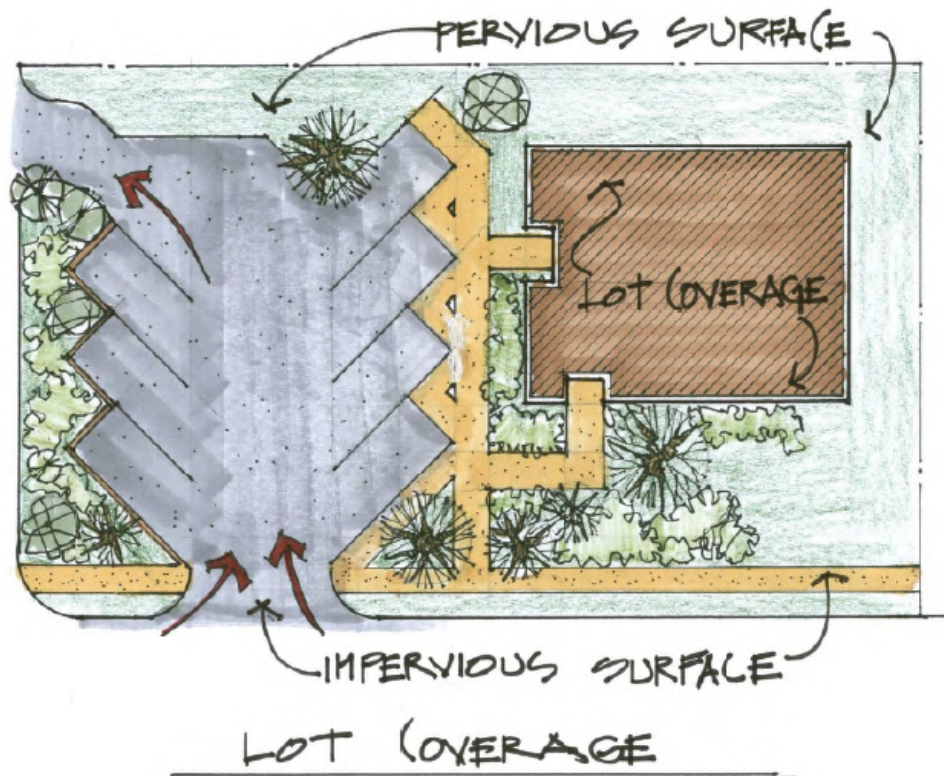


FIGURE 4

STAFF RECOMMENDATIONS:

The standards for variances as outlined in section 1109.3 of the Northport Municipal Code are as follows:

1108.03. Standards for Variances. *The Board of Zoning Adjustment shall grant no variance in the strict application of the provision of this Ordinance unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised. It is the intent of this Ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty to its development and prevents its owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.*

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate in writing that the appeal for the variance conforms to all of the requirements and standards listed below:

A. *The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and*

shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

B. *The granting of the variance will not permit the establishment of any use, which is not permitted in the district.*

C. *There must be proof of unique circumstances: there must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.*

D. *There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.*

E. *That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Zoning Adjustment is the minimum variance that will accomplish this purpose.*

F. *That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.*

G. *That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.*

The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

SUMMARY:

Michael Tilford seeks approval of a variance to allow him to exceed the maximum Impervious Surface Ratio (ISR). This ratio is a measurement of all impervious surfaces on a development site divided by the site area (see "figure 4" above). The current ordinance specifies a maximum ISR of 0.30 for this zoning district. Based on staff review and measurements of aerial photography, the property appears to be at the maximum allowable ISR as it stands. Mr. Tilford proposes to build a swimming pool that would put his site above the maximum allowable ISR. He has stated that the project would include drainage improvements that benefit his property and those adjoining it. The petitioner has not stated a hardship.

MOTION:

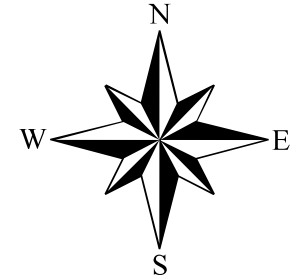
1. I make a motion to grant Michael Tilford a variance from maximum allowable ISR, to allow the installation of a 16x36 swimming pool for the property located at 11731 Arbor Oaks Road.

City of Northport Zoning Board of Adjustment

Zoning

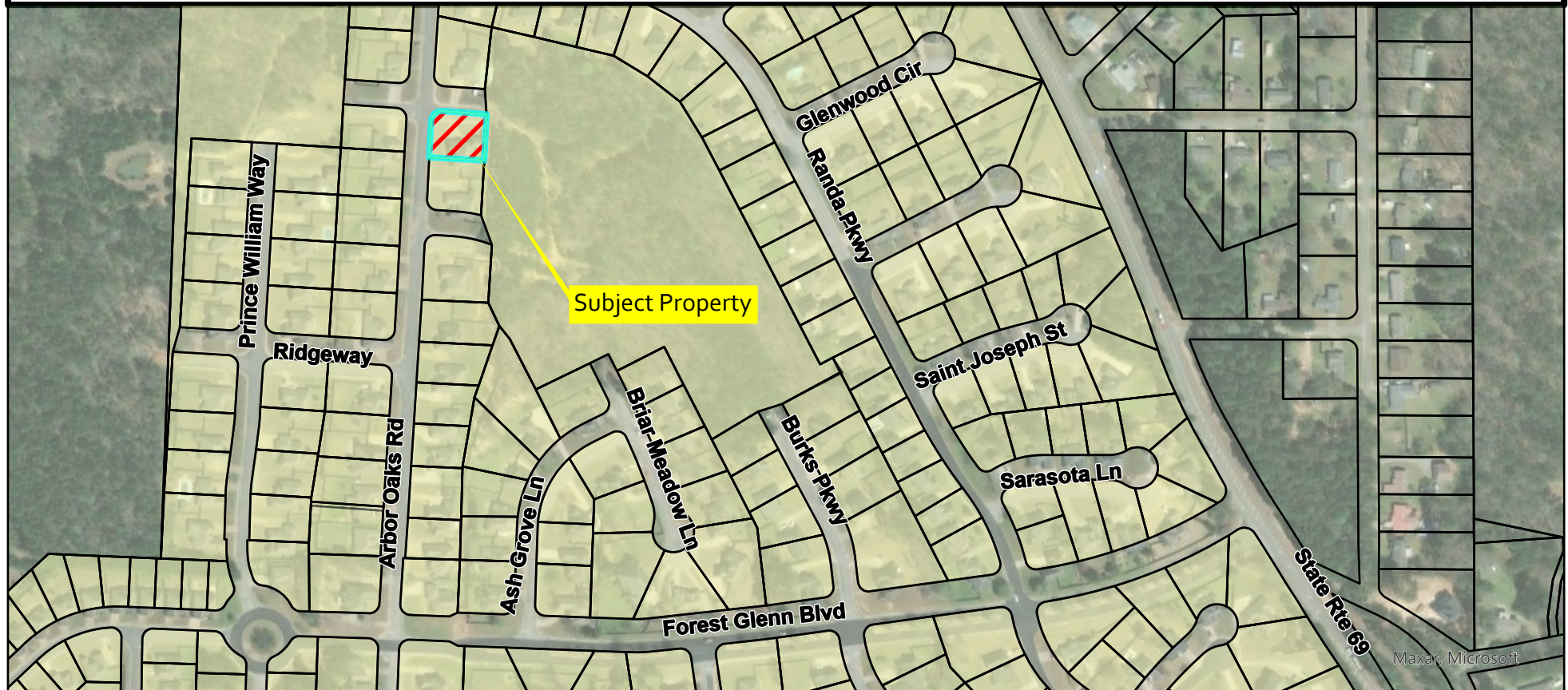
-  Residential Single-Family - 1
-  Parcels
-  Subject Property

Variance Request



While the City of Northport, Alabama makes every effort to maintain and distribute accurate information, No Warranties and/or Representations of Any Kind are made regarding information, data or services provided. In no event, shall the City of Northport, Alabama be liable in any way to the users of this data. Users of this data shall hold the City of Northport, Alabama harmless in all matters and accounts arising from the use and/or accuracy of this data.

0 387.5 775 1,550 Feet





City of Northport Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

PROCESS

1. You have requested a variance, special exception or interpretation of the Zoning Ordinance. The Zoning Board of Adjustment has the full authority to rule on cases such as this after a public hearing.
2. The Zoning Board of Adjustment meets in City Hall, located at 3500 McFarland Boulevard, in the Council Chamber at 6:00 p.m. on the third Thursday of each month.
3. You or your agent must be present at the meeting to explain your request and answer questions.
4. No later than the closing of business hours four weeks prior to the meeting, the following must be submitted to the Planning and Inspections Department:
 - An Administrative Appeal Application completely filled out and signed (page 2 and 3 of this packet);
 - The names and mailing addresses of all adjoining property owners as obtained from the Tax Assessor on the first floor of the County Courthouse. Adjoining owners include owners on all sides of the property in question and also the property across streets, creeks, power line right-of-ways, etc.;
 - A filing fee of \$75.00, plus certified mailing fees per adjoining property owner and advertising fees;
 - A small drawing (8x11) of the lot in question with dimensions; existing and proposed new construction with dimensions; distance to the property lines of all structures; any other concerns which may be applicable to your case, such as existing and proposed parking spaces, heights of structures, access roads, etc. The drawing are not required to be professionally prepared, but must be legible and accurate.
5. A decision of the Zoning Board of Adjustment is final. The Circuit Court will hear any appeals to the decision of the Zoning Board of Adjustments. Appeals to the Circuit Court must be applied for within 15 days after a final decision of the Zoning Board of Adjustment has been made.



City of Northport Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

Date of Application:

6/12/23

SUBMITTAL CHECKLIST

- | | |
|--|---|
| ☒ Completed Application | ☐ Designation of Agent Form (if applicant is not property owner) |
| ☒ \$75 Appeal Fee (additional fees may apply) | ☒ Names and Addresses of all Adjoining Properties |
| ☐ Site Plan/Sketch (showing property lines, existing and proposed structures, and dimensions) | |

PROPERTY INFORMATION

Property Address: 11731 Arbor Oaks Rd. Northport, AL 35475
Property Subdivision and Lot Number: Forest Glen Subdivision, Lot # 224
Property Zoning District: RS
Existing Buildings on Property: House
Proposed Construction on Property: In-ground swimming pool

PETITIONER INFORMATION

Petitioner Name: Michael Tilford
Petitioner Phone: (717) 440-2193 Petitioner Email: mtilford@tcss.net
Petitioner Address (if different than property information above): _____

Petitioner is Owner of Property (if yes, skip owner information):



Yes



No

OWNER INFORMATION

Owner Name and/or Company: _____
Owner Mailing Address: _____
Owner Phone: _____ Owner Email: _____



BY CHECKING THIS BOX, I HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

The information contained in this document is true and correct and may be relied upon by the City of Northport. By typing my name and by checking this box, this acknowledges that I am bound by this document just as if I had signed the document rather than typed my name to this document.

Applicant Signature: _____ Date: _____



City of Northport Variance Application Packet

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

REQUEST INFORMATION

See Attached

Describe the nature of the request:

Describe the special conditions pertaining to your property (or to your case) which sets your case apart from others in the same zoning district:

Describe how your appeal (if granted) would impact neighboring properties or how it would or would not be contrary to the public interest:

Any additional information you would like to add to help process your request, including evidence of petitioner's interest in the property if petitioner is not the property owner:



City of Northport Designation of Agent Form

All applications, plans, and supporting documents may be submitted by email to
planning@cityofnorthport.org.

I, _____, being owner of the property which is the subject of this application
hereby authorize _____, to act as my representative with the City of Northport's
(Board of Zoning, and/or Planning Commission, and/or City Council), as required by the type of request listed
on the attached application form.

Property Owner Signature: _____ Date: _____

Property Owner Mailing Address: _____

Phone Number: _____

Authorized Agent Mailing Address: _____

Phone Number: _____

STATE OF ALABAMA

COUNTY OF TUSCALOOSA

I, _____, a Notary Public in and for said County and State, hereby certify
that _____, whose name is signed to the foregoing document, and who is known to
me or acknowledged before me on this day, that being informed of the contents of said document, did
execute the same voluntarily on the day that bears the same date.

Given my hand and seal of office this ____ day of _____, _____

Notary Public

My Commission Expires: _____

- 1) We are requesting a variance to build a pool in our backyard. We were told our permit was denied due to already meeting the limit on concrete allowed on our lot.
- 2) Drainage on or from our property has never been an issue. The constructing of the pool will also include a better drainage system that will move water to the rear of our property and into the drainage system already in existence. This will actually prevent water from affecting our neighbors.
- 3) This project would actually direct the water away from the adjoining properties and into the drainage system to the rear of our properties. As it is now, some water drains into my neighbor's yard. This project would greatly reduce, if not eliminate that water drainage onto their property. In Forrest Glen we have an HOA. The HOA has reviewed our plans and has approved them as well.
- 4) The completion of this project will not only make the drainage off my property better but also eliminate a large portion of the water that already drains onto my neighbor's property and channel it into existing drainage at the rear of our properties.

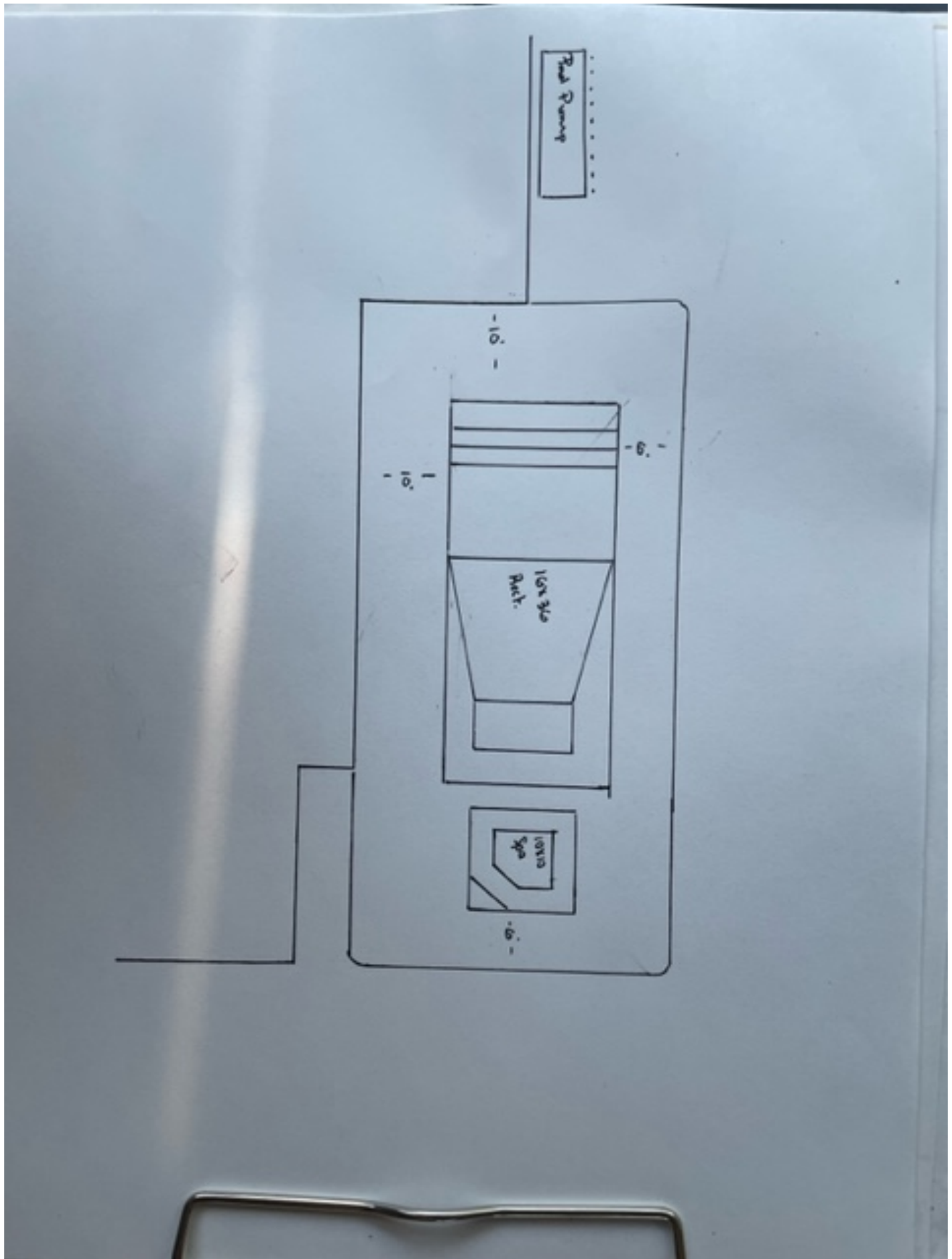
Neighbors

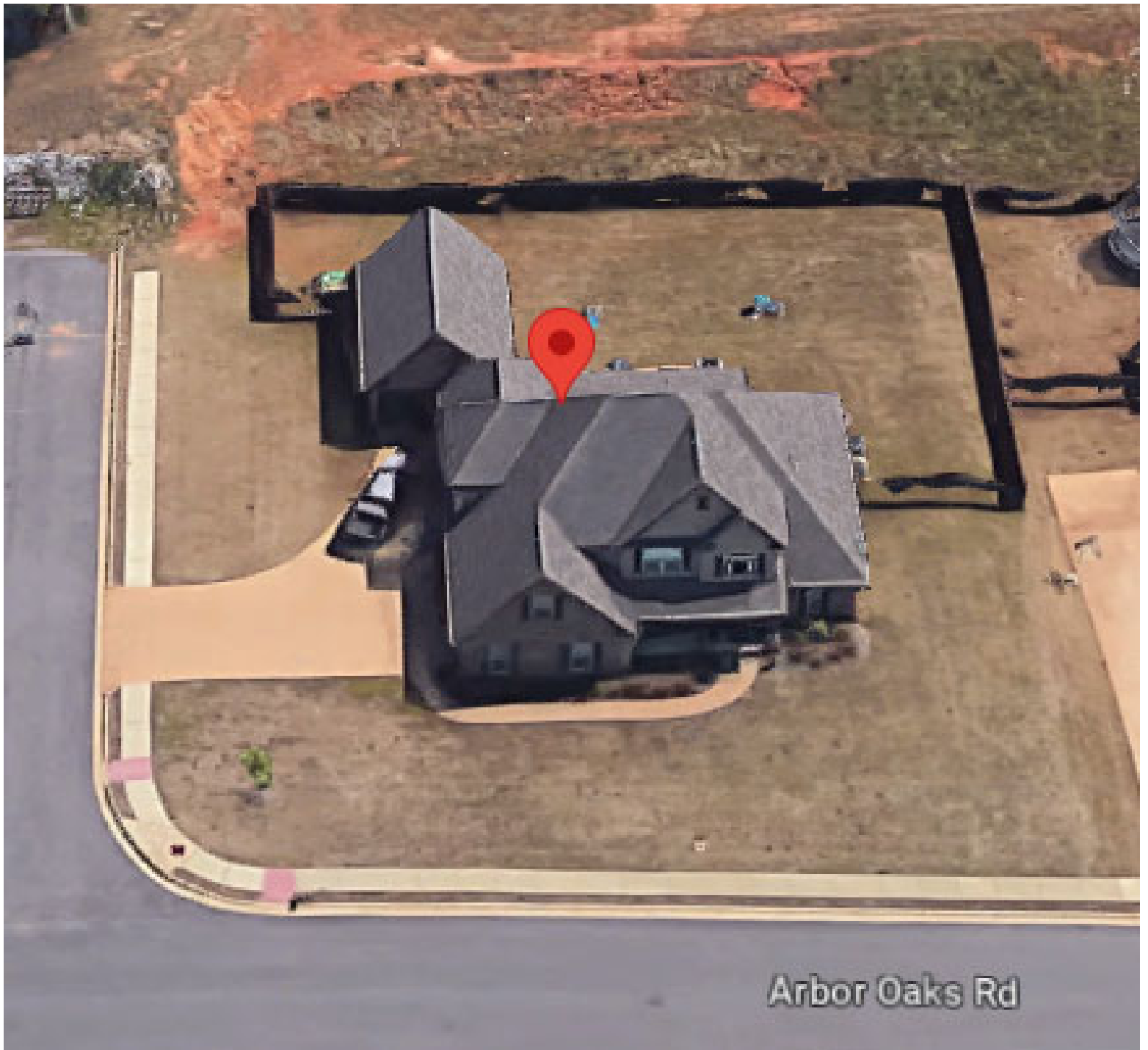
Jedediah and Kimberly King
11725 Arbor Oaks Rd
(Shared Property line)

Adam and Melissa Springer
14041 Briar Meadow
(undeveloped lots directly behind my property)

William Green
11741 Arbor Oaks Rd
(Across the dead end street)

Breona Thompson
11732 Arbor Oaks Rd
(Across the street)





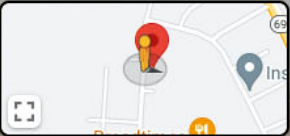


← 11731 Arbor Oaks Rd

Northport, Alabama

Google Street View

Mar 2014



Google

Image capture: Mar 2014