

Board of Adjustment Agenda

May 17, 2018 – 5:00 pm

Council Auditorium

City Hall, 103 N. Perry St.

BOARD OF ADJUSTMENT MEMBERS

John Stanley, *Chairman*

K. T. Brown, *Vice-Chairman*

Beau Holmes

George C. Howell, Jr.

Steve Hughes

Bart Prince

Pickett Reese

Jennifer Shaw

Nathan Williams

**Planning Controls Division
25 Washington Ave., 4th Floor
Montgomery, AL 36104
(334)625-2722**

I. Chairman's Message

II. Approval of Minutes from the April 19, 2018 meeting

May 17, 2018

<u>Item</u>	<u>File</u>	<u>Petitioner</u>	<u>Zone</u>	<u>Location/Request</u>	<u>Page</u>
1.	2018-014	Thomas & Kristy Eubanks	R-60-s	3233 Audubon Road (Addition to dwelling)	1
2.	2005-054	Lutfur Rahman	PUD	3430-3436 Kessinger Drive (Mosque)	2
3.	2018-032	Flowers & White Engineering	PUD	3724 Malcolm Drive (Animal kennel)	3
4.	2018-075	Sarah Morgan	R-85	3392 Walton Drive (Privacy fence)	4
5.	2018-027	Marsha C. Allison	INST	115 Vonora Avenue (Chickens)	5
6.	2018-024	Professional Engineering	B-2 & M-1	854 West South Boulevard (Variance to Flood Ordinance)	6
7.	2018-029	Nur Mohammad Hossain	R-85	3255 Hammond Drive (Chickens)	7
8.	2018-025	David Robinson	R-85	3637 Farmfield Lane (Rear yard variance—new dwelling)	8
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10.	1995-210	Angela Hall	AGR-2	Butler Court (Mobile Home)	10
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12.	2018-030	Midstate Signs	T5	424 Bibb Street (Internally lit blade sign)	12

The next Board of Adjustment meeting is on June 21, 2018

1. BD-2018-014 **PRESENTED BY:** Thomas & Kristy Eubanks

REPRESENTING: Same

SUBJECT: Request a rear yard variance for an addition to a dwelling located at 3233 Audubon Road in R-60-s (Residential) and R-125 (Residential) Zoning Districts.

REMARKS: This request is being made to give the petitioner permission to construct an addition that will come within 30 ft. of the rear property line, whereas 40 ft. is required.

The Architectural Review Board approved this addition at the March 27, 2018 meeting.

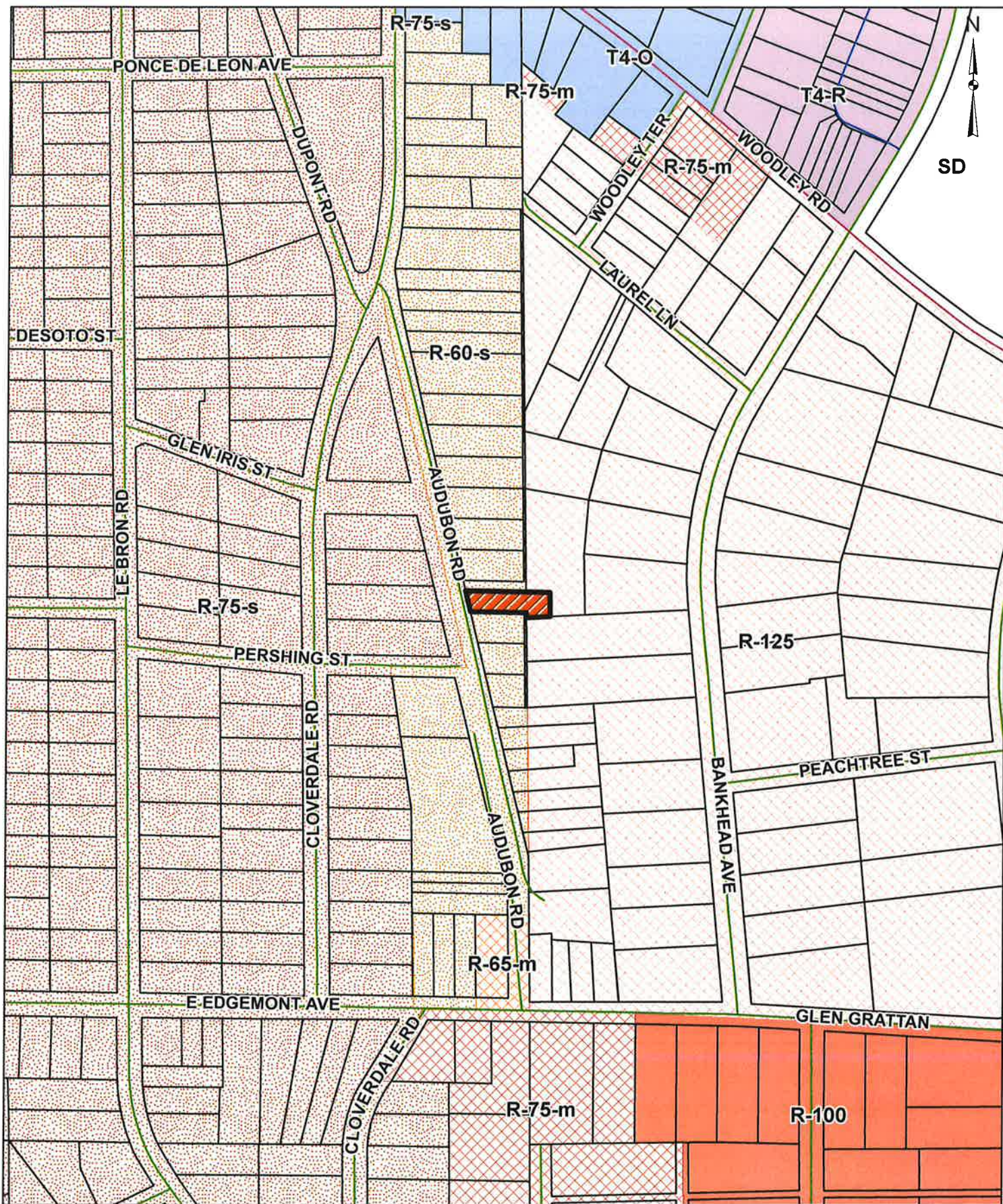
This request was delayed from the last meeting on April 19, 2018, due to no one being present to present the request.

The request is a 10 ft. rear yard variance.

COUNCIL DISTRICT: 7

COMMENTS _____

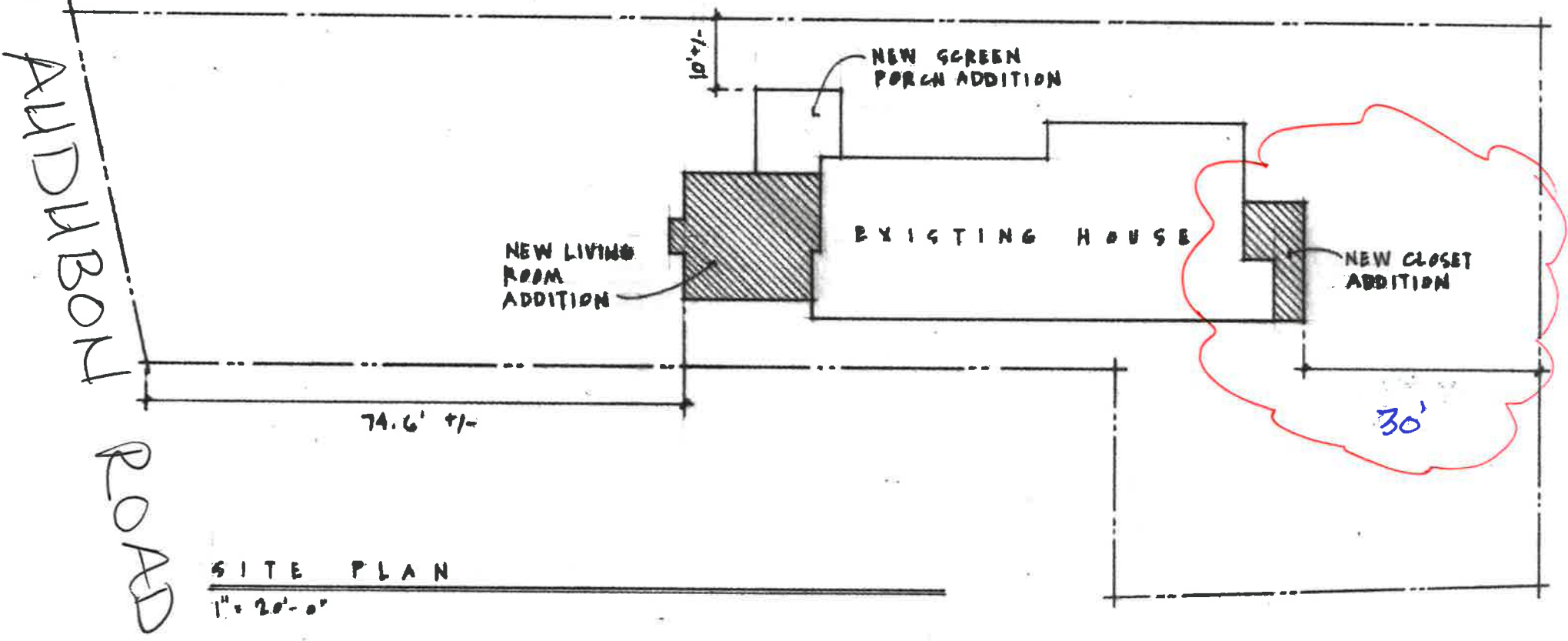
ACTION TAKEN: _____



Site Location 

1 inch = 300 feet

Item No. IA



1/B



Site Location

1 inch = 40 feet

Item No. 1C

2. BD-2005-054 **PRESENTED BY:** Lutfur Rahman

REPRESENTING: Same

SUBJECT: Request a special exception for a mosque to be located at 3430-3436 Kessinger Drive in a PUD (Planned Unit Development) Zoning District.

REMARKS: This request is being made to give the petitioner permission to use the entire building for a mosque. Prayer times vary and the building will be available for members at any time every day of the week. There are approximately 50-60 members, however the 6,000 sq. ft. building can accommodate more. Access into the building will be key-coded for members.

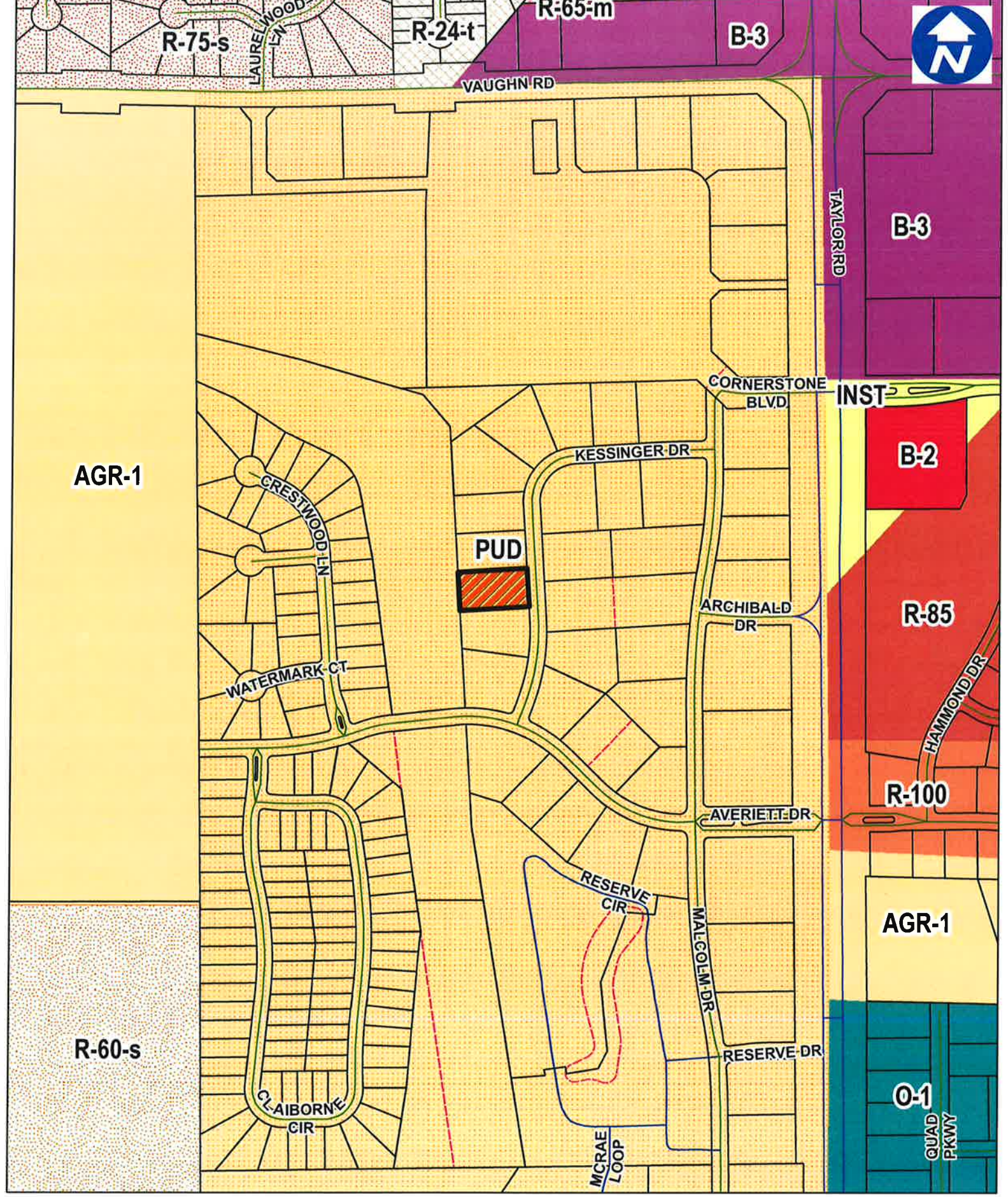
Currently, the East Montgomery Islamic Society is leasing the building until their new building is completed at 8786 Vaughn Road. Once they move into their new building, the petitioner will occupy the building for the same use.

The request is a special exception for a mosque.

COUNCIL DISTRICT: 8

COMMENTS _____

ACTION TAKEN: _____



Site 

1 inch = 400 feet

Item 2A



Site 

1 inch = 200 feet

Item 2B

3. BD-2018-032 **PRESENTED BY:** Flowers & White Engineering

REPRESENTING: Taylor Development Inc.

SUBJECT: Request a parking variance and a special exception for an animal kennel to be located at 3724 Malcolm Drive in a PUD (Planned Unit Development) Zoning District.

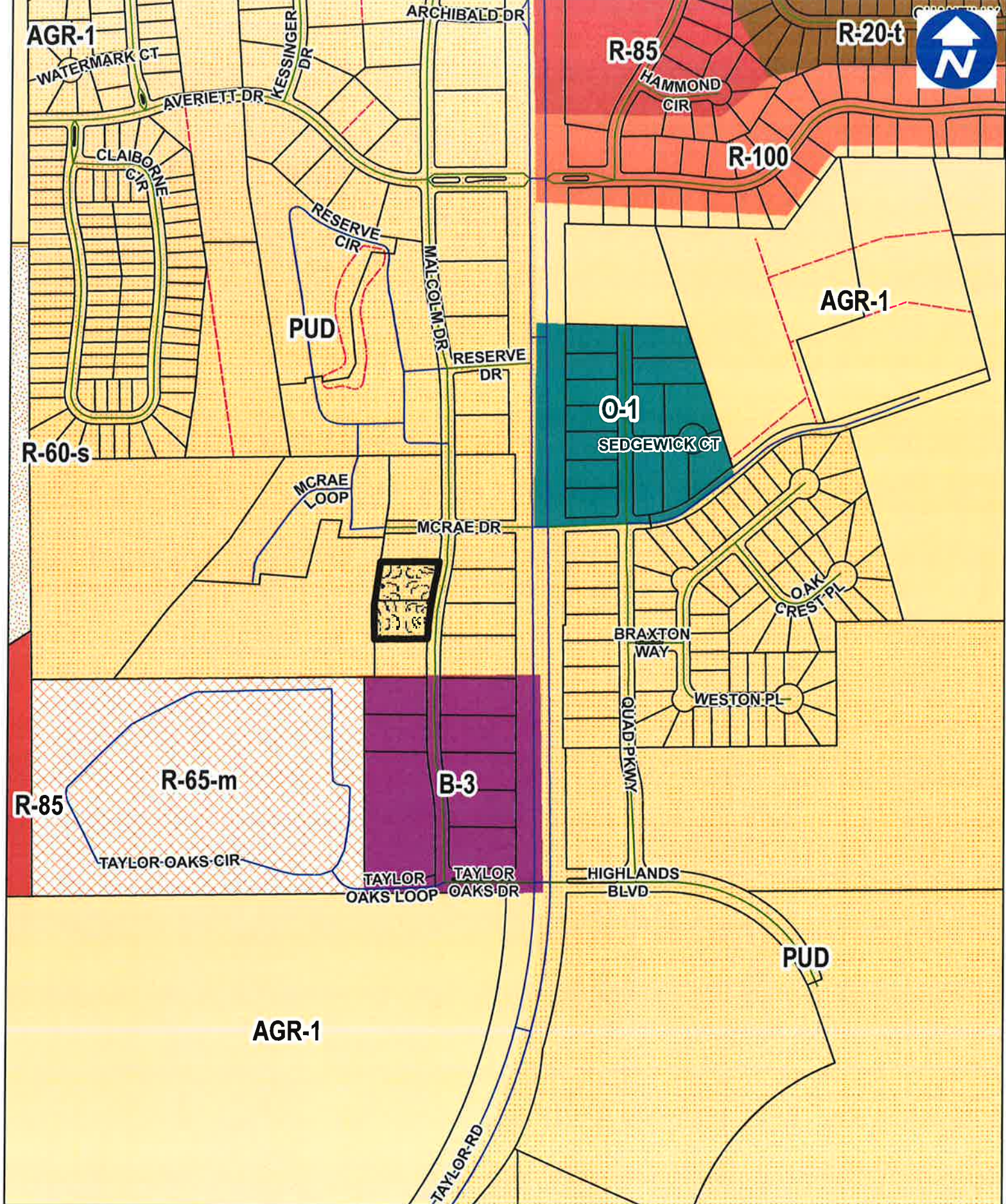
REMARKS: This request is being made to give the petitioner permission to operate an animal kennel. The petitioner is requesting a six (6) space parking variance to provide 34 parking spaces onsite for the proposed 10,000 sq. ft. building, whereas 40 is required. The petitioner is only asking for the use at this time and will submit plans at a later date for review/approval.

The requests are a six (6) space parking variance and a special exception for an animal kennel.

COUNCIL DISTRICT: x

COMMENTS _____

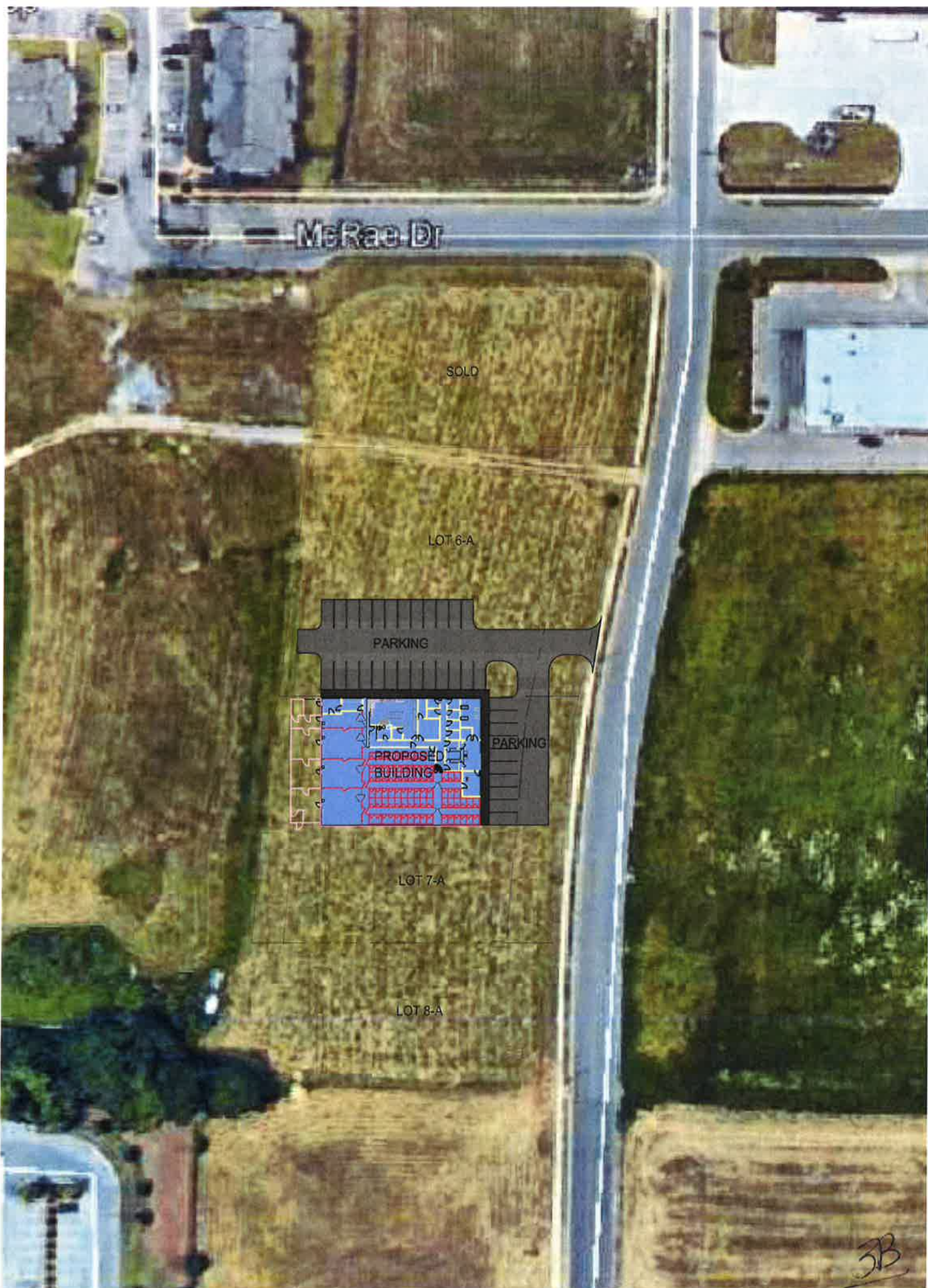
ACTION TAKEN: _____



Site 

1 inch = 500 feet

Item 3A



McRae Dr

SOLD

LOT 6-A

PARKING

PROPOSED BUILDING

PARKING

LOT 7-A

LOT 8-A

3B



Site 

1 inch = 400 feet

Item 3C

4. BD-2018-075 **PRESENTED BY:** Sarah Morgan

REPRESENTING: Same

SUBJECT: Request a height variance and street side yard variance for a new privacy fence to be located at 3392 Walton Drive in an R-85 (Single-Family Residential) Zoning District.

REMARKS: This request is being made to give the petitioner permission to construct a new 8 ft. high privacy fence (replacing the existing 6 ft. fence), whereas a 7 ft. height is allowed. The fence will come to the street side yard (Lansdowne Drive) property line, whereas 30 ft. is required.

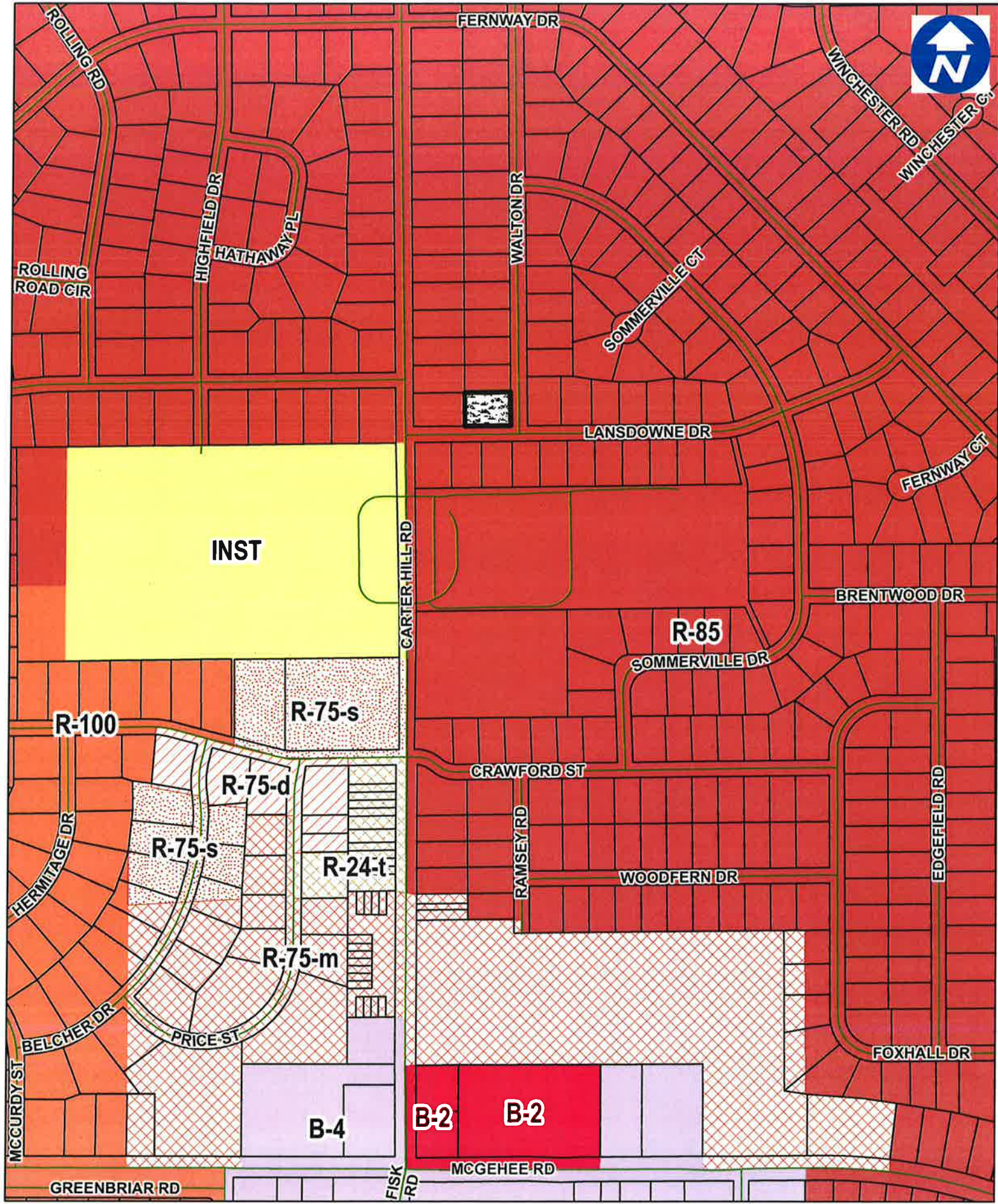
Planning Controls Comment(s): The petitioner has agreed to construct the fence with a 45° angle at the driveway for better visibility.

The requests are a 1 ft. height variance and a 30 ft. street side yard variance for a new privacy fence.

COUNCIL DISTRICT: 5

COMMENTS _____

ACTION TAKEN: _____



INST

R-85

R-100

R-75-s

R-75-d

R-75-s

R-24-t

R-75-m

B-4

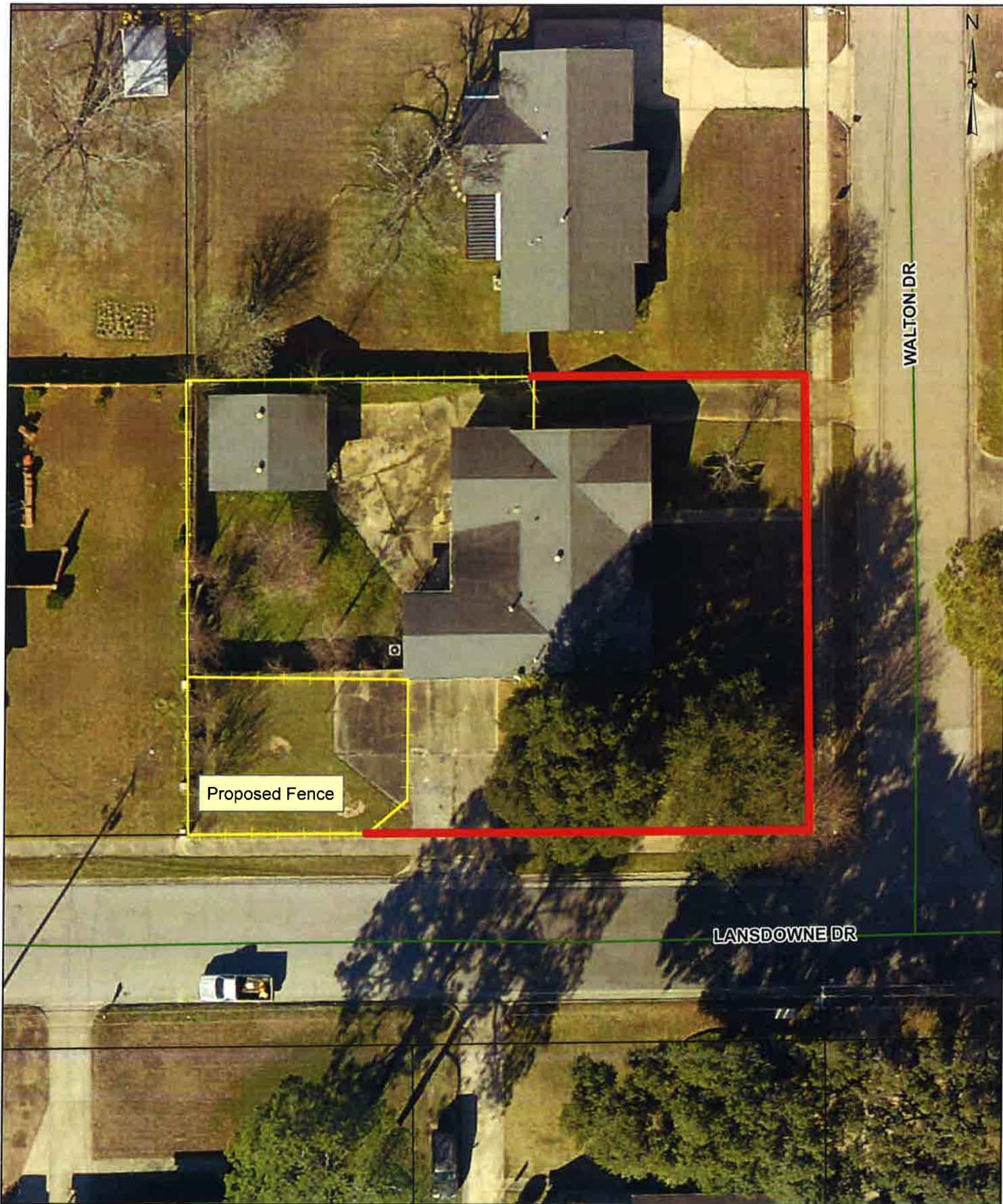
B-2

B-2

Site

1 inch = 400 feet

Item 4A



Site Location

1 inch = 30 feet

Item No. 4B

COMPLAINT

5. BD-2018-027 **PRESENTED BY:** Marsha C. Allison

REPRESENTING: Same

SUBJECT: Request a special exception to keep chickens at 115 Vonora Avenue in an INST (Institutional) Zoning District.

REMARKS: This request is being made to give the petitioner permission to keep four (4) chickens (no roosters). The petitioner has two (2) chicken coops at the rear of the property. The petitioner has been given the chicken guidelines and is in compliance.

The request is a special exception to keep four (4) chickens.

COUNCIL DISTRICT: 3

COMMENTS _____

ACTION TAKEN: _____



T2

R-65-s

W SHAWNEE DR
LYNDLE RD

YANCEY AVE

UPPER WETUMPKA RD

INST

VONORA AVE

WINONA AVE

R-60-s

FLINT ST

N HOPPER ST

ST CHARLES AVE

T5

O-1

T5
HALL ST

MADISON AVE

B-2

EDGAR ST

GREECHAM DR

SHOPPER ST

Site



1 inch = 200 feet

Item 5A



Site Location

1 inch = 30 feet

Item No. 5B

6. BD-2018-024 **PRESENTED BY:** Professional Engineering Consultants

REPRESENTING: Gateway Park Climate Control Storage Facility

SUBJECT: Request a variance to Ordinance No. 27-2009 for an existing building located at 854 West South Boulevard in B-2 (Commercial) and M-1 (Industrial) Zoning Districts.

REMARKS: This request is being made to give the petitioner permission to maintain an existing building at a finished floor elevation of 177.45 ft., whereas 180.1 ft. is required. The base flood elevation is currently 178.1 ft., and the ordinance requires the finished floor elevation to be 2 ft. above the base flood elevation which is 180.1 ft.

The Engineering Department denied any permits due to the fact that the “substantial improvements” exceeded the allowed 50% of the market value of the property.

See attached explanation from Engineering Department.

The request is a 2.65 ft. variance to Ordinance No. 27-2009.

COUNCIL DISTRICT: 4

COMMENTS _____

ACTION TAKEN: _____

Ingram, Tonya

From: Trevor, John
Sent: Thursday, May 10, 2018 12:24 PM
To: Center, James
Cc: Dunson, Patrick; Ingram, Tonya
Subject: RE: Gateway - Bella Hess Shopping Center
Attachments: Sec_5_666.____Reasons_for_a_variance..doc

Also, we did have a meeting with the owner, architect and engineer to discuss this project. I believe they have not submitted development plans or apply for a permit for this project. I think they called the meeting after getting the project designed and then finding out that it is in the 100-year flood plain.

As we explain to the owner and his agents in the meeting;

As per the City ordinance; the proposed development will be considered a substantial improvement to the existing ordinance. That is improvement greater than 50% of the structures value. Substantial improvements require that the building be brought to the current flood ordinance standards. For non-residential structures, such as this one, that may be done by elevating or by dry flood proofing the structure.

I do not know what justification the owner will use for the variance request. But the cost of compliance and/or the economic benefit of a project is not considered a valid reason for granting a variance. Variances that are granted should be carefully considered. The City's Flood Ordinance requirements are set to protect the health, safety and welfare of the public. Improperly granted variances, such as variance that are granted based on the cost of compliance, increase the City's liability. Although this is more properly a question for the City's Legal Department; I believe that someone who suffers damages from flooding that occurs from an improperly granted variance; that the City could be then considered liable. I do not know what protection the City's Hold Harmless Agreement would provide in these cases. This building is being proposed as public self-storage and the City's Legal Department would have to determine what the City's liability would be especially in cases of a renter.

In addition if the State, Office of Water Resources or FEMA in their review of our Floodplain program determines that we are not properly enforcing the program; that could result in the City being put on probation and a surcharge be added to all flood insurance policies.

We did additionally discuss the possibilities of the FEMA flood map being revised in this area. Currently the State has received a grant for \$100,000 for the Army Corps of Engineers (USACE) to study this area and look at solutions to the flooding issues. This project has not been started and I would assume this to have a 12 to 24 month time frame for any study to be completed. I initiated this study because I question the Flood Maps in the area and believe they should be revised. However; the City is required to follow these maps unless it is revised by FEMA. I believe that a simple survey of the Southern Blvd would show the maps being incorrect in this area. If the City was provided a sealed topo map from a registered surveyor, we should be able to submit it as a LOMA for FEMA's approval. This would not require a flood study to be done, only the above noted topo map along with the revised flood maps and application be submitted to FEMA. FEMA will normally complete its review and issue its determination in 60 days for a complete application. Because this is a correction to an existing map based on topo and not for either new construction or a flood study, that FEMA would not require a fee in this case.

The City Engineering Department cannot approve substantial improvements that do not meet the current Floodplain Development standards. The Engineering Department also cannot recommend granting variances to these standard except in cases that meet the limited reasons as stated in the City Ordinances for granting variances.

I have attached that part of the City Ordinance for your use below. The Board should state which of the five reasons below that they are granting the variance for.

Let me know if you need additional clarification.

John Trevor
334-625-2927



DIVISION 5. - VARIANCE PROCEDURES

Sec. 5-666. - Reasons for a variance.

The board of adjustment as established by the city shall hear and decide requests for appeals or, only as permitted by 44 CFR 60.6 or by subsections (3) and (4) below, requests for variance from the requirements of this article.

- (1) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the city engineer in the enforcement or administration of this article.
- (2) Any person aggrieved by the decision of the board of adjustment may appeal such decision to the Circuit Court as provided in Code of Ala. 1975, § 11-52-81.
- (3) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (4) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (5) Variances shall not be issued within a regulatory floodway if any increase in flood levels during the base flood discharge would result.

In reviewing such requests, the board of adjustment shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.

(Ord. No. 27-2009, art. 5(§ A), 8-4-2009)

Sec. 5-667. - Conditions for variances.

(a) A variance shall be issued only when there is:

- (1) A finding of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship; and
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(b) The provisions of this article are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

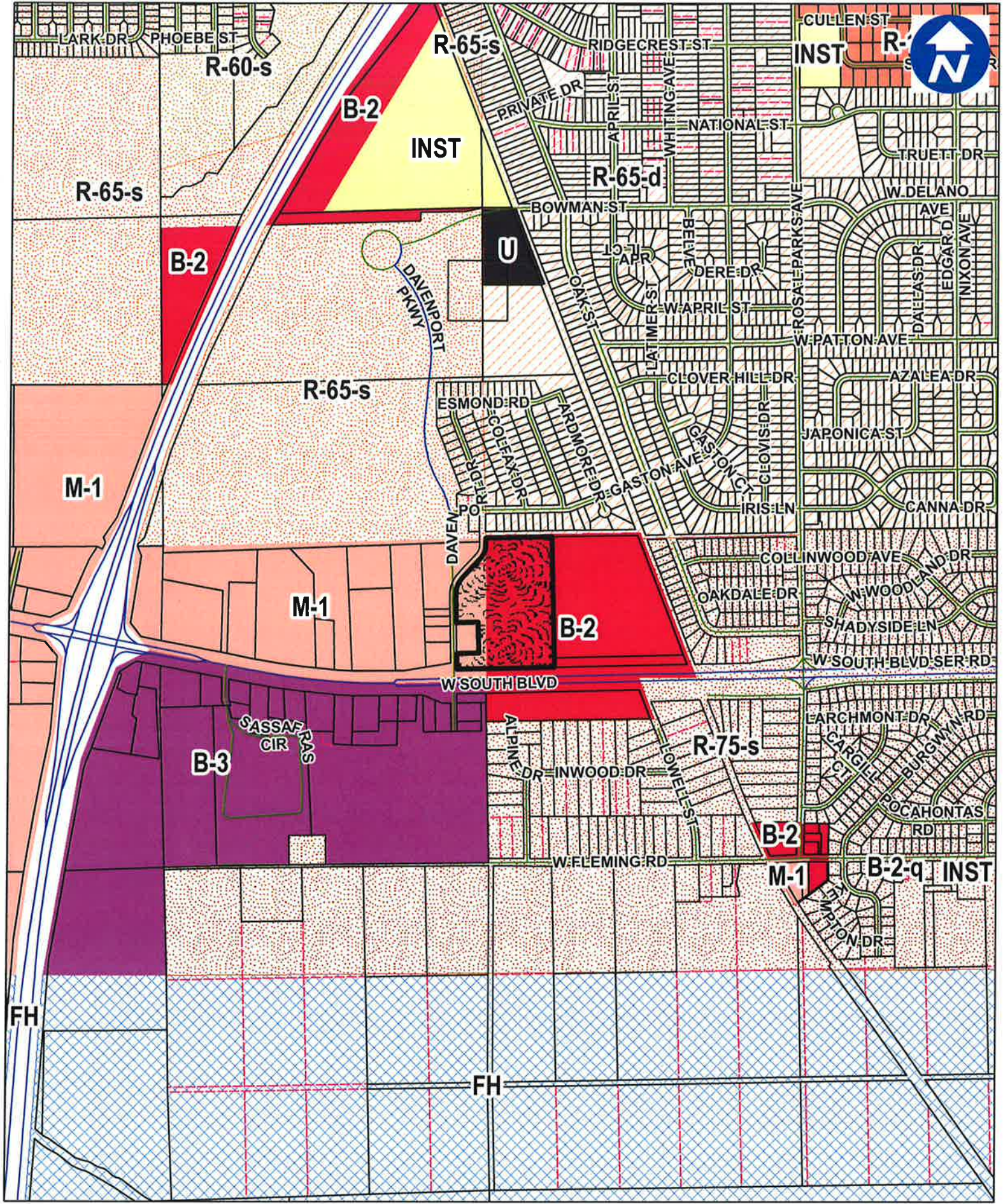
(c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

(d) The land use control administrator of the planning controls division shall maintain the records of all appeal actions and report any variances to the federal and state emergency management agencies upon request.

Upon consideration of the factors listed above and the purposes of this article, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Ord. No. 27-2009, art. 5(§ B), 8-4-2009)

60



1 inch = 1,000 feet

Site 

Item 6D



Site 

1 inch = 500 feet

Item 6E

COMPLAINT

7. BD-2018-029 **PRESENTED BY:** Nur Mohammad Hossain

REPRESENTING: Same

SUBJECT: Request a special exception to keep chickens at 3255 Hammond Drive in an R-85 (Single-Family Residential) Zoning District.

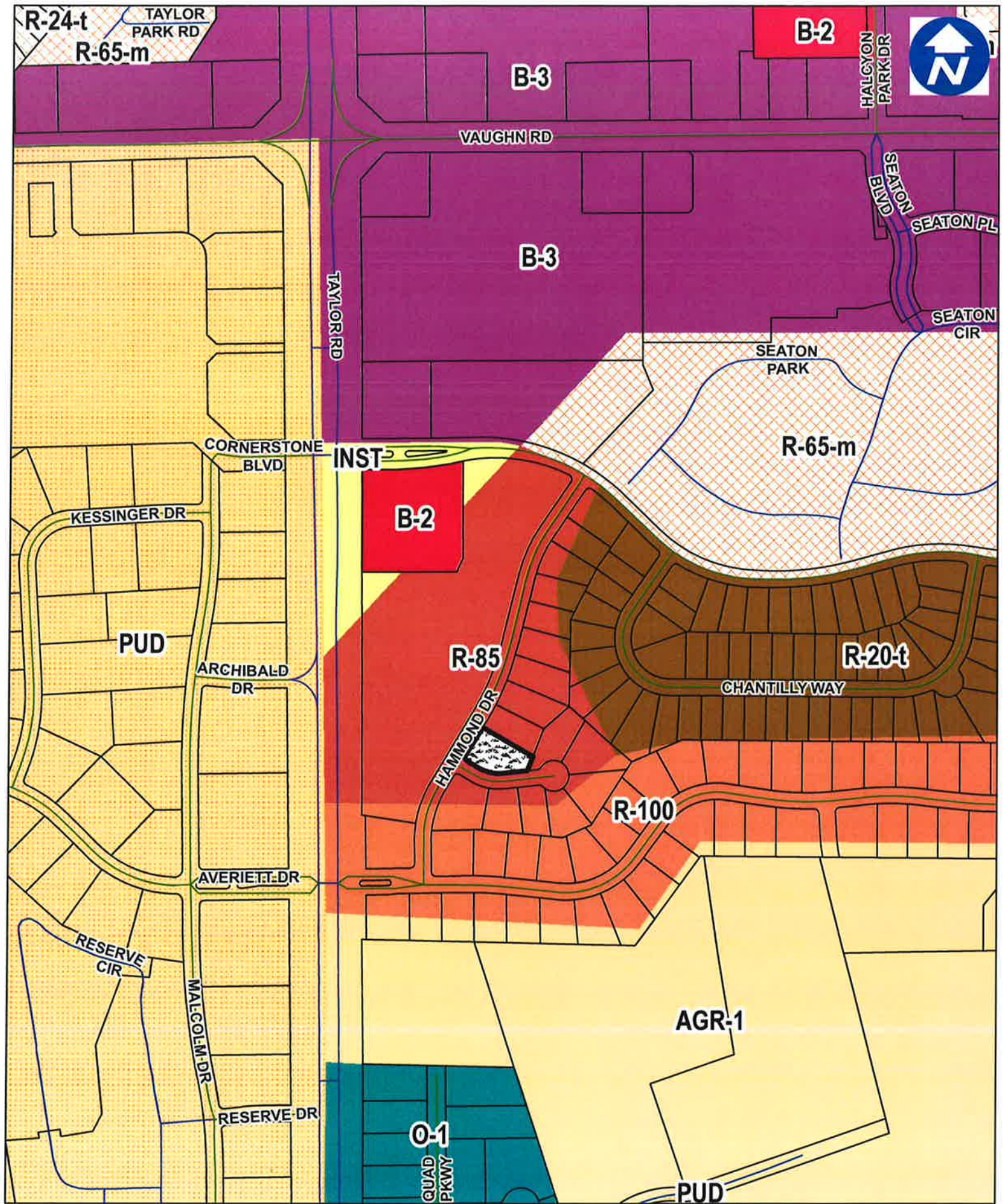
REMARKS: This request is being made to give the petitioner permission to is being made to give the petitioner permission to keep six (6) chickens (no roosters). The applicant has been given the chicken guidelines and has stated they will be in compliance.

The request is a special exception to keep six (6) chickens.

COUNCIL DISTRICT: 8

COMMENTS _____

ACTION TAKEN: _____



Site 

1 inch = 400 feet

Item 7A



Site Location 

1 inch = 30 feet

Item No. 7B

8. BD-2018-025 **PRESENTED BY:** David Robinson

REPRESENTING: Same

SUBJECT: Request a rear yard variance for a new dwelling to be located at 3637 Farmfield Lane in an R-85 (Residential) Zoning District.

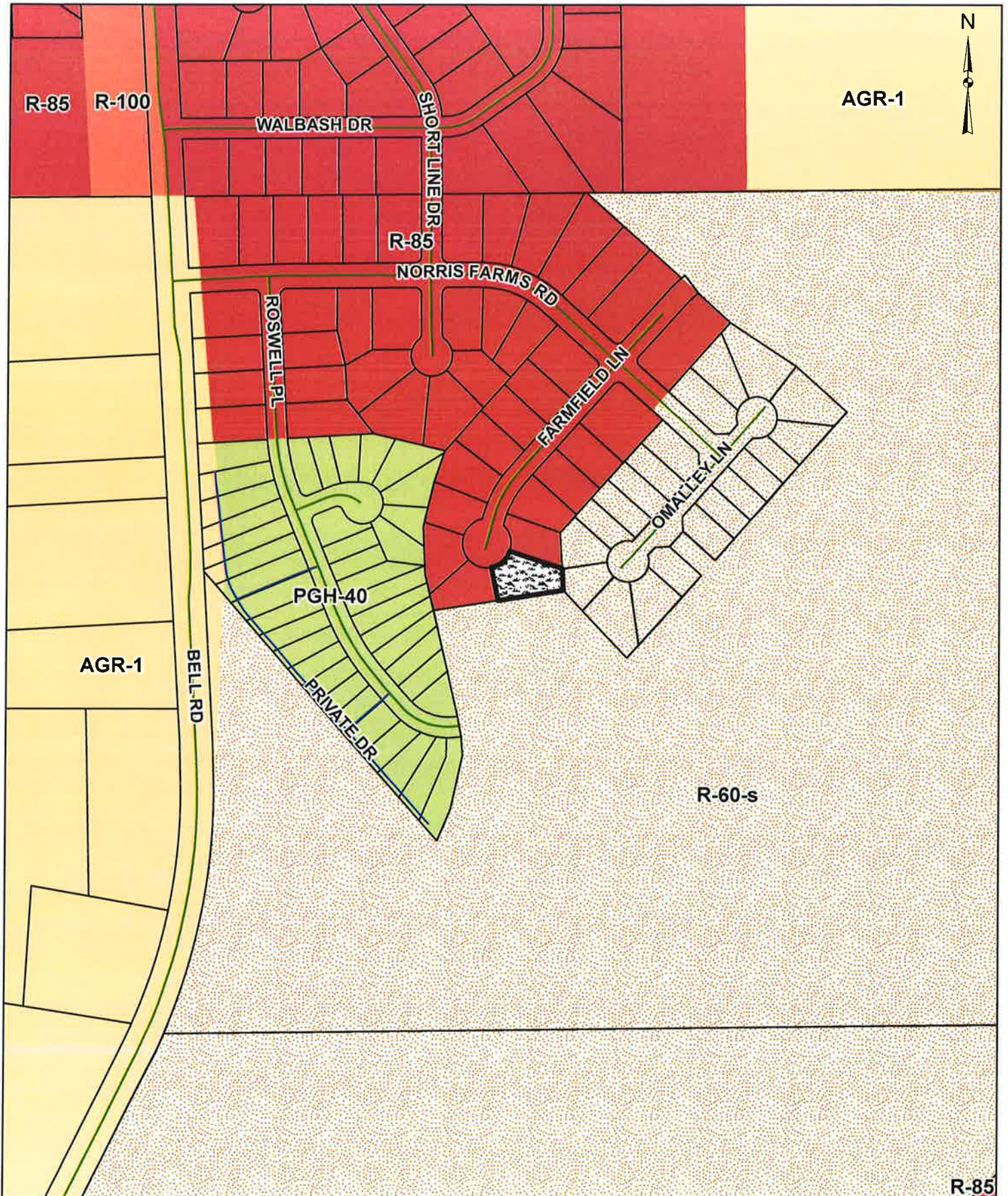
REMARKS: This request is being made to give the petitioner permission to construct a new dwelling to come within 26 ft. of the rear property line, whereas 30 ft. is required.

The request is a 4 ft. rear yard variance.

COUNCIL DISTRICT: 8

COMMENTS _____

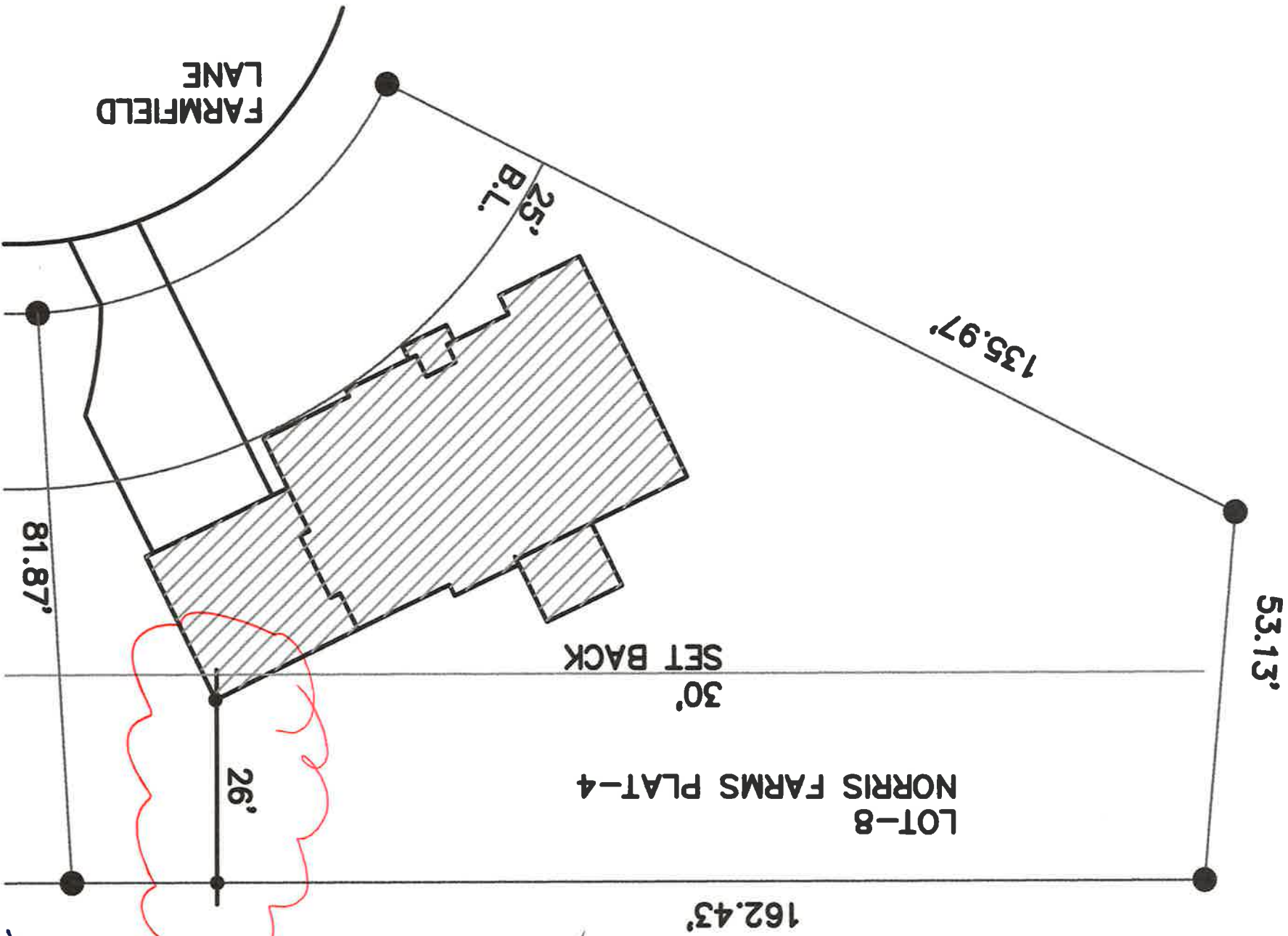
ACTION TAKEN: _____



Site Location 

1 inch = 300 feet

Item No. 8A



(UNDEVELOPED
PROPERTY)

8B



Site 

1 inch = 100 feet
Item 8C

9. BD-2018-026 **PRESENTED BY:** David Robinson

REPRESENTING: Same

SUBJECT: Request a rear yard variance for a new dwelling to be located at 3642 Farmfield Lane in an R-85 (Residential) Zoning District.

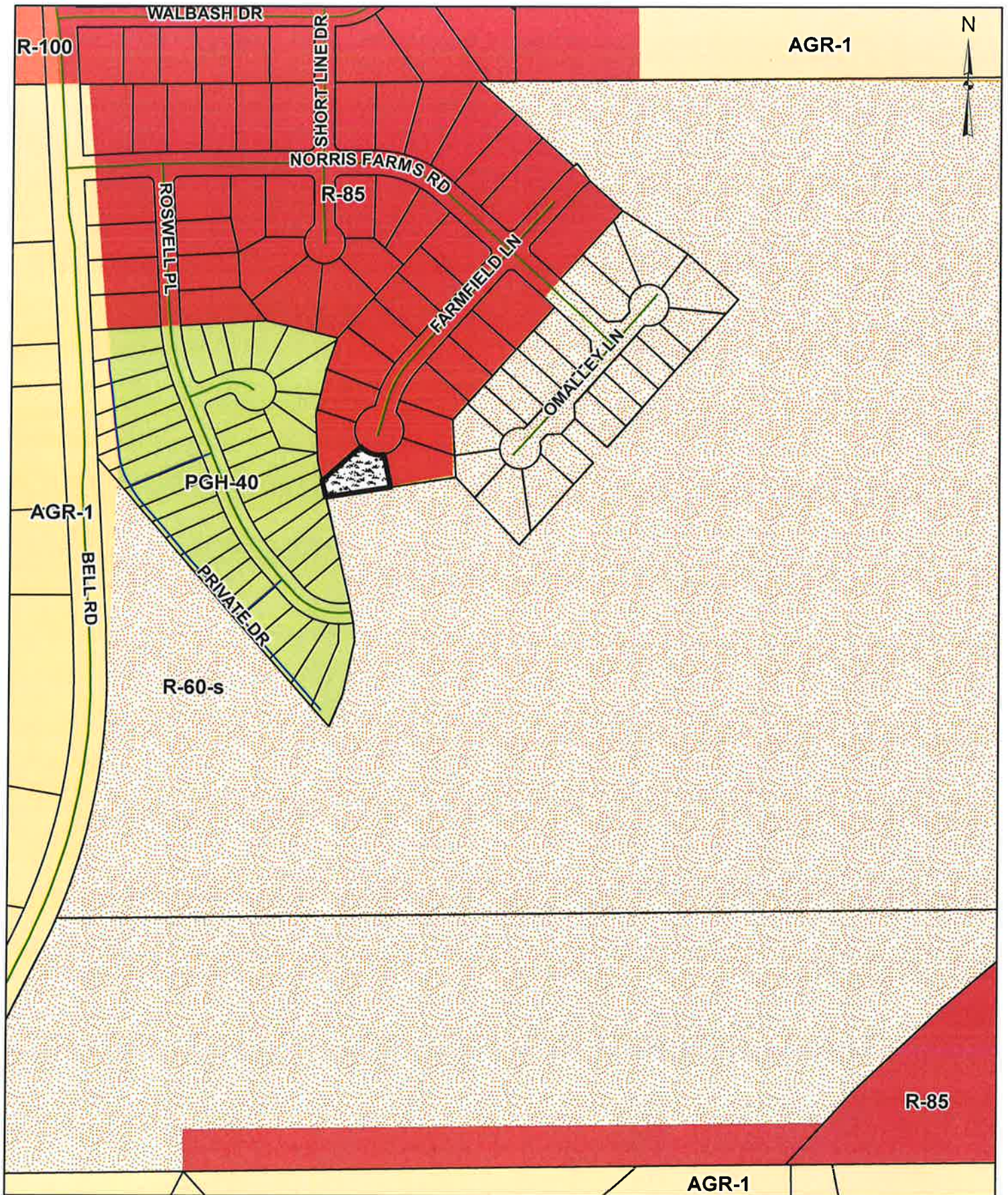
REMARKS: This request is being made to give the petitioner permission to construct a new dwelling to come within 21 ft. 6 in. of the rear property line, whereas 30 ft. is required.

The request is an 8 ft. 6 in. rear yard variance.

COUNCIL DISTRICT: 8

COMMENTS _____

ACTION TAKEN: _____

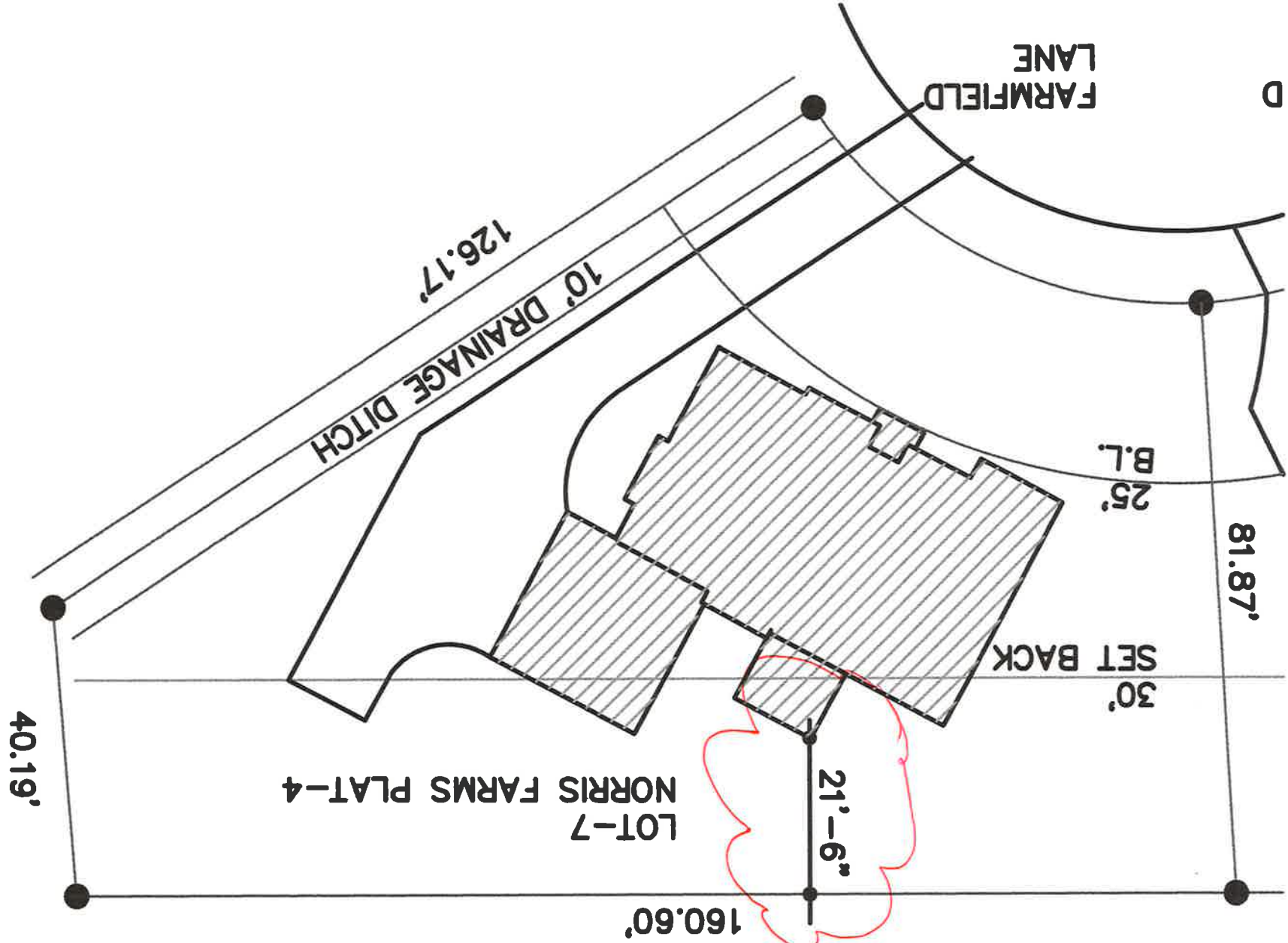


Site Location 

1 inch = 300 feet

Item No. 9A

9B



(UNDEVELOPED PROPERTY)



Site 

1 inch = 100 feet

Item 9C

10. BD-1995-210 **PRESENTED BY:** Angela Hall

REPRESENTING: Same

SUBJECT: Request a special exception for a mobile home for living purposes to be located at the southernmost extension of Butler Court in an AGR-2 (General Agriculture) Zoning District.

REMARKS: This request is being made to give the petitioner permission to place an additional mobile home on a 0.99 acre parcel of land. The Board of Adjustment approved a mobile home at the November 16, 1995 meeting. If approved, the mobile home will be used for living purposes.

The request is a special exception for a mobile home.

COUNCIL DISTRICT: Police Jurisdiction

COMMENTS _____

ACTION TAKEN: _____



R-99-p

OLD WETUMPKA HWY

WATERFIELD CT

JACK DR

SHINE DR

BUTLER CT

AGR-2



RASBERRY LN

R-50

SALARY RD

SAVAGE DR

MARY MABSON DR

R-99-s

WILLIAMS RD

NINSON RD

FULLER RD

WILLIE WASHINGTON ST

Site



1 inch = 600 feet

Item 10A



Site Location

1 inch = 50 feet

Item No. 10B

COMPLAINT

11. BD-2018-028 **PRESENTED BY:** Fidel Garcia Luna

REPRESENTING: Same

SUBJECT: Request a special exception to keep chickens at 3801 Quenby Drive in an R-75-s (Single-Family Residential) Zoning District.

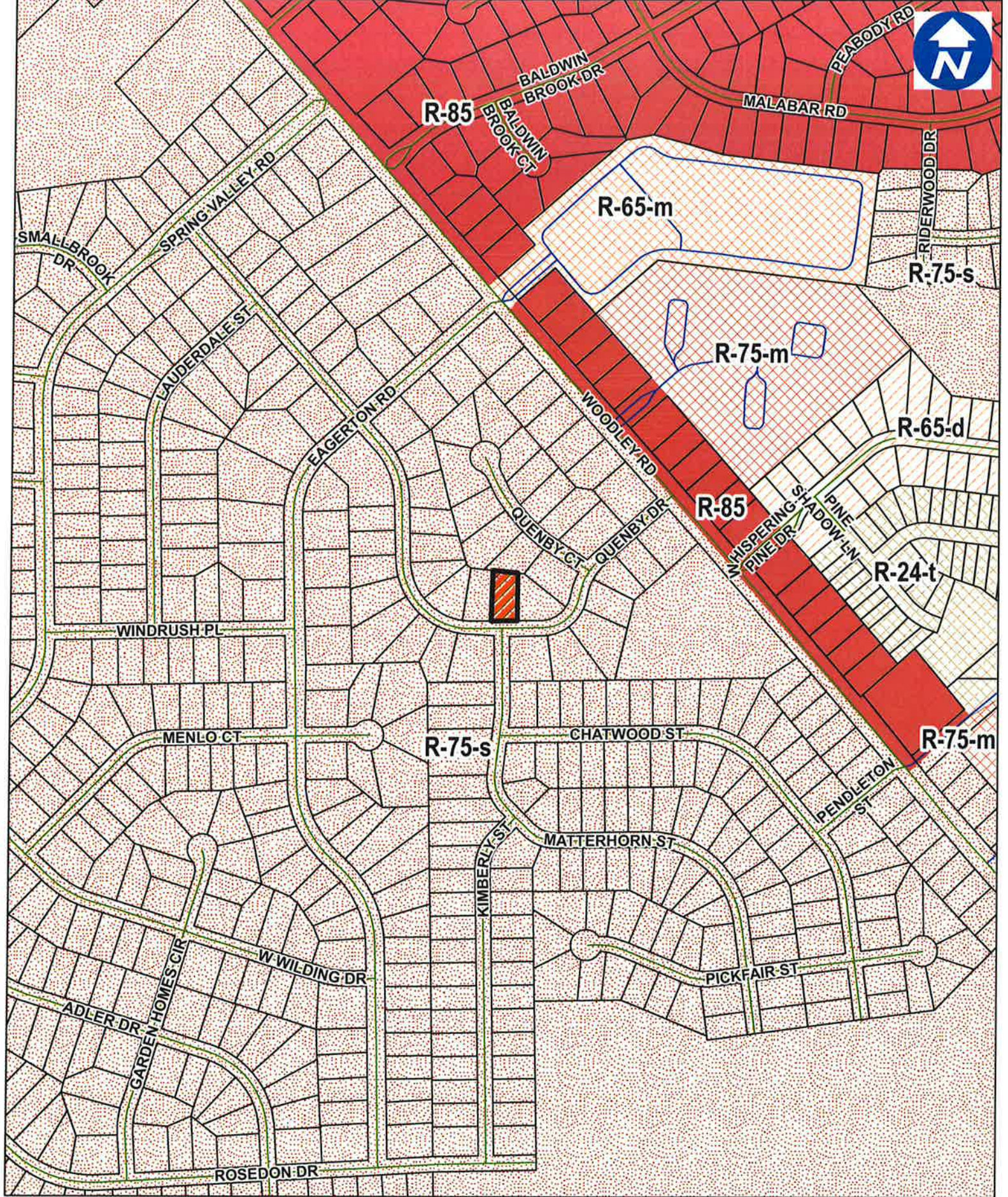
REMARKS: This request is being made to give the petitioner permission to keep up to 17 chickens (no roosters). The chickens are mostly chicks. The applicant has been given the chicken guidelines and has stated they will be in compliance. The complaint came in because of a rooster; however the rooster has been removed.

The request is a special exception to keep chickens.

COUNCIL DISTRICT: 6

COMMENTS _____

ACTION TAKEN: _____



Site 

1 inch = 400 feet

Item 11A



Site Location 

1 inch = 30 feet

Item No. 11B

12. BD-2018-030 **PRESENTED BY:** Midstate Signs

REPRESENTING: Bibb Street Pizza Company

SUBJECT: Request an exception to SmartCode for a new blade sign to be located at 424 Bibb Street in a T5 (Urban Center Zone) SmartCode Zoning District.

REMARKS: This request is being made to give the petitioner permission to erect a 9 sq. ft. (18 in. x 72 in.) internally lit blade sign, whereas external lighting is required.

The request is an exception to SmartCode to allow an internally lit blade sign.

COUNCIL DISTRICT: 3

COMMENTS _____

ACTION TAKEN: _____

FH



W JEF

T2

WATER ST

TALLAPOOSA ST

GOOSA ST

COMMERCE ST

MOLTON ST

T5

BIBB ST

MAXWELL BLVD

LEE ST

CLAY ST

WHITMAN ST

HERRON ST

N GOLDTHWAITE ST

WILKINSON ST

CATOMA ST

MONTGOMERY ST

T4-R

MARTHA ST

T4-O

STATE ST

CHURCH ST

CLAYTON ST

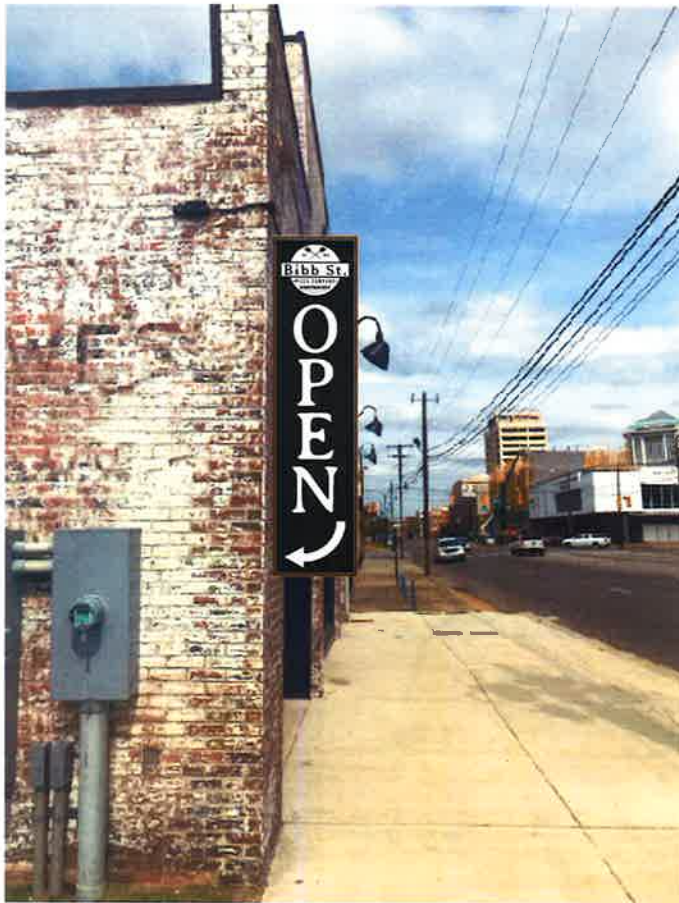


Site



1 inch = 300 feet

Item 12A



lab

Double-sided UL Listed LED cabinet painted duranodic bronze; flat polycarbonate faces w/ cut vinyl in black

CABINET

OVERALL SIZE: 18" x 72"
 CABINET COLOR: DURANODIC
 ILLUMINATION: LED FLUORESCENT
 FACE MATERIAL:
 FLAT FLEX PAN **RED LEDs**
 PAN-EMBOSSSED

CHANNEL LETTERS

FACE-LIT BACK-LIT NON-LIT
 LED COLOR _____
 FACES _____
 TRIM CAP _____
 RETURNS _____
 RACEWAY _____

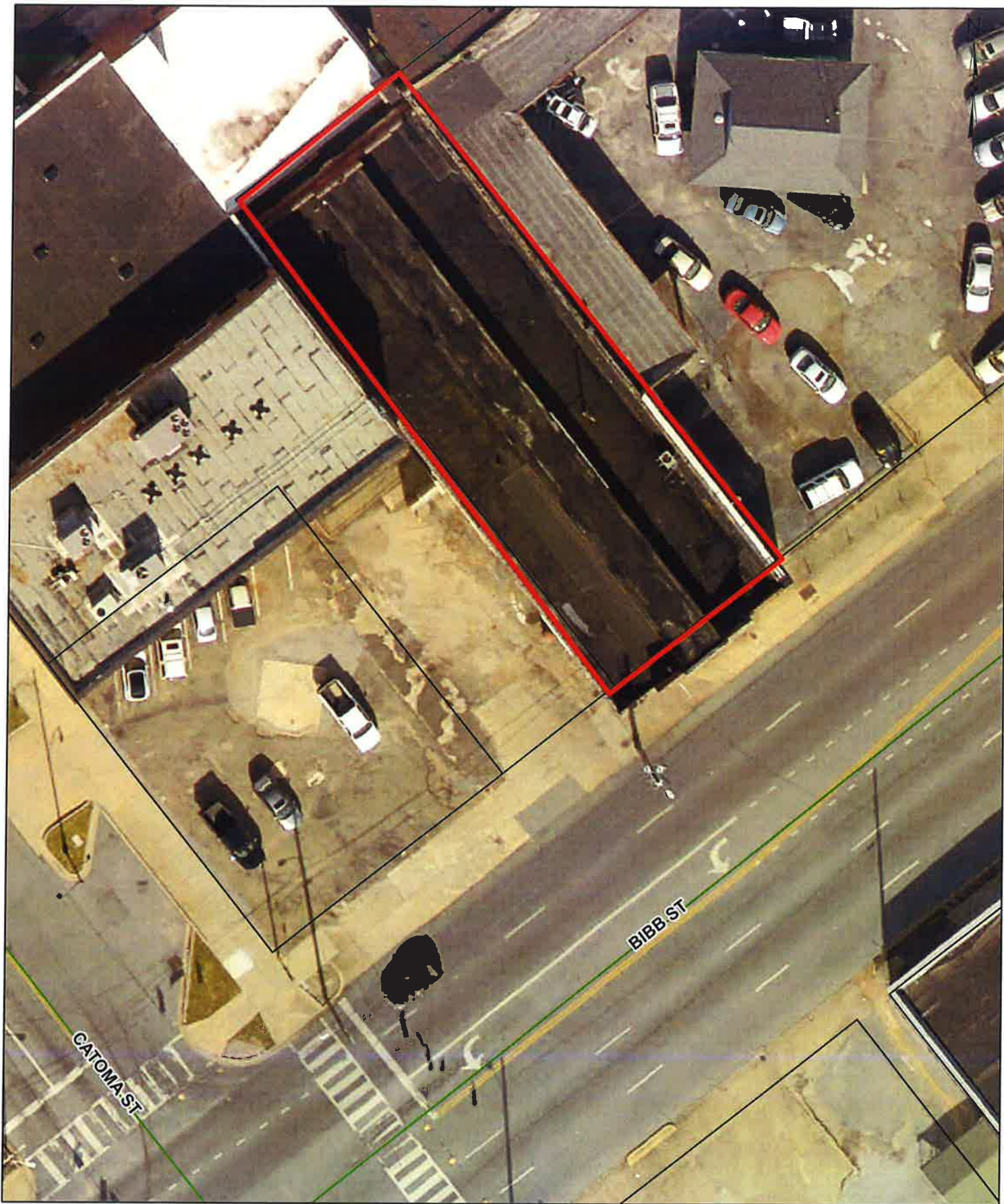
STOREFRONT SCALE:

CUSTOMER APPROVAL SIGNATURE

Midstate
SIGNS
 INDOOR - OUTDOOR - BILLBOARDS - SERVICE
334-262-6340

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Site Location

1 inch = 30 feet

Item No. 12C