



**CITY OF OPELIKA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA**

300 Martin Luther King Blvd.

March 12, 2024

TIME: 9:00 AM

- A. ELECTION OF ZONING BOARD OF ADJUSTMENT OFFICERS (Chair and Vice Chair)
- B. APPROVAL OF MINUTES
- C. VARIANCE
 - 1. Brian Lee, agent for property owner, Hara LLC, 1534 2nd Avenue. Requesting two setback variances and two landscape buffer variances for a building recently constructed in the C-2, GC-S zoning district.
 - (a) Requesting a 2' variance from the minimum 10' side yard setback requirement (east side).
 - (b) Requesting a 0.5' variance from the minimum 20' rear yard setback requirement.
 - (c) Requesting an 8' variance from the minimum 15' buffer requirement along 2nd Avenue.
 - (d) Requesting a 1.5' variance from the 10' buffer requirement along 16th Street.
 - (e) Requesting a variance to not have any planted parking lot islands or peninsulas within the parking lot as required by Section 10.6.C.3.

“In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-5130.”



ZONING BOARD OF ADJUSTMENT MINUTES

300 Martin Luther King Blvd.

January 9, 2024

TIME: 9:00 AM

A. APPROVAL OF MINUTES

The City of Opelika Zoning Board of Adjustments held the regular meeting January 9, 2024 in the Meeting Chambers located at the Opelika Municipal Court, 300 MLK Boulevard. Certified letters were mailed out to all adjacent property owners for related issues for meeting dates.

MEMBERS PRESENT: Chairman Wilbert Payne, Mrs. Raven Harvis, Mr. Brandon Hilyer, and Mrs. Angela George.

MEMBERS ABSENT: Mr. Chris Nunn, Mrs. Tipi Miller, and Mr. Chris Anthony.

STAFF PRESENT: Mr. Marty Ogren, Planning Assistant Director
Mrs. Rachel Dennis, Planner
Mrs. Claire Barber, Planning and Zoning Technician

CALL TO ORDER: Chairman Payne called the meeting to order at 9:01 a.m.

ROLL CALL: Payne, Harvis, Hilyer, George.

Approval of Zoning Board of Adjustment Minutes December 12, 2023

RESULT:	Passed
MOVER:	Raven Harvis
SECONDER:	Brandon Hilyer
AYES:	Hilyer, Harvis, George, Payne
NAYS:	None
ABSTAIN:	None

B. ELECTION OF ZONING BOARD OF ADJUSTMENT OFFICERS (Chair and Vice Chair)

Motion to postpone the election of officers to the next meeting

RESULT:	Passed
MOVER:	Raven Harvis
SECONDER:	Brandon Hilyer
AYES:	Hilyer, Harvis, George, Payne
NAYS:	None
ABSTAIN:	None

C. VARIANCE

1. Kenneth Riley, authorized representative for Fannie Mae, 1626 3rd Avenue, R-5, Requesting an 8' variance from the minimum 20' side yard on street setback and a 5' variance from the minimum 10 foot side yard setback requirement to construct a single family home.

Mr. Ogren presented the staff report to the Zoning Board for the requested 8' variance from the minimum 20' side yard on street setback and a 5' variance from the minimum 10' side yard setback requirement to construct a single family home located at 1626 3rd Avenue. He stated that staff recommends approval for an 8-foot variance from the minimum 20-foot 'side yard on street' setback (17th Street) requirement and a 5-foot side yard variance from the 10-foot side yard setback requirement.

Chairman Payne opened the public hearing.

Chairman Payne asked if any adjacent property owners had contacted Planning staff about this item?

Mr. Ogren stated that one person spoke to staff about the house being small.

Kenneth Riley, authorized applicant, stated that Fannie Mae foreclosed on this property last year and their mission statement is owner occupancy and neighborhood stabilization. He stated that they were going to try to remodel it, but the structural report stated that 35-40% of the floor was gone. He stated that they had to demolish the property, and they were left with a lot. He stated that they want to build a new house of good quality with all new appliances and everything that a house in a new subdivision would have. He noted that for the first 30 days they will only sell it to an owner occupant. He stated that it will be about 1,300 square feet with 3 bedrooms and 2 baths. He stated that the right-of-way to the street is 60 feet, and it doesn't leave a lot of room. He stated that there are no issues with the line of site or safety issues, and they just want to compact it so that they can get the house on the lot and help the community.

Mrs. Harvis asked if Planning is anticipating seeing this type of variance in the future because all of these lots are narrow?

Mr. Ogren stated that they are.

Chairman Payne closed the public hearing.

Motion to approve a variance of an 8-foot variance from the minimum 20-foot 'side yard on street' setback (17th Street) requirement and a 5-foot side yard variance from the 10-foot side yard setback requirement

RESULT:	Passed
MOVER:	Brandon Hilyer
SECONDER:	Angela George
AYES:	Hilyer, Harvis, George, Payne
NAYS:	None
ABSTAIN:	None

D. ADJOURN

Motion to adjourn at 9:14 a.m.

RESULT:	Passed
MOVER:	Raven Harvis

SECONDER:	Brandon Hilyer
AYES:	Hilyer, Harvis, George, Payne
NAYS:	None
ABSTAIN:	None

_____ Wilbert Payne, Chairman

_____ Matt Mosley, Secretary

CITY OF OPELIKA - BZA
STAFF REPORT
March 12, 2024

Applicant: HARA, LLC, Manish Desai, represented by Brian Lee, ACAI

Property: 1534 2nd Avenue (subject property)

Existing Zone: C-2, GC-S Overlaye

Request:

- a) Requesting a 2' variance from the minimum 10' side yard setback requirement (east side)
- b) Requesting a .5' variance from the minimum 20-foot rear yard setback requirement
- c) Requesting a 8' variance from the minimum 15' buffer requirement along 2nd Avenue
- d) Requesting a 1.5' variance from the 10' buffer requirement along 16th Street
- e) Requesting a variance to not have any planted parking lot islands or peninsulas within the parking lot as required by Section 10.6.C.3.

The applicant built a 7,735 square feet on a 0.76 acre lot on the corner of 2nd Avenue and 16th Street. The property is zoned C-2 with a Gateway Corridor Overlay zone. During prior to landscape inspection it became evident that the plan was different than the original site plan. Most notably the landscape islands and the configuration of the parking lot appeared to be different. It also appeared that the parking lot was closer than proposed in the site plan. To confirm the information, staff required the applicant to do an asbuilt survey. The survey confirmed the smaller buffers and also revealed that the building encroached on the two setbacks. The site was designed to maximize the amount of building and parking lot on the property. However, this utilization and changes during construction have led to encroachments into setbacks and buffers. Some of these may be from surveying or execution errors.

a) Requesting a 2' variance from the minimum 10' side yard setback requirement (east side)

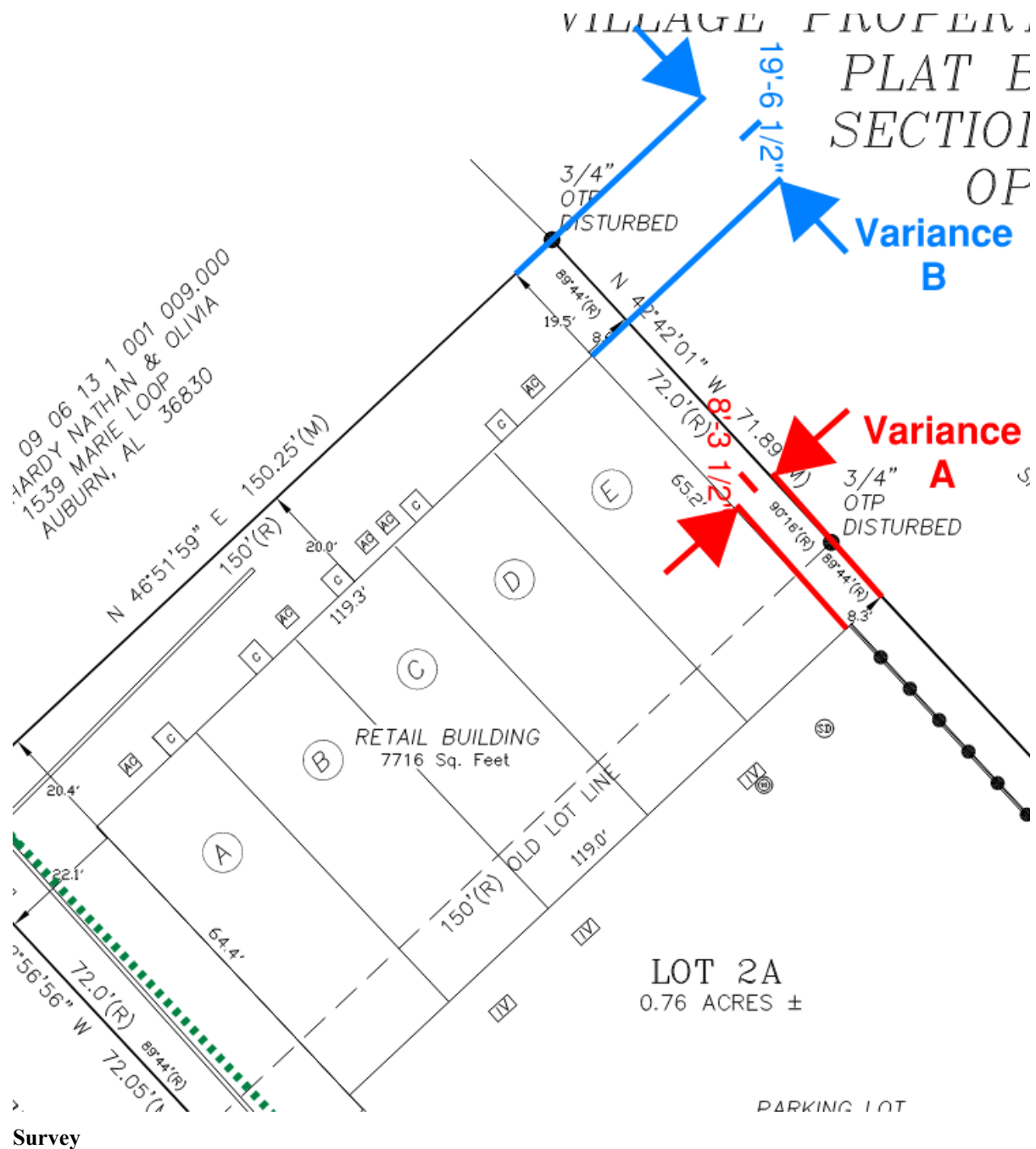
The building dimensions are 65 feet by 119 feet. The building was both proposed and built to those dimensions. The setbacks for this property based on the GC-S overlay are:

Front:	25 feet
Side:	10 feet
Side on Street	20 feet
Rear:	20 feet

During the as-built survey it was determined that the building was constructed at 8.3 feet from the property line to the northeast (O'Reilly's Auto). The lot is 150 feet in length. The

[illegible]

Page 2 of 6



Survey

Recommendation: Staff cannot recommend approval of a self-created hardship. However, not granting the variance would require the building to be substantially altered by removing almost two (2) feet from the northeast side.

b) Requesting a .5' variance from the minimum 20-foot rear yard setback requirement

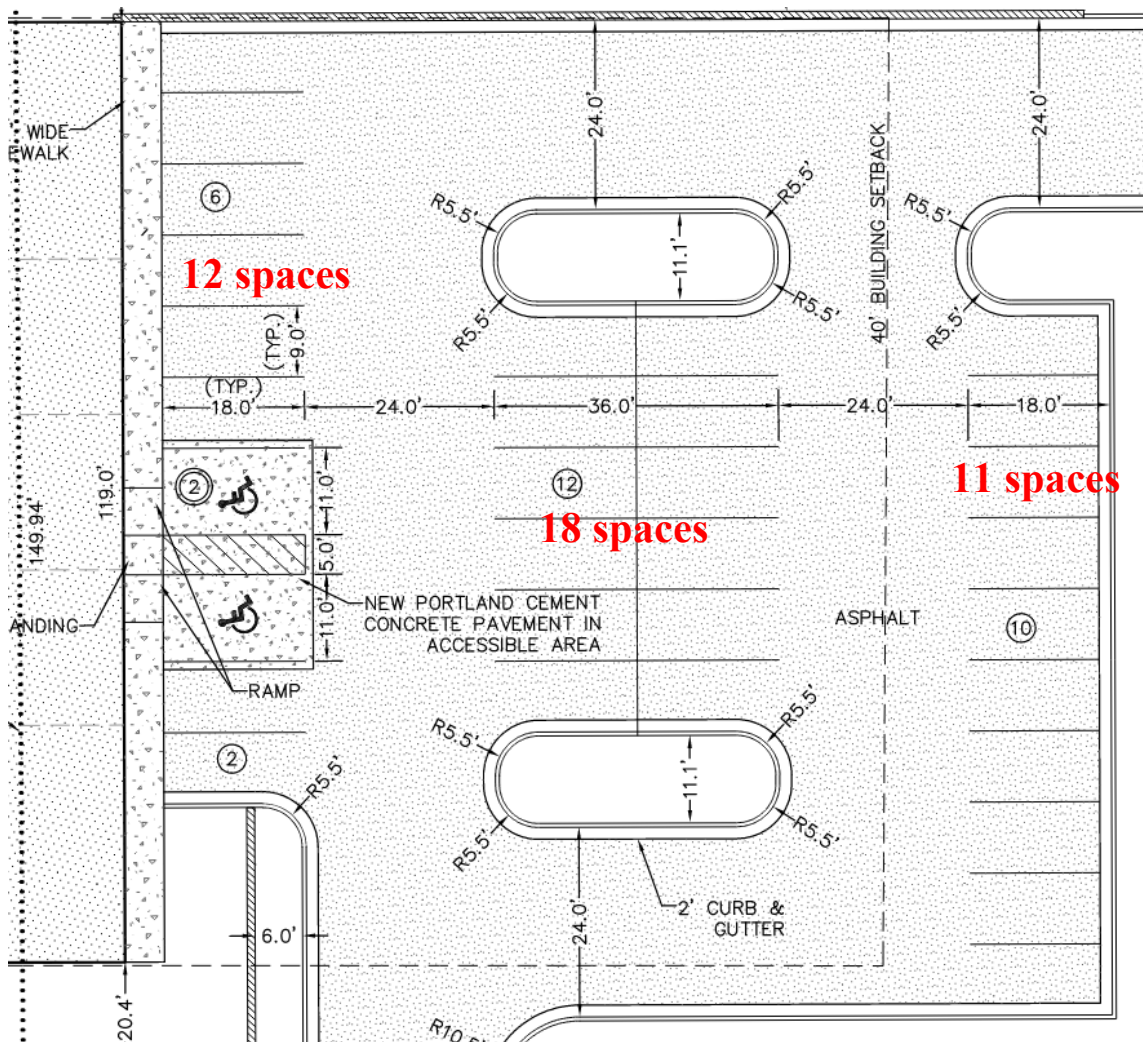
In this instance the rear setback is required to be 20 feet from the rear property line. The proposed plan was shown at exactly 20 feet. It was constructed at 19.5 feet. Again, we do not know how this occurred, but the site is very tight and the encroachment is very minor.

This property does share a border with a residential property and is required to have a significant residential buffer located to prevent the rear of the building from being visible.

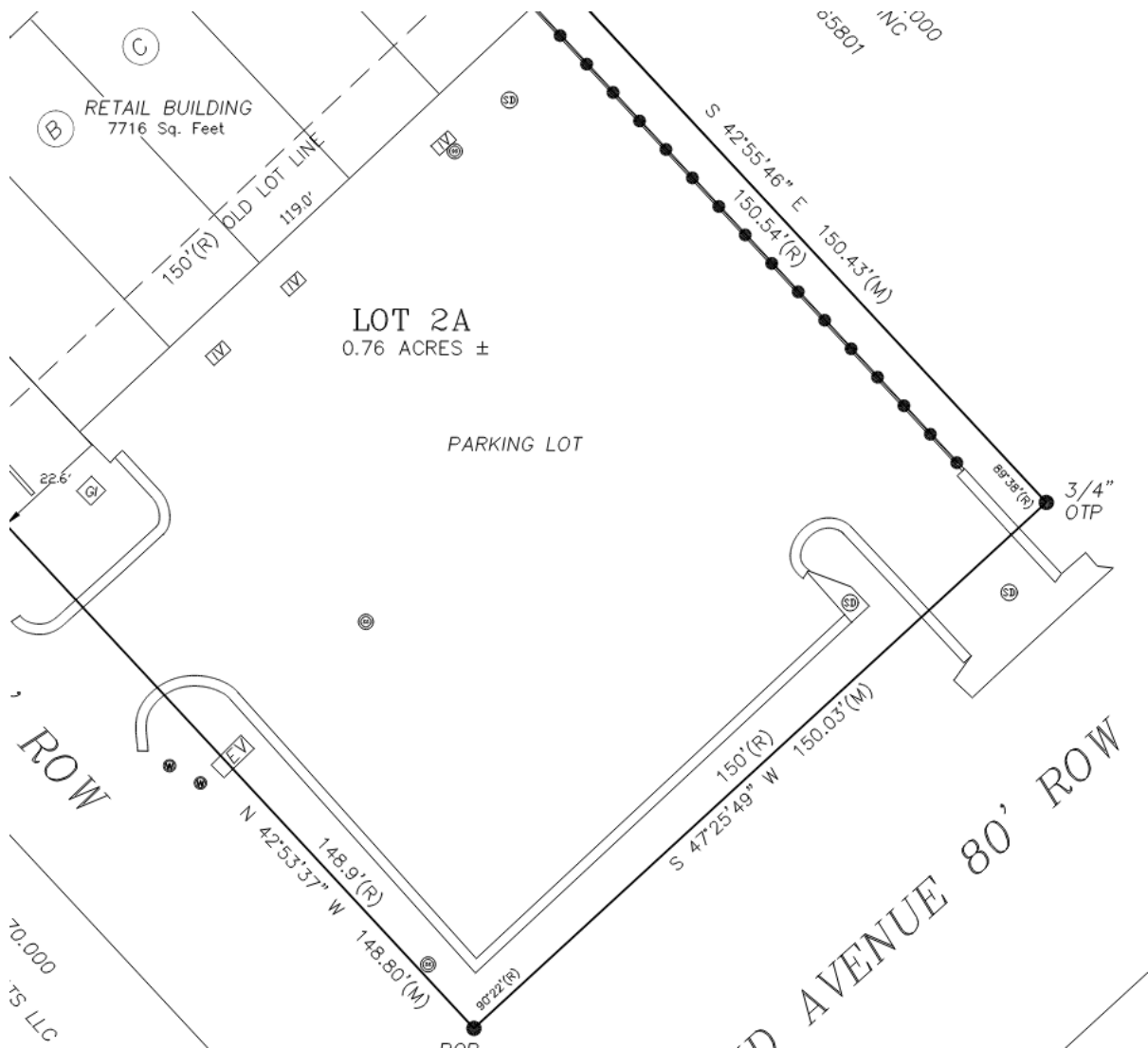
Recommendation: Staff cannot recommend approval of a self-created hardship. This variance is extremely minor, less than 1 foot, and unlikely to substantially impact the adjoining property.

c) Requesting a 8' variance from the minimum 15' buffer requirement along 2nd Avenue

The remaining three items deal with parking lot area. The parking lot was approved with 32 parking spaces. It was increased by 9 spaces to 41 total spaces. This represented almost a 10 percent increase in the parking area. This also encroached into the required buffers and removed parking islands and peninsulas.



Approved Parking Lot



Surveyed Parking Lot

The required bufferyard along the gateways is supposed to be 15 feet in width. This was noted as a comment in early plans. The plan was mistakenly approved at just over 10 feet. It was installed between 7-8 feet from the right-of-way. The applicant does not provide any reasoning in the application for the change, although they have mentioned, that the increase was due to the private sewer being installed in a larger sidewalk along the front of the building. Because the parking lot was built to the maximum size that would fit, if the sidewalk was extended, it would be have pushed the parking lot into the buffer. This was done without consulting the Planning Department. While we do take responsibility for allowing the site to be approved with a 10 foot buffer instead of 15 foot buffer, we did not approve the additional three (3) feet.

Recommendation: Staff recommends approval of a variance of five (5) which would require a 10 foot buffer as shown on the original site plan. Staff does not recommend a full eight (8) foot variance.

d) Requesting a 1.5' variance from the 10' buffer requirement along 16th Street

The applicant is also requesting a 1.5 foot variance from the required 10 foot variance on 16th Street. The buffer for this side is required to be 10 feet in width. It was shown on the proposed site plan at over 13 feet from the property line on the original plan. Again, the applicant does not provide a hardship or justification for the variance. They do appear to have gained a parking space in this direction along 2nd Avenue. The parking lot is now between 7.5-8.5 feet from the property line.

Staff cannot recommend approval of a self-created hardship. Staff recommends the denial of this variance.

e) Requesting a variance to not have any planted parking lot islands or peninsulas within the parking lot as required by Section 10.6.C.3.

Parking lot islands and peninsulas are required to break up lots larger than 25 parking spaces. This give room for interior landscaping, lighting and other features. The original site plan showed a larger landscape peninsula near 16th Street and two parking islands. Both of those have been removed completely. The applicant has stated that he felt they would be difficult to maneuver around. These islands are similar size to those we require on most parking lots. The design was submitted by the applicant's representative. If the applicant felt that the islands were not appropriate, the site should have been redrawn or modified before submission.

Staff cannot recommend approval of a self-created hardship. Staff recommends the denial of this variance.



**APPLICATION FOR
VARIANCE (Section 4.2A)**
PLANNING DEPARTMENT
700 FOX TRAIL
OPELIKA, AL 36801



DATE:	Zoning Board of Adjustment Meeting Date:
Case Number:	Meeting Deadline:

PART I. OWNER / APPLICANT INFORMATION

Owner Name _____ Address _____ Phone _____

Agent Name (if applicable) _____ Address _____ Phone _____

PART II. PARCEL INFORMATION

Street Address: _____

Current Zoning: _____

Current Land Use: _____

Type of Variance Sought: _____ Sign _____ Parking _____ Setback _____ Other _____

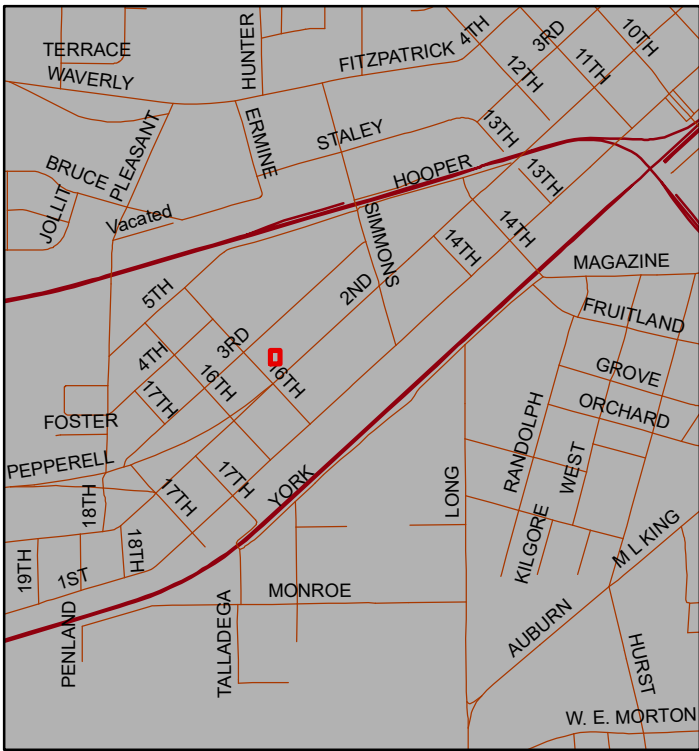
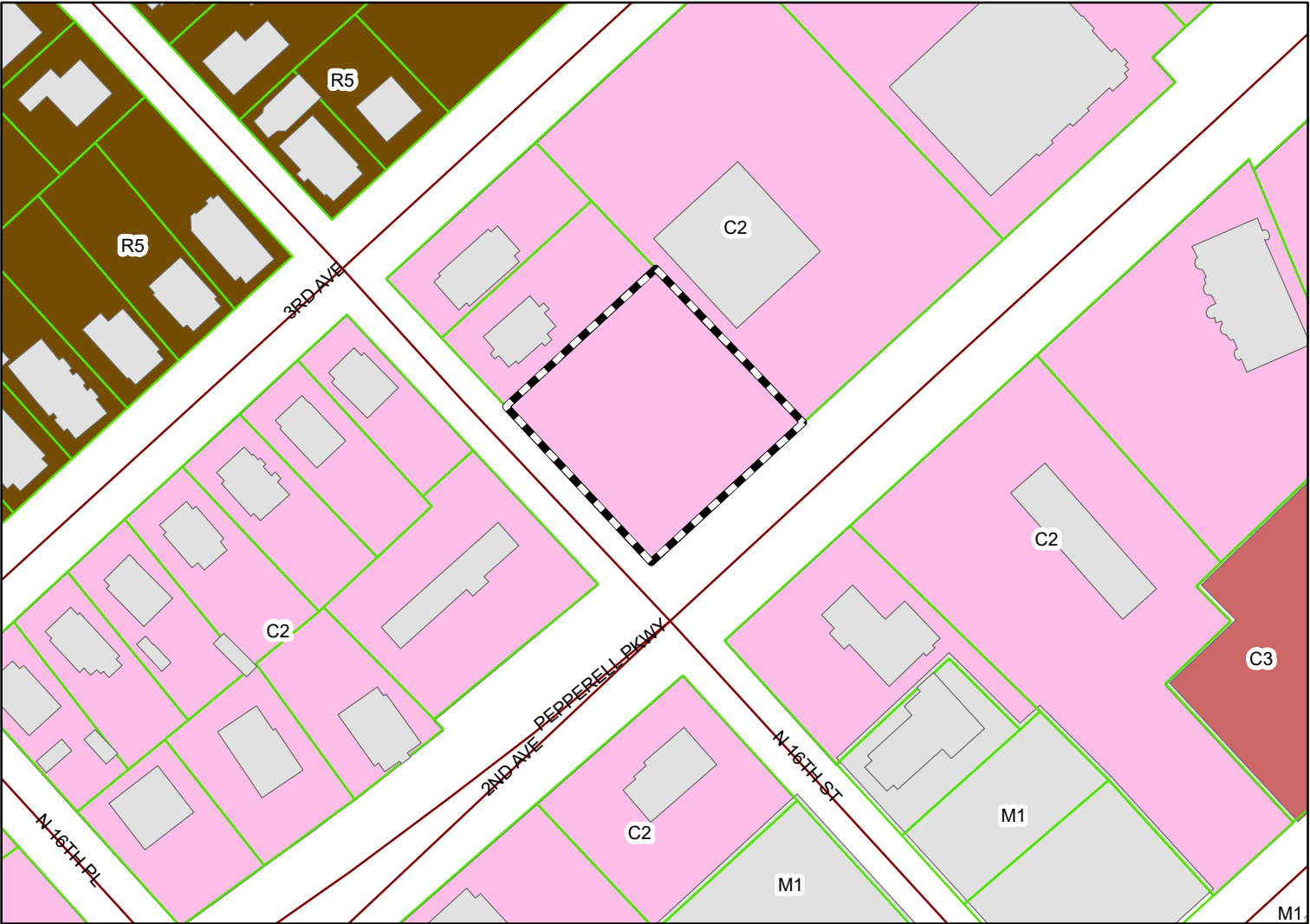
PART III. Provide a Brief Description and Reason for the Variance (attach a zoning map or site plan) _____

Setback	Required	Proposed	Amount of Variance
Front			
Side			
Side			
Rear			

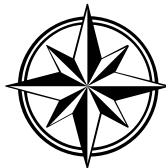
PART IV.

1) Are there extraordinary and/or exceptional conditions to the particular property, which make a variance necessary? _____

HARA LLC SETBACK & LANDSCAPE VARIANCE REQUESTS
1534 2nd AVENUE
SETBACK & LANDSCAPE VARIANCES

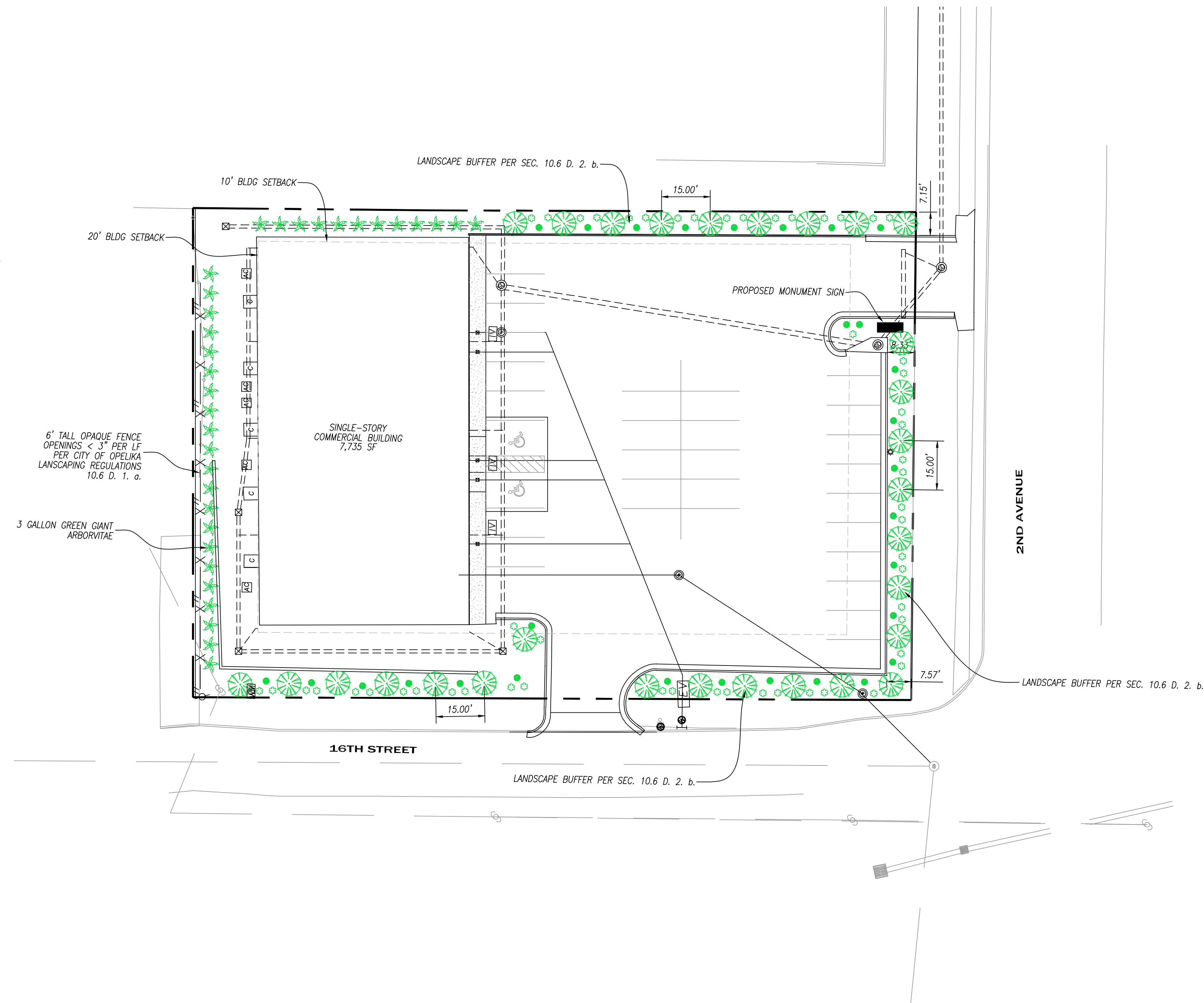


The applicant is requesting two setback and three landscape variances for a commercial building recently constructed. The building is in the Gateway Corridor Overlay district. C-2, GC-S.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without verification by an independent professional qualified to verify such information.

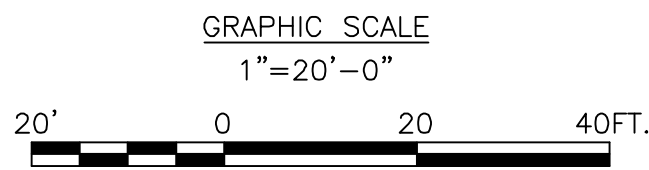


	QUANTITY	SIZE	POINTS	SYMBOL
BASE POINTS				
UNDERSTORY TREE	29	1.25"-1.5" CALIPER	145	
SHRUB	82	1 GALLON	82	
TOTAL BASE POINTS			227	
PARKING LOT POINTS				
SHRUB	34	1 GALLON	34	
TOTAL PARKING LOT POINTS			34	
TOTAL POINTS			261	

SQUARE FOOTAGE OF DEVELOPED AREA	33,236
BASE POINTS REQUIRED	100
BASE POINTS OBTAINED	227
PARKING LOT POINTS REQUIRED	34
PARKING LOT POINTS OBTAINED	34
RESIDENTIAL BUFFER REQUIRED	YES
PARKING LOT BUFFER REQUIRED	YES

LANDSCAPE NOTES:

- IRRIGATION SYSTEM DESIGN AND INSTALLATION BY LANDSCAPE CONTRACTOR.
- LANDSCAPING, IRRIGATION, AND SOD, TO BE CONTRACTED DIRECTLY WITH THE OWNER.
- ACCEPTABLE SUBSTITUTE PLANTS ARE LISTED IN THE CITY OF OPELIKA LANDSCAPE ORDINANCE OR AS APPROVED BY THE CITY HORTICULTURIST.
- THIS PLAN IS INTENDED TO SHOW MINIMUM POINTS REQUIRED BASED ON THE DISTURBED AREA.
- ISR = .75



16TH STREET COMMERCIAL
MANISH DESAI
16TH STREET, OPELIKA, AL

ISSUED:
2/22/24 REV AS BUILT

JOB NO:
DRAWN BY: WBS/AMH
CHECKED BY: BFL
DATE: 12 JAN. 2024
SCALE: 1"=20'-0"

LANDSCAPE
PLAN

CERTIFICATE OF OPELIKA UTILITIES BOARD

THE UNDERSIGNED, AS AUTHORIZED BY THE OPELIKA UTILITIES BOARD HEREBY APPROVED THE WITHIN PLAT FOR RECORDING OF THE SAME IN THE PROBATE OFFICE OF LEE COUNTY, ALABAMA, THIS _____ Day of _____, 2023.

AUTHORIZED SIGNATURE

THE PLAT SHOWN HEREON MEETS ALL REQUIREMENTS SET FORTH AND IS HEREBY APPROVED.

CITY PLANNER _____ DATE: _____

CITY ENGINEER _____ DATE: _____

PUBLIC WORKS DIRECTOR _____ DATE: _____

POWER SERVICES _____ DATE: _____

OWNER'S CERTIFICATE

I, , MANISH DESAL, As managing member of HARA LLC. the owner(s) of said lands surveyed by R.D.ROBERTSON , do hereby certify that title was and is vested in said owner(s) and join in the foregoing statement made by said , R.D.ROBERTSON and ,do hereby certify that it was and is my (our) intention to divide said lands into lots as shown by said plat

Signed and sealed in the presence of:

Property Owner _____ DATE: _____

I, _____, A NOTARY PUBLIC IN AND FOR _____ COUNTY, _____, HEREBY CERTIFY THAT MANISH DESAL, WHOSE NAME IS SIGNED TO THE CERTIFICATE HEREON AND WHO IS KNOWN TO ME, ACKNOWLEDGED BEFORE ME THAT, BEING INFORMED OF THE CONTENTS OF SAID CERTIFICATE, EXECUTED THE SAME VOLUNTARILY ON THE DAY SAME BEARS DATE. IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND SEAL OF OFFICE ON THIS THE, _____ DAY OF _____, 2023.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES: _____

AN EASEMENT IS HEREBY GRANTED TO THE CITY OF OPELIKA, AND TO ANY POWER AND TELEPHONE COMPANIES SERVING THE CITY OF OPELIKA, FOR THE PURPOSE OF INSTALLING, OPERATING AND MAINTAINING POLES, LINES, GUY WIRES AND OTHER FACILITIES. EASEMENT TO BE TEN (10) FEET WIDE, BEING FIVE (5) FEET ON EACH SIDE OF THE FRONT AND SIDE LOT LINES.

ZONING: C2. SECONDARY GATEWAY CORRIDOR

WATER: OPELIKA UTILITIES BOARD

SEWER: OPELIKA UTILITIES BOARD

POWER: OPELIKA POWER SERVICES

OWNER: HARA LLC
ADDRESS: 2800 STONYBROOK DR
OPELIKA, AL 36804
PROPERTY ADDRESS:
209 N 16TH ST, OPELIKA, AL

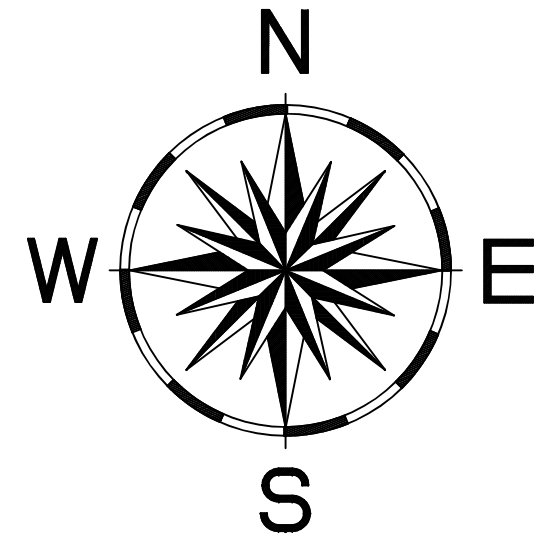
SMALLEST LOT SIZE: 0.76 ACRES ±
TOTAL ACRES: 0.76 ACRES ±
TOTAL NUMBER OF LOTS IS 1
FLOOD ZONE X AS SHOWN HERE ON PER FIRM MAP NO.
01081C0069G, effective on 11/2/2011

NOTES:
COPIES OF THIS SURVEY WITHOUT ORIGINAL SEAL ARE INVALID
SUBJECT TO ALL RIGHTS OF WAY, EASEMENTS AND RESTRICTIONS WHICH EXIST AS A MATTER OF RECORD OR EXIST DE FACTO.
Easements are privately maintained.
All structures, including fences, are prohibited on easements.
Access to easements shall not be restricted.

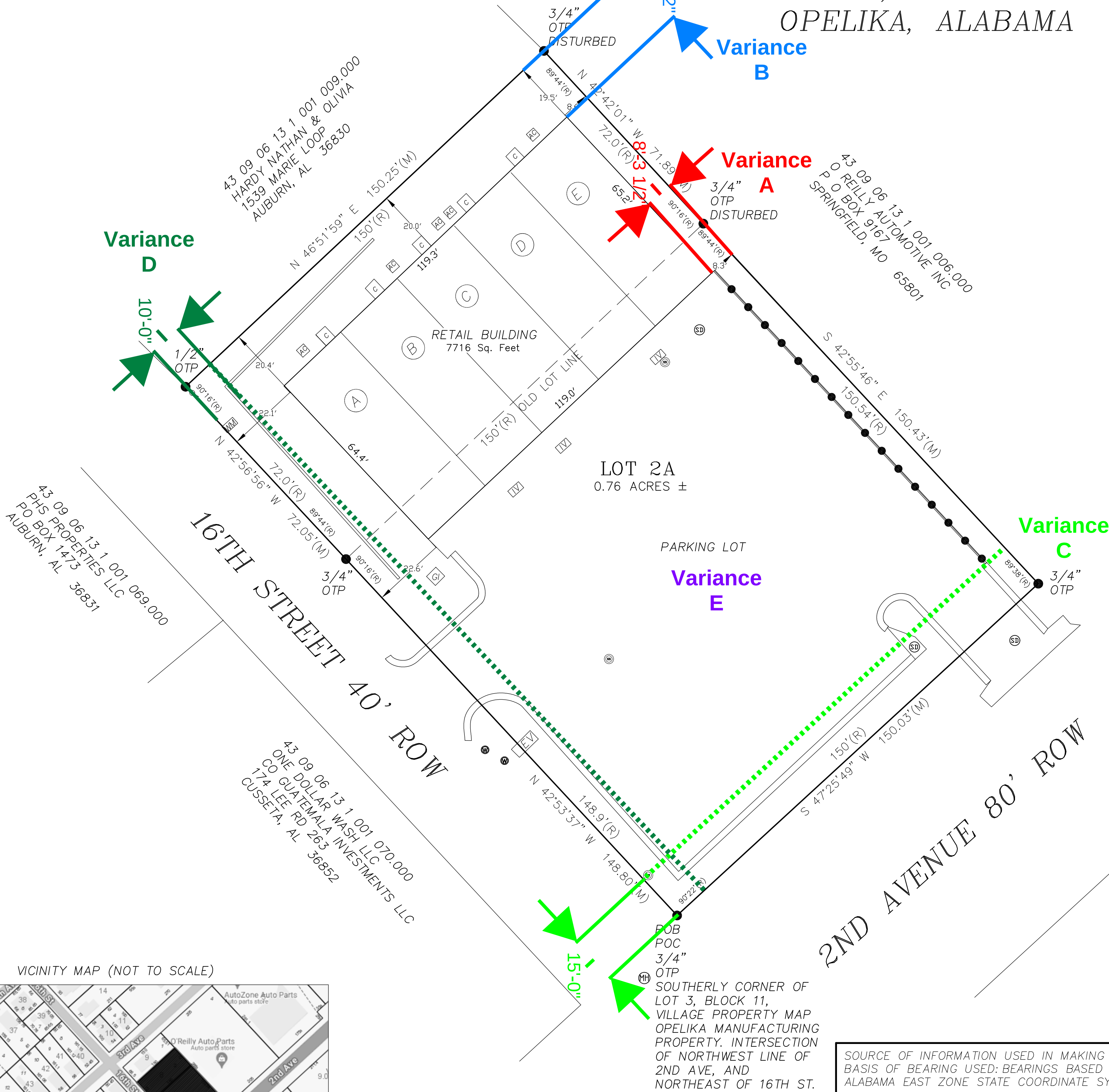
VICINITY MAP (NOT TO SCALE)



1ST REVISION OF LOT 2 & 3, BLOCK 11
VILLAGE PROPERTY MAP OPELIKA MANUFACTURING
PLAT BOOK 4 PAGE 49 & 50
SECTION 13, T-19-N R-26-E
OPELIKA, ALABAMA



THIS IS AN AS-BUILT SURVEY SHOWING THE IMPROVEMENTS AND ALSO THE PROPOSED ADMIN PLAT COMBINING LOTS 2 AND 3. THE NEW LOT IS DESCRIBED AS 2A. LET US KNOW IF ANYTHING ELSE NEEDS TO BE SHOWN AS RELATED TO THE AS-BUILT.



LEGEND

- (M) = MEASURED
- (R) = RECORDED
- OTP = OPEN TOP PIPE
- CTP = CRIMPED TOP PIPE
- IPF = IRON PIN FOUND
- IPS = IRON PIN SET (RDR)
- RDR = R.D. ROBERTSON
- = IRON PIN FOUND
- = 1/2" REBAR SET (RDR)
- = HUB SET
- △ = CALCULATED POINT
- = CONCRETE MONUMENT
- ⌂ = POWER POLE
- x-x- = WIRE FENCE
- // -// = WOOD FENCE
- = CHAIN LINK FENCE
- ⊙ = WATER VALVE
- ⊕ = STORM DRAIN MANHOLE
- ⊗ = SEWER CLEAN OUT
- WM = WATER METER
- EV = ELECTRICAL VAULT
- IV = IRRIGATION VALVE
- GI = GRATED DRAIN INLET
- AC = AIR CONDITIONING UNIT
- C = CONCRETE PAD
- ⊕ = SEWER MANHOLE

SOURCE OF INFORMATION USED IN MAKING THIS SURVEY IS: DB 2659 PG 454, DB 2671 PG 804, PB 4 PG 49 & 50
BASIS OF BEARING USED: BEARINGS BASED ON GPS RTK OBSERVATION USING AUBURN CORS HORIZONTAL DATUM IS NAD 83
ALABAMA EAST ZONE STATE COORDINATE SYSTEM. NORTH IS BASED ON GRID NORTH

DATE OF FIELD SURVEY: 2/13/24 DATE OFFICE WORK COMPLETED: 2/21/24

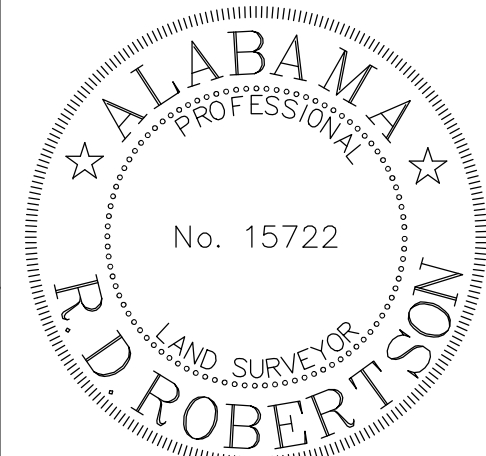
I HEREBY CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN MADE IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

SURVEYOR'S SIGNATURE: _____

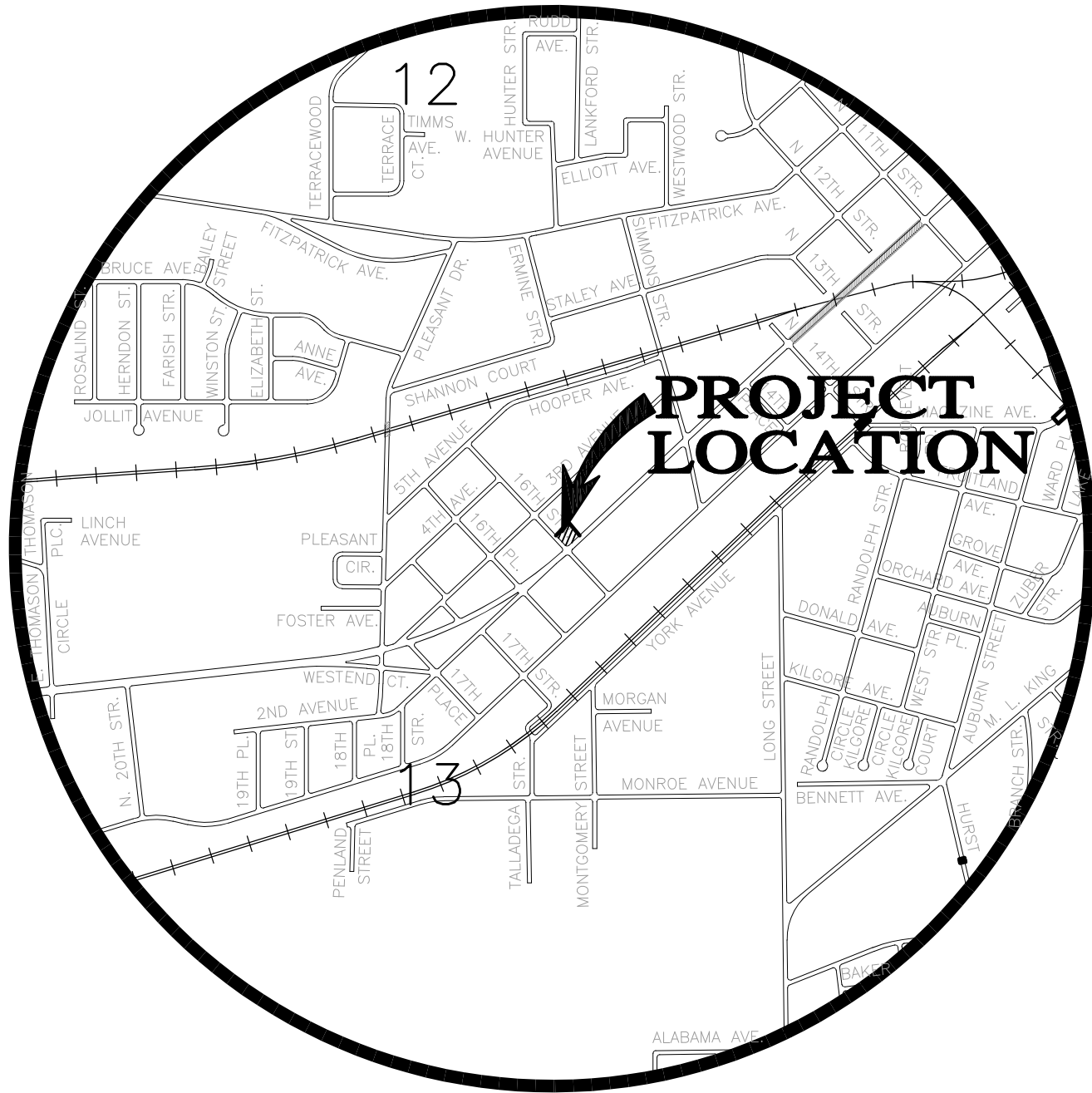
R. D. ROBERTSON
ALABAMA LICENSE NUMBER 15722

ROGER ROBERTSON SURVEYING
2190 KEYSTONE DRIVE
AUBURN, AL 36879
(334) 275-1463

JOB #
R24-111



16TH STREET COMMERCIAL
SITE PLAN

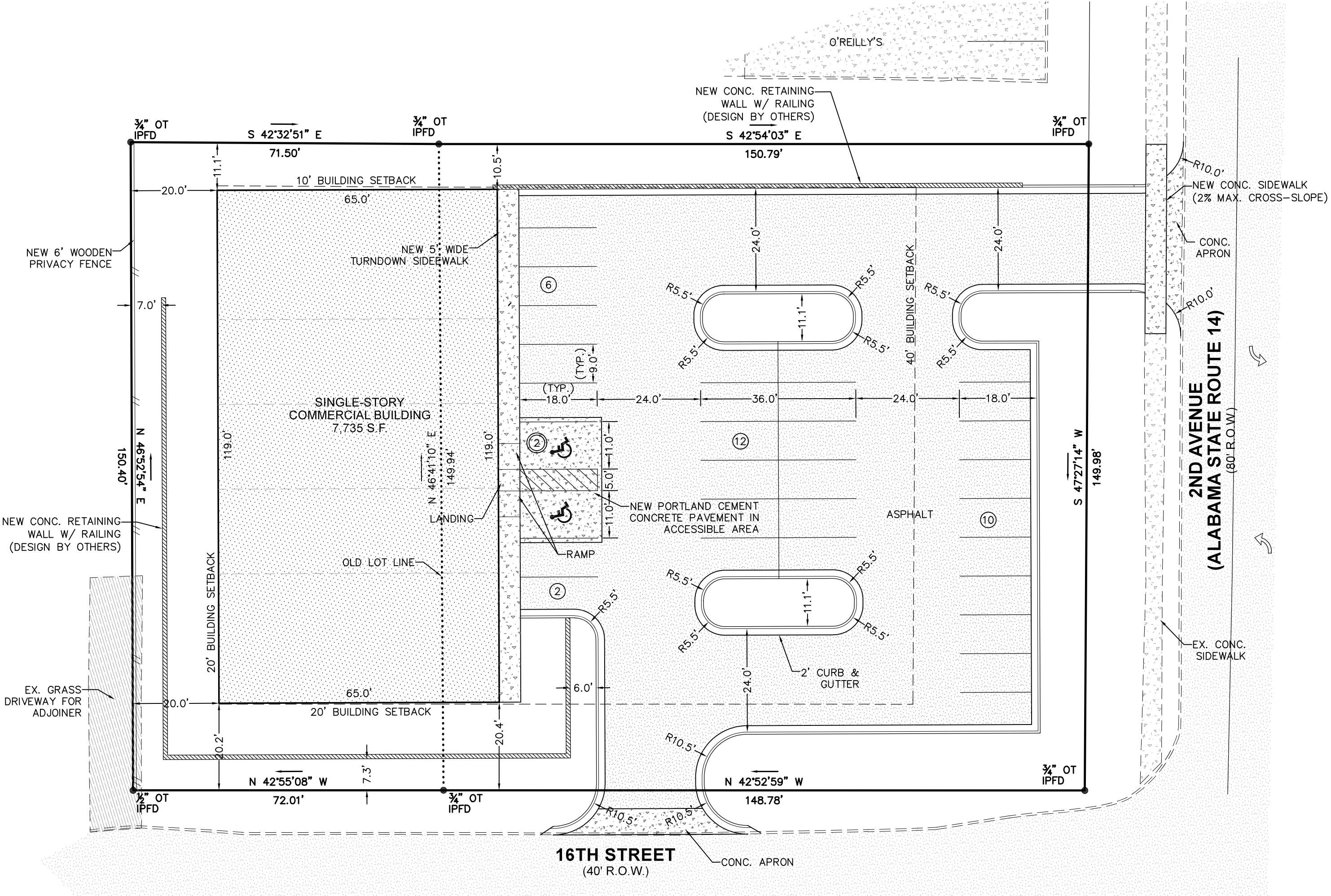


SITE INFORMATION
TABLE

LOT NAME: LOT 2-A
LOT SIZE: 33,235.8 S.F. ± (0.76 AC. ±)
ZONING: R-5
PROPOSED USE: COMMERCIAL/OFFICE
REQUIRED SPACES: N/A
PROVIDED ACCESSIBLE SPACES: 2
PROVIDED REGULAR SPACES: 30
PROVIDED SPACES (TOTAL): 32
IMPERVIOUS SURFACE: 22,890 S.F.
I.S.R. ALLOWED: N/A
I.S.R. ACTUAL: 0.69
STORIES: 1
TOTAL BUILDING AREA = 7,735 S.F.
TOTAL F.A.R. ALLOWED: N/A
TOTAL F.A.R. ACTUAL: 0.23
FLOOD HAZARD INFORMATION: ZONE X



SCALE: 1"= 20'



16TH STREET COMMERCIAL
SITE PLAN

OPELIKA

SHEET
2 OF 8

ALABAMA
SURVEYING & DESIGN, LLC

2004 Yehorough Drive
Opelika, Alabama 36801
Phone: (334) 748-9200
Web: www.baseline-llc.com

2014 Yehorough Drive
Opelika, Alabama 36801
Phone: (334) 748-9200
Web: www.baseline-llc.com

DESIGNED
ARN

DRAWN
DMC

DATE
01/24/23

JOB NO.
B51322.01

THIS DRAWING IS THE PROPERTY OF BASELINE SURVEYING & DESIGN, LLC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BASELINE SURVEYING & DESIGN, LLC.

01/24/23

ALABAMA
LICENSED
PROFESSIONAL
ENGINEER
No. 28311
MATTHEW R. NETTLES

NO.

REVISION

DATE

APPR.