



**CITY OF OPELIKA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
300 Martin Luther King Blvd.**

June 10, 2025

TIME: 9:00 AM

- A. APPROVAL OF MINUTES
- B. VARIANCE
 - 1. Ryan Kennedy, authorized representative for Nuria Laney, property owner, 3602 Village Creek Court, Cedar Creek PUD zoning district, Requesting a 4.3-foot rear yard setback variance from the 20-foot minimum rear yard setback requirement for a 15.6' x 25.6' patio cover addition.

“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.

March 11, 2025

TIME: 9:00 AM

1. VARIANCE

The City of Opelika Zoning Board of Adjustment held its regular monthly meeting March 11, 2025 in the Meeting Chambers, located at the Opelika Municipal Court. Certified letters have been mailed to all adjacent property owners for related issues.

MEMBERS PRESENT: Chairman Wilbert Payne, Mrs. Raven Harvis, Mrs. Tipi Miller, Mr. Brandon Hilyer, Mr. Chris Anthony, Mrs. Micah Melnick, and Mrs. Angela George.

MEMBERS ABSENT: none

STAFF PRESENT: Mr. Matt Mosley, Planning Director
Mr. Marty Ogren, Planning Assistant Director
Mrs. Rachel Dennis, Planner

CALL TO ORDER: Chairman Payne called the meeting to order at 9:04 a.m.

ROLL CALL: Payne, Harvis, Miller, Hilyer, Anthony, George and Melnick.

Approval of Zoning Board of Adjustment Minutes August 13, 2024

RESULT:	Passed
MOVER:	Position 4 Raven Harvis
SECONDER:	Position 1 Tipi Miller
AYES:	Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne, Position 7 Anthony
NAYS:	None
ABSTAIN:	None

1. Mac Jones, authorized representative for Freedom Builders Inc., property owner, 825 Asheton Drive, R-3 zoning district, Requesting a 6.7 foot variance from the minimum 30-foot front yard setback requirement to construct a single family home.

Mr. Mosley stated that the first variance was for a front setback at 825 Asheton Drive. He noted that this development was just completed, but this lot included large easements that

limited development on the lot. He explained that the applicant was requesting a variance to be allowed to build a similar size home as others in the subdivision. Mr. Mosley stated that variance has been reduced slightly after review. He also explained that this variance would not encroach on any existing homes. He stated that since the variance would move the home slightly closer to the street, it would not encroach on any adjoining properties. Mr. Mosley stated that after review, staff was recommending a 3.7 foot variance from the required 30 foot front setback to allow a home to be 26.3 feet from the right-of-way.

Chair Payne opened the public hearing.

Doug Lee, representing Freedom Builders, stated he was happy to answer any questions.

Chair Payne closed the public hearing.

Motion to approve the 3.7-foot front yard variance from the minimum 30-foot front yard setback requirement.

RESULT:	Passed
MOVER:	Position 4 Raven Harvis
SECONDER:	Position 2 Brandon Hilyer
AYES:	Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne, Position 7 Anthony
NAYS:	None
ABSTAIN:	None

2. Michael Maher, authorized representative for Hayley Investments LLC, property owner, R-2 zoning district, Requesting a setback variance for lots in the Arrowhead at Forest Hills Subdivision to a minimum of 15 feet front yard, 10 feet side yard, 30 feet rear yard and 15 feet side yard on street.

Mr. Mosley stated that the applicant is requesting multiple setback variances on the buildable lots within this subdivision. The subdivision contains 51 lots. Thirteen of these lots are non-buildable due to the presence of floodplain. The subdivision is located in the R-2 zone and was approved in July 2023 and recorded in August 2023. The setbacks for the R-2 zone are:

Front: 35 feet
Side: 15 feet
Rear: 30 feet
Side Street: 25 feet

The plat was recorded with a note (Note 6). This note states that the setbacks are:

Front: 15 feet
Side: 10 feet
Rear: 30 feet
Side Street: 15 feet

Mr. Mosley stated that the discrepancy between the zoning requirement and the plat creates confusion for the people that have purchased the lots expecting the less restrictive setbacks. While the setbacks were noted as being incorrect during the initial review at preliminary plat, the note was on the plat reviewed by Planning Commission and ultimately signed by City officials.

Mr. Mosley explained that staff reviewed the proposed setbacks to determine how this might

affect adjoining property owners. There are two homes currently either constructed or under construction. All lots were sold with the setbacks on the lot listed. The homes that are under construction all meet the R-2 standards with one being 125 feet off the front property and one being approximately 55 feet from the front property line. Because the rear setbacks are the same as R-2, there is only one location where a lot within this subdivision would be adjacent to a lot outside the subdivision with a non-compliant setback from an R-2 standpoint. In most cases open space lots and streams are also between these lots and adjacent residential sites. Lot 38 has the potential to have a home closer to a residential lot than allowed in the R-2 zone on the east side. However, Lot 38 is almost two acres in size and the adjacent lot is vacant.

While this variance is not ideal from a zoning standpoint, staff recognizes that this is likely to provide the simplest option to align the setbacks with those recorded on the plat. Mr. Mosley stated that to prevent later confusion, staff is joining with the applicant to reduce the setbacks to match those on the plat. The only way to achieve this is through a variance on Lots 1-38.

Chairman Payne opened the public hearing.

Brad McGill, Yellowfin Construction, stated he was here to represent the development.

Mrs. Miller asked the setback of the current two houses.

Mr. Mosley stated that the existing homes were compliant with the more restrictive zoning requirements.

Mrs. Melnick asked if there was a particular style to the development.

Mr. McGill stated that there were a few different builders with different styles.

Mrs. Melnick stated that it may be less obvious with different styles.

Mr. Jim Hope, 1804 Arrowhead Avenue, stated he was an adjoining property owner. He stated that the development has changed a few different times. He felt the lot across the street from him was unbuildable.

Mr. Mosley explained the variance requests to Mr. Hope.

Mrs. George asked if any other neighbors had contacted the Planning Department.

Mr. Mosley responded that they had not.

Chairman Payne closed the public hearing.

Motion to approve the variances as presented.

RESULT:	Passed
MOVER:	Position 2 Brandon Hilyer
SECONDER:	Position 4 Raven Harvis
AYES:	Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne, Position 7 Anthony
NAYS:	None
ABSTAIN:	None

2. ADJOURN

Motion to adjourn at 9:35 a.m.

RESULT:	Passed
MOVER:	Position 4 Raven Harvis
SECONDER:	Position 1 Tipi Miller
AYES:	Position 1 Miller, Position 2 Hilyer, Position 4 Harvis, Position 6 Payne, Position 7 Anthony
NAYS:	None
ABSTAIN:	None

_____ Wilbert Payne, Chairman

_____ Matt Mosley, Secretary



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



DATE: 4/28/25	Zoning Board of Adjustment Meeting Date: JUNE 10 TH
Case Number:	Meeting Deadline: MAY 20, 2025

PART I. OWNER / APPLICANT INFORMATION

Owner Name: Nuria Caney Address: 3602 Village Creek Ct. Phone: 256-527-2118
Agent Name (if applicable): Ryan Kennedy Address: 5224 15th Ave. Unit C Phone: 706-681-8682
Four Seasons of River City

PART II. PARCEL INFORMATION

Street Address: 3602 Village Creek Ct.
Current Zoning: Residential
Current Land Use: Single family
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)

The lot is sloped in the front & rear. The current patio and backyard are unusable. The customer wants to build a patio w/ an awning on rear of home to make usable space.

Setback	Required	Proposed	Amount of Variance
Front	40'	No Change	
Side	12'	No Change	
Side	12	No Change	
Rear	20'	15'8"	4'4"

PART IV.

1) Are there extraordinary and/or exceptional conditions to the particular property, which make a variance necessary? Due to the layout of the lot and the offsets on rear of home the current patio space is unusable. The area barely fits a table. Due to current setbacks there currently is not enough room to extend an adequate porch without the variance.

- 2) Would the strict application of this ordinance produce an unwarranted hardship not generally shared by others? The elevation and grade of the property and current setbacks do not allow for any usable extension to improve the home.
- 3) Will the proposed variance alter the character of the area? If so, how? NO, but will provide a usable rear patio for the homeowner as well as provide some protection to the rear of home from the weather & heat.

Provide the Names and Addresses of ALL adjoining Property Owners:

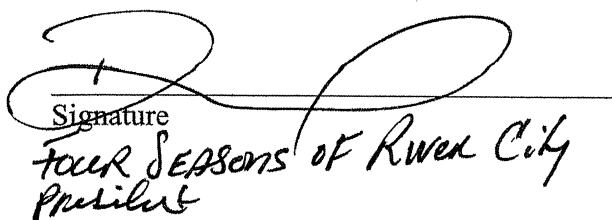
<u>Shante Bridges</u>	<u>3600 Village Creek Ct, Opelika, AL. 36801</u>
<u>Amnette Screws</u>	<u>3601 Maple Creek Ct</u>
<u>Shirley Bass</u>	<u>3603 Maple Creek Ct</u>
<u>Richard Edwards : Kelsie Billings</u>	<u>3605 Maple Creek Ct</u>
<u>Andrew : Kasey Burroughs</u>	<u>3604 Village Creek Ct.</u>
<u> </u>	<u> </u>
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FEES:

Total Number of Adjoining Property Owners <u>5</u>	5 X \$7.00 =	<u>35</u>
	+ Fee	\$75.00
	TOTAL	<u>110.00</u>

PART V.

I hereby request that the Zoning Board of Adjustment review a variance request for my property located at (street address) 3602 Village Creek Ct. Enclosed are the true and accurate names and addresses of all adjacent property owners. I understand that the City may require additional information, or waive certain requirements, in order to make a decision on the request at any time during the process.


Signature
Four Seasons of River City
President

Date 4/28/25

CITY OF OPELIKA – BZA
STAFF REPORT
June 10, 2025

Applicant: Ryan Kennedy, representative for Nuria Laney, property owner

Property: 3602 Village Creek Court

Existing Zone: PUD (Cedar Creek PUD)

Request: Requesting a 4.33 foot rear yard setback variance from the 20 foot rear yard setback requirement for a 15.6' x 25.6' Patio Addition

Proposal

The applicant is requesting a 4.33 foot rear yard variance to construct a 15.6' x 25.6' covered patio attached to the rear wall of the house. The property is in the Cedar Creek PUD zoning district. The Cedar Creek subdivision plat for this area of Cedar Creek was recorded in October 2005. Most of the lots are square-shaped (see plat on page 3). The developer of Cedar Creek requested and was approved for the following minimum setbacks: 30 feet front yard setback, 12 feet side yard, and 20 feet in rear yard. This is the first variance request submitted for Cedar Creek subdivision.

The proposed patio cover is shown on the rear wall on page 2. The rear wall of the house is offset. The applicant explained that the existing patio area (9'x 25.6') is a concrete slab with no roof. The 9x25.6 area is unusable as-is considering all the offsets along the rear wall. The applicant is requesting to increase the patio slab 6.6' to add more width so the patio area is usable. The increase is a larger 15.6' x 25.6' covered patio area. The applicant said the patio cover is especially needed to provide shade and shelter.

Recommendation

The applicant's rear yard slopes downhill from the end of the existing slab. See photos of rear yard. Staff believes the slope causes some hardship if the slab is extended 6.6 feet into the rear yard, but it's not an exceptional severe slope compared to nearby lots. Several lots on Village Creek Court adjacent and near the applicant's lot 'step-down' (tiered lots at different levels) as the applicant's lot. In the application, the applicant states the existing patio space area is unusable (the patio slab is 9 feet wide with rear exterior wall offsets (and chimney) that project into the patio area). If the 4.33 foot variance request is approved then a more usable 15.6 foot wide patio area with cover can be constructed. Staff does not have a strong recommendation on this request. Increasing the patio cover area 4.33 feet to a 15.6 wide patio could be considered minor. A wooden fence 6 feet high encloses the rear yard. The rear yard cannot be seen from Village Creek Court. A 4.33 foot extension into the rear yard and patio cover should not be out of character with the neighborhood. Certified letters were mailed to adjacent property owners. A

120.00'

18'

55'

12' BSL

42'

22.9'

15.8'

25.6'

4.2'

15.6'

29.9'

18'

53.7'

12' BSL

40.0'

120.00'

89.82'

90.00'

**PROPOSED
C.P.
(379 SF±)**

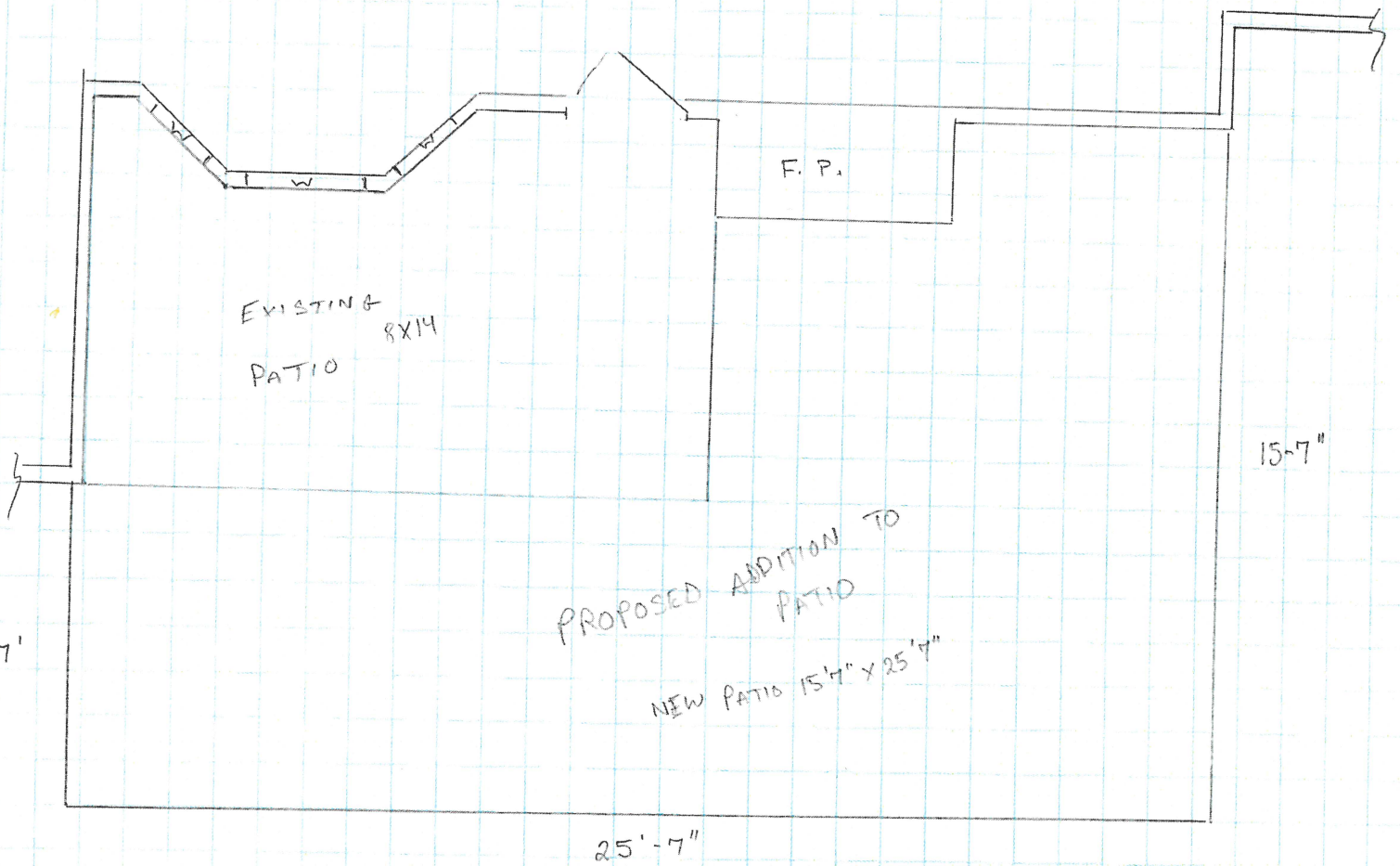
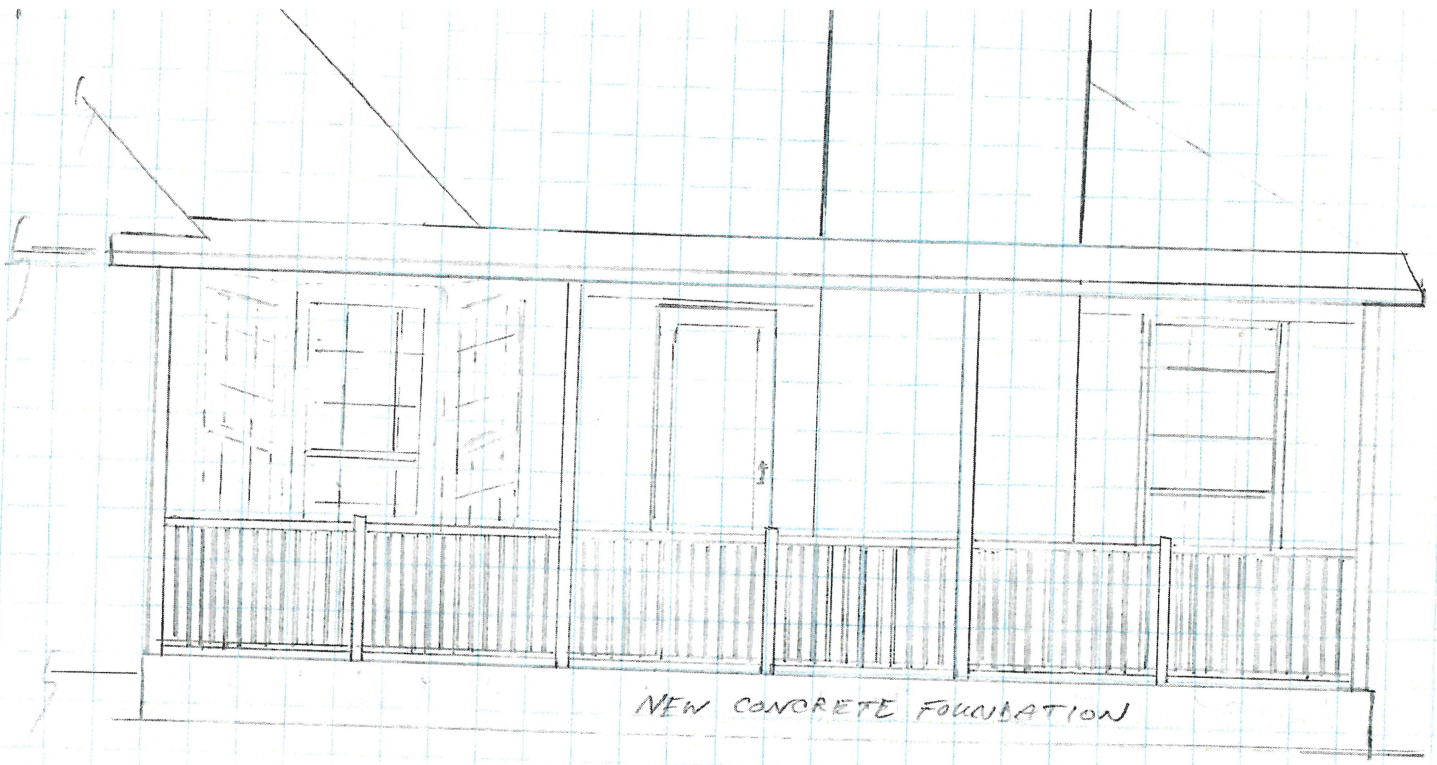
**EXISTING
1-STORY
WOOD DWELLING
2,129± S.F.**

LOT 83
0.25 AC±
10,633 S.F.±
N/F
"LANEY"

Page 2 of 4

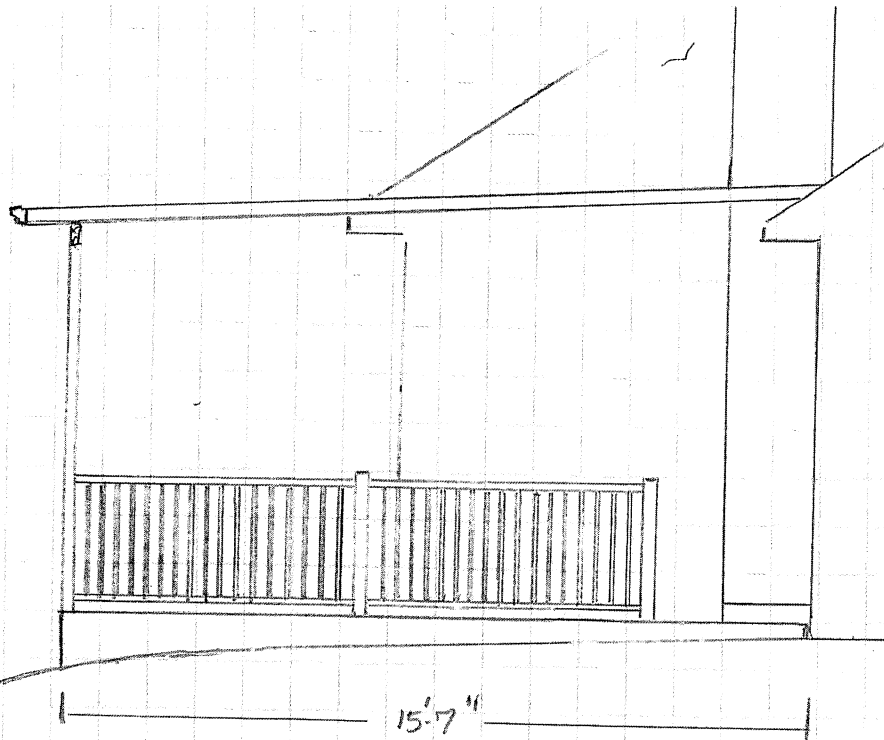




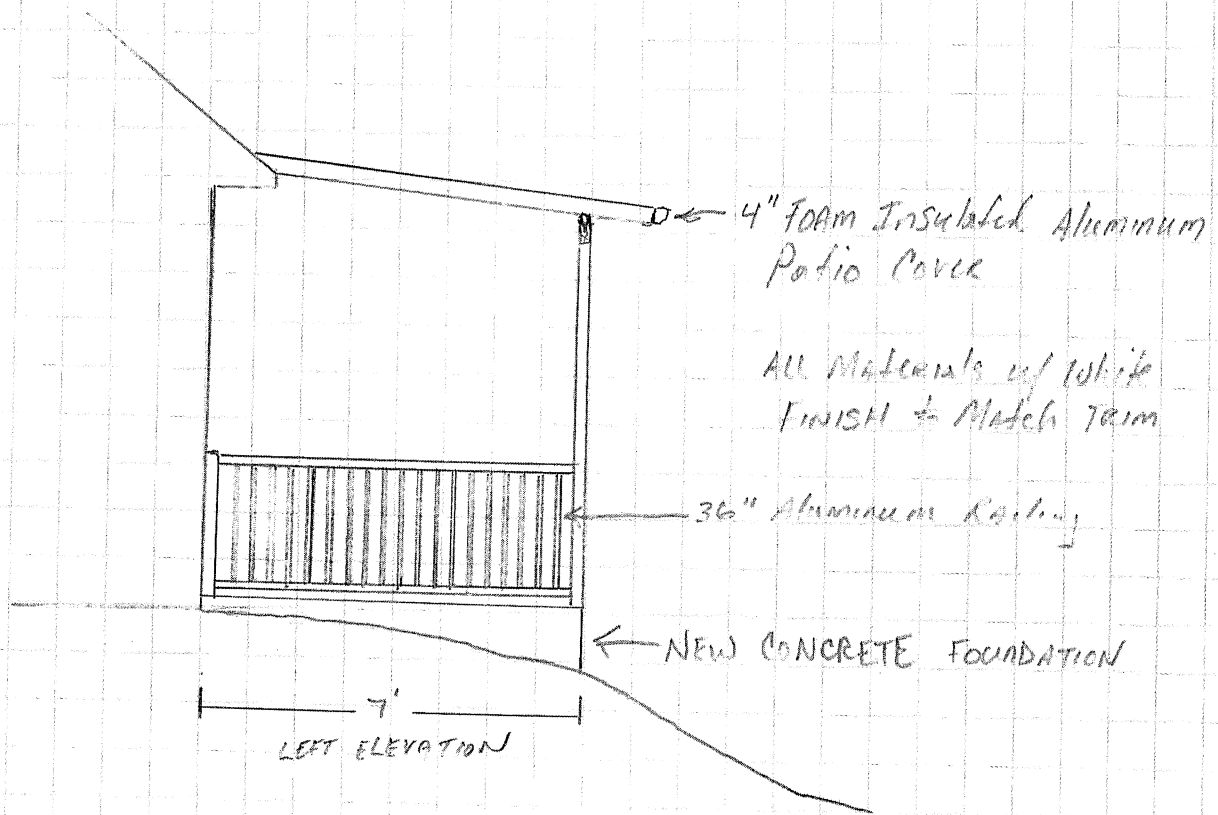


LANEY RESIDENCE
3602 Village Creek CT
OPELIKA, AL

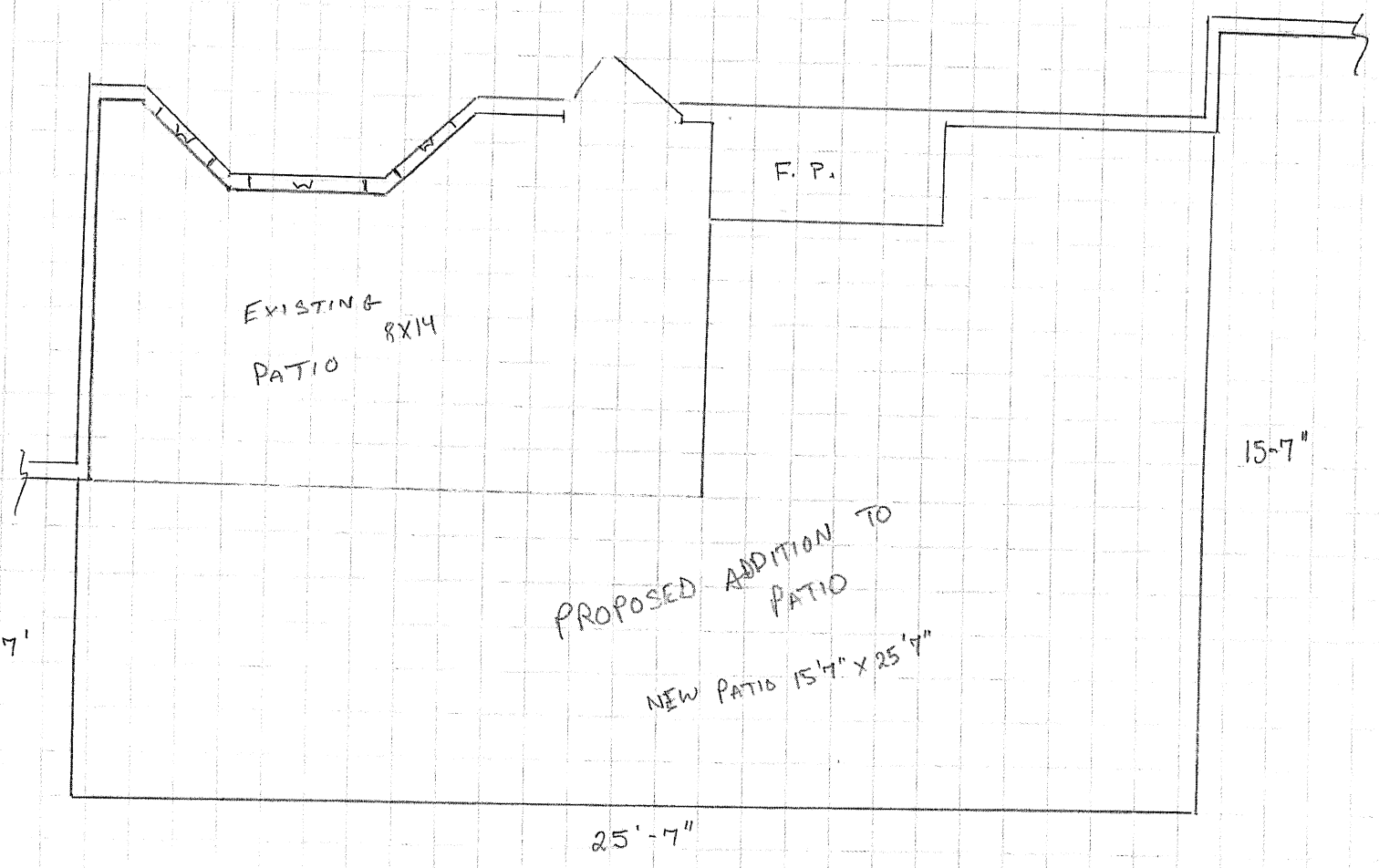
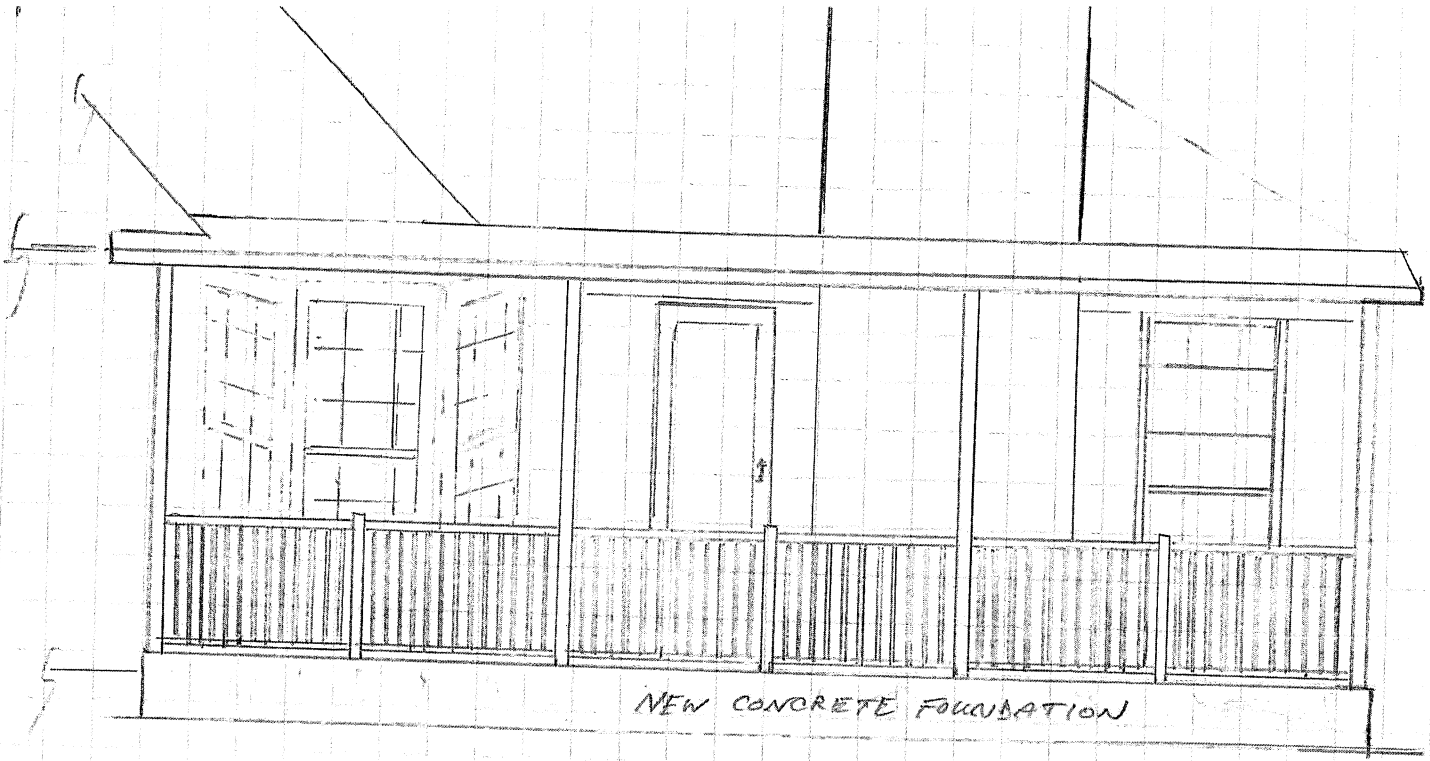
BY: FOUR SEASONS
OF RIVER CITY



RT. ELEVATION

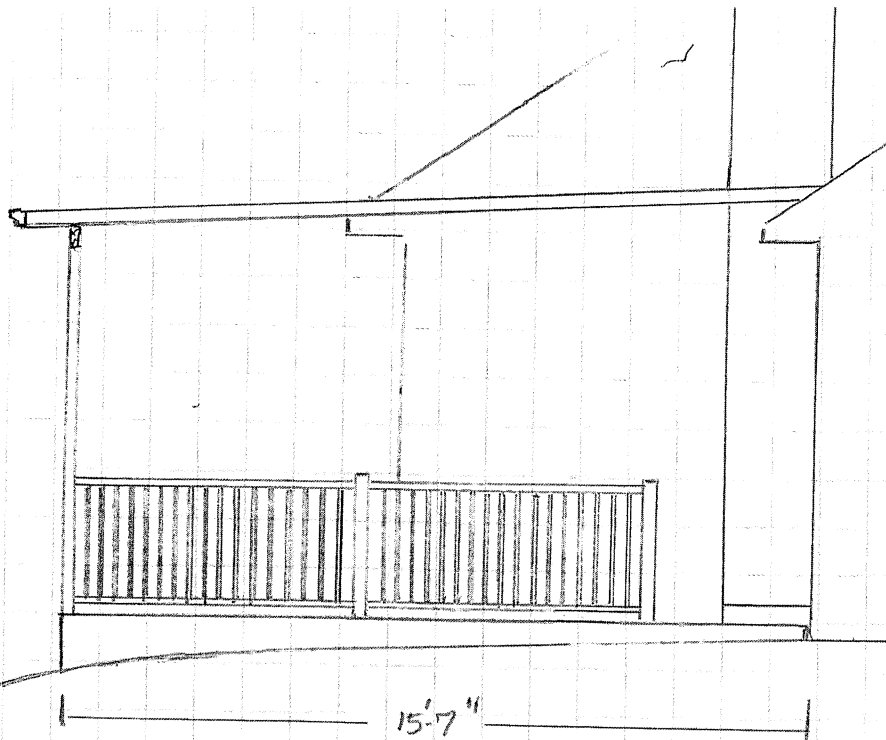


LEFT ELEVATION

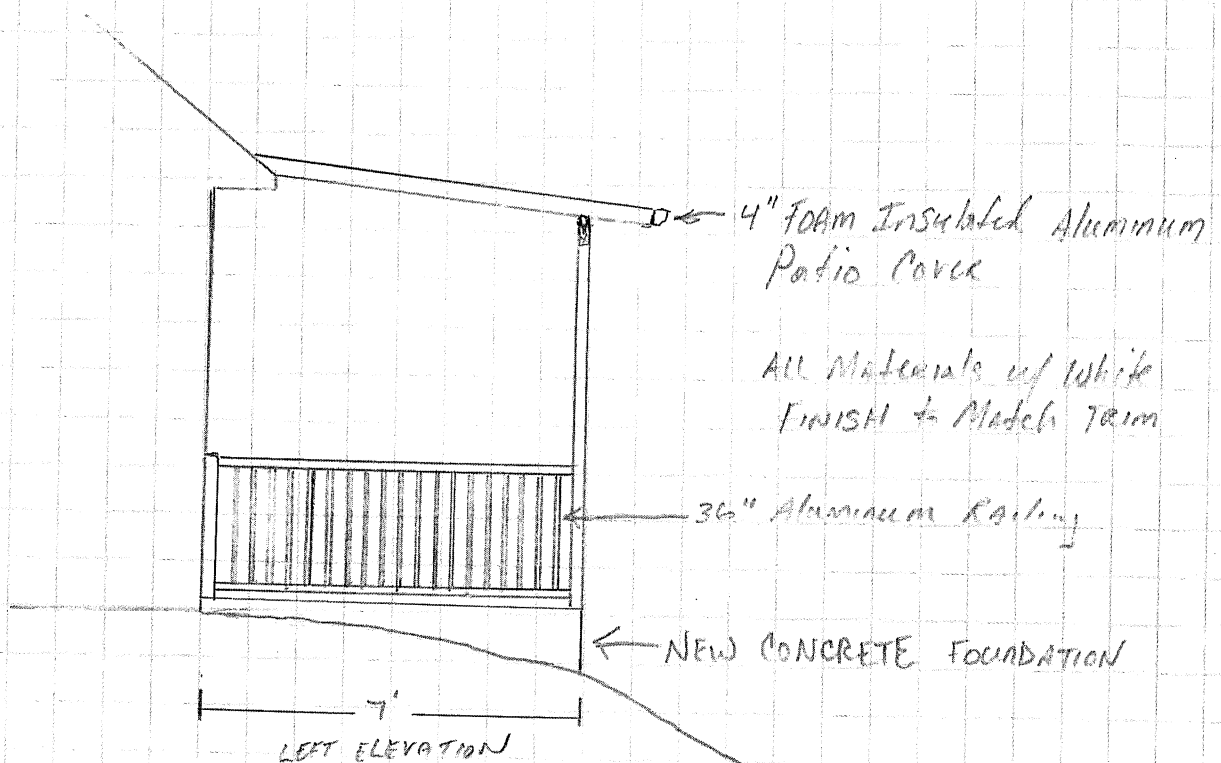


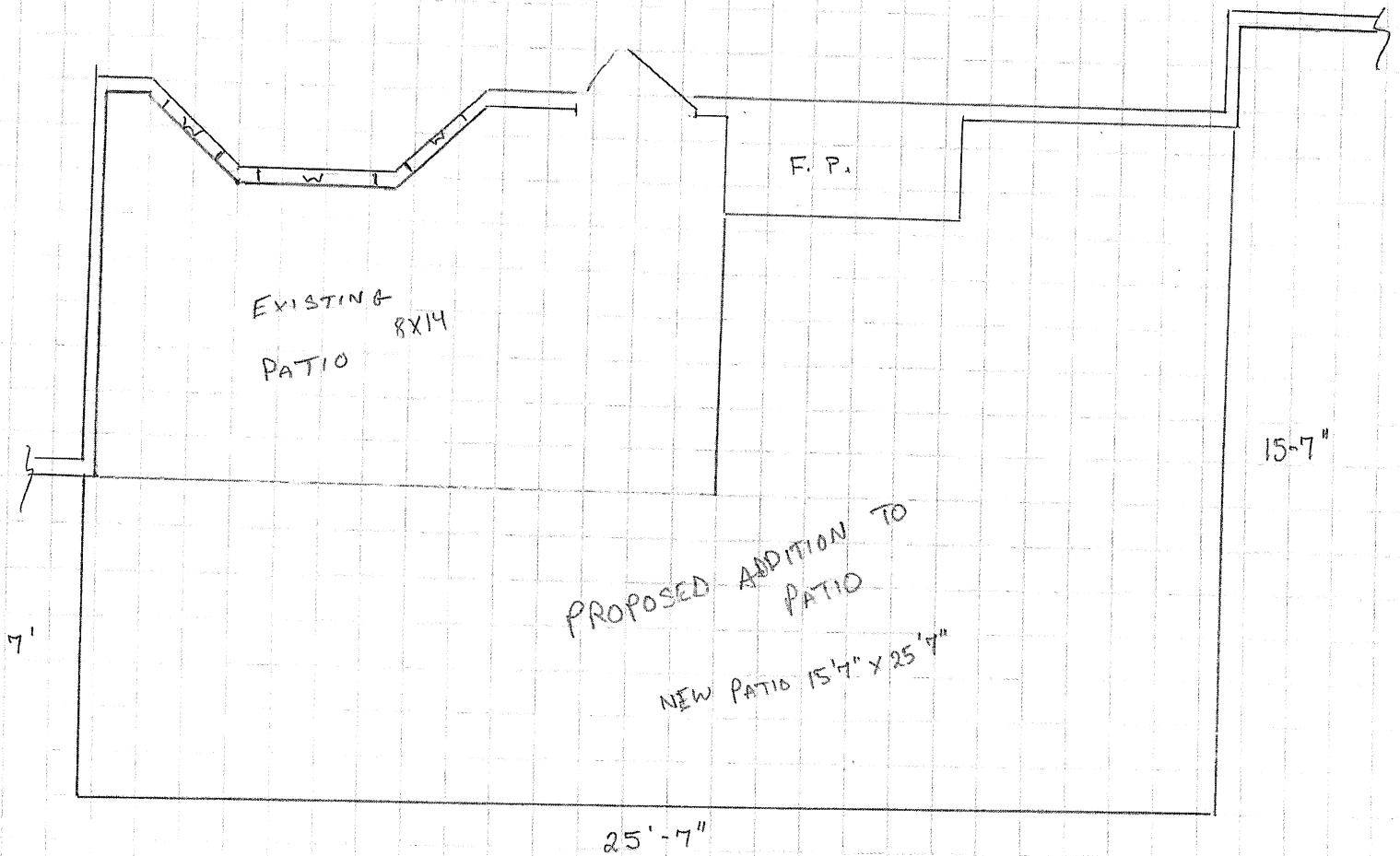
LANEY RESIDENCE
3602 Village Creek CT
OPELIKA, AL

BY: FOUR SEASONS
OF RIVER CITY



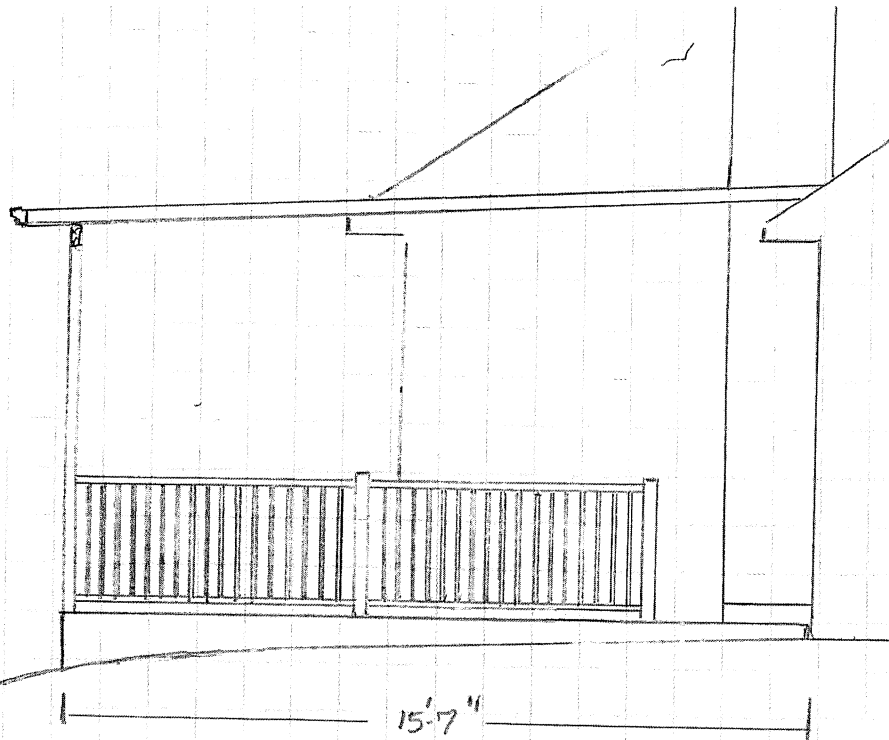
RT ELEVATION



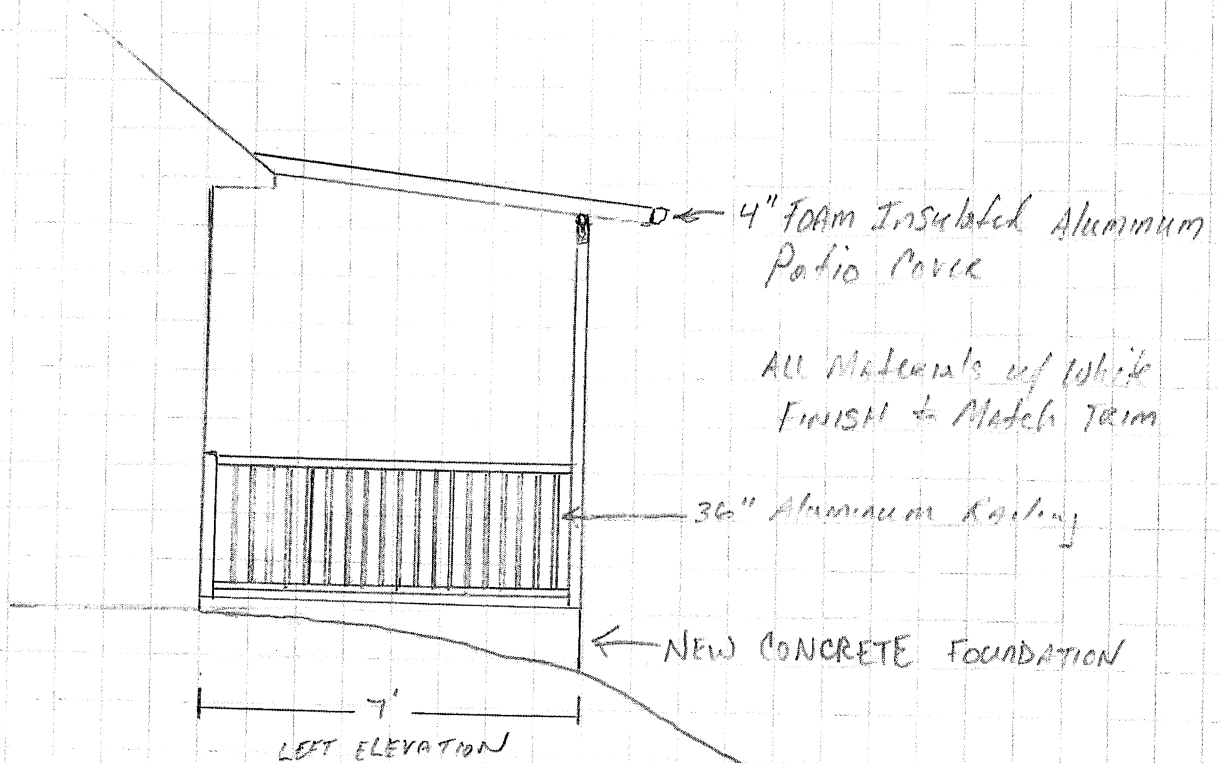


LANEY RESIDENCE
2602 Village Creek CT
OPELIKA, AL

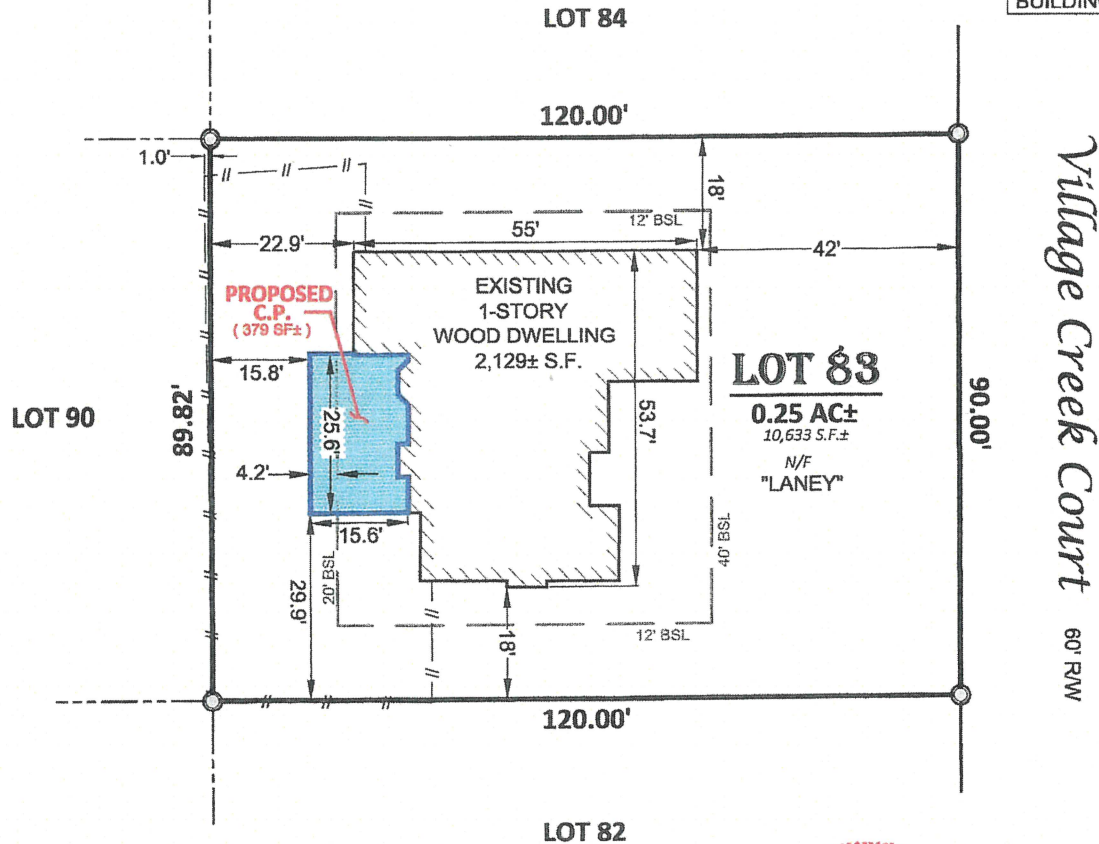
BY: FOUR SEASONS
OF RIVER CITY



RT. ELEVATION



REVISED APRIL 2, 2025 TO
CORRECT REAR 20'
BUILDING SETBACK LINE.



McBride & Maxey, Inc.
Civil Engineering & Land Surveying

2505 Crawford Road, Phenix City, AL 36867
Office: (334) 297-5717 - Fax: (334) 297-1066
Email: comments@mcbridemaxey.com
Web: www.McBrideMaxey.com

SITE PLAN
"3602 Village Creek Court"
LOT 83, CEDAR CREEK SUBDIVISION,
PHASE 1B, LYING IN SECTION 30, TOWNSHIP 20 NORTH,
RANGE 27 EAST, OPELIKA, LEE COUNTY, ALABAMA

PREPARED FOR:
Nuria Laney

DRAWN BY: **SPT**

JOB NO: 1142.25

SCALE: 1" = 30'

DATE: MAR 26, 2025

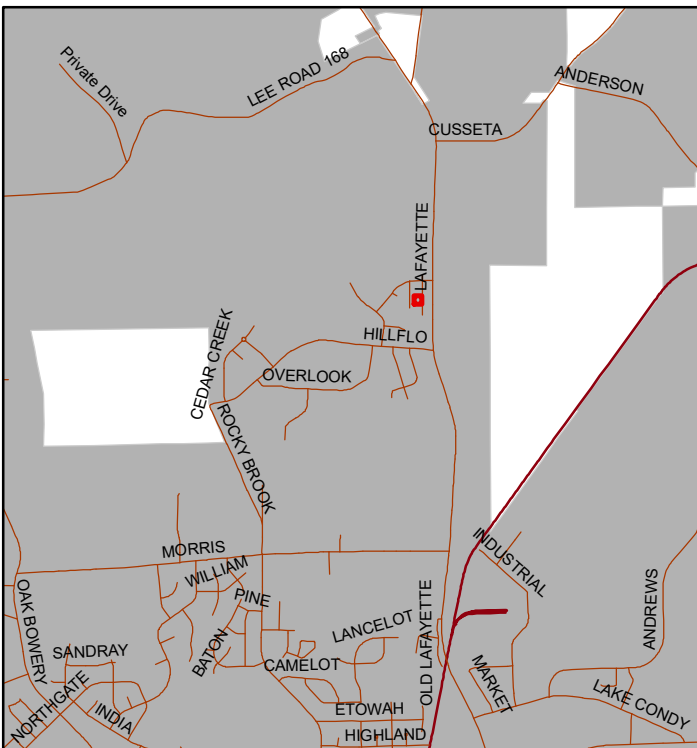
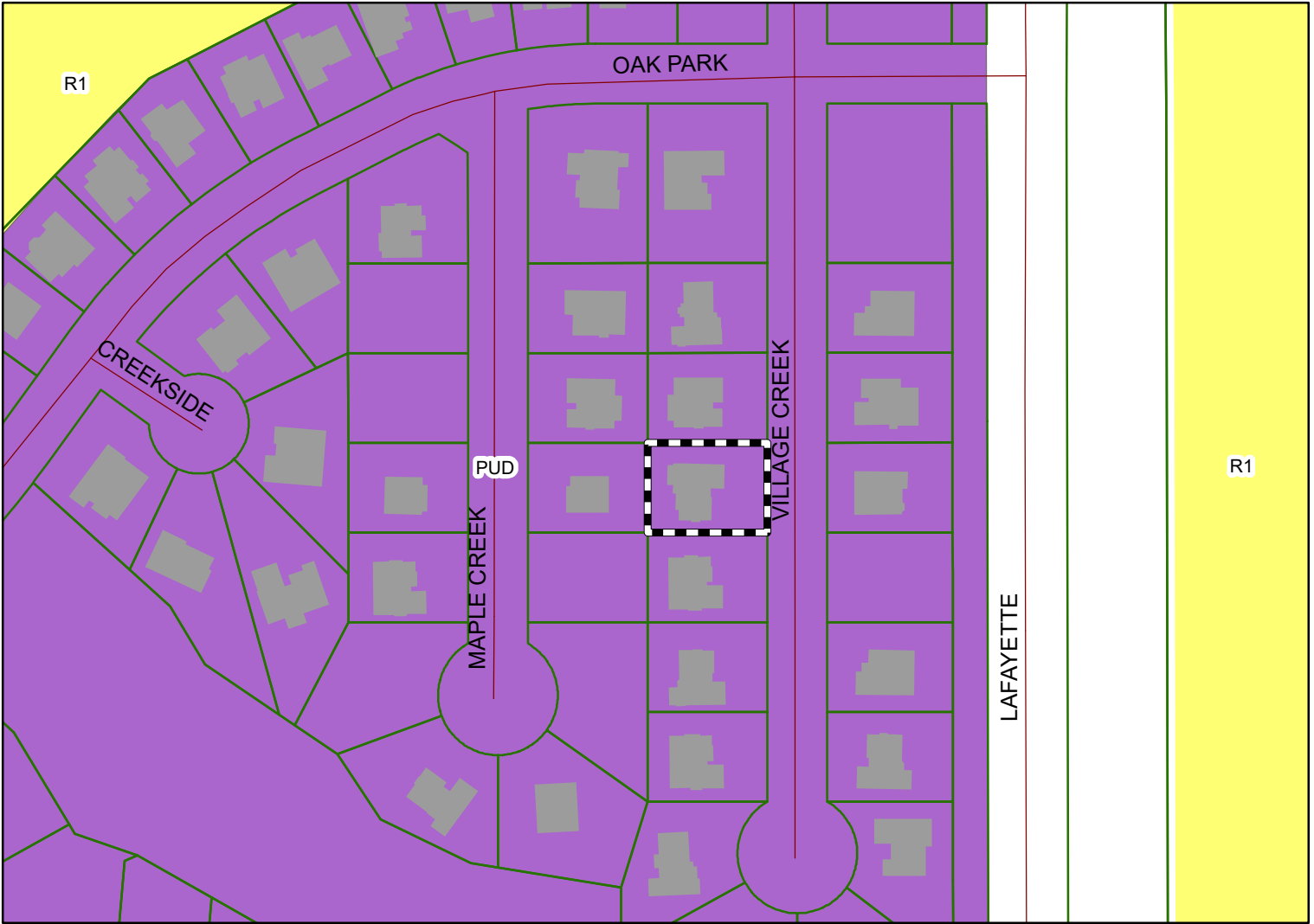
SHEET NO: 1 / 1

THIS MEDIA SHOULD NOT BE CONSIDERED A CERTIFIED DOCUMENT UNLESS IT HAS BEEN PROPERLY SEALED AND BEARS THE ORIGINAL SIGNATURE OF A REGISTERED PROFESSIONAL OF MCBRIDE & MAXEY, INC.

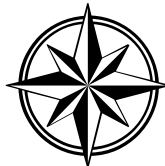
NURIA LANEY SETBACK VARIANCE REQUEST

3602 VILLAGE CREEK COURT

REAR YARD SETBACK



The applicant is requesting a 4.33 foot rear yard setback variance from the minimum 20 foot rear yard setback requirement for a 15.6 x 25.6' covered patio. The lot is in the Cedar Creek PUD zoning district.



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