

CITY OF FLORENCE BOARD OF ZONING APPEALS
THURSDAY, JANUARY 26, 2023 – 6:00 P.M.
CITY CENTER – COUNCIL CHAMBERS
324 WEST EVANS STREET, FLORENCE, SC
MEETING AGENDA

I. Call to Order

II. Approval of Minutes Regular meeting held on December 22, 2022.

III. Public Hearing and Matter in Position for Action – Deferred from December 22, 2022

BZA-2022-15 Request for a variance from the fence requirements for a parcel located at 110 South Guerry Street, in the NC-6.2 zoning district; identified as Tax Map Number 90061-12-008.

IV. Public Hearing and Matter in Position for Action

BZA-2023-01 Request for a variance from the size requirements for free standing signs for a parcel located at 124 South Cashua Drive, in the CG zoning district; identified as Tax Map Number 90024-04-012.

V. Public Hearing and Matter in Position for Action

BZA-2023-02 Request for a variance from bufferyard requirements for the parcel located at 610 East Pine Street, in the CA zoning district; identified as Tax Map Number 90103-08-010.

VI. Adjournment The next meeting is scheduled for February 23, 2023.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF FLORENCE BOARD OF ZONING APPEALS
DECEMBER 22, 2022**

MEMBERS PRESENT: Ruben Chico, Nathaniel Mitchell, Deborah Moses, Nathaniel Poston, and Miriam James-Singley

MEMBERS ABSENT: Larry Adams and Larry Chewning

STAFF PRESENT: Derek Johnston and Brian Bynum, IT

In the absence of Chairman Larry Chewning, Co-Chairman Nathaniel Poston chaired the meeting.

CALL TO ORDER: Chairman Poston called the meeting to order at 6:01 p.m.

APPROVAL OF MINUTES: Chairman Poston introduced the October 27, 2022 minutes and asked if there were any changes that needed to be made. There being none, he called for a motion. Mr. Chico moved that the minutes be approved as submitted; voting to approve the minutes was unanimous (5-0).

APPROVAL OF 2023 MEETING DATES: Chairman Poston introduced the schedule of meeting dates for 2023 and asked if there were any changes. There being none, he asked for a motion. Mr. Mitchell moved that the minutes be approved as submitted; voting in favor of approving the meeting dates was unanimous (5-0). Mrs. Moses asked to keep the time of the meetings at 6:00 p.m. Mr. Chico moved to keep the meetings at 6:00 p.m. and the vote to do so was unanimous (5-0).

PUBLIC HEARINGS AND MATTERS IN POSITION FOR ACTION:

BZA-2022-15 **Request for a variance from the fence requirements for a parcel located at 110 South Guerry Street, in the NC-6.2 zoning district; identified as Tax Map Number 90061-12-008.**

Chairman Poston introduced the request and asked staff for their report. Mr. Johnston gave the staff report as submitted to the Board of Zoning Appeals. He said that a Codes Enforcement officer observed the fence while driving around. Chairman Poston asked if there were any questions of staff.

Mr. Chico clarified that the applicant would need to flip the fence and lower it and remove every other plank from the fence at the front of the house in order to bring it into compliance with the code. Mr. Johnston confirmed that was correct, and that in the rear, only the orientation is the issue.

Ms. James-Singley clarified that the driveway on the outside of the fence in the photos belongs to the neighbor. She asked if staff had heard from the neighbors; Mr. Johnston said that he hadn't received any phone calls about this request; signs were put out and it was advertised in the newspaper as required. Mr. Chico said it looked like the fence is on the applicant's property line.

There being no further questions for staff, Chairman Poston opened the public hearing. The applicant was unable to attend because his job required him to be available for the oncoming storm. It was asked if the applicant owned the property; Mr. Johnston said he thought it was a rental.

There being no further questions from the Board and no one else to speak for or against the request, Chairman Poston closed the public hearing and asked for a motion.

Ms. James-Singley said that she would like to be able to ask the owner if he's willing to at least reverse the fence to bring it into some compliance. Mr. Johnston said they could give him that option as part of permitting the request. Mr. Mitchell asked if there was anything in the code that would permit it; Mr. Johnston said that the code specifically says that the Board of Zoning Appeals has to approve fences that are too tall and have wrong orientation. It's only the wrong orientation in the back; the fence in the front is too high, not transparent enough, and oriented wrong.

Mr. Chico commented that they could defer the request for a month, and the applicant wouldn't need to change anything before then.

Mrs. Moses asked Mr. Johnston to ask the applicant if his neighbors had any issues with the fence being in the front yard. She said she'd like to see letters from one or two neighbors giving their thoughts on it.

Mr. Chico moved that the request be deferred until the next meeting. Mr. Mitchell seconded the motion to defer. The motion to defer the variance until January 26, 2023 passed unanimously (5-0).

BZA-2022-16 Request for a variance from setback requirements for the buildings located at 1250 and 1260 Celebration Boulevard, in the CG zoning district; identified as Tax Map Numbers 00100-01-144 and 00100-01-245.

Chairman Poston introduced the request and asked staff for their report. Mr. Johnston gave the staff report as submitted to the Board of Zoning Appeals.

Chairman Poston asked if the Board had any questions for staff. Mr. Chico clarified that the Board is being asked to approve variances on the side and rear setbacks; Mr. Johnston said that was correct. Mrs. Moses asked how much more space they would need based on the photographs. Mr. Johnston said it was currently vacant land; the addition would be to the side of Palmetto Smiles and behind Edward Jones.

Chairman Poston asked staff if they'd heard from the public regarding the request. Mr. Johnston said he'd only had a call for information, not expressing either being in favor or against the request. Mr. Mitchell asked where the new lot was going to be; Mr. Johnston explained the location of the new property line from the division of the Edward Jones lot.

Chairman Poston asked if there was any contingency on the sale of the land for this variance being granted. Mr. Johnston said he didn't think so, but that the applicant was present.

There being no further questions for staff, Chairman Poston opened the public hearing. He swore in Dr. Brian Sang, the applicant. He said he wanted to add onto his practice and the land is basically useless the way the setbacks are in the ordinance right now. The sale is contingent upon the Board granting the variance because the land is useless to him without the variance, and he wouldn't be able to expand his building or practice.

Chairman Poston next swore in Arthur Moore, the owner of the Edward Jones at 1250 Celebration Boulevard. He explained that he developed his business based on the old setbacks with the intent to sell the back half of the original lot. He wants to improve the area by adding businesses rather than more townhouses. He wants the blessing of the city to enable Dr. Sang to have the addition. Mr. Chico asked if Mr. Moore had tried to develop the back part of the lot, and if he even would be able to, using the current setbacks. He said that he couldn't because they were very restrictive.

Chairman Poston asked Mr. Moore if he owned the building; he said he did, and he was one of the first to build in that area twelve years ago. He asked if Mr. Moore had heard from anyone in favor or against the request; he said he had not.

There being no further questions from the Board and no one else to speak for or against the request, Chairman Poston closed the public hearing and asked for a motion.

Mrs. Moses moved that the request for the variance be granted, based on the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: **The existing building has been on the lot since 2016. The addition is to the side of the building with a vast majority being blocked by Edward Jones limiting change to the Celebration Boulevard streetscape. The existing structures are an obstacle to meeting current setbacks. Relaxing the setback requirements would allow the owner to develop his property as desired.**
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: **The addition will not be any closer to Celebration Boulevard. 1250 and 1260 Celebration will not meet rear and side setbacks respectively, but their proximity will not merit any additional building or fire safety measures. Spatially, the new construction will have minimal impact to the buildings on adjacent properties. The proposed changes would have met the setbacks in the previous zoning ordinance.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely: **The current built environment and property lines are not conducive for the business expansion of 1260 Celebration Boulevard.**
4. That these conditions do not generally apply to other property in the vicinity, in that: **The buildings in this zoning district were constructed to B-3 standards requiring smaller setbacks. Expansion of the existing building is severely limited by current setbacks and land availability.**
5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: **Strict adherence to the Ordinance would prohibit any change to the existing building and disallow the owner to expand his business.**
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance, because: **The addition is to the side of the existing building at 1260, and the location of 1250 is not changing. The variance will have limited impact on the two parcels and minimal impact on other adjacent properties.**

Ms. James-Singley seconded the motion and it passed unanimously (5-0).

ADJOURNMENT: As there was no further business, Ms. Moses moved to adjourn the meeting; Mr. Mitchell seconded, and the motion passed unanimously (5-0). The Board adjourned at 6:37 p.m. The next regular meeting is scheduled for January 26, 2023.

Respectfully submitted,

Alane Zlotnicki, AICP
Senior Planner

**DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT
STAFF REPORT TO THE
CITY OF FLORENCE BOARD OF ZONING APPEALS**

DATE: January 26, 2023

APPEAL NUMBER: BZA-2022-15

VARIANCE REQUEST: Request for a variance from the fence requirements from Section 3-8.1.2 of the *Unified Development Ordinance*.

LOCATION: 110 South Guerry Street

TAX MAP NUMBER: 90061-12-008

OWNER OF RECORD: 1 Runners Comfortable Living LLC

APPLICANT: Ronald Garguilo

ZONING DISTRICT: Neighborhood Conservation – 6.2

Current Status/Previous Action Taken

The Board decided unanimously (5-0) at the December 22, 2022 BZA Meeting to continue this case to allow the applicant time to gather support from his neighbors in the form of letters or emails to present at the January 2023 BZA Meeting. At this time, no letters or emails of support have been submitted to City staff.

Land Use and Zoning

The parcel is located at 110 South Guerry Street. It is in the Neighborhood Conservation - 6.2 zoning district, as are the homes adjacent to it along King Avenue. This district permits the residential uses of single family detached homes and duplexes. *Unified Development Ordinance* Section 3-8.1.2 governs all residential fencing. Table 3-8.1.2 specifies that fences in front yards must be less than or equal to 4 feet in height and have a transparency of 50% (e.g., picket fence). Furthermore, *Unified Development Ordinance* Section 3-8.1.2D mandates the finished side of the fence shall face outward toward any adjacent rights-of-way.

Site and Building Characteristics

The parcel is 42 feet wide and 65 feet deep or approximately 0.06 acres in size. The 700 square foot single-family detached home was constructed in 1940. The house fronts South Guerry Street and is located between West Evans Street to the north and King Avenue to the south. The homeowner constructed a 5 foot high wooden privacy fence in the front yard of his home on the south side of the property and in the side yard of his home on the north side of the property. The wooden fence constructed in the front yard is not in compliance with the *Unified Development Ordinance*. Codes Enforcement alerted the applicant who then applied for a variance.

Variance Request

The applicant is asking for a variance from the requirements of Section 3-8.1.2 of the *Unified Development Ordinance* regarding the maximum fence height, opacity, and orientation specifications permitted in a residentially zoned area. The owner is asking for a variance from the height and opacity requirements in Table 3-8.1.2 of the *Unified Development Ordinance*. The variance request is for the 5 foot wooden privacy

fence to remain. The fence height is 1 foot above that permitted and has no transparency. The fence is incorrectly oriented with the finished side away facing away from adjacent rights-of-way.

The following information is included as submitted by the applicant:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **The security of the property and its belongings, the security of oneself, crime and the deterrent of crime, foot traffic walking next to the home where people were creating a path from the neighbor's home and duplex to the rear.**
- b. These conditions do not generally apply to other property in the vicinity as shown by: **No response given.**
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **The security and wellbeing of the property, and tenants' belongings. The fence was put up to stop theft, and security and foot traffic and gathering of neighbors hanging out outside the property.**
- d. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: **I believe the variance should not affect the neighborhood as we are trying to prevent crime, and create desirable curb appeal, and create a sense of safety.**

Issues to be Considered

Applications for a variance shall be evaluated by the Board of Zoning Appeals based on the following conditions:

1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship: **The owner describes a history of theft, loitering, and trespassing on his property. A fence is a reasonable deterrent, but a fence that meets the requirements of the Ordinance could satisfy the owner's purpose.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The intent of the Ordinance is to limit the height, opacity, and orientation of fences in the front yard of residentially zoned properties and mitigate the impact to adjacent properties.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The homeowner has experienced unwanted and/or illegal activity on his property requiring action to prevent future wrongdoing.**
4. That these conditions do not generally apply to other property in the vicinity: **Other properties in the vicinity would most likely have a similar experience.**
5. That because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **Requiring adherence to the specifics of the Ordinance regarding residential fence requirements would not prevent the use of the home as a single-family residence; however, the owner would like relief from theft, loitering, trespassing, and noise. A wooden picket fence constructed to City standards could also mitigate these same complaints.**
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the

public good, and the character of the district will not be harmed by the granting of the variance: **Property owners adjacent to 110 South Guerry Street may object to allowing a variance from the Unified Development Ordinance residential fence requirements and this could create a critical mass of requests from adjacent property owners asking for the same residential fence variances.**

Attachments

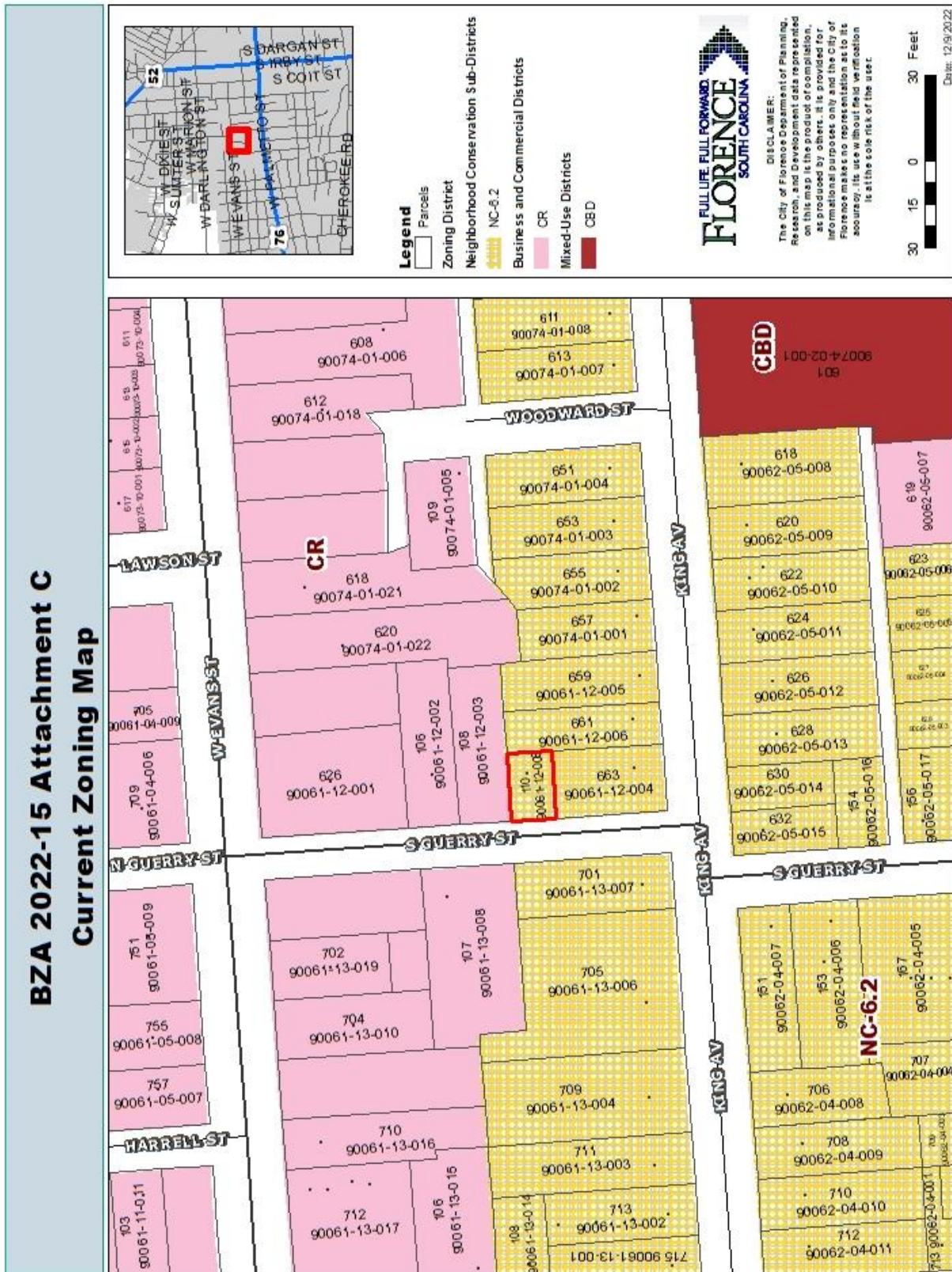
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Table 3-8.1.2 from the *Unified Development Ordinance*
- F. Section 3-8.1.2D from the Unified Development Ordinance
- G. Site Photos
- H. BZA Motion Worksheet

Attachment A: Vicinity Map

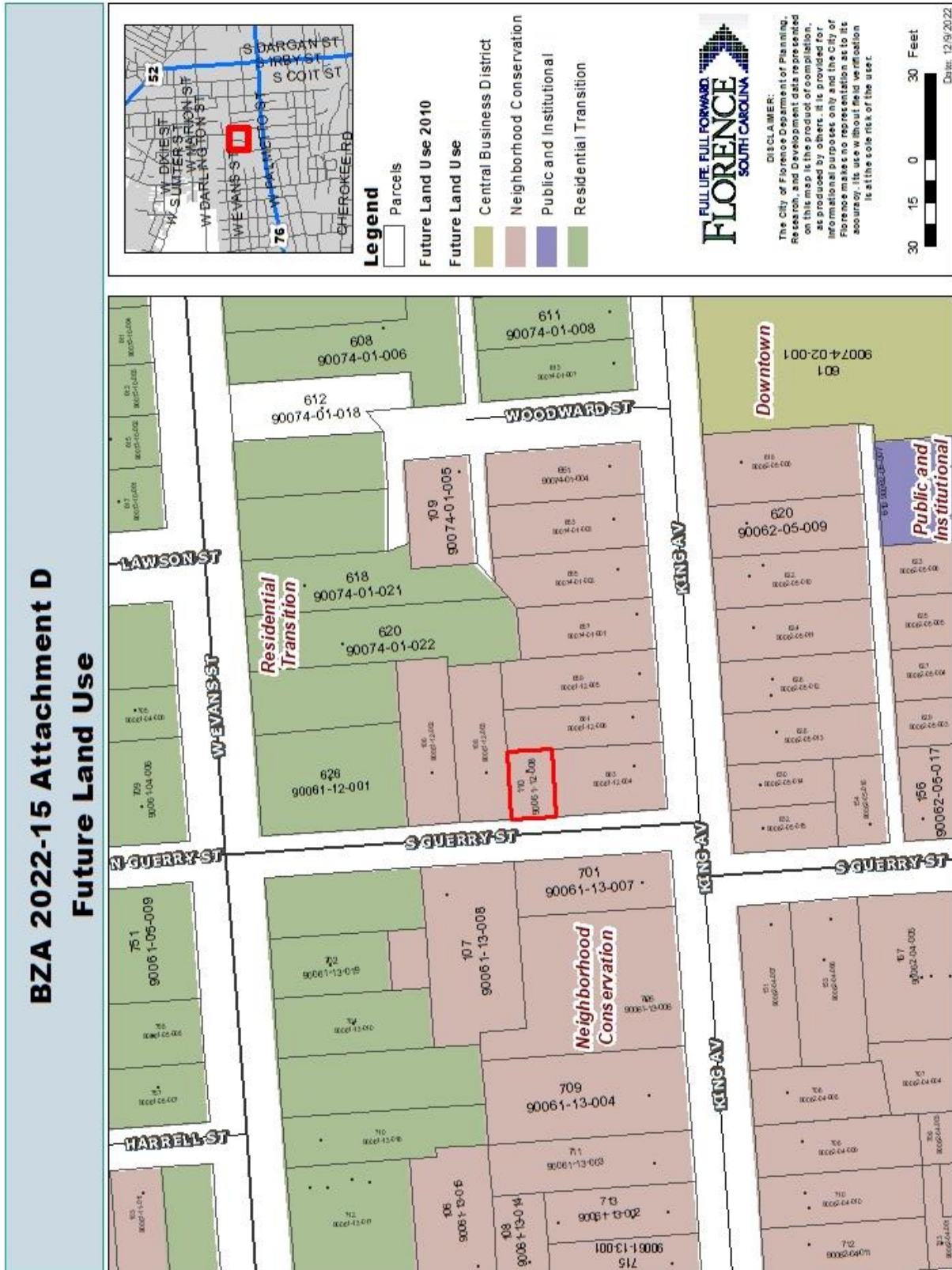


Attachment B: Location Map





Attachment D: Future Land Use Map



Attachment E: Table 3-8.1.2 from the *Unified Development Ordinance*

Table 3-8.1.2 Heights and Setbacks for Fences, Walls, and Hedges				
Standard	Front Yard	Side	Street Side Yard	Rear Yard ¹
Maximum Height ³	Up to 4', subject to this Section.	6'	6'	6' ^{1,2}
Minimum Setback	N/A; 0', subject to this Section.	0'	0', but at least 1' from sidewalk and/or 5' from street	0' ¹
Transparency	50%	0%	50%	0%

TABLE NOTES:

¹ A lower fence height, increased setback, or minimum transparency may be required to assure safe alley passage.

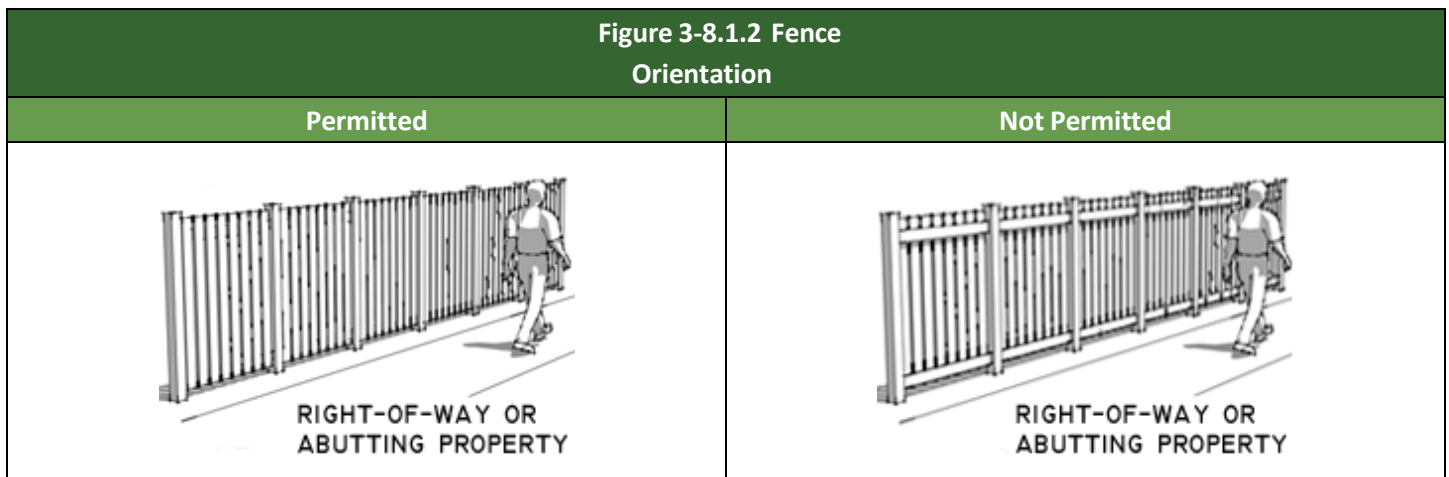
² Fences or walls in rear yards abutting CG, CBD, AC, DS, IL, or IH districts may be a maximum of 8' in height

³ Fences or walls in excess of maximum allowed height shall require a variance from the Board of Zoning Appeals.

Attachment F: Section 3-8.1.2D from the *Unified Development Ordinance*

D. Orientation.

1. The finished side of all fences shall face outward toward any adjacent rights-of-way. See **Figure 3-8.1.2, Fence Orientation.**



Attachment G: Site Photos



110 South Guerry Street



5' Wooden Privacy Fence in Front Yard



View from 663 King Avenue to the South



View from 661 King Avenue to the East



Wooden Fence along Southern Property Line

Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2022-15 Nature of Request: Fence Height, Opacity & Orientation Variance

I move that we grant / deny the request for a variance based upon the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not / will be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that:

2. That the spirit of the *Unified Development Ordinance* will / will not be observed, public safety and welfare secured, and substantial justice done because:

3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely:

4. That these conditions do not generally apply to other property in the vicinity, in that:

5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by:

6. That the authorization of a variance will not / will be of substantial detriment to adjacent property or to the public good, and the character of the district will not / will be harmed by the granting of the variance, because:

Guidelines applicable to the granting of a variance:

1. Profitability: the fact that a property may be used more profitably if the variance is granted may not be used as the basis for granting the variance.
2. Conditions: the BZA can put conditions on the granting of the variance.
3. Use Variance: the BZA cannot grant a variance that would allow a use not permitted in the zoning district.
4. Hardship: the hardship cannot be based on conditions created by the owner/applicant.

Notes:

**DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT
STAFF REPORT TO THE
CITY OF FLORENCE BOARD OF ZONING APPEALS**

DATE: January 26, 2023

APPEAL NUMBER: BZA-2023-01

VARIANCE REQUEST: Request for variances from the size requirements and number permitted along a street frontage for free-standing signs.

LOCATION: 124 South Cashua Drive

TAX MAP NUMBER: 90024-04-012

OWNER OF RECORD: HBS of Florence LLC

APPLICANT: Gary Langston, Owner

ZONING DISTRICT: Commercial General (CG)

Land Use and Zoning

HBS Motorsports is in the process of improving this location to open for business. No business license has been applied for or issued to this address. According to their website, they sell new and used vehicles at their current location of 2112 South Irby Street. Those vehicles consist of “lifted trucks, SUVs, luxury cars, ATVs, UTVs, trailers, and motorcycles.” Their South Irby Street location includes a Service Department.

A Zoning Permit was issued on February 3, 2021 for the sale of ATVs only. The CG zoning district does permit light vehicle repair, which the *Unified Development Ordinance* (UDO) defines as repairs typically taking less than two hours with automobiles kept overnight requiring indoor storage. Repairs beyond these restrictions would be considered “heavy”. Heavy automobile repair conditionally requires a masonry wall for outdoor vehicle storage and a 25 foot wide vegetative bufferyard to screen the use from adjacent residential uses.

Site and Building Characteristics

The 7.32 acre parcel is the future site of HBS Motorsports. The parcel has street frontages on South Cashua Drive, West Evans Street, and King Avenue. The approximately 64,000 square foot building was formerly a Winn-Dixie grocery store. HBS Motorsports currently has a wall sign and two freestanding signs permitted and in compliance with the *Unified Development Ordinance* (UDO) identifying the use. The two freestanding signs are located along the South Cashua Drive and West Evans Street frontages. They are 120 square feet in area each, and 35 feet high. Attachment G shows site photos of the current signage.

Unified Development Ordinance Requirements

Table 5-17.2.1B, Table Note E of the *Unified Development Ordinance*, “Regulation of Signs by Type, Characteristics, and Zoning Districts”, does permit a third freestanding sign in the CG zoning district because of the parcel’s multiple street frontages. The additional sign must be located on the respective street frontages. Multiple freestanding signs cannot be combined onto one street frontage, and their permitted areas cannot be combined into one sign.

The maximum freestanding sign area permitted in the CG district is 160 square feet. The maximum freestanding height limit in the CG district is 40 feet.

Variance Request

The applicant is requesting a variance from height and area limits in order to erect a third freestanding sign that is 46 feet high (a height variance of 6 feet) and with a square footage of 535 square feet (a size variance of 375 square feet). The digital portion alone of the proposed sign is 224 square feet. This request is approximately 330% over the maximum allowed square footage. The applicant wishes to repurpose the old Swamp Fox Entertainment Complex sign previously displayed on Highway 501 in Marion, South Carolina (Attachment F).

The following information was submitted by the applicant:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **We have invested a lot of money into this sign without prior knowledge of the sign restrictions.**
- b. These conditions do not generally apply to other property in the vicinity as shown by: **N/A**
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **The sign is 535 square feet and only 160 square feet is permitted. Height is 46' and only 40' is permitted.**
- d. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: **We have improved a rundown abandoned building that was an eye sore to the community. It also promoted criminal activity on the premises before we purchased it.**

Issues to be Considered:

Applications for a variance shall be evaluated by the Board of Zoning Appeals on the basis of the following conditions:

1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship. Staff Comments: **The height and square footage of the sign proposed will far exceed existing adjacent signage and the size permitted by the Unified Development Ordinance. The property is currently allowed three free standing signs, and direct enforcement of the permitted signage will not limit the property owner's ability to fully utilize the allowable number, size, and location of signage.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done. Staff Comments: **The proposed signage exceeds the allowable square footage of a billboard in the CG district, 378 square feet, unless within 600 feet of an interstate Right-of-Way. The ordinance permits a sign of this size directly adjacent to I-20 & I-95.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property. Staff Comments: **This property is a large single-use parcel with street frontages along South Cashua Drive, West Evans Street and King Avenue. The property is generally flat in its terrain, with no known characteristics that limit the applicant's ability to utilize the allowable signage as determined within the Unified Development Ordinance.**

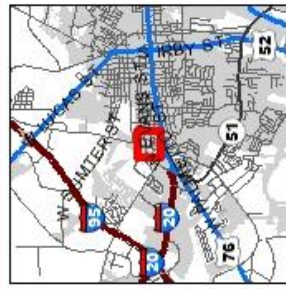
4. That these conditions do not generally apply to other property in the vicinity. Staff Comments: **The parcel is large, but comparable to adjacent commercial development with compliant signage.**
5. That because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows. Staff Comments: **Applying the current height and square footage requirements of the *Unified Development Ordinance* to the applicant's property would not limit or restrict the applicant's ability to fully utilize the allowable signs within the code.**
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. Staff Comment: **The height and square footage of the requested sign would be a significant contrast to the existing built environment and would affect future signs permitted in the City of Florence. Depending on the proposed location, adjacent residential property to the east and south may be affected by its size and the digital portion of the sign that is approximately 224 square feet located on both sides of the proposed sign.**

Attachments

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Sign Rendering
- F. Sign Proposed to be Repurposed
- G. Site Photos

Attachment A: Vicinity Map

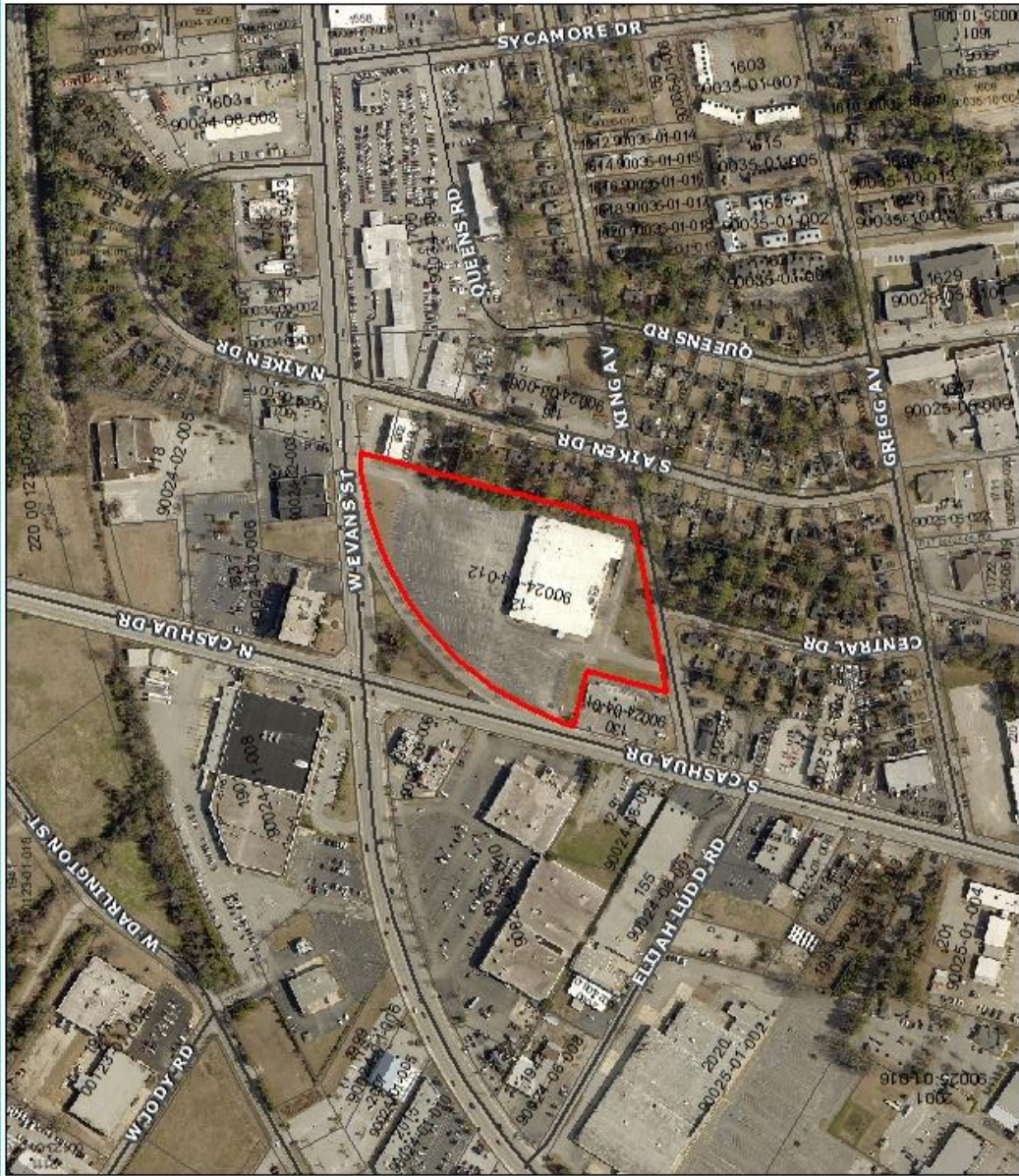
BZA 2023-01 Attachment A
Vicinity Map 124 South Cashua Drive



Legend
 [Red Outline] Parcels

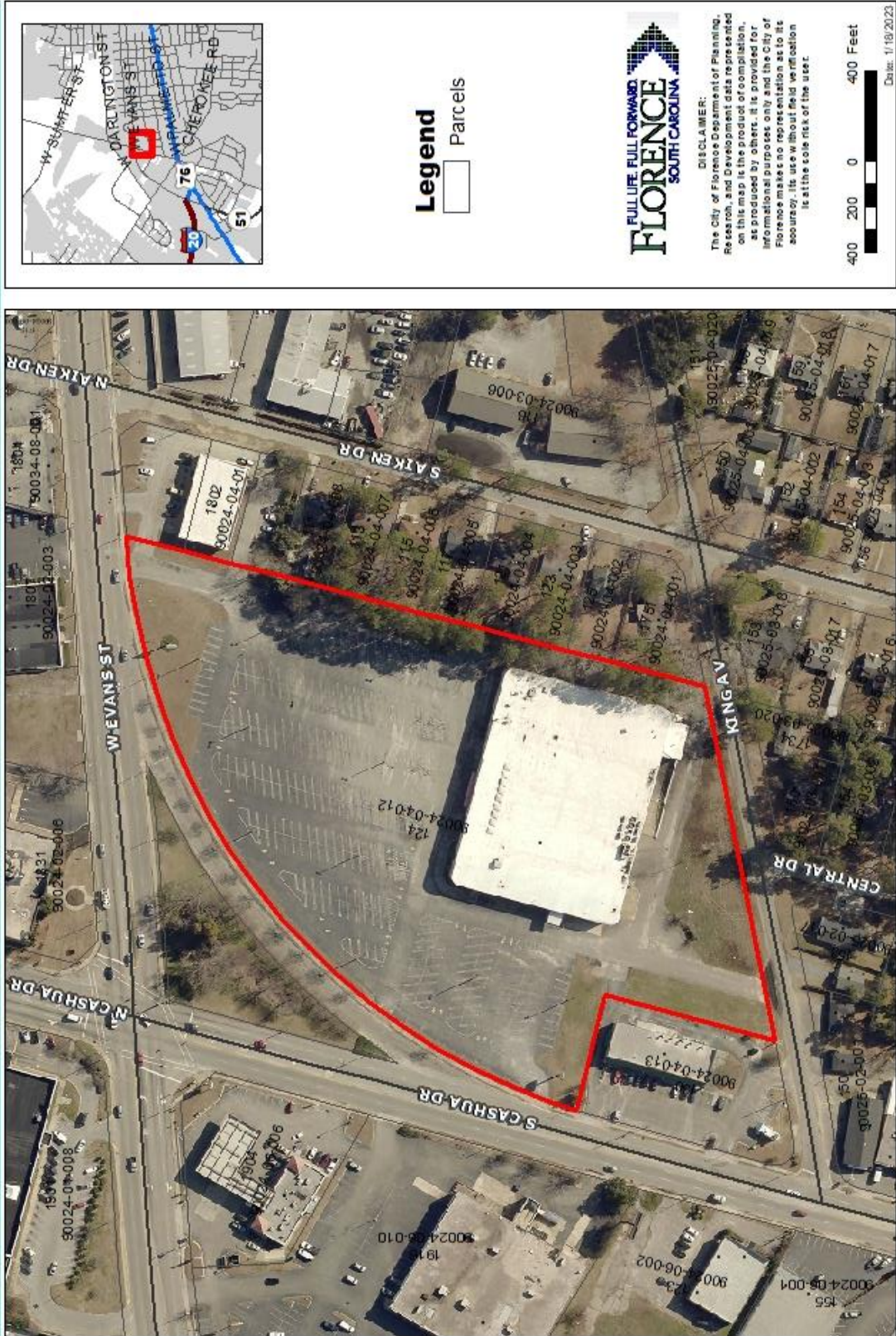


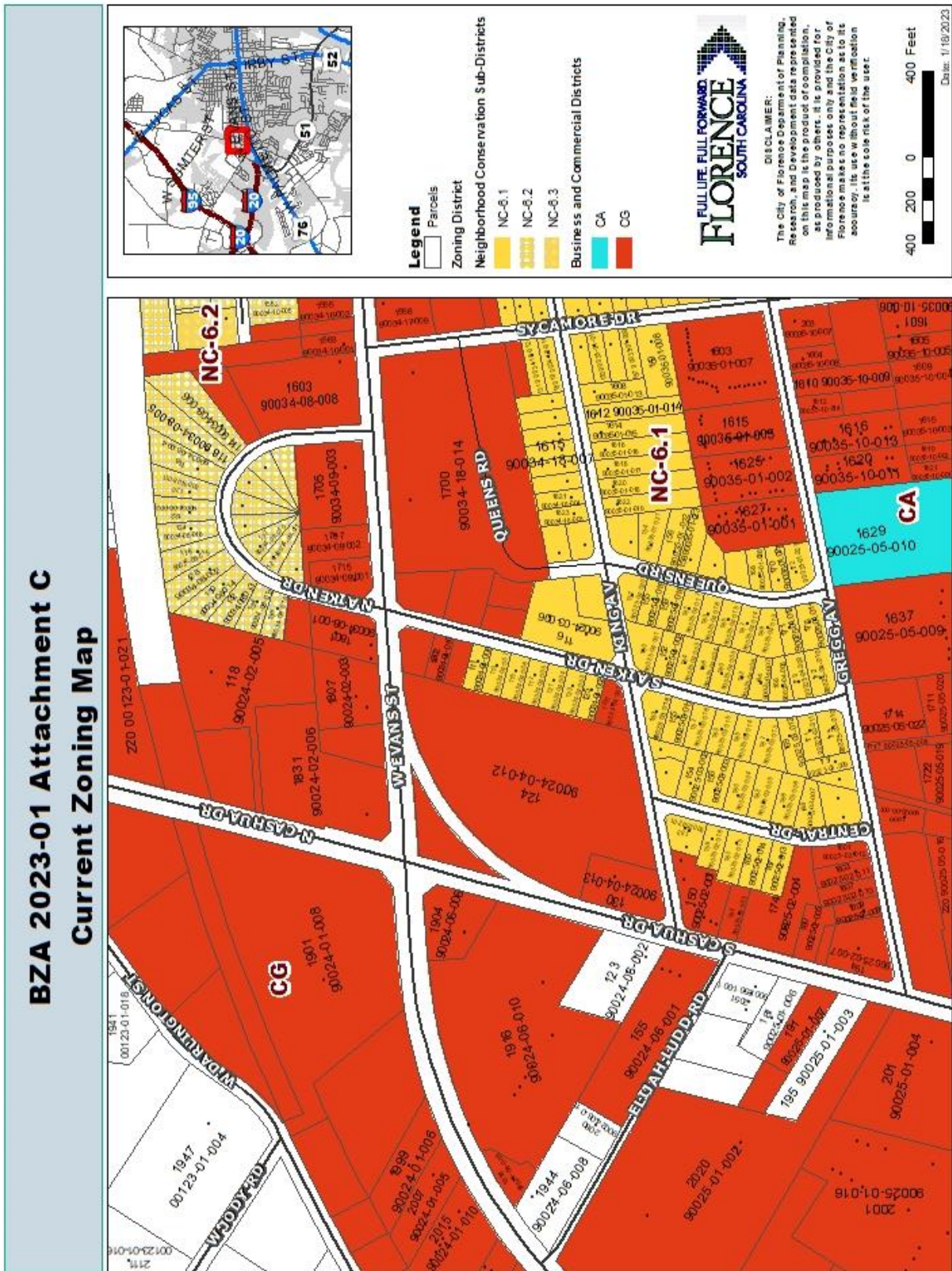
DISCLAIMER:
 The City of Florence's Department of Planning, Research and Development is not responsible for the accuracy of the information provided for informational purposes only and the City of Florence makes no representation as to its accuracy. Its use without need verification is at the sole risk of the user.



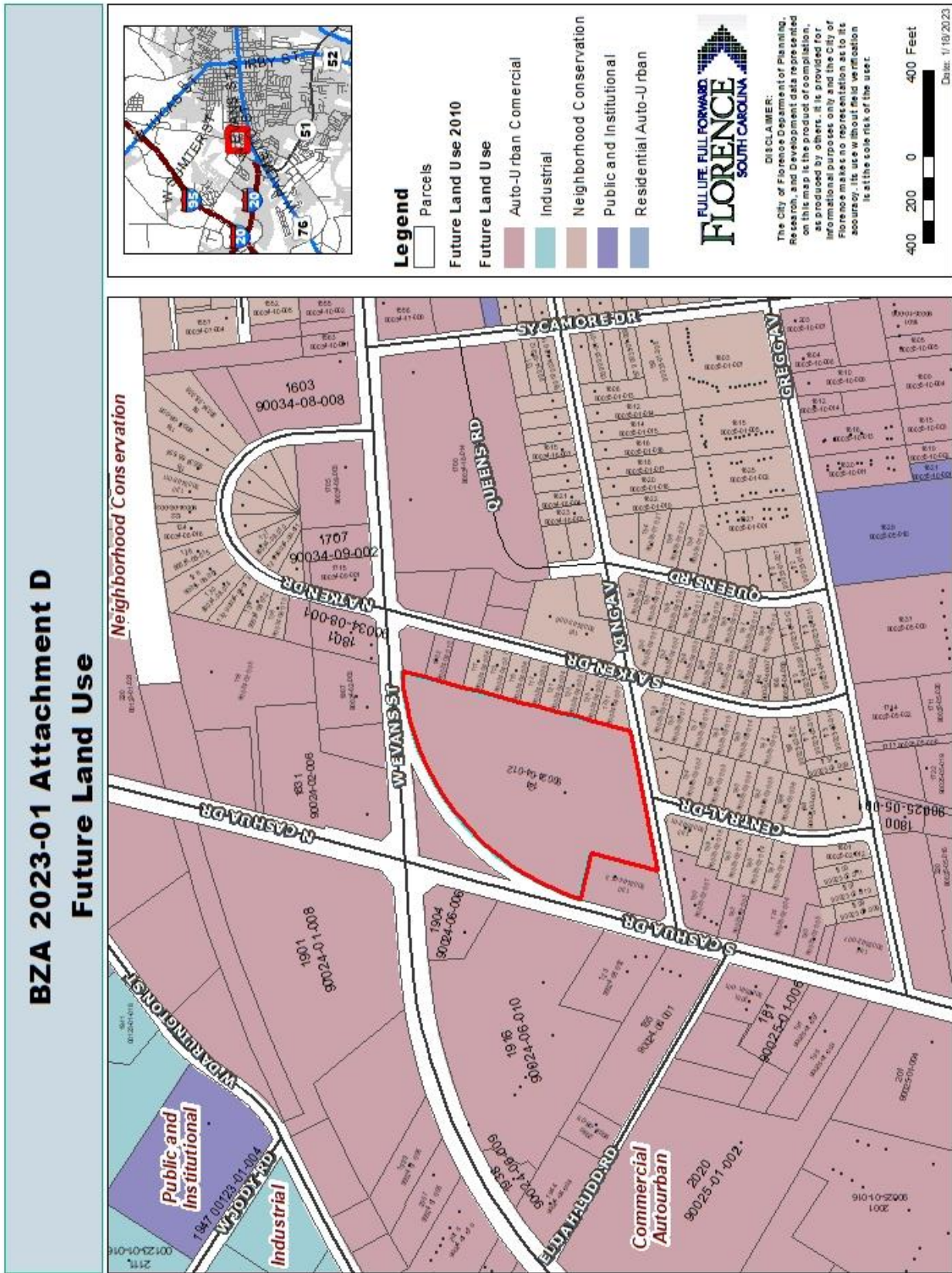
Attachment B: Location Map

**BZA 2023-01 Attachment B
Location Map 124 South Cashua Drive**

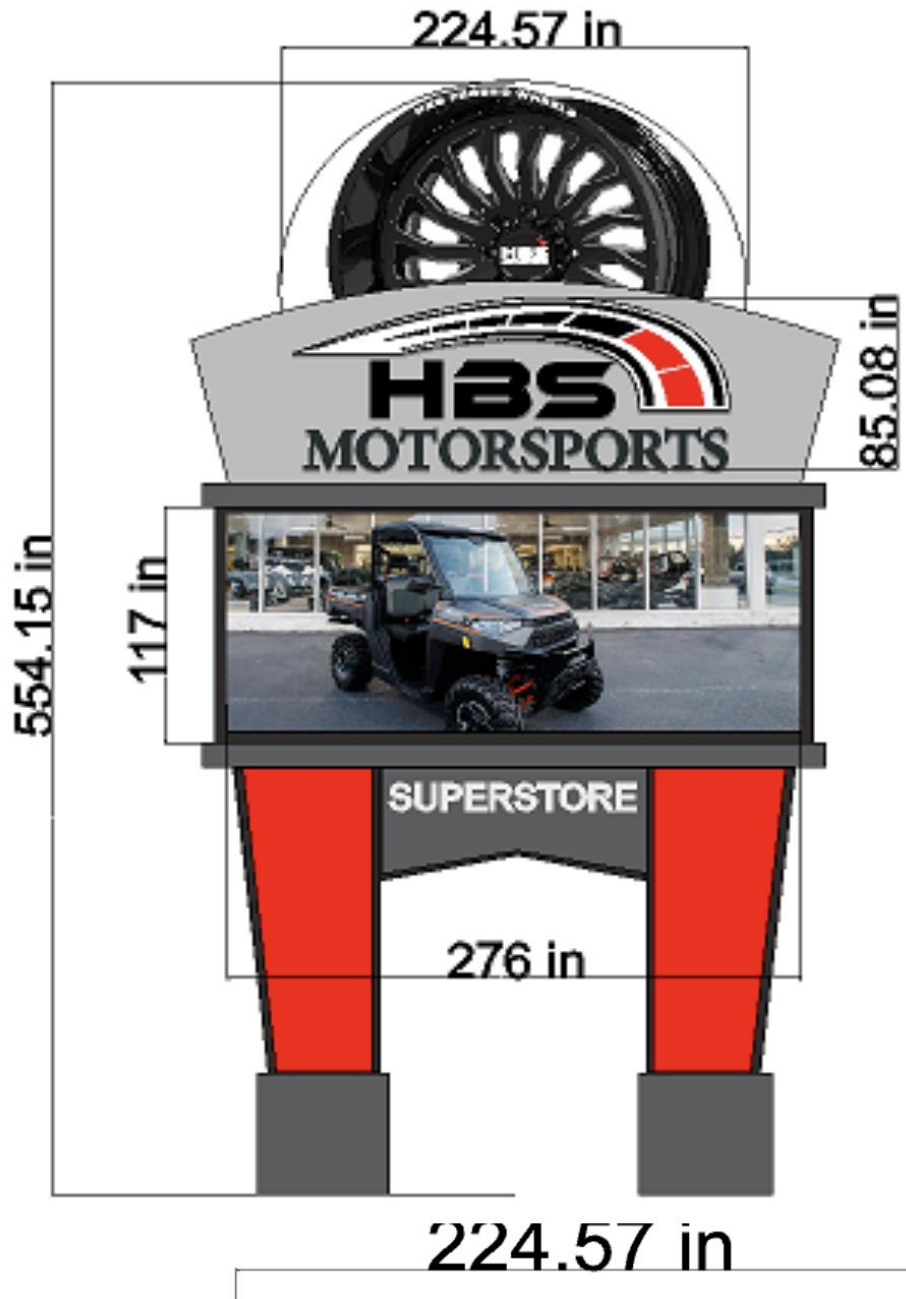




Attachment D: Future Land Use Map



Attachment E: Sign Rendering



Attachment F: Sign Proposed to be Repurposed



Attachment G: Site Photos



Future Site of HBS Motorsports – 124 South Cashua Drive



Existing Freestanding Sign – South Cashua Drive Entrance



Existing Freestanding Sign – West Evans Street Entrance

Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2023-01 Nature of Request: Sign Height and Area Variance

I move that we grant / deny the request for a variance based upon the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not / will be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that:

2. That the spirit of the *Unified Development Ordinance* will / will not be observed, public safety and welfare secured, and substantial justice done because:

3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely:

4. That these conditions do not generally apply to other property in the vicinity, in that:

5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by:

6. That the authorization of a variance will not / will be of substantial detriment to adjacent property or to the public good, and the character of the district will not / will be harmed by the granting of the variance, because:

Guidelines applicable to the granting of a variance:

1. Profitability: the fact that a property may be used more profitably if the variance is granted may not be used as the basis for granting the variance.
2. Conditions: the BZA can put conditions on the granting of the variance.
3. Use Variance: the BZA cannot grant a variance that would allow a use not permitted in the zoning district.
4. Hardship: the hardship cannot be based on conditions created by the owner/applicant.

Notes:

DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT
STAFF REPORT TO THE
CITY OF FLORENCE BOARD OF ZONING APPEALS

DATE: January 26, 2023

APPEAL NUMBER: BZA-2023-02

VARIANCE REQUEST: Request for a variance from the bufferyard requirements in Table 4-10.3.1 and Table 4-10.3.2 of the *Unified Development Ordinance*.

LOCATION: 610 East Pine Street

TAX MAP NUMBER: 90103-08-010

OWNER OF RECORD: The Father’s House Outreach Ministries

APPLICANT: The Father’s House Outreach Ministries

ZONING DISTRICT: Campus (CA)

Land Use and Zoning

The parcel is located at 610 East Pine Street and is currently vacant. It is zoned Campus, and all surrounding properties are zoned NC-6.2. There was a church on this site previously, and the new owners intend to build another small church in the same location. There are single family houses across Howard Street to the east and directly adjacent to this lot to the south. The two lots to the west are owned by the City of Florence and are currently vacant.

Site and Building Characteristics

The corner lot is half an acre in size. It is approximately 115 feet wide and 200 feet deep. The proposed site plan reuses the front parking lot for the new church and sites the building in the same location as the former structure. Prior to its use as a church, the lot was the location of a small gas station.

Ordinance Requirements

According to Table 4-10.3.2, the developer of a lot zoned CA is to provide a Type C bufferyard when the adjoining lot is zoned NC. When the adjacent lot is already developed but does not have the required bufferyard, the developer is to provide a bufferyard of the next higher classification, which would be a Type D bufferyard. The two lots on the west side of the parcel are undeveloped, thus only a C type bufferyard is required along the 200 foot interior property line. However, the lot to the south along the 115 foot property line is occupied by a single family house, and thus a Type D bufferyard is required along that property line (see Attachments D and E).

The provision of a Type C bufferyard along the west property line would require the planting of 6 canopy trees, 6 understory trees, 6 evergreens, and 60 shrubs in a 25 foot wide area along with a 3 foot high berm. This would result in the loss of two parking spaces at the front of the building. The Type D bufferyard along the south property line would require the planting of 4 canopy trees, 4 understory trees, 4 evergreens, and 35 shrubs in a 40 foot wide area along with a 6 foot high fence.

The Ordinance also requires a 3 foot wide shrubbery buffer around the parking lot adjoining both East Pine Street and Howard Street.

Variance Request

The request is for a variance from the requirements of Table 4-10.3.1 and Table 4-10.3.2 of the *Unified Development Ordinance* regarding the distance and the number and types of plantings necessary within the landscaped bufferyards around the perimeter of the lot. A variance from the height limit of Table 3-8.1.2 is also needed (Attachment F).

The applicants intend to build a new church on the previous church building footprint, placing it 80 feet from East Pine Street, 48 feet from Howard Street, 31 feet from the interior western property line, and 76 feet from the south property line (see Attachment F). As proposed in the current layout, there is enough space for the 25 foot buffer on the west side and 40 foot buffer to the south. The applicant is requesting to install a 6 foot tall privacy fence along both interior property lines and install shrubbery along the fence line, and to remove the requirement to install the canopy trees, understory trees, and evergreens required by the Code. The applicant has stated their reason for the variance is to enable future expansion of the 1600 square foot building or to add parking to the rear of the lot in the future. Additionally, the church would like to hold outdoor community events in this open space occasionally, and having trees and shrubs scattered throughout the space would restrict their ability to do so.

According to Table 3-8.1.2, fences in the front yard may not exceed 4 feet in height and must be at least 50% transparent, but the request is to place the 6 foot tall privacy fence along the entire interior side property line.

Staff Comments

The request is to waive the bufferyard width and tree requirements of the Ordinance. Placement of the 6 foot tall fence along the west property line provides additional screening for any future single family development. Waiving the height and transparency requirement for front yards enables the fence to operate as a screen between uses along the entire length of the interior side property line. Along the south property line, it provides privacy for the existing single family house from church activities. The fence is required to be installed with the finished side towards the abutting properties rather than towards the church property.

Applicant Comments

The following information is included as submitted by the applicant:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **The lot is small and every bit is needed to accommodate the new church building and parking lot.**
- b. These conditions do not generally apply to other property in the vicinity as shown by: **They are single family residences. This will be the only church in the area.**
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **Requiring a 40 foot wide buffer along the south and 25 foot wide buffer along the west property lines would take away valuable space that is needed for the building and parking, as well as future outdoor activities.**
- d. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the

following reasons: **An opaque fence with plantings will adequately screen headlights and other activity from the neighboring house and any future development on the vacant lots to the west.**

Issues to be Considered

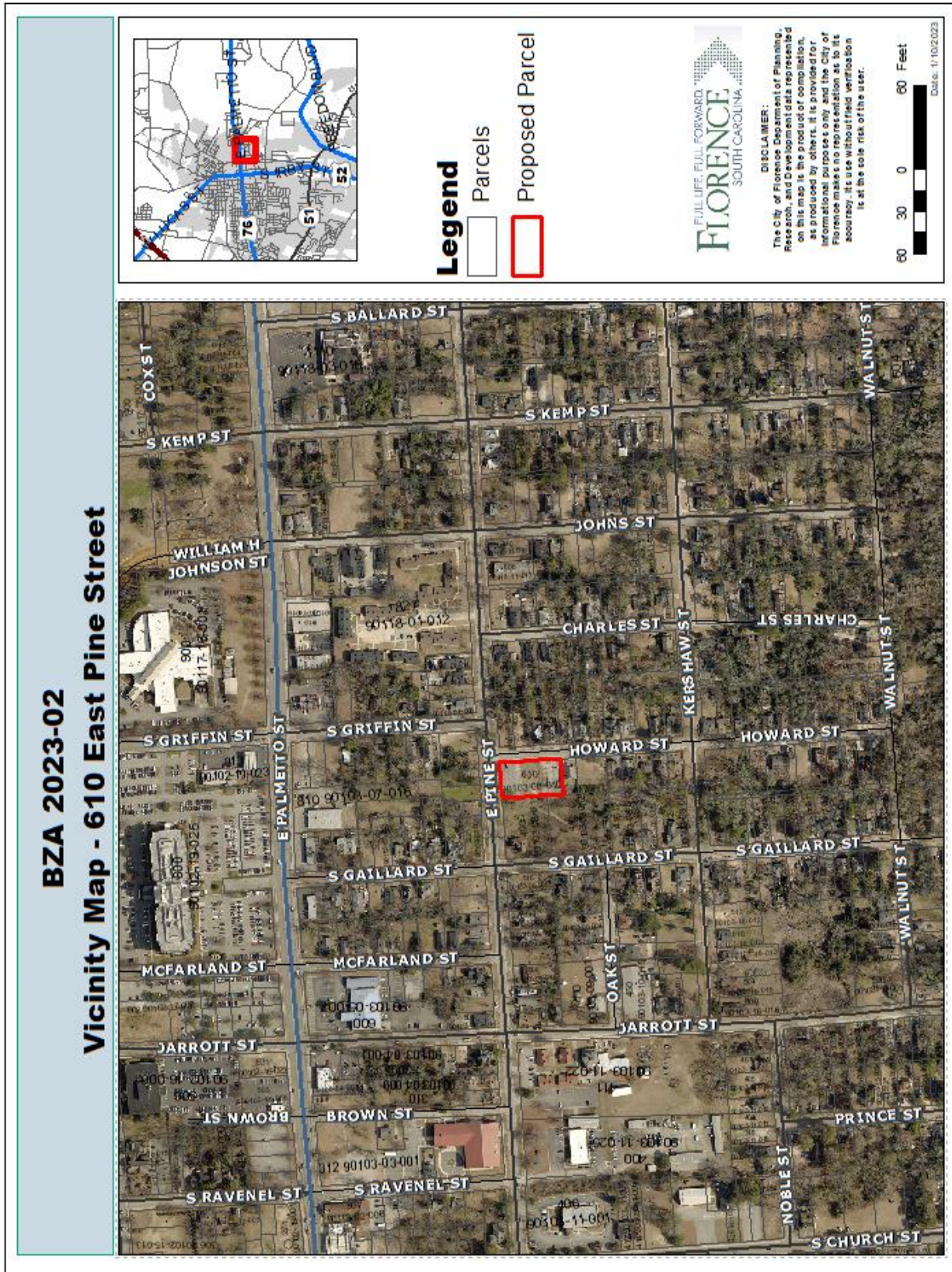
Applications for a variance shall be evaluated by the Board of Zoning Appeals based on the following conditions:

1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship: **Requiring that the applicant install the full width bufferyards with complete plantings around the inner perimeter of the lot decreases the amount of space available for additional parking and future expansion of the building itself.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The intent of the Ordinance is to provide screening between different uses. Permitting a smaller bufferyard with the inclusion of an opaque fence will adequately screen the church from the adjacent residential uses. It also serves to protect the churchyard from trespassers.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The small size of the lot relative to its proposed use limits the area available to be dedicated to a bufferyard.**
4. That these conditions do not generally apply to other property in the vicinity: **This corner lot has historically been used for commercial purposes rather than residential.**
5. That because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **Requiring adherence to the 40 and 25 foot wide requirements for the bufferyards would not prevent the use of the lot for a church, but it would make it very difficult to expand parking or the building in the future. It would also remove the backyard's usefulness for outdoor church activities by reducing the amount of open space available for community events.**
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance: **The previous gas station and church uses did not have bufferyards around the perimeter, so any new screening provided will alter the character of the street. However, the fence and shrubs appear to fulfill the spirit of the Ordinance. The mitigation of possible nuisances towards neighboring residential uses is appropriate to enable the construction of a church which can be a valuable contributor to the community.**

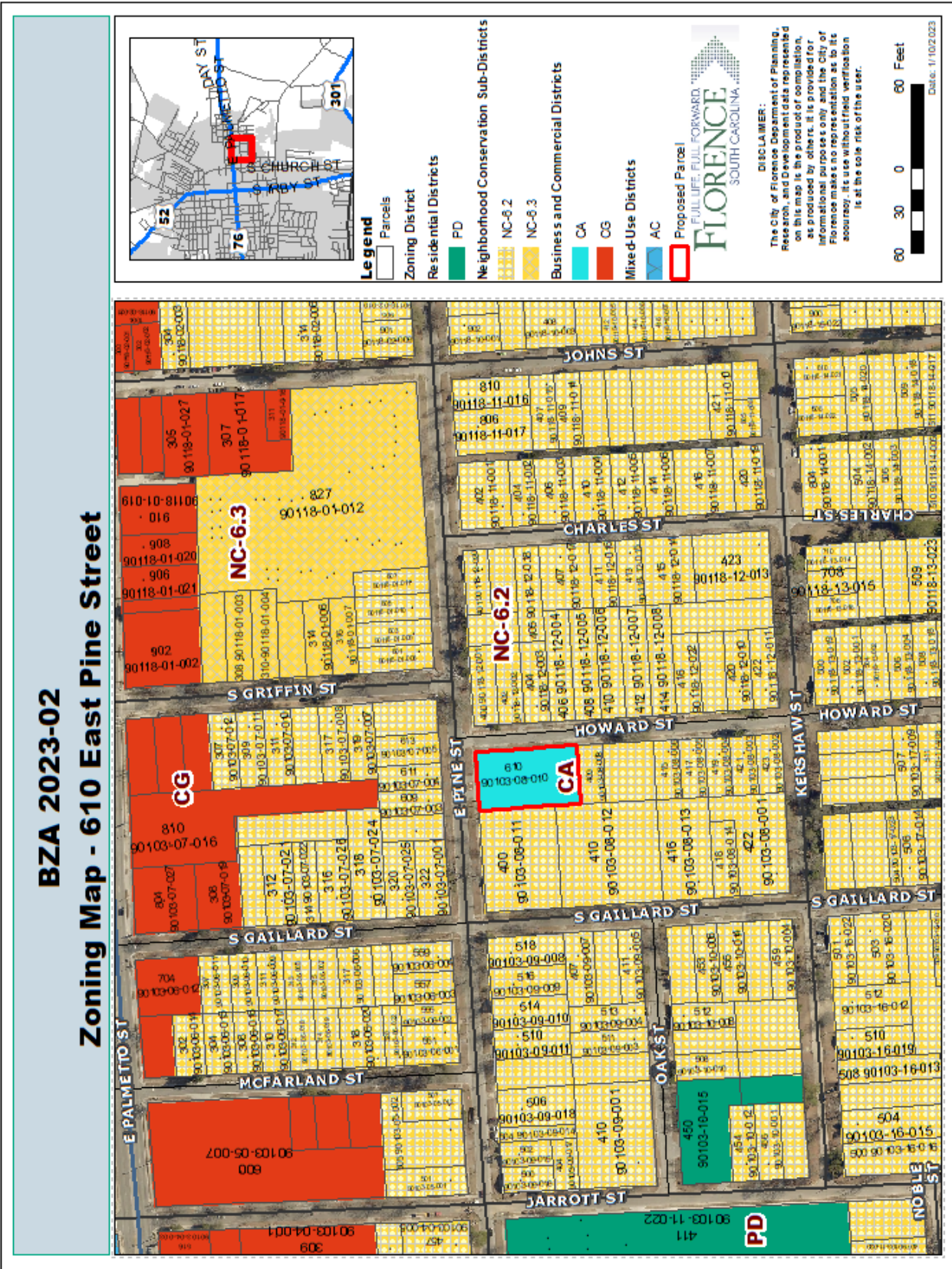
Attachments

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Table 4-10.3.1 Bufferyard Classifications
- E. Table 4-10.3.2 District Bufferyard Standards
- F. Table 3-8.1.2 Heights and Setbacks for Fences, Walls, and Hedges
- G. Site Plan
- H. Site Photos

Attachment A: Vicinity Map







Attachment D: Table 4-10.3.1 Bufferyard Classifications

Table 4-10.3.1 Bufferyard Classifications						
Type	Width	Required Plantings per 100 Linear Feet				Height of Berm, Wall, or Fence
		Canopy Trees	Understory Trees	Evergreen Trees	Shrubs	
Type A	5'	1	1	1	10	-
Type B	10'	2	2	2	20	-
Type C	25'	3	3	3	30	3'
Type D	40'	3	3	3	30	6'
Type E	50'	4	4	4	40	6'

Attachment E: Table 4-10.3.2 District Bufferyard Standards

Table 4-10.3.2 District Bufferyard Standards														
Zoning of Proposed Development	Adjoining District													
	AR/OS	RE	RS	RG	RU	NC	CR	CA	CG	CBD	AC	DS	IL	IH
AR/OSR	-/-	-/A	-/A	-/A	-/B	-/A	-/A	-/A	-/B	-/-	-/B	-/B	-/B	-/C
RE	A/-	-/-	-/A	-/B	-/C	-/B	-/B	-/B	-/C	-/-	-/C	-/C	-/D	-/E
RS	A/-	A/-	-/-	A/A	A/B	A/A	A/B	A/C	A/C	A/	A/C	A/C	A/D	A/E
RG	A/-	B/-	A/A	-/-	A/B	A/A	A/B	A/C	A/C	A/	A/C	A/C	A/D	A/E
RU	B/-	C/-	B/A	B/A	-/-	C/A	-/-	-/A	-/A	-/-	A/B	A/B	A/C	A/D
NC	A/-	B/-	A/A	A/A	A/C	-/-	A/B	A/C	A/C	A/	A/C	A/C	A/D	A/E
CR	A/-	B/-	B/A	B/A	-/-	B/A	-/-	A/B	A/B	A/	A/B	A/B	A/C	A/D
CA	A/-	B/-	C/A	C/A	A/-	C/A	B/A	-/-	A/B	-/-	-/-	-/-	A/D	A/E
CG	B/-	C/-	C/A	C/A	A/-	C/A	B/A	B/A	-/-	-/-	-/-	-/-	A/C	A/D
CBD	-/-	-/-	B/A	B/A	-/-	B/A	A/A	-/-	-/-	-/	-/-	-/-	A/C	A/D
AC	B/-	C/-	C/A	C/A	B/A	C/A	B/A	-/-	-/-	-/-	-/-	-/-	A/C	A/D
DS	B/-	C/-	C/A	C/A	B/A	C/A	B/A	-/-	-/-	-/-	-/-	-/-	B/D	B/E
IL	B/-	D/-	D/A	D/A	C/A	D/A	C/A	D/A	C/A	C/A	C/A	D/B	-/-	A/B
IH	C/	E/-	E/A	E/A	D/A	E/A	D/A	E/A	D/A	D/	D/A	E/B	B/A	-/-

C. Existing Adjacent Development without Bufferyards. Where the adjoining property is already developed and does not have the required bufferyard, it is recommended that the proposed development shall provide a bufferyard of the next higher classification than the greater screening of the two bufferyards required (e.g., if the requirement is C / A, and the adjoining property is already developed and does not have a bufferyard, then the developer must install a Type D bufferyard).

Attachment F: Table 3-8.1.2 Heights and Setbacks for Fences, Walls, and Hedges

Table 3-8.1.2 Heights and Setbacks for Fences, Walls, and Hedges				
Standard	Front Yard	Side Yard	Street Side Yard	Rear Yard ¹
Maximum Height ²	Up to 4', subject to this Section.	6'	6'	6' ^{1,2}
Minimum Setback	N/A; 0', subject to this Section.	0'	0', but at least 1' from sidewalk and/or 5' from street	0' ¹
Transparency	50%	0%	50%	0%

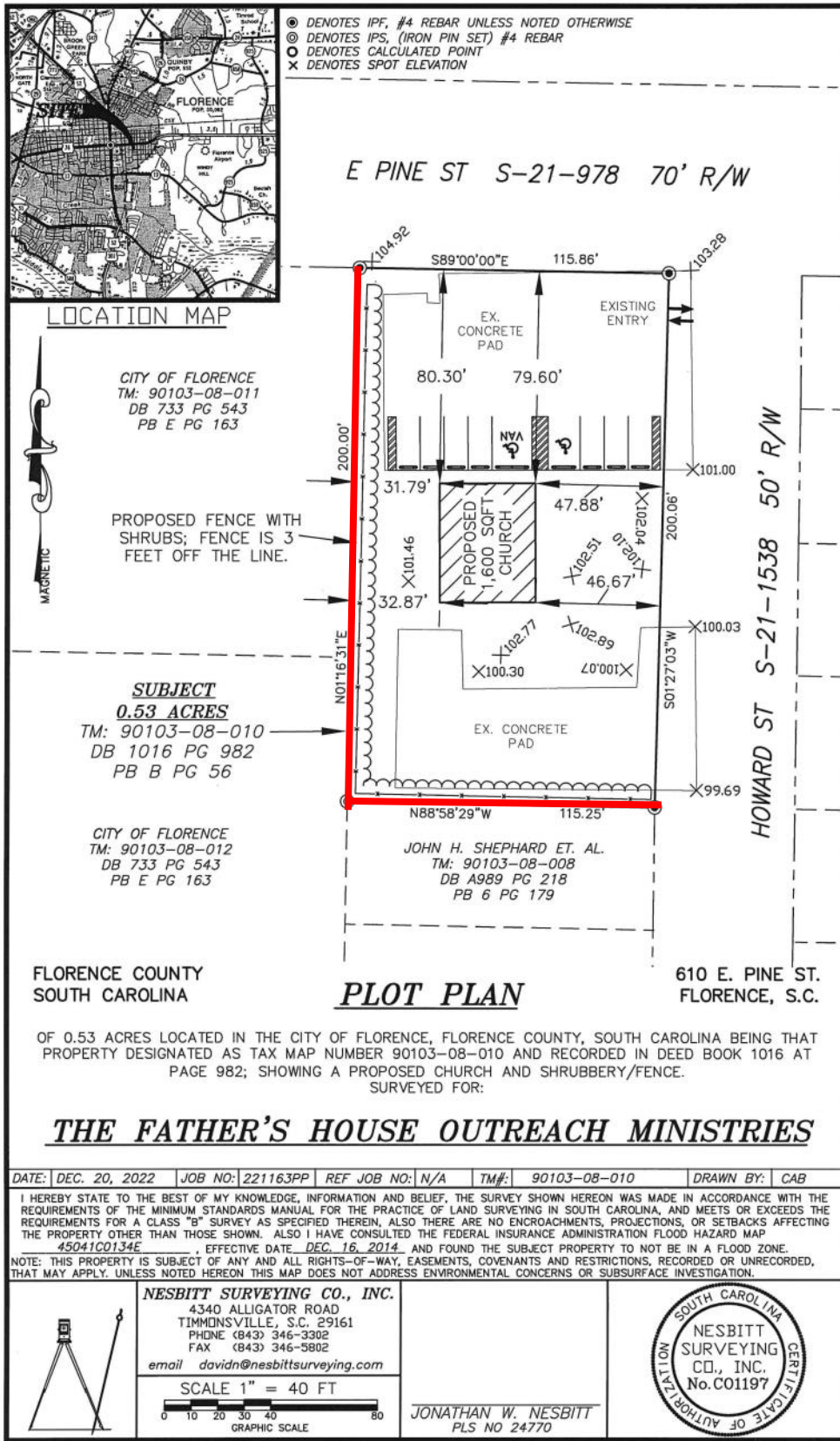
TABLE NOTES:

¹ A lower fence height, increased setback, or minimum transparency may be required to assure safe alley passage.

² Fences or walls in rear yards abutting CG, CBD, AC, DS, IL, or IH districts may be a maximum of 8' in height

³ Fences or walls in excess of maximum allowed height shall require a variance from the Board of Zoning Appeals.

Attachment G: Site Plan (proposed fence is in red)



Attachment H: Site Photos



View of site from East Pine Street.



View of site from Howard Street.



Looking along south property line adjacent to single family property where fence will be located.



Looking down Howard Street.



Looking west towards vacant property; fence will go in front of large tree on left.



Residential development along Howard Street.

Board of Zoning Appeals Motion Worksheet

Case Number: BZA-2023-02 Nature of Request: Bufferyard Variance

I move that we grant / deny the request for a variance based upon the following findings of fact:

7. That a variance from the terms of the *Unified Development Ordinance* will not / will be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that:

8. That the spirit of the *Unified Development Ordinance* will / will not be observed, public safety and welfare secured, and substantial justice done because:

9. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely:

10. That these conditions do not generally apply to other property in the vicinity, in that:

11. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by:

12. That the authorization of a variance will not / will be of substantial detriment to adjacent property or to the public good, and the character of the district will not / will be harmed by the granting of the variance, because:

Guidelines applicable to the granting of a variance:

5. Profitability: the fact that a property may be used more profitably if the variance is granted may not be used as the basis for granting the variance.
6. Conditions: the BZA can put conditions on the granting of the variance.
7. Use Variance: the BZA cannot grant a variance that would allow a use not permitted in the zoning district.
8. Hardship: the hardship cannot be based on conditions created by the owner/applicant.

Notes: