MAYOR Barbara Jo Blain

MAYOR PRO TEM Larry A. White



COUNCIL MEMBERS Amanda Butler William M. Goldfinch IV Julie Ann Hardwick Beth Helms Justin D. Jordan

PLANNING & DEVELOPMENT PLANNING COMMISSION MEETING AGENDA Thursday, March 7, 2024 | 5:30 p.m. Planning & Building Dept. Conference Room – 196 Laurel Street

I. CALL TO ORDER – 5:30 p.m.

II. MINUTES

A. Approval of the March 7, 2024 Planning Commission Meeting Minutes

III. PUBLIC INPUT

IV. SUBDIVISIONS

- **A.** *Previously Deferred*... **2208** Sixth Ave requesting a design modification that would allow a residential dwelling to be constructed on an existing lot of record that lacks the required frontage on to a public maintained (and improved) street (PIN 368-07-01-0101).
- **B.** Country Manor requesting a design modification regarding access management standards for a new, additional phase of the Country Manor subdivision (PIN 326-00-00-0021).
- **C. Chapman Village** requesting to pay the fee-in-lieu of providing open space for the development, in accordance with *Section 10.3.9, B.4* of the City's Unified Development Ordinance (UDO) (PIN 338-00-00-0003).

V. PUBLIC HEARING(S)

A. TEXT AMENDMENTS

- **1.** Amendment(s) to *Article 6 Design Standards*, of the City of Conway Unified Development Ordinance (UDO), regarding design standards for residential dwellings and dimensional standards for single-family attached (townhomes) dwellings.
- 2. Amendment(s) to *Article 11 Signage*, of the City of Conway Unified Development Ordinance (UDO), regarding signs placed on public property and/or within public rights-of-way.
- **3.** *DEFERRED*...Amendment(s) to *Article 10 Subdivision and Land Development*, of the City of Conway Unified Development Ordinance, regarding revisions to various standards contained within Article 10.

MAYOR Barbara Jo Blain



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VI. BOARD INPUT

VII. STAFF INPUT

VIII. UPCOMING MEETINGS

MEETING	DATE	<u>TIME</u>	LOCATION	ADDRESS
City Council	April 15, 2024	4:00 p.m.	City Hall	229 Main St.
Community Appearance Board (CAB)	April 24, 2024	4:00 p.m.	Planning & Building Dept. Conference Room	196 Laurel St.
Board of Zoning Appeals (BZA)	April 25, 2024	5:30 p.m.	Planning & Building Dept. Conference Room	196 Laurel St.
Planning Commission (PC)	May 2, 2024	5:30 p.m.	Planning & Building Dept. Conference Room	196 Laurel St.
City Council	May 6, 2024	4:00 p.m.	City Hall	229 Main St.
Community Appearance Board (CAB)	May 8, 2024	4:00 p.m.	Planning & Building Dept. Conference Room	196 Laurel St.

IX. ADJOURNMENT

CITY OF CONWAY PLANNING COMMISSION MEETING THURSDAY, MARCH 7, 2024 Planning & Building Dept. Conference Room – 196 Laurel Street

Present: Brian O'Neil, Kendall Brown, Ellen Watkins, George Ulrich, Danny Hardee, David Sligh, Thomas J. Anderson III

Absent: Jessica Wise

- Staff:Jessica Hucks, Planning Director; Brent Gerald, Planner; Katie Dennis, Planning Concierge; Jeff
Leveille, IT; Anne Bessant, Planning Assistant, Paul Lawson, Attorney
- Others: John Danford, Anna Lewis, Brady Gnatt, Jamie Steele, David Schwerd, John Richards, Jim Lindsey, Jerri Lindsey, David Nye, Jeremy Cox, Tyler Thomas, & others

I. CALL TO ORDER

Chairman O'Neil called the meeting to order at approximately 5:30 pm.

II. APPROVAL OF MINUTES

Ulrich made a motion, seconded by Hardee to approve the December 20, 2023 minutes as written. The vote in favor was unanimous. The motion carried.

Sligh made a motion, seconded by Ulrich to approve the February 1, 2024 minutes as written. The vote in favor was unanimous. The motion carried.

III. PUBLIC INPUT

There was no public input. Ulrich made a motion, seconded by Watkins, to close public input. Motion carried unanimously.

IV. OLD BUSINESS

A. DESIGN MODIFICATION

1. 2208 Sixth Ave – requesting a design modification to allow a structure to be constructed on an existing lot of record that lacks the required frontage on to a public maintained (and improved) street.

Hucks stated that the above item was initially considered at the November (2023) Planning Commission (PC) meeting but was deferred to a workshop held in December (2023) in which Planning Commission denied the applicant's request for a design modification that would have allowed the applicant to construct a single-family structure on an existing lot of record that lacks the required frontage onto a publicly maintained street. At the February (2024) Planning Commission meeting, PC moved to reconsider the design modification.

Hucks further stated that the lot in question predates municipal design standards (i.e. dimensional standards, access management standards, etc.), making the lot legal nonconforming, in that it does not meet the minimum lot width requirements for the R-1 zoning district nor does the lot meet the requirement that all lots shall front a public street that has been dedicated for maintenance by the city, county, or state, as required per the city's residential design standards and the city's land development regulations; specifically, *Section 10.5.2 (A)* of the UDO. Other Articles / Sections of the UDO also convey the same message that lots must front a public street, including *Art. 6, Section 6.2.1 (Dimensional Requirements)*; *Art. 7, Section 7.1.12* regarding prohibiting private streets, half streets, reserve strips, etc.; and *Art. 12 – Nonconformities*.

Staff has performed an exorbitant amount of research on this issue which has resulted in the same conclusion. All evidence suggests to staff that while 6th Ave is an SCDOT "right-of-way", any maintenance of 6th Ave end just short of where the lot in question begins. Even if the applicant were willing to improve the road to city standards, they would not have the right to dedicate the road to the city. The applicant has stated they would be willing to improve the road to meet the minimum standards for emergency vehicle, including the installation of a dust-free surface that would support the weight of fire apparatus and sanitation trucks. Regardless, the lot would still be considered an "island", not directly connected to the public street system, and as such, staff is unable to approve the permit to construct the home.

The city's attorney at the time this issue first came about, along with city staff, reached out to the Municipal Association for guidance, but they were not aware of any case law in South Carolina that had previously established precedent for a situation like the one being considered. Additionally, the city attorney at the time was of the opinion that this issue was best resolved through the court system, and staff agrees.

Hucks added that as rare as this issue may seem, there are several other existing lots of record on other streets in the city limits – in close proximity to the subject property – that were platted decades ago and the platted right-of-way was never dedicated to the city, county, or state for maintenance, and in those cases, staff has consistently denied any permits for construction due to the fact that the lots did not comply with the requirement to front a public street.

David Schwerd, applicant and agent for the property owner, stated that their attorney was not able to be present for the meeting and requested to defer to the next Planning Commission meeting. David Sligh made a motion to defer, seconded by George Ulrich. The motion carried unanimously.

V. NEW BUSINESS

A. PUBLIC HEARINGS

1. ANNEXATION & REZONING REQUEST(S)

a. **DEFFERED**...Request to annex approximately 7.4 acres of property located off of Hwy 905 (PIN 339-16-04-0006), and rezone from the Horry County Commercial Forest Agriculture (CFA) district to the City of Conway Low/Medium Density Residential (R-1) district.

2. REZONING REQUEST(S) / FUTURE LAND USE MAP AMENDMENT(S)

- a. Amendment to the City of Conway *Comprehensive Plan 2035*, to amend the Future Land Use Map (FLUM), for property located on Sixth Ave, identified by PIN 338-13-03-0006; and a
- Request to rezone approximately 0.31 acres of property located on Sixth Ave (PIN 338-13-03-0006) from City of Conway Low/Medium Density Residential (R-1) district to the Professional (P) district.

The above items, 2.a and 2.b, were considered together, as they are relative to the same property.

Hucks provided an overview of the applicant's requests. The property is currently zoned Low/Medium-Density Residential (R-1). The property is currently vacant and is directly behind the old Barker's gas station at the corner of Main St and Sixth Ave that is proposed to be renovated to a Sinclair's gas and convenience station (*zoned Neighborhood Commercial-NC*). The applicant have expressed their design to construct a duplex on the subject property.

The applicant is requesting to rezone the subject property to the Professional (P) district. If the rezoning is successful, any use permitted in the Professional district would be allowed on this property. There are two other properties abutting the subject property that are currently zoned Professional that front on Main Street. The city's future land use map of the *Comprehensive Plan* identifies the property as Low/Medium-Density Residential (R-1).

If Planning Commission recommends approval of the requested zoning of the property, staff recommends *approval* of the Future Land Use Map (FLUM) amendment for the property as well.

Tyler Thomas, agent for applicant, was present and further explained the request.

There was no public input. Sligh made a motion, seconded by Ulrich, to close public input. Motion carried unanimously.

Sligh made a motion to recommend approval of the rezoning request and future land use map amendment to City Council as presented. Ulrich seconded the motion and the motion carried unanimously.

VI. SUDIVISIONS

A. Chapman Village – requesting a design modification and preliminary plan approval for a 45-lot single-family subdivision, located along Medlen Parkway.

Hucks presented the request to Planning Commission. The first set of preliminary plans for Chapman Village were submitted for review in December of 2022. The current submittal for the proposed development was submitted in January (2024). The property is 11.83 acres and is zoned High-Density Residential (R-3). The plans propose 45 single-family lots to be developed, ranging in lot sizes from 5,457 to 5,995 sq. ft. City Council approved the subdivision name in February of 2023 and Planning Commission approved the street names for the project in March of 2023.

Access to the development would be provided via Medlen Parkway and a secondary, emergency access drive on the existing driveway (easement) to Conway Christian School, which will be split from the parent tract and combined with the school. A stub-out is also being provided to the adjacent tract (PIN 338-00-00-0001). This adjacent tract currently has plans in review that propose to extend Eloise Way, connecting this project with the two proposed Medlen Parkway entrances in the future as well as the Hwy 501 entrance through Carsen's Ferry subdivision and the Cultra Road entrance via Rivertown Row / Tiger Grand subdivisions.

Since the project only proposes 45-lots, the amount of required open space is less than 1-acre (0.94-ac), and per the UDO (*Section 10.3.9, B.4*), "if less than one acre is required for any major subdivision, the developer *shall* submit a fee in lieu of providing the open space." After the initial comments were returned to the applicant, the applicant inquired whether the developer could opt to provide an adequate amount of open space rather than pay the fee in lieu. Staff informed the applicant that if the developer would rather provide suitable open space rather than submit the fee in lieu in accordance with the UDO, it would need to be reviewed (and approved) by Planning Commission. However subsequent plans failed to provide suitable open space areas within the project.

When evaluating suitability of Open Space, staff is bound by the standards set forth in *Section 10.3.9, C*, of the UDO, which are used when determining whether such property is acceptable for open space. These standards include Unity, Location, Accessibility, Usability, Connectivity, and Conformity. Additionally, Section 10.3.9, B.2, of the UDO states that: "*If more passive open space is provided than active open space, then more total open space will be required*." Within the on-site Open Space, a sufficient amount of *Active* Open Space is required to be provided as well. *Section 2.2.1* defines Active Open Space as follows: "*Areas where group or team activities take place with formal designated fields, outdoor courts (basketball, volleyball, tennis) and/or outdoor amenities (skate park, frisbee, golf, etc.)"*

Based on staff's review of the preliminary plans, it was determined that:

- <u>Open Space #1</u> failed to provide enough area (approximately: 0.47-ac) meeting the "Usability" standards, as only a portion is centrally located, and a majority of that area is encumbered by a retention pond (which includes 25% of the pond qualified by the installation of a fountain).
- <u>Open Space #2</u> & <u>Open Space #3</u> failed to meet the "Unity", "Location", "Usability", "Connectivity" and "Conformity" standards listed above, and <u>No</u> Open Space has been provided on-site, that may be qualified as "Active."

However, Item: 7 of the suitability standards (Sec. 10.3.9 C) states that: "The Planning Commission may accept as suitable any land which meets an entirely different set of criteria when in its opinion such land meets the purpose of this section in providing for the particular circumstances and needs of the development and neighborhood" and an "Open Space Exhibit" has been provided by the applicant to depict how they propose to provide the required Open Space on-site.

If Planning Commission were to recommend approval of the applicant's requests, staff recommends that it be contingent upon final review and approval of the Technical Review Committee (TRC).

Brady Gnatt, applicant was present and further explained the request. He stated that they would like to *withdraw the design modification portion of the request* related to open space suitability and would instead continue with the fee-in-lieu option of providing open space, but to move forward with the preliminary plan approval.

O'Neil made a motion to recommend approval of the request, seconded by Brown. The motion carried unanimously.

B. Country Manor – requesting a design modification from the access management standards of the City of Conway *Unified Development Ordinance (UDO)*.

Hucks gave an overview of the applicant's request. Final plats for phases one (1) through seven (7) of this development were approved between January of 2001 to August of 2006. Construction plans for phase 8 were approved in March of 2008; however vested rights expired in March of 2010. Staff received a design modification for the completion of phase 8 in February of this year.

Phases 1 through 7 have created a total of 156-residential lots/units, all accessed via one enlarged entrance, off Four Mile Road. Current Access Management Requirements state that: "*For single-family developments consisting of thirty or more lots, the City shall require a minimum of two points of ingress and egress, in compliance with applicable fire code(s)" Sec. 7.2.1 E.*

Phase 5 created a portion of Hamilton Way, terminating with a temporary dead-end.

Phase 6 constructed a separate portion of Hamilton Way and created Murphy Way but terminated both streets with temporary dead-ends.

Phase 7 extended both Hamilton Way and Murphy Way but did not include the connection/completion of Hamilton Way nor the installation of the intersection for Murphy Way.

While the additional 11 lots would add more residential units to a currently non-conforming roadway system, the proposed road improvements would both complete Hamilton Way and create an intersection with Murphy Way, thus promoting inner connectivity for residential traffic as well as city services.

If Planning Commission recommends approval of the applicant's requests, staff recommends that it be contingent upon final review and approval of the Technical Review Committee (TRC).

Jamie Steele, applicant was present and further explained the request.

Sligh made a motion to recommend approval of the request. Ulrich seconded the motion and the motion carried unanimously.

C. Maple Grove – requesting street name approval, *conceptual* master plan approval, and a design modification from the access management standards of the City of Conway *Unified Development Ordinance (UDO)*.

Hucks provided an overview of the applicant's requests. In February of 2023, The Development Agreement / Conceptual Plan was approved by Council for the development of "Tracts A thru I" as a conservation subdivision. Master Plans were submitted and reviewed, revising the layout and sequence

of development for "Tracts E, F & G" of the original Collins Jollie development in December of 2023. The applicant applied for Design Modification in February of this year.

Design Modification 1: Access Management

Access Management Requirements, per *Section 7.2.1, E.* of the UDO, state that "for single-family developments consisting of thirty or more lot, the City shall require a minimum of two points of ingress and egress, in compliance with applicable fire code(s)." Although Phase 1 has two external access points (Autumn Maple Drive & Red Maple Drive), the roadway design creates a single choke point beyond the intersection of Red Maple Drive... internal access to 33-Lots will be funneled through the aforementioned choke point.

With 60-Lots, the construction of Phase 2, will increase the number of lots receiving access, through the choke point in Phase1, to 93. Also, the additional 63-Lots in Phase 3 will increase to the total number lots receiving access through Phase 1 to: 156... a second internal point of access will not be available until the construction of Phase 5 occurs (connecting Phase 1, 2 & 3 with the access point being constructed in Phase 4).

Phase 4 proposes to access 49 Lots from one enlarged access point (Silver Maple Drive), unless the "Amenity" site is constructed prior to the construction of Phase 4, this will be the only external access point for this phase... until the construction of Phase 5 occurs (connecting Phase 4 with the two external access points constructed in Phase 1).

Design Modification 2: Block Lengths

Design Standards for <u>Blocks</u>, per Section 7.1.10 of the UDO states that "blocks shall not be more than twelve hundred feet in length, except as the Planning Commission considers necessary to secure efficient use of land or desired features of street pattern." Phase 1 proposes to create a block (along Autumn Maple Drive), approximately 1,250-feet in length, between the Entrance of Autumn Maple Drive and the intersection of Red Maple Drive. Phase 5 proposes to create a block (along Painted Drive), approximately 1,470-feet in length, between the intersections of Mountain Maple Drive and Crimson Maple Drive.

Design Modification 3: Cul-de-sacs

Design Standards for <u>Cul-de-sacs</u>, per *Section 7.1.11* of the UDO states that "the maximum length of a cul-de-sac shall be 800 feet, unless necessitated by topography or property accessibility and approved by the Planning Commission." Phases 1 and 2 will create (in the interim) a dead-end cul-de-sac (on Autumn Maple Drive), approximately 2,010-feet in length... such length will be reduced with the roadway systems in Phase 3, which will dissect the roadway into inner-connecting blocks. Phase 2, however proposes to create a permanent dead-end cul-de-sac (on Autumn Maple Drive), approximately 870-feet in length.

Master Plan, overall

The overall master plan for "Tracts E, F & G" differs from the original Master Plan as follows:

"Tracts E & F" were originally approved for: 509-single-family lots as well as a total of: 64.25-acres of Open Space (with interior & exterior soft paths) ... the revised master plan, proposes: 512-single-family lots and 72.05-acres of Open Space (with an amenity center, pool & only exterior soft paths).

"Tract G" was originally approved for: 175-townhome units as well as a total of: 9.65-acres of Open Space (with interior & exterior soft paths) ... the revised master plan, proposes: 180-duplex units and 12.58-acres of Open Space (containing an amenity center, pool, dog park & only exterior soft paths).

The original master plan provided soft trails around the retention ponds within isolated open space areas... the revised master plan, proposes to remove the internal trails within the Open Space, along the rear of the residential lots.

The original master plan provided a total of: 73.90-acres of Open Space (31.59-acres active & 42.31-acres passive) in "Tracts E, F & G" ... the revised master plan, proposes a total of: 103.24-acres (with active & passive areas delineated on the plans).

Street Names

The applicant is also requesting approval of the following street names. Horry County has reserved these names for this development (suffixes have been intentionally omitted in case a change is necessary):

Samaras	Red Maple	Orangeola	Autum Maple	Mountain Maple
Polynoses	Acer	Sap	Silver Maple	Coral Bark
Painted	Amur	Full Moon	Thee Leaf	Crimson Maple

If Planning Commission recommends approval of the applicant's requests, staff recommends that it be contingent upon final review and approval of the Technical Review Committee (TRC).

John Danford, applicant, was present and further explained the request.

O'Neil made a motion to recommend approval of the request as presented. Sligh seconded the motion and the motion carried unanimously.

VII. BOARD INPUT

None

VIII. STAFF INPUT

None

IX. ADJOURNMENT

A motion was made to adjourn the meeting. The vote in favor was unanimous. The motion carried. The meeting adjourned at approximately 6:21 pm.

Approved and signed this ______ day of _____, 2024.

Brian O'Neil, Chairman

Item IV.A

Previously Deferred

DATE: April 11, 2024 AGENDA ITEM: IV.A

ISSUE:

Previously Deferred... 2208 Sixth Ave (PIN 368-07-01-0101, Lot 90, Rollingson Subdivision) – The applicant, Jamie Steele of Diamond Shores, is requesting a design modification that would allow for the issuance of a building permit on an existing lot of record that lacks frontage onto a *publicly maintained* street.

BACKGROUND:

Nov. 1941	Lot 90 was created via a subdivision map recorded at Horry County Clerk of
	Court in plat book 2 page 118.
Undetermined	a paved street was constructed within the adjacent 40-ft wide right-of-way
	such street extended from Pittman Street yet terminating before reaching the
	subject property. Maintenance of the street is assumed to be South Carolina
	Department of Transportation (SCDOT).
July 2023	a permit application was submitted to construct a single-family residence on
	the lot.
July 20, 2023	The applicant was informed that a permit could not be issued due to the fact
	that the lot did not front a "public" street.
Nov. 2023	The applicant formally applied for a design modification from the
	requirement that the lot have proper frontage onto a publicly maintained
	street.
Nov. 27, 2023	Planning Commission considered the request and deferred the item to give
	staff time to consult legal counsel for an official opinion.
Dec. 20, 2023	The design modification was considered again at the Dec. 2023 PC
	Workshop, in which staff informed PC of the opinion of legal counsel, and
	the request was denied.
Jan. 2024	The applicant filed an appeal at circuit court (required to be filed within 30
	days from the date the decision is made)
Feb. 1, 2024	Planning Commission moved to reconsider the design modification request.
	Request to be considered at the March Planning Commission meeting.
March 7, 2024	The applicant asked at the time of the meeting that the request be deferred to
	the April Planning Commission meeting.

ANALYSIS:

The prospect of a residence being constructed along an un-improved section of roadway raises two primary concerns:

- (a.) Will the <u>physical condition</u> of the land, by which the lot is accessed, delay or even prevent emergency apparatus and/or city service vehicles from performing their duties?
- (b.) If improved to any lesser standard, then that of a public street, who will assume responsibility for the perpetual <u>maintenance</u> of the drive?

Physical Condition: The creation of this lot pre-dates municipal design standards, such as: lot dimensions, access managements standards or subdivision regulations, thus as it sits, is a legal non-conforming lot. However the proposed development on this site does trigger roadway improvements as stated in both: Section 10.5.2 A: "Any existing street segment that has not been accepted for maintenance by either the City of Conway, Horry County or the South Carolina Department of Transportation, and that is to serve as the required frontage for one or more lots created pursuant to these regulations, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of these regulations for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one public street accepted for maintenance by either the City of Conway, Horry County or the South Carolina Department of Transportation. No development shall be permitted on any street that is an "island" not connected directly to the public street system."

- and -

Section 12.4.1 D: "Where an existing nonconforming structure or site is nonconforming in regard to street access, the site shall be brought into conformity with the provisions of this UDO for street access or shall be brought as close to conformity as the physical circumstances made possibly allow".

NOTE: the above referenced sections of the UDO are not an either/or situation, but both sections of the UDO are relevant. Even if the road were to be improved to meet city standards, there is no entity to dedicate the road to and the applicant does not own the property to be able to dedicate it. The lot in question will still not be connected directly to the public street system.

Beyond the paved section of 6th Avenue, the remainder of the roadway appears to be untreated soil... Uncompacted soil, when dry, may support the weight of an average passenger vehicle; such as:

- a compact car (average weight of 2,500-lbs),
- a mid-sized vehicle (average weight of 3,000-lbs),
- an SUV or pick-up truck (average weight of 4,000-lbs) or
- a full-size truck (which can weigh anywhere between 4,000 to 5,700-lbs).



However uncompacted soil will not support the weight of emergency apparatus or city service vehicles such as;

- Fire Engines (equipped with gear to put the fire out, including water tanks, pumps, and hoses), which typically weigh between: 35,000 to 40,000-lbs,
- Fire Trucks (full of rescue and ventilation equipment to safely and efficiently rescue victims), which typically weigh between: 36,000 to 60,000-lbs, or non-emergency city service vehicles such as
- Sanitation trucks which can weigh between: 20,000 to 30,000-lbs.

As a comparison: suitable sub-grade materials (select soil base materials to be laid beneath any allweather surface material) is required to be compacted to 95% modified proctor to sufficiently support a 40,000-lbs loaded tandem axle dump truck temporarily (as exposure to inclement whether will rapidly deteriorate the base road materials), and another 8 to 11-inches of all-whether surface material (such as coquina or GABC), compacted to 100% modified proctor, would need to be laid atop the sub-grade to support such weight long-term. Sufficient drainage facilities and a minimum of 2-inches of "Type 1" asphalt would be required to meet the standards of a "Local Access Street".

<u>Maintenance</u>: staff also have concerns regarding who will take on responsibility to perpetually maintain the drive/access? as the state likely will not construct nor may not extend their maintenance system to cover this section of roadway, even if such roadway is constructed – and - the owner of the subject lot does not appear to own the underlying property to which the road right-of-way was dedicated.

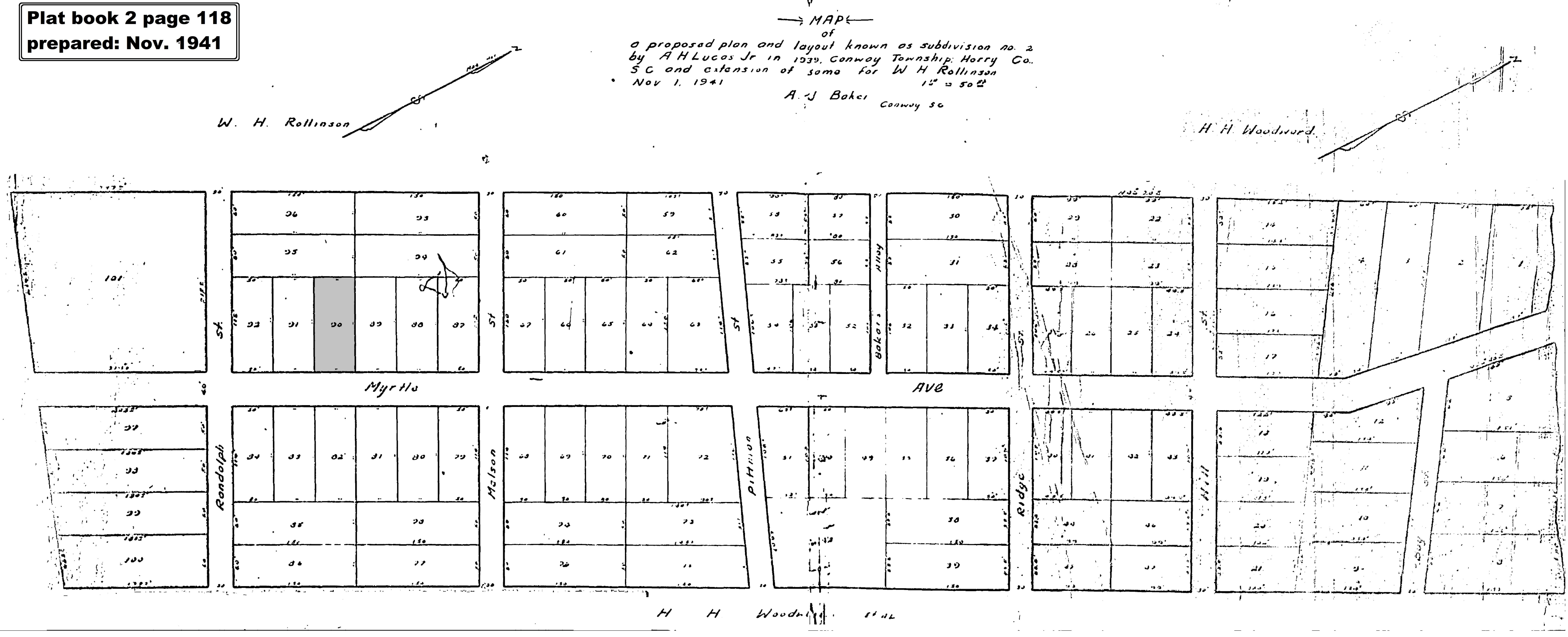
Additional Information (provided for the March 7th, 2024 PC Meeting):

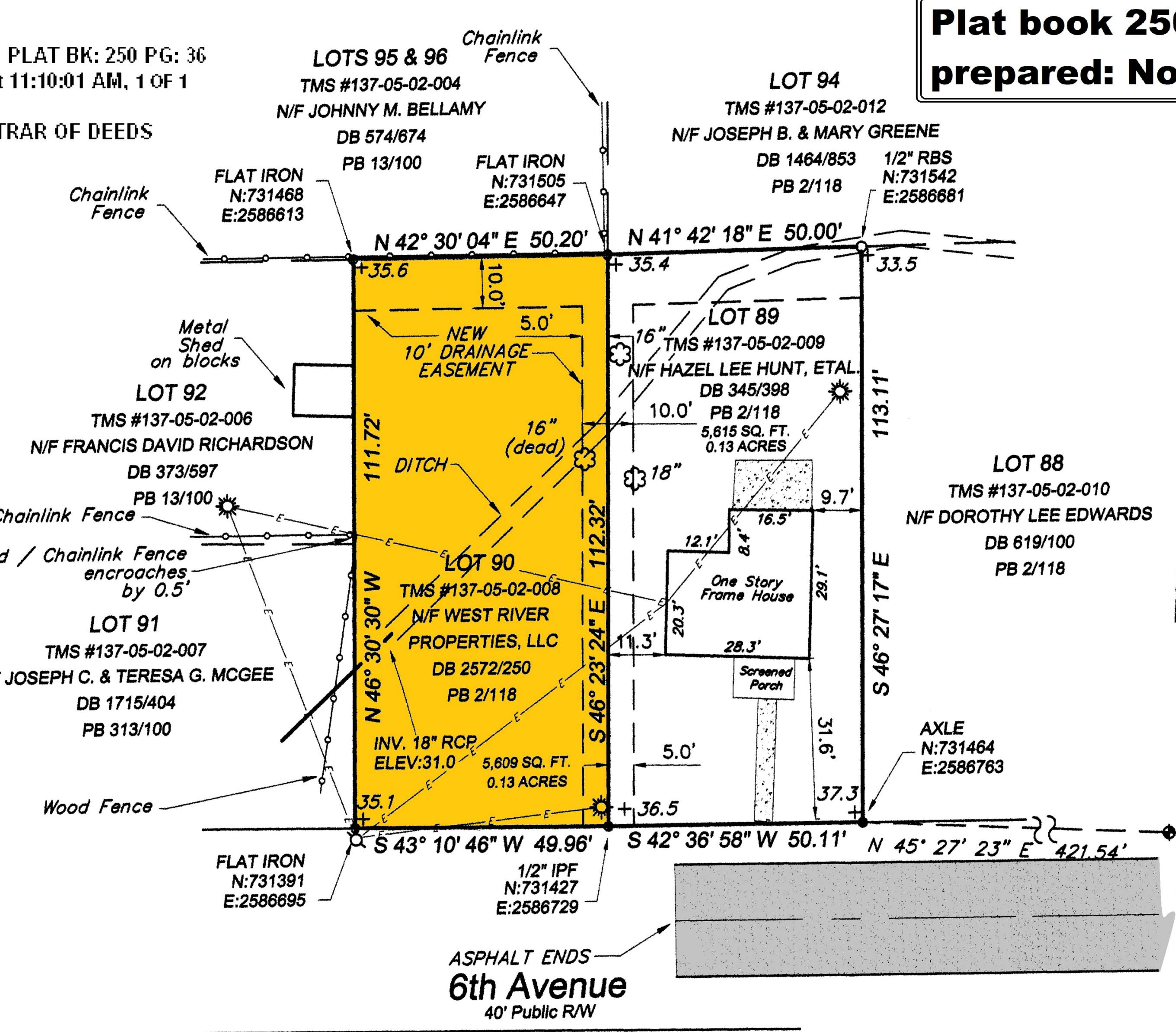
Following the decision of Planning Commission at their December 20, 2023 workshop, in which the design modification request was denied, the applicant filed an appeal in circuit court on January 19, 2024. At the February 1st Planning Commission meeting, the request was reconsidered and scheduled to be heard at the next Planning Commission meeting.

A copy of the transcripts for the November 27, 2023 Planning Commission meeting and the December 20, 2023 Planning Commission workshop for the portion of the meeting where the design modification was discussed has been included in your packet.

RECOMMENDATION:

Staff recommends a thorough review of the applicant's request.





Plat book 250 page 36 prepared: Nov. 2009

Mag. Nall Set At **Q** Intersection of Pittman & 6th Ave.

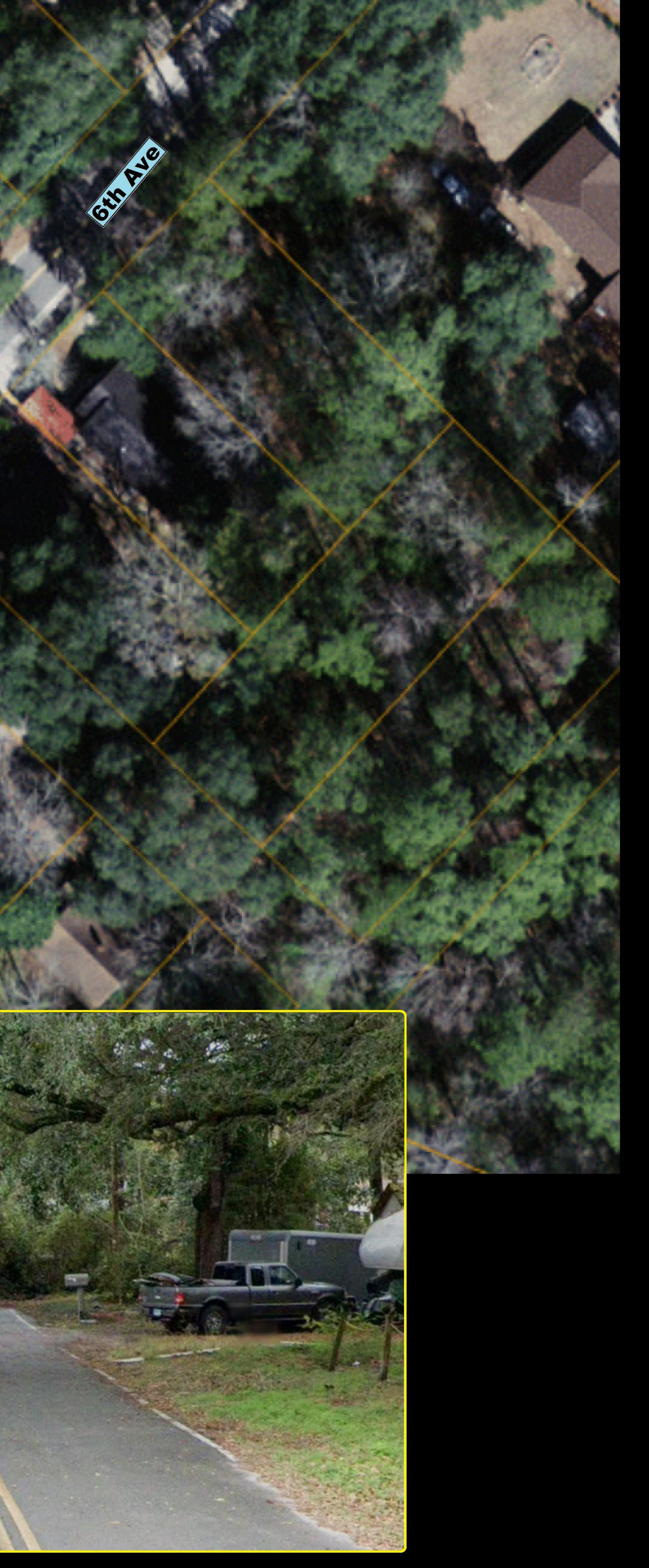


End of Pavement

5.10

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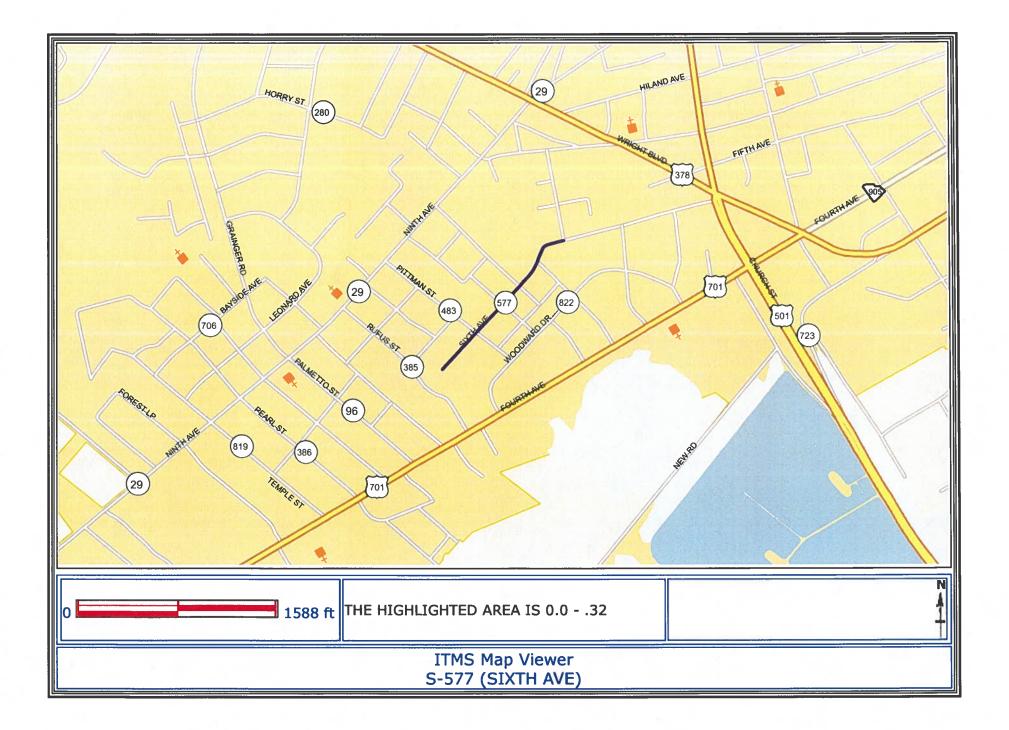
SIXTH AVE PICTURES (Taken 3/4/2024)



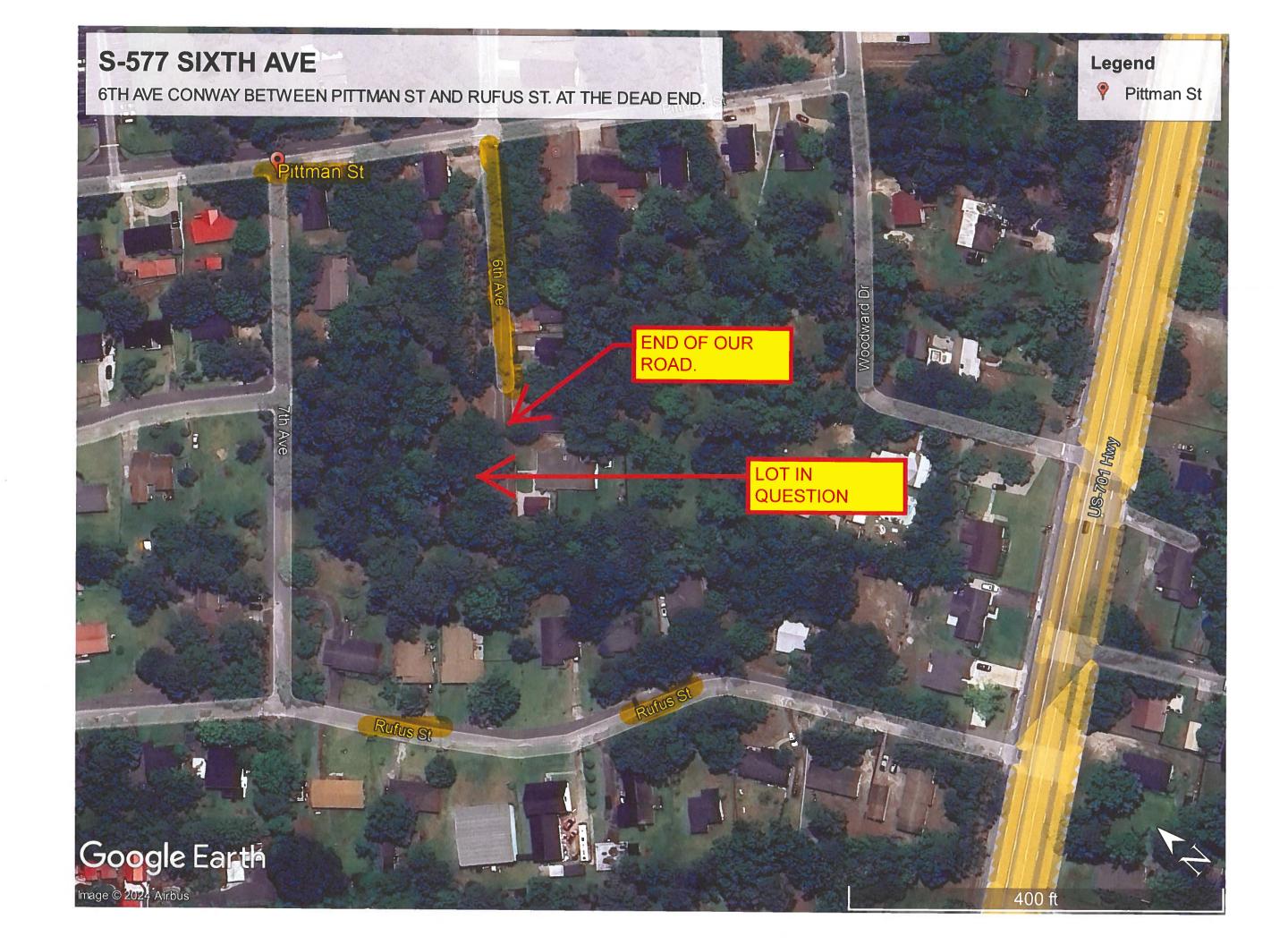


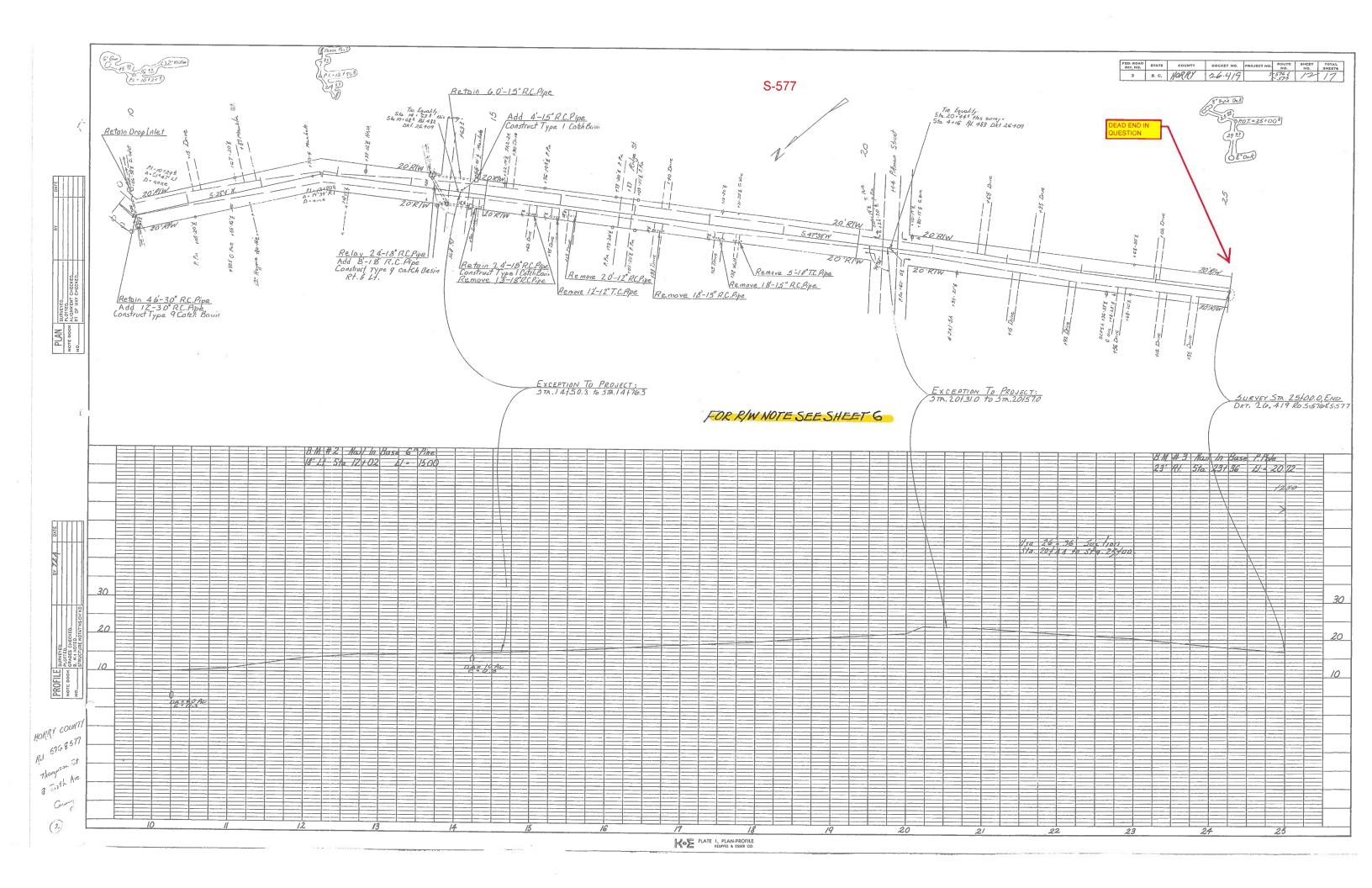
SIXTH AVE PICTURES (Taken 3/4/2024)

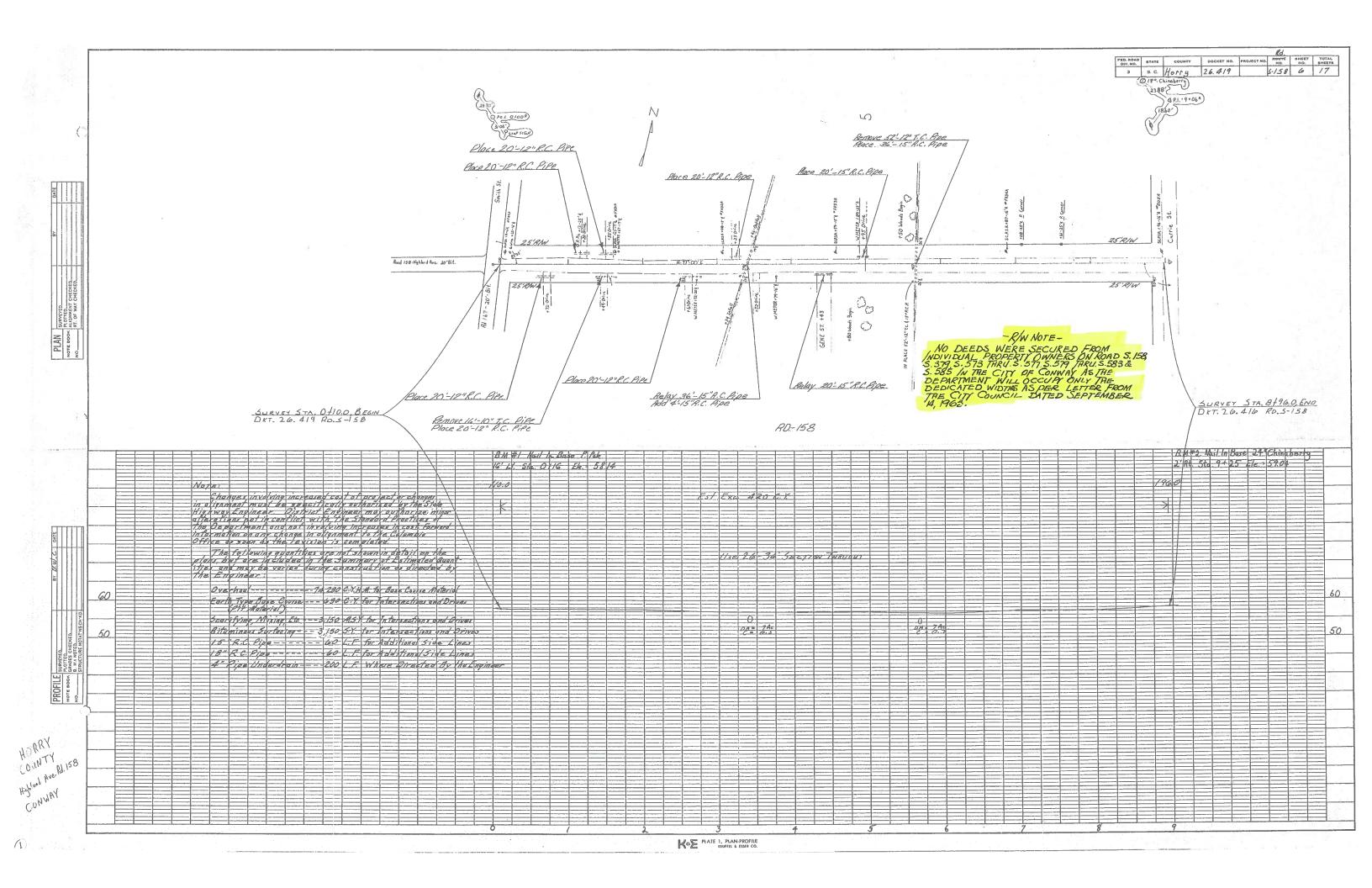




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Contact	Other Land	\$18,250.00				
0	Other Impr.	\$0.00				
	Total	\$18,250.00				









PLANNING & DEVELOPMENT

DESIGN MODIFICATION REQUEST

Address/ PIN:

LOT 90, ROLLINGSON SUBDIVISION. PIN 368-07-01-0101

Project:

SEEKING BUILDING PERMIT BUT DESIGN MODIFICATION IS NEEDED FOR LENGTH OF ROAD TO THE LOT. DRINEWAY TO CONNECT TO END OF STATE ROAD.

Contact Name:

JAMIE STEELE - DIAMOND SHORES

Email Address/Telephone Number:

jamie@diamondshores.net 843-488-2900 x401

Describe the Proposal in Detail:

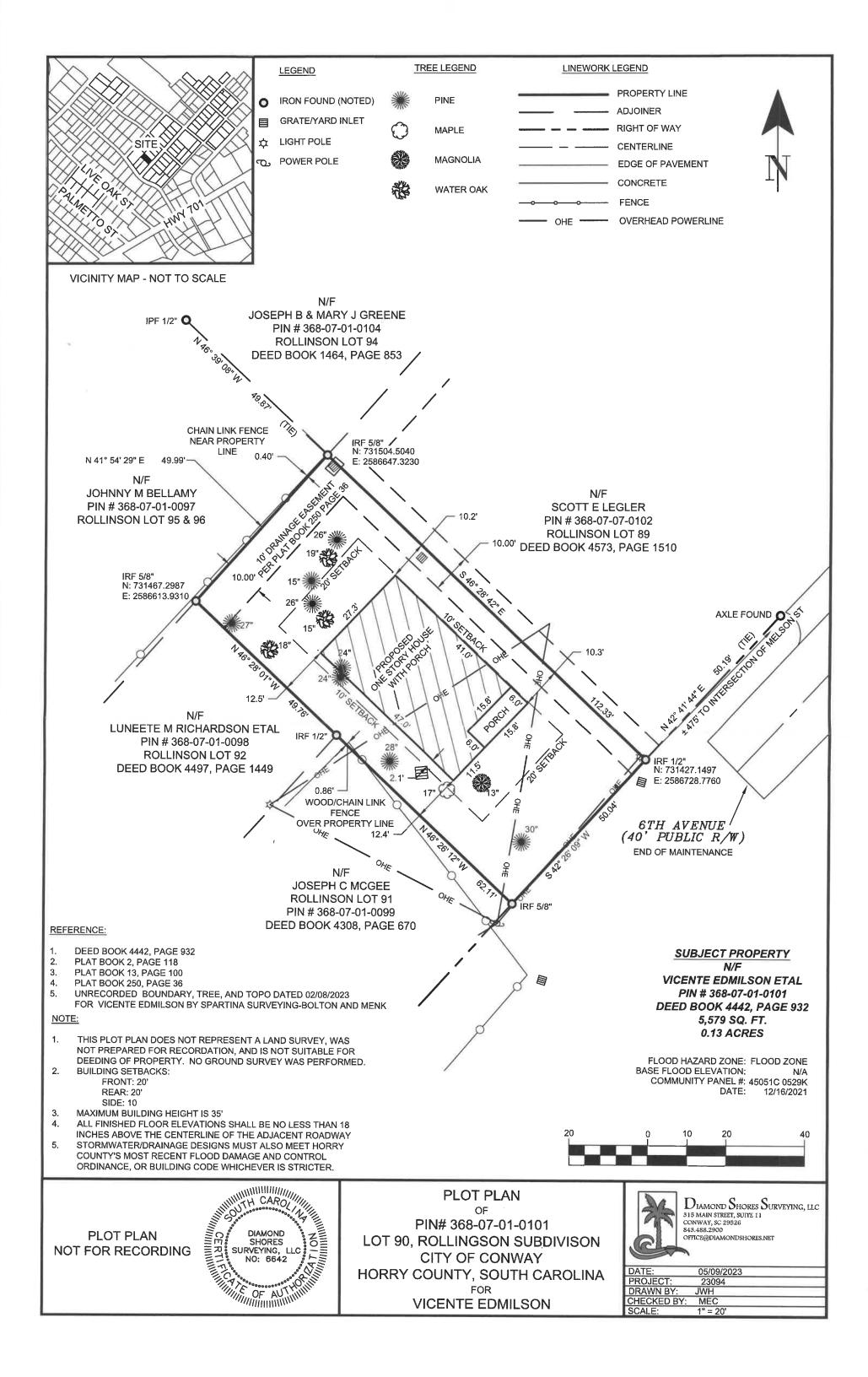
SINGLE FAMILY ONE STORY HOME, SEEKING BUILDING PERMIT. FOR BUILDING PERMIT TO BE ISSUED, PARCELS MUST HAVE ROAD FRONTAGE ON A PUBLIC STREET. APPLICANT SEEKING A DESIGN MODIFICATION FOR THE LENGTH OF THE ROAD TO THE LOT.

****FEE OF \$100 IS DUE WITH APPLICATION**

Staff Use Only: Date Received: 11 3 23	Planning Commission Meeting:				
City Council Meeting:	BS&A Case #: <u>P73-0318</u>				
Fee: $100^{\circ\circ}$ (check/eredit card/cash) # 3087					

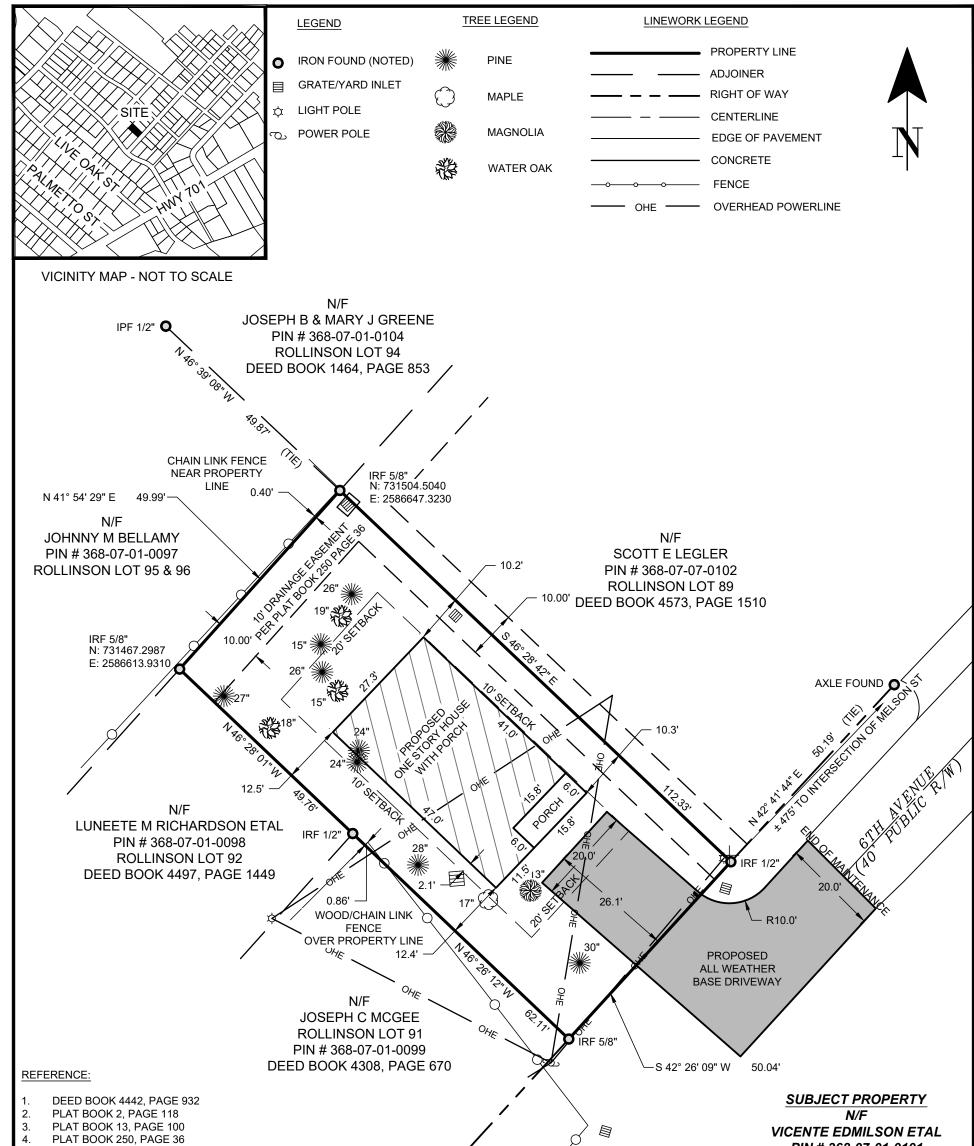
196 Laurel Street | Post Office Box 1075 | Conway, South Carolina 29528-1075 | Telephone (843) 488-9888 | www.cityofconway.com

DSS JOB NO:	ND SHORES SURVER RANSMITTAL LETTE 3094 AVE DESCEN	ER			×
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NEW INFORMATION SUBMITTED BY APPLICANT

PROPOSED IMPROVEMENT



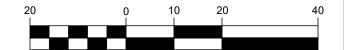
5. UNRECORDED BOUNDARY, TREE, AND TOPO DATED 02/08/2023 FOR VICENTE EDMILSON BY SPARTINA SURVEYING-BOLTON AND MENK

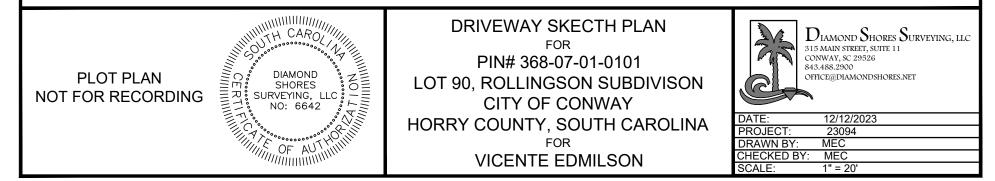
NOTE:

- 1. THIS PLOT PLAN DOES NOT REPRESENT A LAND SURVEY, WAS NOT PREPARED FOR RECORDATION, AND IS NOT SUITABLE FOR DEEDING OF PROPERTY. NO GROUND SURVEY WAS PERFORMED.
- 2. BUILDING SETBACKS:
 - FRONT: 20' REAR: 20'
 - SIDE: 10
- 3. MAXIMUM BUILDING HEIGHT IS 35'
- 4. ALL FINISHED FLOOR ELEVATIONS SHALL BE NO LESS THAN 18 INCHES ABOVE THE CENTERLINE OF THE ADJACENT ROADWAY
- 5. STORMWATER/DRAINAGE DESIGNS MUST ALSO MEET HORRY COUNTY'S MOST RECENT FLOOD DAMAGE AND CONTROL ORDINANCE, OR BUILDING CODE WHICHEVER IS STRICTER.

PIN # 368-07-01-0101 DEED BOOK 4442, PAGE 932 5,579 SQ. FT. 0.13 ACRES

FLOOD HAZARD ZONE: FLOOD ZONE BASE FLOOD ELEVATION: N/A COMMUNITY PANEL #: 45051C 0529K DATE: 12/16/2021





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Transcript of November 27, 2023 Planning Commission Meeting

Includes portion of meeting relevant to 2208 Sixth Ave design modification request only

City of Conway Planning Commission Meeting Monday, November 27, 2023

Planning & Building Dept. Conference Room located at 196 Laurel Street, Conway, SC 29526 ***transcript of a portion of the meeting relating to the design modification request only***

V. DESIGN MODIFICATION(S)

A. 2208 Sixth Ave – applicant requesting a design modification to allow a structure to be constructed on an existing lot of record that lacks the required frontage onto a publicly maintained and improved street.

Jessica Wise (Planning Commission Vice-Chairperson): Alright, moving on to design modifications, item A – 2208 Sixth Ave

Jessica Hucks (City Staff):

(no audio or video at start of staff presentation)

...on an existing lot of record that lacks (*gap in audio / video*) ...the creation of the lot predates municipal design standards, as the lots were subdivided via a plat dated 1941.

It is considered a legal nonconforming lot of record.

A paved street was constructed at some point in time to provide the required access and frontage for the lots prior to reaching the subject property, as you can see here, and maintenance of the existing street belongs to SCDOT.

The UDO, Section 10.5.2, requires that any existing street segment that is to serve as the frontage for one or more lots that have not been accepted for maintenance by the city, county, or DOT must be improved and dedicated to the public and must meet minimum requirements specified in the UDO.

No development is permitted on any street that is an island, not connected directly to the public street system. Additionally, Article 12, the nonconformities article of the UDO, requires that nonconforming sites with nonconforming street access be brought into conformity with the provisions of the UDO for street access, as close as physical circumstances allow.

The two primary concerns for staff is the condition of the property and the portion of the unimproved roadway preventing emergency apparatus or city vehicles from accessing the proposed residence.

While this portion of Sixth Avenue has not been inspected, the remaining unimproved portion of the road appears to be untreated soil, and untreated, uncompacted soil will not support the weight of emergency apparatus equipment, and if approved to a lesser standard then that of a public street, who will assume responsibility for maintenance.

The state is unlikely to construct or extend their maintenance system to cover this section of the roadway, even if the roadway were to be constructed, and the owner of the subject property does not appear to own the underlying property to which the road right of way was dedicated. The applicant is present to explain this request in further detail or answer any questions that you have This is not a public hearing.

David Schwerd (applicant):

Hello...David Schwerd, Diamond Shores...uh...survey. Um...you did an excellent job handling the large crowd that you had before you (inaudible) that part, so...from experience.

This particular project...I normally would not come and ask for a design modification for anything because there's a reason there's regulations.

This project, however, Sixth Ave is a state road and it stops 12 feet short of the property line. Um...for us to be able to build the road – that's one thing...to be able to dedicate to a public is another thing, so there's a couple different things that go on here.

One, the property has legal access...um...via the plat, and through legal court actions, anybody who's ever done title search...and if you don't know, amongst you – one of the best people I know that know anything about easements and he'll never tell you is that gentleman, Mr. Brent, sitting in the corner.

Um...we have legal rights to the access to the road.

We have legal rights to make an improvement to get access to the road.

We do not have legal rights to dedicate that road to the county, to the city, to the state...any of those rights, but we do have the right to build a driveway and the rig- ...right to build and improve the street access to it.

In 2011, there was a ditch that ran through the property...um...in 2011, the applicants or owner at the time worked with the city to realign the drainage.

There used to be a ditch that kind of cut through the middle. There's a catch basin that's actually...it's not shown on this plat, but there is a newer...a different plat that does show that, that we submitted as part of the plot plan originally and I don't know-...but that was submitted with the building permit originally so they may not have submitted it, but it actually shows the catch basin...I'll make sure you have a copy of it (*speaking to staff*).

Jessica Hucks:

Thank you.

David Schwerd:

Um...there's a catch basin, which – you can go to the other...there's a catch basin right here (*pointing to screen*)...that's actually city-maintained catch basin...sits right there, and there's a catch basin right here, so water from here goes this way, and then the water that actually comes off the end of the...the street – here...goes into a catch basin here that goes back to...in that direction.

We actually had met public works out on site a long time ago to go over that location and drive....um...what we're asking to do it basically to build a driveway off the end of the existing state road.

You have the...as a design modification, the Planning Commission has the ability to make a condition on what those improvement standards are.

Um...as opposed to requiring us to build a road that we can't dedicate, and since we can't dedicate the road to a public entity...that actually means I can't build at all on the lot, so you have an existing lot of record and as we had the discussion earlier, you got to be able to build right, so the idea is to have a design modification with the condition that you make us design a 20-foot wide all-weather surface that provides access as a driveway.

If I had a 200-foot long driveway off of an existing county road or state road or a city road, it would be no different than having a...an additional 12-foot of driveway coming off at the end of Sixth Avenue, which is basically what we're asking for.

Most of the houses that are along Sixth Avenue now don't even have a very good driveway...some of them have gravel. Some of them don't have anything but grass.

If you go back, I think you had a picture that was in the packet looking down the road and you can see most of those people don't have any kind of driveway and we're talking about installing a nice 20-foot wide GABC – a graded aggregate base, if you don't know what that means, but basically that's the base that you put underneath of a paved road.

We're going to build the 20-foot driveway back onto the property and it'll be just like a driveway to any other house...um...extending it is not really an option.

If you look in the picture, and I'll try to point it out. Rufus Street is down here to the left...these people use that section of right of way as part of their yard, so us extending it down to here is just going to stop at that location anyway because I don't think the city or the state ever want to extend it to those people's yards.

It's never been there.

There's no need for that connection right now and making that extension is going to do nothing but make your citizens angry so...we're proposing, like I said, to keep it simple, build a driveway...we're the last lot on the road, there are no other lots on the road to be built.

If there were, I wouldn't be in here for the design modification because there'd be a reason for building the road. In this case, there's no reason to build the road other than it's a requirement because in 99.9% of the circumstances, it should be.

In this case, you're asking us to build...you know...a 12-foot extension of an existing road and like I said, we legally don't have the rights to dedicate that to a public entity, so there's no way for us to bring it into compliance with that public roadway standard, but we do have legal access and we propose to just build a 20-foot wide graded base road that would be capable of handling emergency vehicles on a temporary basis, as she stated in her regulations.

Um...it would be engineered and designed just like we would for any other road, it'd just be a base instead of paving it...so...and as far as turning around or legal access, as you can see right now, there isn't one.

Now, when we build the driveway, at least it'll be a little bit safer to turn around on, and they will have to clear it, build it, grade it...just as you would any other thing, and if you make it a condition, it'll be subject to the condition, and when it does onto the building permit, the city will be able to enforce that condition.

Inaudible discussion

Jessica Wise:

That was going to be my question...about the turnaround.

Jessica Hucks:

Typically, a turnaround is something that the fire department would require if the um.... if it extends so many feet past the end of the pavement, so if you are creating a subdivision...we don't allow a dead-end road; you would have to provide a turnaround.

Um...I think the biggest issue for us is one...I mean, the applicant is not the underlying property owner. If they were to install the improvements to where fire could access it, who is responsible for maintaining that...I think is one question that we have.

David Schwerd:

And from the applicant's point of view is...if I had a driveway on my property, it's my responsibility to have a driveway in my property to get back and forth to my house...I mean, I'm not going to not have a driveway to my house.

This is going to be a driveway to an individual home.

There's going to be a resident in that house who's going to be owning the drive-...owning the house and having to get back and forth out of the driveway...no different than any other driveway...it's just going across another person's property.

There's people who have easements all the time and that's what this is, is an easement.

It'd be like uh if I lived...the city doesn't really do that but in the county, they allow a shared private driveway easement or any other kind of access easement where I have the right to cross somebody else's property to get out.

In this case, I have the legal right to cross somebody else's property – whoever that was in plat book 2, who developed all of Rufus Street and Sixth Avenue, and all the other streets that were right there...we have the legal rights to cross it, so it's an easement, and I'm just building a driveway within that easement as if I would on any other easement access that I have.

So, like I said, 99.95% of the time, I would not ever come in for a design modification for something that didn't...in this particular case, there's no legal way for me to dedicate that to public.

They're willing to build it to an all-weather surface, 20-foot wide, while most of the residents don't even have an actual driveway...they just pull off onto the grass in that area...um...so it'll probably be the sturdiest driveway on the entire length of Sixth Avenue, so...um...

Jessica Wise:

So, public works' position again is like who maintains this, or...

Jessica Hucks:

Right. I mean, the public works isn't going to accept it for any type of maintenance right now...I mean, it's DO-...DOT, but that's where the maintenance ends...is that...I don't even know if they actually maintain (inaudible), so yeah...

David Schwerd:

It's striped, so would say that DOT probably maintains it all the way to the end but DOT won't accept any new local roads period.

That's not even like...they don't do that anywhere in the state, let alone in the city, and the counties where they're trying to give the roads away as fast as they can.

If they could figure out a political way to give it to the City of Conway, they probably would.

Jessica Hucks

...and they probably will.

David Schwerd:

I think they've given over probably about 300 miles of roads within Horry County to different jurisdictions over the last 20 years, so there-...there's nobody going to maintain it until the city takes over ownership of that road, and then the city doesn't...right now...I...and I still, even if the city maintained it, I don't have the legal right to dedicate that road.

I could build it, but I don't have the legal right to dedicate it, and therefore, it would never be public.

Jessica Hucks:

Because the plat was done in 1941, and by approving the plat, or creation of the plat...it implies that access is allowed, like David explained...trying to back and figure out who owns the underlying property to get certain, you know...to get like maybe a new official easement would probably be next to impossible.

David Schwerd:

And I don't think the city or the state want to go through the uh action of condemnation to clear up the title, which I know some people up here would definitely know about.

If you wanted to clear up the title in a condemnation action and then take over maintenance, that would be the only way to make it a public road, and until such time, we're proposing to build a 20-foot aggregate road, which is a driveway...which will be a good driveway; much better than the other driveways that are mostly along that road...um...and you have that ability to make a condition as far as enforcement...people got to get in and out of their house.

I make sure my driveway is clear in the morning.

I would hope the new resident would be able to make sure they could get out.

If this was a public way or future public extension, I'd have a different opinion and I'd make my client go ahead and build it, but in this case, it just doesn't seem to make sense to build a road that can't be dedicated, and I can make them build it to a base road so that it'll be a good driveway.

Jessica Wise:

So, the base road is what you're offering? You don't want to do an asphalt extension and then have a base...

David Schwerd: But then who's going to maintain it at that point? I mean, it's an asphalt road for two cars... Jessica Wise: What.... what's the city's preference in material for it? Jessica Hucks: What's the city's preference? Paved. David Schwerd: They have a requirement for pavement...that's (inaudible) Jessica Hucks: Because, here's the...(inaudible) Danny Hardee (PC member): (inaudible) all the way through... Jessica Wise: It's a weird situation. Danny Hardee: I'm looking at it on the GIS (inaudible) David Schwerd: Correct...we don't own that property. Danny Hardee: No, I'm wondering why when they built Sixth...the-...they've got it drawn all the way...(inaudible) David Schwerd: Yeah...I have... Jessica Hucks:

Yeah, and it's fenced in. Somebody's fenced it in and put shed and stuff in it.

David Schwerd:

Yeah, I've been here for a long time, but I wasn't here in 1941 to '51 when they paved that road, somewhere in that timeframe.

I wish I knew why he did that because it sure would have saved me at least a couple of hours tonight.

Jessica Hucks:

And David is correct - I mean, the owner has an interest in making sure that they can continue to get access to their property.

If the property were to be built or constructed, and like what happened, a lot of times, somebody buys it – other than the person who builds it...the first thing that we're concerned with is that they're going to call like I can't get to my property.... whose road is this?

You know, they don't know anything about the circumstances of...to which a design modification was granted, so how do we assign responsibility to property....

David Schwerd:

We put a sign at the end that says private drive so that whoever buys it knows they have to maintain it, and a end of state maintenance sign as well is often used...um...where you put a big sign and it has to be there...if its not there, I can't get a CO on a house...but, I mean...its as in any other easement if I have to cross somebody else's property, there's easement rights that has to be shown on the plat.

I mean...I don't.... there's thousands upon thousands of properties in Horry County and even in the city that have nothing but access via easement.

It's really nothing different in this case; except that there was a platted right of way there previously.

Jessica Wise:

So, it sounds like, from what I'm hearing, we need to enable this lot access, so how do we want to require that...is kind of my take. Um...what it...and it has to extend 12 feet past the property line – is that what we're...or just to the property line?

Jessica Hucks:

He's just wanting to get it to the driveway, like just...just far enough to where there's a driveway to get to (inaudible)

David Schwerd:

Yeah, basically what happens is the asphalt stops 12 feet short of the property line now.

We want to build an all-weather driveway; not only the 20 feet from there, but all the way up to provide the required parking spaces on the lot, and...I mean...a real driveway in front of the house and a place for you to park your cars and stuff like that...like you would at any other single-family home in the City of Conway, or not all of the city homes cause a lot of them don't have any parking at all downtown.

David Sligh (PC member):

Alright, so I (inaudible)

Jessica Wise:

So, he's 12-feet short of that property line, so he's got to go at least 12 feet to get access to his lot, and then it's like do we want an all-weather surface...what do we want cause nobody's going to maintain it.

David Schwerd:

And we had provided a plot plan with the property when we submitted for the building permit and it-...basically, you have the ability to require me to build the road, not only the 12 feet, but also, up onto the property and provide the required two parking spaces and the vehicle turnaround and all that other stuff on the lot.

Right now, the house is proposed to be about 30 feet back off the property line anyway.

You build the 20-foot drive and you build the parking spaces on the lot and the ability to turn around in the parking spaces, back up, and leave, just like you would in any other driveway.

I mean, you can see the house next to us, they have a long area to get back to where their house...our house is proposed to be just not - not too far forward of that existing house that is there on the lot to the right...actually, farther back than their screen porch that's on the front.

David Sligh:

Help me through this.

So, I mean...I want to get there...um, the only thing I can think of that's got me hung up on this...alright, we're four lengths forward in the chain of title after we've done this, and I'm not a dirt lawyer, and so, I'm ill-suited to ask this hypothetical, but what is going to show up in...I mean, because we'll still be working off of this plat, right?

This is the – are we doing anything new?

David Schwerd:

There's nothing being changed – the only thing that this plat did different than the one in plat book 2 was that it granted the easement for the City of Conway for their drainage system and catch basins that are out there.

David Sligh:

So, they'll still...they should have an understanding moving forward that it's the same plat, there's no...they don't own it...it will be clear to whoever closes it that they don't own it and they'll have this thing...whether they recognize that or remember that is another thing, but is there anything else we can do to make sure it was clear cause that (inaudible)

David Schwerd:

I mean, you can make a condition...we've done a survey of the property.

If you want us to record a new plat that indicates the end of county maintenance as it's shown here, or end of state maintenance, and that-...that point past it is private right of way, and make that the current plat of record...you can make that a condition.

We've already got it done and drawn that way.

David Sligh:

That...that seems to (inaudible)

David Schwerd:

That would...the plat that could be used for description.

David Sligh:

(inaudible) ...concern about somebody...I mean, it doesn't address maintenance, but at least its nobody saying hey why don't...why aren't you doing "X" so it should be clear...

David Schwerd:

And we do have that plat done that shows...as you can see...where the asphalt ends, and more than happy to indicate...record a plat.... that has to be recorded prior to issuance of a building permit that indicates that section is private and not maintained by the state or the city.

Jessica Wise:

So, my inclination though to is...just me speaking...to have the asphalt go to the lot, because then, if you have gravel, that's going to get kicked around everywhere...I'm thinking for a fire truck access, so you have like an asphalt drive to that lot for a vehicle to access that's going to stay there, whether it's maintained or not, more than just like grass or gravel or whatever, so that....that's my inclination personally.

David Schwerd:

The only problem is that when we go to build, DOT - to get approval from them to extend that road, as opposed to just getting a normal single-family driveway encroachment permit, it's going to be a little bit more difficult for DOT to...because they've already had to wrestle with the same issue that you have, and they (inaudible)

Jessica Wise:

So, if you record the plat though, and then you can do the driveway?

David Schwerd:

I can do a driveway now as a single-family driveway and DOT doesn't have the issue.

If I go to start building the road off of it, then I got to get a whole different...it's got to go from the local DOT to the Florence office because they don't handle roadways, they handle driveways locally. It's just a different review process, and like I said, we can pave it to the property, but doing that, it doesn't give any better turnaround, it

doesn't give anybody a different driveway...it's just an added expense that doesn't improve the situation for anybody.

Otherwise, like I said, I wouldn't be here...I...anybody who knows me, I don't look for changes in regulations if it's not needed.

Jessica Hucks:

And I know that, you know, for temporary turnaround purposes in subdivisions, um, fire department would require that it be a - I think an eight-inch GABC...um...is there some type of report that you would have to turn in to ensure that...Geotech...?

David Schwerd:

Typically, you would have to do a Geotech report if you were going to - if you had bad subsurface soils or anything like that.

You can also do a proof roll without doing that...um...by just – actually, a proof roll is nothing more than taking a weighted vehicle out on the ground and actually verifying that it doesn't sink; which is what we would prefer to do because a Geotech is going to be...you know...anybody who's done that just to get them to come out there – first of all is going to take a couple of months and then second of all, it's going to be several thousand dollars for them to take two soil samples that I can prove with a heavy loaded dump truck to come out prove the same exact thing.

Jessica Wise:

(speaking to another PC member) I liked your idea.

Julie Hardwick (PC member):

What would be...and I may be – we're getting here late now...what would be the liability to the city...let's say if they needed – if the house was on fire and they're trying to get a fire truck there and the...and the truck can't get there?

Jessica Hucks:

That is staffs concern.

Julie Hardwick:

I mean, that's...that's going to come back to the city, ultimately...am I thinking about this correctly? (inaudible)

Jessica Hucks:

Yeah, because ultimately, the lot is what's owned by the property owner...the road is -I mean, I guess you could say that the plat, when it was recorded, is implied that whoever owned that property at the time essentially has an easement and rights to access to that lot but the person buying it today owns the lot, not...um, you know, that is staff's concern.

I...I will say that we did send this out to all departments...um, the fire department didn't – said that review was not required...um, but I'm not really sure why...um, I'm not sure if maybe they just didn't understand what was being requested.

That could be something that staff could have a meeting with them about because this has never - we've never gone this far before; this is the first time, so David is the guinea pig here.

David Schwerd:

And like I said, I would not normally be the guinea pig because I used to write regulations.

This particular one; however, if my driveway was a 300-foot driveway at my house, I'd be the one liable for maintaining my driveway and if the fire department couldn't get there...anybody could sue the city...okay...

Jessica Hucks:

That's right.

David Schwerd:

It doesn't matter what it's for, but its whether or not - in this case you're at least going to have a better driveway than you would if I had a paved road in front of me because you don't have any enforcement on what my driveway looks like, as evidenced by the rest of Sixth Avenue where they have hardly any driveways if anything...it's usually sand and leaves and a little bit of gravel here and there.

In this case, you have the ability to put a condition on it that I'm building at least a 20-foot wide GABC road with adequate parking onsite for a turnaround.

It'll probably last longer than the asphalt road that's there already if the DOT has to continue to maintain it, because you see what a job they do.

So, all I can do is plead for this person...they have to have the ability to build on their lot and that's the problem that we're at now, is the current regulations say I have to have a public road...I can't make that happen.

Jessica Wise:

Alright y'all, let's talk this through...it's getting late.

David Sligh:

So, the staff...staff would like to see...um...if we said approval subject to review from technical review committee, would that be sufficient to address any fire requirement?

Jessica Hucks:

You could...you could place...you could do what we do with plan review is that Planning Commission would recommend approval on the condition that all comments from the technical review committee have been satisfied. That would exclude us because that's why they're here before you, but if there is something from the fire department that supersedes what the UDO says, to provide adequate turnaround space or an eight-inch GABC, or whatever reports would be required, that would be above and beyond us, but we couldn't say subject to TRC

blank-...you know, just blanket say that because if you approve it, then you're basically stating that they don't have to comply with the UDO – they're getting a design modification, but we would...you could say subject to um, compliance with any uh fire uh department requirements, making sure that they comply with fire code.

Julie Hardwick:

Can I just go back? I want to back up just one second...sorry guys.

So, am I still looking...there is a drainage dich that goes parallel through this property?

David Schwerd:

No, that ditch was abandoned by that plat and...

Julie Hardwick:

Okay, that's the one that y'all realigned right?

David Schwerd:

... and the new easement realigned it down the property line

Julie Hardwick:

Okay.

So, again, I understand wanting to build a house there but currently there's no house there, but I do think we need to be very careful in the decision making to make sure we protect the city as far as legalities.

David Schwerd:

(Hands staff a copy of the easement plat)

Danny Hardee:

(inaudible) a lot on this side of the street that can be built on too, right?

Jessica Hucks:

I think it's already developed, isn't it?

Danny Hardee:

I don't think there's anything on it.

David Schwerd:

No, you can't see it underneath of your...pavement; it actually faces the other way.

Jessica Hucks:

Yeah, initially...um, this plat – if you look where the star is, that is where the lot is, and then those other two lots were facing the were facing the same direction.

Now, at some point, those lots were changed...

Danny Hardee:

How did they – if there's something built...go back one...how, if there's something built on the lot across, how are they accessing it?

Ellen Watkins (PC member):

You mean across the street.... across Sixth Avenue?

Danny Hardee:

Yeah

Jessica Hucks:

They're reoriented a different way, I think is what David is saying...is that those lots; maybe except that one lot directly across the street and it's hard to tell, but David could be - I mean, that could be correct, is that there is a lot directly across from it...you'll have the same issue come up, but it looks like the other lots are actually facing Rufus Street.

David Schwerd:

I'm pulling it up myself just to confirm that because I do not want to provide misinformation, so...

David Sligh:

Danny might be right.

David Schwerd:

There it is.

Jessica Wise: It's just a bunch of trees.

David Schwerd:

Yeah, I'm trying to see where they...they already live on Rufus Street...that's what it is.

Danny Hardee:

I'm just...by my...I'm just looking at the Horry County map and I'm just not seeing an access to the lot across the street.

David Schwerd:

Yeah, the owner of that property is the owner of the house behind it...that's what it is, which you can't see.

This lot owner here...408... owns that or actually, sorry...this lot that's off the map here cause you don't have GIS up but this map...there's this house...there's another house here, so this is...408 sits right here, and 408 owns that lot – it's part of their lot.

They bought it as one track; even though they're shown as two separate parcels, cause that's the way they were created, it's actually the same owner who owns both.

Anne Bessant (staff member) Jessica, do you want me to pull up the other (inaudible). Jessica Hucks: I just can't get mine to load up. David Schwerd: It's hard to show, but here...this is 408 and the owner (inaudible) over at 408. Jessica Hucks: They could potentially, even though that is a separate lot, it's a separate low and it's owned by the same person, they could potentially (inaudible) David Schwerd: ...submit something – correct, they could. Jessica Hucks: ...and the same situation would apply. David Schwerd: ...and I... Danny Hardee: And, see, I'm showing different owners. David Schwerd: They are...they live in one and rent the other as an LLC supposedly is what they - the owner... Danny Hardee: No, the lot - I'm just confused. David Schwerd: Yeah, (inaudible) the two owners are different... Danny Hardee: The lot across the street is empty, right? David Schwerd: It is vacant, yes. Danny Hardee: Okay, and that's a (inaudible) Anderson or what?

David Schwerd:

Correct, and they live at 408...408 has a different owner because it's owned by an LLC company.

Danny Hardee:

Okay.

David Schwerd:

It's their company they created to own their house for tax purposes supposedly.

Jessica Hucks:

Yeah.

Danny Hardee:

Okay, so then you get into another thing - if they were to sell that and - not that lot...

Jessica Hucks:

...and they could.

David Sligh:

So, what - and looks like there's a bunch of those lots...just back, um...Sixth Avenue, same setup.

David Schwerd:

There shouldn't be any more on Sixth Avenue that don't have paved...

David Sligh:

No, it's one back – it looks like the way it's platted at least on county GIS, you got these phantom roads running through there (inaudible) another block.

Jessica Hucks:

Yeah, this is actually a very common scenario in several areas that are...that have been around for decades...um...

David Sligh:

So, do we have to do that for everybody that owns those lots?

Jessica Hucks:

That...well, that's the thing is we've told people that you cannot develop the property until the road has been installed, but in those cases – in most of those cases, they're city roads or they're county...you know, the right of way is there, and um, the only issue is...we actually have...

Country Manor has a lot; a subdivision, where the road was not completed to go past the lots, and that lot - we've said no, you cannot be issued a building permit until you install the road and the sidewalks and the curb and gutter to go past the lot – can't do it, but it is a city right of way.

So, the situation here, which I'm not saying doesn't exist in other places, is there is no...there is nobody to maintain it.

There's nobody to give maintenance to.

A lot of the other situations, it is a city road, or it's a paper road owned and could be dedicated to somebody...and they may have to install it the whole width...the whole length of the roadway...um, so that makes this a little bit different but it does exist in several areas...um, on Four-...Fourth Avenue, the Racepath Area, because it's...a lot of it is heir's property too – it's been in the same family for several generations...um, prior to the existence of land development regulations in the city...um...

David Schwerd:

It was developed by W.H. Rollinson, so if anybody is...knows who that is, I mean...I'd be happy to contact them, but, I mean, I don't have the ability to do it and I don't have the power of condemnation.

The city does.

I mean, there are quiet title actions and quick claim deeds and, you know, we could file a suit in the court to try to claim it as ours, but it was a dedicated road right of way.

At some point, it was dedicated to the public to take access.

Unfortunately, they only built a portion of it.

I imagine what really happened was there was a road built for whatever houses were being built, and then over time, DOT – there was enough houses there, they got DOT to come in and pave it; probably back in the '60s, and called it a day...and they've been somewhat maintaining it since then...would be my guess...that's what happened with most of the roads, but we don't have the ability to make it a public right of way there.

That option doesn't exist because I can't build it and dedicate it to the state – the state won't take it, so at least the road that we'd be building – I mean, even if you wanted to make it a 22-foot wide base, at least that would be the base that would be required for the road if it ever did get built by a public entity or could be maintained, which would be just as wide as any other access that anybody had.

I'm just looking for a way of...the man's rafter's and timber that he's already got ordered and is sitting now in a building somewhere doesn't...I mean, he's got to have the ability to build on a piece of property.

Legally, he's got to be able to build.

There's got to be an alternative to making it a public road; whatever that middle ground is that you as a board find, but we were proposing to make it just like we would a driveway.

It's a single-family, it's 20-foot wide all-weather GABC, so that - you can have the technical review committee it, we could do a proof roll on it before they get a CO...I mean, whatever the conditions are just so the man can actually construct a house on it.

Jessica Wise:

So, we would be setting a precedent though for this situation?

Jessica Hucks: Yes ma'am Jessica Wise: So, do we need; I mean I would hate to – (inaudible)

David Schwerd:

I would argue that though.

Design modifications do not set precedential value...um, but that's...

Jessica Hucks:

Well, as far as – yes, I'm sorry, you would not be setting a precedent for design modifications, but for Planning Commission, that this grant-...that something of this nature being granted by Planning Commission is a first. Doesn't mean it'll be the last...um, in fact, I do foresee another issue coming before you for another property off of...um, Graham Road and Country Club Road...(inaudible) a little bit of a different situation because that is currently a private road which is going to be – has the ability to be dedicated to the public by all of the owners who would utilize that road, and that's the issue here, or one of the issues here.

Jessica Wise:

So, do we need any kind of like legal counsel from the city before we make a decision?

Jessica Hucks:

It may not be a bad idea...it may not be a bad idea to have the city attorney...um look at this to see...um...if there's any other avenue that could be pursued...um...

This could be something that we could...um defer to the workshop so that the applicant does not have to wait to...um another...another, you know, the next months, or the January meeting.

David Schwerd:

We have no issue – we're just trying to work through a process, because like I said, we literally can't make it a city or state road, so (inaudible)...

Jessica Wise:

At the beginning, I thought this would be easy... (audible laughter) ... I don't (inaudible)...

Julie Hardwick:

Yeah, I do think...

David Schwerd:

Well, it could have been, and you could have just approved it and we could have gone on, but no, we had a bunch of questions. (audible laughter)

Julie Hardwick:

No, we already got a (inaudible)

Julie Hardwick:

I do think this deserves maybe a little closer look cause I do think there's some legalities that I would like to know the answers to...um...

David Schwerd:

I'm more than happy to work with the commission or your legal counsel; whoever has questions to resolve it. Like I said, I - we just don't have the ability to make it public.

Julie Hardwick:

I mean, the lots been there for...since 1942 and hadn't been built on.

I don't think 30 days or 15 days - I'm sorry for y'all, but...(inaudible) being cautious.

David Schwerd:

No, its not me, its my client, but its been a lot longer than that; its just taken us this long to get it to the point where we got to get it on the agenda.

Jessica Hucks:

Yeah, and David, (inaudible)

David Schwerd:

Its been since March when I was working with Public Works, so...

Jessica Hucks:

We're going to hold a workshop – this doesn't need a public hearing...when we hold the workshop, I don't see any reason why this could not be added.

David Schwerd:

We have no issues with that.

Like I said, we're just trying to get it figured out so that everybody's on the same page, and at least if you ever do run into an instance like this exact scenario again, you might have an idea of what kind of regulations you want to impose on them.

Jessica Wise:

So, if we were going to do that for legal counsel, would we also want to do it for TRC circulation so we make sure we have everyone's (inaudible).

Jessica Hucks:

It was circulated to TRC...several, but we'll have to follow up with of the departments on that.

I mean, Public Works obviously doesn't...they don't really have a dog in the fight, so to speak, because it could not be dedicated to them.

Jessica Wise:

For the fire code...(inaudible)

David Schwerd:

Fire code also doesn't deal with individual single-family on driveways, so there's that issue, and also – it's a 40-foot right of way.

Legally and physically, there's no physical way to actually construct a turnaround that meets fire code within that, because it requires a minimum radius of 40, which would be 80-foot across, or 120; depending on if I did a T-intersection or a Y-intersection or a cul-de-sac.

A regular cul-de-sac would have a 40-foot radius on the actual travel surface...this is only a 40-foot wide right of way to begin with, so it's only half the width that I would need to meet those fire regulations, so...it's not physically possible.

Jessica Wise:

Okay, well, I will make a motion that we defer...uh, pending some legal advice and the workshop.

Julie Hardwick:

Second

Danny Hardee:

Second

Jessica Wise:

Okay, all in favor?

Danny Hardee, Ellen Watkins, Kendall Brown, David Sligh, Samantha Miller, Julie Hardwick:

Aye

Jessica Wise:

All opposed?

Alright

David Schwerd:

Thank you for your consideration...I look forward to working with the counsel...hopefully coming back with a solution.

Jessica Wise:

Thank you.

End of transcript

Transcript of December 20, 2023 Planning Commission Workshop

Includes portion of meeting relevant to 2208 Sixth Ave design modification request only

City of Conway Planning Commission Workshop meeting Wednesday, December 20, 2023

Planning & Building Dept. Conference Room located at 196 Laurel Street, Conway, SC 29526 ***transcript of a portion of the meeting relating to the design modification request only***

I. Call to order

Chairman Brian O'Neil:

Okay, good afternoon everybody.

I hope everyone is staying warm today on this fun, cold, summer day, but I wanted to welcome everybody and call this Planning Commission workshop to order.

We have a few things on the docket today; a design modification, and also a discussion on a development, so with that...Jessica...

II. Design Modification

2208 Sixth Ave – applicant requesting a design modification to allow a structure to be constructed on an existing lot of record that lacks the required frontage onto a publicly maintained and improved street.

Jessica Hucks (City Staff):

Sure...I'll be happy to go into as much detail as you would like.

For those that were not here last month – at the November 27^{th} meeting, Planning Commission wanted to defer the design modification for 2208 Sixth Avenue so that staff could seek a legal opinion about the possibility of the design modification being granted.

Basically, what they want is to have the applicant be able to pull a building permit for a single-family home on an existing lot of record that lacks the required frontage onto a publicly maintained street that meets city standards.

The creation of the lot predated municipal design standards...they were subdivided via a plat in 1941; it's considered legal nonconforming.

A paved street was constructed at some point in time to provide the required access and frontage for the lots prior to reaching the property, and maintenance of the existing street belongs to SCDOT.

The Unified Development Ordinance requires that any existing street segment that is to serve as the frontage for one or more lots that have not been accepted for maintenance by the city, county, or DOT must be improved and dedicated to the public and meet the requirements specified in the ordinance.

No development is permitted on any street that is an island not connected to the public street system.

Additionally, our nonconformities section of the UDO requires that nonconforming sites with nonconforming street access be brought into conformity with the provision of the UDO for street access as close as physical circumstances allow.

The two primary concerns of the staff at the November 27th meeting was the condition of the property and the portion of the unimproved roadway that would prevent emergency apparatus and/or city vehicles from accessing the proposed residence, and while this portion of Sixth Avenue has not been inspected, the remaining unimproved portion of the road is currently untreated soil and untreated, uncompacted soil will not support the weight of emergency apparatus equipment...and if improved to a lesser standard than that of a public street, who would assume responsibility for maintenance.

The state is unlikely to construct or extend their maintenance system to cover this section of the roadway, even if the roadway were to be constructed, and the owner of the property does not own the underlying for the right of way...so even if they did build the street, they would not have the right to convey it to the city...um the applicant(s) are present to explain the request or answer any additional questions.

We did reach out to the Municipal Association and unfortunately, this is...um, I think this has stumped everybody...because in some situations it's a city right of way or it's a right of way that could be extended and dedicated but in this case its so...the lots have been there since 1940...probably at some point the state came in and paved it until the point there was actual lots and maybe maintains that but it doesn't mean they're going to maintain anything further, so if the design modification is approved, you would essentially have a private driveway off of an SCDOT road.

It would not front a public roadway or a public street system as required by our ordinance.

Chairman Brian O'Neil:

Just a question looking at the map...looks like back in the 40s when it was done...you could see how the road looks like it would've continued all the way through...that was probably the original idea. Who owns that strip of land then that was originally intended for the road? Is that...(inaudible)

Jessica Hucks:

When the plat was created in the 1940's, it was assumed that anybody who...ya know...anybody who lived there would have rights to access those lots, but short of doing some type of quiet title action to where they could petition the court for ownership and then possibly build a road and then convey it to the city, the city would also have to be willing to accept ownership of that portion of roadway, so um...who owns the property?...they may not be living today.

Chairman Brian O'Neil:

So, the records may be lost or unknown at this point since its been so long, and no one (inaudible)...looking at the pictures of the road, no one's maintaining that at all, so...

Jessica Hucks:

Not that portion.

It's unclear as to whether the state is still maintaining it...it's assumed that they are...that they're still maintaining that portion that has been installed but would not continue...(inaudible) it's the end of state maintenance...where it stops, that's the end of state maintenance...

Chairperson Brian O'Neil:

... where the pavement stops

Jessica Hucks:

Correct.

Chairperson Brian O'Neil:

...and the pavement stops at the last house that was built...nothing was ever built on that lot so they never continued the road any further and now we really don't know who owns it but if someone wants to petition the courts just like you were saying, or...wow...okay.

Alright.

David Sligh (PC member):

OK I've got a question...does this fall...is this one of the things we decide solely or are we making a recommendation to council...(inaudible)...the design modification?

Jessica Hucks:

This is something that Planning Commission would decide, and if the applicant has the ability, to appeal the Planning Commission's decision to circuit court; much like the Board of Zoning Appeals.

David Sligh:

OK so what criteria are we supposed to follow in making our decision or...it's not like the Board of Zoning Appeals?

Jessica Hucks:

Correct.

Staff supports the Unified Development Ordinance, and the Unified Development Ordinance...I mean, you could place certain conditions...I believe that Mr. Schwerd had recommended – had stated that there could be conditions that even if Planning Commission were to recommend or to approve the design modification, that there could be a sign installed and a plat done showing that was the end of state maintenance and that way anybody who bought the property knew that they were assuming the responsibility to keep that (inaudible) driveway improved...um but there...short of that...I mean, you could do that and it would be up to staff to make sure that is done, but staff supports the UDO and staff is concerned about the precedent that this would set for several other lots, including the one directly across the street from it that would...um...potentially have the same issue.

David Sligh:

So, what design...I know this sounds moronic but that's where I am, but how far – what are we modifying? Are we modifying this plan that is (points to screen) right here?

Jessica Hucks:

The Land Development Regulations says that no lots can be an island...they have to be connected directly to the public street system, so that is one that you're...(inaudible).

David Sligh:

We're modifying that requirement for this one...okay.

Jessica Hucks:

Yes.

Chairman Brian O'Neil:

And its not like they can have a legal easement to be able to drive on...we don't even know who owns it so, I mean, they couldn't really do that, plus the question of the fire trucks and everybody else being able to get to the house...they can't do that.

Jessica Hucks:

Yes, the applicant is willing from what I understand to install the necessary improvements for...um the fire apparatus and the fire department is present as well as public works – there is somebody present from public works if you have any questions directly for them.

Chairman Brian O'Neil:

Anyone else have any questions right now on the Board? Is the applicant here? Come on up and just state your name and all that for us for the record.

Jamie Steele (applicant's agent):

Jamie Steele, Diamond Shores, 315 Main. Um, we're proposing a connection...proposing an all-weather surface, 20-foot wide, and uh the owners would install it and then (inaudible) for maintenance.

Chairman Brian O'Neil:

OK, would you...I mean...would you like to convey that to the city, or...you would basically just be building it and keeping up the maintenance on it on the part where the SCDOT ends to the point of the house and they would have standards that aren't (inaudible) that street currently has I would imagine...

Jamie Steele:

Yes...well it would be an all-weather surface, 20-foot width...(inaudible) for fire access, ya know...stuff like that.

Jessica Hucks:

For clarification, he could not convey it to the city because he doesn't own the property to be able to convey it.

Chairman Brian O'Neil: But how can he build on it we don't know who owns it? Wow, so Horry County...so no one actually has any - there no documentation on really who owns this from back then, at this point...I mean, you haven't found anything on (directed towards Mr. Steele). Jamie Steele: (shaking his head) No...we've done research upon research on it...DOTs not going to maintain it, so... Julie Hardwick (PC member): Could you explain to me the different between an all-weather surface and an asphalt drive? Jamie Steele: There's just a...it's going to be the material that we use...it's still suitable for fire access. Julie Hardwick: So, what type...what type of materials for all access? Jamie Steele: We're talking coquina versus regular asphalt and GABC...I think that the uh – (inaudible) Jessica Hucks: It has to be dust free also Julie Hardwick: Has to be what? Jessica Hucks: Dust free Brent Gerald (staff member): So, not coquina Jamie Steele: Oh, you're not allowed to use coquina? OK...(inaudible) Chairman Brian O'Neil: So, we're talking base material, pavement on top of that...the normal (inaudible) be able to hold fire trucks and the trash (inaudible) Jamie Steele: That's correct

Jessica Wise (PC member): (inaudible) not going be pavement on top of the (inaudible) Jamie Steele: No, it's going to be...like he said – dust free

Chairman Brian O'Neil:

Yeah, you'd have to dig it all out and make a road (inaudible)...you can, but we don't know who owns it.

Jamie Steele:

That's correct

David Sligh:

Is it possible – I'm not suggesting this is a good idea, but would it even be possible for the city to say OK, we're going to agree to pave this X-number of feet and um agree to maintain it in perpetuity...and uh then I guess it's no longer an island if they were to do that. Is that possible?

Jessica Hucks:

If the city paves that portion of the roadway, and the city is making improvements on property that's not owned by them and not, ya know, they don't have the right to have it dedicated to them.

Our concern really is if this person builds this house, and then he sells the property...ya know, once the house is built – the person who buys the property...even if they are willing to install the driveway and it meets fire code requirements...that person who buys the property isn't going to know about a design modification and they are going to be calling wanting to know how they get potholes fixed...ya know, who is going to legally maintain it and how do you require whoever is installing that material to maintain it...and this is why we require all lots to front a public street that would be dedicated – either to the city or by the county or DOT.

George Ulrich (PC member):

What was the concern about the property across the street that you mentioned earlier?

Jessica Hucks:

So there is property directly across from this one, so if it's approved, then you would have the same situation, potentially, across the street, but there are other situations in the city where we...may be a little bit different from this because it's city right of way and they could potentially build the road and then dedicate those portions to the city, but then we would probably start seeing requests for same situations to not install the road or to only install the road to meet the minimum for fire trucks, so staffs opinion is that it may be something that is best resolved in the court system so that there is an actual legal precedence that is set that we could go by.

Jessica Wise:

That was going to be my question is...what's the legality if we were to deny it...I mean, we're setting a precedent obviously if we approve, and that precedent includes whatever the base material is, but if we deny, are we denying his right to build on property that he owns...is that (inaudible)

Jessica Hucks:

It is not staff's opinion that you are denying him the ability to build his home.

He has every right to build his home, but in doing so, the minimum requirements must be adhered to, which include fronting a public street.

So, you're not preventing somebody from building their home...just that they don't meet the minimum requirements for frontage or access...and again, this is a very new situation for staff...it's something that even attorney's at the state level do not know enough about...I guess there's not enough legal precedence that um...I know there was an issue whether or not this may be a taking, and I am not an attorney, but it's of our opinion that it is not a regulatory taking.

Chairman Brian O'Neil:

Well that is really what it all comes down to is who owns it...you, you can't just build on it without having ownership of it, cause then you own it, maintain it – you take care of it, but we don't know who own-and we don't...I'm sure you've already researched all this, but no one – has this ever come up before, where we have property that no one has ownership of, that...(inaudible)...yeah...

Jessica Hucks:

No, not this

Chairman Brian O'Neil:

Yeah, and that's where the legal system makes sense, so let them make the precedent, let them make the decision...cause this is a legal decision...if we let his happen as a board, we're setting the precedent but we're also granting right away without any legal authority.

Jessica Hucks:

Well, every situation is different.

Just because a design modification may be granted in this instance does not necessarily mean that it would be granted in the same or similar circumstances for different properties going forward, cause everything is on a caseby-case basis, and obviously this is one that is different and unique from other properties, because in those cases it might be city right of way that was just never completed, but it's city right of way...um but there are other lots in this immediate area where this same situation could arise.

Chairman Brian O'Neil:

What does our attorney say about um the situation overall...what are their recommendations?

Jessica Hucks: That it would be best settled through the court. Chairman Brian O'Neil: Okay...and I'm sorry – is there anything else you would like to add, or... (directed to applicant) Jamie Steele: There's nothing else at this time...it's pretty clear what we're (inaudible) facing here...a legal issue. Chairman Brian O'Neil: I mean, you understand...(inaudible) Jamie Steele: (shaking head) Right, yeah...(inaudible) Chairman Brian O'Neil: Yeah, cause...it's the ownership issue of the road. It would be very hard for us to (inaudible) say yeah, when we don't really know who owns it. Jamie Steele: Yeah, cause you're opening the door for others...(inaudible) and setting a precedent...I get it... Chairman Brian O'Neil: OK, thank you. Any other conversation on this matter right now...or any other questions? Alright, well, thank you for the information, and um.... we will be seeing this next month (directed to staff) Jessica Hucks: No, you can make a vote on it today. Chairman Brian O'Neil: We can? Jessica Hucks: Um hmm...it's not a public hearing item. Chairman Brian O'Neil: I gotcha. Jessica Hucks: I mean you can defer it to the January meeting; that would be your purview to do so.

Chairman Brian O'Neil:

Any other discussion amongst the board...I mean, I think I have a proposal I want to make (inaudible)...I'm going to make a motion uh that we deny this request for multiple issues, but mostly the legality of who owns the property...we don't know, and that's not something I believe this board can decide on legally and set that precedent, so that's the motion.

David Sligh:

I uh (inaudible), I mean that, just as a...I think its an issue narrower than that, and it's whether or not we want to approve this design modification regarding an island – that's independent of title to the property...this is...I think it makes more sense to think of this through a more narrow lens, and in light of the issues with ongoing maintenance and ownership and access to city vehicles...all of those things, which are a much narrower concern, and so...my point is...I don't think we need to attach it to the hip of some title opinion about who owns it – that's not our business or problem...our lane is do we need to modify that requirement or not, so anyway...um, to the extent that we're voting today and this is going to be scrutinized, I think it would be wise to...

Jessica Wise:

Clarify?

David Sligh:

Well, just to – that's what we're doing...whether or not to modify that particular design...um...or requirement, so the motions the same; I just was (inaudible)...

Chairman Brian O'Neil:

Yeah, I see - you kind of added to the motion really, or...

Jessica Wise: Clarified the reason behind it...

Chairman Brian O'Neil:

Yeah...I guess, how should we rephrase that? I mean, ya know, make a motion that we're OK with a design modification but we're not okay with the legal aspect...is that what we're saying?

David Sligh: How about this – will you withdraw your motion?

Chairman Brian O'Neil:

I will withdraw my motion.

David Sligh: I will make a motion to...to deny the request for a design modification. Jessica Wise:

I'll second.

Chairman Brian O'Neil: OK, we have a first, second. All in favor?

All PC members present voted Aye (Danny Hardee, David Sligh, Brian O'Neil, Jessica Wise, George Ulrich, Julie Hardwick, and Kendall Brown).

Chairman Brian O'Neil: Any nays? The aye's have it. Thank you.

End of transcription.

Item IV.B.

Country Manor Design Modification

DATE: April 11, 2024 AGENDA ITEM: IV.B

ISSUE:

Country Manor – The applicant, Jamie Steele of: Diamond Shores Inc, is requesting a waiver from the access management standards of the City of Conway's Unified Development Ordinance (UDO) to allow for a new, additional phase of the Country Manor subdivision (PIN 326-00-0021).

BACKGROUND:

January 2001	Final Plats approved for Phase 1A (creating: 4 townhome lots & 6-duplex lots)		
December 2001	Final Plats were approved for: Phase 2A	(creating: 4-duplex lots)	
January 2002	Final Plats were approved for: Phase 3	(creating: 6-lots)	
June 2002	Final Plats were approved for: Phase 1B	(creating: 2-lots)	
May 2003	Final Plats were approved for: Phase 4	(creating: 5-lots)	
March 2004	Final Plats were approved for: Phase 5	(creating: 19-lots)	
March 2004	Final Plats were approved for: Phase 2C	(creating: 5-duplex lots)	
October 2005	Final Plats were approved for: Phase 2B	(creating: 7-duplex lots)	
March 2006	Final Plats were approved for: Phase 6	(creating: 31-lots)	
August 2006	Final Plats were approved or: Phase 7	(creating:45-lots)	
March 2008	Construction Plans approved for Phase 8	(but not developed)	
March 2024	Design Modification to approve the 11 lots in Phase 8 was granted		
March 2024	Request for a Design Modification, to develop Phase 9 (containing 38 lots)		

ANALYSIS:

Phases 1 through 7 have created a total of 156-residential lots/units, all accessed via one enlarged entrance, off Four Mile Road. Current Access Management Requirements state that: "*For single-family developments consisting of thirty or more lots, the City shall require a minimum of two points of ingress and egress, in compliance with applicable fire code(s)*" Sec. 7.2.1 E.

Phase 5 created a portion of Hamilton Way, terminating with a temporary dead-end.

Phase 6 constructed a separate portion of Hamilton Way and created Murphy Way but terminated both streets with temporary dead-ends.

Phase 7 extended both Hamilton Way and Murphy Way but did not include the connection/completion of Hamilton Way nor the installation of the intersection for Murphy Way.

Phase 8 a design modification was approved, on March 7th, 2024, to allow for the development of the 11-lots located within Phase 8.

The additional 38-lots proposed herein will increase the number of residential units accessing from the singular entrance to: 205.

RECOMMENDATION:

If Planning Commission recommends approval of the applicant's requests, staff recommends that it be contingent upon final review and approval of the Technical Review Committee (TRC).



PLANNING & DEVELOPMENT

DESIGN MODIFICATION REQUEST

Address/ PIN:

PIN: 326-00-00-0021 Four Mile Road and Country Manor Road,

Project:

38 single family lots to develop/construct as part of Phase 9 of Country Manor Estates.

Contact Name:

Jamie Steele - Diamond Shores 315 Main Street, Conway, SC 29526

Email Address/Telephone Number:

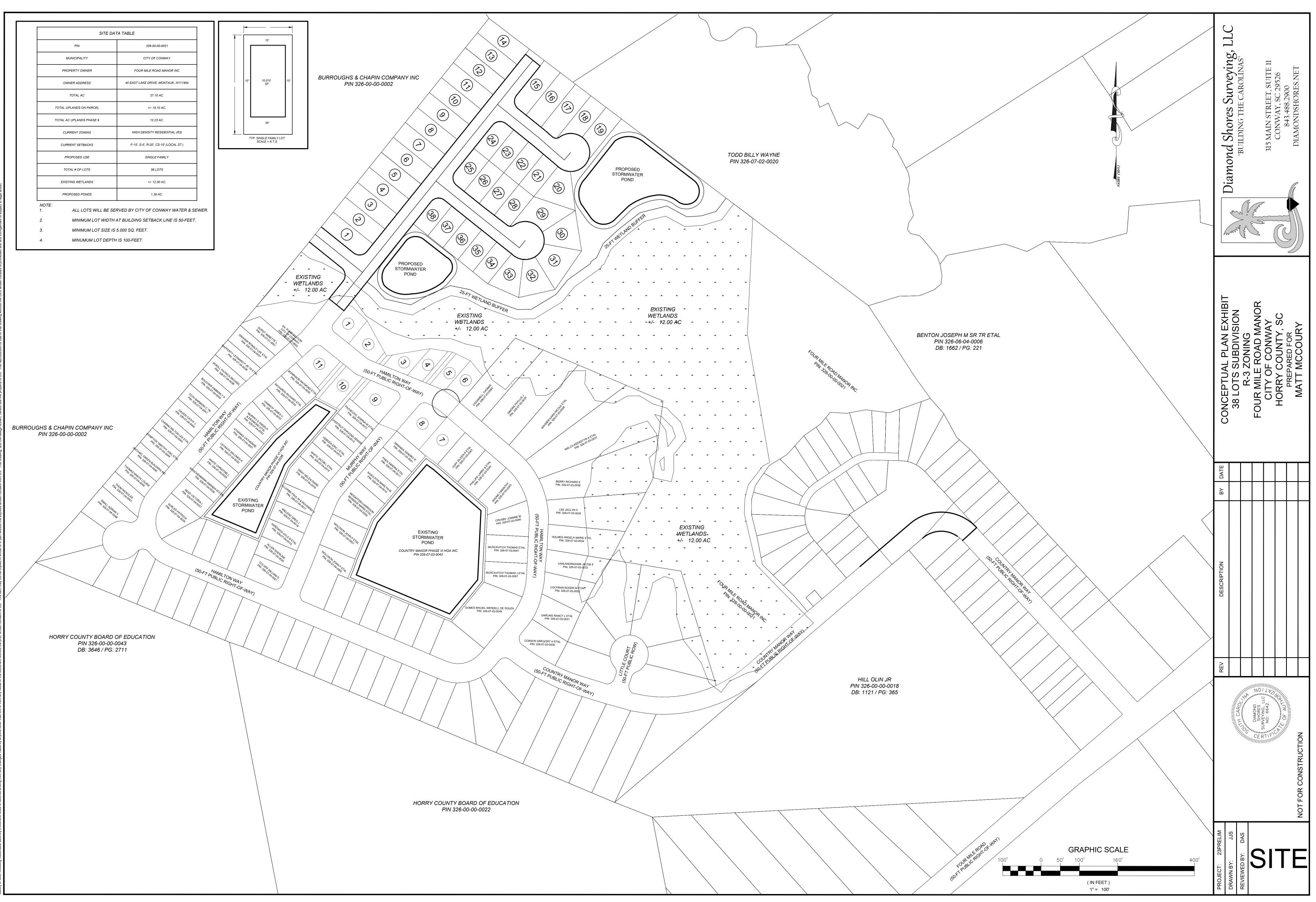
jamie@diamondshores.net 843-488-2900 x401

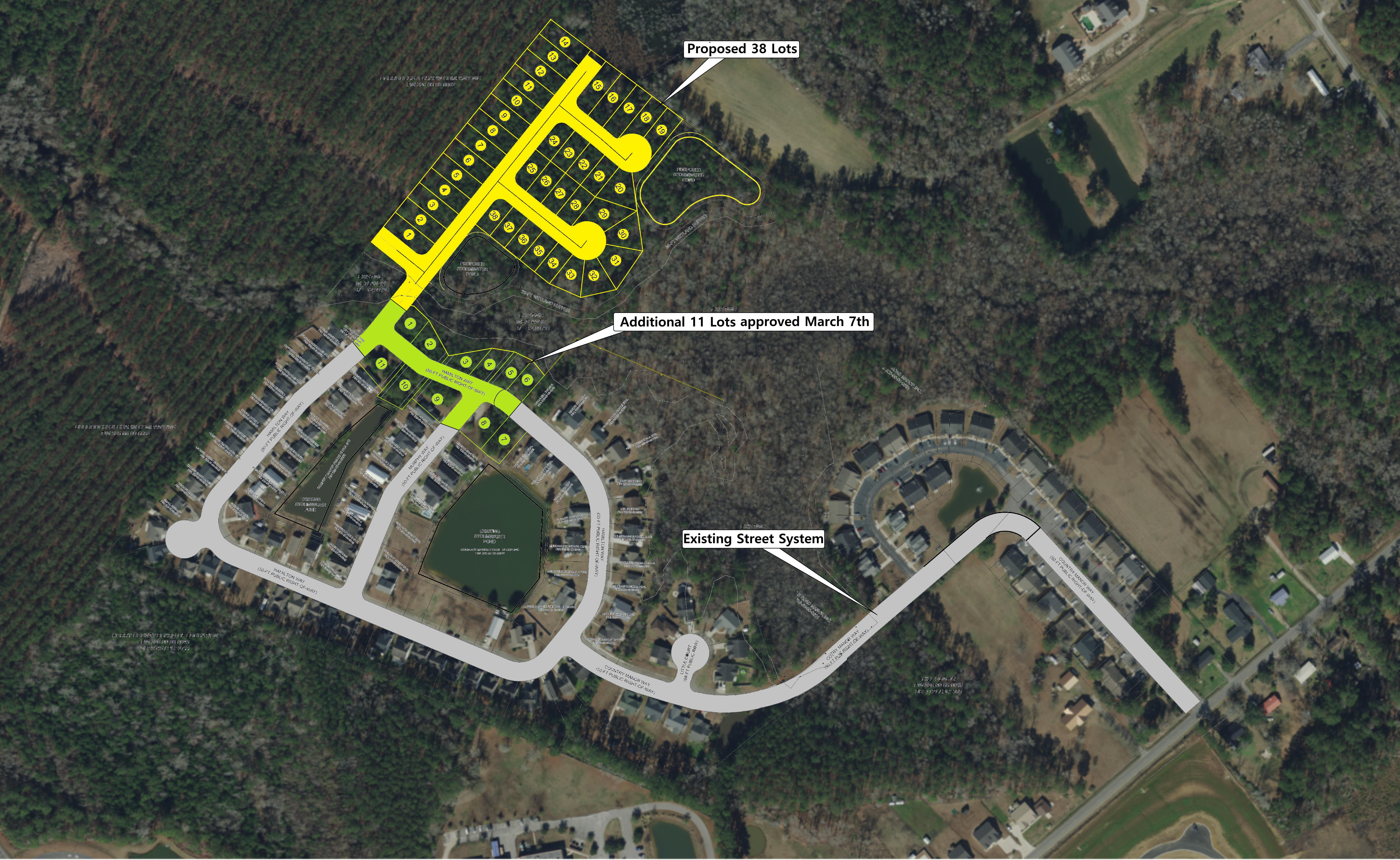
Describe the Proposal in Detail:

Section 7.2.1 E in the U.D.O. states 30 or more requires a minimum of two access points of ingress and egress in compliance with applicable fire codes. We are looking to alleviate that requirement since the Country Manor subdivision for the other phases & lots were previously approved. Also, developer agreement with the adjacent property to make a connection for any road(s) with the adjacent subdivision would benefit the subdivision for vehicular access and emergency vehicles. It would create two points of access for ingress/ egress at that point.

****FEE OF \$100 IS DUE WITH APPLICATION**

Staff Use Only:	
Date Received:	Planning Commission Meeting:
City Council Meeting:	BS&A Case #:
•	
Fee:	(check/credit card/cash)






Proposed 38 Lots

Additional 11 Lots approved March 7th

Existing Street System



Item IV.C.

Chapman Village Open Space Fee-in-Lieu

DATE: April 11, 2024 AGENDA ITEM: IV.C

ISSUE:

Chapman Village (Medlen Parkway) – G3 Engineering, applicants, requests approval to pay the fee-inlieu of providing Open Space for the proposed development, in accordance with *Section 10.3.9, B.4* of the UDO, when less than one (1) acre of Open Space is required (PIN 338-00-00-0003).

BACKGROUND:

The proposed development received preliminary approval at the March 7, 2024 Planning Commission meeting, contingent on also receiving TRC approval. The development will consist of 45 single-family lots.

Per Section 10.3.9, B.4 of the Unified Development Ordinance (UDO), if less than one (1) acre of open space is required for any major subdivision, the developer *shall* submit a fee in lieu of providing the open space as described in Section 10.3.9, D, of the UDO. Per Section 10.3.9, E.2, "where payment of the fee-in-lieu of dedication of open space is proposed as permitted by this ordinance, the sub-divider or applicant shall provide to the City, at the sub-divider or applicant's expense, a satisfactory, current written appraisal of the market value of the land to be annexed, zoned, platted, or developed, as if the subdivision, residential development, rezoning, or Planned Development District has been completed according to the plans submitted".

Under the above requirement, the applicant is required to provide an appraisal that meets the intent stated in *Section 10.3.9, E.2.* The fee-in-lieu amount is determined by calculating the value determined (per the appraisal provided) divided by the total area in the subdivision or development and multiplying by the amount of open space that would otherwise be required. In this case, the applicant has provided an appraisal from a SC licensed real estate appraiser based on the assumption that all entitlements and permitting will be completed by May 2024 with a value of \$1,350,000. The fee-in-lieu amount is calculated below:

Total appraised value:\$1,350,000Total acreage of development:11.83 acresOpen Space Required (based on # of lots):0.94 acres (45 lots x 2.6 x 0.008)Total fee-in-lieu amount:\$107,269.65

The fee in lieu for consideration for Chapman Village is therefore \$107,269.65. This fee would be required to be paid prior to the recording of any lots, in accordance with *Section 10.3.9, E.7*, as well as all other conditions of development be satisfied. Planning Commission's recommendation for the fee-in-lieu amount will be forwarded to Council for consideration at their April 15th meeting.

RECOMMENDATION:

Staff recommends approval of the fee-in-lieu of open space amount, consistent with the requirements specified in the UDO.

Restricted Appraisal Report

of

11.83± Acres

Medlen Parkway Conway, Horry County, SC 29526 Tax Map Number 122-00-04-010 (PIN 33800000003) Our File# 24-0035

for

Forestar Real Estate Group – Coastal Division c/o Mr. Kurt A. Sandness, Division President & Ms. Anna S. Lewis, Entitlements Manager

as of

March 22, 2024

by

Corey L. Peters & Fred B. Beall, MRICS Cox, Beall & Associates, LLC 3501 North Kings Highway, Suite 103-B Myrtle Beach, SC 29577

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Cox, Beall & Associates, LLC

Commercial Real Estate Appraisers & Consultants

Charles A. Cox, MAI	Laura Peters Lang	Corey L. Peters
Fred B. Beall, MRICS		T. Woods Brown

March 27, 2024

Forestar Real Estate Group – Coastal Division c/o Mr. Kurt A. Sandness, Division President & Ms. Anna S. Lewis, Entitlements Manager

Re: Appraisal of 11.83± Acres Medlen Parkway Conway, Horry County, SC 29526 Tax Map Number 122-00-04-010 (PIN 3380000003) Our File# 24-0035

Attention Forestar Real Estate Group - Coastal Division:

At your request, we inspected the above referenced property and researched and analyzed comparable market data for the purpose of forming an opinion of its "as is" market value as of March 22, 2024. Our value opinion is based on the extraordinary assumption that all entitlements and permitting for the proposed 45-lot subdivision will be completed by May 1, 2024.

The subject of this appraisal is an $11.83\pm$ acre tract of residential land located on Medlen Parkway in the City of Conway, SC 29526. It is recognized by Horry County as tax map number 122-00-04-010 (PIN 33800000003). The property has been engineered for the development of a 45-lot subdivision. As of the date of value, the client was reportedly in the last steps of the entitlement process, and they estimated it would be fully permitted and approved by May 1, 2024.

To form our "as is" market value opinion of the subject property, we used a land sales comparison approach.

A reasonable marketing time to sell the subject property at or near our opinion of market value is within twelve months if properly exposed to the open real estate market, and the exposure time for our analyses was estimated to have been twelve months.

It is our understanding that this appraisal will aid in asset management decisions by Forestar Real Estate Group – Coastal Division. Any other use of this letter of transmittal or the attached report is forbidden without our written consent.

Page 2

The attached *appraisal report* is intended to comply with the requirements set forth by the <u>Uniform</u> <u>Standards of Professional Appraisal Practice</u> (USPAP) for appraisal reports. The appraisal assignment was not based on a requested minimum valuation, a specific valuation or the approval of a loan. To the best of our ability, this report has been made in compliance with USPAP, federal regulation 12 CFR Part 34 (Title XI of FIRREA) and the standards endorsed by the Appraisal Institute and the Royal Institute of Chartered Surveyors.

As a result of our investigations and analyses of the data gathered with respect to this assignment, and based on the assumptions and limiting conditions included in the attached report, it is our opinion that the "as is" fee simple market value of the subject property, as of March 22, 2024, was:

ONE MILLION THREE HUNDRED FIFTY THOUSAND DOLLARS (\$1,350,000) Market Value "As Is"

This market value opinion is based on the extraordinary assumption that all entitlements and permitting for the proposed 45-lot subdivision will be completed by about May 1, 2024. If this proves incorrect, our assignment results may need to be revisited.

No assistance in completing this assignment was received by the undersigned from anyone other than the secretarial and research staff of Cox, Beall & Associates, LLC. The reported opinion of value was not based upon a requested minimum, maximum or specific valuation.

If we can be of any further assistance or if there are any questions, please do not hesitate to contact us. Respectfully submitted,

Corey L. Peters Certified General Real Estate Appraiser (SC# CG6813) (NC# A8403)

Fred B. Beall, MRICS Certified General Real Estate Appraiser (SC# CG1490) (NC# A5741)



Item V.A.1.

Amendment(s) to Art. 6 – Design Standards

DATE: April 11, 2024 AGENDA ITEM: V.A.1

ISSUE:

Proposed amendment(s) to Article 6 – Residential Design Standards, of the City of Conway Unified Development Ordinance (UDO), regarding design standards for residential dwellings and dimension standards for fee-simple single-family attached (townhome) dwellings.

BACKGROUND:

In 2022 council approved an amendment to *Article 6-Design Standards*. This ordinance implemented residential design standards that are applicable to all residential dwelling types for major residential subdivisions, which came about as a result of growing concerns with small lot subdivision and the quality of housing being constructed within the City. Before the amendment, there were already standards in place for townhome or multifamily developments; however, the 2022 amendment included requirements for single-family detached and duplex dwellings in major developments as well. Staff has found that the current wording of the ordinance has not yielded the quality of product that was intended with the adoption of this ordinance.

Amendment #1: Dimensional Standards for Fee-Simple Single-Family attached (townhomes)

Fee-Simple Townhome Lot Depth Requirements

It has also recently been brought to staff's attention that the requirement of lots zoned Medium-Density Residential (R-2) with minimum lot depths of 120' required leans to a larger lot size being required than necessary for single-family attached dwellings, making it more feasible (financially) for a developer to construct townhome projects as "in-common" verses "fee-simple". This then causes realtors to use comparison pricing for condos (Horizontal Property Regimes HPR) rather than comparison pricing for single-family *attached* homes, and therefore the cost of the townhomes is drastically lower, resulting in a lesser quality product rather than a higher quality product when compared to developments with single-family *detached* dwellings, which tend to have higher price points.

Staff proposes reducing the lot depth to 100' from 120' for fee-simple townhome development in order to provide more opportunities for fee-simple townhome development in the city and more opportunities for home ownership outside of single-family *detached* style homes.

Amendment #2 – Design Standards for single-family detached, duplex, or semi-attached dwellings

Design standards for residential dwellings

Since the adoption of the design standards for single-family detached dwellings, several builders have gotten creative in how they implement these requirements, with some implementing brick on the front in addition to vinyl siding, but then installing a band of fiber cement board across the bottom of each side of the house. While technically, this does satisfy the language in the ordinance, staff does not believe it satisfies the *intent* of the ordinance. Examples of this have been included in your packet of information.

Staff is requesting to amend *Section 6.2.3-Residential Design Standards* to provide clarification in the wording used to describe the requirements for façade materials for "Single Family (detached), Duplex and Duplex (Semi-Attached)" dwellings in major subdivisions to state specifically that if vinyl siding is one of the materials that will be utilized, that a second material is also required, that the same material used on the front must also be used on the sides, and possibly require a certain amount of the material to be utilized on the sides as well –subject to the approval of the Planning Dept. (*i.e.* plan reviewer, Zoning Administrator, or Planning Director).

A few different options (Option A, B, and C) have been included for consideration.

Option A adds a section for "*Intent*" and a section for "*Interpretation*." In addition to providing clearer standards for how much of a second material would be required on structures by adding "*Such materials shall be diverse in appearance and on scale with the height of the structure*," option A would also require that a minimum of 2 different materials be used on the front and side facades rather than only if vinyl siding was proposed to be one of the façade materials and would also require that rear facades that are visible from public rights-of-way have the same requirement(s) as the front and side facades. Additionally, shutters could be used to help avoid monotonous repetition of planes on front and side facades.

Option B also includes an "Intent" and "Interpretation" section but also provides additional details on the intent of the ordinance. This option also includes a section for additional architectural details and features that would be required on front and side facades. However, this option leaves the ability for vinyl siding to be utilized as one of the façade material choices with a second material also being required; whereas Option A requires two façade materials regardless of whether or not vinyl is one of the materials to be used.

Option C incorporates the standards of Option B, but Option C would also require "minor" residential developments to adhere to the residential design standards. Additionally, Option C would require garages that are front-loading or that face a public street to have decorative features, such as windows or other ornamental feature. Finally, Option C includes requirements for major residential developments to have block diversity, which would prohibit building elevations or mirrored building elevations from being located on either side or across the street from itself. A block diversity plan would be required to be submitted with the preliminary plans for a major development, or with final plat submittal, but in no instance would a building permit be issued without there being an approved block diversity plan on file.

STAFF RECOMMENDATION:

Staff recommends that Planning Commission give a thorough review of the proposed amendments to Article 6 of the UDO and make an informed recommendation to City Council.

ARTICLE 6. DESIGN STANDARDS

SECTION 6.2 – Residential Dimensional Requirements, Dwelling Types, & Design Standards Table 6.1: Dimensional Requirements for Residential Zoning Districts

DIMENSIONAL REQUIREMENT	R	RA	RR	R-1	R-2	R-3	R-4	FA3	P 1
RESIDENTIAL ACREAGE, LOT	WIDTH, AN	ID LOT DE	PTH REQUIREM	ENTS					
Minimum lot size, Single-Family Detached	10,000	40,000	20,000	7,500	6,000	5,000	5,000	40,000	7,000
(sq. ft.) Minimum lot size, Duplex (sq. ft.)	N/A	N/A	N/A	N/A	8,400	7,000	N/A	N/A	10,000
Minimum lot size, Duplex Semi-Attached (sq. ft.)	N/A	N/A	N/A	N/A	4,200	3,500	N/A	N/A	7,000
Minimum lot size, Fee- Simple Townhomes (sq. ft.)	N/A	N/A	N/A	N/A	2,160	1,800	1,800	N/A	1,800
Minimum lot size, Multi-Family (sq. ft.)	N/A	N/A	N/A	N/A	6,000	5,000	N/A	N/A	N/A
Minimum lot width, Single-Family Detached (feet) Section 6.1.5	100	200	100	75	50	50	50	200	70
Minimum lot width, Duplex (feet)	N/A	N/A	N/A	N/A	70	70	N/A	N/A	100
Minimum lot width, Duplex Semi-Attached (feet)	N/A	N/A	N/A	N/A	35	35	N/A	N/A	50
Minimum lot width, Fee- Simple Townhomes (feet)	N/A	N/A	N/A	N/A	18	18	18	N/A	18
Minimum lot width, Multi-Family (feet)	N/A	N/A	N/A	N/A	50	50	N/A	N/A	N/A
Lot Depth, min feet	100	200	200	100	120 / 100 4	100	100	200	100
Building Height, max feet	40	40	40	40	40	40/65 2	40	40	40
BUILDING SETBACKS, RESIDE	NCES OR	OTHER PER	MITTED PRINC	CIPAL BUILDI	NGS (mini	imum feetj			
Front Yard	25	50	30	20	15	15	Build- to-Line	50	20
Rear Yard	25	50	30	20	20	20	15	50	15
Side Yard	10	20	15	10	7.5	5	5	20	10
Corner Front – Local St	25	30	20	20	15	10	10	30	15
Corner Front – Arterial St	25	50	30	20	20	15	15	50	25
			Footnotes	in this table:	:				
1	Standards contained in Table 6.1 are applicable only residential development in the Professional (P) District. Refer to Table 6.2 for dimensional requirements for commercial/mixed-use development in the P district (ZA2020-09-21 (A))								
2	Multifamily developments in the R-3 district to be developed on (or adjacent to) Hwy 501 Bypass, between Lake Busbee and Carolina Forest Blvd, shall be limited to a 65' height limit above base-floor elevations, subject to applicable fire codes (ZA2023-03-20 (F))								
3	Standards contained in Table 6.1 are applicable only to properties zoned FA that are proposed for single-family residential development (ZA2023-05-15 (B)) The minimum lot depth for fee-simple, single-family attached (townhome) development in the R-2 district shall be								
4			oply to in-commo	- ·					

6.2.2 Residential Dwelling Types (the portion being struck-thru will be relocated to Section 6.2.3 – Residential Design Standards)

- A. <u>Single-Family Detached</u>: A one (1) family dwelling that is not attached to any other dwelling by any means and may include an attached garage. <u>Minimum roof pitch for a single story single family dwelling to be not less than 6:12.</u>
- B. <u>Duplex</u>: A building on a single lot containing two (2) single-family dwelling units that are connected by an unpierced solid common wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall. <u>Minimum roof pitch for a single-story duplex to be not less than 6:12.</u>
- C. **Duplex Semi-Attached:** A one (1) family dwelling attached to one (1) other one (1) family dwelling by a common fire-resistant vertical wall extending from ground to roof, with each dwelling located on a separate lot. Minimum roof pitch for a single story duplex semi-attached dwelling to be not less than 6:12.
- D. <u>Townhomes</u>: A single-family dwelling in a row of at least three (3) and no more than eight (8) single family dwellings attached by common fire-resistant vertical walls. No unit is located over another unit. These units may be subdivided on fee simple lots or remain in-common. <u>Minimum roof pitch for a single story townhouse dwelling to be not less than 6:12.</u>

The following pages include the proposed amendments to Section 6.2.3 – Residential Design Standards

OPTION A

6.2.3 Residential Design Standards

- A. **Intent.** Residential design standards are not an attempt to stifle design but are meant to inspire good architectural design while protecting and enhancing the aesthetic and visual character of residential development within the City of Conway.
- B. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements necessary to protect and promote economic growth and stability, as well as the aesthetic appeal of the City of Conway.
- C. **Applicability.** These design standards contained herein shall be applicable to any residential development considered to be a "*major*" subdivision or development, as defined in Section 10.2.2 of this UDO.
 - Exceptions: existing developments (platted prior to the adoption of this ordinance), minor developments, neo-traditional developments, as defined in Section 6.2.1 (F), and Accessory Dwelling Units (ADUs), as defined in Section 6.2.1 (G) are exempt from the standards contained herein.
 - 2. (moved from B.1.c, below) Additions. Additions to existing residential structures with nonconforming exterior surfaces may be allowed permitted to continue the nonconformity with the approval of the Planning Department.

D. Single-Family (detached), Duplex and Duplex (Semi-Attached):

- <u>Façade materials</u>. The following materials are permitted on newly constructed residential structures: brick, fiber-cement, hardi-plank, stone, vinyl, <u>or equivalent quality material</u>, as approved by the Planning Department. A combination of no less than two (2) types of these materials, as described above, shall be required on the front and side facades of the structure may also be used. Such materials shall be diverse in appearance and on scale with the height of the structure.
 - a. When vinyl siding is proposed as one of the materials for the façade, the following additional requirements shall apply:
 - i. A combination of no less than two (2) types of materials, as described above, shall be required to be installed the entire width and length of the <u>front and side facades</u> of the structure. Building elevations are subject to staff review and approval.
 - a. Additions to existing residential structures with nonconforming exterior surfaces may be allowed to continue the nonconformity with the approval of the Planning Department. Each side of structure shall be given the same design consideration as the front (primary) façade. Rear facades that are visible from public rights-of-way shall also be required to have the same design consideration as the front and side facades.
 - b. The form and/or shape of structures should avoid monotonous, unbroken planes or unrelieved repetition of shape. Shutters may be installed to help avoid monotonous repetition of planes on front and/or side facades with the approval of the Planning Department.
- 2. <u>Garages and/or Carports</u>. The following standards are applicable to single-family residential structures that contain garages and/or carports:

- a. Newly constructed Attached garages and/or carports shall have a mix of orientations within the development.
- b. Garage dominant houses (*i.e.* snout houses), or those in which the garage and/or carport protrudes past the front façade by more than 10 feet, are prohibited in instances where the garage faces the front yard or public street(s).
- 3. <u>Sidewalks</u>. A sidewalk or walkway, constructed of concrete or decorative pavers, a minimum of three (3) feet in width, shall be installed connecting the front door to the street-front sidewalk or driveway.
- 4. <u>Overhangs</u>. A minimum <u>overhang/eave</u> of 12-inches shall be required on all sides of all new single-family construction.
 - a. Applicable building and fire codes shall apply.
- 5. <u>Shingles</u>. Where shingles are proposed to be installed, architectural shingles shall be used. Three-tab shingles are <u>prohibited</u>.
- 6. <u>Roof Pitch</u>. The minimum roof pitch for single-story dwellings shall not be less than 6:12.
- 7. <u>Chimneys</u> located on an exterior elevation of the dwelling must extend to the ground and be clad in masonry or same as adjacent materials.

OPTION B

6.2.3 Residential Design Standards

- A. Intent. Residential design standards are not an attempt to stifle design but are meant to inspire good architectural design while protecting and enhancing the aesthetic and visual character of residential developments within the City of Conway. More specifically, to:
 - 1. avoid monotony in design;
 - 2. protect and preserve the character of residential areas within the city and permit continued development of a compatible nature on vacant properties that are or will be proposed for residential development within the city limits;
 - 3. enhance the character and function of city streets;
 - 4. promote original and high-quality design, and reduce tract or production-style homes;
 - 5. maintain and enhance property values through appropriate aesthetic and functional design considerations;
 - 6. deemphasize garages as major visual elements along local residential streets;
 - 7. encourage design details, which add visual interest and encourage outdoor living spaces; and
 - 8. Implement the city's goals and objectives within the city's comprehensive plan related to providing a mix of housing types and promoting quality site development and design that enhances Conway's sense of place within neighborhoods.

- **B.** Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements necessary to protect and promote economic growth and stability, as well as the aesthetic appeal of the City of Conway.
- **C. Applicability.** The design standards contained herein shall be applicable to any residential development considered to be a "*major*" subdivision or development, as defined in *Section* 10.2.2 of this UDO.
 - Exceptions: existing developments (platted prior to adoption of this ordinance), minor developments, neo-traditional developments, as defined in Section 6.2.1 (F), and Accessory Dwelling Units (ADUs), as defined in Section 6.2.1 (G) are exempt from the standards contained herein.
 - 2. Additions. Additions to existing residential structures with nonconforming exterior surfaces may be allowed permitted to continue the nonconformity with the approval of the Planning Department.
- D. Single-Family (detached), Duplex and Duplex (Semi-Attached):
 - 1. **Façade materials.** The following materials are permitted on newly constructed residential structures:
 - a. Brick, fiber-cement, hardi-plank, stone, vinyl, <u>or equivalent quality material</u>, as approved by the Planning Department. A combination of these materials may also be used is encouraged.
 - b. When vinyl siding is proposed as one of the materials for the façade, the following additional requirements shall apply:
 - ii. A combination of no less than two (2) types of materials, as described above, shall be required to be installed the entire width and length of the <u>front and side facades</u> of the structure. Materials shall be diverse in appearance and on scale with the height of the structure. Building elevations are subject to staff review and approval.
 - c. Additions to existing residential structures with nonconforming exterior surfaces may be allowed to continue the nonconformity with the approval of the Planning Department. (see C.2)
- 2. Architectural Details and Features. In addition to façade material requirements, structures shall contain a minimum of two (2) architectural details on front facades, a minimum of one (1) on side facades, and a minimum of one (1) on rear facades that are visible from public rights-of-way, and which must be provided on building elevations at the time of permit submittal:
 - a. Vertical columns or pillars;
 - b. Stonework detailing on columns (if applicable);
 - c. Decorative / ornamental window design (i.e. window trim, recesses, adding bay windows, shutters, grids, etc.);
 - d. Decorative (front) door design;
 - e. Decorative / ornamental garage door design;
 - f. Decorative roofline elements, such as roof brackets or dormers;
 - g. Porch (front) or covered entry features;

- h. Decorative belly band trim;
- i. Other decorative ornamentation/feature or design technique that meets the intent of this section, as determined by the Zoning Administrator, or their designee.
- 3. <u>Garages and/or Carports</u>. The following standards are applicable to single-family residential structures that contain garages and/or carports:
 - a. Newly constructed Attached garages and/or carports shall have a mix of orientations within the development.
 - b. Garage dominant houses (*i.e.* snout houses), or those in which the garage and/or carport protrudes past the front façade by more than 10 feet, are prohibited in instances where the garage faces the front yard or public street(s).
- 4. <u>Sidewalks</u>. A sidewalk or walkway, constructed of concrete or decorative pavers, a minimum of three (3) feet in width, shall be installed connecting the front door to the street-front sidewalk or driveway.
- 5. <u>Overhangs</u>. A minimum <u>overhang/eave</u> of 12-inches shall be required on all sides of all new single-family construction.
 - a. Applicable building and fire codes shall apply.
- 6. <u>Shingles</u>. Where shingles are proposed to be installed, architectural shingles shall be used. Three-tab shingles are <u>prohibited</u>.
- 7. **<u>Roof Pitch</u>**. The minimum roof pitch for single-story dwellings shall not be less than 6:12.
- 8. <u>Chimneys</u> located on an exterior elevation of the dwelling must extend to the ground and be clad in masonry or same as adjacent materials.

OPTION C

6.2.3 Residential Design Standards

- A. Intent. Residential design standards are not an attempt to stifle design but are meant to inspire good architectural design while protecting and enhancing the aesthetic and visual character of residential developments within the City of Conway. More specifically, to:
 - 1. avoid monotony in design;
 - 2. protect and preserve the character of residential areas within the city and permit continued development of a compatible nature on vacant properties that are or will be proposed for residential development within the city limits;
 - 3. enhance the character and function of city streets;
 - 4. promote original and high-quality design, and reduce tract or production-style homes;
 - 5. maintain and enhance property values through appropriate aesthetic and functional design considerations;
 - 6. deemphasize garages as major visual elements along local residential streets;

- 7. encourage design details, which add visual interest and encourage outdoor living spaces; and
- 8. Implement the city's goals and objectives within the city's comprehensive plan related to providing a mix of housing types and promoting quality site development and design that enhances Conway's sense of place within neighborhoods.
- **B.** Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements necessary to protect and promote economic growth and stability, as well as the aesthetic appeal of the City of Conway.
- **C. Applicability.** Unless otherwise specified in this section, the design standards contained herein shall be applicable to any residential development; minor or major considered to be a "*major*" subdivision or development, as defined in Section 10.2.2 of this UDO.
 - 1. Exceptions: existing developments (platted prior to adoption of this ordinance), minor developments, neo-traditional developments, as defined in Section 6.2.1 (F), and Accessory Dwelling Units (ADUs), as defined in Section 6.2.1 (G) are exempt from the standards contained herein.
 - 2. Additions. Additions to existing residential structures with nonconforming exterior surfaces may be allowed permitted to continue the nonconformity with the approval of the Planning Department.

D. Single-Family (detached), Duplex and Duplex (Semi-Attached):

- 1. **Façade materials.** The following materials are permitted on newly constructed residential structures:
 - a. Brick, fiber-cement, hardi-plank, stone, vinyl, <u>or equivalent quality material</u>, as approved by the Planning Department. A combination of these materials may also be used is encouraged.
 - b. When vinyl siding is proposed as one of the materials for the façade, the following additional requirements shall apply:
 - iii. A combination of no less than two (2) types of materials, as described above, shall be required to be installed the entire width and length of the <u>front and side facades</u> of the structure. Materials shall be diverse in appearance and on scale with the height of the structure. Building elevations are subject to staff review and approval.
 - d. Additions to existing residential structures with nonconforming exterior surfaces may be allowed to continue the nonconformity with the approval of the Planning Department. (see C.2)
- 3. Block Diversity. Excluding "minor" residential developments, all *major* residential developments shall provide a variety of housing styles and house plans to avoid repetitive facades and building styles within the same development block. A development block within a residential development is defined as the smallest group of residential dwellings surrounded by streets.
 - a. A block diversity plan illustrating lots, building elevations and/or house plans shall be submitted with preliminary plans for major residential developments. A separate

block diversity plan may be submitted with submittal of a final plat for review; however, no permits shall be issued until the development has an approved block diversity plan.

- b. Within the same block, no building elevation or mirrored building elevation shall be located on either side nor across the street from itself. The following elements may be considered when determining this requirement has been met:
 - i. Different façade materials /colors or a combination of different materials and/or colors.
 - ii. Different offsets, recesses or projections are utilized on front building elevations.
 - iii. Variations in roof elevation, roof form, or roof projections (*i.e.* with or without dormers).
 - iv. Variations in porches and entries, window fenestration (placement, shape, orientation of windows).
- 4. Architectural Details and Features. In addition to façade material requirements, structures shall contain a minimum of two (2) architectural details on front facades, a minimum of one (1) on side facades, and a minimum of one (1) on rear facades that are visible from public rights-of-way, and which must be provided on building elevations at the time of permit submittal:
 - a. Vertical columns or pillars;
 - b. Stonework detailing on columns (if applicable);
 - c. Decorative / ornamental window design (i.e. window trim, recesses, adding bay windows, shutters, grids, etc.);
 - d. Decorative (front) door design;
 - e. Decorative / ornamental garage door design (i.e. glass/windows, carriage hardware, etc.);
 - f. Decorative roofline elements, such as roof brackets or dormers;
 - g. Porch (front) or covered entry features;
 - h. Decorative belly band trim;
 - i. Other decorative ornamentation/feature or design technique that meets the intent of this section, as determined by the Zoning Administrator, or their designee.
- 5. <u>Garages and/or Carports</u>. The following standards are applicable to single-family residential structures that contain garages and/or carports:
 - a. Newly constructed Attached garages and/or carports shall have a mix of orientations within the development.
 - b. Garage dominant houses (*i.e.* snout houses), or those in which the garage and/or carport protrudes past the front façade by more than 10 feet, are prohibited in instances where the garage faces the front yard or public street(s).
 - c. Front-load garages, or garages facing a public street, shall contain decorative windows or other acceptable decorative / ornamental feature (standard squares on garage doors do not count).

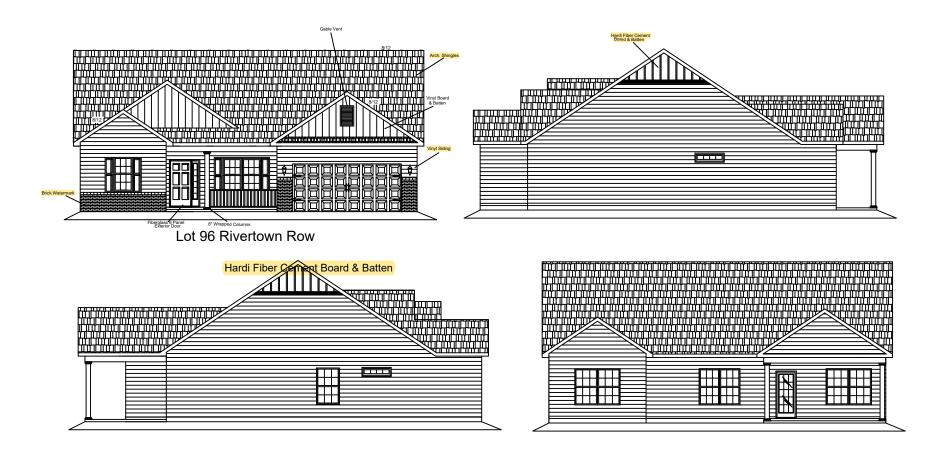
- 6. <u>Sidewalks</u>. A sidewalk or walkway, constructed of concrete or decorative pavers, a minimum of three (3) feet in width, shall be installed connecting the front door to the street-front sidewalk or driveway.
- 7. <u>Overhangs</u>. A minimum <u>overhang/eave</u> of 12-inches shall be required on all sides of all new single-family construction.
 - b. Applicable building and fire codes shall apply.
- 8. <u>Shingles</u>. Where shingles are proposed to be installed, architectural shingles shall be used. Three-tab shingles are <u>prohibited</u>.
- 9. **<u>Roof Pitch</u>**. The minimum roof pitch for single-story dwellings shall not be less than 6:12.
- 10. <u>Chimneys</u> located on an exterior elevation of the dwelling must extend to the ground and be clad in masonry or same as adjacent materials.

Amendments in Section 6.2.3 continued below:

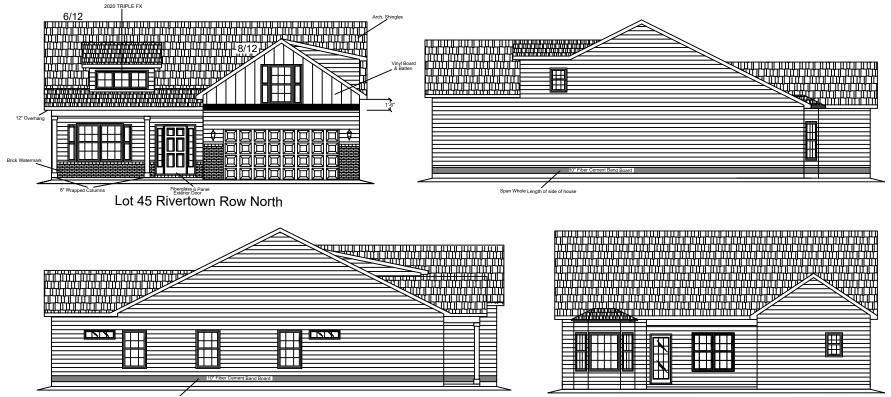
- E. Townhomes:
 - Façade Materials. Buildings shall be constructed of materials consistent with characteristics of the neighborhood. Fiber cement, brick, vinyl siding, hardi-plank shake/shingle or <u>an equivalent quality material</u> as approved by the Planning Department, is required on all exterior surfaces of all structures within the development, including accessory structures.
 - a. There shall be a combination of no less than two (2) of the above listed materials on each façade of the building and must be installed the entire width and length of each façade. The <u>primary material</u> on the front elevation shall also be used on the side and rear elevations.
 - b. Building elevations shall be submitted with the preliminary plan set and must be reviewed and approved by TRC prior to plan approval.
 - 2. <u>Common Driveways, Parking Areas, Open Space</u>, <u>or other amenities</u> shall have provisions for perpetual maintenance by the participating property owners.
 - 3. <u>Pathways</u>. A pathway system connecting greenway/open space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and sidewalks shall be constructed. Pathways shall also have provisions for perpetual maintenance. Refer to Article 7, Section 7.1.2 for design requirements for pathways.
 - 4. <u>Front Loading Garages</u>. All units with front-loaded garages shall have garage faces with decorative design treatments to minimize their appearances. Garages for units/buildings located on rear alleys shall be located to the rear of the unit and accessed via alley only.
 - 5. Parking.
 - a. Parking for townhomes provided via individual driveways, garages, or a combination of both, shall be required to provide a minimum of two (2) parking spaces for each unit. Such parking shall not impede the sidewalk, drive aisle or encroach into the public right-of-way.

- b. When parking is to be provided via parking lot style/vehicle use area(s), townhome developments shall adhere to the minimum required and maximum allowed parking standards for an "Apartment", as cited in Article 8, Table 8.3:
 Parking Requirements and the Handicapped Accessible Parking Requirements of Sec. 8.2.3.
- 6. <u>Walkways</u>. A three-foot (3') wide sidewalk or walkway, constructed of concrete or decorative pavers, shall extend from the sidewalk or driveway to the steps, stoop, or porch of all units.
- 7. <u>Chimneys</u> located on an exterior elevation of the dwelling must extend to the ground and be clad in masonry or same as adjacent materials.
- 8. <u>Shingles</u>. Where shingles are proposed to be installed on all residential construction, architectural shingles shall be used. **Three-tab shingles are <u>prohibited</u>**.
- 9. <u>Roof Pitch</u>. The minimum roof pitch for a single-story townhouse dwelling shall not be less than 6:12.

Example of what was submitted *before* amendments to Residential Design Standards was adopted



Example of what was submitted after amendments to Residential Design Standards was adopted



Span Whole Length of side of house

Item V.A.2.

Amendment(s) to Art. 11 – Signage

DATE: April 11, 2024 AGENDA ITEM: V.A.2

ISSUE:

Amendment(s) to *Article 11 – Signage*, of the City of Conway Unified Development Ordinance (UDO), regarding signs placed on public property and/or within public rights-of-way.

BACKGROUND:

City staff was asked to look into imposing a fine on signs that are illegally placed in rights-of-ways. A couple of years ago, the City amended the Unified Development Ordinance (UDO) (*Ord. ZA2021-08-16* (*C*)) to remove/repeal the section pertaining to temporary signage; largely due to the 2015 US Supreme Court decision of *Reed v. the Town of Gilbert*, which had to do with temporary signs and the requirement of government agencies to be content neutral in their enforcement of temporary sign requirements.

Section 11.1.3 – Removal of Signs Erected on Public Property or Rights-of-Way, of the UDO, states "it shall be unlawful to erect, use or maintain a sign or sign structure on public property or public right-of-way without the approval of the City of Conway. The City of Conway shall be authorized to remove such signs."

In lieu of having a separate "Temporary Sign" ordinance to address certain temporary signs, some types of signage that is erected on a recurrent basis, such as political signs, remains as its own section of the sign ordinance, with requirements for the number, size, height and location(s) of such signs. Additionally, *Section 11.4.9 (C), Location*, states that such signs shall not be located in any public rights-of-way nor any sight distance triangles.

There has been an uptick in signs being placed in rights-of-way throughout the city, and with the election season underway, the number of temporary signs that end up being placed in rights-of-way will continue to increase. Currently, there is a limited amount of staffing to pull signs from rights-of-ways, and many times, having to designate staff time to pull signs from rights-of-way requires taking staff and resources away from other job duties with set deadlines, such as plan / permit reviews, preparing for meetings or preparation of several other items in accordance with City Ordinance and/or State law, as there is no dedicated position for enforcement of signage. However, practice has been to bring all of the signs back to our department, separate them, contact the sign's owner (if known), coordinate the signs being picked up by owners, taking the signs to the City shop for disposal and/or issuing citations for sign violations and attending court dates; a very time-consuming task. Due to the limited space that we have available for storage of temporary signs – sometimes as many as 1,000 or more at one time, this too has become a nuisance, and is not a good use of the limited resources that staff has available.

The City created a new position last year, which was recently filled, for a Zoning & Landscaping Inspector, whose primary job duties include investigating complaints or violations, and to assist with

remedying these complaints and violations, but this is only one of the duties of the inspector, and it will not solve the number of ongoing issues revolving around the illegal placement of signs in rights-of-way.

Currently, any citations that are issued – if taken to court, may result in person(s) being found guilty of a misdemeanor offense. Staff proposes to amend the ordinance to instead make these types of sign violations (signs illegally placed in rights-of-way) a civil infraction, with a fine of \$50 per sign, rather than a misdemeanor offense. Additionally, the amendment would permit staff to immediately dispose of the signs that are removed from rights-of-way rather than store them.

While there are concerns with the proposed amendments, should they be adopted, such as who the citation would be issued to, conflicts with *Article 15* of the UDO (Enforcement) – which requires that written notice be given to the property owner or property tenant, issues with signs knowingly or unknowingly being placed in rights-of-way by people other than the sign owner (and without their permission), imposing a fee on illegally placed signage is a reasonable use of enforcement of the UDO, and these same concerns would certainly exist with or without the ordinance being amended.

RECOMMENDATION:

Staff recommends that Planning Commission provide a thorough review on the proposed amendment(s) to *Article 11 (Signage)* and make an informed recommendation to City Council.

ARTICLE 11. SIGNAGE

Section 11.1 – General Provisions

11.1.3 Removal of Signs Erected on Public Property and/or Rights-of-Way

It shall be unlawful to erect, use or maintain a sign or sign structure on public property or public right-of-way without the approval of the City of Conway. The City of Conway shall be authorized to remove such signs.

- A. Each sign or sign structure found to be in violation of this Section shall be considered a separate offense and punishable as a civil infraction with a fine of \$50 per violation.
- B. The City of Conway shall be authorized to remove and immediately discard such signs.
- C. The City of Conway reserves the right to exercise prosecutorial discretion when enforcing this Section and may choose to issue fines for only the most egregious violations.

Item V.A.3.

Amendment(s) to Article 10 Subdivision & Land Development *DEFERRED until June PC*