



**CITY OF SOUTHPORT
REGULAR BOARD OF ADJUSTMENT MEETING**

**August 27, 2024
Indian Trail Meeting Hall
113 W. Moore Street
4:30 p.m.**

Meetings are open to the public. Please silence your cellular phones.

ETHICS STATEMENT:

“If any members know of any conflict of interest or the appearance of a conflict of interest concerning matters on the agenda, please state at this time.”

- A. Call to Order**
- B. Pledge of Allegiance**
- C. Explanation of Quasi-Judicial Process**
 - 1. Quasi-judicial Information Sheet
- D. Hearings and Requests**
 - 1. Appeal of an Administrative Decision-Violation (1010 Bussells Turn)
 - 2. Special Use Permit Request: COLUMBARIUM (205 E Moore Street)
- E. Approval of Minutes**
- F. Other Business**
- G. Adjourn**

WHAT IS A QUASI-JUDICIAL HEARING?

A quasi-judicial hearing is a more formal type of hearing in which **the deciding board uses evidence, facts, and expert testimony** to make a decision. It is more like a court hearing. Evidence must be substantial, competent, and material. **Opinions, hearsay, and repetitive** testimony will be ruled out of order by the Chair.

SITUATIONS THAT REQUIRE A QUASI-JUDICIAL HEARING:

Special Use Permits: Permits issued to authorize development or land uses in a particular zoning district upon evidence establishing compliance with general and supplemental standards for that use. A special use permit assures that the development does not cause harm to the adjacent properties. The deciding board may place conditions on the use to help mitigate any possible negative impacts. One example would be requiring the business to stop using outdoor speakers by a certain time to help prevent disturbances to the neighbors.

Variances: Special circumstances in which a property owner requests to modify certain provisions of the ordinance. The modification must not be from a self-inflicted hardship and must be consistent with the spirit and intent of the ordinance. One example would be a reduction of setbacks for an accessory building because of a stream running through the backyard.

Appeals: Only actual official staff/board determination or action can be appealed. The appeal must be made by a person with standing. The Board may reverse or affirm the decision as a whole or in part. An example would be a resident appealing the denial of a permit to their property.

HOW IS A QUASI-JUDICIAL HEARING CONDUCTED?

Typically, the presentation of information will begin with city staff. The Board Chair will swear the presenters in, either together or one at a time. After staff presents their materials, the applicant and any representatives will provide testimony in favor of their request. Any members of the public that wish to speak may do so, but the Chair has the authority to ascertain whether they have standing and should be considered. After those opposed to the request have spoken, the applicant has the opportunity for rebuttal. The deciding Board can ask questions throughout the hearing of evidence. After all evidence has been presented, the Board Chair will close the comment period, and the Board can deliberate. The public hearing will be closed after deliberations, and the Board will make a determination.

WHAT HAPPENS NEXT?

After a decision has been made to grant a variance, special use permit, or an appeal, a final order is composed that lists all of the findings of fact and the conditions of approval. The final document will be signed by the applicant and the Board Chair and filed at the Register of Deeds office so that it is always tied to the property. The applicant receives a signed copy of the final document.

RELEVANT DEFINITIONS:

Quorum-the number of voting members that must be present to hold the hearing. Typically, this number is a simple majority of board members. According to the UDO, in Southport's case, a quorum is four members.

Witnesses-persons who present evidence under oath. The Board chair may subpoena witnesses. Cross-examination must be allowed.

Standing-any person/organization who has standing may appeal a decision. Standing typically refers to the owner of the property, the applicant for the permit, anyone who will suffer "special damages" as a result of the decision, a neighborhood association that would be affected, or the unit of government that has made the decision being appealed. Proximity, financial investment, etc., do not establish standing. Standing must be ruled on by the chair/board only.

Expert Testimony-architects, engineers, surveyors, appraisers, and other licensed land use professionals can provide evidence supporting their clients but cannot make legal arguments or cross-examine evidence.

Conflict of Interest-members of the Board may be disqualified from participating and voting if any of the following conditions are present:

1. Fixed opinion prior to the hearing
2. Undisclosed ex-parte communication (discussion outside of the meeting)
3. Close family, business, or other relationship with an affected person
4. Financial interest in the outcome

If an objection is made and the member refuses to recuse his/herself, the remaining Board members vote on recusal.

STAFF REPORT
APPEAL OF DETERMINATION OF THE CODE ENFORCEMENT OFFICER

APPLICATION SUMMARY	
Hearing Date	July 30, 2024 Board of Adjustment
Applicant	Gregory Kleva
Property Owner	Jamie and Jackson Pederson
Parcel ID:	237BA037
Parcel Acreage	0.54 acres
Zoning District	R-20

APPEAL REQUEST

Gregory Kleva, applicant for property owners, Jamie Renn Pederson and Jackson Pederson, is appealing an administrative development decision by Derek Mabe, Code Enforcement Officer. The subject violation is for clearing and grading of property located at 1010 Bussells Turn SE, Southport, NC, prior to issuance of a zoning or building permit.

The applicants were issued a written notice of violation to Unified Development Ordinance Section 3.18 Tree Protection and Landscape Preservation. Specifically, the violation is for Section 3.18.I.1 Lot Clearing and Preparation, which states that no alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree impact permit.

APPEAL PROCEDURE

In order for an administrative decision to be appealed, the public official must have made an official determination—a written, final, and binding order, requirement, or determination (160D-405(d) & -102(10)).

An appeal of an administrative development decision must follow quasi-judicial procedures, as outlined at G.S. 160D-406. Among other things, notice must be mailed and posted on the property; witnesses must provide sworn testimony and factual evidence; and the board must base its decision upon competent, substantial, relevant evidence in the record. Politics and personal preference are not legitimate bases for the decision.

The board of adjustment makes its own independent assessment of what the terms of the ordinance mean and “shall have all the powers of the official who made the decision” being appeal from. While some consideration as to the professional judgement of the zoning administrator should be given, ultimately the question of what the ordinance

means is a question of law for which the board must make its own decision. In making this determination the key goal should be giving full effect to the terms of the ordinance and the intent of the governing board that originally adopted it, not substituting the opinion of staff as to what the ordinance should say. The Board of Adjustment is an independent Board governed by the UDO.

The board must determine any contested facts and apply relevant legal standards. The board may affirm the staff decision, reverse the staff decision, or modify the staff decision, and the board may “make any order, requirement, decision, or determination that ought to be made.”

Appeals of administrative decisions are decided by a simple majority vote. The decision of the board of adjustment may be appealed to the superior court in certiorari pursuant to G.S. 160D-1402.

APPLICANT’S JUSTIFICATION FOR APPEAL

The following statements are submitted by the applicant for justification and explanation for the appeal.

The Unified Development Ordinance of the City of Southport (UDO) was adopted on September 23, 2020. The Tree Preservation Regulations to the UDO were updated on November 11, 2021. The subject property is located within the Extra Territorial Jurisdiction (ETJ) of the City of Southport, State of North Carolina, which is subject to the UDO. Under the current UDO, a property owner must first obtain a permit before removing any trees from any property subject to the UDO.

Prior to the UDO being updated with respect to the Tree Preservation Regulations, no such permit was required. Additionally, the applicant states that prior to the UDO being updated with respect to the Tree Preservation Regulations, the City of Southport to notify all of the property owners, in writing of any proposed changes to the UDO. City of Southport advised that the City of Southport mailed out to all property owners the required notifications of the subject change to the UDO regarding tree preservation. It is the position of the property owners, Jamie Renn Pederson and Jackson Pederson, that at no time was he(sic) provided notice of the proposed change to the UDO that would require a permit to be issued by the city prior to tree removal from a property. In further support of this assertion and attached hereto as *Exhibit A* is a signed statement from seventy-five (75) property owners within Smithville Woods Subdivision stating that they never received any notification whatsoever regarding a change to the UDO that would require a permit to remove trees from their property.

As such, it is our position and assertion in this appeal that the property owners, Jamie Renn Pederson and Jackson Pederson were not given proper notice of the change to the UDO requiring them to obtain a permit before removing any trees from their property, and therefore the violation should be dismissed.

Appellant intends to offer further evidence in support of the fact that he should not be found responsible for the alleged violation at the applicable hearing.

STAFF REVIEW

The Unified Development Ordinance (UDO) became effective on September 23, 2020. This version includes tree protection and permit requirements. Numerous public hearings and a joint meeting of the Board of Aldermen and Planning Board were held before adopting the entirely rewritten UDO. Individual written notice to property owners is not required for updates to zoning text amendments.

Subsequent updates to the tree protection section of the ordinance on November 11, 2021, and September 8, 2022, included duly advertised public hearings prior to adoption.

The property owners submitted a building permit for a single-family home on a vacant property located at 1010 Bussels Turn SE on April 4, 2024. Upon reviewing the application, staff determined that clearing and grading of the subject lot occurred prior to



the building permit. The building inspector and code enforcement officer visited the site. The attached photos were taken on that site visit.



A notice of violation was sent to the property owner on April 12, 2024, citing UDO Section 3.18.I.1 and UDO Section 3.18.I.4.

The requirement of acquiring a permit for clearing a residential lot is found in Section 3.18.I.1 LOT CLEARING AND PREPARATION

1. No alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree impact permit. Some clearing of understory trees and shrubs may be required to prepare a site for survey, inspection by governmental agencies as part of any permitting process, or to stake the proposed building site.

The fines for clearing a residential lot without a permit are outlined in Section 3.18.I.4 LOT CLEARING AND PREPARATION

4. In the event that a lot has been cleared without obtaining all proper permits from the city and the UDO Administrator is unable to determine the exact number of trees which have been removed in violation of this

ordinance, a civil penalty shall be levied under this subsection as follows:

a) If the property is located within a residential district, the offender shall be subject to a civil penalty in the amount of \$1.00 for each square foot of the total size of the lot that was cleared (not based on the lot area cleared). In addition, the offender shall be required to plant two (2) replacement canopy trees per 10,000 sf or fraction thereof.

Acknowledgement of the tree protection ordinance and associated fines for violating the ordinance is required as part of the building permit application. The applicant's builder signed both acknowledgments on the active permit to construct a single-family home.

BOARD OF ADJUSTMENT: DECISION

☐ Affirms the staff determination based on the following:

☐ Modifies the staff determination, including the following:

☐ Reverses the staff determination based on the following:

The final decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board.

Attachments:

Appeal 24-02 Staff Report BOA 7-30-2024

Appeal Application
Supporting Documents

Appeal 24-02 Staff Report BOA 7-30-2024

GEDDINGS & KLEVA, PLLC
ATTORNEYS AT LAW

8721 East Oak Island Drive
Oak Island, North Carolina 28465

Telephone: (910) 278-8998
Facsimile: (910) 278-8982

May 8, 2024

The City of Southport
1029 N. Howe Street
Southport, North Carolina 28461
Attn: Planning & Inspections

Re: Case Number 202404002

Dear Sir/Madam:

Please be advised that our office has been retained by Davis C. Herring, Jr. to assist him with respect to an appeal of a Notice of Violation dated April 12, 2024, by Code Enforcement Inspector Derek Mabe.

In furtherance of that appeal, enclosed please find the following:

- 1) Completed Appeal Application.
- 2) Current and Accurate Information as to the applicant, owner, subject property, and item at issue. This information is contained in the Appeal Application.
- 3) A copy of the Courtesy Letter/1st Notice of Violation dated April 8, 2024, being appeal is attached to the Appeal Application.
- 4) The specific section of the Southport City Ordinance that is at issue in the appeal is *Section 3.18 Tree Protection and Landscape Preservation*.
- 5) Justification/Explanation Pertinent to the Appeal is attached hereto.
- 6) The filing fee of \$250.00 has been submitted.

Once this application has been processed, please provide the undersigned with the date and time when this matter will be heard before the Board of Adjustment.

Thank you.

Sincerely,


Greg Kleva

RECEIVED

MAY 09 2024

**CITY CLERK,
CITY MANAGER'S OFFICE**



Justification and Explanation for Appeal:

The Unified Development Ordinance of the City of Southport (UDO) was adopted on September 23, 2020. The Tree Preservation Regulations to the UDO were updated on November 11, 2021. The subject property is located within the Extra Territorial Jurisdiction (ETJ) of the City of Southport, State of North Carolina, which is subject to the UDO. Under the current UDO, a property owner must first obtain a permit before removing any trees from any property subject to the UDO. Prior to the UDO being updated with respect to the Tree Preservation Regulations, no such permit was required. Additionally, prior to the UDO being updated with respect to the Tree Preservation Regulations, the City of Southport to notify all of the property owners, in writing of any proposed changes to the UDO. City of Southport advised that the City of Southport mailed out to all property owners the required notifications of the subject change to the UDO regarding tree preservation. It is the position of the property owners, Jamie Renn Pederson and Jackson Pederson, that at no time was he provided notice of the proposed change to the UDO that would require a permit to be issued by the city prior to tree removal from a property. In further support of this assertion and attached hereto as *Exhibit A* is a signed statement from seventy-five (75) property owners within Smithville Woods Subdivision stating that they never received any notification whatsoever regarding a change to the UDO that would require a permit to remove trees from their property.

As such, it is our position and assertion in this appeal that the property owners, Jamie Renn Pederson and Jackson Pederson were not given proper notice of the change to the UDO requiring them to obtain a permit before removing any trees from their property, and therefore the violation should be dismissed.

Appellant intends to offer further evidence in support of the fact that he should not be found responsible for the alleged violation at the applicable hearing.



Appeal Application

City of Southport, North Carolina

1029 N. Howe St, Southport NC 28461
www.cityofsouthport.com

Planning & Inspections
Phone 910-457-7925

For Staff Use Only

AP-24-02

Application No. Appeal 24-02

Receipt No. _____

FEE: \$ \$250.00

Date Received: 5/9/24

APPLICATION REQUEST(S):

- ☐ Appeal of Decision or Action of the Administration
- ☒ Appeal of Action or Determination of the Code of Enforcement Officer
- ☐ Request and Interpretation of Zoning and/or Code of Ordinance
- ☐ Interpretation of Zoning Map
- ☐ Submittal of Variance Application

PROPERTY (Location/identification information for property to which appeal request refers):

Name of Owner: Jamie Renn Pederson and Jackson Pederson

Address of property: 1010 Bussell Turn City: Southport

State: NC Zip Code: 28461 Phone: 910-443-4480

Tax Parcel ID: 237BA037 Zoning District Classification: R20

Subdivision Name: Smithville Woods Section: Marsh Creek Lot #: 37

Current Use of Property: Residential

Applicant/Appellant Information (If different than above):

Applicant's Name: Gregory Kleva Phone: 910-278-8998

Mailing Address: 8721 E. Oak Island Drive

City: Oak Island State: NC Zip Code: 28465

Email: greg@geddingsandkleva.com

GENERAL CHECKLIST FOR SUBMITTAL:

The following information/documentation items are required prior to the submittal being scheduled for review by the Board of Adjustment:

- X Completed appeal / interpretation / variance application form (with owner consent)
- X Current and Accurate information as to applicant, owner, subject property, and item at issue
- X Copy of Decision, Order, or Action being appealed (including date)
- X Specific section reference to the Ordinance or Guideline at issue in appeal or interpretation request
- X Completion of all justification / explanation questions applicable to your submittal
- n/a If applicable to your submittal: provide twelve (12) sets of a scaled drawing of the site plan
- n/a If applicable to your submittal: provide twelve (12) copies of each exhibit (8 ½" x 11" or 11" x 17")
- n/a If applicable to your submittal: Pre-application conference with Planning Staff
- X All FILING FEES must be paid upon submittal of completed application package

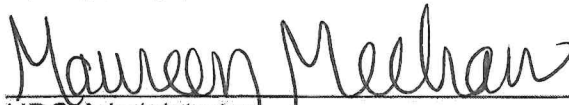


Signature (Owner or Authorized Applicant)

05/08/2024

Date

APPROVED BY



UDO Administrator

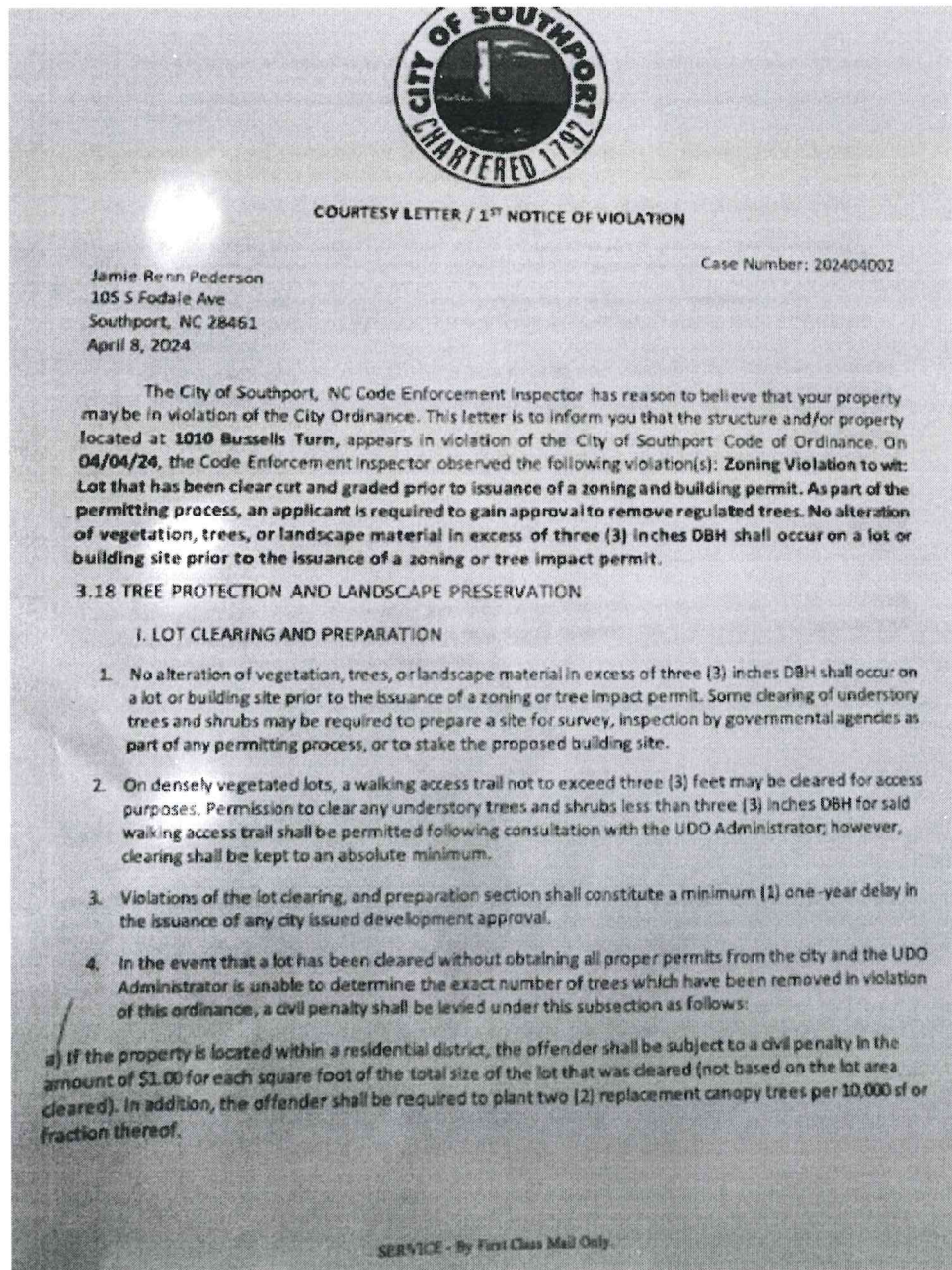
5/9/2024

Date

Greg Kleva

From: Ellen Herring <davisherring@icloud.com>
Sent: Tuesday, April 23, 2024 1:58 PM
To: Greg Kleva
Subject: Copy of letter

Thank you Greg, please let me know if you need anything else. Davey



b) If the property is located within a nonresidential district, the offender shall be subject to a civil penalty in the amount of \$2.00 for each square foot of the total size of the lot that was cleared (not based on the area cleared). In addition, the offender shall be required to plant four (4) replacement canopy trees per 10,000 sf or fraction thereof.

c) In addition to the civil penalties set forth in subsections 4(a) and 4(b) above, the offender shall be subject to all enforcement provisions of Section 2.15.D of this Unified Development Ordinance.

As shown above in 3.18.1 of the UDO, when a lot is cleared prior to obtaining all proper permits from the city, the offender shall be subject to civil penalty in the amount of \$1.00 for each square foot of the total size of the lot that was cleared (not based on the lot area cleared). In addition, the offender shall be required to plant two (2) replacement canopy trees per 10,000 sf or fraction thereof.

After reviewing aerial photography and using GIS to calculate the sf of the lot that was cleared, staff conservatively estimates that the civil penalty for the violation is \$23,522.40. All permits will be withheld until the violation is resolved.

As the owner/occupant of the property, **you have 30 days to correct the violations** or the City will take further steps to enforce the requirements of the Code of Ordinances, which may include levying civil penalties and seeking a court order from the Brunswick County Courts requiring you to correct the violation. If the City determines the any of the violations constitute a public nuisance, the city may also summarily abate the nuisance and bill you for the cost of abatement pursuant to the Southport Code of Ordinances.

To correct the violation, you must do the following: **Pay the entirety of the civil penalty and obtain necessary permits from the city.**

Please note that if any of the work described above requires Zoning, Building and/or Demolition Permits, they must be obtained from Southport Building Inspections office. All required inspections must be completed within the timeframe listed above.

If you have any questions, please do not hesitate to call me at (336) 569-9988 or email me at Mabe@AllianceCodeEnforcement.com.

Sincerely,

Derek Mabe

Derek Mabe

Code Enforcement Inspector

Sent from my iPhone

EXHIBIT A

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed David White

Date 4-28-24 Property Address 2000 PRIOR'S CAMP DR

Signed _____

Date 4/28/24 Property Address 7010 Robert Ruark Dr Spt n e

Signed Kathy Clemmons

Date 4/28/24 Property Address 7006 Robert Ruark Dr

Signed Adams Powell

Date 4/28/2024 Property Address 7002 Robert Ruark Dr

Signed [Signature]

Date 4/28/2024 Property Address 7000 Robert Ruark Dr.

Signed [Signature]

Date 4/28/24 Property Address 6009 Robert Ruark Dr.

Signed Carol Kirby

Date 4/28/24 Property Address 5002 Robert Ruark Dr.

Signed [Signature]

Date 4/28/24 Property Address 5012 Robert Ruark Drive

Signed [Signature]

Date 4/28/24 Property Address 5010 Robert Ruark Dr.

Signed [Signature]

Date 4/28/24 Property Address 6005 Robert Ruark Dr SE

Signed [Signature]

Date _____ Property Address _____

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed 

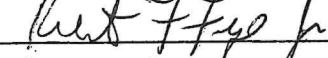
Date 4-27-24 Property Address 1000 Bonner Bussells Dr Southport NC

Signed 

Date 4-27-24 Property Address 1012 Dutchman Cove Rd Southport NC

Signed 

Date 4-27-24 Property Address 1026 BONNER BUSSELLS SOUTHPORT

Signed 

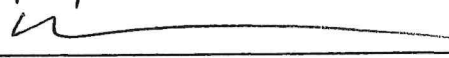
Date 4-27-24 Property Address 1007 BONNER BUSSELLS DR

Signed 

Date 4/27/24 Property Address 2006 Bonner Bussells Drive

Signed Charles E. Hingham

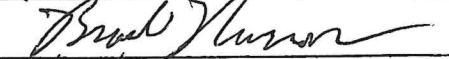
Date 4/27/24 Property Address 4016 Robert Ruark Dr.

Signed 

Date 4/28/24 Property Address 1004 Newton Dr

Signed Lisa B. Edgerton

Date 4/28/24 Property Address 1002 Newton Dr.

Signed 

Date 4/28/24 Property Address 3003 Bonner Bussells

Signed Sean Williams

Date 4/28/2024 Property Address 2008 Bonner Bussells Dr.

Signed James W. McIlhenny

Date 4/28/2024 Property Address 2002 Petes Camp Rd

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed *Gregory Planchon*
Date 4/27/24 Property Address 7002 ROBERT RUARK

Signed *David Henry*
Date 4/27/24 Property Address 7003 Robert Ruark Dr.

Signed *Q.K.V.*
Date 4-27-24 Property Address 7021 Robert Ruark Dr

Signed *Wade Richardson*
Date 4-27-24 Property Address 7008 Robert Ruark Dr.

Signed *Nancy Cator*
Date 4.27.24 Property Address 2006 Peter's Camp Dr.

Signed *James R. Evans*
Date 4-27-24 Property Address 1028 Bonner Bussells

Signed *Dinger Williams*
Date 4/27/24 Property Address 1024 Bonner Bussells Dr.

Signed *Tina L.*
Date 4/27/24 Property Address 1107 NEWTON DR.

Signed *Ben P. Richardson*
Date 4/27/24 Property Address 1006 NEWTON DR

Signed *G.B. Hall*
Date 4/27/24 Property Address 1005 NEWTON DR

Signed *G.B. Hall*
Date _____ Property Address _____

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed Jane P. McIntyn

Date 4-28-24 Property Address 4405 Robert Ruark Dr SP, NC 28461

Signed Bonnie Watts

Date 4/28/24 Property Address 1003 Fairley St. Southport, NC 28461

Signed Aina Oldham

Date 4/28/24 Property Address 4004 Robert Ruark Drive Southport, NC 28461

Signed Shirley Bingham

Date 4/28/24 Property Address 4008 Robert Ruark Drive Southport NC

Signed Danuel Noble

Date 4-28-2024 Property Address 3004 ROBERT RUARK DR. SE SOUTHPORT, NC

Signed Debra A. Mann

Date 4/28/2024 Property Address 4014 Robert Ruark Dr

Signed Ernest Riccio

Date 4/29/24 Property Address 6003 ROBERT RUARK DR.

Signed James Chiel

Date 4/29/24 Property Address 1005 Osprey Circle

Signed Michael Bantia

Date 4/29/24 Property Address 5011 Robert Ruark Dr.

Signed Carol Woodhull

Date 4/29/24 Property Address 998 PEE'S CAMP DR.

Signed William Gualton

Date 4/28/24 Property Address 2002 BONNER BUSSELLS DR. SE.

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed Candie K. Kishner

Date 4/29/2024 Property Address 1014 Bonner Bussells dr.

Signed Judy Hauck

Date 4/29/24 Property Address 2004 Bonner Bussells Dr Southport

Signed Vina Powers

Date 4-29-24 Property Address 2001 Pete's Camp Dr. Southport N.C. 28461

Signed Jeff Miller

Date 4-29-24 Property Address 2000 BONNER BUSSELLS DR SOUTHPORT N

Signed Heather Hamilton

Date 4-29-24 Property Address 2017 Robert Ruark Dr. Se Southport NC 28461

Signed Jim Allen

Date 4/30/2024 Property Address 2011 Robert Ruark Dr SE

Signed Michelle Trzewit

Date 4/30/24 Property Address 2016 ROBERT RUARK DR SE SOUTHPORT NC 28461

Signed Susan Street

Date 4/30/24 Property Address 2018 Robert Ruark DR

Signed Fran Nolan

Date 4/30/2024 Property Address 1000 BARRISTERS COURT

Signed Angel Dale

Date 4/30/24 Property Address 3001 Robert Ruark Dr. SE

Signed John M. Campbell

Date 4-30-24 Property Address 4007 ROBERT RUARK DR. SE SOUTHPORT, N.C. 28461

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed Ray C. Rueland
Date 4/28/24 Property Address 109 Live Oak Turn

Signed Ted L. Brainer
Date 4/28/2024 Property Address 107 Live Oak Turn

Signed Alb
Date 4/29/24 Property Address 3010 Robert Park South Port NC

Signed Mirind
Date 4/29/24 Property Address 1017 Captain Adkins Dr. Southport

Signed Lisa Damon
Date 4/29/24 Property Address 3003 Bonner Bussells Dr Southport NC

Signed Judith Mae Mundo
Date 4-29-24 Property Address 1014 Captain Adkins Dr.

Signed Mary Ellen Stewart
Date 4.29.24 Property Address 1022 Captain Adkins Dr.

Signed Deborah C. Minnett
Date 4/29/24 Property Address 1027 Captain Adkins Dr.

Signed James E. Minnett
Date 4/29/24 Property Address 1027 Captain Adkins Dr.

Signed C
Date 4/29/24 Property Address 1025 Captain Adkins Dr.

Signed Barbara Polanski
Date 4/29/24 Property Address 1034 Captain Adkins Dr.

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed Cheryl P. Miller

Date 4/28/24 Property Address 1906 Fairley St.

Signed Cheryl P. Miller Rena A. Krone

Date 4/28/24 Property Address 1008 Fairley St.

Signed Rita Doherty

Date 4/28/24 Property Address 1001 Fairley St

Signed Larry Long

Date 4-28-24 Property Address 1004 Fairley St.

Signed Samuel Boudry

Date 4-29-24 Property Address 2007 West Ruark Dr.

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed Jessica E. Hunt
Date 4/30/24 Property Address 105 Lee Oak Turn
Signed Charlynn P. Gouzon
Date 4/30/24 Property Address 1015 CAPTAIN AOKINS DR
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____
Signed _____
Date _____ Property Address _____

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed [Signature]

Date 4/30/24 Property Address 1023 Capt. Adkins Dr.

✓ Signed William E. Hickman

Date 4/30/24 Property Address 1028 Capt. Adkins Dr.

Signed [Signature]

Date 4/29/24 Property Address 1030 CAPTAIN ADKINS DR.

Signed [Signature] BRIAN KEMOE

Date 4/29/24 Property Address 1031 CAPTAIN ADKINS DR.

Signed [Signature]

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

The City of Southport has changed their code for ETJ's to include requiring permits for Cutting Trees Down off of your property. They are required, by law, to notify all property owners in writing of any changes. It has come to my attention, that the City of Southport states that the required notifications were mailed and many property owners are saying that they did not receive the notification. This poll is being conducted to determine if you have received written or verbal notification from the City of Southport.

"I, the undersigned owner of property in Smithville Woods Subdivision, Brunswick County, NC, confirm that I have NOT received notification, written or verbal, of any change in the code to require a permit to cut trees down from my property."

Signed Janie Pederson

Date 4/30/24 Property Address 1010 Bonner Bussells Turn

Signed Julie E. House

Date 4/30/24 Property Address 2001 Bonner Bussells Dr

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____

Signed _____

Date _____ Property Address _____



COURTESY LETTER / 1ST NOTICE OF VIOLATION

Case Number: 202404002

Jamie Renn Pederson
105 S Fodale Ave
Southport, NC 28461
April 12, 2024

The City of Southport, NC Code Enforcement Inspector has reason to believe that your property may be in violation of the City Ordinance. This letter is to inform you that the structure and/or property located at **1010 Bussells Turn**, appears in violation of the City of Southport Code of Ordinance section (3.18 I). On **04/04/24**, the Code Enforcement Inspector observed the following violation(s): **Zoning Violation to wit: Lot that has been clear cut and graded prior to issuance of a zoning and building permit. As part of the permitting process, an applicant is required to gain approval to remove regulated trees. No alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree impact permit.**

3.18 TREE PROTECTION AND LANDSCAPE PRESERVATION

I. LOT CLEARING AND PREPARATION

1. No alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree impact permit. Some clearing of understory trees and shrubs may be required to prepare a site for survey, inspection by governmental agencies as part of any permitting process, or to stake the proposed building site.
2. On densely vegetated lots, a walking access trail not to exceed three (3) feet may be cleared for access purposes. Permission to clear any understory trees and shrubs less than three (3) inches DBH for said walking access trail shall be permitted following consultation with the UDO Administrator; however, clearing shall be kept to an absolute minimum.
3. Violations of the lot clearing, and preparation section shall constitute a minimum (1) one-year delay in the issuance of any city issued development approval.
4. In the event that a lot has been cleared without obtaining all proper permits from the city and the UDO Administrator is unable to determine the exact number of trees which have been removed in violation of this ordinance, a civil penalty shall be levied under this subsection as follows:

a) If the property is located within a residential district, the offender shall be subject to a civil penalty in the amount of \$1.00 for each square foot of the total size of the lot that was cleared (not based on the

lot area cleared). In addition, the offender shall be required to plant two (2) replacement canopy trees per 10,000 sf or fraction thereof.

b) If the property is located within a nonresidential district, the offender shall be subject to a civil penalty in the amount of \$2.00 for each square foot of the total size of the lot that was cleared (not based on the area cleared). In addition, the offender shall be required to plant four (4) replacement canopy trees per 10,000 sf or fraction thereof.

c) In addition to the civil penalties set forth in subsections 4(a) and 4(b) above, the offender shall be subject to all enforcement provisions of Section 2.15.D of this Unified Development Ordinance.

As shown above in 3.18 I of the UDO, when a lot is cleared prior to obtaining all proper permits from the city, the offender shall be subject to civil penalty in the amount of \$1.00 for each square foot of the total size of the lot that was cleared (not based on the lot area cleared). In addition, the offender shall be required to plant two (2) replacement canopy trees per 10,000 sf or fraction thereof.

After reviewing aerial photography and using GIS to calculate the sf of the lot that was cleared, staff conservatively estimates that the civil penalty for the violation is \$23,522.40.

As the owner/occupant of the property, **you have 30 days to correct the violations from the date of this letter** or the City will take further steps to enforce the requirements of the Code of Ordinances, which may include levying civil penalties and seeking a court order from the Brunswick County Courts requiring you to correct the violation. If the City determines that any of the violations constitute a public nuisance, the City may also summarily abate the nuisance and bill you for the cost of abatement pursuant to the Southport Code of Ordinances.

To correct the violation, you must do the following: **Pay the entirety of the civil penalty and obtain necessary permits from the City.**

APPEAL

1. An appeal from any final order or decision of the UDO Administrator or official charged with enforcement of the UDO or other ordinance that regulates land use or development may be taken to the Board of Adjustment by any party who has standing under NCGS160D-1402. Appeals of a final subdivision decision may be made in accordance with NCGS 160D-1403(b). The official who made the decision shall give written notice to the owner of the property and the party who sought the decision, if different. A notice of appeal, specifying the grounds therefor, shall be considered filed with the official and the Board of Adjustment when delivered to the city clerk, and the date and time of filing shall be entered on the notice by the clerk.
2. The owner or other party shall have 30 days from the date of the receipt of a written final, binding determination by the official to file an appeal. The written notice shall be delivered by personal delivery, electronic mail, or by first class mail. Any other person withstanding to appeal shall have 30 days from the receipt of any source of actual or constructive notice of the decision to file an appeal. In the absence of evidence to the contrary, notice given pursuant to NCGS 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

If you have any questions, please do not hesitate to call me at (336) 569-9988 or email me at Mabe@AllianceCodeEnforcement.com.

Sincerely, *Derek Mabe* Code Enforcement Inspector



Dorothy Dutton

From: Bonnie Therrien
Sent: Wednesday, April 10, 2024 11:37 AM
To: Dorothy Dutton
Cc: Frank Lai; Karen Mosteller; Lowe Davis; Marc Spencer; Rebecca Kelley; Richard Alt; Robert Carroll
Subject: Re: : 1010 Bussells Turn

Thanks!

Bonnie Therrien, City Manager

From: Dorothy Dutton <Ddutton@cityofsouthport.com>
Sent: Wednesday, April 10, 2024 10:56:45 AM
To: Bonnie Therrien <btherrien@cityofsouthport.com>
Cc: Frank Lai <flai@cityofsouthport.com>; Karen Mosteller <kmosteller@cityofsouthport.com>; Lowe Davis <ldavis@cityofsouthport.com>; Marc Spencer <m Spencer@cityofsouthport.com>; Rebecca Kelley <rkelly@cityofsouthport.com>; Richard Alt <ralt@cityofsouthport.com>; Robert Carroll <rcarroll@cityofsouthport.com>
Subject: : 1010 Bussells Turn

The fine for 1010 Bussells Turn is \$23,522.40. I have attached the NOV, if you would like to see it.

From: Bonnie Therrien <btherrien@cityofsouthport.com>
Sent: Wednesday, April 10, 2024 9:29 AM
To: Dorothy Dutton <Ddutton@cityofsouthport.com>
Subject: RE: 1010 Bussells Turn

Do we know the fees yet?

From: Dorothy Dutton <Ddutton@cityofsouthport.com>
Sent: Thursday, April 4, 2024 4:51 PM
To: Bonnie Therrien <btherrien@cityofsouthport.com>
Subject: 1010 Bussells Turn

Bonnie,

I wanted to make you aware that another lot has been cleared without the appropriate permits in place. They just applied for the permit today. Penny asked the Mike to go take a look at it, and it was cleared. Derek has already opened a case on it. We will get the fees calculated and I will let you know.

Thanks.

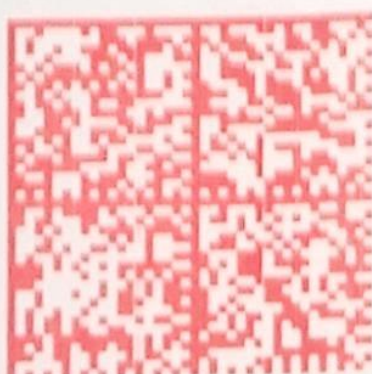


City of Southport

1029 N. Howe Street
Southport, North Carolina 28461

Nov/Nov

Jamie Renn Pederson
105 S Fodale Ave
Southport, NC 28461
April 12, 2024



quadiant

FIRST-CLASS MAIL
IM1

\$000.64

04/12/2024 ZIP 28461
043M30245469

US POSTAGE

Southport City Hall
1029 N. Howe St.
Southport, NC 28461

COURTESY LETTER / 1ST NO1

Jamie Renn Pederson
105 S Fodale Ave
Southport, NC 28461



Dorothy Dutton

From: Dorothy Dutton
Sent: Monday, June 3, 2024 1:52 PM
To: Derek Mabe
Subject: RE: [EXTERNAL] Re: 1010 Bussells Turn

Thank you!

From: Derek Mabe <mabe@alliancecodeenforcement.com>
Sent: Monday, June 3, 2024 12:32 PM
To: Dorothy Dutton <Ddutton@cityofsouthport.com>
Subject: [EXTERNAL] Re: 1010 Bussells Turn

The entire piece of land was cleared and leveled other than a few trees here and there for shade.

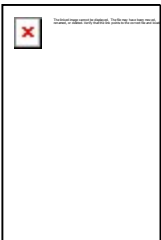
On Mon, Jun 3, 2024, 12:27 PM Dorothy Dutton <Ddutton@cityofsouthport.com> wrote:

Hey, Derek.

Do you have any idea how much of the property at 1010 Bussells was cleared? The Mayor is asking how close to the footprint of the house the clearing was done. All I have is the site plan for the home.

No worries if you don't; just wanted to check!

Thanks!



Dorothy (Dorrie) Dutton

Assistant City Manager.

Phone: (910) 457-7900 ext. 1010

Mobile : (910) 269-3662

Email: ddutton@cityofsouthport.com

1029 N.Howe Street

Southport, NC 29461

www.cityofsouthport.com

WARNING: This email originated from outside of the City of Southport. Please DO NOT click on links or attachments unless you are familiar with the sender and know the content to be safe.

GEDDINGS & KLEVA, PLLC
ATTORNEYS AT LAW

8721 East Oak Island Drive
Oak Island, North Carolina 28465

Telephone: (910) 278-8998
Facsimile: (910) 278-8982

July 9, 2024

The City of Southport
1029 N. Howe Street
Southport, North Carolina 28461
Attn: Planning & Inspections

Re: Case Number AP-24-02
Jamie Renn Pederson

Dear Sir/Madam:

Our office represents Jamie Renn Pederson and Jackson Pederson in their Appeal of a Notice of Violation by Code Enforcement Inspector Derek Mabe for alleged actions violating Section 3.18 of the Southport UDO for property located at 1010 Bussell Turn, Southport, North Carolina 28461 which is scheduled for an evidentiary hearing on July 23, 2024. The purpose of this letter is to provide further information regarding that appeal and to address recent actions by the North Carolina General Assembly.

As you are aware, the subject property is located within the Extra Territorial Jurisdiction (ETJ) of the City of Southport. On June 26, 2024, the North Carolina General Assembly, by passage of House Bill 911, prohibited the City of Southport from enforcing its development ordinance regulations beyond its contiguous corporate/city limits, and as of July 1, 2024, subjected those properties to Brunswick County's developmental regulations.

While the City of Southport's enforcement powers do remain in effect until Brunswick County adopts the regulation or until August 30, 2024, whichever is sooner, as a practical matter, it does not seem fair or equitable for the City of Southport to penalize a property owner for an alleged violation of a city tree ordinance on a parcel of property which the City of Southport will now ultimately have absolutely no regulatory authority over when the property is developed and a residence constructed.

Additionally, the City of Southport's regulatory powers for properties located in the ETJ, prior to the passage of House Bill 911, and pursuant to *North Carolina General Statute 160D-20 – Municipal Extraterritorial Jurisdiction*, extended to an area not more than one mile beyond its continuous corporate limits. In the present matter, the subject property is located in an area of the ETJ that is approximately 1.25 miles beyond the contiguous limits of the City of Southport.

It is our position that should the City of Southport decide to continue to exercise enforcement powers over properties in the ETJ during the aforementioned time period, the subject property is located in an area of the ETJ that the City of Southport does not have any regulatory power over.

Therefore, it is respectfully requested that the subject Notice of Violation for the property located at 1010 Bussell's Turn, Southport, North Carolina be summarily dismissed.

Thank you for your attention and consideration of the above.

Very truly yours,



Greg Kleva











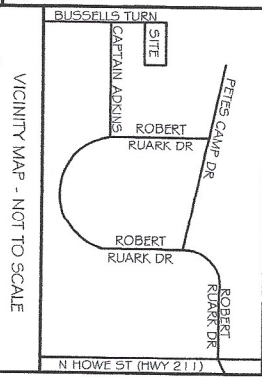
SETBACKS
FRONT: 40'
SIDE: 12'
REAR: 25'

Surveyed and Mapped By
**Tide Water
Land Surveying**
P.O. Box 11506
802 North Howe Street
Southport, North Carolina 28461
Phone: 910-457-9580

**1010
Bussells Turn S.E.**
Lot 37
Marsh Creek
Plat Book R Page 57
Deed Book 02974
Page 1046
Parcel ID #237BA037
23435.04 Sq. Ft.
0.544 Acres

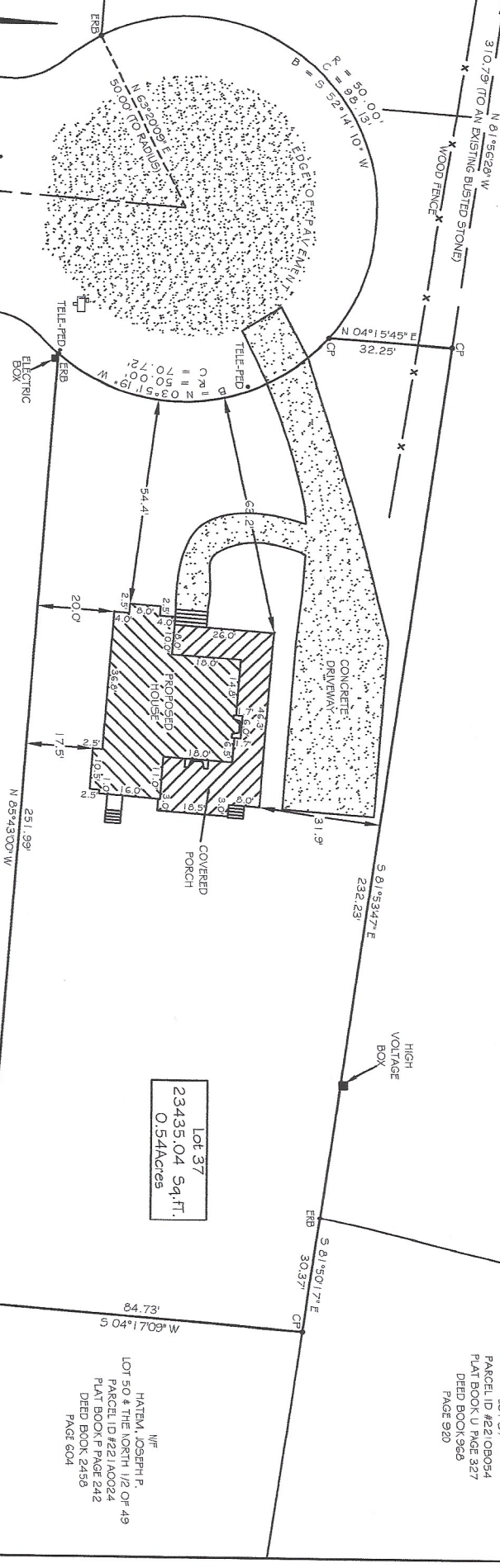
- NOTES:
1. NO GEODETIC MONUMENT WAS FOUND WITHIN 10000.
 - 2A. SURVEY DATE: MARCH 25, 2021.
 - 2B. SITE PLAN DATE: MARCH 26, 2024.
 3. PLAT SCALE: 1" = 20'.
 4. ALL DISTANCES ARE HORIZONTAL GROUND.
 5. THE LAND SHOWN ON THIS PLAT IS NOT IN A FLOOD HAZARD AREA ACCORDING TO FIRM MAP #3720206500K.
 6. ZONED: R20.
 7. E.R.B. = EXISTING RE-BAR.
 8. E.I.P. = EXISTING IRON PIPE.
 9. I.S.S. = IRON STATE SET.
 10. C.P. = CALC POINT.
 11. E.I.P.F. = EXISTING IRON FINCH PIPE.
 12. E.C.M. = EXISTING CONCRETE MONUMENT.

Surveyed and Mapped for:
**Day
Herring**
City of Southport
Smithville Township
Brunswick County
State of North Carolina



N/F
HERRING, DAVIS C. JR.
LOT 36 &
THE UNNUMBERED TRACT OF LAND IN MARSH CREEK
PARCEL ID #237BA036
PLAT BOOK R PAGE 57
DEED BOOK 2406
PAGE 215

N/F
HERRING, DAVIS C. JR.
LOT 57
PARCEL ID #2210B054
PLAT BOOK U PAGE 327
DEED BOOK 968
PAGE 920



I, WILLIAM W. DELANEY II, P.L.S., CERTIFY TO ONE OF THE FOLLOWING:

- ☐ THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- ☒ THAT THE SURVEY IS OF AN EXISTING PARCEL OF LAND.
- ☐ THAT THE SURVEY IS A CHANGE CATEGORY, SUCH AS RECOMBINATION OF EXISTING PARCELS, COURTYARD REORDERED SURVEY, OR OTHER EXEMPTION TO THE DEFINITION OF SUBDIVISION.

PROFESSIONAL LAND SURVEYOR L-2973



N/F
MCKENITHAN, WILLIAM BRETT,
ETUX
MCKENITHAN, THERESA
LOT 36
PARCEL ID #237BA036
PLAT BOOK R PAGE 57
DEED BOOK 1365
PAGE 326

Lot 37
23435.04 Sq. Ft.
0.544 Acres

NORTH CAROLINA
BRUNSWICK COUNTY
I, WILLIAM W. DELANEY II, P.L.S., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 02974 AT PAGE 1046). IN BRUNSWICK COUNTY REGISTER OF DEEDS OFFICE, THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK _____; THAT THE RATIO OF PRECISION AS CALCULATED BY COMPUTER IS 1:1,000+/-; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH SECTION 47-30 AS AMENDED.

WITNESSED MY HAND AND SEAL THIS _____ DAY OF _____, 2024.

PROFESSIONAL LAND SURVEYOR L-2973



BUSSELLS TURN S.E.

60' RW

NOTES:
1. THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT-OF-WAY, COVENANTS, RESTRICTIONS, AND CONDITIONS OF RECORD AFFECTING SAID PREMISES.
2. A TITLE SEARCH WAS NOT PERFORMED ON THE PARCELS SHOWN. THIS PLAT IS NOT A GUARANTEE OF TITLE.

STAFF REPORT FOR SUP-24-10 SPECIAL USE APPLICATION – COLUMBARIUM

APPLICATION SUMMARY	
Hearing Date	August 27, 2024 Board of Adjustment
Applicant	Donald Halbert, St. Phillips Episcopal Church
Property Owner	The Episcopal Diocese of East Carolina
Property Address:	205 E Moore Street
Parcel ID:	237LG018
Parcel Acreage	.58 acres
Zoning District	R-10 Residential

SPECIAL USE PROPOSAL

St Phillips Episcopal Church, the applicant for owner, the Episcopal Diocese of East Carolina, requests a special use permit to install a columbarium. Section 3.5 – Table 3.1 Table of Uses requires a special use permit with standards for cemeteries and mausoleums in the R-10 zoning district. Where, permitted, a cemetery or mausoleum may be allowed as an accessory use to churches and synagogues.

Staff find that the application is complete, and the applicant has met all the special use standards.



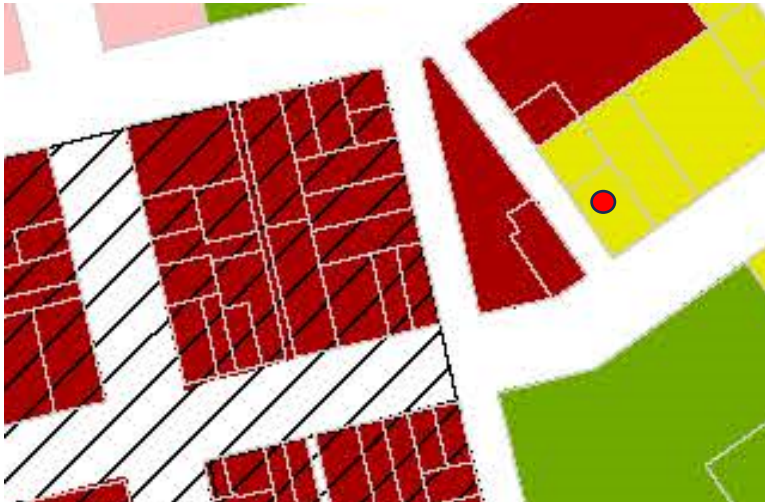
PROPERTY LOCATION AND DESCRIPTION



The subject property is located at 205 E Moore Street and can be further identified by Brunswick County Parcel ID 237LG018. The parcel is .58 acres within the City's Jurisdiction and zoned R-10 - Residential

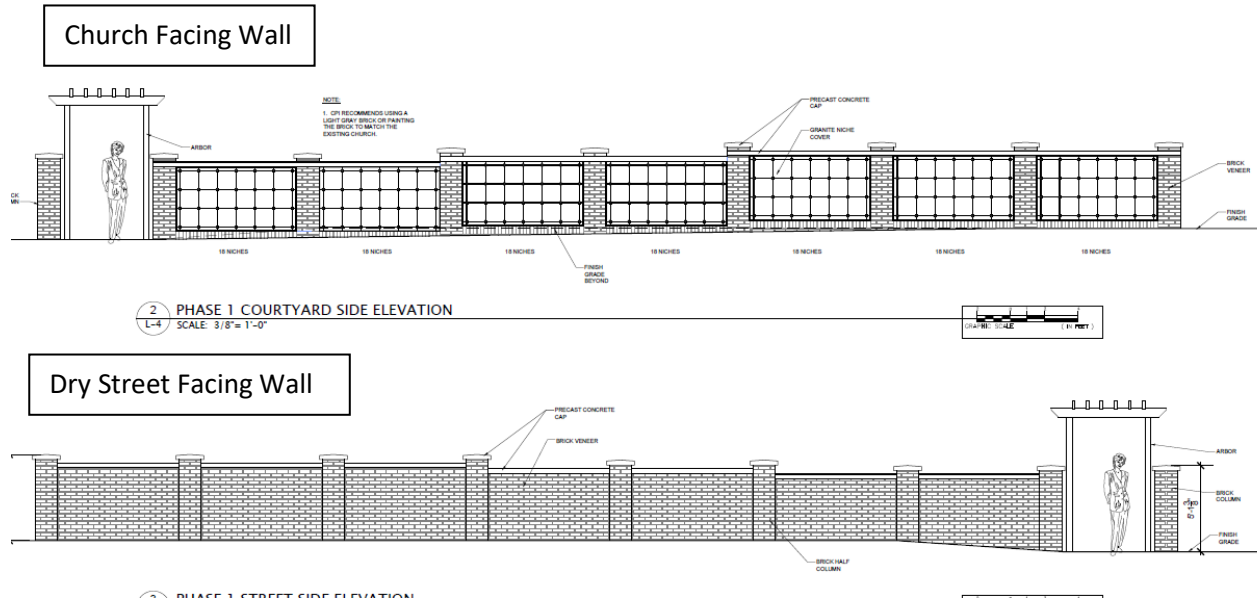
The lot currently is utilized by St. Phillips Episcopal Church as a meditation garden and space for outdoor services.

The subject property is zoned R-10, which allows mausoleums as an accessory use to churches with a Special Use Permit and Standards. Specifically, the accessory use standard is, D. CEMETERIES AND MAUSOLEUMS Where permitted, a cemetery or mausoleum may be allowed as an accessory use to churches and synagogues. No crematoriums shall be permitted. The accessory structure standards are outlined below.



SPECIAL USE DESCRIPTION

The proposal is construction of a columbarium consisting of a brick wall structure approximately 5'1" tall, 2'10" wide, and 60' long along the N. Dry Street side property line. A columbarium is defined as a structure of vaults lined with recesses for cinerary urns.



The street facing wall of the structure will be painted brick to coordinate with existing building characteristics. The church facing wall of the structure will contain 128 granite-faced stainless steel niches that can hold the cremains of up to two (2) individuals. Individual granite faces will be engraved with the names of the individuals whose cremains are in the niche.

The proposal includes a paved walkway adjacent to the wall connecting the parish hall and meditation garden and landscaping on the street side of the structure. Proposed drawings are attached to this report. A building permit including engineered plans meeting all zoning and building code requirements will be issued prior to commencing installation.

Accessory structures must meet the use standards found in Section 3.6 of the UDO. ACCESSORY STRUCTURE OR USE, GENERAL Where permitted, the following shall apply:

1. There shall not be more than two (2) accessory structures or uses per lot, excluding swimming pools, docks, piers, and waterside structures, in the R-10, R20, MF, MH, PUD, O-I, CBD, BD and HC districts.

- This is the only accessory structure on the property.

2. The total area of accessory structures, excluding swimming pools, shall not exceed 50% of the rear yard area of the lot and shall meet all rear and side yard setbacks of the district. However, accessory structures with a footprint of 530 square feet or smaller in any district may have setbacks of five (5) feet to a side or rear property line. No accessory structure shall be constructed beyond the front building line of the primary structure, except as allowed for riverfront lots as described below.

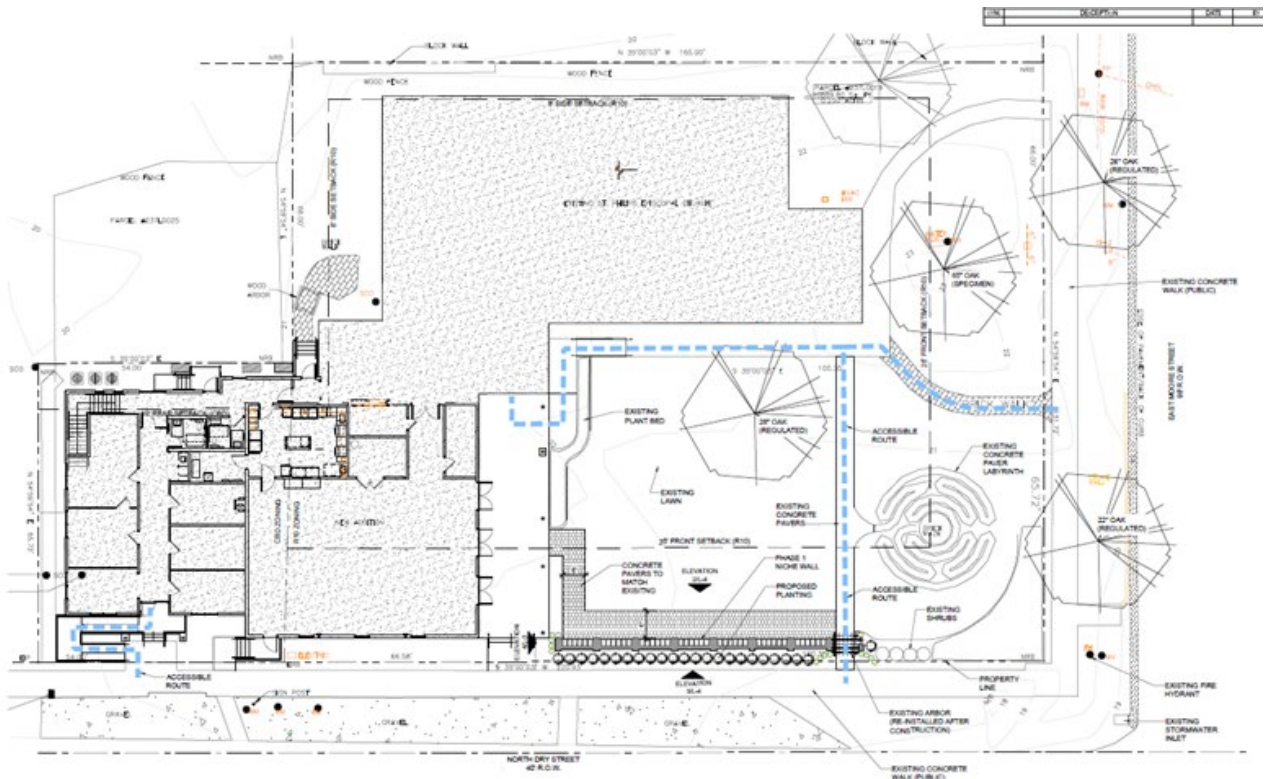
- The structure is less than 530 SF and will have a five (5) foot setback from the side lot line and over five (5) foot setback from the rear lot line. The structure will not be constructed beyond the front building line of the primary structure.

3. Riverfront lots: Detached garages are permitted in the street front yard on lots with frontage on the Cape Fear River in the R-10 district provided they are no closer than 75 feet from the street right-of-way.

- N/A

4. No accessory structure, whether residential or nonresidential, shall be greater than 30 feet in height.

- The proposed accessory structure will be approximately, 5' 1" tall.



SPECIAL USE PROCESS

The special use permit request you will be hearing is a quasi-judicial decision, so it must be conducted in a way that ensures procedural and substantive due process. Anyone wanting to provide testimony must be sworn in. As a quasi-judicial hearing, the decision makers must be fair and impartial, and you must base your decision only on the competent evidence you receive. If anyone has a direct or potential financial interest in this proposed project, they should recuse themselves. A majority vote is required for a special use permit. Conditions can be applied that will assure that the use in its proposed location will be harmonious with the area in which it is proposed and with the spirit of the UDO. All specific conditions shall run with the land and shall be binding on the original applicant for the special use permit, the heirs, successors, and assigns. Each case is decided on a case-by-case basis. The decision must be based on the specific site and not the owner or other locations they may own. The Board of Adjustment is to look at the circumstances of the property, not the circumstances of the property owner.

BOARD OF ADJUSTMENT: FINDING OF FACTS

The Board of Adjustment shall approve, modify, or deny the application for a special use permit. In approving a special use permit, the Board of Adjustment, with due regard to the nature and state of all adjacent structures and uses in the district, shall make written findings that the following motions will be fulfilled.

The Chairman will now guide the Board through the following motions, which have been distributed in advance of the hearing:

Motion 1: That the use will/ will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;

[The Board should have some factual explanation for its decision on this motion.]

Finding of Fact:

Motion 2: That the use meets/does not meet all required conditions and specifications

[Note: It must be denied if the application does not meet conditions and specifications.]

Finding of Fact:

Motion 3: That the use will/will not adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity

[The Board should have some factual explanation for its decision on this motion.]

Finding of Fact:

Motion 4: That the location and character of the use, if developed according to the plan as submitted and approved, **will/will not** be in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan

[The Board should have some factual explanation for its decision on this motion.]

Finding of Fact:

Motion 5: Based on the findings of fact and the evidence presented, the Board of Adjustment:

☐ Recommends denial of the special use application based on the following:

☐ Recommends approval of the special use application with conditions, including the following: _____

☐ Recommends approval of the special use application with no conditions.

The final decision of the Board will be reduced to writing. A copy will be recorded with the Register of Deeds for Brunswick County.

Attachments:

Application

Site Drawings

Special Use Permit

City of Southport, North Carolina

PAID

TICK NO. 5103
DATE 7/17/24



1029 N. Howe St, Southport NC 28461

www.southportnc.org

Planning & Inspections

Phone 910-457-7961 Fax 910-457-7957

For Staff Use Only

► RECEIVED ◀

PERMIT No. SUP-24-10

FEE: \$ 750.00

Date Received: JUL 17 2024

Applicant's Name: St. Philips Episcopal Church

Mailing Address: PO Box 10476 City: Southport

State: NC Zip Code: 28461 Phone: 910-457-5643

Email: info@stphilipschurch.org

Property Owner's Name: The Episcopal Diocese of East Carolina

Address of Owner: 705 Doctors Dr. City: Kinston

State: NC Zip Code: 28503 Phone: 910-457-5643

Email: info@stphilipschurch.org

Address of the property: 205 E. Moore St. City: Southport

State: NC Zip Code: 28461 Zoning District of Property: R10

Overall Acreage: 0.583 Minimum Area Requirement for Zoning District: _____

Special Use Permit Request: Approval to construct a Columbarium/Mausoleum per attached plan

237 LG018 - Parcel ID

Zoning of Adjacent Lots: See Attachment

Design Professional: LKC Engineering License #: P-1095
Mailing Address: 140 Aqua Shed Court City: Aberdeen
State: NC Zip Code: 28315
Phone: 910-420-1437 Email: sharon@lkceengineering.com

Per Section 2.7.A of the UDO, special use permits may be issued by the UDO Administrator, after approval by the Board of Adjustment. The petition for a special use permit and accompanying plans shall be submitted to the UDO Administrator.

Application Materials and Submittal:

1. One (1) digital copy and 12 hard copies of the special use permit site plan shall be submitted with all such applications.
2. The special use permit site plan shall be prepared by and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the state of North Carolina, and shall include all of the required information as provided in Appendix A: Submission Requirements.



Signature (Owner or Authorized Applicant)

7/12/24
Date

APPROVED:



UDO Administrator

7/25/2024
Date

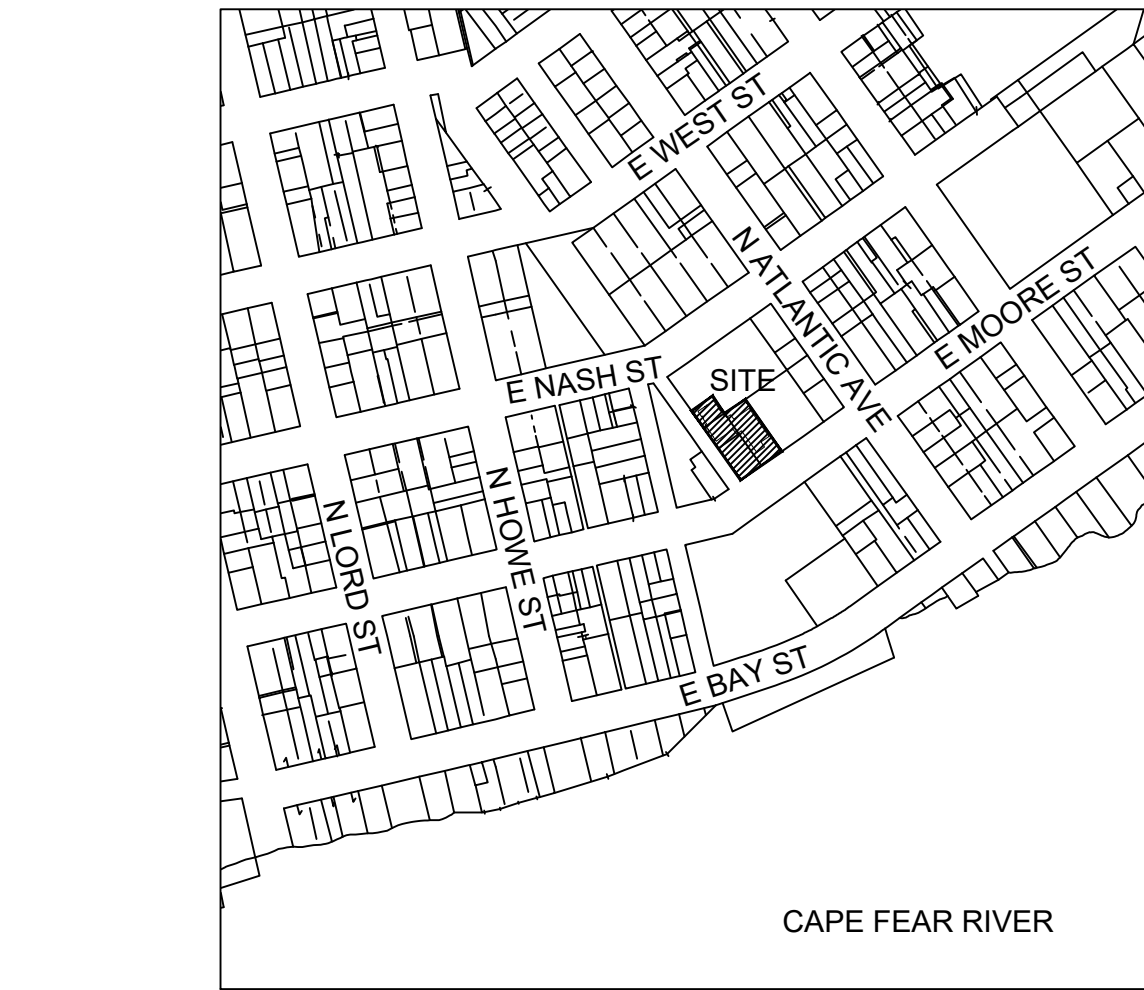
St. Philips Episcopal Church request for Special Use Permit to construct Columbarium/Mausoleum

Description of Project: St. Philips Episcopal Church of Southport desires to gain approval for the construction of a Columbarium/Mausoleum on Parcel ID 237LG026 owned by the Diocese of East Carolina and zoned R10. This Columbarium is being planned and designed by Columbarium Planners of Pinehurst NC and its affiliate LKC Engineering, and will be contracted for construction by Columbarium Planners Inc.

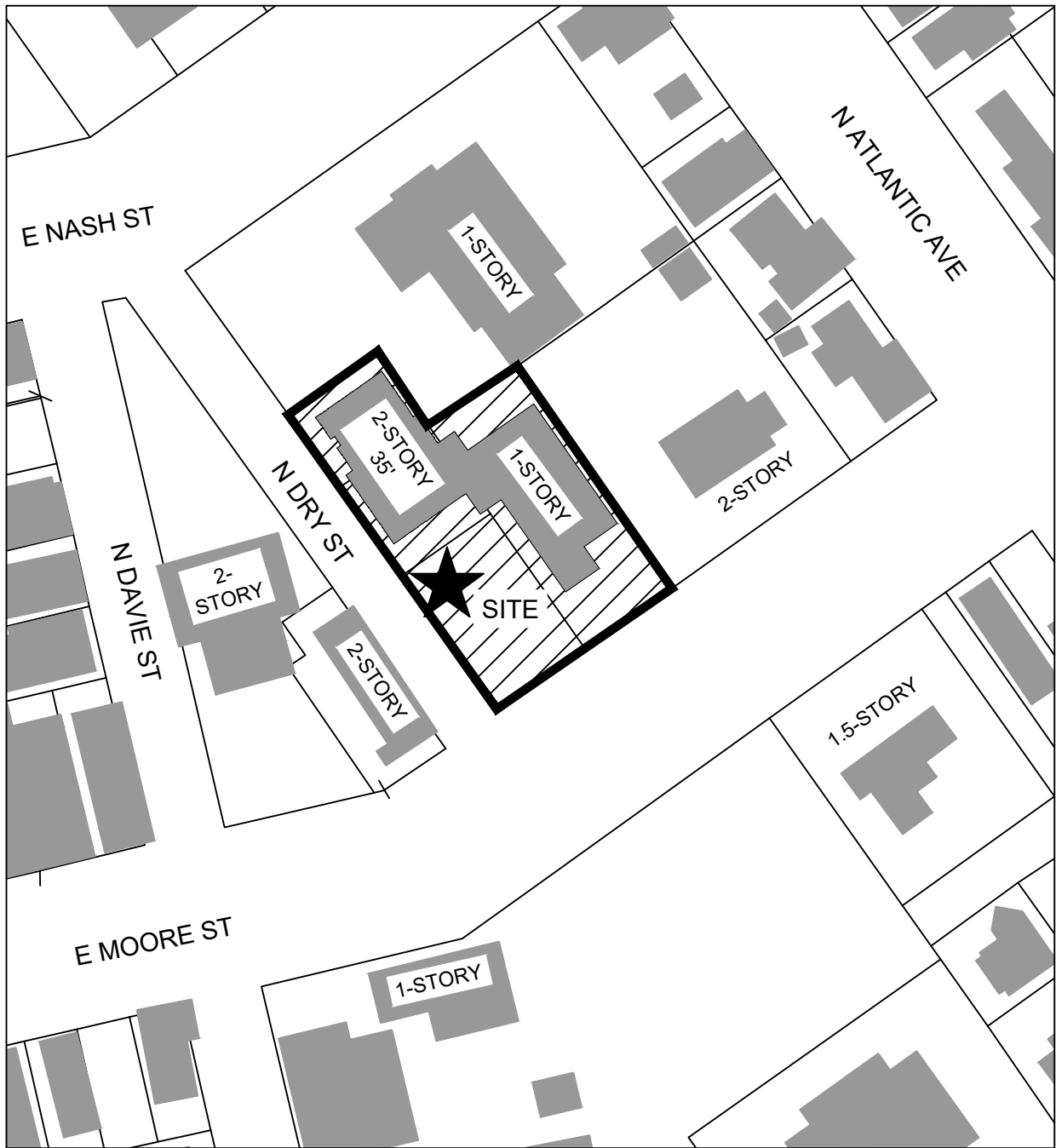
The Columbarium will consist of a brick wall approximately 5' 1 and 3/8" high at its highest point, 2' 10" wide and approximately 60' long (see attached drawings). This brick wall will extend along Dry St. on St. Philips property. The street-facing side of the wall is planned to be painted brick (color will blend with existing structures) and the Church-facing side will contain 128 granite-faced stainless steel niches. Each niche can contain the cremains (residual ash from cremation) of up to 2 individuals in a secure weather-proof/tamper-proof box. The granite face of each niche will be engraved with the name and information of the individuals whose cremains are contained in the niche. We intend to install a paver walkway along the wall on the Church side, and plantings on the street side between the wall and the property line.

The required information described in Schedule A of the UDO for a Special Use Permit is described on the attached documents.

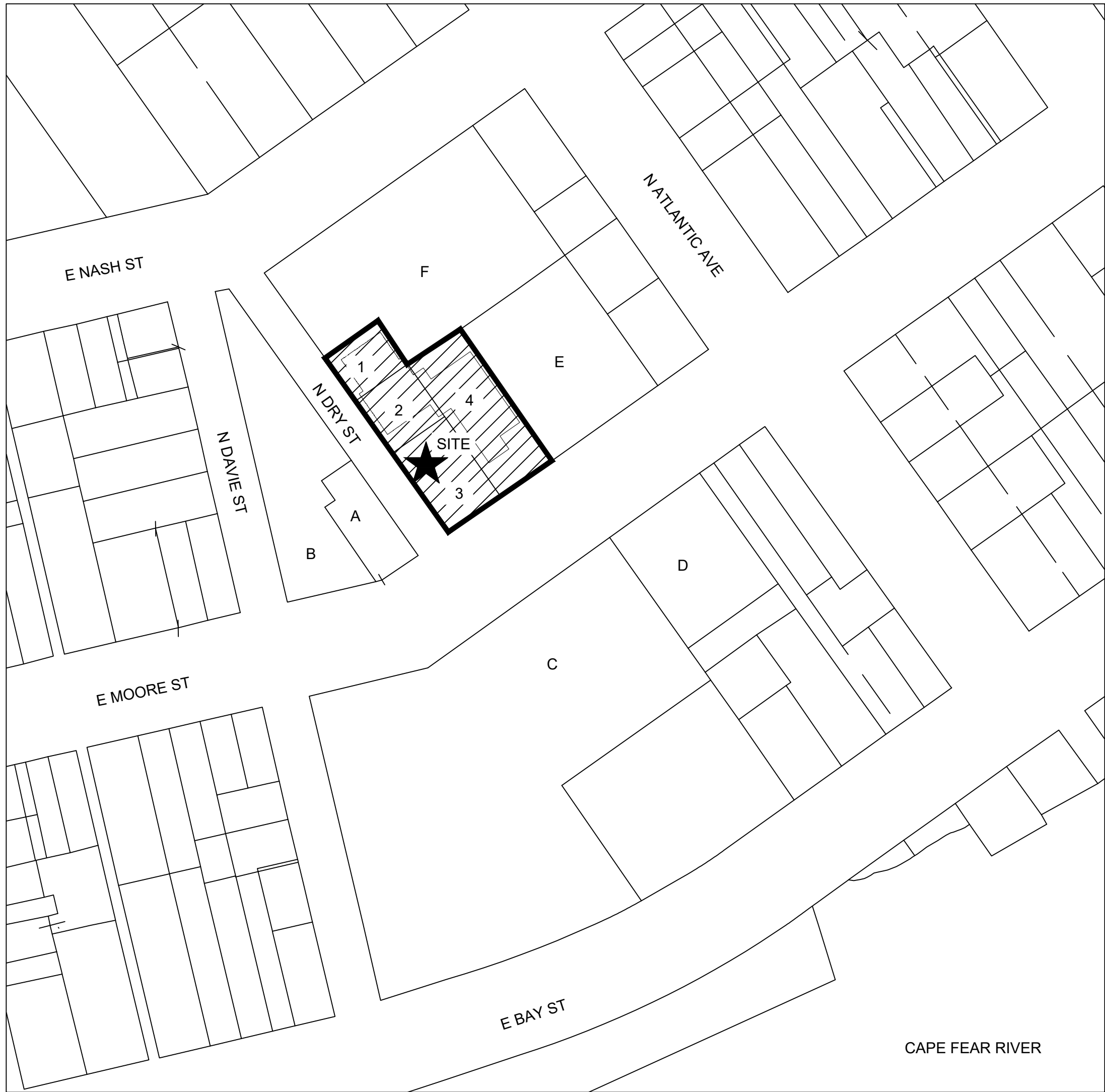
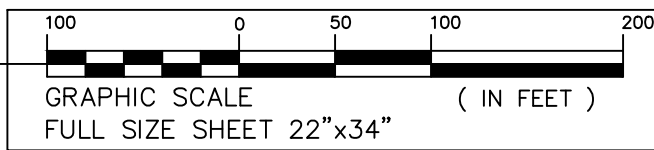
Any questions can be directed to Donald Halbert, chair of the Columbarium Committee, St. Philips Episcopal Church. (phone 224-475-5744, email dnhalbert@gmail.com).



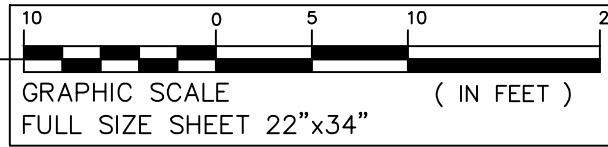
1
L-1
VICINITY MAP
SCALE: 1"= 500'-0"



2
L-1
RELATIVE BUILDING HEIGHT
SCALE: 1"= 200'-0"



3
L-1
SITE & ADJACENT PROPERTY DATA
SCALE: 1"= 10'-0"



SITE:

1. PARCEL ID- OWNER- 237LG02501
ELEBASH HUNLEY A ETALS C/O ST PHILIPS CHURCH
PO BOX 10476
SOUTHPORT, NC 28461-0476
DEED BOOK- 00368
DEED PAGE- 0899
ZONING- CBD
2. PARCEL ID- OWNER- 237LG026
EPISCOPAL DIOCESE OF EAST CAROLINA
PO BOX 1336 705 DOCTORS DR
KINSTON, NC 28503-1336
DEED BOOK- 04409
DEED PAGE- 0872
ZONING- R10
3. PARCEL ID- OWNER- 237LG018
EPISCOPAL DIOCESE OF EAST CAROLINA
PO BOX 10476
SOUTHPORT, NC 28461
DEED BOOK- 03064
DEED PAGE- 0734
ZONING- R10
4. PARCEL ID- OWNER- 237LG019
EPISCOPAL DIOCESE OF EAST CAROLINA
PO BOX 1336 705 DOCTORS DR
KINSTON, NC 28503-1336
DEED BOOK- 04409
DEED PAGE- 0877
ZONING- R10

- A. PARCEL ID- OWNER- 237LG017
EPISCOPAL DIOCESE OF EAST CAROLINA
PO BOX 1336 705 DOCTORS DR
KINSTON, NC 28503-1336
DEED BOOK- 04564
DEED PAGE- 0727
ZONING- CBD
- B. PARCEL ID- OWNER- 237LG027
CITY OF SOUTHPORT
201 E MOORE ST
SOUTHPORT, NC 28461
DEED BOOK- ----
DEED PAGE- ----
ZONING- CBD
- C. PARCEL ID- OWNER- 237LH047
CITY OF SOUTHPORT
201 E MOORE ST
SOUTHPORT, NC 28461
DEED BOOK- 02634
DEED PAGE- 0269
ZONING- OS
- D. PARCEL ID- OWNER- 237LH046
SNYDER BRAD A ETUX
SNYDER MOLLY L
1809 STILLWATER DR
RALEIGH, NC 27606-6741
DEED BOOK- 04720
DEED PAGE- 1074
ZONING- R10
- E. PARCEL ID- OWNER- 237LG020
MANN JOHN R
517 BROOKS ST
WAKE FOREST, NC 27587-2977
DEED BOOK- 05170
DEED PAGE- 0500
ZONING- R10
- F. PARCEL ID- OWNER- 237LG025
UNITED STATES PARCEL SERVICE
210 E NASH ST
SOUTHPORT, NC 28461
DEED BOOK- 00421
DEED PAGE- 0230
ZONING- CBD

Concept Plan Approved By:

Date:

REVISIONS			
SYM.	DESCRIPTION	DATE	BY

DRAWING INDEX

- L-1 SITE DATA SHEET
L-2 SITE LAYOUT SHEET
L-3 POSSIBLE EVENT LAYOUT PLANS
L-4 PHASE 1 WALL PLAN & ELEVATIONS



Columbarium Planners
Beautiful Secure Memories

Pinehurst, North Carolina, P.O. Box 5255, Pinehurst, NC 28374
Telephone: 910-295-8328 Fax: 910-295-3420
Copyright 2019, Columbarium Planners, Inc. This columbarium design is the copyright property of Columbarium Planners, Inc. design plans and other graphic material relating to the columbarium may not be copied or reproduced in any form without the expressed consent of Columbarium Planners, Inc.

SITE DATA SHEET
COLUMBARIUM CONCEPT
FOR
ST. PHILIP'S EPISCOPAL
CHURCH
SOUTHPORT, NORTH CAROLINA

Engineering
Landscape Architecture
Surveying
LKC

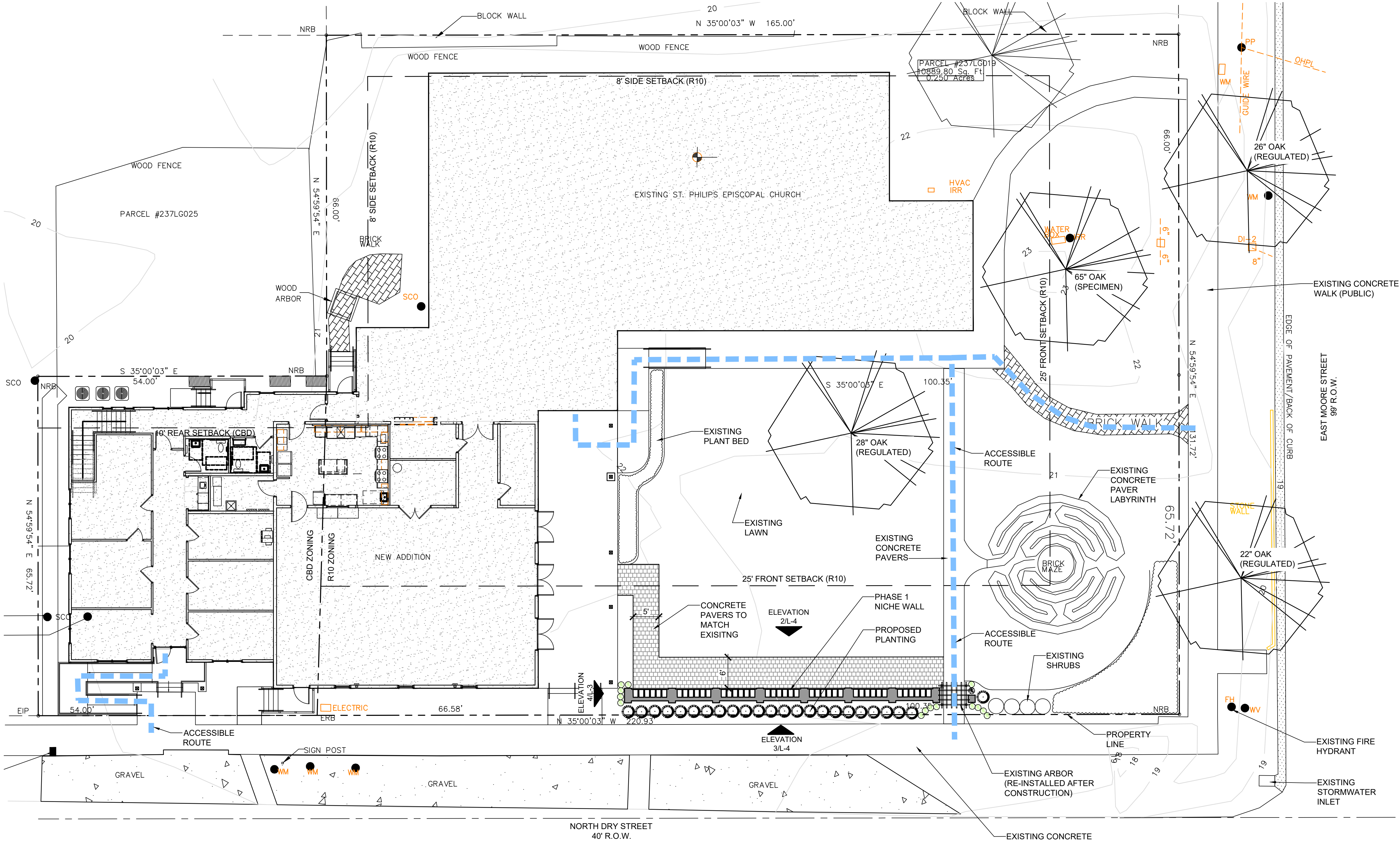
LKC Engineering, PLLC
140 Aqua Street, Suite 200
Aberdeen, NC 28315
P: 910-420-4336 F: 910-657-0096 lkceengineering.com
License No. P-1095

LKC Engineering has developed these plans under an agreement with Columbarium Planners, Inc. LKC Engineering has exclusive authority in preparing plans, construction drawings, specifications, and other documents required to build this columbarium.

DATE: JUNE 2024
DESIGNED: PWHJ
DRAWN: PWHJ
CHECKED: PAP
NO.

L-1

REVISIONS			
SYM.	DESCRIPTION	DATE	BY



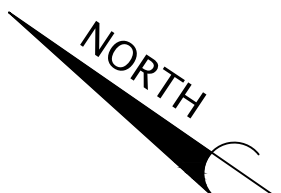
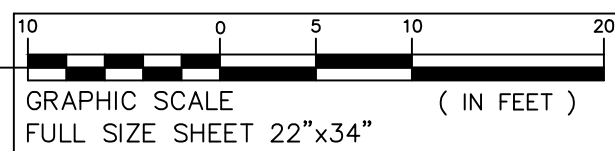
1 PHASE 1 CONCEPT PLAN
L-2 SCALE: 1"= 10'-0"

YIELD DATA

	NICHES
TOTAL	126

LEGEND

	PROPERTY LINE
	SETBACK
	ACCESSIBLE ROUTE



NOTES:

1. SITE SURVEY/PLAT DATA PROVIDED BY ST. PHILIP'S EPISCOPAL CHURCH, SOUTHPORT, NORTH CAROLINA; ORIGINAL SURVEY DATA BY PIEDMONT ENGINEERING, WILMINGTON, NC, DATE UNKNOWN; EXISTING BUILDING DATA PROVIDED BY JOHN URBAN ASSOCIATES, WILMINGTON, NC, DATED 3-26-21; SITE INFORMATION SUPPLEMENTED THROUGH FIELD OBSERVATION AND AERIAL DATA.
2. A SITE SPECIFIC SURVEY WILL BE REQUIRED BEFORE ANY CONSTRUCTION DOCUMENTS FOR THE ATTACHED CONCEPT CAN BE PREPARED. SURVEY SHALL INCLUDED LOCATIONS OF ALL ABOVE-GROUND AND SUB-SURFACE UTILITIES.
3. THESE DRAWINGS ARE CONCEPTUAL ONLY AND ARE NOT TO BE USED FOR CONSTRUCTION.
4. ALL CONDITIONS AND DIMENSIONS TO BE FIELD VERIFIED.

IMPERVIOUS SURFACES:

(PHOTOGRAPHIC DATA USED TO SUPPLEMENT SURVEY DATA TO ESTIMATE IMPERVIOUS SURCACES.)

SITE AREA:	25,409 SF (0.583 AC)
EXISTING IMPERVIOUS:	14,175 SF (0.325 AC) (55.79%)
PROPOSED ADDITIONAL IMPERVIOUS:	622 SF
TOTAL PROPOSED IMPERVIOUS:	14,797 SF (0.340 AC) (58.24%)

FLOODPLAIN:

THE SITE IS IN FLOOD ZONE X
(NOT IN A FLOODPLAIN) AS PER
MAP #3720209600K, EFFECTIVE
8/28/2018.

Concept Plan Approved By:

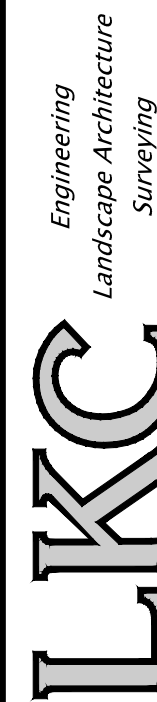
Date:



Columbarium Planners
Beautiful Secure Memories

Pinehurst, North Carolina, P.O. Box 5255, Pinehurst, NC 28374
Telephone: 910-295-8328 Fax: 910-295-3420
Copyright 2019, Columbarium Planners, Inc. This columbarium design is the copyright property of Columbarium Planners, Inc. design plans and other graphic material relating to the columbarium may not be copied or reproduced in any form without the expressed consent of Columbarium Planners, Inc.

PHASE 1
CONCEPT PLAN
COLUMBARIUM CONCEPT
FOR
ST. PHILIP'S EPISCOPAL
CHURCH
SOUTHPORT, NORTH CAROLINA

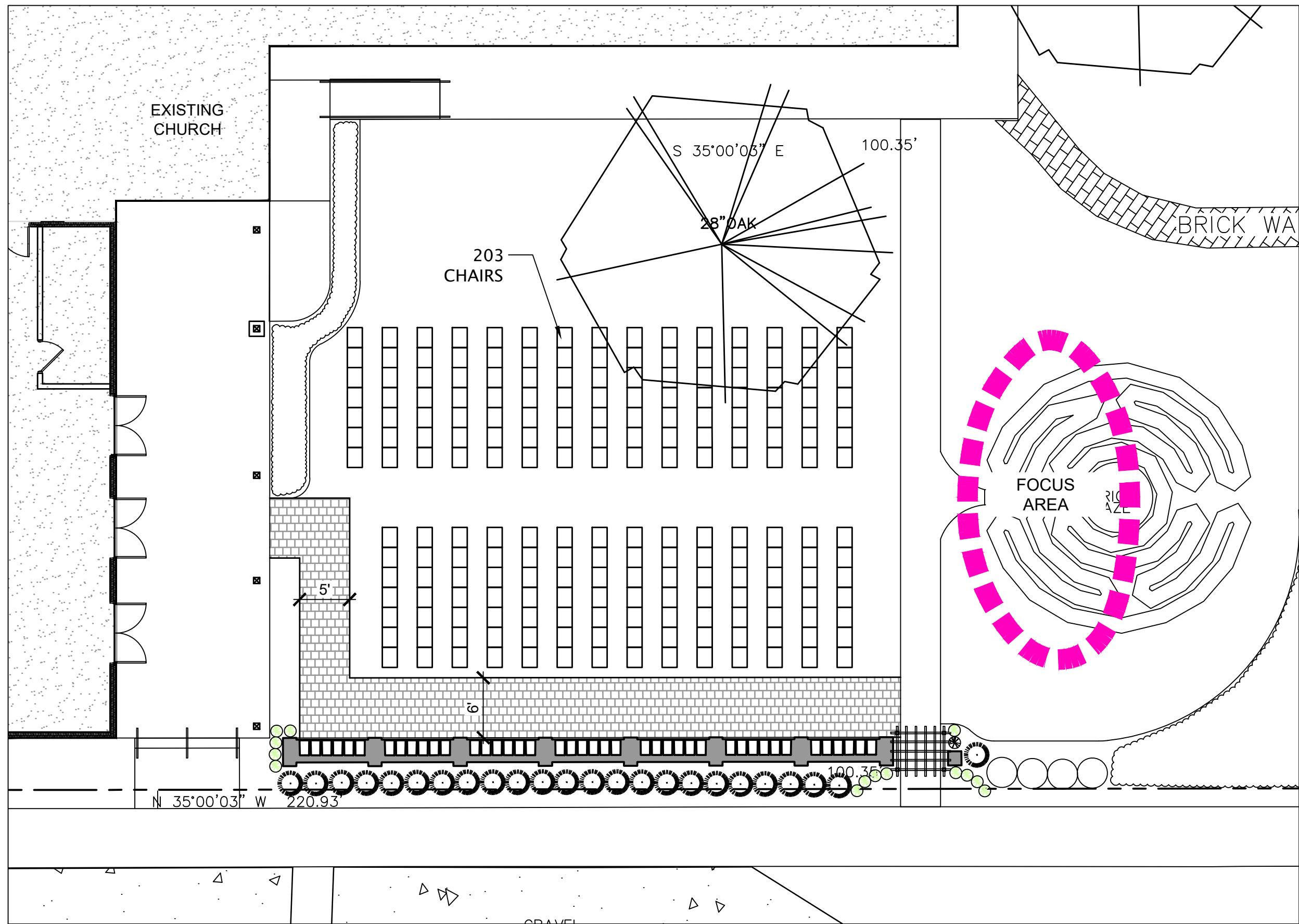


LKC Engineering, PLLC
140 Aqua Street Court, Aberdeen, NC 28315
O: 910-420-4336 F: 910-657-0096 lkcengineering.com
License No. P-1095

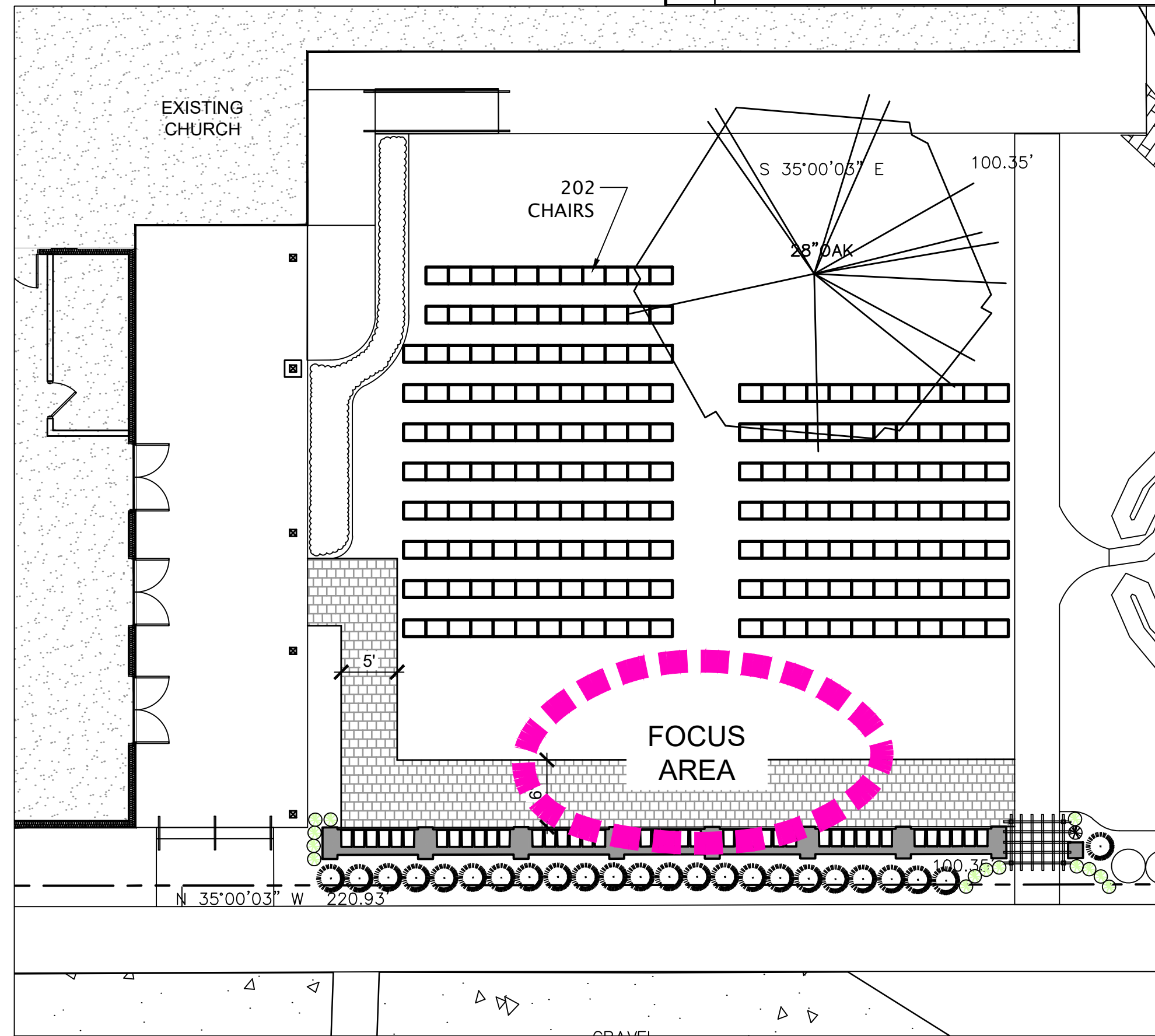
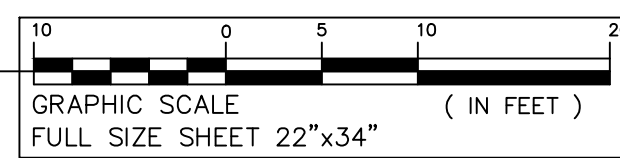
LKC Engineering has developed these plans under an agreement with Columbarium Planners, Inc. LKC Engineering has exclusive authority in preparing plans, construction drawings, specifications, and other documents required to build this columbarium.

DATE:	JUNE 2024
DESIGNED:	PWHJ
DRAWN:	PWHJ
CHECKED:	PAP
NO.	

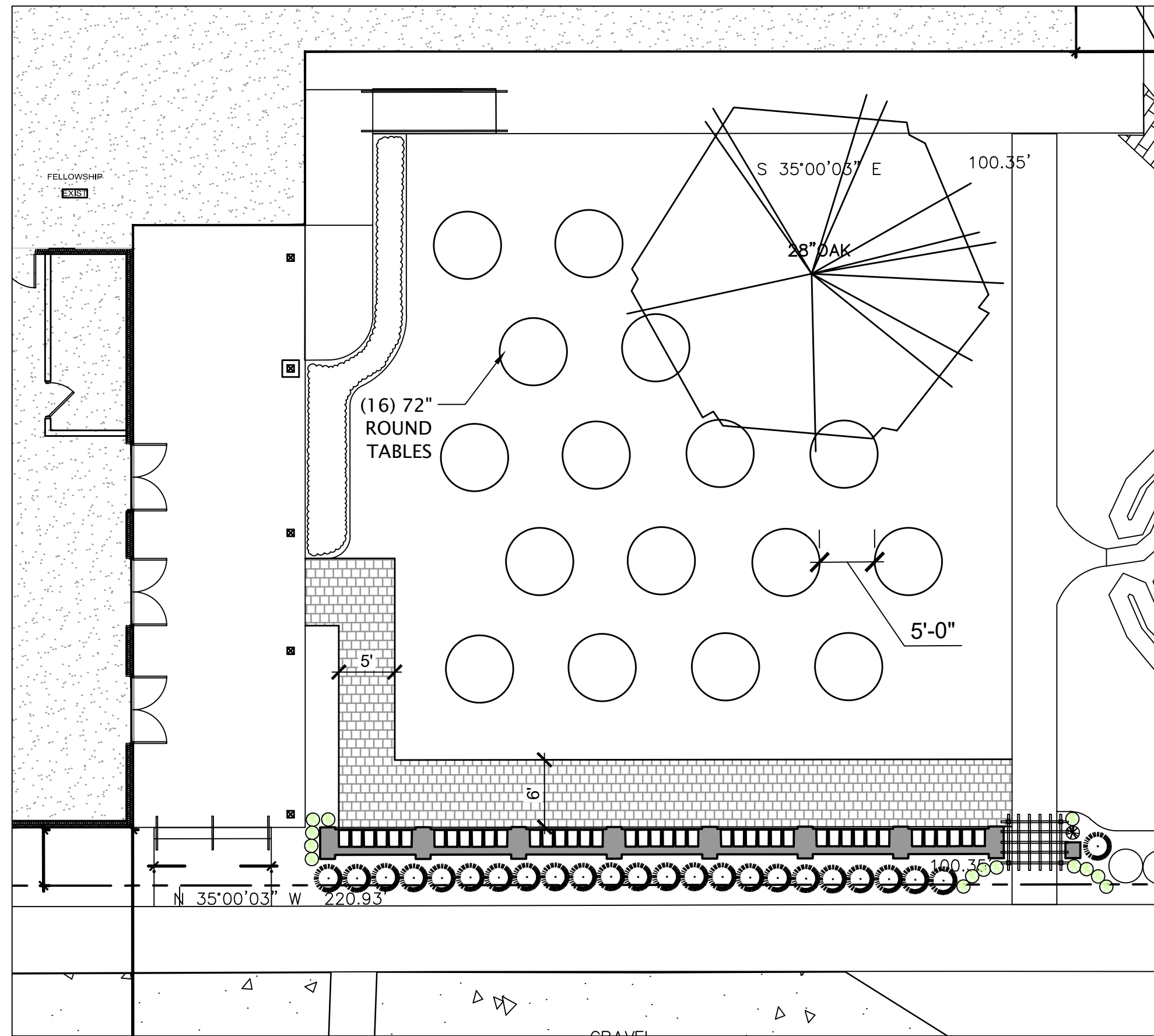
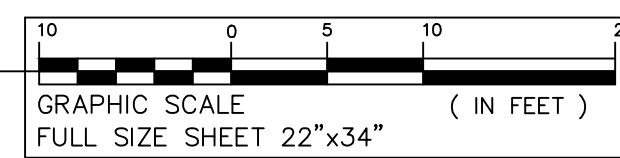
L-2



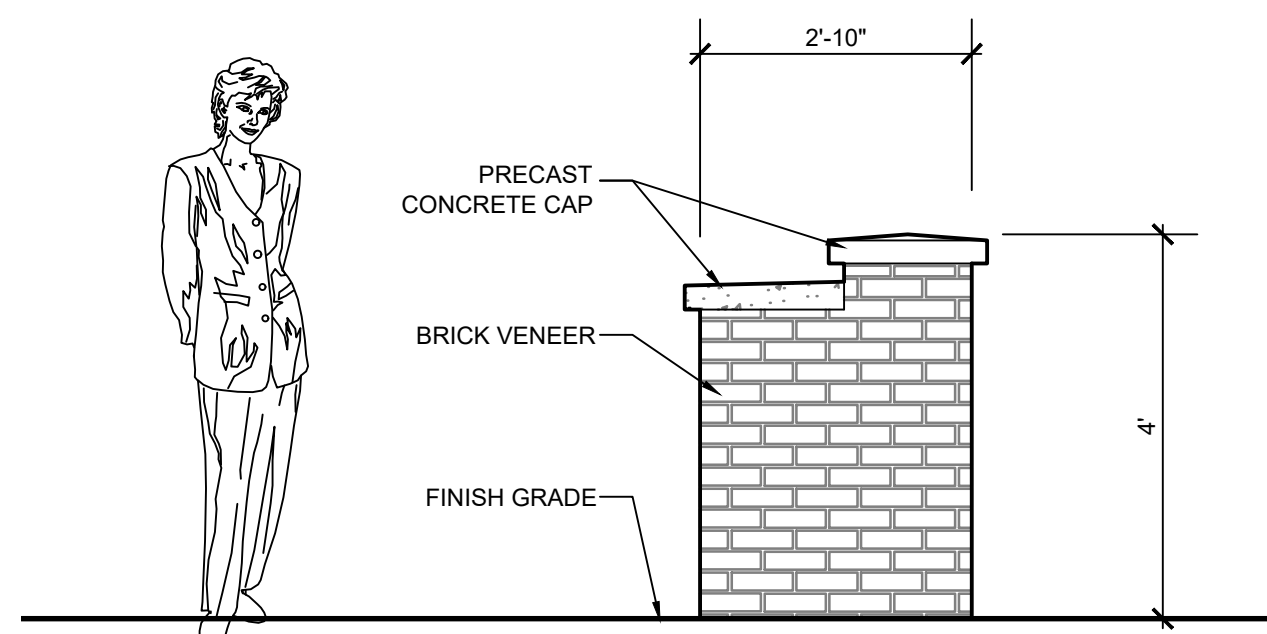
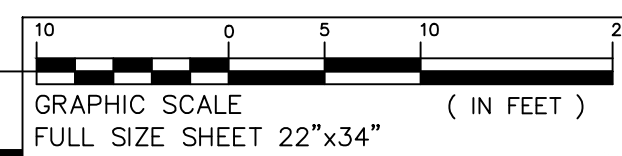
1 POSSIBLE EVENT LAYOUT 1
L-3 SCALE: 1"= 10'-0"



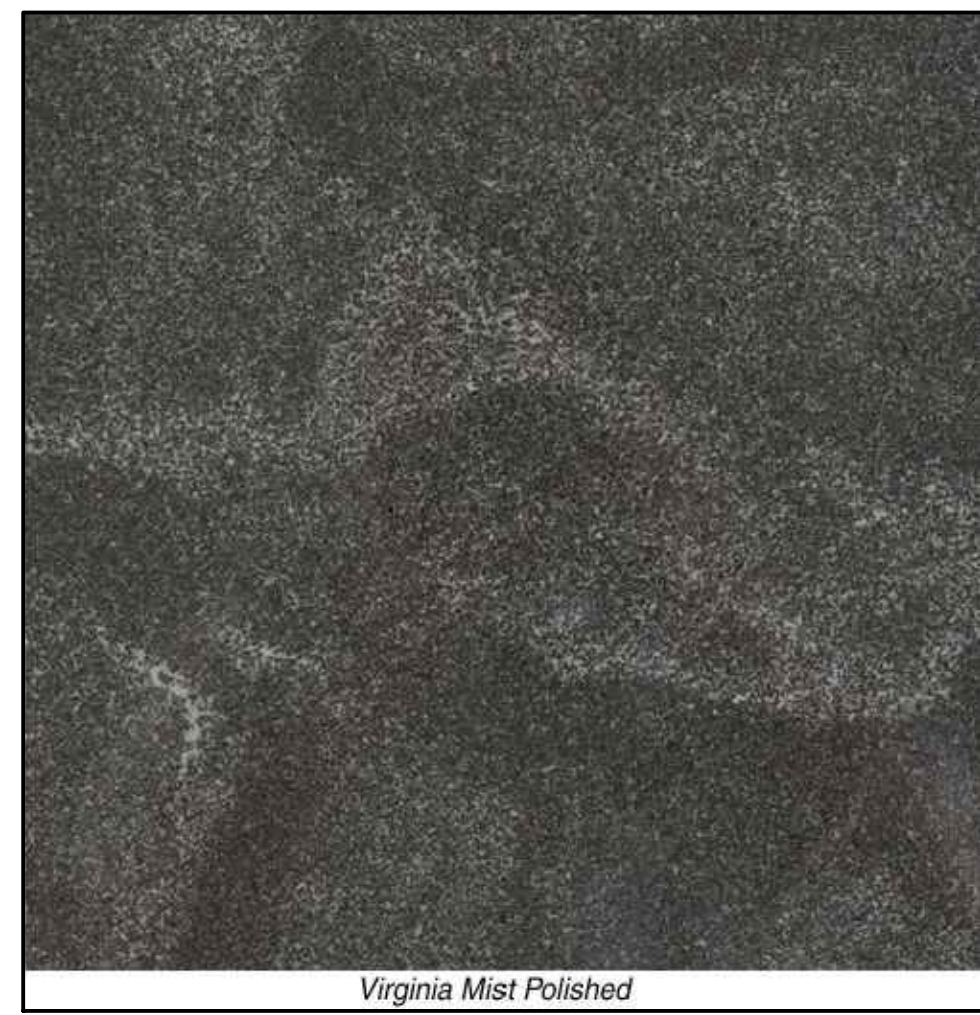
2 POSSIBLE EVENT LAYOUT 2
L-3 SCALE: 1"= 10'-0"



3 POSSIBLE EVENT LAYOUT 3
L-3 SCALE: 1"= 10'-0"



4 ENDWALL ELEVATION
L-3 SCALE: 1 1/2"= 1'-0"



5 GRANITE RECOMMENDATION
L-3 NOT TO SCALE

Concept Plan Approved By: _____
Date: _____



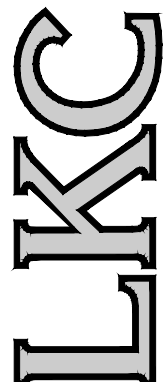
Columbarium Planners

Beautiful Secure Memories

Pinehurst, North Carolina, P.O. Box 5255, Pinehurst, NC 28374
Telephone: 910-295-8328 Fax: 910-295-3420

Copyright 2019, Columbarium Planners, Inc. This columbarium design is the copyright property of Columbarium Planners, Inc. design plans and other graphic material relating to the columbarium may not be copied or reproduced in any form without the expressed consent of Columbarium Planners, Inc.

POSSIBLE EVENT
LAYOUT PLANS
COLUMBARIUM CONCEPT
FOR
ST. PHILIP'S EPISCOPAL
CHURCH
SOUTHPORT, NORTH CAROLINA



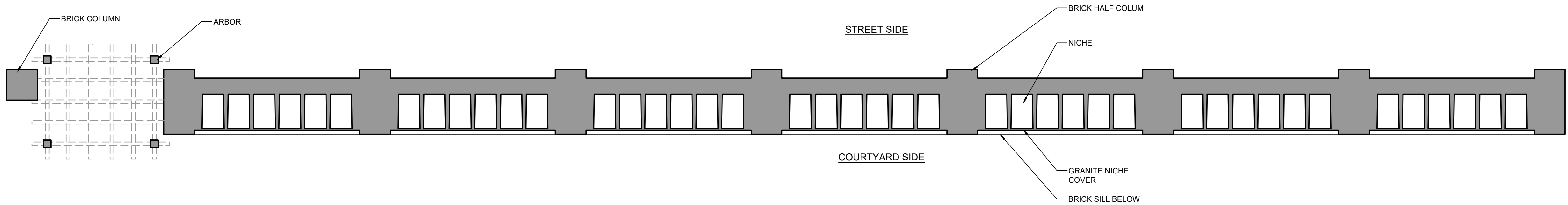
LKC Engineering, PLLC
140 Aqua Street Court, Aberdeen, NC 28315
O: 910-420-4335 F: 910-657-0096 lkceengineering.com
License No. P-1095

LKC Engineering has developed these plans under an agreement with Columbarium Planners, Inc. LKC Engineering has exclusive authority in preparing plans, construction drawings, specifications, and other documents required to build this columbarium.

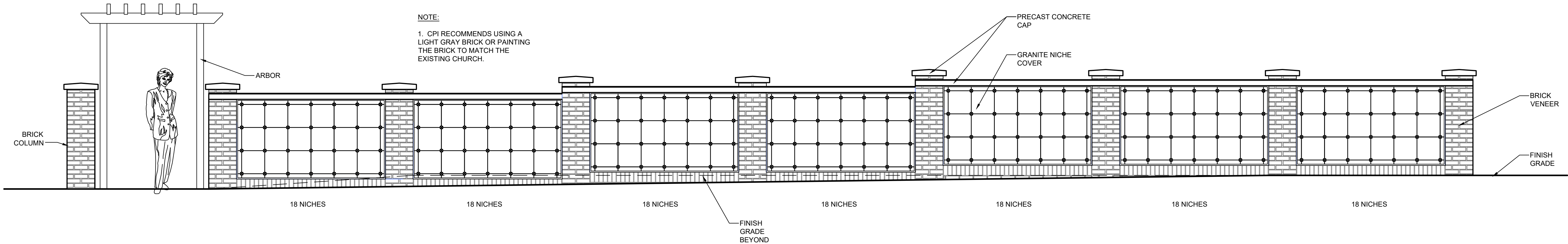
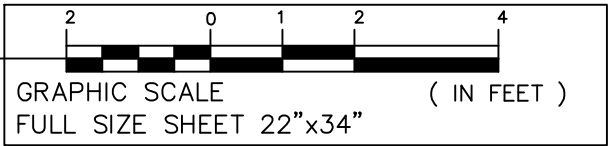
DATE:	JUNE 2024
DESIGNED:	PWHJ
DRAWN:	PWHJ
CHECKED:	PAP
NO.	

L-3

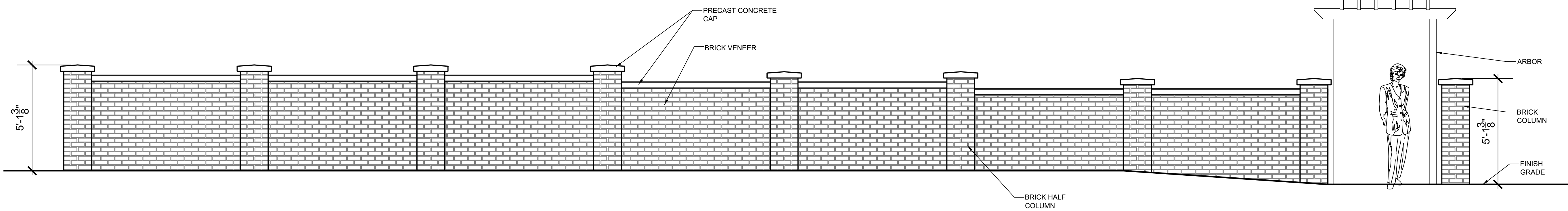
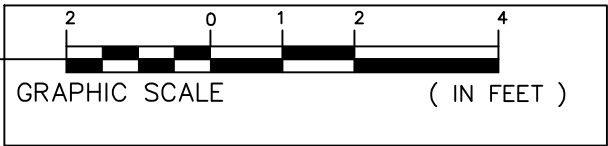
REVISIONS			
SYM.	DESCRIPTION	DATE	BY



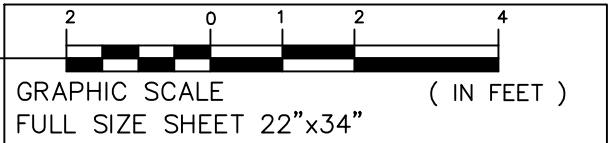
1 PHASE 1 NICHE WALL PLAN
L-4 SCALE: 3/8" = 1'-0"



2 PHASE 1 COURTYARD SIDE ELEVATION
L-4 SCALE: 3/8" = 1'-0"



3 PHASE 1 STREET SIDE ELEVATION
L-4 SCALE: 3/8" = 1'-0"



Concept Plan Approved By:

Date:

Columbarium Planners

Beautiful Secure Memories

Pinehurst, North Carolina, P.O. Box 5255, Pinehurst, NC 28374
Telephone: 910-295-8328 Fax: 910-295-3420

Copyright 2019, Columbarium Planners, Inc. This columbarium design is the copyright property of Columbarium Planners, Inc. design plans and other graphic material relating to the columbarium may not be copied or reproduced in any form without the expressed consent of Columbarium Planners, Inc.

PHASE 1
WALL PLAN & ELEVATIONS
COLUMBARIUM CONCEPT
FOR
ST. PHILIP'S EPISCOPAL
CHURCH
SOUTHPORT, NORTH CAROLINA

LKC

Engineering
Landscape Architecture
Surveying

LKC Engineering, PLLC
140 Aqua Street, Suite 200
Aberdeen, NC 28315
O: 910-420-4336 F: 910-657-0096 lkceengineering.com
License No. P-1095

LKC Engineering has developed these plans under an agreement with Columbarium Planners, Inc. LKC Engineering has exclusive authority in preparing plans, construction drawings, specifications, and other documents required to build this columbarium.

DATE:	JUNE 2024
DESIGNED:	PWHJ
DRAWN:	PWHJ
CHECKED:	PAP
NO.	

L-4



Board of Adjustment Minutes
Indian Trail Meeting Hall, 113 W. Moore Street
July 30, 2024
4:30 p.m.

Present: Pete Haislip, Jason Robbins, Harley Lemons, Tuck Masker, Josh McGee and Amy Aycock.
Absent: Kate Siegler
Staff Present: Maureen Meehan, City Planner
Dorothy Dutton, City Clerk/Assistant Manager (left early)
Tanya Shannon, Deputy Clerk
Board Liaison: Marc Spencer
Others Present: Ray Diguiseppe, Board of Adjustment Attorney; Gregory Kleva, Attorney and Representative for property owners Jackson Pederson and Jaime Renn Pederson; Applicants Douglas and Deborah Luehe and John Mann and Amy Coggins.

- A. Call to Order by Chairman Pete Haislip at 4:30 p.m.
- B. Chairman Haislip led the Pledge of Allegiance.
- C. Chairman Haislip reviewed the quasi-judicial process with the public.

Chairman Haislip inquired if any Board Members had any conflicts of interest with any of the hearings or requests before proceeding. Mr. Haislip and Ms. Aycock requested to recuse themselves from agenda item one, which was the Appeal of an Administrative Decision-Violation (1010 Bussells Turn). They explained that they had heard about the case before it was presented.

Mr. Ray Diguiseppe was introduced as the attorney representing the City of Southport Board of Adjustment.

D. Hearing and Requests

1) Appeal of an Administrative Decision-Violation (1010 Bussells Turn)

Chairman Haislip swore in Mr. Gregory Kleva, an attorney representing the applicants, property owners Jackson and Jaime Renn Pederson, at 1010 Bussells Turn. He apologized for the short notice and explained that the applicants could not attend because they had a sick child. He then requested the Board move the hearing to August 27, 2024.

Chairman Haislip opened the appeal hearing and proposed a continuance to August 27, 2024, at the Indian Trail Meeting Hall located at 113 W. Moore Street, scheduled for 4:30 p.m. Mr. Robbins put forward the motion, which Mr. McGee seconded. ***Unanimous Vote; Motion Carried.***

2) Special Use Permit: Accessory Dwelling Unit (244 E. 11th Street)

City Planner Meehan was sworn in and presented a request for a Special Use Permit for an accessory dwelling at 244 E. 11th Street. The proposed 618-square-foot unit meets all standards and includes a living area, bedroom, kitchenette, private sanitary facilities, and office space. The

application is complete, and the applicant meets all standards in the UDO. Ms. Meehan confirmed the presence of a garage and mentioned the two-accessory structure limit. Notification for the hearing was conducted according to the city's ordinance, and the adjacent property owners provided no response or concerns. Chairman Haislip closed the hearing, and the Board began its deliberations.

Finding of Facts:

- a) Mr. Robbins made a motion that the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved. The motion was seconded by Mr. Masker ***Unanimous Vote; Motion Carried.***
- b) Mr. McGee made a motion that the use meets all required conditions and specifications, seconded by Mr. Robbins. ***Unanimous Vote; Motion Carried.***
- c) Mr. Masker made a motion that the use will not adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity. Seconded by Robbins. ***Unanimous Vote; Motion Carried.***
- d) Mr. Robbins made a motion that the location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the areas in which it is to be located and in general conformity with the City of Southport Comprehensive Plan. Seconded by Mr. McGee. ***Unanimous Vote; Motion Carried.***
- e) Mr. Robbins motioned to recommend approval of the special use permit for an accessory dwelling unit at 244 E. 11th Street, with the specific standard condition that the accessory dwelling unit cannot be rented separately from the primary residence. Seconded by Mr. Lemons. ***Unanimous Vote; Motion Carried.***

3) Special Use Permit: Bed and Breakfast (209 E. Moore St.)

Ms. Meehan presented an overview of the application for a special use permit to operate a bed and breakfast at 209 E Moore Street. The property is in the R-10 zoning district, which permits bed and breakfasts with a special use permit. The application is complete, and the applicants have met all the special use standards. The proposal involves converting the existing home into a bed and breakfast with an additional suite for the owner/inn manager's accommodations, as well as an outdoor event space for guests. Concerns were raised about the increased intensity of use and potential conflicts within the adjacent residential neighborhood. Staff offered conditions to consider:

- 1. Each onsite event must have a separate noise permit. The inn cannot carry a blanket permit for events throughout the year.
- 2. The sale of beer and wine by the glass is limited to inn guests only. The applicants will be given an ABC license to serve at the events and for on-site sales.

During the discussion, Ms. Meehan clarified that there was adequate parking with additional pavers and existing driveway spaces. The conversation then shifted to events at the Inn, where it was clarified that events would be limited to guests staying at the Inn but also allow guests who are local invitees. It was noted that there were no specific UDO references for event definitions and regulations, prompting a suggestion to define what constitutes an event based on gathering size

or type, along with considering capacity. Mr. Diguiseppe suggested looking at the noise ordinance and possibly incorporating it with definitions and conditions for events.

Chairman Haislip swore in the applicants, John Mann and Amy Coggins. Mr. Mann explained that they plan to establish a Bed and Breakfast Inn that can also host special events. He mentioned their intention to cater mainly to weddings, as well as other celebrations like birthdays, retirements, and anniversaries. When asked about the event capacity, Mr. Mann stated they were still finalizing the space figures but would provide the numbers later. He also clarified that there would be no on-site cooking, and all food would be catered. They plan to have certified bartenders, ABC licenses, and no outside alcohol. Additionally, Mr. Mann provided a comprehensive Management Package outlining all rules, regulations, and policies. There was concern about capacity and the number of people that could attend the “event.” The Board needs more clarification on how events would be linked and defined. Mr. Lemons inquired about their expected opening date if approved, and Mr. Mann indicated they aim for Spring 2025.

The Board reached a consensus to divide the application into two separate uses. The Planning Staff will clarify how the UDO would be applied to include events and event spaces for use.

Mr. Robbins motioned to separate the use of events and event spaces from the applicant's request. The focus would only be on considering the Special Use Permit for the Bed and Breakfast in accordance with the UDO. The motion also included a request for the Planning Staff to define and clarify events and uses for event spaces before deciding whether this type of use is within the guidelines. The motion was seconded by Chairman Haislip. ***Unanimous Vote; Motion Carried.***

SPECIAL USE APPLICATION (SUP 24-09) – BED AND BREAKFAST-CARRIAGE HOUSE INN

Findings of Facts:

- a) Mr. Robbins made a motion that the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved, seconded by Mr. McGee. ***Unanimous Vote; Motion Carried.***
- b) Mr. Masker made a motion that the use meets all required conditions and specifications. Seconded by Mr. Robbins. ***Unanimous Vote; Motion Carried.***
- c) Mr. Lemons made a motion that the use will not adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity. Seconded by Mr. Robbins. ***Unanimous Vote; Motion Carried.***
- d) Mr. McGee made a motion that the location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan. Seconded by Mr. Masker. ***Unanimous Vote; Motion Carried.***
- e) Mr. Robbins made a motion that based on the Findings of Facts and the evidence presented, the Board of Adjustment recommends approval of the Special Use Application for the Bed and Breakfast. Second by Mr. Lemons. ***Unanimous Vote; Motion Carried.***

E. Approval of the Minutes

Mr. McGee noted that a correction was needed in the minutes. He would like the record to reflect that he was in attendance on May 28, 2024.

A motion was made by Mr. Robbins to approve the May 28, 2024, minutes with the amendment to include Mr. McGee as present and seconded by Chairman Haislip. ***Unanimous vote. Motion carried.***

F. Other Business

The Board discussed the Chairman's role and whether they should be allowed to vote on the motions. Mr. Diguiseppe said he has seen it both ways: where the Chairman may vote on motions but is not allowed to make motions and where the Chairman does not vote unless there is a tie. Mr. Diguiseppe said it was a matter of preference, and the Board could decide which practice to use.

Mr. Lemons motioned that the Chairman should only vote if their vote would affect the decision. Seconded by Mr. Robbins. Aye: Mr. Lemons, Mr. Robbins, Mr. McGee, and Ms. Aycock. No: Mr. Masker. ***Motion Carried 4-1.***

The Board discussed whether a member with a conflict of interest should leave the room when the issue they're recused from is being discussed. Mr. Lemons motioned to let the member stay in the room but not participate in any conversations, discussions, or decisions related to the issue. The motion was seconded by Mr. Masker. Aye; Mr. Lemons, Mr. McGee, Mr. Masker and Ms. Aycock. No, Mr. Robbins. ***Motion Carried 4-1.***

Mr. Robbins expressed his disagreement with the motion, citing concerns that body language could be perceived as influential. He suggested that it would be best for the recused member to leave the room in order to avoid any potential issues.

Mr. Lemons suggested that the Board should soon start making recommendations on how to restructure itself now that the ETJ Members will no longer be part of it.

Being that there was no further business or discussion, a motion was made by Mr. McGee to adjourn the meeting and seconded by Mr. Masker. ***Unanimous vote; motion carried.***

Chairman, Pete Haislip

Deputy Clerk, Tanya Shannon