



July 6, 2023

Zoning Board of Adjustment

Notice is hereby given of a Special Meeting of the Zoning Board of Adjustments to be held on July 6, 2023, at 4:00 p.m., via videoconference, with the opportunity to appear in person in the **Council Chambers, Room 119 of City Hall, 202 E. Pilar Street, Nacogdoches, Texas**, for the purpose of considering the following agenda items. All agenda items are subject to action.

The City of Nacogdoches Zoning Board of Adjustment meeting will be deemed as being conducted via teleconference or videoconference. However, some board members may attend virtually, while others may be present in the above-stated physical location. Regardless, the meeting will be streamed live at www.nactx.us. There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers.

Members of the public who wish to submit comments by telephone on a listed agenda item must contact the Planning and Zoning office by email at pz@nactx.us or by calling 936-559-2574 and providing their name, telephone number, and relevant agenda item upon which they wish to speak. All requests to make comments via telephone must be received by 12:00 p.m. on Thursday, July 6, 2023. For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.

2. PLEDGE OF ALLEGIANCE.

3. **CONSENT AGENDA**

A. Approval of Minutes: Consider approval of minutes from the May 18, 2023 Zoning Board of Adjustment meeting.

4. **REGULAR AGENDA**

A. **Public Hearing:** Consider a request for a variance to the Zoning Ordinance Section 118-202. (2)b, for the expansion of an existing legal nonconforming Single Family residence, and Section 118-427(a) for the encroachment of the minimum building setbacks for the I-2, Heavy Industrial zoning district, for Lot 22, City Block 29, located at 611 South Church Street. This request has been submitted by Christine Benton and Kayla Griffith. Case File ZBA2023-05.

5. ADJOURN.

City of Nacogdoches Planning Department
202 E. Pilar – PO Box 635030 – Nacogdoches, TX 75963
936-559-2574 □ Fax 936-559-2912 □ www.nactx.us
Home of Stephen F. Austin State University □ www.sfasu.edu



Aimee Cloutier, Office Assistant III

The City Council Chambers is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Planning Department at (936) 559-2574 or FAX (936) 559-2910 for further information.

CERTIFICATION

I certify the notice of the meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on June 30, 2023, at 4 p.m. and remained posted until the meeting convened.

Aimee Cloutier, Office Assistant III



**MINUTES TO THE
ZONING BOARD OF ADJUSTMENT
May 18, 2023, 4:00 p.m. Hybrid Meeting**

All Present: Sarah Jones; George Middlebrook; Rhonda Ward; Mary Ann Bentley; Olivia Kiritsy;

Members Absent: None

Staff Present: City Planner, Alaina Helton; Planning Technician, Juan Pollette; Office Assistant, Aimee Cloutier; City Engineer, Steve Bartlett; Project Assistant, Torrey Brown;

Guests: Applicant, Dick Rudisill; Jennie Saerrano; Alan Johnson;

Call to Order: Chairwoman Olivia Kiritsy called the meeting to order at 4:05 p.m.

1. Pledge of Allegiance: Chairwoman Kiritsy led the pledge of allegiance.

2. Consent Agenda: Approval of the Minutes: April 20, 2023, Regular Session

Chairwoman Kiritsy stated the previous minutes had an error stating Commissioner Sarah Jone's last name has been corrected from Bartlett to Jones in the minutes.

Chairwoman Kiritsy called for a motion to approve the minutes as written. Board Member Rhonda Ward made a motion to approve which was seconded by Board Member Bentley. The minutes were approved as presented unanimously (5-0).

3. Public Hearing:

- A. **Public Hearing:** Consider a variance to the Zoning Ordinance *Section 118-428. – Commercial and industrial screening from view.(b)(1) Screening wall standards, and Section 118-429. – Commercial sites with residential adjacency. (d)(2) Screening wall standards*, to provide alternative screening wall materials for Lot 39, City Block 95, located at 4110 Old Tyler Road. This request has been submitted by Rudisill Properties. Case File ZBA2023-04.

City Planner (CP) Helton presented the requested variances to the Board stating the property owner has subdivided the property along the leased boundaries, which includes two of the ten acres since the initial request.

CP Helton stated the two acres of leased property are being used for an outdoor contractor's yard, which requires screening per the ordinance.

CP Helton stated there is a 90-foot natural buffer on the eastern boundary line, which the applicant is requesting to use for visual screening in place of building a fence and requesting to use mesh screening on the existing chain link fence on the north, west, and south boundary lines.

CP Helton stated staff recommends approval for the natural buffer on the east side of the property, but does not recommend approval for the variance for the mesh screening due to

there not being any hardships or unique circumstances. CP Helton stated the applicant would like to modify his request and would present that to the Board.

There was discussion amongst the Board and Staff regarding ownership and requirements of the property in question as well as the natural buffer and current fence.

Board Member Bentley stated she had concerns regarding the natural buffer due to unforeseeable damage if there was a natural disaster.

CP Helton addressed the Board stating that if something were to happen with the vegetation, the applicant would be required to either plant a new buffer or come back to the Board and request another variance.

Applicant Dick Rudisill addressed the Board stating he wanted to amend his request for the north side of the property. Mr. Rudisill's new request would be to only put the mesh screening on the existing chain link fence to the gate at the private driveway. Mr. Rudisill stated by using the screening to the gate, there would not be any public view of the property where the outdoor storage facility is located.

Chairwoman Kiritsy opened the meeting to public comment. There were no comments from the public.

Board Member Middlebrook asked the property owner of the private driveway, Alan Johnson, if he had any issues with the new amended request from Mr. Rudisill.

Mr. Alan Johnson stated he would like the screening to be down the entire fence adjoining his property.

There was a discussion amongst the Board regarding the color and opacity requirements of the mesh screening.

Board Member Ward made the motion to grant the variance request for the mesh screening with the color being green and 88-90% opacity for the north, west, and south boundaries and grant the variance for the landscape buffer for the eastern boundary in place of a fence. Board Member Bentley seconded the motion.

There was a discussion amongst the Board for clarification on the motion and to remove the color requirement of the mesh screening from the motion.

Board Member Ward amended her motion to remove the color requirement. The amended motion was seconded by Board Member Bentley and passed unanimously (5-0).

4. Adjourn: Chairwoman Kiritsy adjourned the meeting at 4:50 p.m.

Chairwoman, Olivia Kiritsy

Attest:
Aimee Cloutier, Planning Department

PRESENTER: Juan Pollette, Planning Tech

ITEM/SUBJECT: Public Hearing: Consider a request for a variance to the Zoning Ordinance Section 118-202. (2)b, for the expansion of an existing legal nonconforming Single Family residence, and Section 118-427(a) for the encroachment of the minimum building setbacks for the I-2, Heavy Industrial zoning district, for Lot 22, City Block 29, located at 611 South Church Street. This request has been submitted by Christine Benton and Kayla Griffith. Case File ZBA2023-05.

TYPE OF REQUEST: Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of the property.

The ZBA rules and procedures state this type of variance may be requested “whenever, owing, to exceptional and extraordinary conditions, the literal enforcement of the provisions of the zoning regulations will result in unnecessary hardship in the development of the property.”

The applicants are requesting a variance to the Zoning Ordinance **Sec. 118-202(2)b –Changing or expanding nonconforming use**. This section of the ordinance states that a nonconforming use of a conforming building or structure shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all of the requirements of the district in which such building structure is located. The current use of the property as a single family residence is nonconforming because the property is zoned I-2, Heavy Industrial. Single family is not an allowed use in the I-2 zoning district. The applicants are proposing to expand the existing nonconforming single family residence by constructing a 660 square foot attached lean to style carport to the north side of the house. The construction of the carport will result in encroachment of the side yard setbacks and require a variance from **Section 118-427 (a) - District Development Standards** to reduce the required side building setbacks for I-2, Heavy Industrial from 20 feet to 6 feet.

BACKGROUND INFORMATION:

The property is approximately 1.50 acres and developed with a 1,920 square foot single family residence constructed in 1936, before the City of Nacogdoches adopted the first zoning ordinance and zoning map. Properties with frontage along South Church Street were subsequently rezoned by the City to I-2, Heavy Industrial and B-2, General Business, making all the single family residences along this street a nonconforming use. The applicants are proposing to construct an attached 22’x30’ lean-to style carport with a concrete foundation to the north side of the house to protect their personal vehicles from damage caused by extreme weather. The applicants also plan to pave the existing driveway with asphalt. The proposed addition will not meet the 20 foot building setbacks for the I-2 zoning district but would meet the 6 foot side setbacks if the property was zoned residential.

Adjacent Land Use & Zoning

The subject property is zoned I-2, Heavy Industrial and is developed as a *Single Family Residence*. The surrounding zoning and land uses are as follows:

Direction	Zoning	Existing Land Use
North	B-2, General Business	Single Family
South	I-2, Heavy Industrial	Single Family
East	I-2, Heavy Industrial	City Park
West (across S. Church St.)	B-2, General Business	Single Family

Physical Characteristics

1. Frontage: The property has approximately 100 feet of frontage on South Church Street.
2. Access: The property takes direct access from South Church Street.
3. Topography and vegetation: The property has a 15 foot elevation variation, sloping down from the west to the east, with several mature trees located throughout the property.
4. Floodplain: The subject property is located within the FEMA regulated floodplain.

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

Per Section 118.99 of the Nacogdoches Zoning Ordinance, the applicant must demonstrate to the satisfaction of the board that the decisions of the board will be in the best interest of the community and would carry out the spirit and intent of the zoning regulations. The board of adjustment may grant variances and exceptions upon finding that the following conditions have been met:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance. The general purpose of the comprehensive plan and zoning ordinance is to promote the health, safety, and welfare of Nacogdoches through orderly and efficient development. More specifically, the purpose of building setbacks are to safeguard and enhance property values and to protect public and private investment by preventing landowners from overcrowding the property of others, allowing for adequate spacing between buildings for emergency access, and providing adequate ventilation and lighting around structures. Staff finds that although the request does not meet the intent and purpose of the zoning ordinance regarding the current I-2, Heavy Industrial building set backs, it does meet residential side yard building set backs.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district. All of the other surrounding properties along South Church Street are developed with single and multifamily residences. Granting of this variance would not injure the appropriate use of the adjacent property.

3. Such variance will not adversely affect the health, safety or general welfare of the public. The proposed addition will meet the current building codes and building setbacks for a residential zoning district. Therefore, Staff believes that granting of the variance will not adversely affect the health, safety or general welfare of the public. Additionally, the applicants have stated that the proposed carport is necessary to protect their personal vehicles from damage caused by extreme weather.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance sought is located. The

variance will not authorize a use other than those permitted under the current I-2, Heavy Industrial zoning district, with the exception of the legal nonconforming single family use.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The property was developed as a single family residence prior to the City adopting a zoning map and development code. The adoption of a zoning map and subsequent change of the property to a I-2, Heavy Industrial zoning designation transformed the previously conforming residence into a nonconforming use of the property. The character of the development along South Church Street is mostly single family with a few multi-family structures and all have a Commercial or Industrial zoning designation; which does not allow single family residences as a permitted use.

6. The variance itself is not a self-created hardship. A self-created hardship is one that is created by the owner or his or her predecessor in interest, rather than the nature of the property itself, and thus implies an intent to create a hardship. Because the construction of the carport affects two sections of the ordinance, 118-202(b)2 & 118-427(a), Staff believes that Sec. 202(b)2 is not a self-created hardship because of the industrial zoning that was giving to this area by the City and Sec. 427(a) is a self created hardship due to the fact that the applicants, although not as aesthetically pleasing, can place the carport behind the house eliminating the need for the setback variance. Staff believes that the Zoning Board of Adjustment should make that determination.

STAFF RECOMMENDATION:

Staff recommends approval for Sec. 118-202(b)2 of the variance due to the heavy industrial zoning of the area when the City adopted its zoning ordinance, rendering the single family residence legal nonconforming. While the use is nonconforming (Residential in an Industrial zone), the structure is conforming and the house and carport would be legal in an Industrial zone. Staff has no recommendation for Sec. 118-427(a) Minimum Setbacks.

NOTICES:

Staff sent out thirteen (13) notices to property owners within the 200-foot notification area. At the time of this report Staff has received three (3) responses in favor of the request.

- ATTACHMENTS:**
1. Application and Supporting Documents
 2. Survey
 3. ZBA Exhibit
 4. Aerial Map
 5. Zoning Map
 6. Flood Zone Map
 7. Notification Map
 8. Response Forms
 9. Site Photos

APPLICATION FOR VARIANCE OR SPECIAL EXCEPTION

PROPERTY INFORMATION:

Address: 611 S Church St Nacogdoches 75961

Legal Description: Lot(s) 22 in Block 29 of the _____ Subdivision in City Block _____

OWNER INFORMATION:

Christie Benton (936) 554-4095
Kayla Griffith (936) 556-2408
Owner Name Daytime Phone Signature

611 S Church St Nacogdoches Tx 75961
Mailing Address City State Zip Code

APPLICANT INFORMATION:

Christie Benton (936) 554-4095
Kayla Griffith (936) 556-2408 CKNAC@yahoo.com
Applicant Name Daytime Phone Email Address Signature

611 S Church St Nacogdoches Tx 75961
Mailing Address City State Zip Code

PLEASE SELECT ONE TYPE OF APPEAL (Per Texas Local Government Code § 211):

- ☐ 1. Interpretation of the meaning or intent of the zoning ordinance
- ☐ 2. Special exception for use or development of property
- ☒ 3. Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property

REQUIRED ATTACHMENTS (Per ZBA Rules & Procedures 602, 702 & 802)

1. For an appeal requesting **interpretation** of the meaning or intent of the zoning ordinance, attach:

- ☐ A statement by the applicant describing the way it is alleged the regulation should be interpreted,
- ☐ Diagrams and charts illustrating the erroneous and the proper application of the map or text provisions.

2. For an appeal requesting a **special exception** for use or development of property, attach:

- ☐ A site plan, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements
- ☐ A statement by the applicant describing the way in which all conditions prescribed by zoning regulations will be or have been met.

3. For an appeal requesting a **variance** from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property, attach:

- ☒ A site plan, drawn to scale, showing the location and dimension of the lot and all existing and proposed improvements;
- ☒ Statement of facts and reasons why the zoning regulations should not be applied to the property in question and how standards governing the board's actions would be satisfied

NECESSARY FINDINGS (per City of Nacogdoches Code of Ordinances § 118-99):

The board of adjustment, pursuant to the powers conferred upon it by state law, the city ordinances, and this article, may grant variances and exceptions to the sections of this chapter upon the findings listed below. Please **explain** in your own words, how the request meets each of the findings listed below:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and this chapter

Yes. Our goal as the home owner is to not only improve our quality of daily living in this area, but also to improve area and perhaps to make a good impression or to inspire adjacent homes to make clean up + improvement a priority

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district;

No - This will not cause harm or damage to any person, place or thing.

3. Such variance will not adversely affect the health, safety or general welfare of the public

No - The variance will not adversely affect the health, safety or general welfare of the public. Quality work + materials will be used to build this structure.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located;

No variance is for covered parking

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located

No - Due to the current zoning and the non-conforming land use and the age of the home is what is require us to request this variance.

6. The variance is not a self-created hardship.

No. We bought the home as is. However, we wish to improve our home and improve this area. The attached report will be designed and build by professional contractors to only improve function + aesthetics.

NOTE: This application **will not** be processed **unless** it is filled out in its entirety and accompanied by required attachments and filing fee of \$350.00.

☐ Completed Application Form

☐ Required Attachments

☐ Application Fee

☐ Copy of current deed

FOR OFFICE USE ONLY

Date Filed: _____ Case Number: _____ Accepted By: _____ Tentative ZBA Date: _____

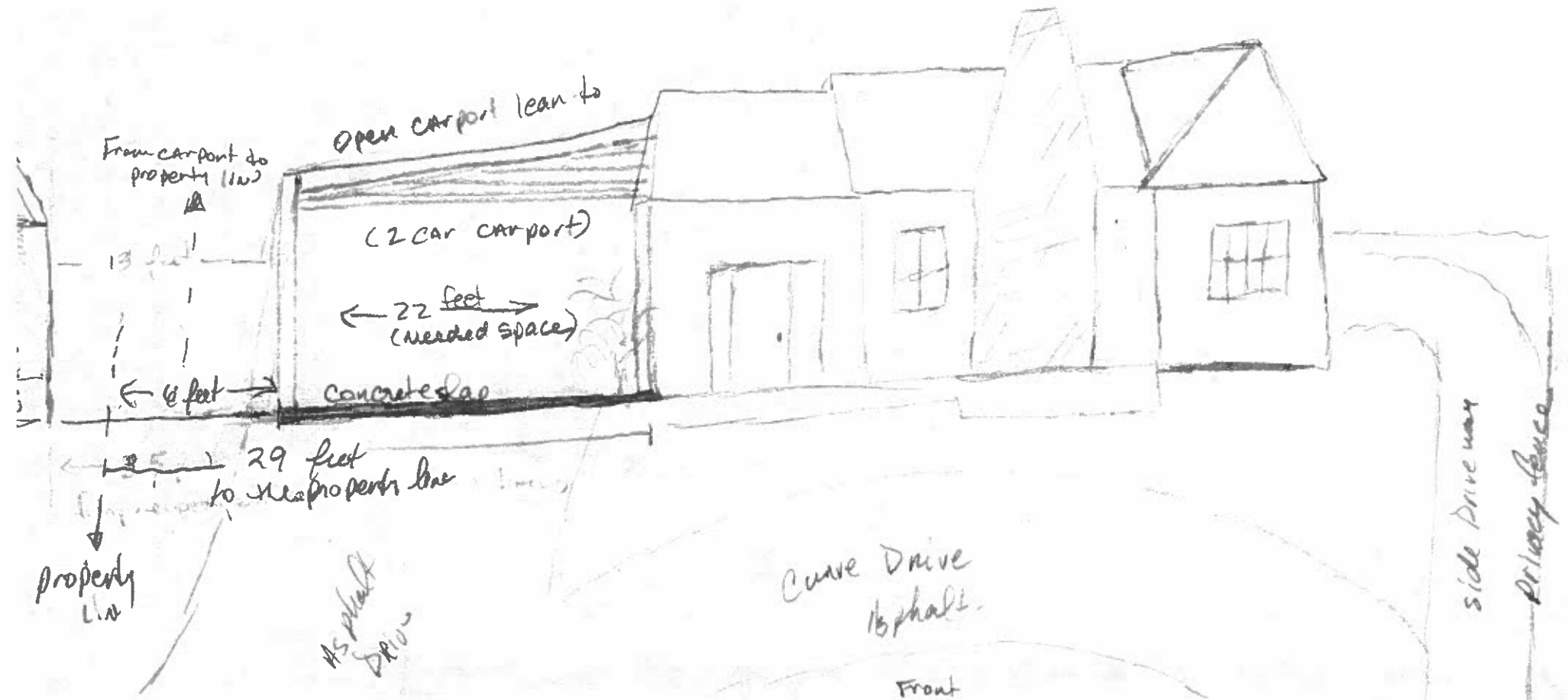
Required Attachment for Variance at 611 S Church St Nacogdoches, TX 75961

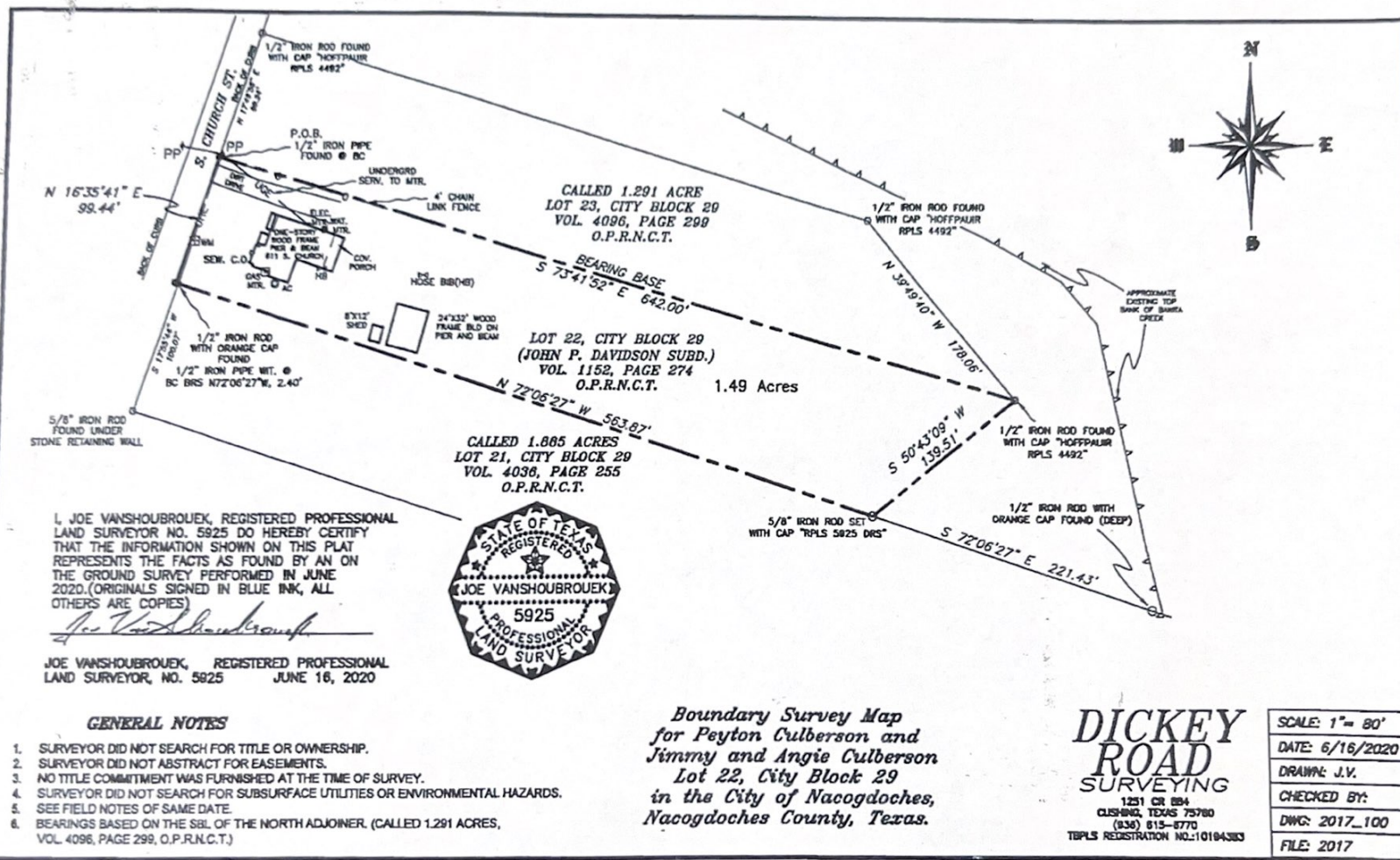
Due to the age of the home and the fact that it falls under the non conforming land use clause in Section 118.202, subsection 2b, we the property owners wish to build a suitable compliant attached carport to the north side of the home that will allow us to park our vehicles and other private property under to protected cover from the elements.

We also would like to address the Section 118-427 A clause, the Distance Development Standard Chart from which to our understanding the zoning type that establishes encroachment on property lines. Based on our current zoning, it doesn't allow enough room to build an attached carport. To be allowed to build this carport as other single family zoning are, perhaps the board will be willing to consider our request of our unique situation. By normal residential zoning standards, our space would meet all required standards to build.

Please see that our request is acting in good faith to abide by city laws and standards. We want the best outcome for our quality of living in this area. We will provide any additional information that you will need.

611 S Church St.
nac. 75961





City of Nacogdoches



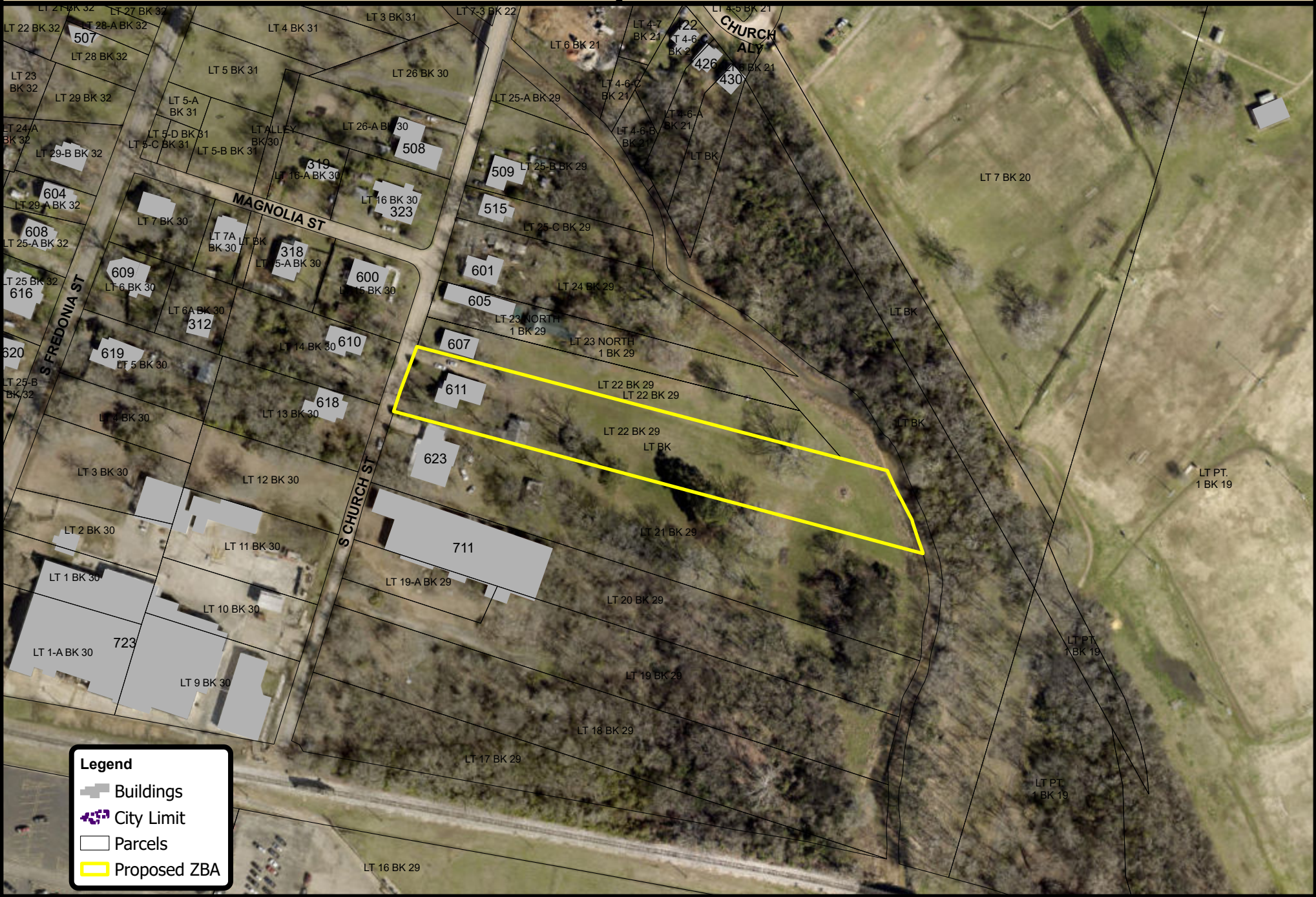
6/26/2023, 10:19:41 AM

Buildings  Parcels  Street Labels 

 Parcels  Pavement  City Limits

1:282

Aerial Map ZBA 2023-05



Legend

- Buildings
- City Limit
- Parcels
- Proposed ZBA

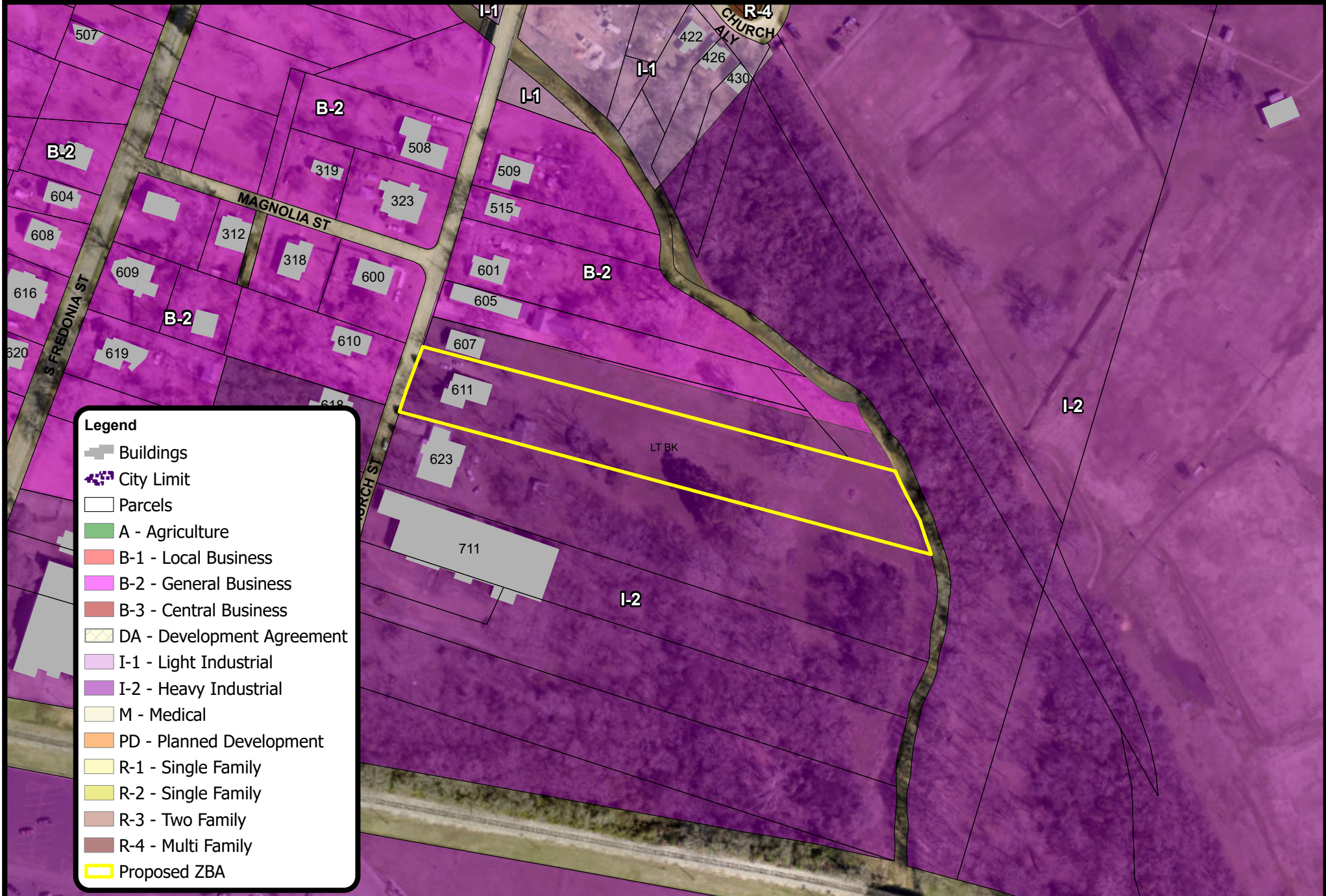


0 75 150 225 300 Feet

Date Created: 05/08/23 14:54 | Document Generated Automatically

Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Zoning Map ZBA 2023-05

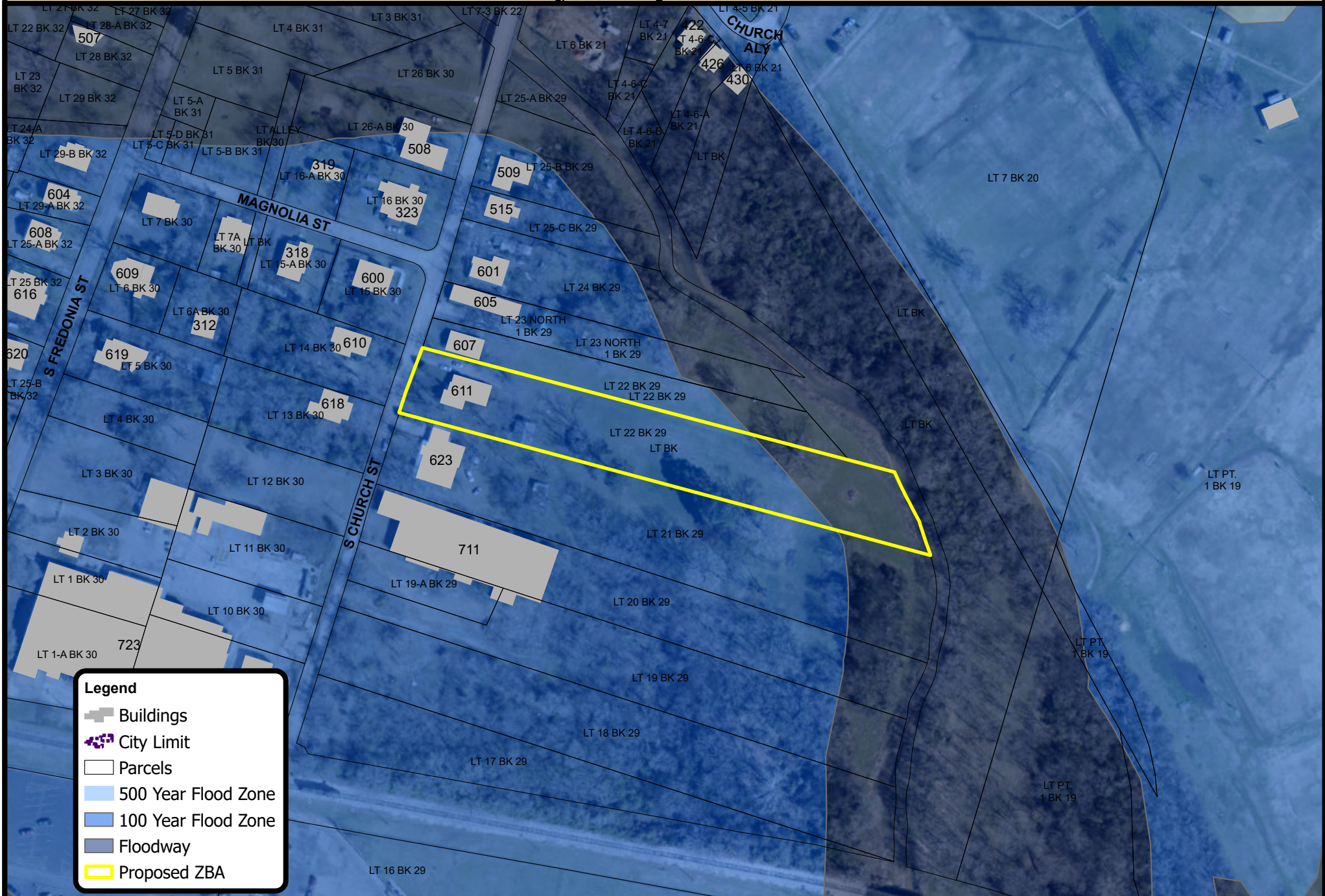


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Floodway Map ZBA 2023-05



Legend

- Buildings
- City Limit
- Parcels
- 500 Year Flood Zone
- 100 Year Flood Zone
- Floodway
- Proposed ZBA



0 75 150 225 300 Feet

Date Created: 05/08/23 14:54 | Document Generated Automatically

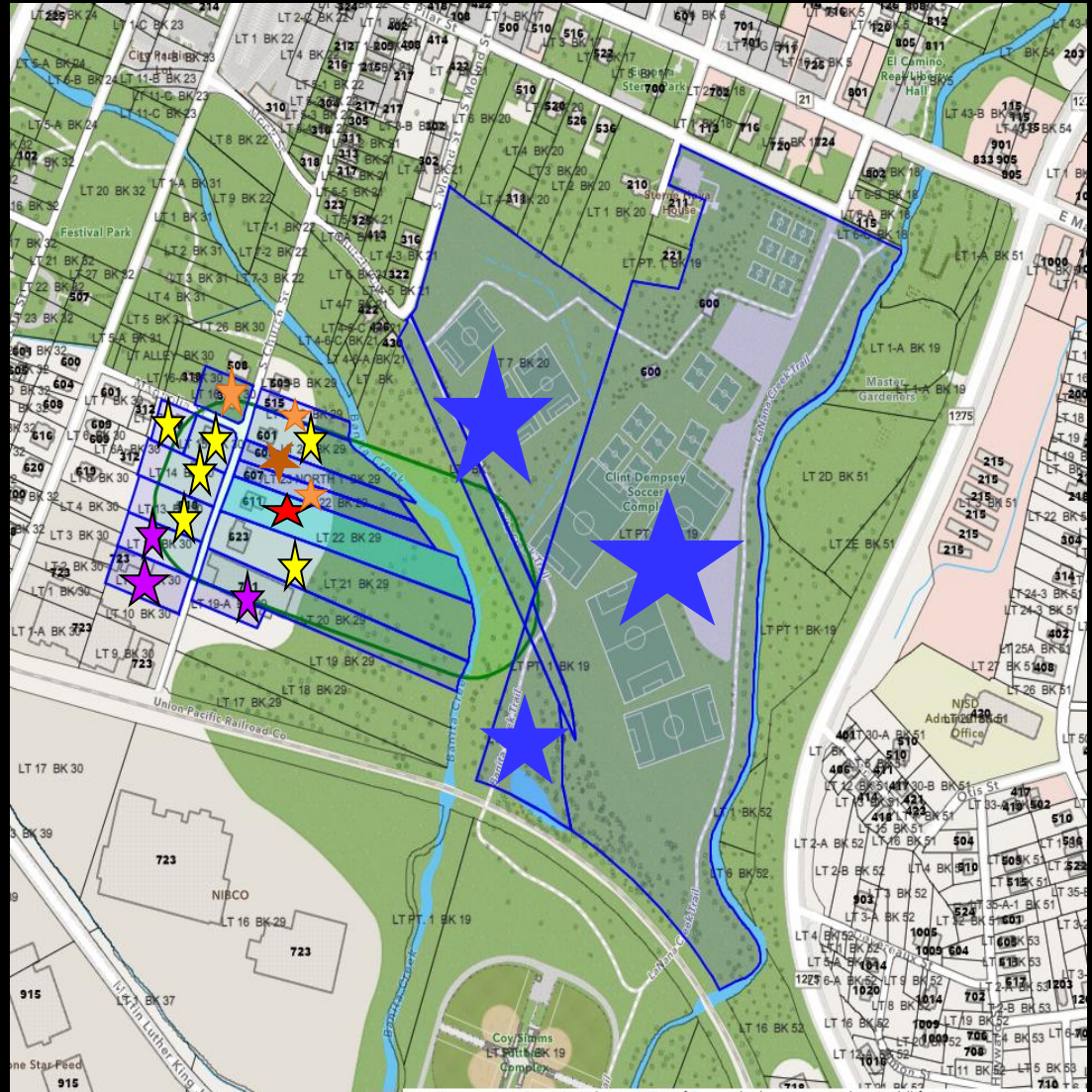
Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

200 Foot Notification Map

Legend

-  200 Foot Buffer
-  Proposed Variance
-  Single Family- Owner Occupied
-  Single Family- Rental
-  Commercial
-  Duplex Rental
-  City Owned Property

ZBA2023-05: 611 South Church



Nacogdoches

the oldest town in Texas



Response Form

Project Number: ZBA2023-05
611 South Church Street

You may make your views known by completing this form and returning it to the planning & zoning department. You may also make your views known in person by attending the public hearings. **Please complete and return form to:**

City of Nacogdoches Planning & Zoning Department
Attn: Aimee Cloutier
P.O. Drawer 635030
Nacogdoches, TX 75963

You may also email a copy to Aimee Cloutier, cloutiera@nactx.us

Project Number: ZBA2023-05

Please circle one:

☒ In favor of request

☐ Opposed to request

Comments:

Signature: Anthony King

Printed Name: Anthony King

Street Address: 600 S. Church St

City, State and Zip Code: Nacogdoches, TX 75961

Phone Number: 936-445-0516

Email Address: dingydane@gmail.com

Physical Address of Property within 200 Feet: _____

City of Nacogdoches

202 E. Pilar – PO Drawer 635030 – Nacogdoches, TX 75963
936-559-2574 Fax 936-559-2910 www.nactx.us
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611 South Church Street

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Nacogdoches, TX 75963

You may also email a copy to Aimee Cloutier, cloutiera@nactx.us

Project Number: ZBA2023-05

Please circle one:

☒ In favor of request

☐ Opposed to request

Comments:

Signature: 

Printed Name: W. Ray Driver

Street Address: 618 S. Church St

City, State and Zip Code: Nacogdoches TX 75961-5522

Phone Number: 936 564 1113

Email Address: Do Not Use Email

Physical Address of Property within 200 Feet: 618 S. Church

City of Nacogdoches

202 E. Pilar – PO Drawer 635030 – Nacogdoches, TX 75963
936-559-2574 Fax 936-559-2910 www.nactx.us
Home of Stephen F. Austin State University www.sfasu.edu



#3

Response Form

Project Number: ZBA2023-05
611 South Church Street

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Nacogdoches, TX 75963

You may also email a copy to Aimee Cloutier, cloutiera@nactx.us

Project Number: ZBA2023-05

Please circle one:

☒ In favor of request

☐ Opposed to request

Comments:

okay with it

Signature:

X Bonifacio M. Murillo

Printed Name:

Murillo Bonifacio Guia

Street Address:

601 S. Church ST

City, State and Zip Code:

NAC TX 75961

Phone Number:

936-221-3651

Email Address:

N/A

Physical Address of Property within 200 Feet:

601 S. Church ST

City of Nacogdoches

202 E. Pilar -- PO Drawer 635030 -- Nacogdoches, TX 75963
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