

Subject:	February 14, 2023 – Planning and Zoning Board Meeting
From:	Central Florida Regional Planning Council
То:	City of Avon Park Planning and Zoning Board
Date:	February 8, 2023

Enclosed please find the Agenda Package for the February 14, 2023, Planning and Zoning Board meeting. The following items are included:

- Meeting Agenda
- Meeting Minutes
- Public Hearing Items

The next City of Avon Park Planning and Zoning Board meeting is scheduled for <u>Tuesday</u>, <u>February 14, 2023 at 5:30 pm</u>. Avon Park, Florida. The meeting will be held in the City of Avon Park Council Chambers located at 123 E. Pine St. Avon Park, Florida. An option to attend the public meeting virtually is also available.

To access the virtual meeting via Zoom, please join us from your computer, tablet or smartphone at:

https://zoom.us/

Click "Join a Meeting" And enter the Meeting ID # below

599 309 2787

CITY OF AVON PARK

Highlands County, Florida



Office of the City Manager 110 East Main Street Avon Park, Florida 33825

PLANNING AND ZONING BOARD

Tuesday, February 14, 2023 5:30 P.M. City of Avon Park Council Chambers

123 E. Pine St., Avon Park, Florida, 33825

(Virtual attendance option via Zoom) <u>https://zoom.us/</u> Meeting ID# 599 309 2787 AGENDA

A. CALL TO ORDER

- B. ROLL CALL
- C. APPROVAL OF MEETING MINUTES
 - September 13, 2022

D. PUBLIC HEARING ITEMS:

1) **<u>RESOLUTION 2023-01:</u>**

A RESOLUTION OF THE CITY OF AVON PARK, FLORIDA, GRANTING A 35-FOOT VARIANCE FROM THE REAR YARD SETBACK REQUIREMENT OF 50-FEET, TO ALLOW A 15-FOOT REAR YARD SETBACK FOR A NEW BUILDING LOCATED AT 103 CR 17A West (PARCEL NUMBER: A-15-33-28-280-0000-0010), AVON PARK, FLORIDA.

E. OTHER BUSINESS

F. ADJOURN

Any person who might wish to appeal any decision made by the Planning and Zoning Board of the City of Avon Park, Highlands, County, Florida, in public hearing or meeting is hereby advised that he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based. Any person with disabilities requiring accommodations in order to participate should contact the City Manager prior to the meeting. One or more council members may be in attendance.



CITY OF AVON PARK *Highlands County, Florida* MINUTES OF THE PLANNING & ZONING BOARD September 13, 2022, at 5:30 p.m.

- A. <u>OPENING:</u> CTO 5:40 p.m.
- B. <u>ROLL CALL:</u> City Clerk Hardman

MEMBERS PRESENT:	Member Sebrena Blake Member Donald Cummings Member Eric Marshall Member Daniel Sauls Chair Jason Miller
MEMBERS ABSENT:	Member Roger Gurganus Member Jean Jordan Vice Chair, Sharon Schuler
STAFF PRESENT:	Human Resources Director David Shoup CFRPC, Stephanie Vaughn Paleski-Bush City Clerk Christian Hardman

CITY COUNCIL LIAISON PRESENT:

Brittany McGuire

Code Enforcement Supervisor LaBelle

SWEARING IN OF NEW MEMBERS:

The City Clerk performed the Oath of Office for Eric Marshall and Daniel Sauls.

C. APPROVAL OF MEETING MINUTES:

• <u>August 9, 2022</u>

MOTION made by Member Cummings; seconded by Member Sauls, to approve the Minutes for the August 9, 2022, Planning and Zoning meeting, as presented.

AYE: Blake, Cummings, Marshall, Sauls, Miller NAY: None Motion passed 5-0

D. PUBLIC HEARINGS:

1) RESOLUTION 2022-21: A RESOLUTION OF THE CITY OF AVON PARK, FLORIDA, GRANTING TWO (2) VARIANCES, SPECIFCALLY GRANTING A VARIANCE OF TEN (10) FEET FROM THE SIGN HEIGHT REQUIREMENT OF FIFTEEN (15) FEET, TO ALLOW A NEW TWENTY-FIVE (25) FOOT FREESTANDING SIGN, AND A VARIANCE OF ELEVEN (11) SQUARE FEET FROM THE SIGN AREA REQUIREMENT OF SIXTY-FOUR (64) SQUARE FEET TO ALLOW A SIGN AREA OF SEVENTY-FIVE (75) SQUARE FEET; ON PROPERTY LOCATED AT 1600 SOUTH U.S HIGHWAY 27, AVON PARK, FLORIDA.

Chair Miller asked if the Board would decide on the agenda item as the Zoning Board of Adjustment or the Planning and Zoning Board. Stephanie Vaughn- of CFRPC Vaughn said the hearing is under the Planning and Zoning Board.

Vaughn presented Huston Motor's request for a sign variance for 1600 South US 27 included in the Planning and Zoning Board's agenda packet. The request comprises two variances; allowing a freestanding sign with a height of 25 feet and to allow a sign area of 75 square feet. She went over existing future land use and zoning for the property, the property size, and signs compatibility with signs and setbacks in the C-2 Zoning District. Ms. Vaughn went over the applicants' proposed sign and area standards; she provided standard motion options.

The public hearing opened at 5:44 p.m.

Chair Miller noted the last page of the resolution lists the Chair's signature as the Planning and Zoning Board acting as the Board of Adjustments. The City Clerk said it is the same. Code Enforcement Supervisor LaBelle informed the Board that a representative from Huston Motors, Scooter Wells, was available for questions.

Chair Miller asked if Mr. Wells had anything he would like to add? Mr. Wells said there is not an existing sign at the location; they are not enlarging a sign. The request is to install an additional sign because the dealership is moving from the property next to Bougainvillea Cemetery to a property next to the Chrysler Store. The existing Chrysler sign is 25-feet tall with an area of 75-square feet. Their request is to install another sign that is the same size.

The public hearing closed at 5:45 p.m.

Code Enforcement Supervisor LaBelle said for clarification, the existing sign did not have a variance. At the time the sign was erected, it was on county property; it met the requirements for county codes.

MOTION made by Member Sauls; seconded by Member Marshals: "I move the Planning and Zoning Board approve Resolution 2022-21."

AYE:Blake, Cummings, Marshall, Sauls, MillerNAY:NoneMotion passed 5-0

2) City-initiated text amendments to the City of Avon Park Land Development Code as they pertain to Home Occupations, specifically amending Article 7, Section 7.10.00; and amending Article 2, Section 2.02.08 and Section 2.02.09; and amending Article 9, Definitions; to provide consistency with Section 559.955, Florida Statutes, regarding Home-Based Businesses.

Vaughn presented the request for a text amendment to the city's Land Development Code included in the Planning and Zoning Board's agenda packets. She explained the request is being made because Florida law has changed in 2021 to make adjustments to the home occupation laws. We must bring the Land Development Code into compliance with the new law. She said the intent is to make it easier for business owners to establish a home business by prohibiting local governments from taking certain actions relating to the licensure and regulation of home-based businesses. The revision also specifies which conditions must be met for a business to be considered a home-based business. It also grants authorization for home-based businesses to operate in areas that are zoned for residential use. Additionally, home-based businesses are subject to certain business taxes and provide for certain actions when there is a lawsuit.

She explained that a home-based business must be accessory to the residential use and shall be conducted in the principal residential dwelling unit; clearly incidental and secondary to the dwelling. They may permit it as an accessory dwelling unit that is clearly subordinate to the principal residential dwelling unit on the lot; for

example, a garage. She said a home-based business can have employees that work on the property up to two people. There can be as many remote employees as desired. Vaughn said the amendment provides for specific sign regulations; the residential character must remain; the home occupation cannot take over the property. Signs must be non-illuminated and affixed flat against the exterior wall. Lastly, there cannot be any retail transactions at the home.

Vaughn went over parking regulations; the business cannot generate more parking than what is commonly permitted in a neighborhood. There can be no additional parking spaces and permitted vehicles/trailers have to be parked in legal parking spaces out of the right-of-way. Parking and storage of heavy equipment must comply with the standards provided under the Land Development Code Section 3.03.02. She explained the performance standards outlined in Florida statute; no occupation shall involve equipment or processes that may create or cause noise, odors, vibrations, glare, fumes, electrical interference, or hazards. The business owner must have all required licensing.

Member Marshall asked if there is no option for a business owner to have signage by the road? Vaughn said that is correct.

Public Hearing opened at 5:51 p.m.

There was no public participation.

Public Hearing closed at 5:51 p.m.

MOTION made by Member Sauls; seconded by Member Blake: "I move the Planning and Zoning Board forward the proposed text amendments to the City Council with a recommendation of approval."

AYE: Blake, Cummings, Marshall, Sauls, Miller NAY: None Motion passed 5-0

E. OTHER BUSINESS:

Chair Miller welcomed Member Marshall and Sauls to the Planning and Zoning Board.

Member Sauls spoke of when the City Council appointed Member Marshall and himself; he said the City Council was interested in knowing if any of the existing members will step down. He asked if it should be discussed now. The City Clerk said she reached out to each member and confirmed each member's interest in continuing their service on the board.

Brittany McGuire (City Council Liaison) said the City Council will continue to monitor attendance and involvement for Planning and Zoning. The intention is to have a full board at all times to prevent situations where we have to wait for a quorum.

F. ADJOURN

Meeting adjourned at 5:55 p.m.

ATTEST:

CITY OF AVON PARK:

Christian Hardman, City Clerk

Jason Miller, Chair

RESOLUTION 2023-01

A RESOLUTION OF THE CITY OF AVON PARK, FLORIDA, GRANTING A 35-FOOT VARIANCE FROM THE REAR YARD SETBACK REQUIREMENT OF 50-FEET, TO ALLOW A 15-FOOT REAR YARD SETBACK FOR A NEW BUILDING LOCATED AT 103 CR 17A WEST (PARCEL NUMBER: A-15-33-28-280-0000-0010), AVON PARK, FLORIDA.

WHEREAS, Jahna Concrete Inc. ('applicant') is requesting approval of a variance to permit the construction of a new building structure on Industrial-zoned property located at 103 CR 17A West., Avon Park, Florida, further identified by Parcel Number A-15-33-28-280-0000-0010, and as shown in the aerial photo map in Exhibit "A"; and

WHEREAS, the subject property is approximately 3.36 acres and has a Future Land Use of Industrial and zoning of I-2, Heavy Industrial; and

WHEREAS, per Table 2.04.01(B), for property zoned I-2, the minimum rear yard setback is 50 feet; and

WHEREAS, the new building structure is proposed to be located 15 feet from the rear building line as shown in Exhibit "B, and

WHEREAS, to permit the new building structure in the proposed location on the subject property the variance as outlined herein is required to be approved by the City's Planning and Zoning Board; and

WHEREAS, notice of the Public Hearing was advertised in the Highlands Today and public notice was mailed to all property owners of record located within 300 feet of the subject property; and

WHEREAS, the Planning and Zoning Board may authorize variances from specific provisions of the City's Land Development Code (Code) as will not be contrary to the public interest and the intent of the Code; and

WHEREAS, based on the evidence, testimony, exhibits, comments of public officials and agencies, comments from the applicant, and comments from all interested parties, this Board finds as follows:

- 1. That the proposed public notice of this hearing was provided as required by law.
- 2. That the hearing before this Board was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested parties were heard at said hearing.
- 3. Special conditions and circumstances exist that are peculiar to the land or structure involved and that are not applicable to other lands or structures in the same land use classification.

- 4. Special conditions and circumstances do not result from the actions of the applicant.
- 5. The requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code to other lands or structures in the same land use classification.
- 6. Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other property owners in the identical land use classification and will constitute an unnecessary hardship on the applicant.
- 7. The variance granted is the minimum variance that will make possible a reasonable use of the land or structure.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING BOARD OF THE CITY OF AVON PARK, FLORIDA

<u>Section 1</u>. The variance request of 35-feet from the rear yard setback requirements of 50-feet, to allow a 15-foot rear yard setback, as depicted in Exhibit "B", on property located at 103 CR 17A West, Avon Park, Florida, further identified by Parcel Number A-15-33-28-280-0000-0010, and as shown in the aerial photo map in Exhibit "A"; is hereby granted.

Section 2. Effective Date. This Resolution shall become effective immediately upon its passage.

Section 3. A certified copy of this Resolution shall be duly recorded in the public records of the City of Avon Park, Highlands County, Florida.

INTRODUCED AND PASSED by the Planning and Zoning Board of the City of Avon Park, Florida, in regular session, this <u>14th</u> day of <u>February</u>, 2023.

PLANNING AND ZONING BOARD CITY OF AVON PARK, FLORIDA

Attest:

Chairperson

City Clerk

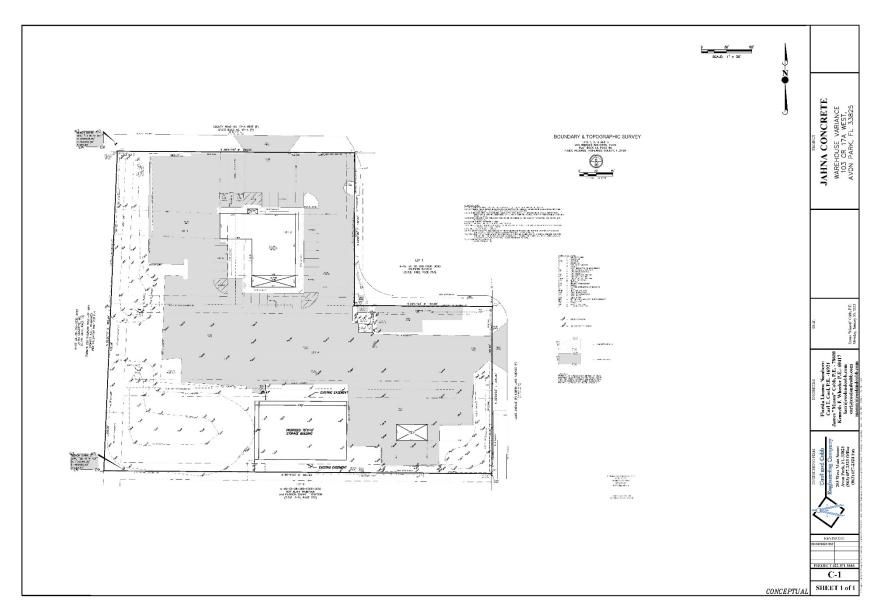
Approved as to form:

City Attorney

Exhibit "A"



Exhibit "B"





CITY OF AVON PARK VARIANCE REQUEST (RESOLUTION 2023-01) OVERVIEW REPORT February 14, 2023

TO: City of Avon Park Planning & Zoning Board

FROM: Central Florida Regional Planning Council

SUBJECT: RESOLUTION 2023-01:

A RESOLUTION OF THE CITY OF AVON PARK, FLORIDA, GRANTING A 35-FOOT VARIANCE FROM THE REAR YARD SETBACK REQUIREMENT OF 50-FEET, TO ALLOW A 15-FOOT REAR YARD SETBACK FOR A NEW BUILDING LOCATED AT 103 CR 17A West (PARCEL NUMBER: A-15-33-28-280-0000-0010), AVON PARK, FLORIDA.

AGENDA & HEARING DATE:

February 14, 2023: Planning & Zoning Board (Public Hearing)

ATTACHMENTS:

- Aerial Photo Map
- Future Land Use Map
- Zoning Map
- Variance Application
- Site Plan
- Subdivision Plat

PLANNING AND ZONING BOARD MOTION OPTIONS:

Variance Motion Options:

- 1. I move the Planning and Zoning Board **approve** Resolution 2023-01.
- 2. I move the Planning and Zoning Board **approve** Resolution 2023-01 **with changes**.
- 3. I move the Planning and Zoning Board **deny** Resolution 2023-01.

REQUEST:

Jahna Concrete Inc. ('applicant') is requesting a variance from the requirements of Section 2.04.01 of the City of Avon Park Land Development Code (LDC), regarding rear yard setbacks. The applicant is requesting approval of a 35-foot variance from the rear yard setback requirement of 50-feet, to allow a 15-foot rear yard setback for a new building.

OVERVIEW & FINDINGS:

The applicant is requesting approval of a variance for a new structure located at 103 CR 17A West., Avon Park, Florida (Parcel Number A-15-33-28-280-0000-0010). The property is approximately 3.36 acres in size and contains an existing 5,222 square foot office building for a concrete-mixing plant. The parcel is used for the office and the outdoor storage of concrete-mixing materials. The subject property has an Industrial Future Land Use and zoning of I-2, Heavy Industrial.

The proposed building, which is the subject of this variance request, has not been constructed on the site. The purpose of the building is to provide covered storage for materials for the existing concrete-mixing plant.

Section 2.04.01 of the City's Code of Ordinances requires a 50-foot rear yard setback for all structures in the I-2 District. The applicant is requesting a 15-foot rear yard setback due to the presence of existing platted drainage easements established on the parcel (see attached site plan and subdivision plat).

To permit the proposed structure on the property, the variance as outlined herein is required to be approved by the City's Planning & Zoning Board.

CRITERIA FOR GRANTING VARIANCES:

The granting of a variance shall be based on a determination by the Planning & Zoning Board that the request will not be contrary to the public interest and the intent of this Code. It is the applicant's burden to demonstrate that their application is consistent with the Land Development Code and Comprehensive Plan. Approval of a variance shall be based solely on the following criteria, all of which must be fully satisfied:

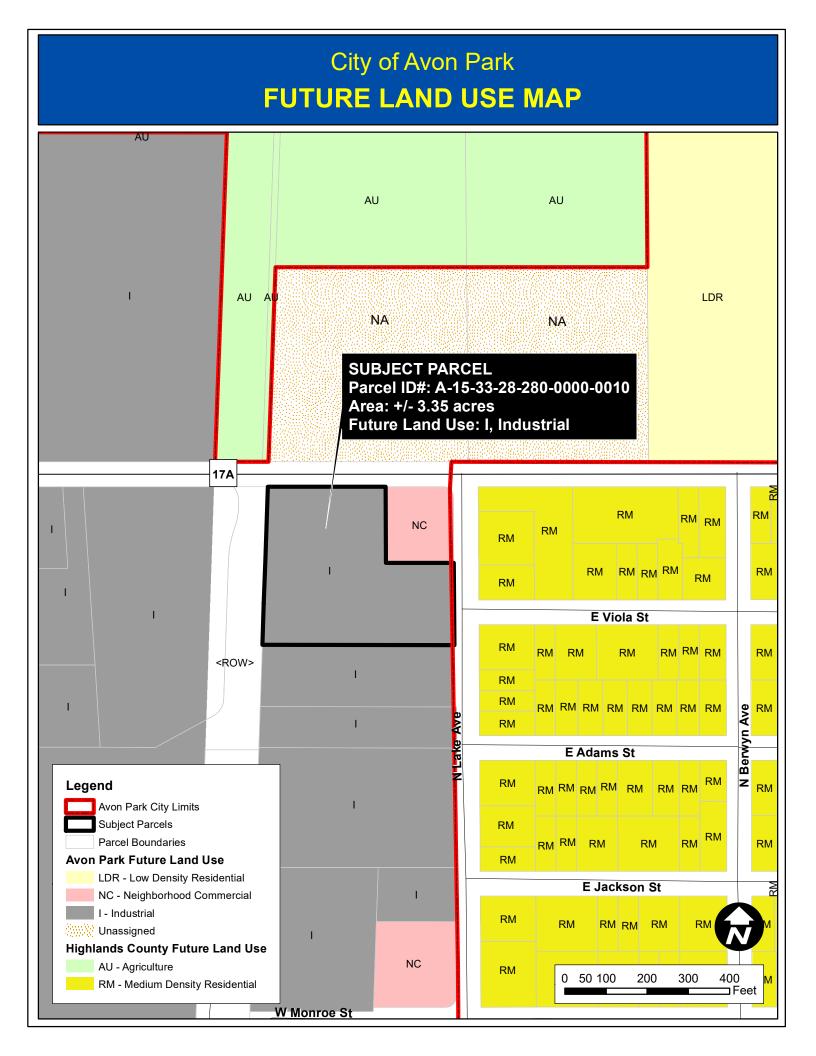
(A) Special conditions and circumstances exist that are peculiar to the land or structure involved and that are not applicable to other lands or structures in the

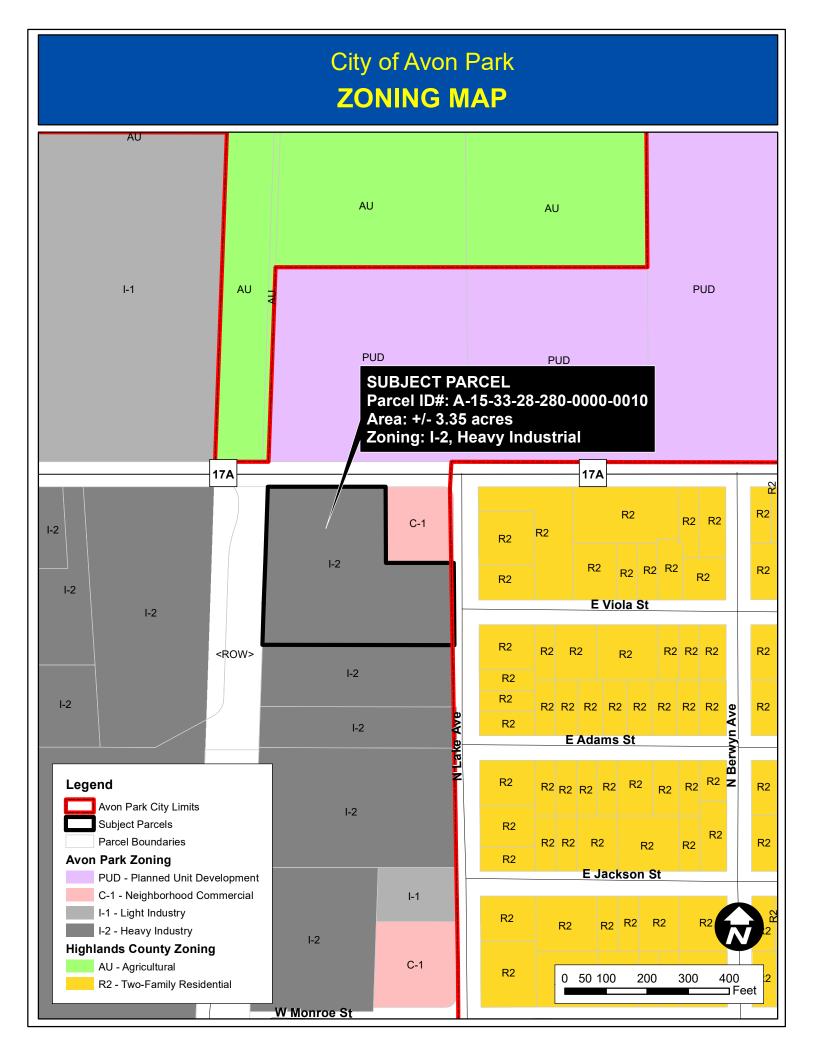
same land use classification. Such limitations could arise from such characteristics as steep slopes, wetlands, or parcel shape that limits the reasonable use of property.

- (B) The special conditions and circumstances do not result from the actions of the applicant. Self-imposed hardship is not grounds for a variance. When conditions giving rise to the need for a variance were created by the property owner or a former owner, the hardship is self-imposed.
- (C) The requested variance, if approved, will not confer on the applicant any special privilege that is denied by the provisions of this Code to other lands or structures in the same land use classification.
- (D) Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other property owners in the identical land use classification and will constitute an unnecessary hardship on the applicant. What determines a "hardship" shall be determined from the facts and circumstances of each individual case.
- (E) That the variance granted is the minimum variance that will make possible a reasonable use of the land or structure.
- (F) That the granting of the variance will be in harmony with the general intent of this Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

City of Avon Park AERIAL PHOTO MAP







CITY OF AVON PARK 110 E. Main Street, Avon Park, Florida 33825

FEE #125 = GITY OF AVON PARK

VARIANCE APPLICATION

Has any previous application or appeal been filed within the last year in connection with these premises? Yes _____ No χ . If Yes, briefly state the nature of the application or appeal.

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Reasons	&	Explanations	
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Explanation of Request, in detail: See Attached					
Explanation of Hardship, if variance is not granted: <u>See Attached</u>					
Impact to contiguous property owners: <u>See Attached</u>	· · · · · · · · · · · · · · · · · · ·				
Required Attachments					
 10 Sets of: Survey of property (a copy of a land survey by a Florida registere land surveyor) 	:d				
 10 Sets of: A site plan drawn to scale showing all setbacks, any pertinent information related to the request, exact location of existing and proposed structures, and location map. Must include a North marker. 					

- Map of properties (a drawing, sketch, plat or tax map) within 300 feet of the property covered in the application. Scale should be at 1" = 200'.
- o Copies of all other permits or permit applications, if applicable to request.
- Certificate of Mailing showing letters were sent to property owners within three hundred (300) feet.
- o Concurrency Evaluation Application (attached).

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Reasons & Explanation:

We are requesting the Rear Setback be reduced from 50' to 15' in order to utilize the buildable land between two easements.

Explanation of Hardship, if Variance is not Granted:

The platted lots were originally designed to have 20' drainage easements between each lot. Jahna Concrete owns lots 1, 3, 4, and 5 and it is all under one parcel. We would like to place the proposed new building inside of the said easements. The 50' setback requirements would create easement issues. In addition, neighboring properties do not meet the said 50' setback requirements.

Impact to Contiguous Property Owners:

There are no impacts to neighboring parcels as there is only one parcel on the south boundary where we propose this setback reduction. The said south parcel owner is currently also Zoned I-2 and their current building setback is approximately 15' to 18'. In addition, the neighboring parcel uses their lot as a boneyard for their automotive shop. Therefore, there are no impacts for a storage building being built in this area.

AGENT'S AFFIDAVIT

I, Jahne Concrete, Iac/ Frederic W Jahne Jr being first duly sworn, depose and say that I am the ATTORNEY-IN-FACT, AGENT or LESSEE of the property described and which is the subject matter of the proposed hearing; that all the answers to the questions in this application, and all sketches, data and other supplementary matter attached to and made a part of the application, are honest and true to the best of my knowledge and belief. I understand this application must be completed and accurate before hearings can be advertised. I also understand that it is my obligation to comply with any other lawfully adopted and recorded deed restrictions or covenants that are more restrictive or impose a higher standard, and that any action of this Board does not supersede those requirements.

_		
Jahne Concrete, INC Printed Name of Agent	Signature of Agent	

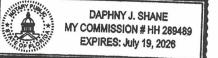
103 County Road 17 A West Address: Number and Street (P.O. Box) City and State (Zip Code)

STATE OF FLORIDA, HIGHLANDS COUNTY

The Foregoing instrument was acknowledged before me this 4th day of January, 2023 by Frederic W and ______ who are personally Jahn Name known by me or who has produced ______ and _____ Personally Known Document Document Personally Known

respectively, as identification and who did (did not) take an oath:

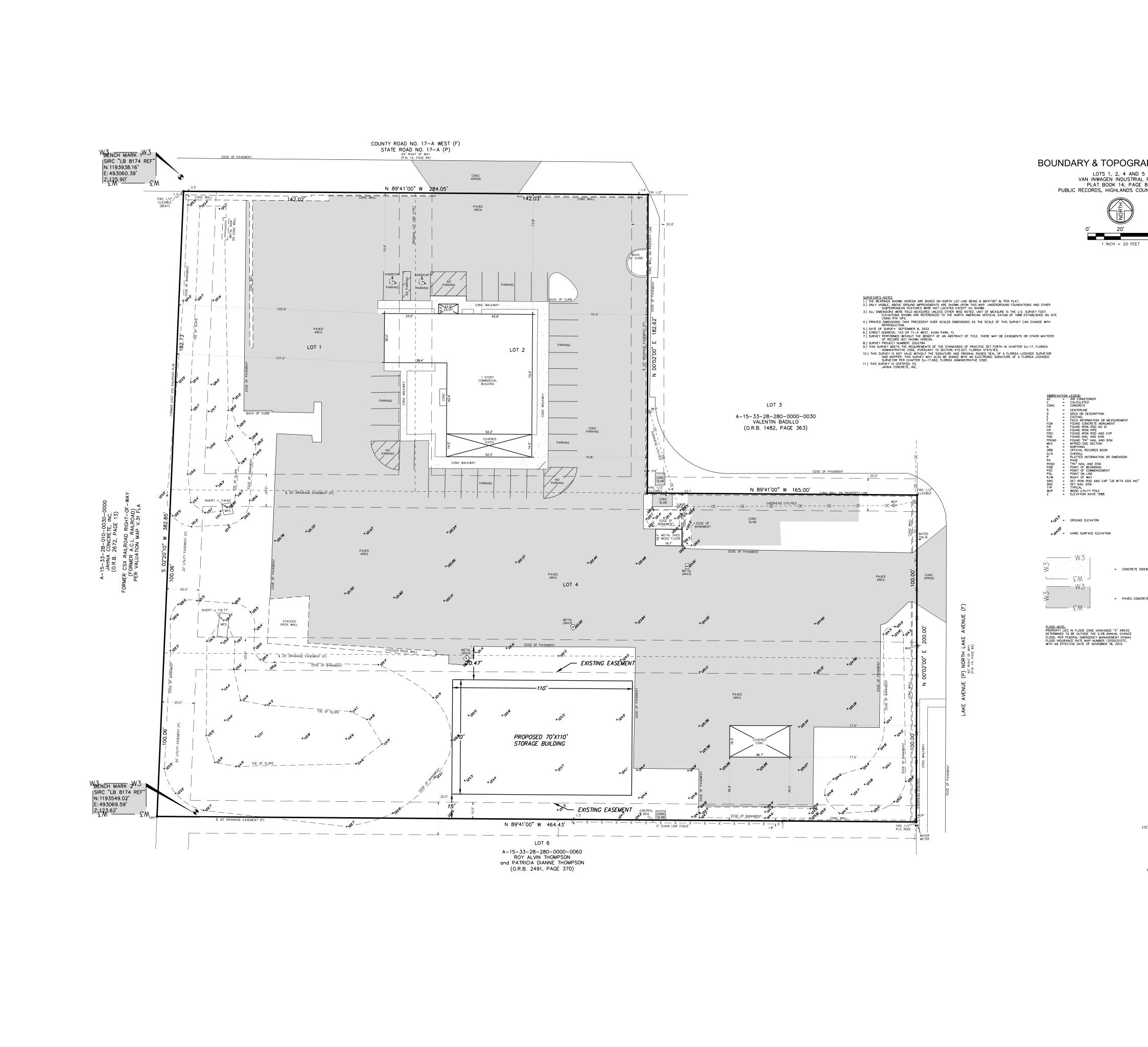
Daptmy Shane Signature



Daphny J. Shane, Notary Public Print Name

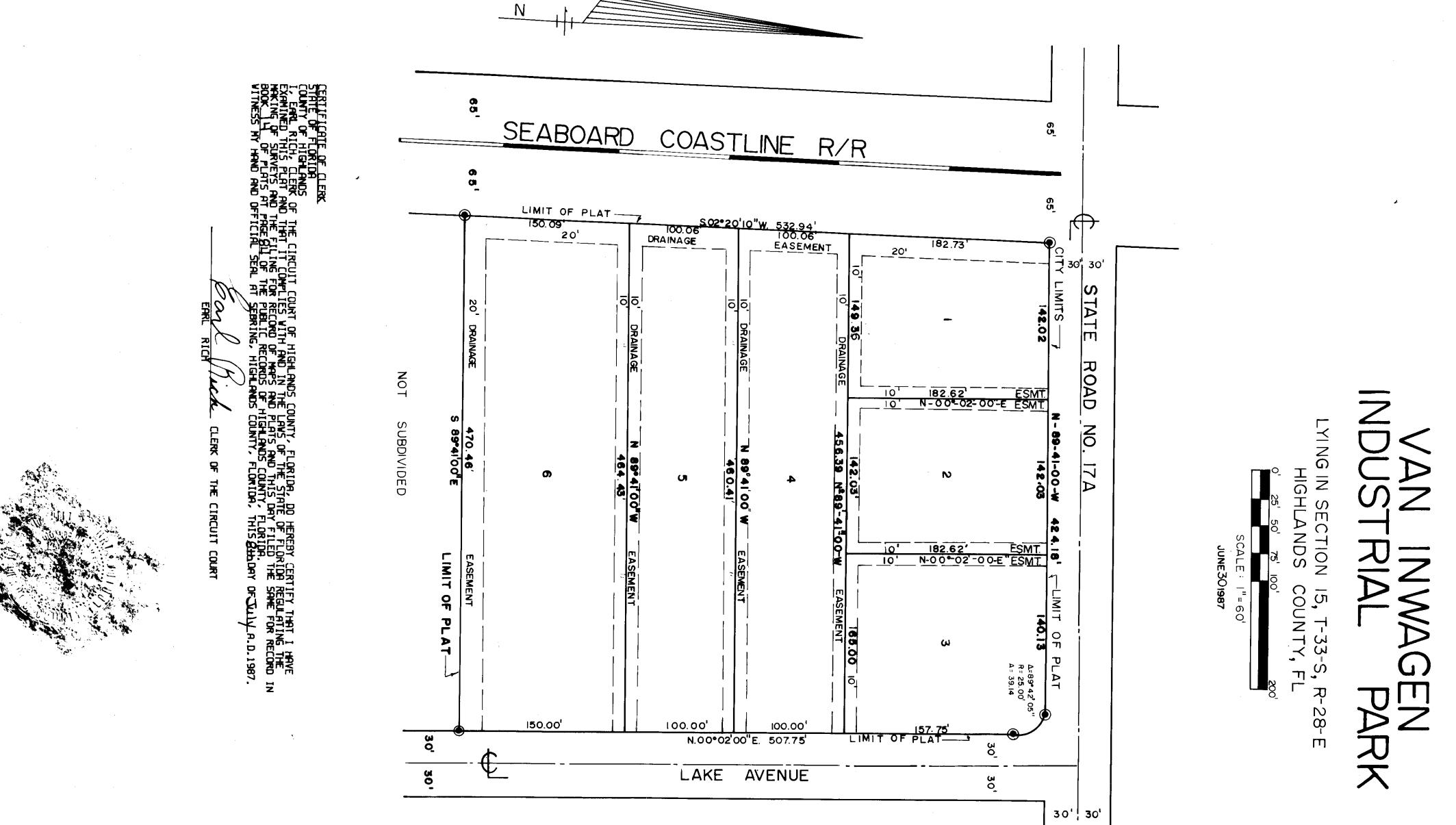
State of Florida My Commission Expires: July 19, 2024

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	0 30' 60' SCALE: 1" = 30'			
ADPHIC SURVEY			PROJECT	JAHNA CONCRETE WAREHOUSE VARIANCE 103 CR 17A WEST, AVON PARK, FL 33825
SIDEWALK			SEAL	James "Mason" Cobb, P.E. Monday, January 30, 2023
NCRE TE			ENGINEERS	Florida License Numbers: Carl E. Cool, P.E16921 James "Mason" Cobb, P.E 78600 Kenneth F. Wheeler P.E. 60417 ken@coolandcobb.com carl@coolandcobb.com mason@coolandcobb.com
LICENSED BUSINESS NO. 8174 4479 US 27 S. SEBRING, FL 33870 863-402.1619 kds06c@gmail.com KYLE D. STIVENDER FLORIDA LICENSE NO.7380				Engineering Cobb Engineering Company 203 West Main Street Avon Park, FL 33825 (863) 657-2323 Office (863) 657-2324 Fax concrete Warehouse Variance/Drawings/Civil2D/Johnn AP Storage Building-dwg
		CONCEPTUAL	01/30/	NO DUPUT 191-112-22/Stability REVISIONS: 2023 MC 202/Stability DJECT #22-371-1616 C-1 202/Stability HEET 1 of 1 1/S

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