

# NEW HANOVER COUNTY

DEPARTMENT OF PLANNING & LAND USE  
 230 Government Center Drive, Suite 110  
 Wilmington, North Carolina  
 Telephone (910) 798-7165  
 FAX (910) 798-7053  
 planningdevelopment.nhcgov.com

**RECEIVED**

SEP - 3 2019



NEW HANOVER COUNTY  
 PLANNING & ZONING

## VARIANCE Application

Applicant/Agent Information		Property Owner(s) If different than Applicant/Agent	
<b>Name</b> Danny York		<b>Owner Name</b>	
<b>Company</b> Caliber Car Wash Wilmington, LLC		<b>Owner Name 2</b>	
<b>Address</b> PO Box 19154		<b>Address</b>	
<b>City, State, Zip</b> Atlanta, GA 31126		<b>City, State, Zip</b>	
<b>Phone</b> (770) 765-6711		<b>Phone</b>	
<b>Email</b> dyork@caliber-capital.com		<b>Email</b>	
<b>Subject Property Information</b>			
<b>Address/Location</b> 7032 Market St, Wilmington, NC 28411			
<b>Parcel Identification Number(s)</b> R04409-003-027-000			
<b>Total Parcel(s) Acreage</b> +/- 0.84 Ac			
<b>Existing Zoning and Use(s)</b> B-2			
<b>Application Tracking Information (Staff Only)</b>			
<b>Case Number</b> ZBA-941	<b>Date/Time received:</b> 8/30/19 4:00 pm	<b>Received by:</b> KV	

## PROPOSED VARIANCE NARRATIVE

Subject Zoning Regulation, Chapter and Section: See Attachment (EV)

In the below space, please provide a narrative of the application. (Additional pages may be attached to the application if necessary)

See attached proposed variance narrative.

## CRITERIA REQUIRED FOR APPROVAL OF A VARIANCE

The Zoning Board of Adjustment may grant a variance if it finds that strict application of the ordinance results in an unnecessary hardship for the applicant, and if the variance is consistent with the spirit, purpose, and intent of the ordinance. The applicant must explain, with reference to attached plans (where applicable), how the proposed use meets these required findings (please use additional pages if necessary).

1. **Unnecessary hardship would result from strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.**

Following the strict application of the ordinance would create a hardship by removing five (5) significant oak trees on site which contradicts the intent of the ordinance and is undesirable to the community. The proposed site plan was designed to preserve every significant tree on site, including four (4) two hundred (200+) plus year old oak trees.

2. **The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or general public, may not be the basis for granting a variance.**

The existing property contains eight (8) significant oak trees and one (1) significant magnolia tree creating a hardship peculiar to the property. The adjacent property is currently zoned residential, requiring a buffer strip; in addition to the building setbacks, the ordinance creates a limited area to develop which would require the removal of the significant oak trees to comply with code.

3. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**

The North Carolina Department of Transportation recently acquired additional right-of-way to construct a multi-use path, reducing depth to the front yard and street yard creating a hardship to meet the requirements of the ordinance.

4. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

According to Section 62.2-1, "New Hanover County enthusiastically supports new development that protects and preserves the natural assets which make our area so desirable as a place to live, work and recreate. Old growth native species trees are an important natural asset. The County recognizes the value and benefit of mature trees in protecting, preserving and enhancing quality of life for present and future citizens.

Some of the many benefits of tree preservation include:

- Conservation of energy by shading buildings and paved surfaces
- Filtering of airborne pollutants
- Removal of atmospheric carbon dioxide
- Reduction of stormwater runoff
- Slowing of flood waters
- Recharging of groundwater
- Protecting the cultural and historic character of the area
- Increasing the value of homes and businesses"

The variance requests would allow the proposed development to protect and preserve all significant trees currently on site consistent with the spirit, purpose and intent of the ordinance.

## APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". Staff will not process an application for further review until it is determined to be complete.

Required Information		Applicant Initial	Staff Initial
1	Complete Variance application	<i>[Handwritten Initials]</i>	KV
2	Application fee – \$400	<i>[Handwritten Initials]</i>	KV
3	Site plan or sketch illustrating requested variance	<i>[Handwritten Initials]</i>	KV
4	1 hard copy of ALL documents	<i>[Handwritten Initials]</i>	KV

## ACKNOWLEDGEMENT AND SIGNATURES

By my signature below, I understand and accept all of the conditions, limitations and obligations of the variance application for which I am applying. I understand that I have the burden of proving why this application meets the require findings necessary for granting a variance. I certify that this application is complete and that all information presented in this application is accurate to the best of my knowledge, information, and belief.

I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

1. Submit an application including all required supplemental information and materials;
2. Appear at public hearings to give representation and commitments; and
3. Act on my behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of this application.

*[Handwritten Signature]*

Signature of Property Owner(s)

Daniel York

Print Name(s)

Signature of Applicant/Agent

Print Name(s)

**NOTE:** Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

**\*The land owner or their attorney must be present for the case at the public hearing.**

*For Staff Only*

**Application Comments**

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## **Proposed Variance Narrative**

**52.2-4 (2): Minimum Front Yard - Fifty (50) feet along US and NC numbered highways and major thoroughfares as designated by the Wilmington Area Thoroughfare Plan. Thirty-five (35) feet along all other public highways or streets.**

A variance to reduce the minimum front yard setback of fifty (50) is requested. The existing building is currently set back approximately thirty-three (33) feet from the front property line. The proposed building is set back approximately thirty-seven (37) feet from the front property line, so although a variance is requested, the developer is improving the existing condition.

## **62.1-10: Street Yard Landscaping**

A variance to remove the required street yard landscaping is requested. The proposed site plan is designed to allow a car wash development to properly function while eliminating the need to remove any significant trees. However, the positioning of the proposed building does not provide a street yard meeting the requirements described in the ordinance. The North Carolina Department of Transportation recently acquired additional right-of-way, moving the front property line back approximately seventeen and a half (17.5) feet. There is approximately thirty-four (34) feet of landscaped area between the back of curb of the development and the edge of pavement of Market Street (minus the future ten (10) foot multi-use path which is allowed in the street yard per code). Furthermore, we will add aesthetically appealing shrubs to the strip of land between our curb and the property line.

**62.1-5 (2) D: Parking Area Screening - When a parking facility is within fifty ft. of a right-of-way, if the bufferyard provisions of this ordinance do not call for a planted buffer, a low buffer shall be incorporated into the streetyard to provide protection from vehicle headlights within the parking lot. The buffer shall consist of shrubbery, a grade change or planted berm or any combination thereof that serves to shield traffic on the right-of-way from headlights within the parking lot. The buffer shall be a minimum of three ft. in height and five ft. in width and may be continuous and incorporated into a streetyard, provided the streetyard is fifteen ft. or more in width. Depressions and curb cuts shall be allowed for water quality protection.**

A variance to reduce the required parking area screening abutting a right-of-way is requested. The proposed site plan does not provide a five (5) foot wide buffer. Instead, the proposed site plan provides an average buffer width of three and a half (3.5) feet. The proposed buffer will contain shrubbery three feet in height to shield traffic on the right-of-way from headlights within the development.

**52.2-4 (3): Minimum side and rear yards for property abutting residential districts:**

**(A) The required minimum setbacks for structures shall be calculated in accordance with Section 60.3.**

**(B) Buffering and landscaping shall meet the requirements of Section 62.1-4 (3/9/88).**

A variance to reduce the requirements of the side yard setback and buffer abutting residential districts is requested. The existing building is currently set back approximately eleven (11) feet at its closest point and averages thirteen and a half (13.5) feet from the adjacent residential property. The proposed building is set back approximately eleven (11) feet at its closest point and averages seventeen (17) feet from the adjacent residential property, so this development will improve existing conditions by moving the building further away from the buffer.

The existing buffer between the subject and residential properties is currently densely vegetated with trees, shrubs and vines. No changes are proposed to the existing buffer plantings. Furthermore, the existing six (6) foot tall privacy fence will remain and the developer will add a new six (6) foot tall privacy fence extending to the rear of the property, which will provide even more of a buffer.

The adjacent residential property is one (1) of three (3) residentially zoned properties on the southern side of Market Street for a span of approximately six and a half (6.5) miles. The future land use map shows a proposed zoning use the same as the subject property. Chances are that the adjacent property will be sold and rezoned in the very near future for a commercial use.

Noise generated from the proposed development will be contained within the building or on the opposite side of the development from the residential property and will be dampened by existing natural vegetation and fencing. The proposed development does not intend to increase the amount of heat or dust to the residential property due to the existing tree canopy. Lights from the proposed development will be directed away from the residential property. A six (6) foot wooden fence will be located between the proposed development and the residential property to reduce the threats to privacy to the residential property. The proposed development will not produce an aesthetic impact to the residential property due to the natural vegetation that currently exists between the two properties.







Avery Ward  
500 Sun Valley Dr, Ste H3  
Roswell, GA 30076  
(404) 594-4403

30 August 2019  
Ken Vafier  
New Hanover County  
230 Government Center Dr, Ste 110  
Wilmington, NC 28403

Re: 7032 Market St Car Wash – Variance Application

### TRANSMITTAL

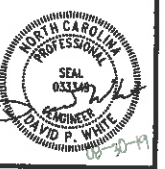
Variance Application	1
Application Fee	1
Preliminary Site Plan	1
Existing Conditions Plan	1
Survey	1



Avery Ward

CC: Files





**civilogistix**

500 SUN VALLEY DRIVE, STE H3, ROSWELL, GA 30076  
(404) 594-4403 - civilogistix.com

**PRELIMINARY SITE PLAN**

FOR PROJECT  
**Market St Car Wash**  
703.2 Market St  
Wilmington, NC 28411

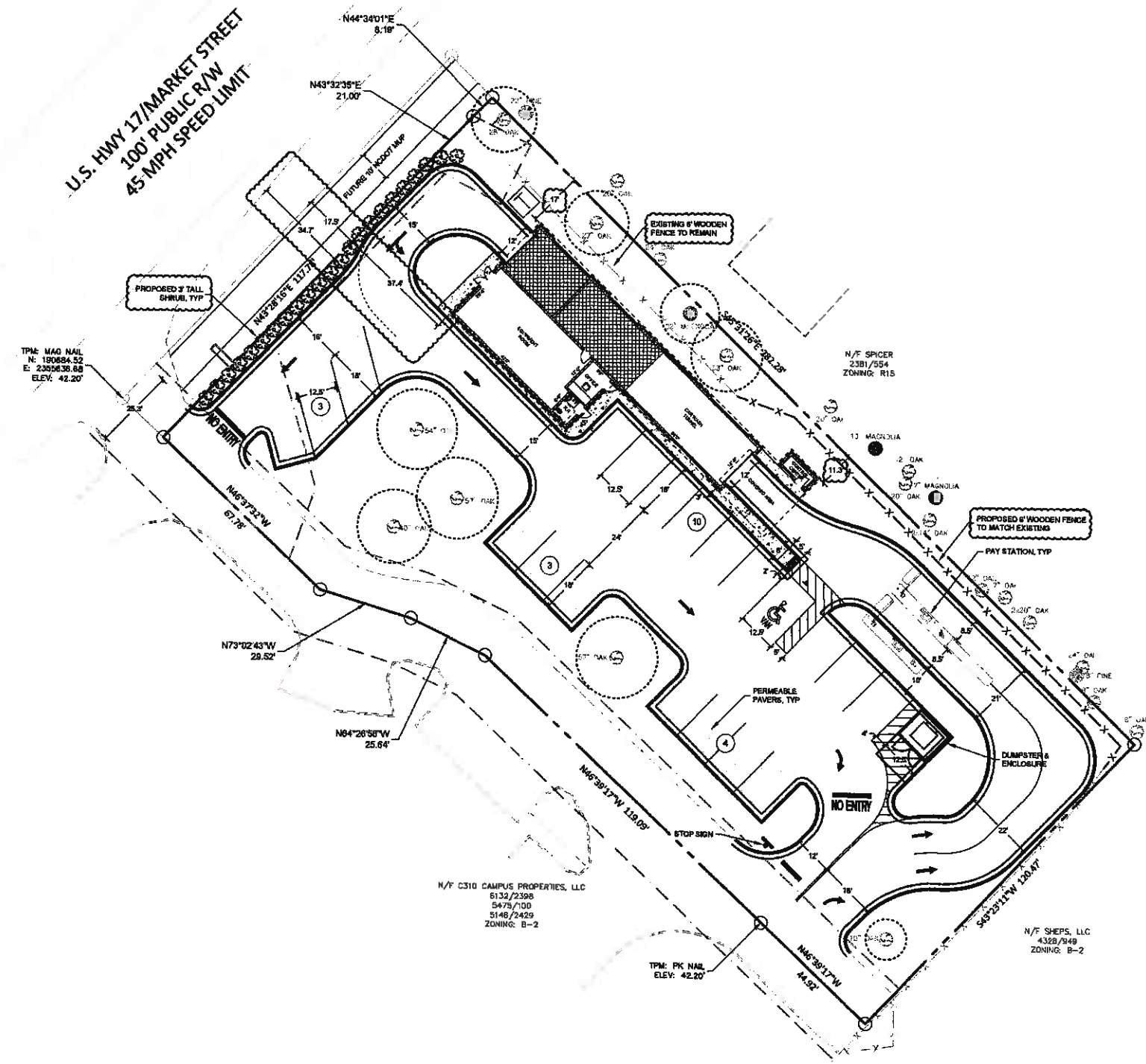
FOR  
**Caliber Capital**  
300 E. Peace Ferry Rd NE  
Atlanta, GA 30305

SHEET NUMBER  
**CP1**

PROJECT NUMBER  
**18115**

DATE  
**August 30, 2019**

REVISIONS



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NEW HANOVER COUNTY  
PLANNING & ZONING



**PRELIMINARY SITE PLAN**

Plot Date: August 28, 2019 11:50:09 AM Location: C:\Users\David P. White\OneDrive\Documents\18115\18115\_18115\_PlanSet\18115\_18115\_PreliminarySitePlan.dwg Project: Market St Car Wash Drawn By: David P. White Checked By: David P. White Date Plotted: 8/30/2019 11:50:09 AM Scale: 1\"/>





NOTES:  
 1. SOLID LINES ARE LINES SURVEYED. DASHED LINES ARE LINES NOT SURVEYED, RECORDED DATA ONLY.  
 2. NO GRID MONUMENT FOUND WITHIN 2000' OF SITE. COORDINATES ESTABLISHED USING NC VRS REFERENCING HANCOCK, NC SPC 3200.  
 3. THE ERROR OF CLOSURE CALCULATED BY LATITUDES AND DEPARTURES IS 1/10,000. THE ENCLOSURE IS DETERMINED BY THE CRAMER METHOD AND THE AREA, IF SHOWN, IS CALCULATED BY COORDINATE METHOD.  
 4. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP, TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.  
 5. ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES.  
 6. ALL ELEVATIONS SHOWN REFERENCE HANCOCK.  
 7. BASIS OF BEARINGS SHOWN REFERENCE MAP BOOK 33, PAGE 221.

REFERENCES:  
 D.B. 5960, PG. 2008  
 D.B. 4923, PG. 2830  
 M.B. 33, PG. 221

AREA:  
 0.84 +/- ACRES

PROPERTY ZONED: B-2  
 HIGHWAY BUSINESS DISTRICT  
 REQUIRED MINIMUM SETBACKS FOR STRUCTURES SHALL BE CALCULATED IN ACCORDANCE WITH SECTION 60.3 OF THE NEW HANOVER COUNTY ZONING ORDINANCE. MAXIMUM BUILDING HEIGHT: 40.0'

- LEGEND:
- EP - EXISTING IRON PIPE
  - EIR - EXISTING IRON ROD
  - MAG - EXISTING MAG NAIL
  - PK - EXISTING PK NAIL
  - DOT - EXISTING D.O.T. MONUMENT
  - CP - COMPUTED POINT
  - - ELECTRIC PEDESTAL
  - - BACKFLOW VALVE
  - - SEWER MANHOLE
  - - GREASE TRAP
  - - GUY WIRE
  - - UTILITY POLE
  - - LIGHT POLE
  - OH - OVERHEAD WIRE
  - - SEWER CLEANOUT
  - - TREE SIZE AND TYPE
  - - WATER METER
  - - BACKFLOW PUMP
  - - SIGN
  - - DRAIN INLET
  - - TELEPHONE MANHOLE
  - - FIBER OPTIC
  - - GAS VALVE
  - - UTILITY STUB

THIS PARCEL OF LAND LIES WITHIN FLOOD ZONE WHICH IS NOT A SPECIAL FLOOD HAZARD AREA AS PER FIRM PANEL NUMBER: 3720319900V EFFECTIVE DATE: 04/03/2006

I, JASON M. FALLA, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- (1) CLASS OF SURVEY: A
- (2) POSITIONAL ACCURACY: 0.05
- (3) TYPE OF GPS FIELD PROCEDURE: RTK/NCVRS
- (4) DATES OF SURVEY: 05/03/2018
- (5) DATUM/EPOCH: NAD83(2011)/EPOCH 2010.0000
- (6) PUBLISHED/FIXED-CONTROL USE: NCVRS
- (7) GEOD MODEL: 12B
- (8) COMBINED GRID FACTOR(S): 1.0000232
- (9) UNITS: US SURVEY FEET

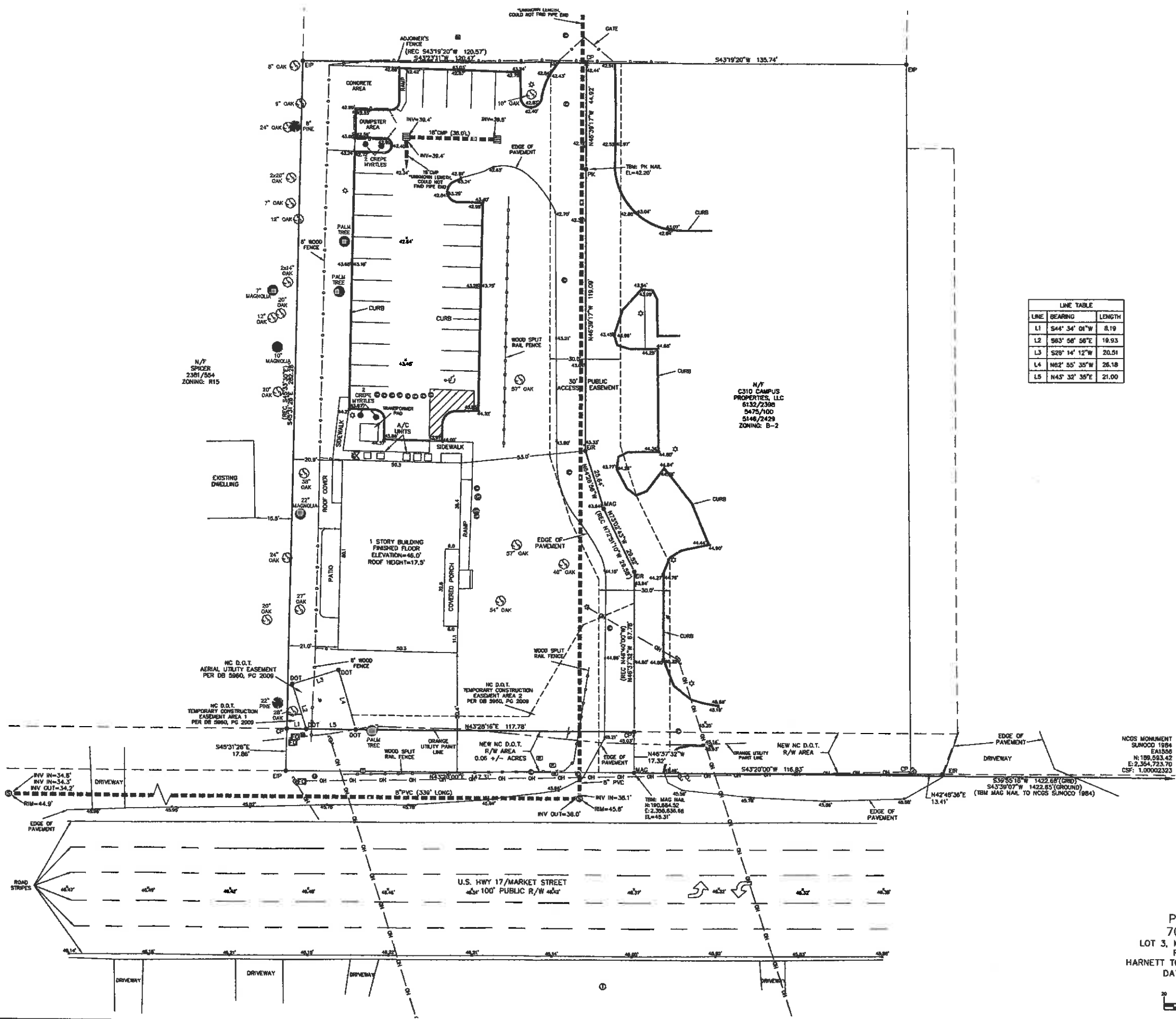


I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK AS SHOWN, PAGE AS SHOWN OR OTHER REFERENCE SOURCE AS SHOWN). THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK AS SHOWN, PAGE AS SHOWN OR OTHER REFERENCE SOURCE AS SHOWN. THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000. AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS DAY OF May 2018.

JASON M. FALLA, PLS L-4955

UNLESS SHOWN, SEALED AND DATED, THIS IS A PRELIMINARY PLAN FOR RECORD, SALES OR CONVEYANCES.

**PORT CITY GEOMATICS, LTD.**  
 PROFESSIONAL LAND SURVEYING  
 4701 WINDYHILL AVE.  
 BUILDING 3, UNIT 101  
 WILMINGTON, NC 28403 (910) 791-1212  
 WILMINGTON, NC 28403 (910) 279-7824  
 FIRM# C-3844 E-MAIL: jfalla@pcg.com



LINE	BEARING	LENGTH
L1	S44° 34' 01" W	8.19
L2	S63° 58' 58" E	19.93
L3	S29° 14' 12" W	20.51
L4	N62° 55' 35" W	26.18
L5	N43° 32' 38" E	21.00

NCOS MONUMENT  
 SUNOOD 1984  
 EAI556  
 N: 199.583.42  
 E: 2,354.723.70  
 CSF: 1.00002323

PHYSICAL SURVEY OF  
 7032 MARKET STREET  
 LOT 3, MEDICO URGENT CARE SUBDIVISION  
 PIN: R04409-003-027-000  
 HARNETT TOWNSHIP; NEW HANOVER COUNTY, NC  
 DATE OF SURVEY: MAY 3, 2018  
 SCALE: 1"=20'

