

P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120 Telephone: 770-387-5600 • Fax: 770-387-5605 • www.cityofcartersville.org

MEMO

To: BZA

From: Randy Mannino/David Hardegree/Zack Arnold

CC: David Archer/ Keith Lovell

Date: November 2, 2022 Re: File # V22-21

Summary: To decrease the required 20ft. buffer for a portion of the office-commercial

property.

Section 1: Project Summary

Variance application by Dr. Justin Gusching, owner, Reflections Medical Spa, for property located 768 West Ave. and zoned O-C (Office-Commercial). Said property contains approximately 1.39 +/-acres. The property is surrounded by residential zoning and uses on the east, north and south sides. Commercial zoning and use is to the west.

The applicant wishes to construct a new addition to the east side of the existing structure. The addition will be approx. 1350sf. The addition is approx. 33ft. in width at the front and can be constructed to or outside the 10ft side yard building setback. The eastern wall is approx. 48ft. in length and parallel to the eastern property line. The addition will encroach into the required landscape buffer along the eastern property line. The buffer is required because of the adjacent residential zoning and land use for 766 West Ave (766).

Currently, there is a drainage ditch, several Leyland Cypress' that form a screen and an 8ft privacy fence along the eastern property line. The fence is very near, if not installed, on the property line and owned by the adjacent (766) property owners. The ditch centerline seems skewed beginning on the applicants' property and ending on the (766) property. The drainage ditch appears to receive water from the on site detention pond outflow pipe. The outflow pipe appears to be installed between the edge of the parking lot and property line. The L. Cypresses near West Ave. are on the applicants' property. See pictures.

The buffer encroachment is only for 48ft of the 268ft. length of the eastern property line.

The zoning regulation for which relief is sought is Zoning Ord. Chapter 26, Sec. 9.5.3(H):

H. Minimum buffer requirements. In addition to required setbacks, a minimum twenty-foot wide buffer, five (5) feet of which can be within required setback, shall be required along all property

lines which abut a residential district or use to provide a visual screen in accordance with <u>section</u> <u>4.17</u> of this chapter.

The variance request is for the following:

To decrease the required 20ft. buffer for a portion of the office-commercial property along the eastern property line for the construction of a building addition.

Section 2. Department Comments

Electric Department: CES has no comments on adding an addition. However, we will have comments on the specifics of the building plans. IE: How far away from our facilities will this building be. I would have to agree with the comments on reviewing this addition as a site plan/building permit review.

Fibercom: Cartersville FiberCom has no comment regarding the buffer encroachment variance.

Fire Department: From CFD standpoint, it needs to go through the whole process [site plan review process].

Gas Department: Takes No Exception

Water Department: Takes No Exception

Public Works Department: The proposed addition appears to be within 10 feet of the existing ditch and storm pipe along the eastern property line. However, without a survey, it cannot be determined the actual location of the property line and storm components. I am not certain if there are any easements other than a prescriptive easement along this property line. Based on this variance request, we would not support construction within 10 feet of the outside wall of the storm pipe or stormwater ditch.

Section 3. Public Comments Received by Staff

11-3 – Meredith Geldhauser. West Ave. resident. Application emailed. Invited to attend BZA meeting to voice concerns.

Section 4. Variance Justification

Please review the following findings, as stated in the Zoning Regulations, that are to be utilized in determining justification for approval or denial of variance request(s).

Chapter 26, Zoning. Article IV, General Provisions.

Sec. 4.17. Buffer and screening requirements.

Buffers or screening as required by this chapter are subject to review and approval by the zoning administrator. The following are required standards for buffers and shall be utilized by the zoning administrator in reviewing development plans:

- 1. Buffers shall be designated on the site plan and required plats as permanent buffer strip or
- 2. Buffers shall be natural/undisturbed areas of existing mature trees, which meet the intent of the definition of buffer. Where substantially devoid of existing trees, or where it is necessary to disturb the existing natural area, a planted/landscaped buffer shall be established in accordance with this section.
- Buffers shall be established and maintained along required adjoining property to meet the minimum width requirements as stated within the individual zoning district development standards.
- 4. Buffers shall provide year-round visual screening from the ground to a height of at least six (6) feet.
- 5. Buffers that utilize trees and/or other vegetation shall be installed not only to provide visual screening, but to allow for proper plan growth and maintenance.
- 6. Buffer design shall be integrated with the overall design concept of the project.
- 7. Existing tree cover and natural vegetation shall be undisturbed for areas designated as natural/undisturbed except for the addition of supplemental plantings or other approved screening, devices, or for the provision of required access or utility crossings as approved by the zoning administrator. Where a buffer is substantially devoid of trees and shrubbery, or where a planted/landscaped buffer is proposed by the developer, grading may be allowed within the buffer area prior to replanting or the provision of other screening devises as required.
- 8. All plantings, with exception of infill plantings as may be approved by the zoning administrator, shall be in staggered rows, with vegetation spaced fifteen (15) feet apart (measured trunk to trunk) with a minimum of two (2) staggered rows of plantings for buffers designated to be fifteen (15) feet or smaller in width. Planting, maintenance, and removal shall be in accordance with the Cartersville landscaping ordinance.

Chapter 26, Zoning. Article IX, Commercial District Conditions.

9.5.3. Development standards.

- A. Height regulations. Buildings shall not exceed a height of forty-five (45) feet or three and one-half (3½) stories, whichever is higher.
- B. Front yard setback: Twenty (20) feet.
- C. Side yard setback: Ten (10) feet.
- D. Rear yard setback: Twenty (20) feet.
- E. Minimum lot frontage: One hundred ten (110) feet adjoining a street.
- F. Minimum lot width at the building line: One hundred ten (110) feet.
- G. Minimum heated floor area per dwelling unit.
 - 3-bedroom: Nine hundred (900) square feet.

- 2-bedroom: Seven hundred fifty (750) square feet.
- 1-bedroom: Six hundred (600) square feet.
- Studio/loft (in existing buildings): Four hundred fifty (450) square feet.
- H. *Minimum buffer requirements*. In addition to required setbacks, a minimum twenty-foot wide buffer, five (5) feet of which can be within required setback, shall be required along all property lines which abut a residential district or use to provide a visual screen in accordance with section 4.17 of this chapter.
- I. Accessory structure requirements. See section 4.9 of this chapter.
- J. [Metal panel exterior.] A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the O-C district with the exception that such materials may be used if finished with a product consisting of brick, stone, or hard-coat stucco.
- K. [Air conditioning units and HVAC systems.] Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multifamily and nonresidential properties.
- L. [Gable or hip roofs.] Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.
- M. *[Front building facade.]* The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts.

Sec. 21.3. - Powers and duties of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

- 21.3.1. Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the City of Cartersville affected by any decision of the zoning administrator. Such appeal shall be taken within thirty (30) days of said decision by filing with the zoning administrator a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten (10) business days of the hearing on the appeal.
- 21.3.2. Continuance of a nonconforming use. The board of zoning appeals may allow a nonconforming use to be reestablished after discontinuance for twelve (12) consecutive months. The procedure for the request shall be the same as if it was a variance. If it is deemed by the board of zoning appeals that one (1) or more of the following apply, the board may grant said request.
 - A. The design, construction, and character of the building is not suitable for uses permitted in the district in which the nonconforming use is situated; and
 - B. Undue hardships to the property owner would result in not allowing the building to be reopened for a nonconforming use; and

- C. Adjacent property would not be unduly damaged by such use of the building; and
- D. The use is to be identical or similar to the prior nonconforming use of the building.
- 21.3.3. *Variances*. The board of appeals has the power to hear requests for variances from the provisions of this chapter. Variance may be granted only if the board finds all of the following to exist:
 - A. That one (1) of the following is true, through no action or fault of the property owner or predecessor:
 - 1. The property is exceptionally narrow, shallow or unusually shaped;
 - 2. The property contains exceptional topographic conditions;
 - 3. The property contains other extraordinary or exceptional conditions; or
 - 4. There are existing other extraordinary or exceptional circumstances; and
 - B. That the strict application of the requirements of this chapter would result in practical difficulties to, or undue hardship upon, the owner of this property; and
 - C. That the requested variance relief may be granted without substantially impairing the intent and purpose of this chapter.

Variance decisions shall be issued in writing within ten (10) business days of the hearing.

- 21.3.4. *Conditions*. In granting a variance, the board of appeals may attach such conditions regarding the location, character and other features of the proposed building, structure, property, development standards or use as it may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured and substantial justice done.
- 21.3.5. Limitations on variances; improper variance requests. Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the zoning administrator, a request that would constitute a text amendment, then the application shall not be accepted. The applicant shall instead be directed to file for a text amendment. Furthermore, the board of appeals shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied. A variance application shall not be accepted if the variance is contradictory to the ordinance.
- 21.3.6. Self-inflicted hardship. The board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to November 7, 1996. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor, that does not justify a variance.

Sections 21.3.7, Place of worship, and 21.3.8, Group homes, omitted. Not applicable.

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Legend

Parcels Roads

Parcel ID Sec/Twp/Rng

Brief Tax Description

District

C015-0008-005

Alternate ID 33850 Class Commercial

1.39 Acreage

Cartersville

LL 523 D 4 PLAT 52-43 Reflections Spa (Note: Not to be used on legal documents) Owner Address GUSCHING PROPERTY DEVELOPMENT LLC

768 WEST AVE

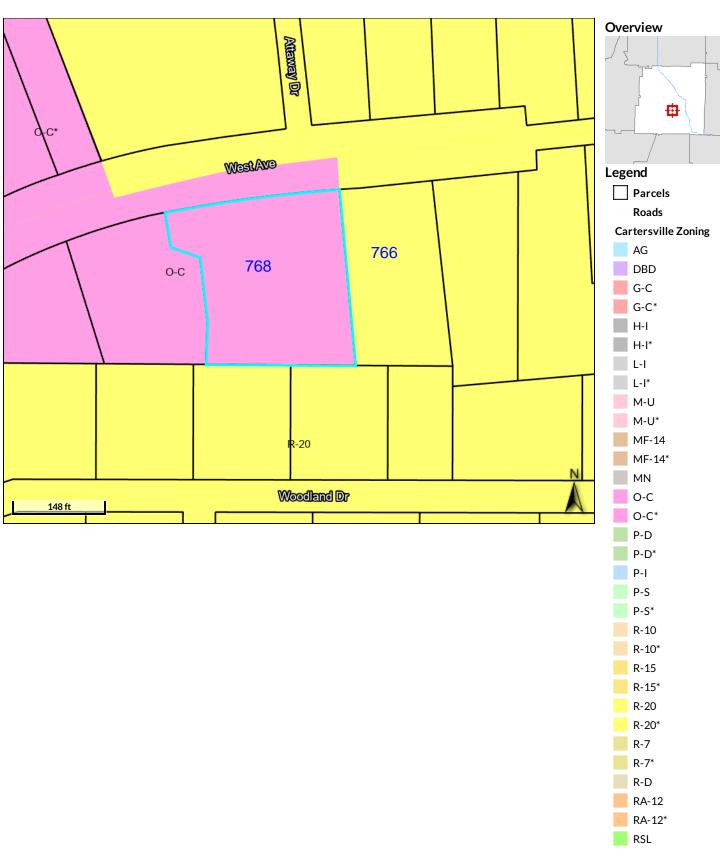
CARTERSVILLE, GA 30120

Date created: 10/7/2022 Last Data Uploaded: 10/6/2022 10:32:37 PM

Property Address 768 WEST AVE



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Property Address 768 WEST AVE Acreage 1.39

District Cartersville

Brief Tax Description LL 523 D 4 PLAT 52-43 Reflections Spa

(Note: Not to be used on legal documents)

CARTERSVILLE, GA 30120

Date created: 10/7/2022

Last Data Uploaded: 10/6/2022 10:32:37 PM



City of Cartersville Application for Variance

Board of Zoning Appeals

5:30pm	Application Number: $\sqrt{22-21}$		
Hearing Date: Nov. 10 5:30pm	Date Received: 10/3/27		
Representative's printed name (if other than applicant)	Office Phone 170-383-3552 Mobile/ Other Phone 419-733-9709 Sold O Email Argusching Crossmetic Burgary. Com Phone (Rep) Email (Rep) My commission expires: March, 23, 2195		
To a Conscional Pt	mail Drausching Cosmetic Surgery, con My commission expires: Much 23, 202 8 Ounty Ounty		
Present Zoning District Acreage 139 Land Lot(s) 533 Location of Property: 768 Vest Argument (street address, nearest interzoning Section(s) for which a variance is being requested Summary Description of Variance Request: Reguest (Additional descriptional description and the second section (Additional description	. I have lovelding to		

^{*} Attach additional notarized signatures as needed on separate application pages.

CONDITIONS VERIFICATION

List the Article(s), Section(s) and Subsection(s) of the Zoning Ordinance for which a variance is

requested.					_
Article9	<u> </u>	Section	5	Subsection_	_3
Article		Section		Subsection_	
Article		Section		Subsection_	
any order, requ	uirement, decision	on, or determ d has the pov	ination made by wer to hear requ	the zoning adminests for variances	re it is alleged there is error in histrator in the enforcement of from the provisions of the ation pertaining to conditions.
			als in the analysi ur variance req		application, please check all of
1	The property is	exceptionall	y narrow, shallov	w or unusually sha	aped,
2	The property c	ontains excep	otional topograp	hic conditions,	
3	The property co	ontains other	extraordinary o	r exceptional cond	ditions; and
4	There are othe	r existing ext	raordinary or exc	ceptional circumst	ances; and
5	• •		requirements of the owner of th		ould result in practical difficulties
6	The requested purpose of this		ef may be grante	d without substar	ntially impairing the intent and
expasion	mments by App e growth n would bual "L" nt on t	th and be di shape	Viabitity Aficult w of the	the build of my thout a building o	ting is crucial business. This variance due to as well as its

RECEIPT OF PAYMENT

Receipt Number: Receipt Date: Date Paid: Full Amount:

2022002794 10/05/2022 10/05/2022 \$350.00

Payment Details:

Payment Method

Amount Check Number

Tendered

Check

\$350.00 1165

Amount Tendered: Change / Overage:

\$350.00 \$0.00

Contact:

REFLECTIONS COSMETIC SURGERY, Address: 768 WEST AVE,

Phone: (770) 383-3552

FEE DETAILS:

Fee DescriptionBZA Variance
Fee-Business
CD-Advertising

Reference Number MS202200686

686 \$

Amount Owing \$300.00 Amount Paid \$300.00

MS202200686

\$50.00

\$50.00

GEORGIA CITY OF CARERSVILLE BARTOW COUNTY Land Lot 523 4TH District 3RD Section

REFERENCE

1. A SURVEY PLAT FOR JAMES C. HAIGLER DATED APRIL 6TH 2005 BY WILLIAM C. SMITH AND FOUND IN PLAT BOOK 65 PAGE 82 OF THE CLERK OF COURTS OF BARTOW COUNTY GEORGIA.

2. A SURVEY BY DANIEL TRENHOLM BAKER DATED MAY 3RD 2001 FOR THE WISEBRAM FAMILY, LLC. AND FOUND IN PLAT BOOK 52 PAGE 43 OF THE CLERK OF COURTS OF BARTOW COUNTY GEORGIA.

PARKING COUNT

TOTAL PARKING SPACES = 60 TOTAL HANDICAP SPACES = 2 TOTAL PARKING COUNT = 62

AREA

60,700 Sq Ft

1.393 Acres

NOTES

1. THE FIELD DATA, COLLECTED 11/08/2017. A S6 TRIMBLE ROBOTIC TOTAL STATION WAS USED TO OBTAIN LINEAR AND ANGULAR MEASUREMENTS.

2. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND HAS BEEN FOUND TO BE ACCURATE WITHIN ONE FOOT IN 301,559 FEET.

3. THE UTILITIES HAVE BEEN LOCATED FROM ABOVE GROUND EVIDENCE. THERE WAS NO VISIBLE EVIDENCE ABOVE GROUND OF A BURIAL SITE OR GRAVEYARD. THE SURVEYOR DID NOT PERFORM EXTENSIVE RESEARCH ON THE MATTER AND HAD NO ARCHEOLOGIST PERFORM ANY SUCH RESEARCH. THEREFORE, THE SURVEYOR TAKES EXCEPTION TO ANY SUCH ITEMS.

4. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, RIGHTS OF WAY OR RESTRICTIONS THAT ARE NOT OF RECORD OR THAT WOULD HAVE BEEN DISCOVERED BY AN ACCURATE AND CURRENT TITLE SEARCH. THEREFORE THE SURVEYOR TAKES EXCEPTION TO ANY SUCH ITEMS. 5. THE PURPOSE OF THIS SURVEY IS TO SHOW THE PROPERTY BOUNDARY AND ANY EXISTING STRUCTURES PER DEED BOOK 2763 PAGE 423 RECORDED IN THE CLERK OF COURTS OF BARTOW COUNTY GEORGIA. 6. THERE EXISTS A SEWER EASEMENT THAT WAS NOT FOUND ON RECORD AT THE BARTOW COUNTY

COURTHOUSE.

GRAPHIC SCALE

50' 100' 150' REVISION DATE NO. DESCRIPTION

AUTHORIZED BY: RICHARD CARLTON

PROJECT

768 WEST AVENUE CARTERSVILLE, GA 30120

DRAWING TITLE

A RESIDENTIAL BOUNDARY SURVEY FOR: NORTHSIDE BANK

DWG NO. JOB NO. 17-0161 17-0161.dwg DRN BY: C. WOOD SCALE: 1"=50" CHKD BY: C. TOMPKINS SHEET 1 OF 1 DATE: DECEMBER 6TH 2017



SURVEYING & MAPPING

162 WEST MAIN STREET, SUITE 306. CARTERSVILLE, GA 30120

PHONE: 866-979-1845 FAX: 866-979-1968 3D MODELING AERIAL SURVEYS LAND

SURVEYING LASER SCANNING

www.TompkinsSurveying.com

SURVEYOR'S CERTIFICATION

FOR RECORDING PURPOSES

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL. THE RECORDING INFORMATION OF THE DOCUMENTS. MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION. AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, NOR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

S. CLARK TOMPKINS, PROFESSIONAL SURVEYOR REGISTRATION NO. 3257

SUBJECT PROPERTY LINE

ORIGINAL LOT NUMBER

PK NAIL FOUND

LEGEND

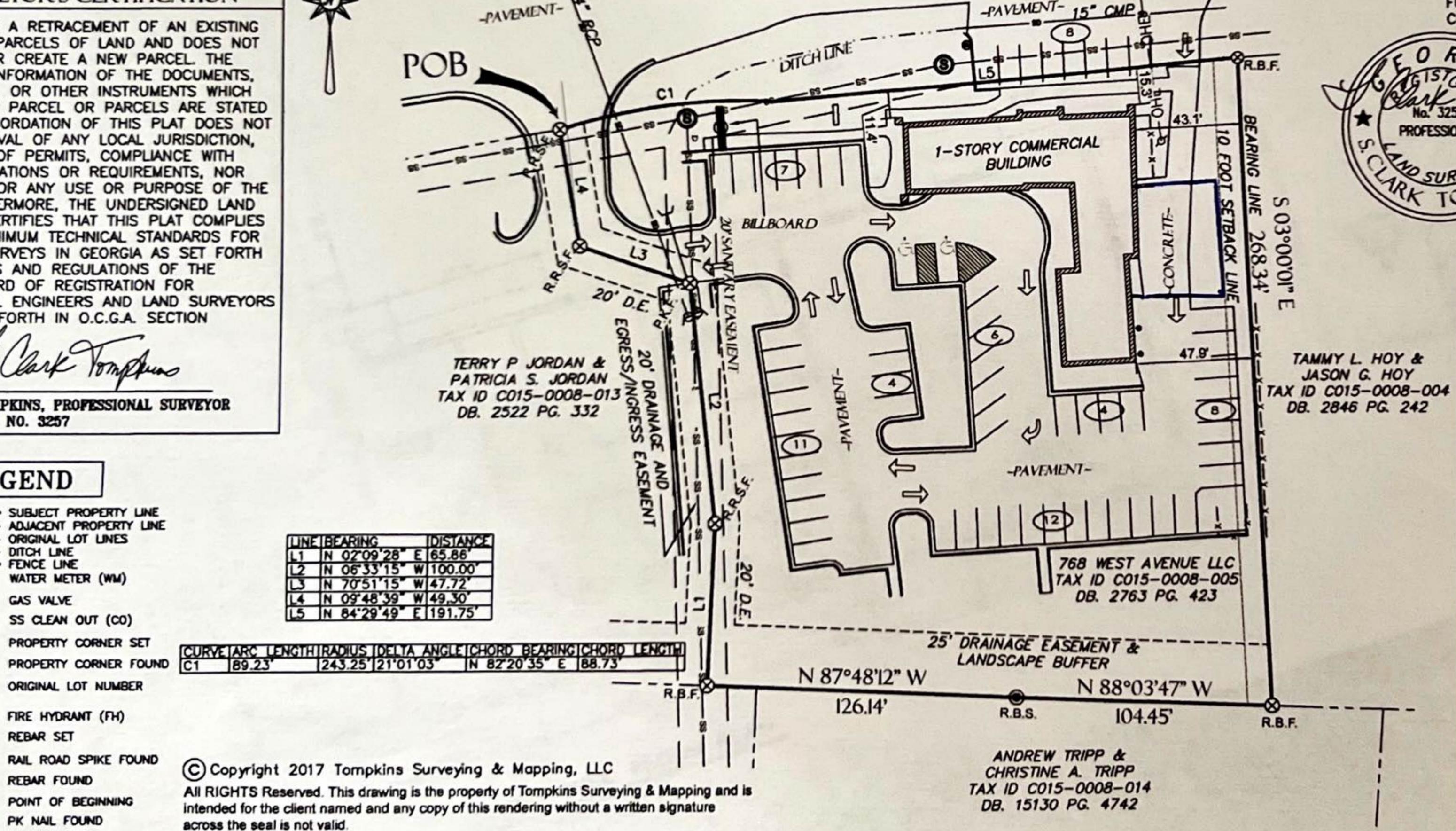
ADJACENT PROPERTY LINE ORIGINAL LOT LINES - FENCE LINE WATER METER (WM) GAS VALVE SS CLEAN OUT (CO) PROPERTY CORNER SET

FIRE HYDRANT (FH) REBAR SET

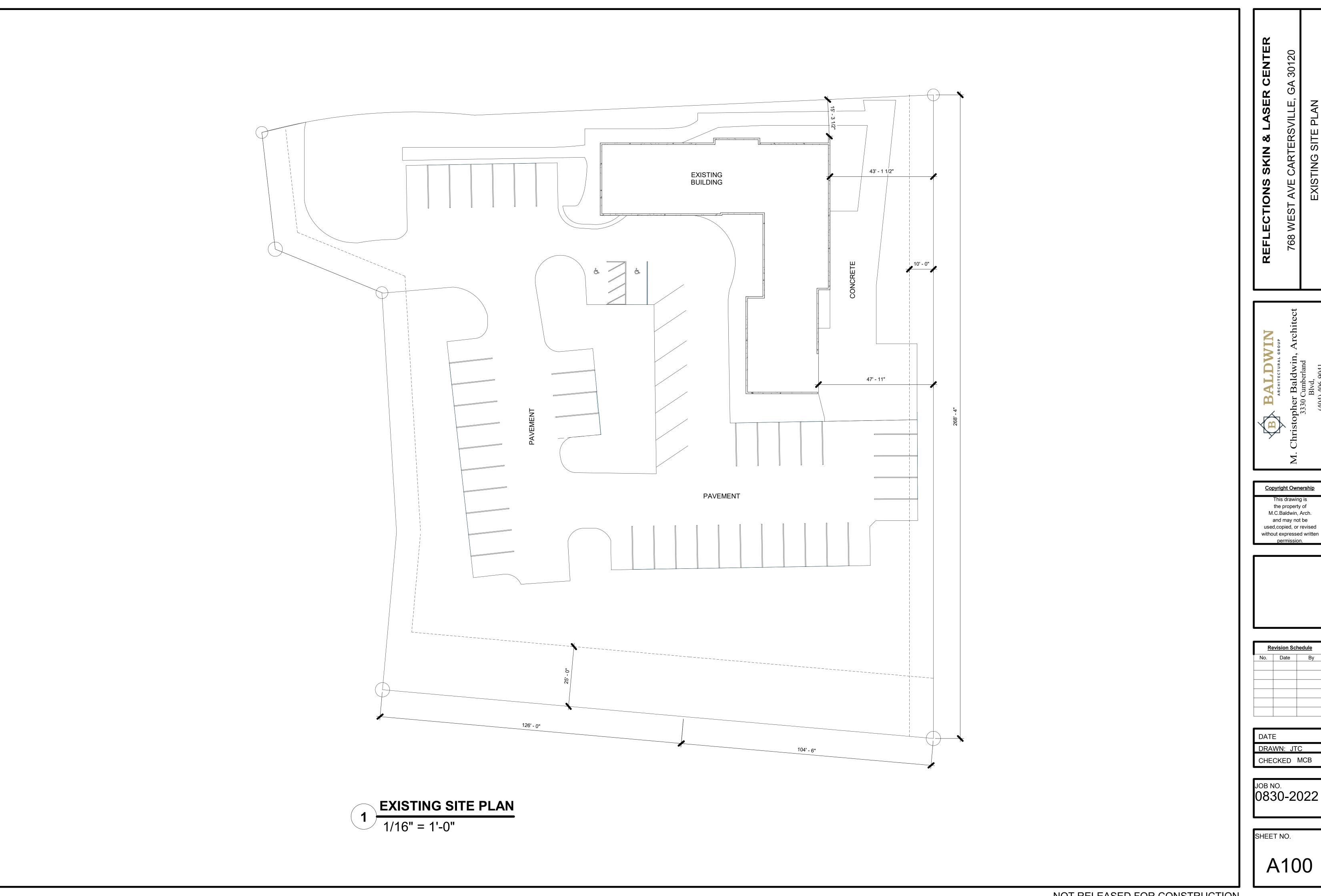
R.R.S.F. RAIL ROAD SPIKE FOUND R.B.F. REBAR FOUND P.O.B. POINT OF BEGINNING

P.K.F.

(C) Copyright 2017 Tompkins Surveying & Mapping, LLC



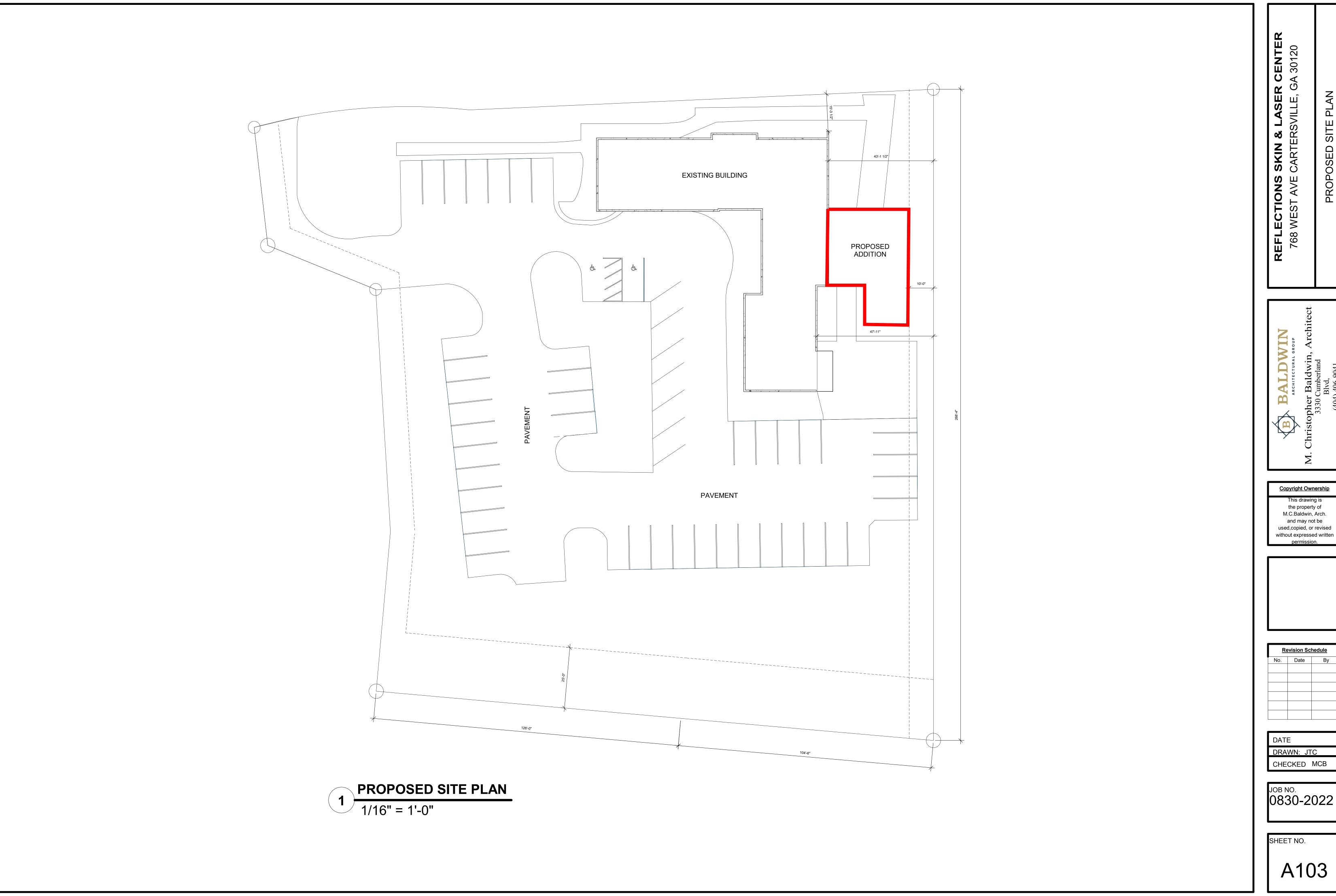
(R/W VARIES)



Revision Schedule No. Date By

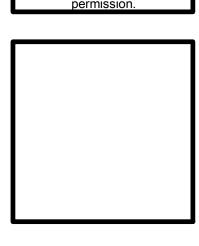
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0830-2022



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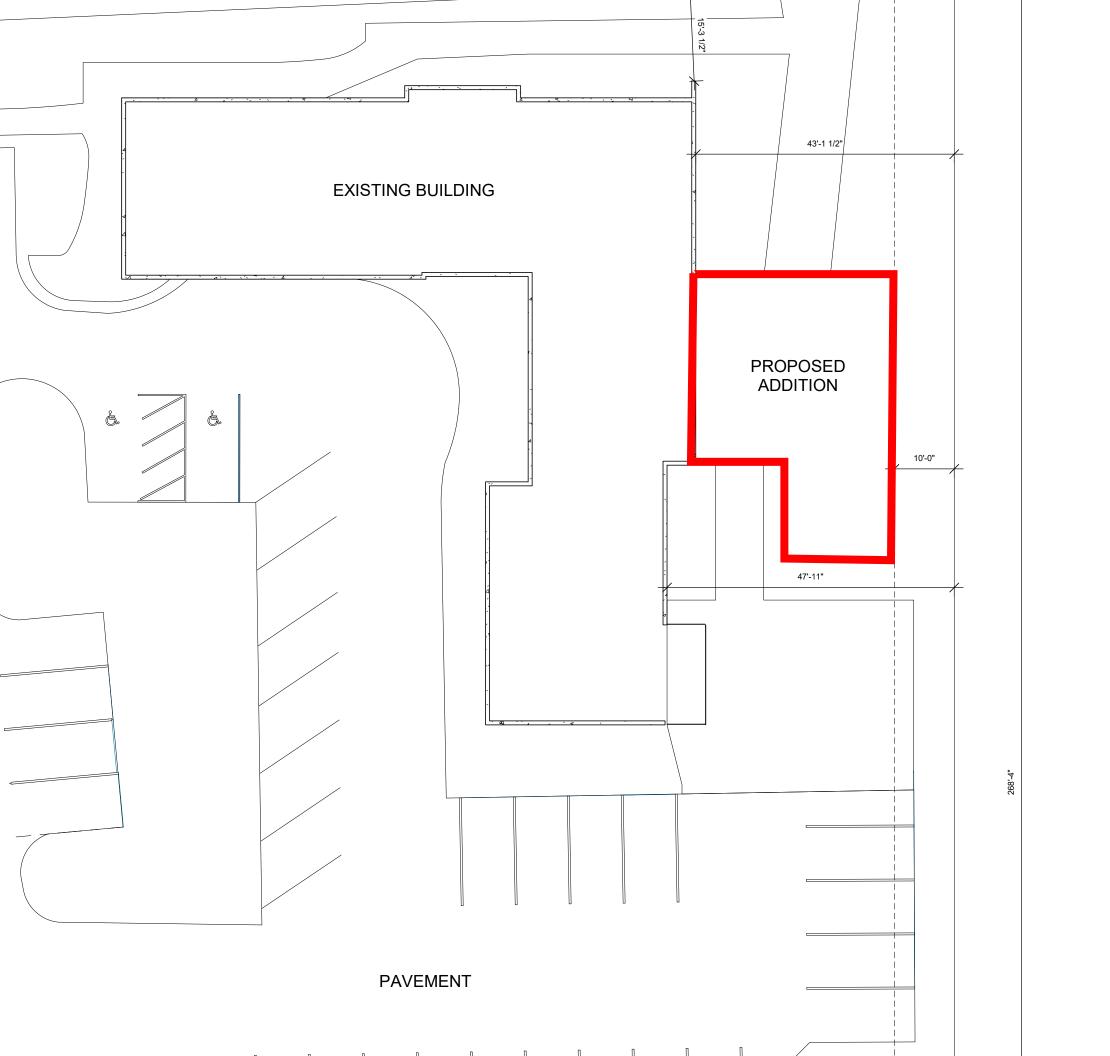
PROPOSED SITE PLAN

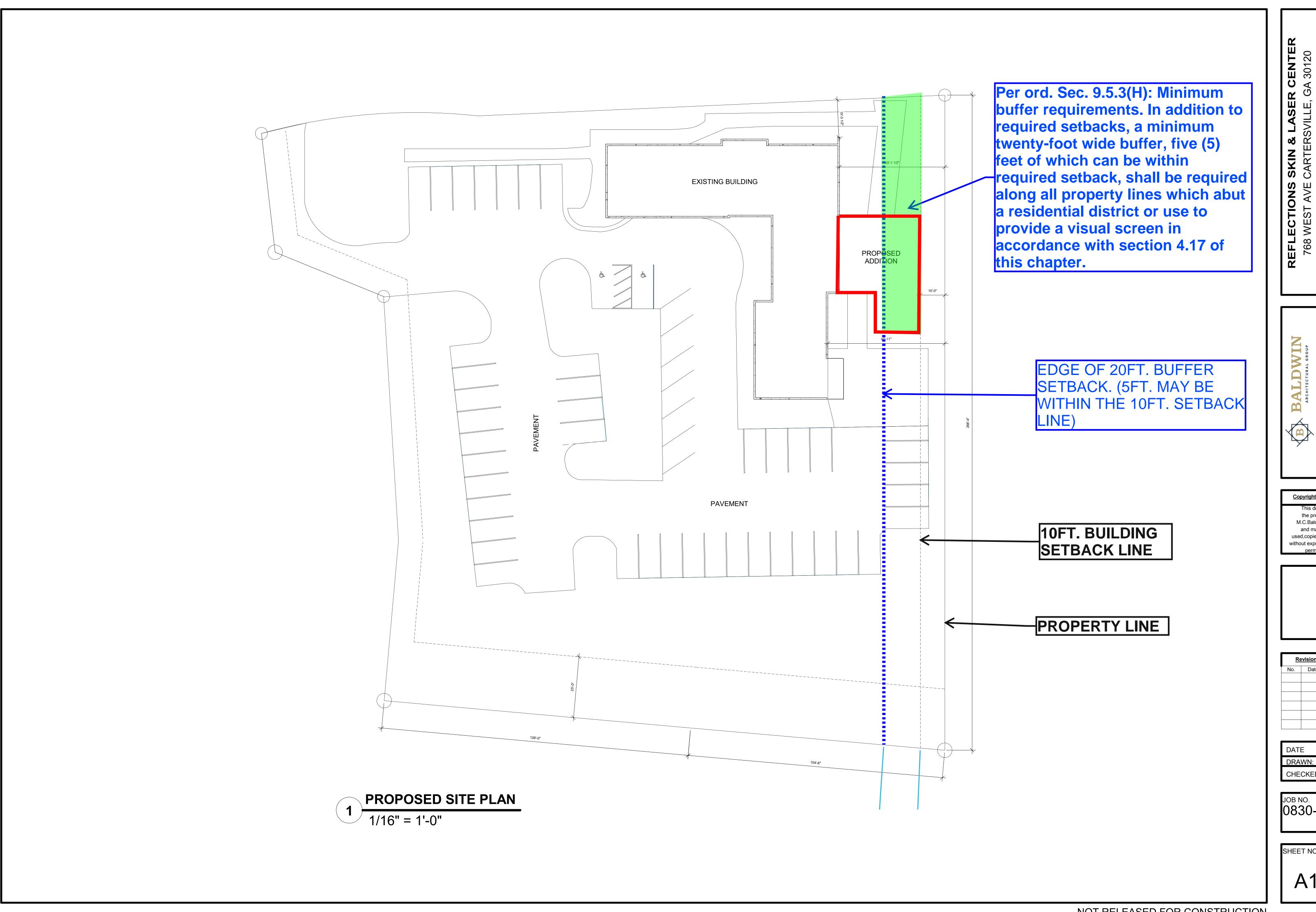


Revision Schedule		
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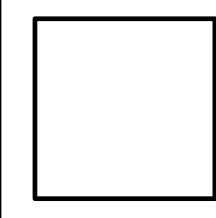
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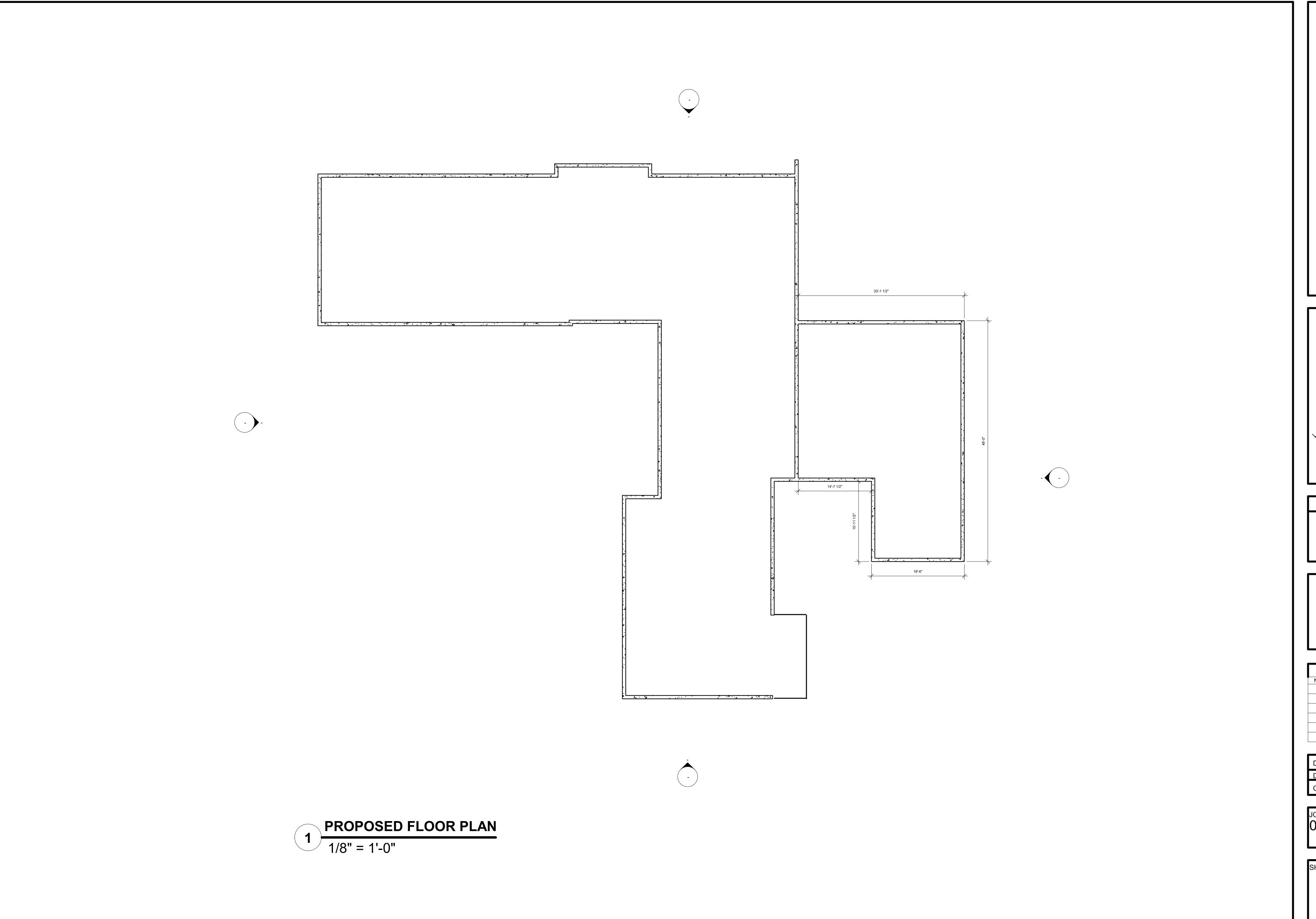
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Revision Schedule		
No.	Date	Ву
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8 WEST AVE CARTERSVILLE, GA 30120

M. Christopher Baldwin, Architect
3330 Cumberland
Blvd,
(404) 406-9041

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IMAGES TAKEN 9-12-22











IMAGES TAKEN 10-24-22



