



## College Station, TX

**Meeting Agenda**  
**Zoning Board of Adjustment**  
**1101 Texas Ave, College Station, TX 77840**  
**Internet: [www.microsoft.com/microsoft-teams/join-a-meeting](https://www.microsoft.com/microsoft-teams/join-a-meeting)**  
**Meeting ID: 265 007 664 023 | Passcode Qidkdf**  
**Phone: 833-240-7855 | Phone Conference: 687 521 664#**

*The City Council may or may not attend this meeting.*

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**October 3, 2023**

**6:00 PM**

**Council Chambers**

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**1. Call meeting to order and consider absence requests.**

**2. Agenda Items**

**2.1. Consideration, discussion, and possible action to approve meeting minutes:**

**Attachments:** 1. June 6, 2023

**2.2. Public Hearing, presentation, discussion, and possible action regarding a setback variance to UDO Section 7.2.D.1.e 'Required Yards (Setbacks)' for the property located at Woodland Acres Subdivision Lot 15, generally located at 1003 Ashburn Avenue. The property is zoned GS General Suburban. Case #AWV2023-000018.**

**Sponsors:** Jesse Dimeolo

**Attachments:**

1. Staff Report
2. Vicinity, Aerial, and Small Area Maps
3. Applicant's Supporting Information
4. Waiver Exhibit

**3. Discussion and possible action on future agenda items.**

A member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

**4. Adjourn.**

Adjournment into Executive Session may occur in order to consider any item listed on the agenda if a matter is raised that is appropriate for Executive Session discussion.

I certify that the above Notice of Meeting was posted on the website and at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on September 29, 2023 at 5:00 p.m.

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Deputy City Secretary

This building is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need accommodations, auxiliary aids, or services such as interpreters, readers, or large print are asked to contact the City Secretary's Office at (979) 764-3541, TDD at 1-800-735-2989, or email [adaassistance@cstx.gov](mailto:adaassistance@cstx.gov) at least two business days prior to the meeting so that appropriate arrangements can be made. If the City does not receive notification

at least two business days prior to the meeting, the City will make a reasonable attempt to provide the necessary accommodations.

**Penal Code § 30.07. Trespass by License Holder with an Openly Carried Handgun.**

"Pursuant to Section 30.07, Penal Code (Trespass by License Holder with an Openly Carried Handgun) A Person Licensed under Subchapter H, Chapter 411, Government Code (Handgun Licensing Law), may not enter this Property with a Handgun that is Carried Openly."

**Codigo Penal § 30.07. Traspasar Portando Armas de Mano al Aire Libre con Licencia.**

"Conforme a la Seccion 30.07 del codigo penal (traspasar portando armas de mano al aire libre con licencia), personas con licencia bajo del Sub-Capitulo H, Capitulo 411, Codigo de Gobierno (Ley de licencias de arma de mano), no deben entrar a esta propiedad portando arma de mano al aire libre."



**Minutes  
Zoning Board of Adjustment  
Regular Meeting  
June 6, 2023**

**MEMBERS PRESENT:** Chairperson Fred Dupriest, Board Members Rachel Smith, Michael Martinez, James Hutchins, and Trent Thomas

**CITY STAFF PRESENT:** Assistant Director of Planning and Development Services Molly Hitchcock, Assistant City Attorney Gavin Midgley, Staff Planner Robin Macias, Lead Technology Service Specialist Thomas Bauman, Technology Service Specialist Joel Lopez, Technology Service Specialist Lillian Wells and Staff Assistant II Crystal Fails

1. Call meeting to order.

Chairperson Dupriest called the meeting to order at 6:00 p.m.

2. **Agenda Items**

- 2.1. Consideration, discussion, and possible action to approve meeting minutes:

**Board Member Smith motioned to approve the meeting minutes from April 4, 2023, Board Member Martinez seconded the motion, the motion passed 5-0.**

- 2.2. Public Hearing, presentation, discussion, and possible action regarding a height variance to the Airport Zoning Ordinance for the property located at Boyett Block 8, Lots 19 (6' of) and 20-21, Boyett Block 10, Lots 1-2, east and west half of Lot 13, and Lots 4-6, and the adjacent 0.288 acres of former University Drive Right-of-Way, generally located at 101 University Drive. The property is zoned NG-1 Core Northgate. Case #AWV2023-000008

Staff Planner Macias presented the item to the Board and stated that the applicant is requesting an 80-foot height variance for a new mixed-use building, a 133-foot variance for the use of a tower crane to construct the building, and a 234-foot variance for the use of a mobile crane for assembly and disassembly of the construction tower crane.

Staff recommended approval of the request due to the fact that it meets the specified criteria. Specifically:

1. A literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship.
2. The granting of the relief would result in substantial justice being done.
3. The granting of the relief would not be contrary to the public interest.
4. The granting of the relief would be in accordance with the spirit of

the regulation.

Tyler Green, Applicant, Quiddity Engineering, described to the Board the approvals they have already received from the Federal Aviation Administration (FAA) and Texas A&M University.

Chairperson Dupriest opened the public hearing.

No one spoke during the public hearing.

Chairperson Dupriest closed the public hearing.

**Board Member Hutchins motioned to approve the 80-foot height variance for a new mixed-use building and temporary 133- and 234-foot height variances for the cranes, as they will not be contrary to the public interest, the fact that the Federal Aviation Administration (FAA) and Texas A&M University did not have concerns, and that the approval was within the Zoning Board of Adjustment's jurisdiction, Board Member Thomas seconded the motion, the motion passed 5-0.**

3. Discussion and possible action on future agenda items - A member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

There was no discussion on future agenda items.

4. Adjourn.

The meeting adjourned at 6:10 p.m.

**Approved:**

**Attest:**

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**Fred Dupriest, Chairperson**

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**Crystal Fails, Board Secretary**



## **VARIANCE REQUEST**

**for**  
**1003 Ashburn Drive**  
**AWV2023-000018**

**REQUEST:** A variance of 11' 7" to the contextual front setback as set forth in Section 7.2.D.1.e 'Required Yards (Setbacks)'.

**LOCATION:** 1003 Ashburn Drive  
Woodland Acres Subdivision, Lot 15

**ZONING:** GS General Suburban

**PROPERTY OWNER:** Robert P and Michelle W Deere

**APPLICANT:** Southern Creek Homes

**PROJECT MANAGER:** Jesse DiMeolo, Staff Planner  
[jdimeolo@cstx.gov](mailto:jdimeolo@cstx.gov)

**BACKGROUND:** The applicant is proposing a new single-family home on this property to be constructed 11' 7" behind the front façade of the adjacent home located at 1005 Ashburn Avenue. Existing land surveys and aerial images show several existing, large canopy trees along the frontage of Ashburn Avenue. It is the applicant's intent to save these trees by building the new home farther back into the lot.

The Unified Development Ordinance (UDO) allows the owner of this property to seek a deviation from the required front setback to the Zoning Board of Adjustment; therefore, the applicant is requesting a variance to the UDO Section 7.2.D.1.e to allow for an additional setback of 11' 7" from the required contextual front setback. This setback is determined by taking the measurement of the two homes immediately adjacent on both sides of the subject property. The home to the west is measured 71' 11" from the front façade and the home to the east is measured 78' 7" from the front. The UDO requires the front façade of the new home to be located no closer to the street than the nearest home and no further from the street than the furthest home.

**APPLICABLE****ORDINANCE SECTION:** UDO Section 7.2.D.1.e 'Required Yards (Setbacks)'

**ORDINANCE INTENT:** UDO Section 7.2.D.1.e 'Required Yards (Setbacks)' sets minimum setback standards that apply to existing lots that were created by an approved plat prior to July 15, 1970, and are designated as Neighborhood Conservation in the Comprehensive Plan Future Land Use and Character Map. Both conditions apply to this property. This property was platted as a part of the Woodland Acres Subdivision in 1940 and is classified as Neighborhood Conservation in the Comprehensive Plan.

Any new, single-family dwelling unit shall use the adjacent lots to determine the appropriate front yard setback. The new dwelling unit shall be set no closer to the street or farther back from the street than the nearest neighboring units. These standards are typically justified on the basis of preserving neighborhood integrity in older city neighborhoods.

**RECOMMENDATION:** Staff recommends approval of the variance request.

**NOTIFICATIONS**

Advertised Board Hearing Date: October 3, 2023

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

College Woodlands HOA  
College Hills Estates HOA  
College Hills HOA

Property owner notices mailed:

Contacts in support: None at the time of this report.

Contacts in opposition: None at the time of this report.

Inquiry contacts: Six

**ADJACENT ZONING AND LAND USES**

| Direction        | Zoning              | Land Use                           |
|------------------|---------------------|------------------------------------|
| Subject Property | GS General Suburban | Detached single-family residential |
| North            | GS General Suburban | Detached single-family residential |

|              |                     |                                    |
|--------------|---------------------|------------------------------------|
| <b>South</b> | GS General Suburban | Detached single-family residential |
| <b>East</b>  | GS General Suburban | Detached single-family residential |
| <b>West</b>  | GS General Suburban | Nature Preserve                    |

## PHYSICAL CHARACTERISTICS

1. **Frontage:** The subject property has 150 feet of frontage on Ashburn Avenue, which is classified as a local, residential street.
2. **Access:** The subject property currently has a dual (circular) driveway that takes access off Ashburn Avenue. The applicant plans on retaining the same driveway layout.
3. **Topography and Impervious Cover:** The subject property slopes seven feet from the north towards the south frontage along Ashburn Avenue. According to City estimates, the impervious cover for the entire lot does not exceed the maximum allowed coverage of 55%.
4. **Vegetation:** There is substantial existing vegetation on the site. There is no zoning overlay for this property that protects existing trees over a certain caliper inch size. Standard landscaping requirements found in UDO Section 7.6.B.2 will have to be met prior to receiving the Certificate of Occupancy. That is a minimum of two trees of at least two inches in caliper or one tree of four-inch caliper.
5. **Floodplain:** The subject property is not located within FEMA regulated floodplain.

## REVIEW CRITERIA

According to Unified Development Ordinance Section 3.19.E 'Criteria for Approval of Variance', no variance shall be granted unless the Board makes affirmative findings in regard to all nine of the following criteria:

1. **Extraordinary conditions:** *That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the UDO will deprive the applicant of the reasonable use of his land.*

An extraordinary condition affecting this land is the establishment of several mature trees that exist along Ashburn Avenue. Not every residential lot on this block has mature streetscaping like this that provides substantial shade and cooling for pedestrians that walk or bike along the neighborhood streets. Not granting the variance will deprive the applicant of reasonable use of their land and will require the owner to remove several mature canopy trees from the front of their property.

2. **Enjoyment of a substantial property right:** *That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

The variance is necessary for the preservation and enjoyment of substantial property rights for the owner. As mentioned above, a denial of the variance request could potentially

require the landowner to remove the trees from the front yard to make space for the house. Even if the construction plans were drawn in a way to minimize disturbance, the closer the construction activity to those trees, the more likely they don't survive after.

3. **Substantial detriment:** *That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO.*

Granting the variance would not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering the UDO. The opposite is quite true. Granting the variance would be to the benefit of the landowner and surrounding neighborhood as the trees provide a more pleasant experience for those passing by.

4. **Subdivision:** *That the granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of this UDO.*

The granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of the UDO. This variance does not impact the subdivision of land, but rather, it slightly impacts the appearance of homes and how they line the street.

5. **Flood hazard protection:** *That the granting of the variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements.*

The granting of this variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements due to no portion of this property being located within floodplain.

6. **Other property:** *That these conditions do not generally apply to other property in the vicinity.*

The same zoning conditions apply to all properties along this block, but the physical conditions of each property may differ. As mentioned earlier in the first criteria item, the physical condition that may set this property apart from others is the presence of several mature canopy trees in the front yard. If wanting to protect these trees, it makes it difficult to place the home in a position between the two adjacent homes.

7. **Hardships:** *That the hardship is not the result of the applicant's own actions.*

*The Board may consider the following as grounds to determine whether compliance with this ordinance as applied to a structure that is the subject of the variance would result in unnecessary hardship:*

- 1) The financial cost of compliance is greater than fifty percent (50%) of the appraised value of the structure as shown on the most recently approved municipal tax roll;*
- 2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent (25%) of the area on which development may physically occur;*
- 3) Compliance would result in the structure not being in compliance with a requirement of a City ordinance, building code, or other requirement;*
- 4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or*

*5) The City considers the structure to be a nonconforming structure*

The hardships created by contextual front setback requirements are not the result of the applicant's own actions. The applicant is trying to promote a comfortable, landscaped area that not only benefits themselves, but also the surrounding neighborhood. A home placed behind the furthest allowed front setback would be considered a nonconforming structure unless a variance is granted.

**8. Comprehensive Plan:** *That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this UDO.*

The granting of this variance does not substantially conflict with the Comprehensive Plan or purposes of the UDO. The intent of the land use designation of neighborhood conservation in the Comprehensive Plan is as follows; to maintain the existing housing stock, lot patterns, and character of neighborhoods, support infill housing that fits-in with neighboring homes (scale, placement, use, etc.), address nonconforming lot issues through flexible development regulations, and maintain established trees. City staff believes that the variance follows the intent of the Comprehensive Plan, especially the last item about maintaining established trees.

**9. Utilization:** *That because of these conditions, the application of the UDO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

The application of the UDO contextual front setback standard restricts the applicant in the utilization of their property. As mentioned previously, if the applicant were to follow the exact application of the UDO, significant impact would be made to the streetscaping along Ashburn Avenue. This contextual front setback is not appropriate for this lot and requires flexibility in order to maintain the character of the neighborhood.

## **ALTERNATIVES**

There is only one alternative to help gain compliance and that would be placing the house closer to the street and potentially having a much greater negative impact on the health of the trees in the front yard.

## **STAFF RECOMMENDATION**

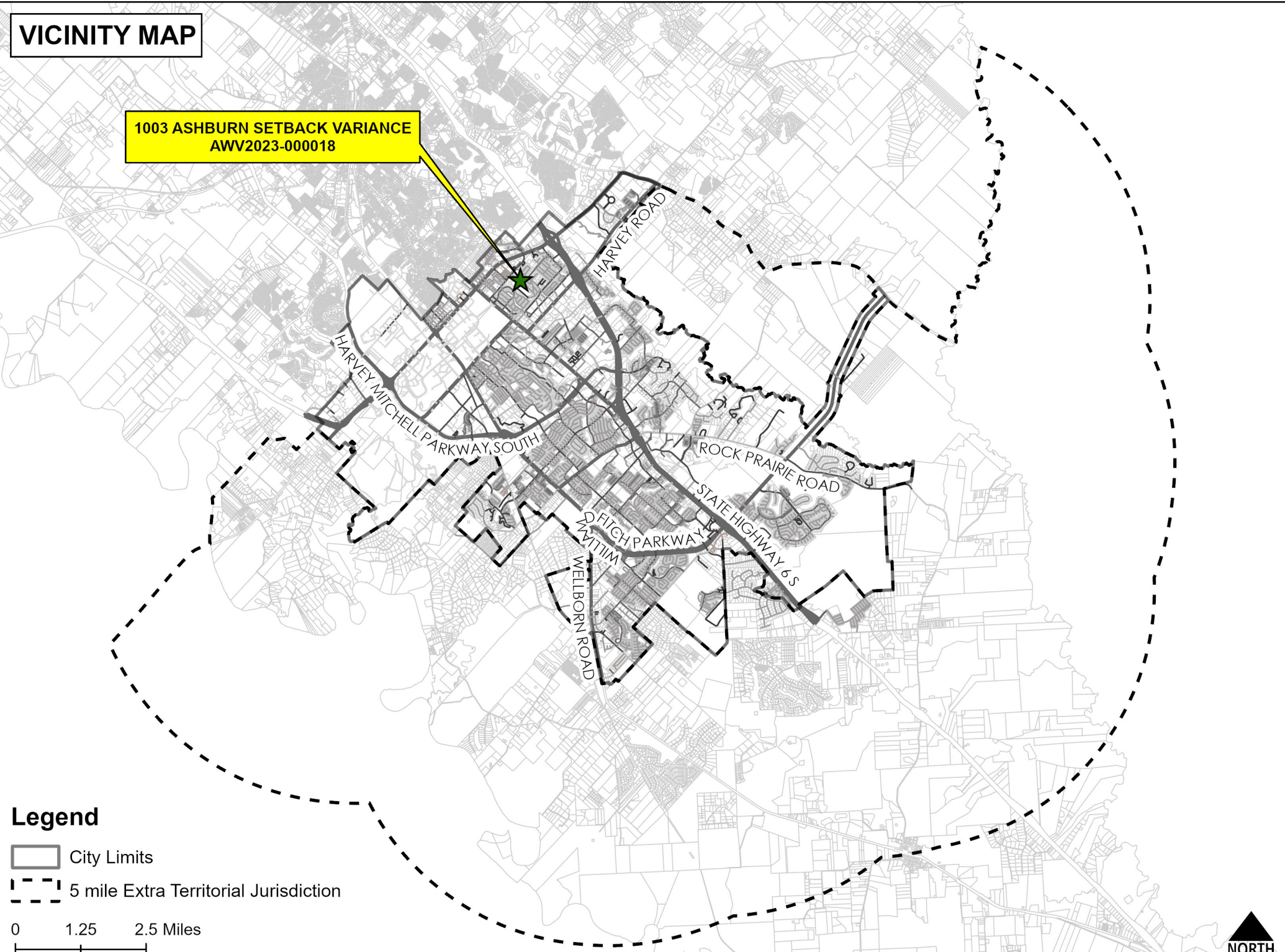
Based upon the variance criteria listed above and all items being met, Staff recommends approval of the variance request.

## **ATTACHMENTS**

1. Vicinity, Aerial, and Small Area Maps
2. Applicant's Supporting Information
3. Waiver Exhibit

# VICINITY MAP

1003 ASHBURN SETBACK VARIANCE  
AWV2023-000018



## Legend

- City Limits
- 5 mile Extra Territorial Jurisdiction

0 1.25 2.5 Miles





CENTER PH 2

LINCOLN AVENUE

LINCOLN PLACE

ROSE CIRCLE

SWEET BRIAR

COLLEGE HILLS WOODLAND ESTATES

ASHBURN AVENUE

WOODLAND ACRES

FRANCIS DRIVE

MUNSON AVENUE

WOODLAND PARKWAY

MARSTELLER AVENUE

COLLEGE HILLS WOODLANDS

COLLEGE HILLS ESTATES 1

COLLEGE HILLS WOODLANDS

COLLEGE HILLS ELEMENTARY



0 210 420 Feet

1003 ASHBURN SETBACK VARIANCE

Case: APPEALS WAIVERS VARIANCES  
AWV2023-000018



200FT Notification

**ZONING DISTRICTS** (In Grayscale)

| Residential |                              |                           |
|-------------|------------------------------|---------------------------|
| R           | Rural                        | MH Middle Housing         |
| WE          | Wellborn Estate              | MF Multi-Family           |
| E           | Estate                       | MU Mixed-Use              |
| WRS         | Wellborn Restricted Suburban | MHP Manufactured Home Pk. |
| RS          | Restricted Suburban          |                           |
| GS          | General Suburban             |                           |
| D           | Duplex                       |                           |
| T           | Townhome                     |                           |

| Non-Residential |                          |
|-----------------|--------------------------|
| NAP             | Natural Area Protected   |
| O               | Office                   |
| SC              | Suburban Commercial      |
| WC              | Wellborn Commercial      |
| GC              | General Commercial       |
| CI              | Commercial Industrial    |
| BP              | Business Park            |
| BPI             | Business Park Industrial |
| C-U             | College and University   |

| Planned Districts |                          |
|-------------------|--------------------------|
| P-MUD             | Planned Mixed-Use Dist.  |
| PDD               | Planned Develop. Dist.   |
| Design Districts  |                          |
| WPC               | Wolf Pen Creek Dev. Cor. |
| NG-1              | Core Northgate           |
| NG-2              | Transitional Northgate   |
| NG-3              | Residential Northgate    |

| Overlay Districts |                            |
|-------------------|----------------------------|
| OV                | Corridor Ovr.              |
| RDD               | Redevelopment District     |
| ROO               | Restricted Occupancy Ovr.  |
| NPO               | Nbrhd. Prevailing Ovr.     |
| NCO               | Nbrhd. Conservation Ovr.   |
| HP                | Historic Preservation Ovr. |

| Retired Districts |                           |
|-------------------|---------------------------|
| R-1B              | Single Family Residential |
| R-4               | Multi-Family              |
| R-6               | High Density Multi-Family |
| C-3               | Light Commercial          |
| RD                | Research and Dev.         |
| M-1               | Light Industrial          |
| M-2               | Heavy Industrial          |



0 375 750 Feet

**1003 ASHBURN SETBACK VARIANCE**

Case: APPEALS WAIVERS VARIANCES  
AWV2023-000018



## APPEAL/WAIVER APPLICATION SUPPORTING INFORMATION

**Name of Project:** SETBACK VARIANCE REQUEST - (AWV2023-000018)

**Address:** 1003 ASHBURN AVE

**Legal Description:** WOODLAND ACRES, LOT 15, ACRES 1.25

**Applicant:** SOUTHERN CREEK HOMES

**Property Owner:** DEERE ROBERT PAUL & MICHELLE W

**Applicable ordinance section being appealed/seeking waiver from:**

7.2.D.e.

**The following specific variation to the ordinance is requested:**

Requesting front set back on the proposed home to be allowed to go to 90'2" from the street vs between the two homes on either side at 71'11" and 78'7" to try and save to large oak trees in the front yard.

**The following special condition exists:**

There are two very large oak trees on the lot, that would most likely not survive given the new home construction would be so close to them. By being able to set the house back 11'7" additional from the 78'7" setback next door, this would give the tree's a much better chance of surviving.

**The unnecessary hardship(s) involved by meeting the provisions of the ordinance is/are:**

Leaving the house within the required setback will likely cause trees to die and/or must be removed from property adding time and cost to the project.

**The following alternatives to the requested variance are possible:**

We are asking for variance for an additional 11'7" to front setback. We might be able to go 10' but the closer we are the less likely the trees will survive in years to come.

**The variance will not be contrary to public interest due to:**

I believe neighbors would also prefer to keep the trees in place as well. This variance will not have any negative effects to the public interest.

