

CITY OF BLOOMINGTON



DEC. 20, 2012 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL

ROLL CALL

MINUTES TO BE APPROVED: October 18, 2012

PETITIONS:

- V-46-12 **REI Investments** (Hyatt Place Hotel)
217 W. Kirkwood Ave.
Request: Variances from sidewalk, signage, and driveway standards.
Case Manager: Patrick Shay
Note: This case was forwarded to the Board of Zoning Appeals from the Hearing Officer.

- UV-48-12 **Trish Ierino**
3900 E. Stonegate Dr.
Request: Use variance to allow an accessory apartment in a Planned Unit
Development only allowing single-family homes.
Case Manager: Katie Bannon

- V-57-12 **Mayta Lerttamrab**
983 S. Marybeth Dr.
Request: Variance from front yard building setback standards to legitimize
a partially constructed home built beyond the setback line.
Case Manager: Eric Greulich

BLOOMINGTON BOARD OF ZONING APPEALS
LOCATION: 217 W. Kirkwood Avenue

CASE #: V-46-12
DATE: December 20, 2012

PETITIONERS: REI Investments (Hyatt Place)
11711 N. Pennsylvania, Suite 200 Carmel 46032

CONSULTANT: Smith Neubecker & Associates
453 S. Clarizz Blvd, Bloomington

REQUEST: The petitioner is requesting variances from sidewalk, signage, and driveway standards.

SUMMARY: The petitioners recently received approval from the Plan Commission (SP-36-12) to redevelop a 0.85 acre parcel bounded by W. Kirkwood Avenue to the north, S. Gentry Street to the east, W. 4th Street to the south, and the B-Line trail to the west. This site is located on the western border of the Courthouse Square Overlay (CSO) within the Commercial Downtown (CD) zoning district. This site has been used as a drive-up bank and ATM in the past. This site plan approval was contingent upon variances being granted from drive setback and sidewalk standards. The petitioner is bringing forward these requests and is also seeking a variance from signage standards to allow for the proposed sign package.

Sidewalk: With the site plan approval, staff analyzed the possibility of placing sidewalk along the west side of Gentry Street as is required by the Unified Development Ordinance (UDO). Staff finds that the inclusion of such a sidewalk is not advisable due to a lack of adequate right-of-way and the desire to allow for two one-way lanes of traffic. The existing street has between 35 and 41 feet in pavement width. However, the right-of-way is only 20 feet in width. So although there appears to be plenty of room for a sidewalk, the street will be reduced to approximately half of its existing width.

If a sidewalk was required, the result would be a pavement width of approximately 15 feet. Staff has reviewed other parts of the Municipal Code and found the following restrictions/allowances:

- Vehicles are prohibited from obstructing a public street without room to get around the vehicle allowing for free movement of vehicular traffic.
- The code does allow for short-term obstructions on alleys for loading.

Therefore, if a sidewalk is required, there is not room for any loading along Gentry St. In addition, if a vehicle does obstruct the street, it will also impede traffic flow to the uses on the east side of Gentry St.

The Plan Commission found that the proposed configuration is the best alternative. The 20 feet of pavement will allow loading without blocking the street. This configuration would create essentially a hybrid between a street and an alley. It will be one-way and have two lanes, one of which will often be used for loading. It will also have a sidewalk on one side (east). The existing sidewalk to the east is 20 feet from the proposed building. If an additional sidewalk were installed, it would only be 15 feet

from the other sidewalk. Staff finds that the benefits of a second sidewalk 15 feet from an existing sidewalk does not warrant the loss of a through travel lane on Gentry St.

Driveway: With this proposal, several drive cuts will be removed including cuts onto both 4th St. and Kirkwood Ave. The petitioner has worked with staff to design the site with only one drive cut that would be placed on the southern portion of Gentry St. Gentry St. requires a 100-foot minimum setback for a drive from its intersection with 4th St. As proposed, the drive cut is approximately 55 feet from this intersection. Staff finds this location to be the most functional. The drive is accessing an internal ramp that serves the structured parking for the hotel. With the internal parking decks, the ramp must be located near one end of the building. Staff and the Plan Commission found it appropriate for this ramp to be located closer to 4th Street than Kirkwood Ave. This variance is further justified by the fact that traffic on Gentry St. is one-way to the south. Therefore, its proximity to 4th St. will not create any back-up potential for traffic associated with the hotel garage.

Signage: The CD district limits the total signage for any tenant to a maximum of 100 square feet. Usually a building of this size would have multiple tenants or be utilized for multi-family. Individual tenants are allowed up to 1.5 square feet of signage for every foot of tenant façade. The three public street frontages would usually allow for up to approximately 800 square feet. Blade signs, although allowed in the Commercial Downtown zoning district, are not permitted within the Courthouse Square Overlay (CSO). The number of blade signs is also limited to a single sign per tenant, per street frontage. This is a very unusual property in that it is a very large individual user that has three public street frontages. The property, although within the CSO, is not located immediately adjacent to the square. Staff and the Plan Commission have worked with the petitioner to develop an appropriate sign package for this property. This sign package would modify the petitioner's original proposal. The petitioner is aware and in agreement with these changes. The new package includes the following signage:

Kirkwood façade –

- 64 square foot sign at top of building
- 57 square foot canopy sign
- Max 20 square foot blade sign

Gentry façade –

- 53 square foot sign at the top of building
- Max 20 square foot blade sign for the parking entrance

Fourth St. façade –

- 104 square foot sign at the top of building
- Max 20 square foot blade sign

B-Line façade –

- 64 square foot sign at top of building
- Max 20 square foot blade sign

Staff finds that this sign package is compatible with the surrounding area and appropriate.

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

STAFF FINDING: Staff finds no injury with any of the variance requests. The one-way nature of Gentry St. will alleviate any potential stacking issues with the intersection. Staff also finds that Gentry St. functions much like an alley and has a sidewalk currently in place on the east side that will provide for safe pedestrian movements in the area.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

STAFF FINDING: Staff finds no adverse impacts. The variances will allow for the redevelopment of a one-story drive-through use with a desirable downtown hotel.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

STAFF FINDING:

Sidewalk: Staff finds practical difficulty in requiring a sidewalk on the west side of Gentry St. This street does not go through to either the north or south and functions much as an alley. Furthermore, it will be a one-way street. By requiring the sidewalk to be installed, the limited right-of-way would create a pavement width of 15 feet which would not allow for pull-off traffic of the hotel. The site was designed to have drop off removed from Kirkwood Ave. and 4th St. and utilize the lower usage Gentry St. Staff finds peculiar condition in the narrow right-of-way for Gentry St. (20 feet plus a 12-foot alley right-of-way). This is much less than the 50 feet that is normally required. Therefore there is not enough room to fit the usual facilities including sidewalks without removing the ability of the street to function properly. The existing sidewalk on the east side and the B-Line Trail provide for adequate alternative pedestrian traffic.

Driveway: Staff finds hardship in requiring the drive to be relocated further to the north. Due to the one-way nature of Gentry St, this shift would create a difficulty in accessing the internal parking in a reasonable manner without creating layout problems on the interior of the hotel with little improvement to the safe flow of traffic. Practical difficulty is found in the difficulty of designing a hotel with three public street frontages and a large urban trail. Access has been highly limited and located on the lowest profile street.

Signage: Staff finds the UDO signage requirements would not provide a sign package that would adequately identify the hotel and the parking location. Due to the size of the property and the proposed building, a multi-tenant structure would be permitted a much larger amount of signage. The placement of the signage at the top of a 7-story building will also reduce the visual impact of the proposed signage.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of V-46-12 with the following conditions:

1. All blade signs shall not exceed 20 square feet in sign area.
2. The proposed blade signs on the Kirkwood façade located at the northwest corner of the building and the blade sign located on the Gentry façade near the SE corner of the building shall not be permitted.
3. No other signage is approved without a new signage variance or compliance with current sign standards.

Smith Neubecker & Associates, Inc.



"Providing professional land planning, design, surveying and approval processing for a quality environment."

Stephen L. Smith P.E., L.S.
Daniel Neubecker L.A.
Steven A. Brehob, B.S., Cn.T.

October 1, 2012

City of Bloomington Hearing Officer
C/o Pat Shay
Planning Department
Showers Building
Bloomington, Indiana

Re; Hyatt Place Variance Package Application

Dear Pat and Hearing Officer,

We are seeking a package of variances to accommodate the proposed Hyatt Place Hotel in downtown Bloomington in accordance with the numerous communications that we have had with staff, commissioners and council members regarding the project.

A variance is needed for the setback distance for the entry drive from Fourth Street. The drive has been located at the south end of Gentry Street to optimize traffic flow coming south on Gentry from the main entrance to the hotel.

A package of variances is needed for reasonable signage for the hotel. The downtown sign regulations are written more for smaller buildings or multi-tenant buildings. Total signage on the hotel will be about what would be expected if there were multiple tenants. A list of signs with dimensions is included with this letter. Variances are requested for total sign allowance, blade signs in the courthouse overlay zone, more than one blade sign per street frontage and the maximum size of blade sign.

Thank you for your assistance as we move this project towards final approvals and construction.

Very truly yours,

Stephen L Smith
Engineer for;
REI Investments; Bloomington Hyatt Place

Cc; file, REI
Encl

V-46-12
Petitioner's Statement

Hyatt Place - BloomingtonSign Package10/1/2012

	Dimensions		Area
Kirkwood Frontage			
Building sign at top of building	2'-4 1/2"	26'-10 3/4"	64 s.f.
Sign on canopy	2'-1 5/8"	6'-6 3/4"	57 s.f.
Blade near front door	1'-7 3/8"	12'-0 1/8"	19 s.f.
Blade at NW building corner	2'-6 1/8"	15'-4 1/8"	38 s.f.
subtotal			178 s.f.
Gentry Frontage			
Building sign at top of building	2'-7 7/8"	24'-4 7/7"	53 s.f.
Blade at parking entry	2'-1 1/4"	14'-1 5/8"	30 s.f.
Blade at SE building corner	1'-7"	9'-8"	15 s.f.
subtotal			98 s.f.
Fourth Street Frontage			
Building sign at top of building	3'-0 3/8"	34'-3 1/4"	104 s.f.
Blade at SE building corner	1'-7 5/8"	12'-0 1/8"	20 s.f.
subtotal			124 s.f.
B-Line Frontage			
Building sign at top of building	2'-4 5/8"	26'-10"	64 s.f.
Blade at NW corner of building	2'-6"	15'-4 1/8"	38 s.f.
subtotal			102 s.f.
Total			502 s.f.



BUILDING DATA:

	BUILDING SF	PARKING SF	No. of CARS	NO. of KEYS
LEVEL 1	24,800	2,200 RAMP	0	0
LEVEL 2	800	25,800	66	0
LEVEL 3	800	22,450	64	0
LEVEL 4	21,100	-	-	42
LEVEL 5	21,100	-	-	42
LEVEL 6	21,100	-	-	42
LEVEL 7	21,100	-	-	42
TOTALS:	110,800	50,250	130	168

659 SF / KEY

4,885 SF NET MEETING AREAS

LEVEL 1



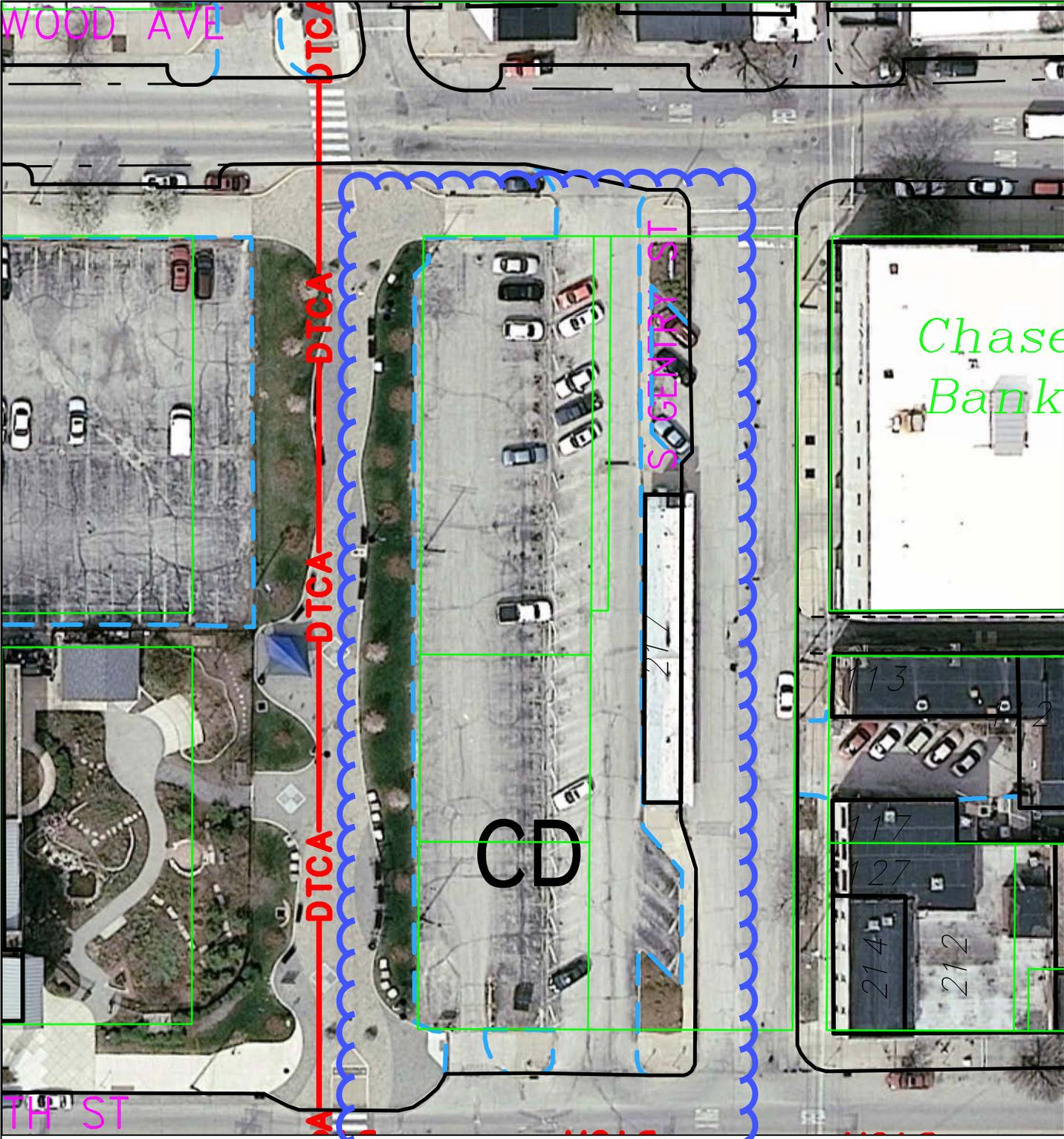
V-46-12
Site Plan





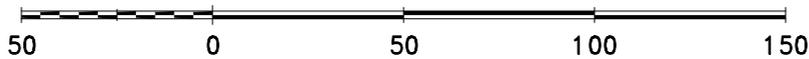






V-46-12
Aerial Photo

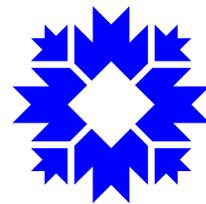
By: shayp
3 Aug 12



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 50'

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 3900 E. Stonegate Dr.**

**CASE #: UV-48-12
DATE: December 20, 2012**

**PETITIONER: Trish Ierino
3900 E. Stonegate Dr., Bloomington, IN**

REQUEST: The petitioner is requesting a use variance to allow an accessory apartment within a Planned Unit Development (PUD) which only allows single family houses.

SUMMARY: The property is located on the southeast corner of S. Smith Road and E. Stonegate Drive and is zoned Planned Unit Development (PUD). It was initially developed with a single-family house. The petitioner is proposing to legalize and expand an existing second dwelling unit on the property. The surrounding use is single family.

In 2006, the property owner applied for a building permit for an addition to the house. The property owner's intent was for the building addition to serve as a dwelling unit for her mother and sister. A Certificate of Zoning Compliance was issued with a condition that "No increase in number of dwelling units is approved." However, that condition was not noticed by the property owner, and the addition has been used as an additional dwelling unit since 2006. The property owner is proposing to expand the second dwelling unit into the existing attached garage. The expansion would include a living room and an expansion to the bathroom to provide a walk-in tub. Additionally, a new attached garage and breezeway are proposed.

The Stonegate PUD allows single family houses but does not allow duplexes. The petitioner is requesting a use variance to permit a two-family dwelling and has agreed to a deed commitment limiting the occupancy of the second unit to family of the occupants of the first unit.

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed the use variance request at their November 5, 2012 meeting. The Plan Commission voted unanimously to forward the use variance request to the BZA with a positive recommendation.

20.09.140 CRITERIA AND FINDINGS FOR USE VARIANCE:

Pursuant to IC 36-7-4-918.4., the Board of Zoning Appeals or the Hearing Officer may grant a variance from use if, after a public hearing, it makes findings of fact in writing, that:

- (1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and*

Staff Finding: Staff finds no injury to public health, safety, morals, and general welfare with a two-family dwelling. The property has been used for a two-family dwelling since 2006 with no known injury.

- (2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and*

Staff Finding: Staff finds no substantial adverse impacts to the adjacent area from this request. The occupancy of the second dwelling unit will be limited to family of the occupants of the first unit so increases in noise, traffic, and parking will be minimal.

- (3) *The need for the variance arises from some condition peculiar to the property involved; and*

Staff Finding: Staff finds peculiar condition in an accessory dwelling unit occupied by family on a corner lot. Smith Rd. is also designated by the Thoroughfare Plan as a Secondary Arterial street. This slight increase in density is appropriate at this location and is compatible with existing surrounding development. Additionally, peculiar condition is found in that the accessory unit will be used to care for a family member with disabilities.

- (4) *The strict application of the terms of the Unified Development Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and*

Staff Finding: Staff finds that the strict application of the UDO constitutes an unnecessary hardship in not allowing extended members to reside in an accessory dwelling unit when circumstances dictate the need to do so. The occupancy limits for residential areas were created to better restrict use of the properties in a manner consistent with a “family”. These occupancy limits and restrictions on accessory units also attempt to reduce the impacts associated with a large number of people and a large number of unrelated adults. These regulations attempt to restrict single family properties to function as a single household unit. Staff finds that the current situation meets that intention as all of the tenants involved are related by blood and have requested this approval to deal with a unique family situation.

- (5) *The approval does not interfere substantially with the Growth Policies Plan.*

Staff Finding: The GPP designates this property as “Urban Residential”. The fundamental goal of these areas is to “encourage the maintenance of residential desirability and stability.” Regarding infill development, the GPP states that it should be “consistent and compatible with preexisting developments.” Although the primary land use in this category is single family, multi-family housing is appropriate in some areas if designed to be compatible with preexisting developments. The Plan Commission found that the use variance will not substantially interfere with the goals of the GPP.

CONCLUSION: Staff finds that this is an appropriate variance for an accessory dwelling unit to be occupied by family.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of UV-48-12 with the following condition:

1. A commitment shall be recorded on the deed which requires occupancy of both units to be limited to family only, consisting of an individual or a group of people all of whom are related to each other by blood, marriage, or legal adoption, and any other dependent children of the household

Trish and Louie Ierino – 3900 E. Stonegate Drive, Bloomington IN 47401

In 2005, we were living in Northwest Indiana. My Dad passed away unexpectedly. At the same time, I had an opportunity to relocate with my job to Bloomington, Indiana. My Sister has developmental disabilities and was 39 years old at the time. Mom is legally blind and was 76 years old. Because I was to become the sole caregiver for my Sister, Mom agreed that they both would relocate with us.

We worked with a local realtor to locate a home that would meet the needs of our new household. This included the need to be in city limits for my sister to utilize BT Access and to be close to Stone Belt. In Dec. 2005, we purchased our home at 3900 E. Stonegate Dr.

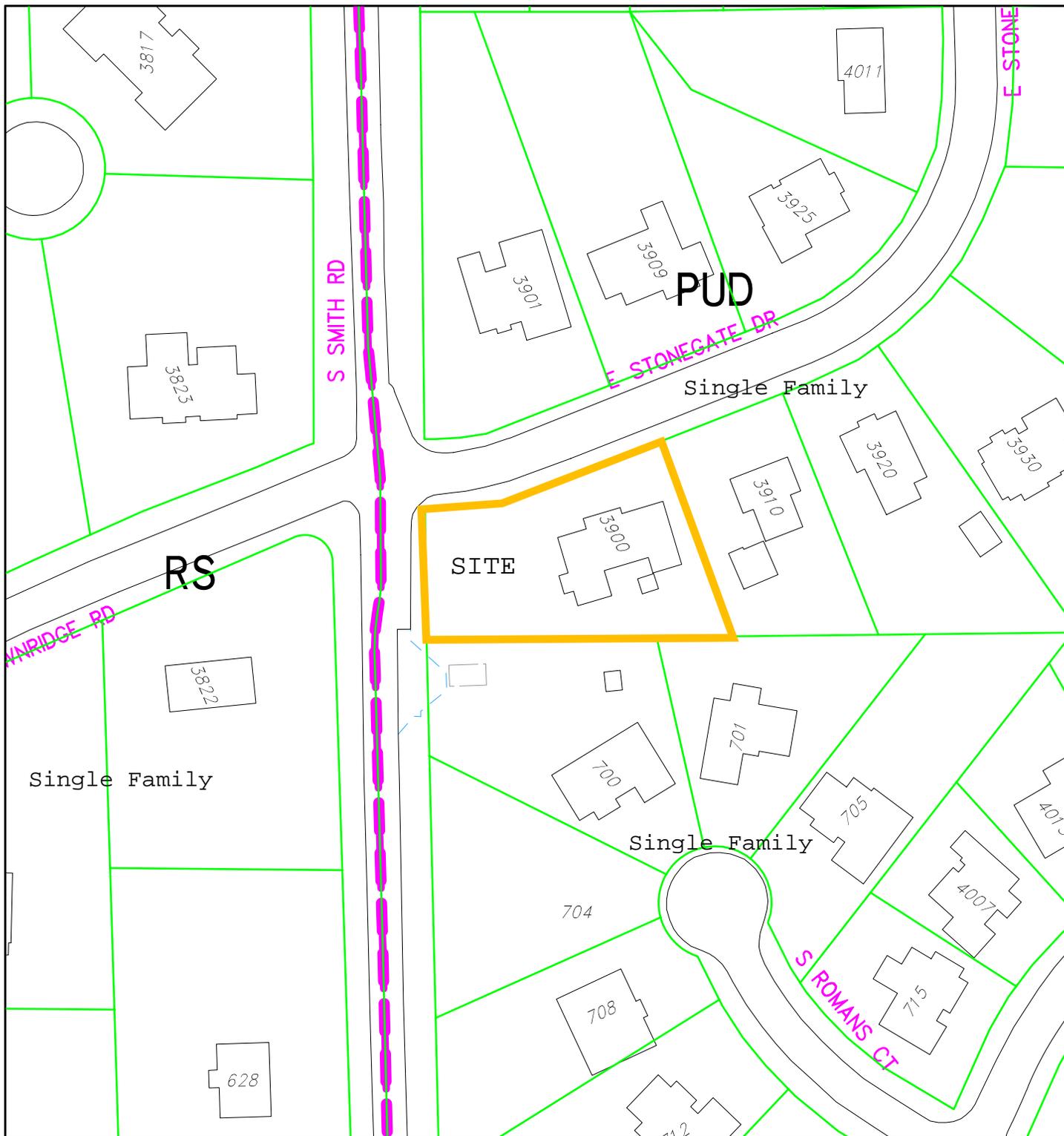
The only issue with the home; we were unable to turn the basement into an in-law suite for my Mom and Sister. With Mom's eyesight and age, she was unable to manage stairs. We obtained bids from two builders who had good reputations in the community. Because there was an existing bathroom in the garage, both builders recommended we build out from the garage. It made sense because the house was an L-shape and it would then become a U-shape. We selected our builder and moved forward in the Spring of 2006 to create a suite for Mom and Cheryl. The builder obtained necessary permits and the addition was completed by the Fall.

September 2012. We were in the process of refinancing our mortgage. The appraiser contacted Regions Bank to inform them we did not have the legal occupancy for the addition. I could not understand how that was possible when the builder said he did the necessary paperwork. We had absolutely no idea that there was issue regarding the addition.

After researching further in the last two weeks, it was explained to me that the addition was an occupancy issue. I immediately took action to resolve. Thus, the request for Use Variance.

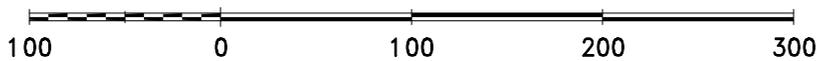
We do not desire to turn the addition to a rental unit. The addition was solely built for us to be able to care for my Mom and Sister who both have special needs. Mom is now 83 and requires a walker most of the time. My sister is now 46 and thriving at Stone Belt and the Bloomington community.

Trish Ierino

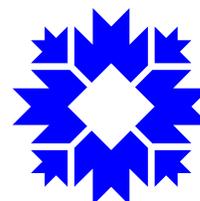


UV-48-12
 Trish Ierino
 3900 E. Stonegate Dr.
 Land Use and Zoning Map

By: bannok
 1 Nov 12



City of Bloomington
 Planning



Scale: 1" = 100'

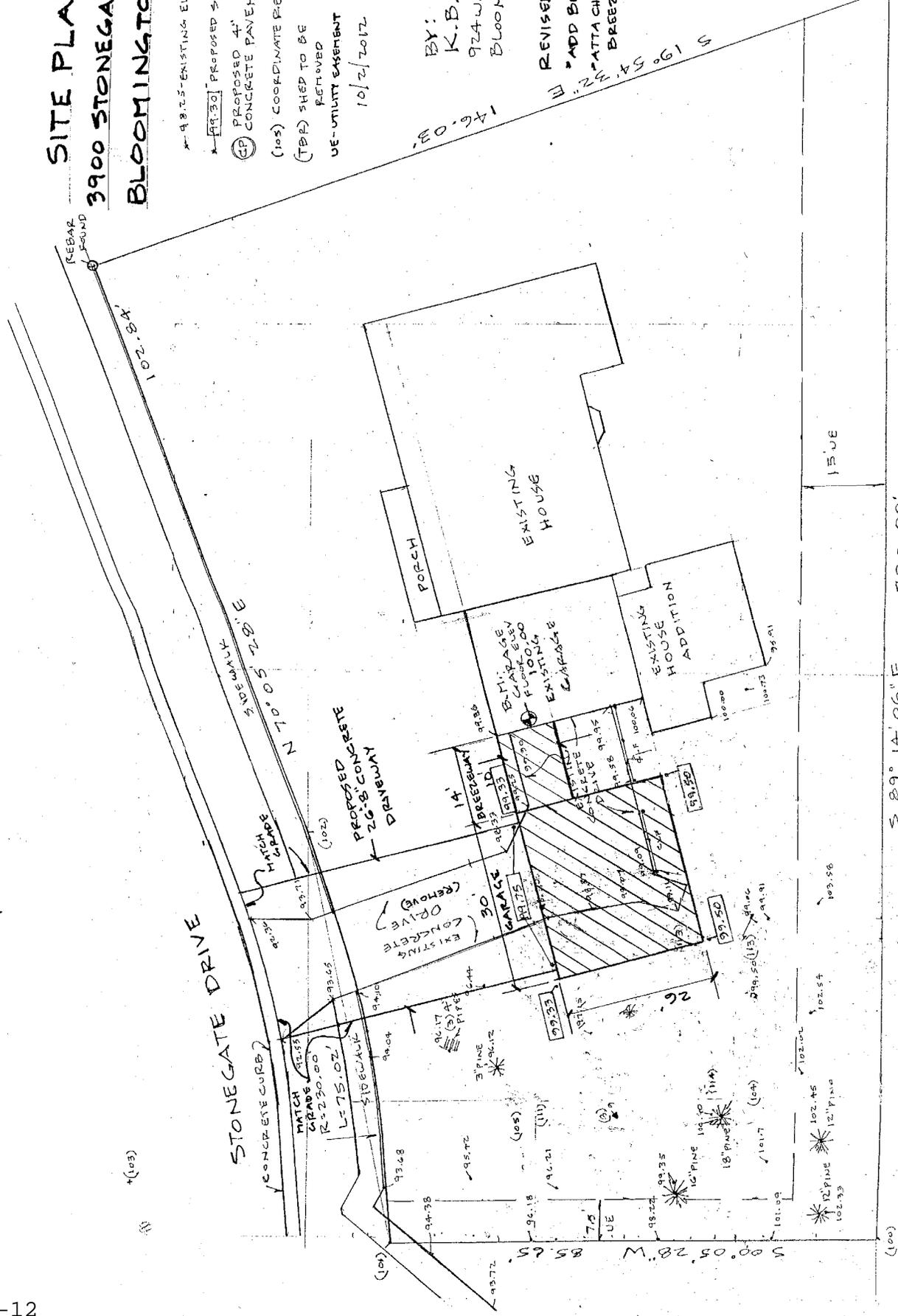
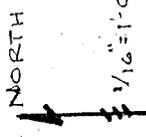
SITE PLAN

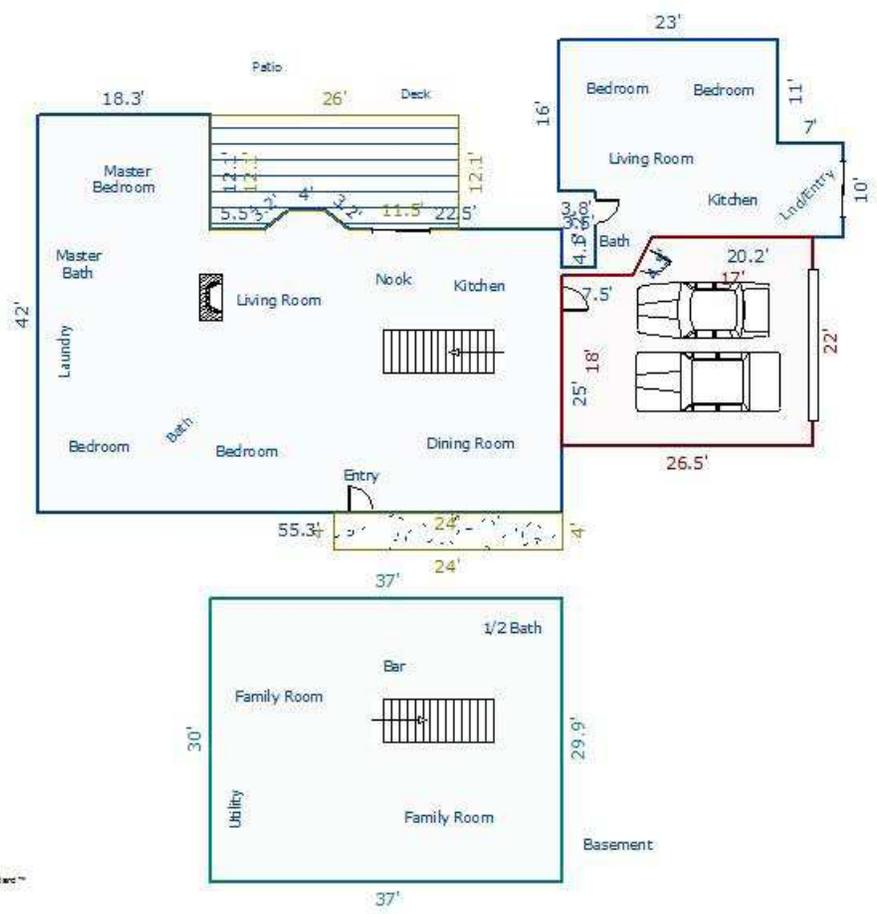
3900 STONEGATE DR., BLOOMINGTON, IN

- * 98.25' EXISTING ELEVATION
- * 99.30' PROPOSED SPOT ELEVATION
- (CP) PROPOSED 4" CONCRETE PAVEMENT
- (105) COORDINATE REF. NUMBER
- (TBR) SHEP TO BE REMOVED
- VE-UTILITY EASEMENT 10/2/2012

BY: K.B. POTTER, P.E.
924 W. 17TH STREET
BLOOMINGTON, IN 47404

REVISED 11/27/2012
* ADD BREEZEWAY
* ATTACH GARAGE TO BREEZEWAY

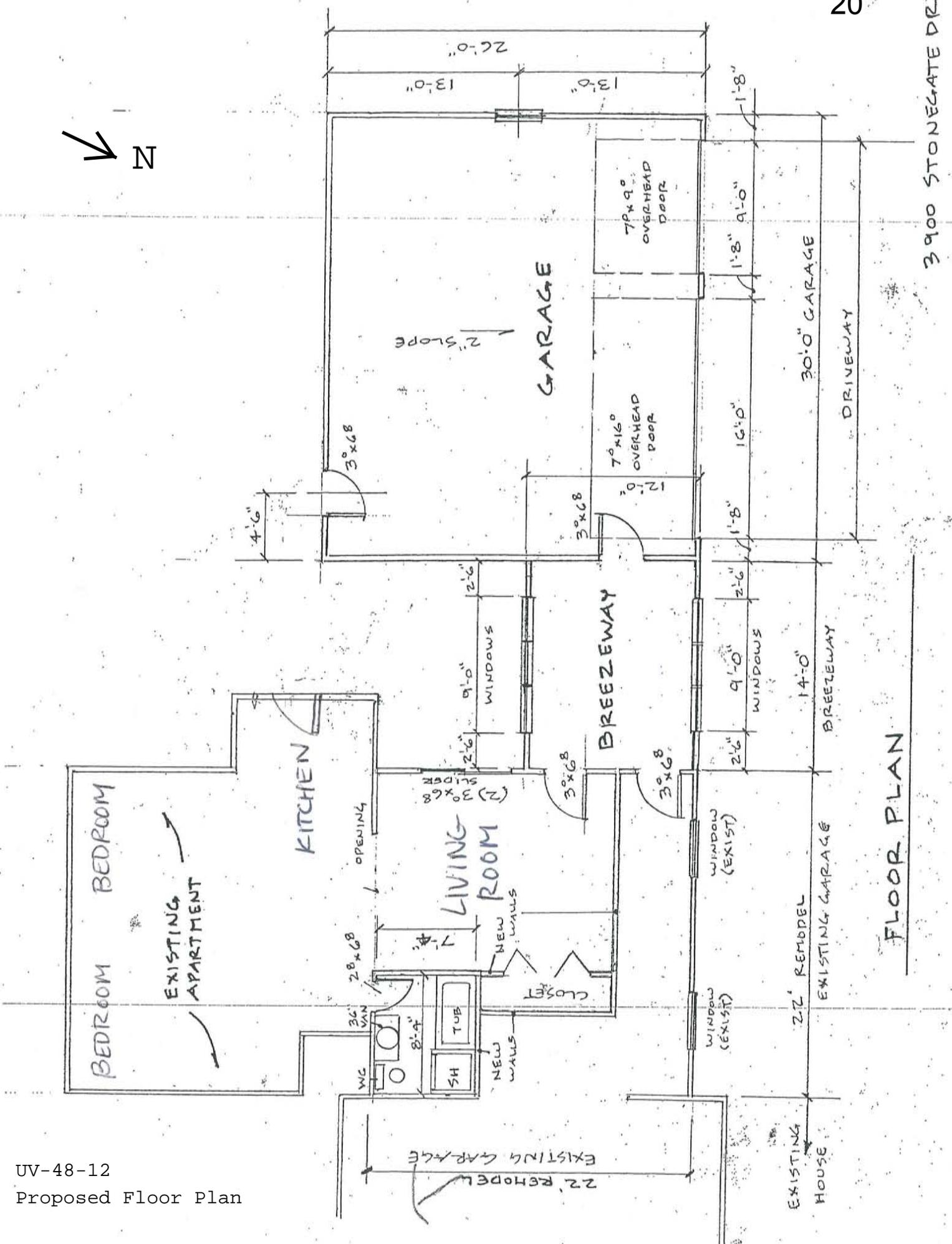




Sketch by Apex Sketch vs Standard™
 Comments:

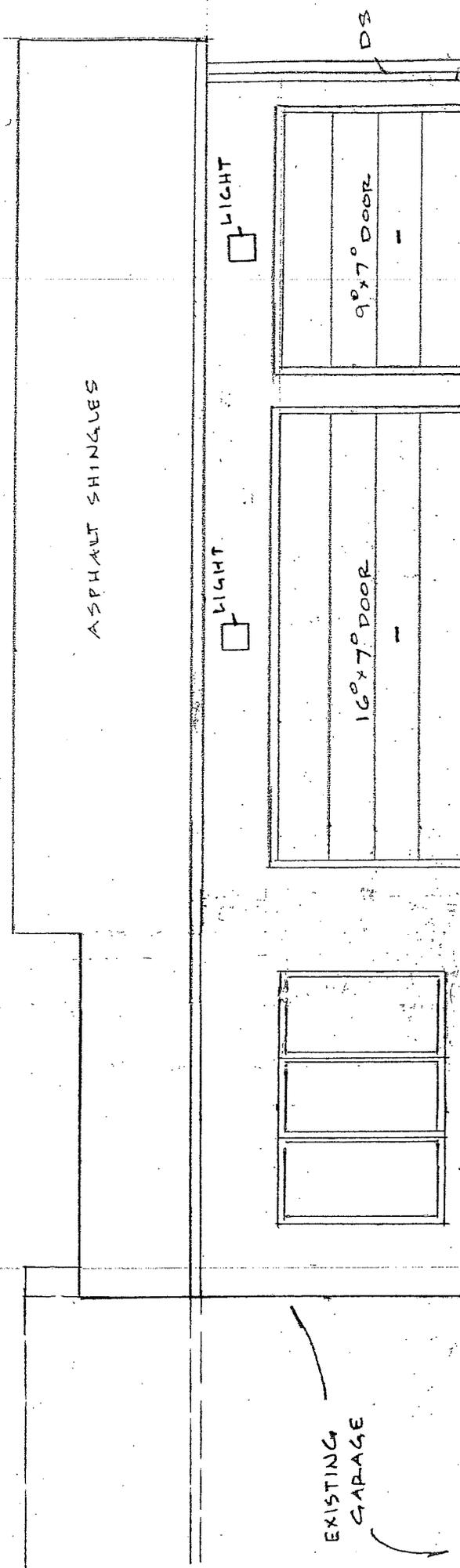
AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	2444.70	2444.70
BSMT	Basement	1108.40	1108.40
GAR	Garage	549.00	549.00
P/P	Covered Porch	96.00	
	Deck	301.60	397.60
Net LIVABLE Area		(rounded)	2445

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
First Floor	18.3	x 12.1	221.43
	55.3	x 4.1	226.73
0.5 x	2.5	x 2.0	2.50
	62.8	x 0.8	50.24
	4.0	x 2.0	8.00
	3.2	x 4.4	14.08
	25.0	x 55.3	1382.50
0.5 x	0.4	x 0.8	0.16
0.5 x	2.0	x 2.5	2.50
	30.0	x 5.0	150.00
	5.0	x 26.2	131.00
0.5 x	1.6	x 3.2	2.56
	11.0	x 23.0	253.00
13 Items	(rounded)		2445

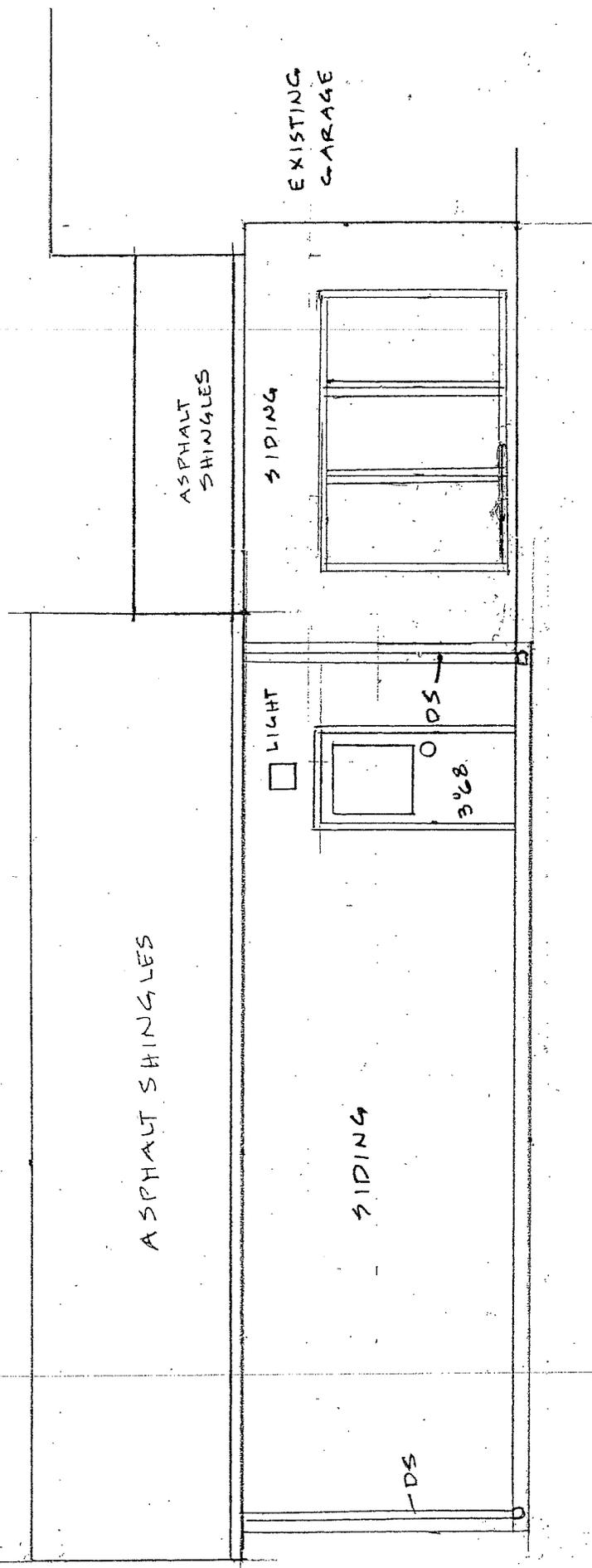


FLOOR PLAN

UV-48-12
Proposed Floor Plan



NORTH ELEVATION



ASPHALT SHINGLES

ASPHALT SHINGLES

LIGHT

SIDING

EXISTING GARAGE

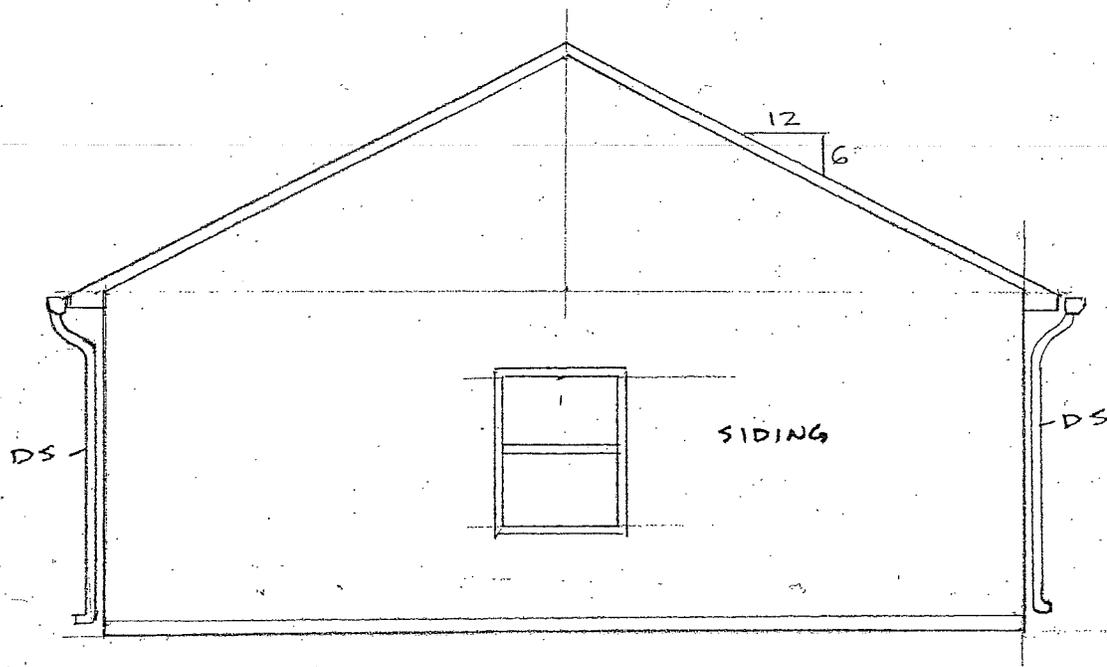
SIDING

-DS

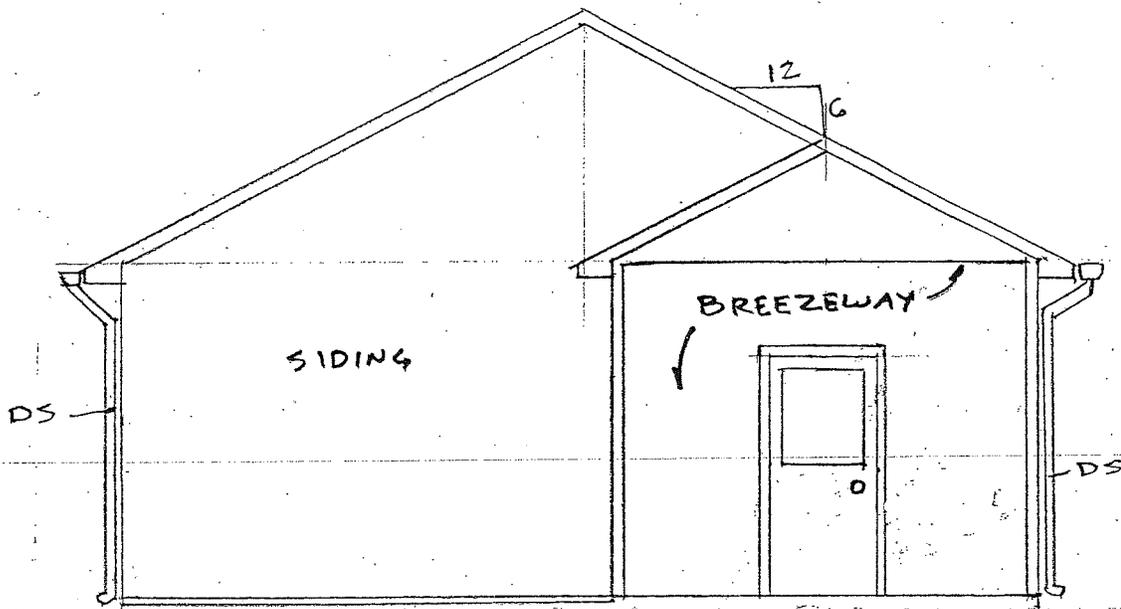
3 1/2"

DS

SOUTH ELEVATION



WEST ELEVATION

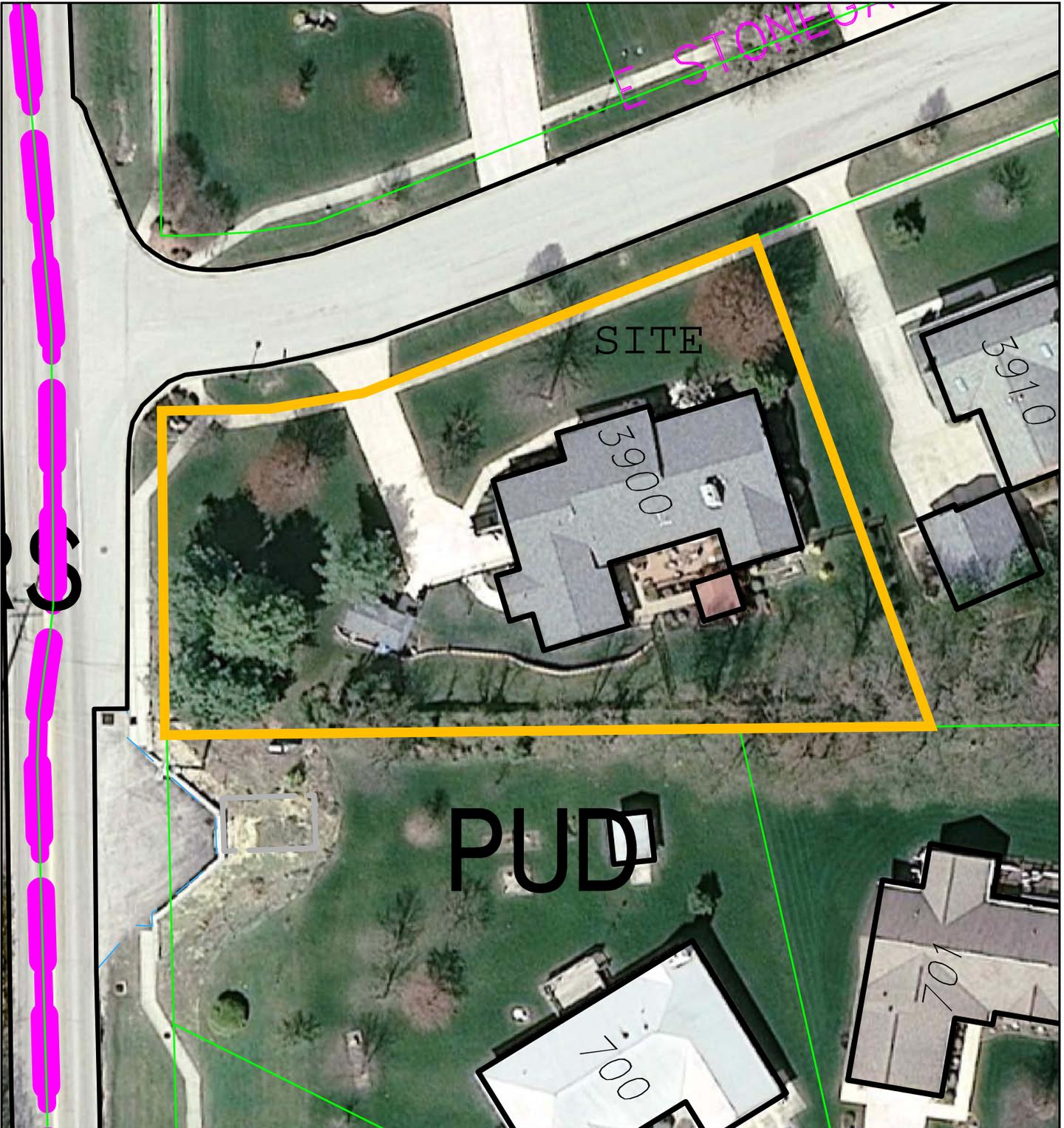


EAST ELEVATION



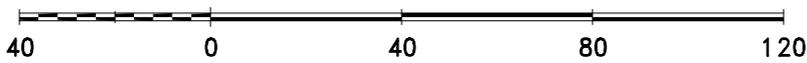
Second Unit

UV-48-12

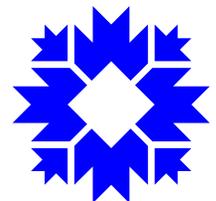


UV-48-12
 Trish Ierino
 3900 E. Stonegate Dr.
 2010 Aerial Photo

By: bannonk
 1 Nov 12



City of Bloomington
 Planning



Scale: 1" = 40'

For reference only; map information NOT warranted.

BLOOMINGTON BOARD OF ZONING APPEALS
LOCATION: 983 S. Mary Beth Drive

CASE #: V-57-12
DATE: December 20, 2012

PETITIONER: Mayta Lerttamrab
 983 S. Mary Beth Drive, Bloomington

REQUEST: The petitioner is requesting a variance from front yard building setback standards.

<u>UDO Requirement</u>	<u>Proposed/Existing</u>
20' from property line	13.5'

SUMMARY: This property is located at 983 S. Mary Beth Drive on Lot #29 of Gentry South and is part of the Gentry Honours Planned Unit Development. This PUD was approved for single family residences in 1994 (PUD-59-94). The property is surrounded by single family residences to the north, west, and east with the undeveloped Huntington Farm to the south.

The petitioner received a building permit on October 5, 2012 to construct a new single family residence on the property. The submitted site plan met all setback requirements. During the initial lot layout, the contractor measured the front setback for the footers and walls from the edge of curb and not the actual property line. As a result, the new residence is located 13.5' from the front property line rather than the required 20'. The residence also encroaches 1.5' into a 15' utility easement that runs along the front of the lot.

Staff has worked with the petitioner to alter the site layout and floor plan to address parking issues and improve the house aesthetics. The petitioner has agreed to change the garage design from a front loaded garage to a side loaded garage. This change allows cars to park on the driveway without encroaching into the street right-of-way or sidewalk and improves the look of the garage that is located closer to the street. In addition, the petitioner has agreed to add windows along the west side of the garage facing the street to improve the view from the public right-of-way.

The petitioner is requesting a variance from front yard building setback standards to allow the existing setback of 13.5' for the residence. Pending approval of this variance request, the petitioner would also be required to amend the plat for this lot to officially revise the easement width as well.

SITE PLAN ISSUES:

Parking: The petitioner has agreed to revise the layout of the driveway and garage layout to change the garage to a side loaded garage which allows for the driveway to come in from the north and provides parking area on the property adjacent to the garage. This reduces the possibility that cars parked on the driveway would encroach in the right-of-way or impede the sidewalk.

Utilities: The residence does encroach 1.5' into a Utility Easement that runs along the front of this property. Since this is at the end of the street there are no public utilities

that extend beyond this property and no utilities that would be impacted by this encroachment. Pending the outcome of this variance hearing, the petitioner must submit for a revised plat to reduce the easement on this property. Initial conversations with the Utility companies have not identified any problems with the slight reduction in the easement width along this one lot.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

STAFF FINDING: The granting of a variance from the setback standards will not be injurious to the public health, safety, morals, and general welfare. The location of the residence will not create any negative impacts. No public utilities would be impacted. The site plan has been altered so that cars can not park and block the sidewalk.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

STAFF FINDING: Staff finds no negative effects from this proposal on the areas adjacent to the property. This property is located at the end of a stub street and there are no plans proposed for the property to the south. The slight reduction in front setbacks for this lot will not affect the value of adjacent properties. The impact of the reduced setback will be negligible and not noticeable from the current 15' building setback requirement for single family residences.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

STAFF FINDING: Although staff does not find any practical difficulties in the use of the property, staff does find the strict application of the terms of the Unified Development Ordinance would require substantial cost on the applicant's behalf to tear down and remove all of the structure that is under construction. The encroachment into the setback will not be highly visible or noticeable.

CONCLUSION: While staff does not want to encourage the practice of approving variances for builder error, the hardship of requiring the structure to be demolished

would have substantial impacts on the entire residence and petitioner. The encroachment is minor and will have little visual impact.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of the variance request with the following conditions:

1. This variance applies only to the existing structure under construction. Any future construction or addition must meet the 20' setback requirement.
2. The garage must be modified to a side loaded garage with at least 3 windows installed along the west elevation.
3. This approval is contingent upon subsequent approval of a revised utility easement on the plat for this lot.

Dear Board of Zoning Appeals,

My name is Mayta Lerttamrab. I am the property owner of 983 Marybeth Dr, Bloomington IN 47401. There is a dire situation that I need your help with.

As a law abiding citizen, it is never my intention to break the code in anyway, but we were informed by the surveyor on November 19th that although my house is built within my property line, it is 6.5 feet into the building setback requirement. Both my builder and I were not aware of this, and now we were stunned by what has happened. I thought everything was fine and moving according to schedule after the drawings were approved by the city planning department. I didn't know that this error would happen after the footing and foundation inspections have been approved.

My house is built on a relatively empty neighborhood. The location of my house is at the end of Marybeth Dr. On the west side of Marybeth Dr, there is one house right across my house, and another house one block away to the north. My house is the only one on east side of the street. All the lots north of my house are empty, and there is a corn field adjacent to my house on the south side.

This situation heavily affects all parties involved; myself, my builder, and the bank. Currently, I don't see how I am able to solve this at all. If I don't get a variance from the front setback requirement, the bank will halt the construction loan. Being a full time student at IU, I have a very limited amount of income, and I have already put all of my life's savings into the down payment of this construction project. I also don't wish to lay blame on my builder because he has already put so much into this project himself. My builder has finished doing the most important part, the foundation work for the whole structure, and has almost completed the framing process. So it is impossible to start everything from scratch again as both he and I don't have any more resource, money or extra time for this massive change. At this stage, laying blame and pushing the responsibility to any particular individual to make a huge change would be a huge lost for all parties involved. The reality I am facing now is, I won't even have the money to pay extra rent or construction loan interest from February onward. All of my down payment and savings may disappear completely because of this. I am told that there have been 2 similar cases in the past 13 years that the variances were granted. So I humbly ask for your help to show some compassion by giving us an exception and grant us this variance.

Best regards,

Mayta Lerttamrab

V-57-12
Petitioner Statement

SURVEYOR LOCATION REPORT

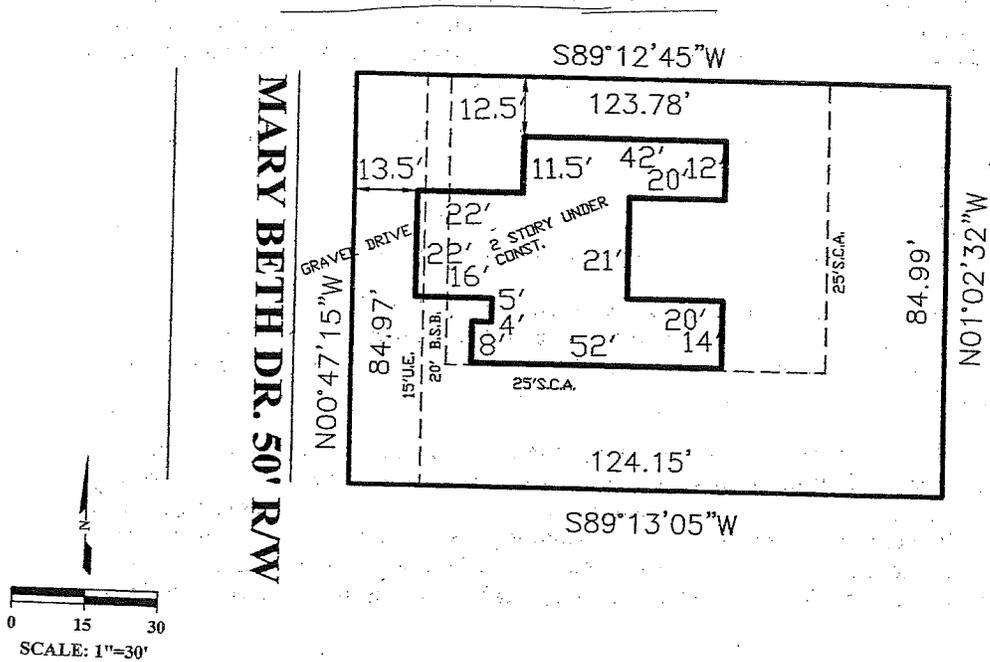
THIS REPORT IS DESIGNATED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES, NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED ON LIMITED ACCURACY MEASUREMENTS, THEREFORE, NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THE DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES.

PREVIOUSLY SET BOUNDARY MARKERS MAY BE USED FOR THIS LOCATION REPORT, HOWEVER, NO LIABILITY IS ASSUMED FOR THE ACCURACY OF A PREVIOUS BOUNDARY SURVEY OR SUBDIVISION.

PROPERTY ADDRESS: 983 S. Mary Beth Dr., Bloomington, In 47401

PROPERTY DESCRIPTION: Lot 29 Gentry South Subdivision as shown by the recorded plat, recorded in Plat Cabinet "D", Env. 52 , in the office of the Recorder of Monroe County, Indiana.

OWNERS NAME: Matta Lerttamrab



DESIGNATED PARTIES

MORTGAGE

REFERENCE No.

OR ASSIGNEES: Owen County State Bank

TITLE CO.:

OTHER:

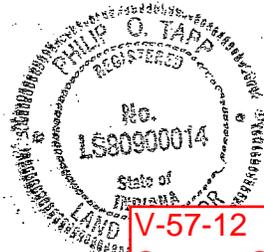
REFERENCE No.

I HEREBY CERTIFY TO THE PARTIES NAMED ABOVE THAT THE REAL ESTATE DESCRIBED HEREIN WAS INSPECTED UNDER MY SUPERVISION ON THE DATE INDICATED AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT CONFORMS WITH THE REQUIREMENTS CONTAINED IN SECTIONS 27 THROUGH 29 OF 865 IAC 1-1-12 [sic, 865 IAC 1-12] FOR A SURVEYOR LOCATION REPORT. THE ACCURACY OF ANY FLOOD HAZARD STATEMENT SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

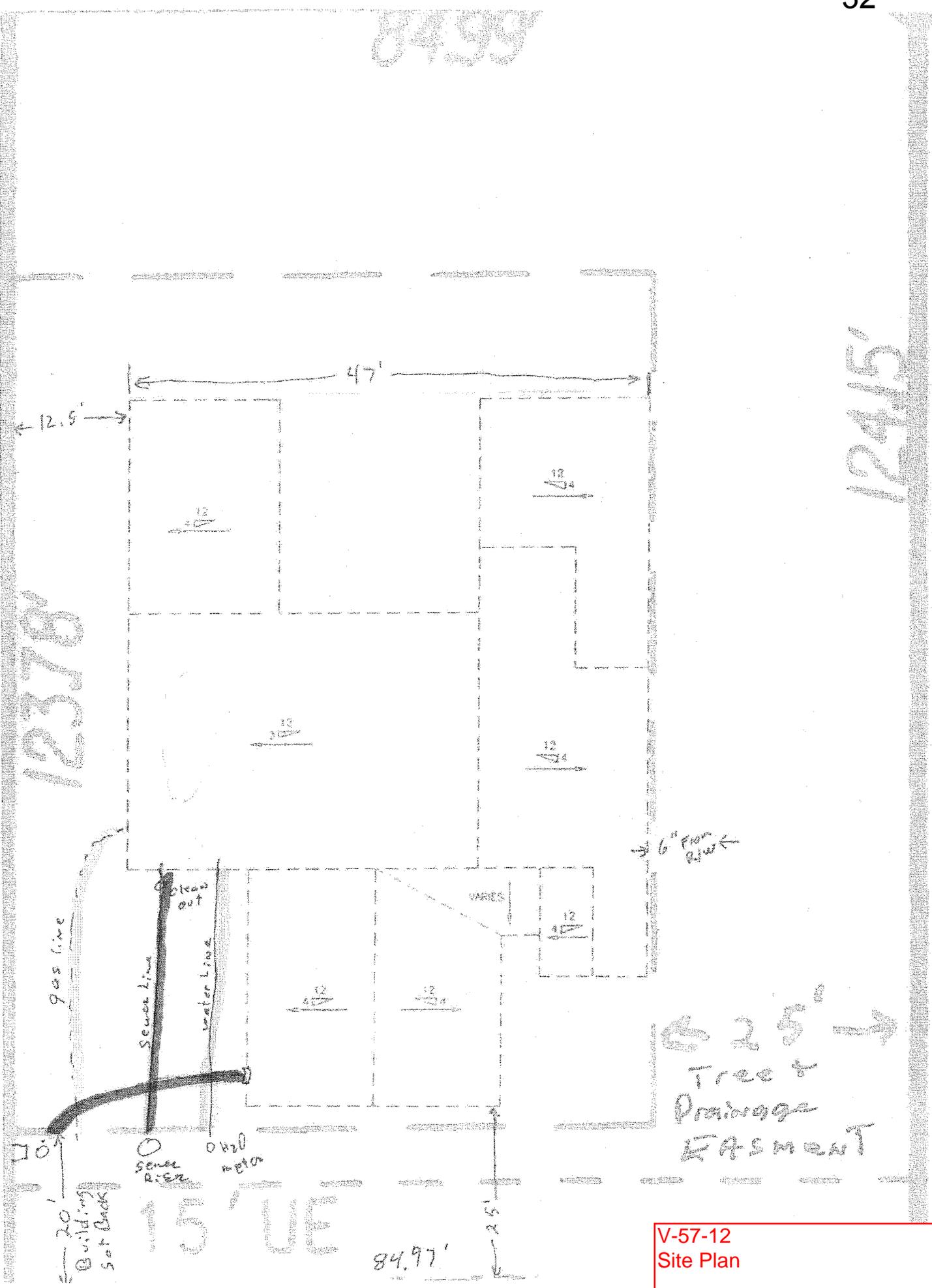
CERTIFICATION DATE: 11/19/12

SURVEYOR'S SIGNATURE: *[Signature]*

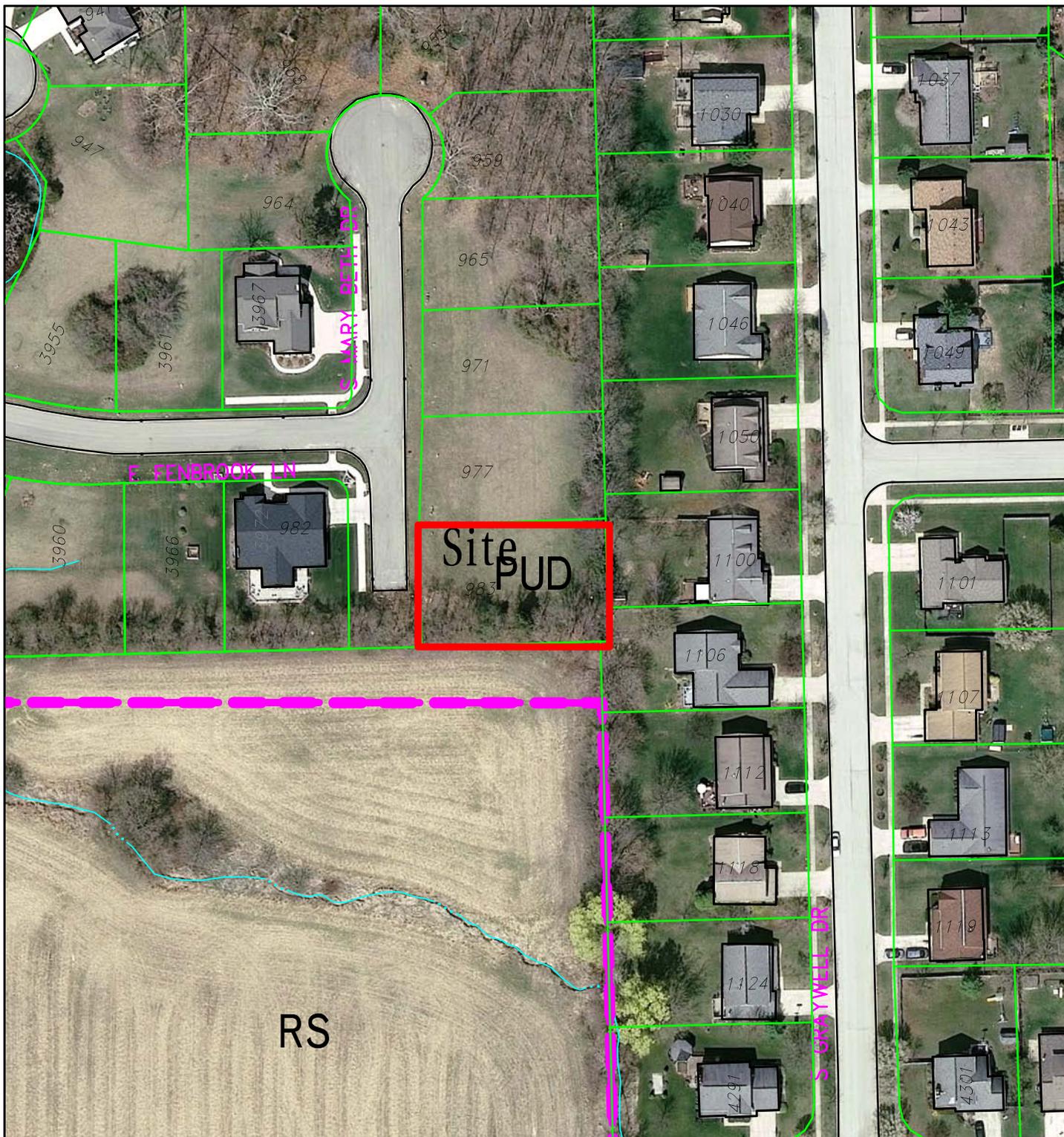
JOB NUMBER: MS 237



V-57-12
Current Survey

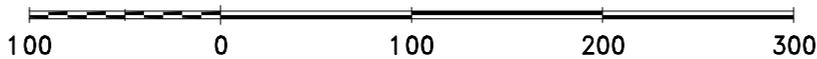


V-57-12
Site Plan

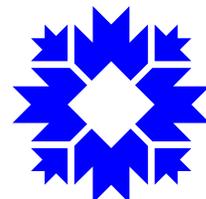


V-57-12 Mayta Lerttamrab
 983 S. Mary Beth Drive
 Board of Zoning Appeals
 2010 Aerial Photograph

By: greulice
 14 Dec 12



City of Bloomington
 Planning



Scale: 1" = 100'