

PUBLIC NOTICE
FRANKLIN BOARD OF ZONING APPEALS
NOVEMBER 7, 2019

AGENDA

Notice is hereby given that the Franklin Board of Zoning Appeals will hold a regularly scheduled meeting on Thursday, November 7, 2019, at 6:00 p.m. in the City Hall Board Room, 109 Third Avenue South, Franklin, Tennessee. Additional information can be found at www.franklintn.gov/planning. The purpose of the meeting will be to consider matters brought to the attention of the Board and will include the following:

Call to Order

Review and approval of Minutes from September 5, 2019, BZA Meeting

Announcements

Items to be heard by the Board

1. **Administrative Appeal** by Gary Luffman, for the construction of three non-conforming single-family dwellings in R-2 Zoning at 139 and 141 Old Liberty Pike (F.Z.O §3.2.3, Table 3-2, §4.3).

Other Business

Adjourn

Anyone requesting accommodations due to disabilities should contact the Human Resources Department at (615) 791-3216, at least 24 hours prior to the meeting.

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
September 5, 2019**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, September 5, 2019 at 6:00 p.m. in the City Hall Boardroom.

Members present: Frank Jones
 Gillian Fischbach
 Jonathan Langley

Staff present: Kelly Dannenfelser, Planning & Sustainability
 Joey Bryan, Planning & Sustainability
 Bill Squire, Assistant City Attorney
 Lori Jarosz, BNS Department

The agenda read as follows:

Review and approval of Minutes from July 11, 2019, BZA Meeting

Announcements

Variance Request by Jacquire King, for front yard fencing height at 217 Old Liberty Pike (F.Z.O §5.6.4, Table 5-8).

Variance Request by Bridget Ziegler, for a 18-foot encroachment into the required 30-foot rear yard setback to construct a covered patio at the rear of the existing dwelling located at 520 Foxcroft Circle (F.Z.O §3.3.3, Table 3-6).

Chair Jones called the meeting to order at 6:00 pm.

Minutes from July 11, 2019, BZA Meeting

Ms. Fischbach moved to approve the July 11, 2019, meeting minutes. Mr. Langley seconded the motion and the motion carried 3-0.

Announcements:

Chair Jones requested to know if there were any non-agenda items.

Mr. Bryan stated there was one Announcement and stated the TN Chapter of the American Planning Association conference is in Franklin this year and will be hosting commissioner training and the department will pay the registration fee.

Variance Request by Jacquire King, for front yard fencing height at 217 Old Liberty Pike (F.Z.O §5.6.4, Table 5-8).

Mr. Bryan stated the applicant is requesting to vary the maximum height for front yard fencing by approximately 2 feet for the existing fencing located at 217 Old Liberty Pike. Mr. Bryan stated approximately 48 feet of existing fencing, running from the right front corner to the right rear corner of the principal structure, does not currently comply with the regulations of the Zoning Ordinance. Mr. Bryan stated the subject property is a lot of record that was created prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property is currently zoned R-2 and within the Central Franklin Character Area Overlay District - Special Area 3 (CFCO-3), and designated for Traditional or Conventional Development Standards. Mr. Bryan stated the Table 5-8 establishes the Fencing Standards for Conventional and Traditional Areas. Mr. Bryan stated it sets the maximum fencing height for front yard fencing for residential lots at 3 feet. Mr. Bryan stated in the justification letter, the applicant cites the fencing height complies with Table 5-8 for the parking lots. Mr. Bryan stated this particular property would fall under the regulations for residential uses and the maximum height of 6 feet for parking lots would not apply. Mr. Bryan stated additionally, it is a corner lot which further classifies front yard fencing as extending to the street side rear corner of the principal structure to prevent sight line obstruction for vehicular traffic. Mr. Bryan stated the Variance process is intended to provide limited relief from the requirements of the Zoning Ordinance in those cases where the strict application of a particular requirement will create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the Ordinance. Mr. Bryan stated it is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of the Zoning Ordinance may impose of property owners in general. Mr. Bryan stated Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. Mr. Bryan stated the BZA may authorize, upon an appeal relating to the property, a Variance from such strict application of the Zoning Ordinance so as to relieve such difficulties or hardship only in accordance with the following three standards (FZA §§ 2.2.4 (b) and 2.4.5):

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property is not able to accommodate development as required under this ordinance; and
2. The strict application of any provision enacted under this ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property; and
3. Relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this ordinance.

Mr. Bryan stated in order to grant the Variance Request, the BZA must determine that the applicant has demonstrated that all three standards required to grant the variance have been satisfied. Mr. Bryan stated the following is an analysis of the requested variances as they relate to the variance standards and approval criteria described above:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property is not able to accommodate development as required under this ordinance.

- The subject property is a lot of record that was created prior to the adoption of the current zoning ordinance. The subject property is of similar size and shape to neighboring lots. The applicant is requesting to vary the maximum height for front yard fencing by approximately 2 feet for the length of the house, which is considered to be front yard fencing for corner properties.
 - Staff finds that the conditions on the lot as described by the applicant do not create a unique, exceptional, or extraordinary situations about the subject property that would prevent the applicant from complying with the requirements of the Zoning Ordinance.
2. The strict application of any provision enacted under this ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property.
 - After reviewing the plans, Staff finds that the strict application of the Zoning Ordinance provisions requiring conformance with the Fencing Standards for residential lots would not result in an exceptional hardship on the owner of the property. Ultimately, the Board must determine whether the request to vary the fencing is a hardship or practical difficulty.
 3. Relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this ordinance.
 - The final standard the Board must consider is whether the requested relief granted would be a detriment to the public good or impair the intent and purpose of the Zoning Ordinance. City Traffic Engineer Adam Moser inspected the fencing and found no triangle violation and that the existing position and height of the fence does not hinder sight distance for vehicular traffic. Therefore, staff believes that granting the proposed variance would not be detrimental to the public good and would not impair the intent or purpose of the Zoning Ordinance.

Mr. Bryan stated in order for the BZA to grant a variance, the applicant must have demonstrated that all three of the standards required to grant a variance have been satisfied. Based on the analysis presented above, staff recommends disapproval of the variance requested by the applicant because the applicant has not met the three standards required for granting a variance.

Mr. King stated some background on this fence includes twice before the fence was built and called the City about fence height and was told an 8-ft. tall fence was alright and they started building the fence. Mr. King stated the fence was being built on the side of my neighbors' property and wound up falling on the property line and discussion was had with the neighbors to make sure they were okay with the aesthetic of it. Mr. King stated one day Mr. Allen Lewis was driving by and issued a code violation and stop work order because they were building an 8-ft. fence. Mr. King stated they took down the 8-ft. fence. Mr. King stated he did not realize that he two front yards due to having a corner lot. Mr. King stated he would like to have the extra 2-ft. to make it look better. Mr. King stated he additional photographs and passed those to the commissioners.

Mr. Bryan stated they did receive a letter of support as the fence looks now.

Chair Jones requested to know if any citizens wished to speak and no one requested to speak.

Mr. Langley moved to close the public portion of the meeting. Ms. Fischbach seconded the motion and the motion carried 3-0.

Mr. Langley requested to be filled in on the meetings that took place.

Mr. Bryan stated he was not apart of those meeting, but he was contacted when the 8-ft. was built, but the applicant had gone ahead and taken it down. Mr. Bryan stated he was contacted again with the notice of violation and the applicant went to City court and the judge offered the applicant the variance option.

Mr. Langley questioned if the applicant met with staff.

Mr. Bryan stated he met with Ms. Shanna McCoy.

Chair Jones stated the photos show nothing about blocking the view.

Mr. Bryan stated Mr. Mosher with Engineering went out to view the property and determined it does not obstruct the view shed.

Ms. Dannenfelser explained about that there is a new Zoning Ordinance coming that will have some fencing changes. Ms. Dannenfelser explained.

After discussion and an explanation from Mr. Squire explaining this item was still involved with a court case. Mr. Langley moved to deny the request to vary the maximum height for front yard residential fencing by approximately 2-ft. for the property located at 217 Old Liberty Pike because the applicant has not demonstrated that all three standards for granting a variance have been satisfied as described in the staff report. Ms. Fischbach seconded the motion and the motion carried 3-0.

Variance Request by Bridget Ziegler, for a 18-foot encroachment into the required 30-foot rear yard setback to construct a covered patio at the rear of the existing dwelling located at 520 Foxcroft Circle (F.Z.O §3.3.3, Table 3-6).

Mr. Bryan stated the applicant is requesting an 18-foot encroachment into the required 30-foot rear yard setback to construct a sunroom addition at the rear of the dwelling located at 520 Foxcroft Cir. Mr. Bryan stated the subject property is Lot 20 in the Eagles Glen Subdivision, Section 2, and is a lot of record that was created in 1987 prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property is currently zoned R-3 – Detached Residential 3 District, McEwen Character Area Overlay District - Special Area 3 (MECO-3), and designated for Conventional Development Standards. Mr. Bryan stated Table 3-6 establishes the Site Development Standards for Conventional Areas and has a footnote that stipulates that “for lots in recorded subdivisions or approved PUDs, the setbacks and lot sizes, maximum densities, and primary façade widths shown in this table shall not apply, and the requirements shown on the final plat, the approved PUD, or conditions on existing lots shall govern.” Mr. Bryan stated the required 80-foot rear yard setback requirement established on the recorded plat is consistent with the setback for sides of the property that fronts an arterial as stipulated in Tables 3-6. Mr. Bryan stated Building & Neighborhood Services Department has classified this as a rear yard and will be referred to and reviewed as such in this report. Mr. Bryan stated the applicant is proposing to construct an 18’ x 19’ covered

sunroom addition to the rear of the existing dwelling. Mr. Bryan stated the proposed roof cover would encroach into the rear setback approximately 18'. Mr. Bryan stated the lot is not a standard shape. Mr. Bryan stated the rear property line angles down from left to right limiting buildable areas. Mr. Bryan stated the lot also contains an existing 10' PUDE that cannot be built on. Mr. Bryan stated the location of an existing PUDE, restricts the areas where additions and/or accessory structures can be constructed on the property. Mr. Bryan stated the Variance process is intended to provide limited relief from the requirements of the Zoning Ordinance in those cases where the strict application of a particular requirement will create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the Ordinance. Mr. Bryan stated it is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of the Zoning Ordinance may impose of property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. Mr. Bryan stated the BZA may authorize, upon an appeal relating to the property, a Variance from such strict application of the Zoning Ordinance so as to relieve such difficulties or hardship only in accordance with the following three standards (FZA §§ 2.2.4 (b) and 2.4.5):

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property is not able to accommodate development as required under this ordinance; and
2. The strict application of any provision enacted under this ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property; and
3. Relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this ordinance.

Mr. Bryan stated in order to grant the Variance Request, the BZA must determine that the applicant has demonstrated that all three standards required to grant the variance have been satisfied. Mr. Bryan stated the following is an analysis of the requested variances as they relate to the variance standards and approval criteria described above:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property is not able to accommodate development as required under this ordinance.
 - The subject property is an existing lot of record that was created prior to the adoption of the current Zoning Ordinance. The property was originally platted as Lot 20 of Section 2 of the Eagles Glen Subdivision in 1987. The proposed addition will be constructed at the rear of the dwelling. The applicant lists the rear yard setback in the justification letter as 25 feet, however the true platted rear yard setback is 30 feet. The applicant is requesting an 18-foot encroachment into the required 30-foot year yard setback.
 - The shape the lot is not typical of the subdivision. The lot is located on a cul-de-sac. The curved front yard setback pushes the buildable area towards the rear of the property. Additionally, the rear property line has two segments with the western segment angled

downward limiting the buildable area in the rear yard. The shape of the property limits where rear additions can be constructed. Additionally, the location of a 10' PUDE limits the buildable area of the lot.

- Staff finds that the conditions on the lot create a unique, exceptional, or extraordinary situation about the subject property that would prevent the applicant from complying with the requirements of the Zoning Ordinance if Conventional Development Standards were applied.
2. The strict application of any provision enacted under this ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property.
 - Staff reviewed the recorded plat for the property as well as GIS and aerial data for the property. The proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. The unique shape of the property severely limits the area where additions can be constructed. The strict application of the Zoning Ordinance provisions requiring conformance with the platted setback would result in an exceptional hardship on the owner of the property. Ultimately, the Board must determine whether the inability to construct the proposed roof cover encroaching into the required rear yard is a hardship or practical difficulty.
 3. Relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this ordinance.
 - The final standard the Board must consider is whether the requested relief granted would be a detriment to the public good or impair the intent and purpose of the Zoning Ordinance. Based on the analysis of the conditions of the lot and the approvals of similar requests, staff believes that granting the proposed variance would not be detrimental to the public good and would not impair the intent or purpose of the Zoning Ordinance.

Mr. Bryan stated in order for the BZA to grant a variance, the applicant must have demonstrated that all three of the standards required to grant a variance have been satisfied and based on the analysis presented above, staff recommends approval of the variance requested by the applicant because the applicant has met all three of the standards required for granting a variance.

Ms. Ziegler stated she was happy to answer any questions.

Chair Jones requested to know if any citizens wished to speak and no one requested to speak.

Mr. Langley moved to close the public portion of the meeting. Ms. Fischbach seconded the motion and the motion carried 3-0.

Ms. Fischbach moved to approve the variance request to vary the required 30-foot rear yard setback by 18 feet to construct an addition located at the rear of the existing dwelling located at 520 Foxcroft Cir. because the applicant has demonstrated that the standards for granting a variance have been satisfied as described in the staff report. Mr. Langley seconded the motion and the motion carried 3-0.

Other Business.

Adjourn.

With there being no further business, the meeting was adjourned at 6:33.

Chair

September 18, 2019

Joseph Bryan
City of Franklin, Tennessee
Department of Planning and Sustainability
City Hall
109 Third Ave South
P.O. Box 0305
Franklin, Tn. 37065-0305

SUBJECT: Administrative Appeal—Continuation of Nonconforming Use and Structures at 139 and 141 Old Liberty Pike; 63M-A-6

Dear Mr. Bryan:

The Zoning Administrator in the Building and Neighborhood Services Department recently denied our request to demolish two residential structures containing three residential units and rebuild three new single-family detached units on the same lot. The two structures are one two-family dwelling and one single-family. Since only one single-family dwelling unit is allowed in the (R-2) Medium Residential District, the two-family structure would be classified as a legal nonconforming structure. The Zoning Administrator is stating that once the two-family structure is removed by demolition, the non-conforming status given to the property has been corrected and the proposed three single-family dwellings would put it back into a nonconforming status.

Our request is for an administrative appeal to give reasons why the two units in the duplex can also be built back. The difference being the split of the two-family structure into two single-family structures in the new construction proposal. (Three dwelling units before and three single-family dwelling units after) Attached are the Zoning Administrator's letter and our rebuttal based upon non-conforming use as defined by Franklin *Zoning Ordinance*.

We also propose to meet all Envision Franklin standards for the R-2 district and the CFCO-3 Character Overlay district. We will also submit a site plan for DRT approval.

It must be noted when reading **Section 4.3, Nonconformities**, of the *Zoning Ordinance*, there are six subparagraphs clarifying demolition, enlargements, expansion, and rebuild to permit a continuation of a non-conforming use and structures.

Please place our request to be on the November 7, 2019, meeting of the Franklin Board of Zoning Appeals. Thank you.

Sincerely,

Gary and Vikki Luffman
2331 Henpeck Lane
Franklin, Tn. 37064

August 7, 2019

Molly Pike, Zoning Administrator
Building and Neighborhood Services Department
City of Franklin, Tennessee
City Hall
107 Third Ave. South
Franklin, Tennessee 37064

SUBJECT: Continuation of 139 and 141 Old Liberty Pike as a Non-Conforming Use

Ms. Pike:

The City of Franklin is in the process of studying a new *Zoning Ordinance* adoption. The Franklin Planning and Sustainability Department is coordinating this study. A public hearing will occur on August 15, 2019. After receiving a mail correspondence from the Planning and Sustainability Department informing my wife and me of the public hearing and a link to study the draft, we have determined this new *Zoning Ordinance* will have a major impact on one of our properties. It will not only affect our property value, but its potential redevelopment.

This memo entails several acknowledgements and answers needed from the zoning division of the City of Franklin Building and Neighborhood Services Department regarding our property. Since time is of an essence, please respond as soon as possible. Some of the facts and questions have already been asked of Kelly Dannenfels in the Planning and Sustainability Department. She acknowledged the property is unique and needed further study.

FACTS:

1. Location: 139 Old Liberty Pike (Two-Family Dwelling)
141 Old Liberty Pike (Single-Family Dwelling)
2. Map, Group, Parcel Number: 63M-A-06
3. Number of Dwelling Units: 3
4. Square Footage of Land: 21,819
5. Acres: .524
6. Zoning: R-2 Detached Residential District 2 (Two units per Acre)
7. Character Area: CFCO Special Area is unknown
8. Table 3-8 Site Development Standards: Proposed development will meet traditional standards, except square footage for three units. Parcel with two structures and three units is non-conforming.

9. Tax Classification: Commercial since 1989 (Williamson County and City of Franklin) NOTE: Previous owner lived in two-family structure which caused the property to be taxed residential.

10. Utilities: Middle Tennessee Electric Membership Cooperative---two meters on two-family structure, but records do not go back before 2003. One meter on single-family structure.

ATMOS Energy--- two gas meters on two-family structure, but records don't go back since 2013. No gas meter on single-family structure.

City of Franklin Water Management--- Billing is based on a "commercial" rate for water and sewer because of three units on property.

City of Franklin Sanitation Department---Billing is for three units on property. (Not sure if billed commercial for three sanitation containers)

City of Franklin Storm Water Department---not sure if based on commercial rate

City of Franklin Water Management Department---Backflow Prevention Device required for property because of three units

11. Williamson County Property Assessor: Records have shown a single two-family structure for over 50 years and a single-family structure for over 30 years.

12. City of Franklin Planning and Sustainability Department---the city has conducted several field investigations in the past to confirm the existing uses on parcels within the city. These Use Classifications indicated two or three units based on the time of the map investigation. It also showed the structures. We personally know of one completed map in 1980.

13. Floodplain: The first 70 feet from the front property line into the property is within the 2016 designated FEMA floodplain maps. (Zone AE, BFE 637.52) Based on contour lines and past elevation surveys, the two-family structure is half way into the floodplain. The single-family structure is within the 500 year floodplain and a good distance from the 100 year floodplain line.

14. Two-family structure has a front door for each unit and two back doors.

15. Two-family structure was built sometime in late 1930s or early 1940s as a single-family unit. An extra bedroom and kitchen was added around 1968. The old kitchen created the added unit. The single-family unit was re-built after it burned in 1985.

16. Jamie Groce, past Planning and Sustainability Director, lived in Unit A with his wife for approximately one year.

PROJECT SCOPE: Demolish both structures and construct three single family units. A condo regime will be established for the structures and land.

Please answer the following questions or statements as it relates to the existing *Zoning Ordinance*. Questions 10 and 11 are for the proposed *Zoning Ordinance*, also. Please agree or disagree. If you disagree, please explain:

1. If any of the above facts are wrong, please state.

2. Based on the above facts, does the Zoning Administrator acknowledge the property is a legal non-conforming use? NOTE: Please see other comments below to aid in your determination.
3. Does the Zoning Administrator acknowledge that the existing *Zoning Ordinance* Section 4.3 does not separate non-conforming uses into non-residential and residential uses?
4. Does the Zoning Administrator acknowledge that one of the structures (single-family dwelling) is a conforming use or is part of a whole use of three (3) units making it non-conforming?
5. Is the two-family dwelling structure a legal non-conforming use on this parcel of land?
6. According to Table 3-2 of the Franklin *Zoning Ordinance*, attached dwellings are only allowed in SD-R, SD-X, RM-10, RM-15, RM-20, OR, and CC zoning districts. The definition of "Dwelling Multiple –Family (apartment)" does not describe this property. The definition of "Dwelling" describes both structures on this property. It does not meet the definition of "non-conforming structure" or "non-conforming use." If it does not meet a definition for non-conforming, then what is it? Does the Zoning Administrator agree or disagree with the previous statements within this paragraph?
7. Section 2.4.2 (3) (b) (iv) requires attached dwellings to be located in a PUD. PUD regulations were not incorporated into the *Zoning Ordinance* till 1993. Does this statement carry any weight on the non-conforming use and makes the PUD requirement a moot issue? As stated, the units will not be attached. Is Section 2.4.2 (3) (c) also a moot issue because the property was not part of a Preliminary Plat or Final Plat, but is a valid Lot of Record prior to July 1, 2008?
8. Section 2.4. 3 (3) (a) gives exemptions for site plan review for detached units. These three units will be detached, but the square footage of all three when combined will increase over the existing square footage of the two structures.
9. Will Section 2.4.3 (3) (b) now be applicable and require a site plan to be reviewed administratively by the Planning and Sustainability Department? IMPORTANT: Do (a) and (b) conflict with each other?
If a site plan is required, what depth of information will be required? Is this a simple plot plan submittal or a full check list requirement for site plans reserved for large developments?
10. If three individual dwelling units are not allowed, then what can be built back today and under the proposed *Zoning Ordinance*?
11. Can one large structure containing three units be built back today and in the new proposed *Zoning Ordinance*?
12. Will a sewer availability letter be required? One sewer tap is existing and will remain.
If it is determined that the increase is size of the proposed units will need a larger

size sewer line, then it will be upgraded.

13. What part or parts of the *Stormwater Ordinance* will be required, if any?
14. Will a Facilities Tax be imposed on the extra square footage created?
15. A Road Impact Fee will not be imposed, correct?
16. If the Zoning Administrator rules not in our favor for this proposed development, then can we appeal to the Development Services Advisory Commission? If this is not the appropriate route, then is the Board of Zoning Appeals the correct route?

There is another question that may be hard to answer, but is pertinent to the timeline of this project. Will Section 1.7.3 (1) addressing pending legislation affect this project? When could it be enacted and by whom? This has been done in the past and we do not want to invest money into the project and have it rejected. We admit the past examples were different, but it is still a viable scenario. Will the city require a permit for demolition of the two structures to suffice to acquire an invested right or actual building permits? Will application for building permits suffice? Does construction have to start and on how many structures?

Our proposed design is in keeping with the existing neighborhood. Presently one other two-family structure is within this block, but all other structures are single-family units. One half block away on Daniels Drive, several two-family and multi-family structures exist. We think three dwelling units is better suited for this parcel instead of one large structure containing three units. A sample plot plan is accompanying this memo showing the intent. Each dwelling structure will contain approximately 2800 square feet with two car garages. Two parking spaces will be provided for each unit plus additional parking for visitors.

Thank you for your time. We are open for a meeting to discuss these comments and questions with all appropriate city personnel. Our phone number is 615-854-4164.

Sincerely,

Gary Luffman
2331 Henpeck Lane
Franklin, Tn. 37064

Vikki West Luffman
2331 Henpeck Lane
Franklin, Tn. 37064



HISTORIC
FRANKLIN
TENNESSEE

August 22, 2019

Gary and Vikki Luffman
2331 Henpeck Lane
Franklin, Tennessee 37064

**Re: Zoning Verification
139 & 141 Old Liberty Pike
Franklin, Tennessee 37064
Parcel: 063M A 00600**

The above referenced property is zoned R-2, Detached Residential. Uses permitted in a R-2 district (taken from Table 3-2 of the ZO) include agricultural, detached residential, passive parks and open space, bed and breakfast, recreational facilities, short term vacation rental and telecommunication towers & antennas.

The subject property is also located in the CFCO-3, Central Franklin Character Area Overlay area 3 and the FFO, Floodway Fringe Overlay.

If the existing structures are removed from this property, only uses and structures permitted in this zoning district, may be built on the property.

If you have questions or need additional assistance, please do not hesitate to contact me via phone at 615-550-6738 or email at

Respectfully,

Molly A. Pike, RLA
Zoning Administrator
City of Franklin Tennessee

SHEET 3

COMMENTS TO SUPPORT THE CONTINUANCE AND REBUILD OF A NONCONFORMING USE AND STRUCTURES AT 139 AND 141 OLD LIBERTY PIKE

ADMINISTRATIVE APPEAL

1. The Franklin *Zoning Ordinance* does not differentiate between residential and non-residential properties. Statements in Section 4.3 apply to both type of use and structures.
2. Sections 4.3.1 (3) allows nonconformities in continuous use to demolish, expand, and reconstruct a nonconforming use. There are two important points in this paragraph. The non-conformity shall not pose a public health hazard or increase the degree of non-conformity. FACT: It definitely will not pose a health hazard with the construction of three new single-family dwelling units. The degree of non-conformity will not increase, three units are existing and three will be reconstructed. All dimensional standards as set forth in Table 3-8 and the Development Standards Subsections 5.3.4 and 5.3.5 will be met in both the existing and proposed new *Zoning Ordinance*. They key words are continuous, demolish, and reconstruct.
3. Section 4.3.2 indicates use and structures can add additional facilities, expand footprints, or destroy and reconstruct all or portions of the nonconformity in accordance with the other requirements of the subsection. The words *add* additional facilities, *expand* footprints, *destroy* and *reconstruct* are key in this appeal before the Board of Zoning Appeals. The appellant will meet these requirements.
4. Section 4.3.2(1) (a) states that the enlargement, expansion, or major repair shall meet Subsection 2.4.3 for a Site Plan Review and Subsection 4.3.3, Non-conforming uses. FACT: Appellant will meet this requirements to submit a Site Plan and conform to Subsection 4.3.3. The appellant will meet Subsection 4.3.3 criteria, especially the requirement to meet Subsection 4.3.2. This subsection specifically identifies eight standards for qualification. The appellant will meet the standards.
5. Section 4.3.2 (1) (b) requires any reconstruction meet the FWO and FFO Districts standards. The two-family dwelling is presently 30 feet into the outer edge of the Floodway Fringe boundary. Since this structure has a one and one-half foot crawl space today, it is advantageous for the appellant to reconstruct with a three and one-half foot crawl space. This will exceed city floodway standards and allow for proper placement of plumbing and HVAC materials. Note: The existing floor elevation is above the base flood elevation for flooding, the outer edge of flooding is projected to be disbursed at this point. This section references Section 5.8.5(4)(b)(i) of the *Zoning Ordinance* to meet the floor height requirement.
6. Section 4.3.3 allows for expansion and enlargement, if it doesn't expand in area, extend, enlarge, or alter, unless it conforms to the requirements of Subsection 4.3.2. The key parts of this section are the words *unless* and *meet* subsection 4.3.2. The appellant will meet the requirements of this subsection.

7. Section 4.3.4 (3) allows any enlargement or expansion of a structure to occur if it does not increase the degree of nonconformity. FACT: Three family residential units are existing and three will be reconstructed. The key points in this section is enlargement and expansion of a structure. The use of the nonconformity is not the subject, but the structures. Also, it should not increase the degree of the nonconformity.

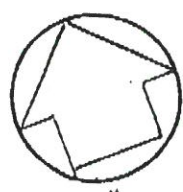
8. The previous paragraphs on nonconformities referenced uses and structures. Section 4.3.5 (6) addresses nonconforming lots. One principal building is required unless others pre-existed. The two-family dwelling, a nonconforming structure, goes away when it is divided to create two single-family structures. NOTE: The dimensional requirements and design standards of the *Zoning Ordinance* do not address principal building, only the nonconformity section. The appellant is requesting three independent structures. There will be no attachments.

The appellant believes this to be true in the construction of structures on this lawful lot of record.

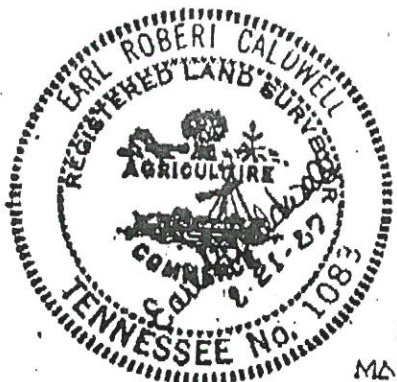
Gary and Vikki Luffman

BOZA: 11/7/2019

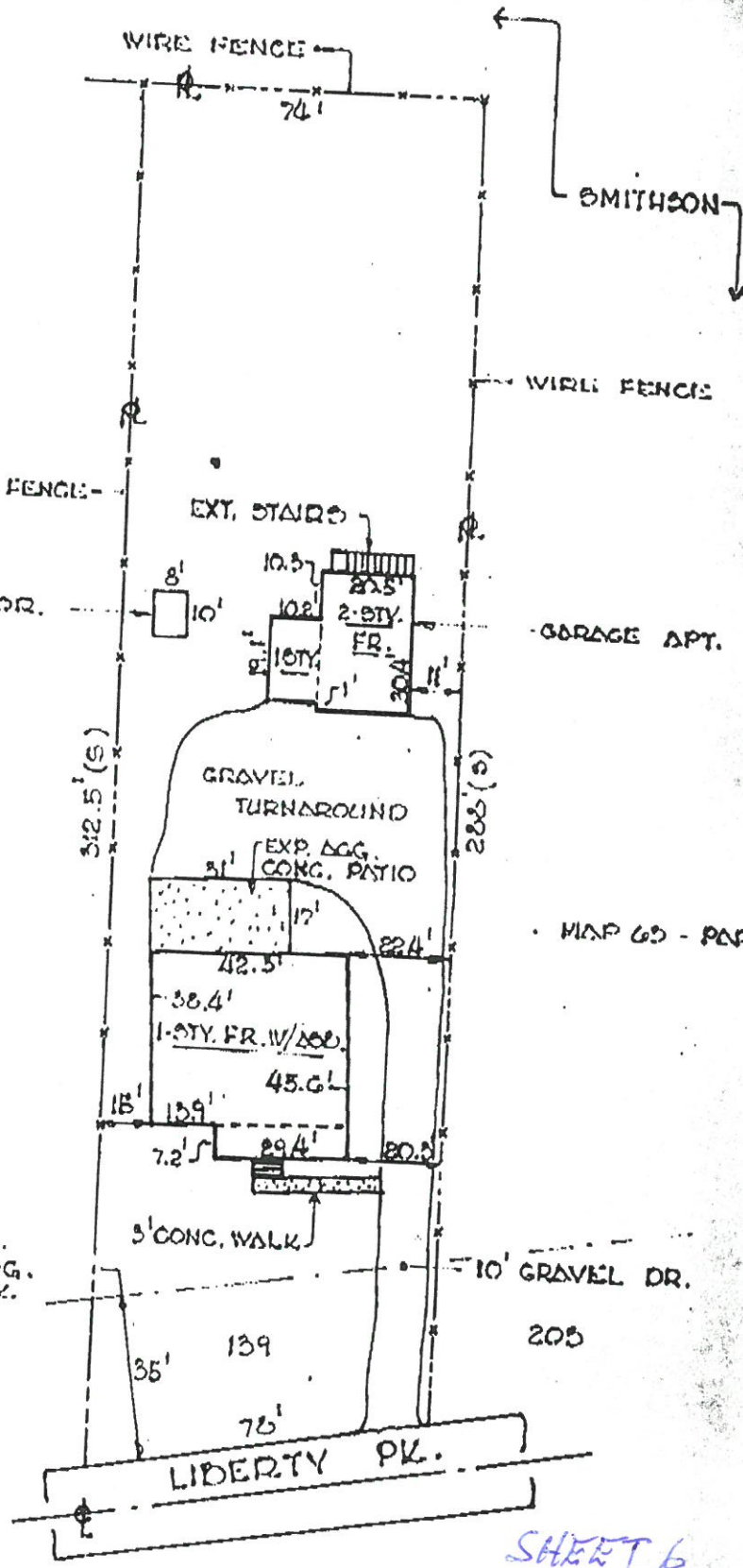
MAP G3 - PAR 4



SCALE: 1" = 40'



DODD
MAP G3 - PAR. 7



MAP G3 - PAR 5

SHEET 6

MORTGAGE LOAN INSPECTION

BUYER: GARY LIFEMAN PROPERTY LOCATED: 9th CIVIL DISTRICT

PROPERTY: 139 LIBERTY PK. FRANKLIN, TENNESSEE

TAX MAP G3, PARCEL Δ-G SCALE: 1" = 40'

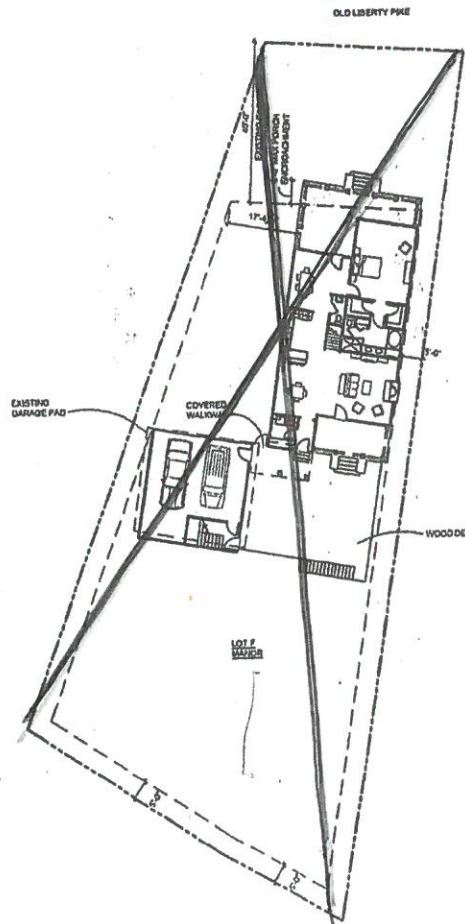
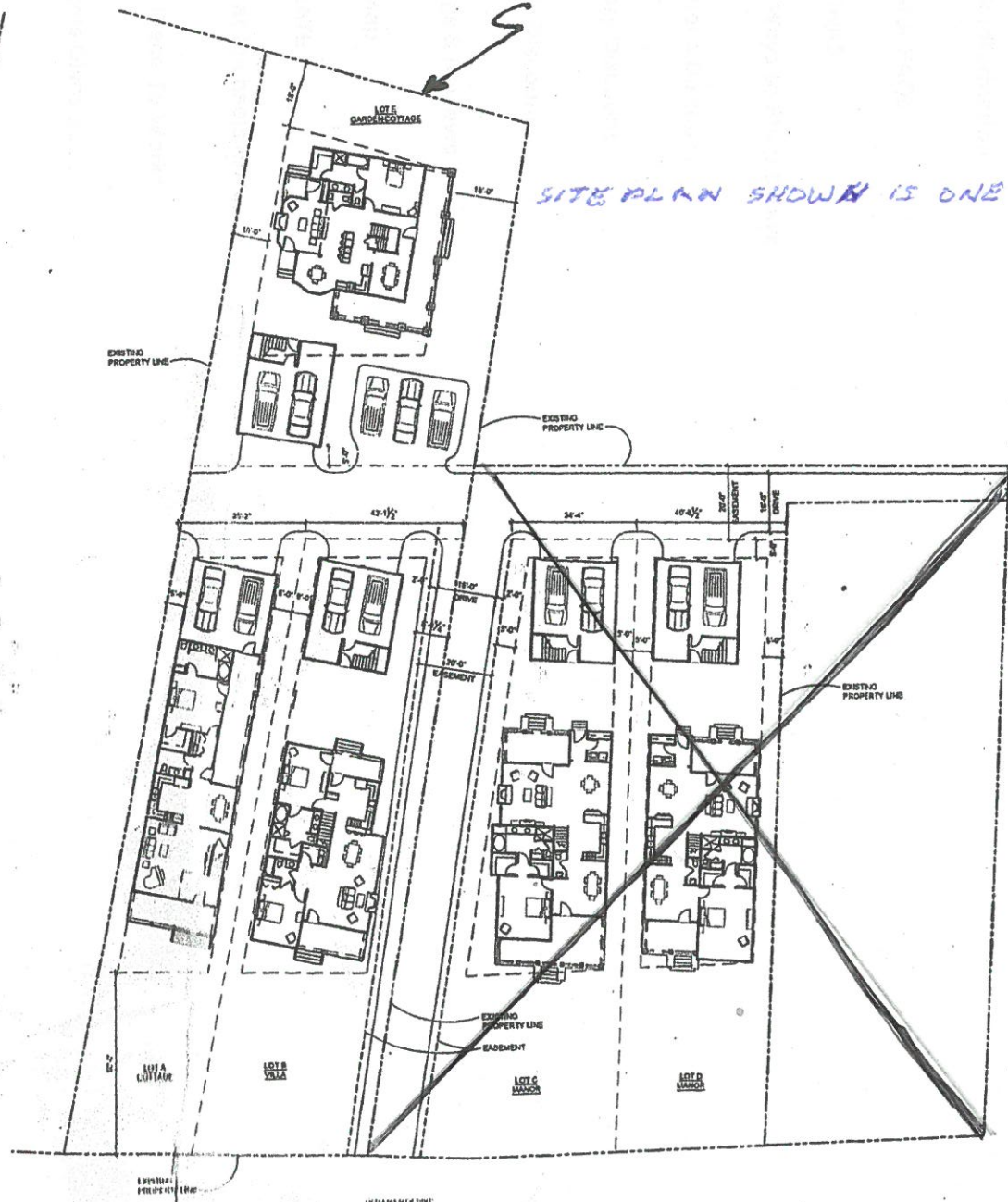
RECORDED: DB. 276 - P. 422 DATE: AUGUST 21, 1987

PROPERTY OF: GARY & VIKKI LUFFMAN

Not for Reproduction - Prohibited by Order

139 & 141 OLD LIBERTY PK.

SITE PLAN SHOWN IS ONE OPTION



SHEET 7

1 ARCHITECTURAL SITE PLAN - 141 & 203 OLD LIBERTY PIKE

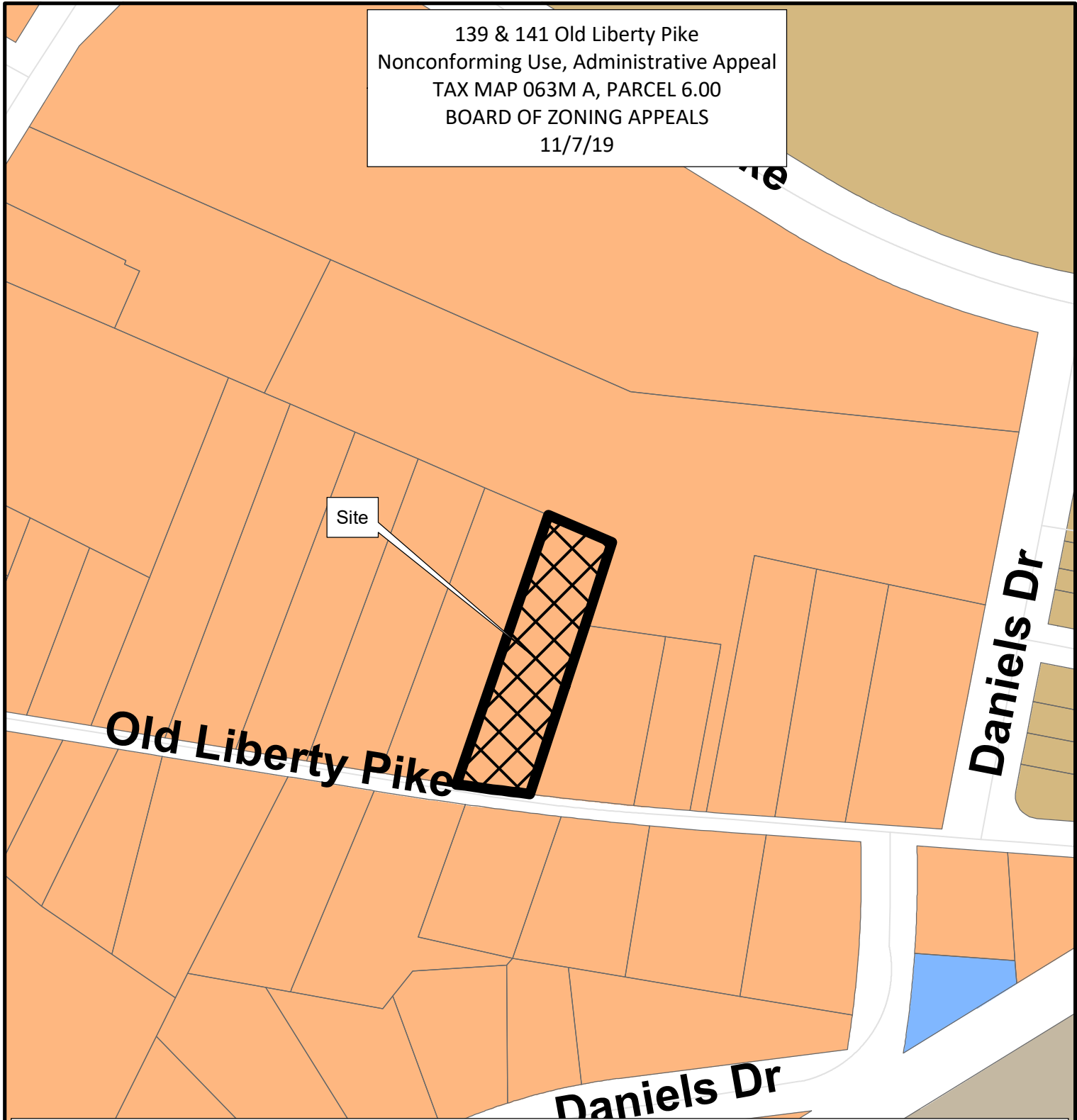


1 ARCHITECTURAL SITE PLAN - 122 OLP



139 & 141 Old Liberty Pike
 Nonconforming Use, Administrative Appeal
 TAX MAP 063M A, PARCEL 6.00
 BOARD OF ZONING APPEALS
 11/7/19

Site



139 & 141 Old Liberty Pike, Administrative Appeal

- | | |
|--|---------------------------------------|
| 139 & 141 Old Liberty Pike | SD-R Specific Development-Residential |
| AG Agricultural District | SD-X Specific Development-Variety |
| ER Estate Residential | OR Office Residential District |
| R-1 Residential District | GO General Office District |
| R-2 Residential District | CC Central Commercial District |
| R-3 Residential District | NC Neighborhood Commercial District |
| R-6 Residential District | GC General Commercial District |
| RM-10 Attached 10 Residential District | LI Light Industrial District |
| RM-15 Attached 15 Residential District | HI Heavy Industrial District |
| RM-20 Attached 20 Residential District | CI Civic and Institutional District |



0 95 190 380 Feet

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