

Note –The Community Development Building will be open for the public to attend. Those that do attend will be asked to watch the meeting from the building’s lobby. Attendees will only be allowed into the Chambers to make a public comment or to speak during any public hearing on the agenda. Those who do attend should observe the CDC recommendations concerning hygiene and social distancing (keeping at least 6 feet away from other persons present at the meeting). Moreover, no one should attend this meeting if they are experiencing any type of illness involving a fever, sneezing, or coughing. Those wishing to make public comments who do not want to attend the meeting may do so in written form, submitted to planning@bentonvillear.com by 3:00 p.m. on the day of the meeting. Those comments will be communicated to the members of the Board of Adjustment. While email comments are encouraged, accommodation has also been made to allow Bentonville citizens to make “live” public comments orally in the event they cannot or do not feel comfortable attending the meeting in person. To do so, please send an email indicating a desire to make “live” oral public comments to planning@bentonvillear.com by at least 3:00pm on the day of the meeting and a reply email will be sent with instructions about how your comments can be made. Making comments will require you to register with your name, address, phone number, and email address. Procedures with respect to oral public comments still apply.



**BOARD OF ADJUSTMENT
AGENDA**

April 14, 2021

Registration Link: https://us02web.zoom.us/webinar/register/WN_EKy_8UqASFegqLGrBfqPQg

- I. Call to Order**
- II. Approval of Minutes**
- III. New Business**

- | | |
|---|-----------------------------|
| 1. NLG Properties, LLC
206 SE B Street (VAR21-0007) <ul style="list-style-type: none"> • Minimum Standard Specifications for Streets | Variance* |
| 2. Williams Design Build, LLC
Jefferson Street, Lots 23 and 25, Huffman Addition (VAR21-0008) <ul style="list-style-type: none"> • Accessory Structure Setback | Variance* |
| 3. Schmidt, Robert Whitten Trustee
303 NW C Street (VAR21-0009) <ul style="list-style-type: none"> • Fence Height | Variance* |
| 4. Office and Retail Square Footage Interpretation | Staff Interpretation |

- IV. Other Business**
- V. Adjournment**

**Denotes public hearing*

Board of Adjustment

Minutes

March 24, 2021

Meeting called to order by Jan Holland, Chairman.

Present: Rustin Chrisco, Joe Haynie, Jan Holland, and Sam Pearson (Via Zoom)

Absent: Rick Rogers

Staff: Tyler Overstreet, Elizabeth Johnson, Baylea Birchfield

Motion by Mr. Haynie, seconded by Mr. Chrisco to approve the minutes of March 10, 2021 as written

Approved 4-0

New Business

Item #1

Kathy R Scott: Fence Height, 2614 NW A Street, VAR21-0006

Tyler Overstreet reads the staff report.

Opened public hearing

No public comments

Closed public hearing

The applicant, Kathy R Scott, speaks on the reason for the request.

There is discussion amongst Board members and staff.

Tyler Overstreet presented an amendment to the variance to read as follows - Amend the variance to a 10 foot tall fence tapering to 8 feet at or about the top of the stair case terminating at or about the rear of the home.

Approved 4-0

Motion by Mr. Haynie, second my Mr. Chrisco to adjourn the meeting

Meeting adjourned

*A copy of this recording can be obtained from the Bentonville Planning Department.

Baylea Birchfield

BOARD OF ADJUSTMENT STAFF REPORT



NLG Properties

206 SE B Street

BOA Date: 4/14/2021

Reviewer: Baylea Birchfield, Planning Tech

Project Number	VAR21-0007
Applicant / Current Owner	Ken Booth
Site Area	+/- 0.68 acres
Current Zoning	DE, Downtown Edge
Variance Request	Minimum Standard Specifications for Streets

Property Description

This property is located at 206 SE B Street. It is currently zoned DE, Downtown Edge.

Regulation

According to the Minimum Standard Specifications For Streets Section 400.7, minimum sight distance for local and residential street shall be 250 feet under ordinary conditions. Collector streets shall have a minimum sight distance of 250-350 feet, depending on the topography. The AASHTO "Policy on Geometric Design of Highways and Streets" definition of sight distance shall apply.

Variance Request

The applicant is requesting a variance in sight distance of 200-feet to the north and 240-feet to the south, leaving 40-feet of sight distance to the north and south as opposed to the 240-feet and 280-feet required by a literal interpretation of the ordinance.

Background

According to the applicant's narrative, a literal interpretation of the sight distance requirements in the street specification or the AASHTO sight distance requirements do not make sense in an urban setting. Applying highway-like street standards to urban corridors does not allow for on-street parking, adequate pedestrian access, nor other design elements common to urban areas.

In addition, the applicant states that while the intent of the ordinance is to protect the health, safety, and welfare of the public, it cannot be applied fairly nor consistently. The current interpretation of the ordinance would not allow many of the existing on-street parking facilities, street trees, or other "visual impairments" within the community.

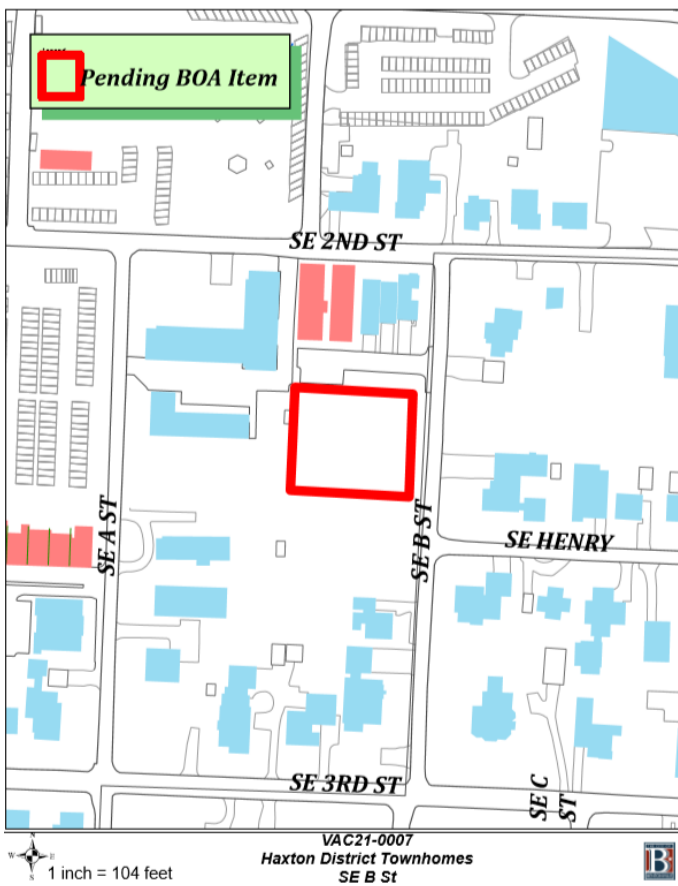
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, as provided by the applicant within this application.



BOARD OF ADJUSTMENT STAFF REPORT

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.



March 26, 2021

City of Bentonville
Variance Board

Re: Variance Request for
"Minimum Standard Specifications for Streets" Adopted November 28, 2006,
Sections 400.3 Intersections Sight Distance and 400.7 Sight Distance and Design Speeds
206 SE "B" Street, Bentonville, AR
Sand Creek Project # 21012

To whom it may concern:

- The special condition and circumstances which exist is due to the ordinance as written for sight distances at intersections and drives is not appropriate, nor practical for an urban setting. The AASHTD Standards for sight triangles are based on the safety needs to facilitate unimpeded traffic flow at the designed roadway speed. This is not the desired situation when looking at the needs of the urban setting. Due to the desire to improve a pedestrian friendly area, create on-street parking for long term sustainability of our downtown businesses, we should apply more applicable standards for the urban setting. Other guidelines such as NACTD (National Association of City Transportation Officials), reveal the fallacy of applying a highway transportation mentality to an urban setting.
- The literal interpretation of the ordinance is based on the need of the health and welfare of the public. This issue can not be treated inconsistently. Because this is a health and safety issue the district in which this project is located is the key to understanding the problem with the current code. Based on the current code a significant amount of the current on street parking and other sight impairments must be eliminated in order to comply with the same health and safety needs. However, these areas function without an impact to health and safety. Therefore, the current ordinance "deprives the applicant of the rights commonly enjoyed by other properties in the same district."
- The actions of the applicant have not created special conditions or circumstances which are not enjoyed by other properties in the same district.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy R. Sorey", written over a horizontal line.

Timothy R. Sorey, P.E.
President/Owner

SEC. 400.3 INTERSECTIONS

Intersections shall be planned and designed to provide a safe system for present and prospective traffic. Intersections shall be graded to provide positive drainage and shall conform to the alignment and grading requirements of these standards.

The following standards shall apply to intersection design:

Design Consideration	Ordinary	Hilly
Approach speed	25 mph	20 mph
Sight distance (Min.)	250 feet	200 feet
Grade within 100 feet	0.5% to 2%	4% (max.)
Minimum Angle	75 degrees	75 degrees
Minimum Curb Radius		
Local Streets	25 feet*	30 feet
Collector Streets	50 feet	50 feet
Arterial Streets	60 feet	60 feet
Minimum Jogs		
Local Streets	150 feet	150 feet
Collector Streets	200 feet	200 feet
Arterial Streets	300 feet	300 feet

* 30 feet where occasional truck traffic expected

Invert of intersecting streets shall align with the tangent line of the gutter through the intersection with the direction of flow. Note that variable intersection grades require radius grade change point to begin where the tangent of the back of curb intersects the gutter flow line.

It is understood that the sight distances listed above are a minimum and that longer sight distances may be required where topography will allow and/or higher speeds are present and/or when streets with a classification of collector or higher are involved.

SEC. 400.4 CROSS-SECTIONS AND RIGHT-OF-WAY WIDTHS

Skewed street sections will not be allowed without specific approval of the City Engineer.

The minimum right-of-way shall be as follows: Major Arterial - 84', Minor Arterial - 72', Collector - 60', Local - 52', Residential - 50'. Greater widths may be required if needed to accommodate a particular street design. *Typical street cross sections shall be as follows: Major Arterial - 60', Minor Arterial - 48', Collector - 36', Local - 30', and Residential - 27' from back of curb to back of curb.*

Pavement cross slopes for residential and local streets shall be 3% and for collector and arterial streets shall be 2%, unless otherwise approved by the City. Gutters shall be sloped to match the street cross slope.

On the elevated side of a uniform cross slope or super-elevated street, the gutter may slope toward the street centerline, provided the gutter cross slope does not exceed the cross slope of the adjacent lane. Transitions from normal crowns to uniform cross slope or super-elevated sections shall provide for minimum longitudinal grades. Super-elevated sections shall conform to the AHTD standard drawings.

SEC. 400.5 RAILROAD CROSSINGS

Grade crossings at railroads shall provide for the same minimum sight distances as street intersections. The Engineer of Record shall be responsible for all coordination with the railroad company connected with approval of the crossing and shall work with the City in obtaining a Joint Use Agreement with the railroad.

SEC. 400.6 MINIMUM AND MAXIMUM GRADES

The minimum grades outside of the 100 ft. intersection requirement shall be 1.0% for the street unless otherwise approved by the City. The maximum allowable grade for local and residential streets shall be 12%, and for collector and arterial streets the maximum grade shall be 8%. In situations where topography does not allow for compliance with these standards, a waiver may be requested from the planning commission. Where grades are greater than 10% for distances of more than 300 feet, the paving material shall be concrete.

SEC. 400.7 SIGHT DISTANCE AND DESIGN SPEEDS

Minimum sight distance for local and residential streets shall be 250 feet under ordinary conditions and 200 feet for hilly conditions. Collector streets shall have a minimum sight distance of 250-350 feet, depending on the topography. AASHTO "Policy on Geometric Design of Highways and Streets" definition of sight distance shall apply. The design speed shall be 20 to 30 mph for local and residential streets and 25 to 35 mph for collector streets.

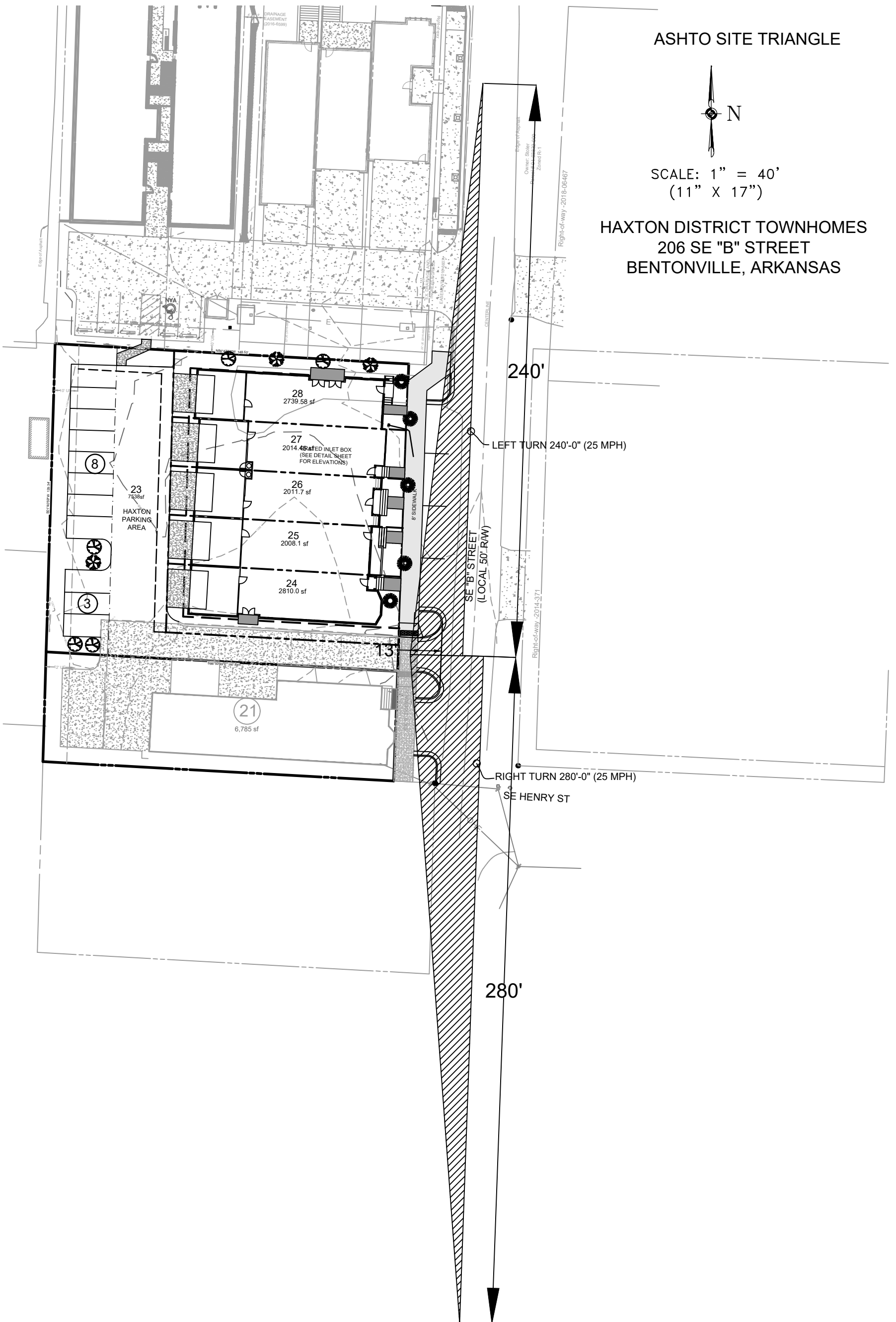
SEC. 400.8 DEAD END STREETS

The maximum length for dead end streets shall be 660 feet. The minimum radius required for cul-de-sac right-of-way shall be 53 feet with the street radius of 42 feet to back of curb. The Planning Commission may grant a variance to the maximum length for dead end streets where it can be determined that terrain is a deterrent to through street development. The local Fire Code may have more stringent requirements. The most restrictive regulation shall govern cul-de-sac design.

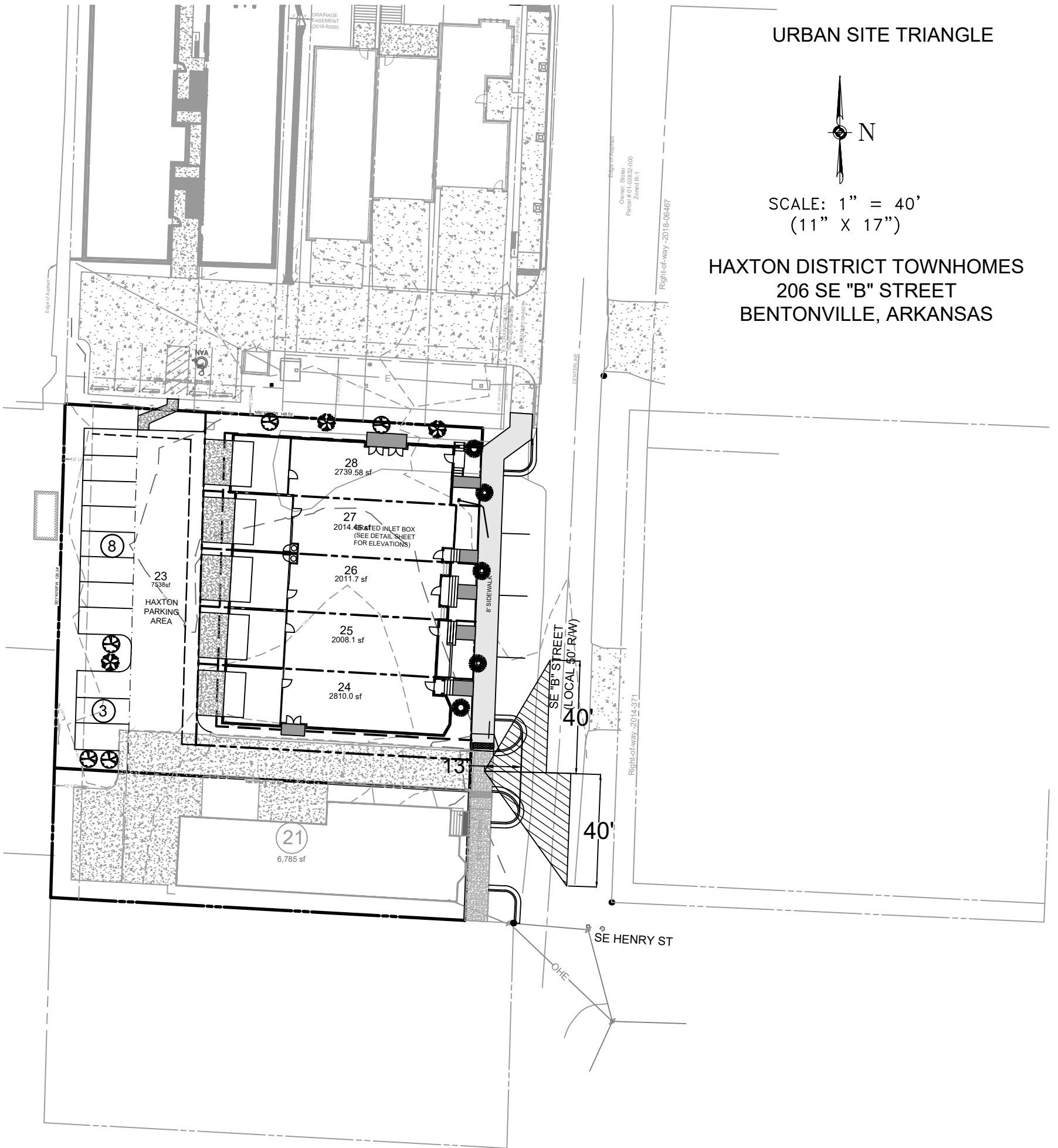
SEC. 400.9 DRIVEWAYS

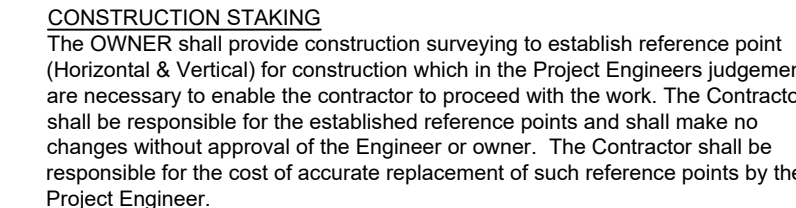
Driveways shall meet the standards for driveway design as defined by Chapter 15, Article 1100, Section 1100.10 of the current City of Bentonville Subdivision Code. Concrete thickness for drives within City right-of-way shall be a minimum of 6 inches. Asphalt thickness for residential drives within City right-of-way shall be 2 inches of asphalt over 4 inches of compacted Class 7 Aggregate Base Course. Asphalt thickness for commercial drives within City right-of-way shall be 3 inches of asphalt over 6 inches of compacted Class 7 Aggregate Base Course. The slope of the driveway shall match the cross slope of the sidewalk which shall have a cross slope of no more than 2%.

HAXTON DISTRICT TOWNHOMES
206 SE "B" STREET
BENTONVILLE, ARKANSAS



HAXTON DISTRICT TOWNHOMES
206 SE "B" STREET
BENTONVILLE, ARKANSAS





BOARD OF ADJUSTMENT STAFF REPORT



Williams Design Build, LLC

Jefferson Street, Lots 23 and 25, Huffman Addition

BOA Date: 4/14/2021

Reviewer: Baylea Birchfield, Planning Tech

Project Number	VAR21-0008
Applicant / Current Owner	Williams Design Build, LLC
Site Area	+/- 0.14 acres and +/- 0.14 acres
Current Zoning	R-1, Single Family Residential
Variance Request	<i>Zoning Code, Article 601, Section 601.01, Accessory Structures, Subsection D, Setbacks</i>

Property Description

These properties are located at lots 23 and 25, Huffman Addition, on Jefferson Street, parcel numbers 01-03168-000 and 01-03168-002. They are both currently zoned R-1, Single-Family Residential.

Regulation

According to Zoning Code Section 601.01, Subsection D, Setbacks, the minimum rear yard setback for accessory structures with a footprint less than 720 square feet is 7-feet.

Variance Request

The applicant is requesting a variance to reduce their building setback on the south side of lots 23 and 25 of Huffman's Addition from 7-feet to 5-feet.

Background

According to the applicant's narrative, they are requesting a variance to reduce the building setback on the south end of each lot to 5' running beside the rear detached garages. The applicant stated that when these lots were purchased and the designs were created, the setback was 5-feet. The client expressed concern with the cost and time that will be taken if their variance is not approved and they have to revise their home designs.

The setback standards for accessory structures were amended by Ordinance 2019-160 on October 22, 2019. Ordinance changes go into effect thirty days after passage; in this case, November 22, 2019.

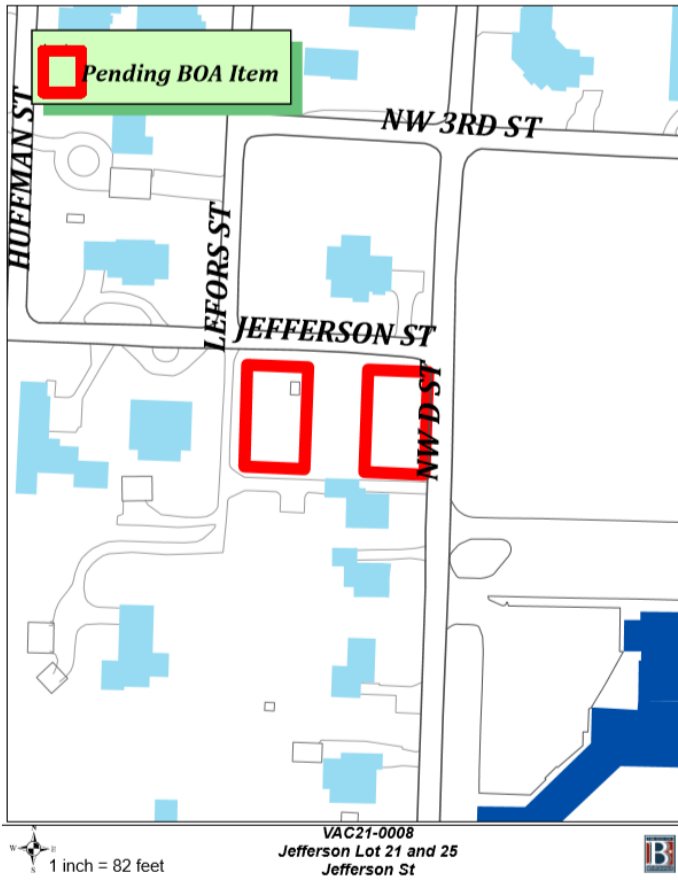
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.



BOARD OF ADJUSTMENT STAFF REPORT

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

Williams Design Build, LLC

Testa Properties, LLC

City Of Bentonville Planning Dept.
315 SW A Street
Bentonville AR 72712

RE: Lot 23, Parcel 01-03168-000
Lot 25, Parcel 01-03168-002

To Whom it may concern:

Please accept this letter as a request for a variance to reduce the building set back on lot 23 and 25 Huffman's Addition. South end of each lot to reduce the set back from 7' to 5' running beside the rear detached garages. When these lots were purchased and houses designed the set back was 5' with a detached garage. A lot of money and time has gone into designing these homes and this would be at great expense to try to adjust the designed plans to a new set back of 7'. These lots are extremely small and don't quite meet the 6000 sqft minimum.. They are also both corner lots with large set backs on each side.

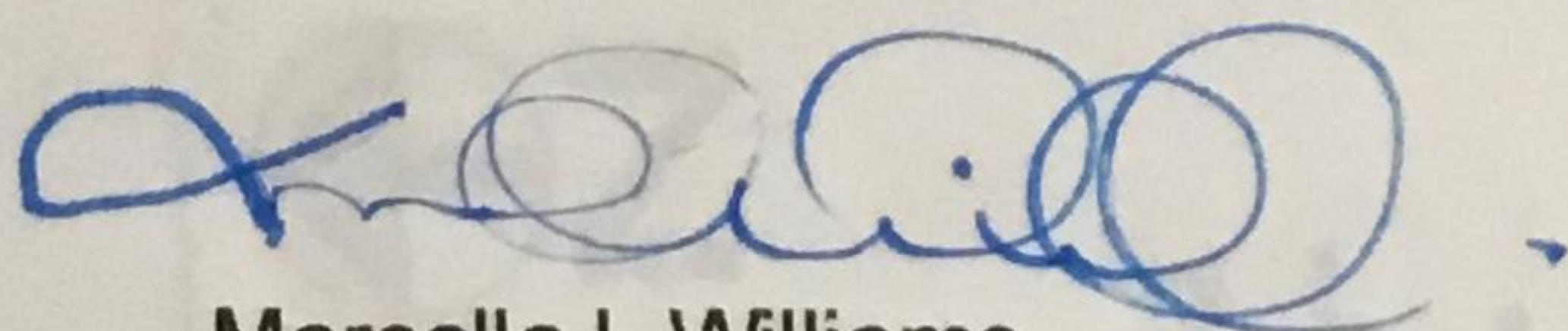
Garage on Lot 23 will access off Leflors. The request set back would be the south end of the lot beside the detached garage. Requested setback for 5'

The same floor plan reversed is being used for Lot 25 with adjusted exterior elevations so they do not look the same. The plot plans will be exactly the same just reversed. Lot 25 garage will be accessed off D street with the requested variance for the south end running alongside the garage. I am also requesting a variance from 7' to 5'.

Lot 23 has been designed for a client moving here from New York. Please understand the cost involved in now trying to adjust the floor plans to fit the new revised set backs. And the time strain this will cause.

If you need additional information please do not hesitate to call. 479-236-5830.

Sincerely,



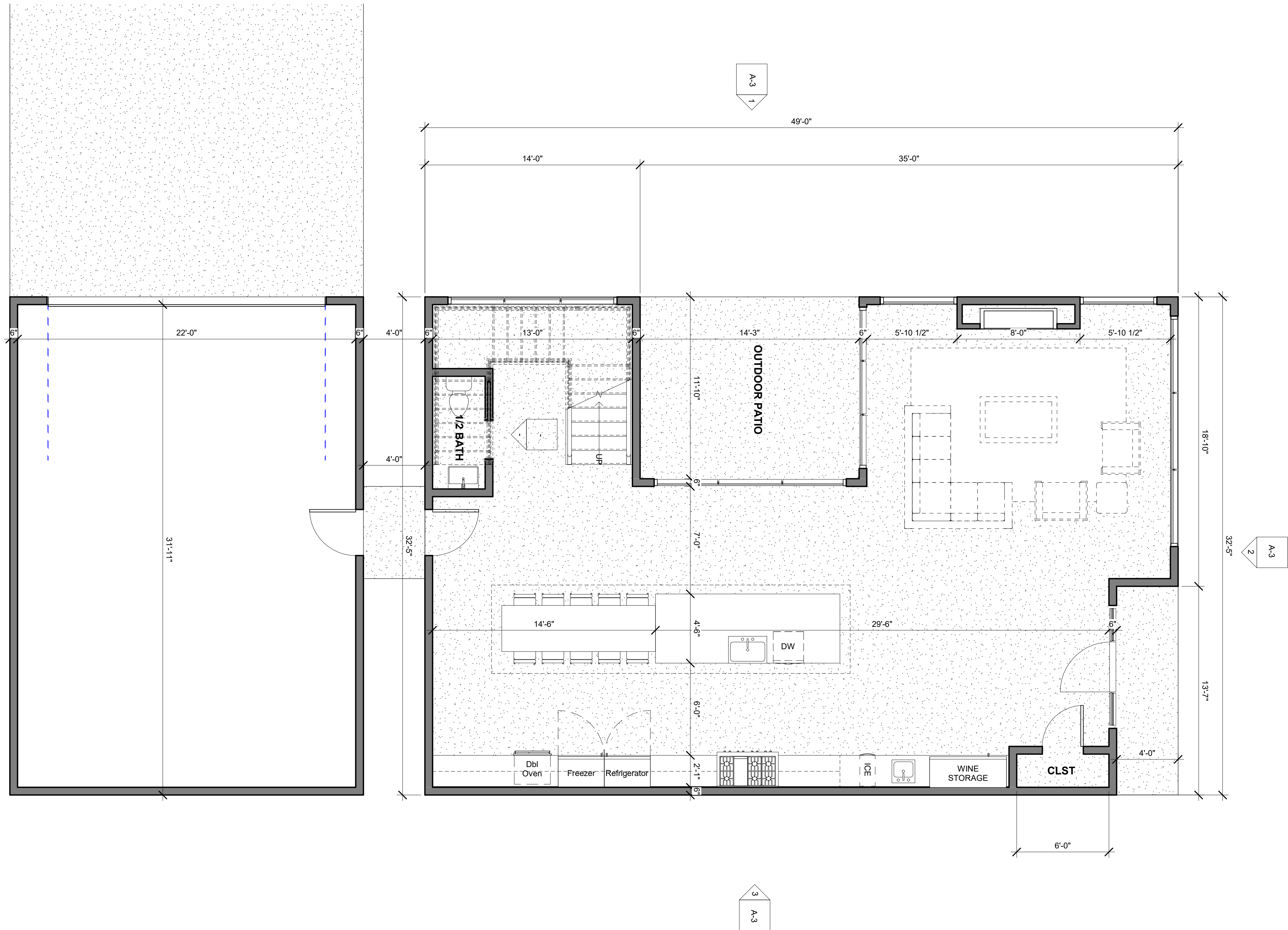
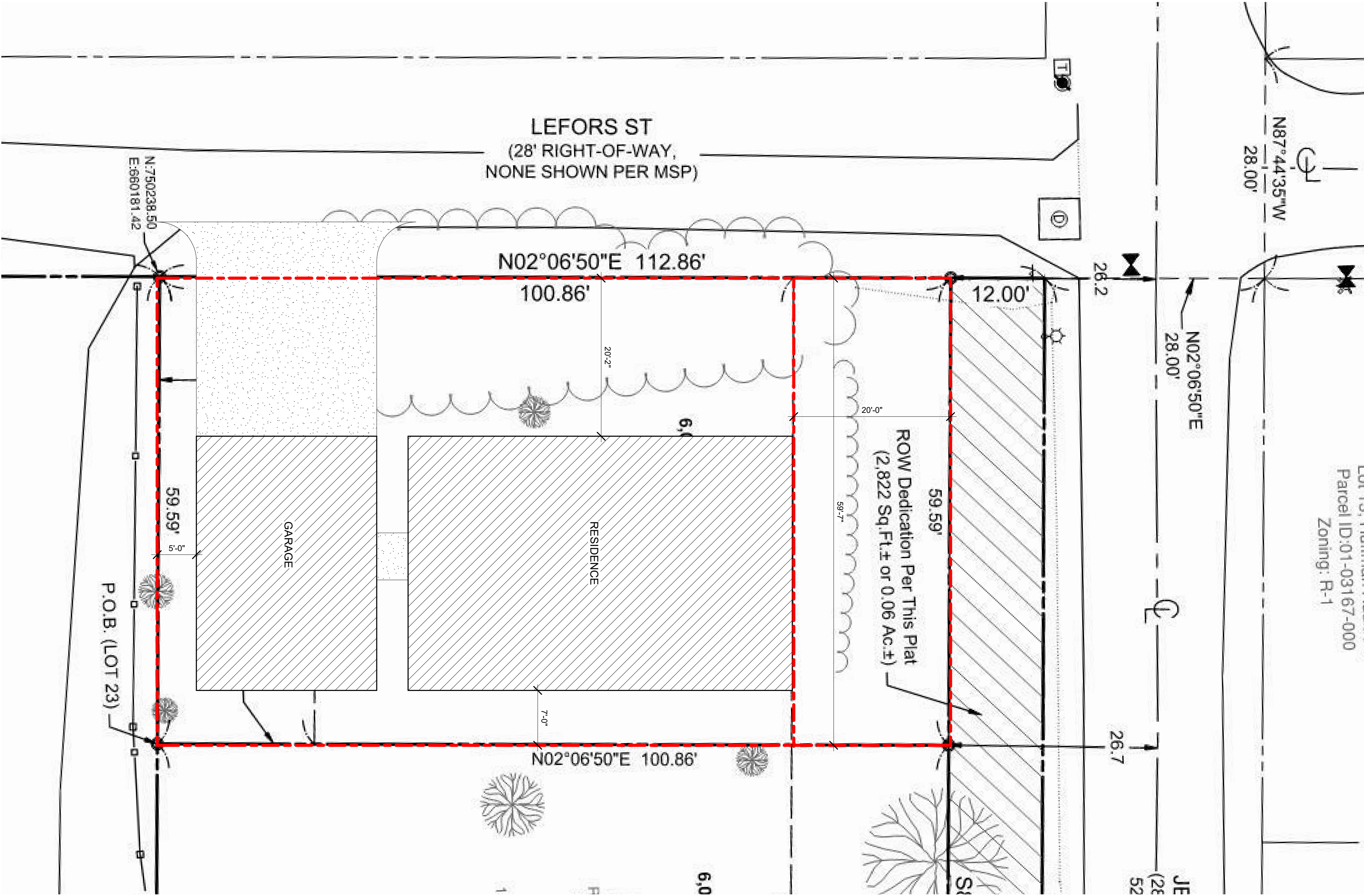
Marcella L Williams

Project Information

- FIRST FLOOR - 1,465 SF (HEATED AND COOLED)
- SECOND FLOOR - 1,150 SF (HEATED AND COOLED)
- THIRD FLOOR - 885 SF (HEATED AND COOLED)
- TOTAL SF - 3,500 SF

NOTES TO CONTRACTOR

- DIMENSIONS FROM FACE OF STUD UNLESS NOTED OTHERWISE
- COORDINATE LOCATION ALL APPLIANCES AND PLUMBING FIXTURES WITH OWNER
- COORDINATE ALL FLOORING AND FINISHES WITH OWNER
- ALLOW 5" MIN. ON EACH SIDE OF DOOR OPENINGS FOR TRIM



Jefferson and Lefors

TRENT ROGERS
ARCHITECTURE | PLANNING | DESIGN

2 Ashbury Ln | Bella Vista, AR 72714
PH: 479.721.1791 | trent.rogers24@gmail.com

Project Status

Author	Checker
Issue Date	
Project No.	
Revision Dates	DESCRIPTION

DRAWING

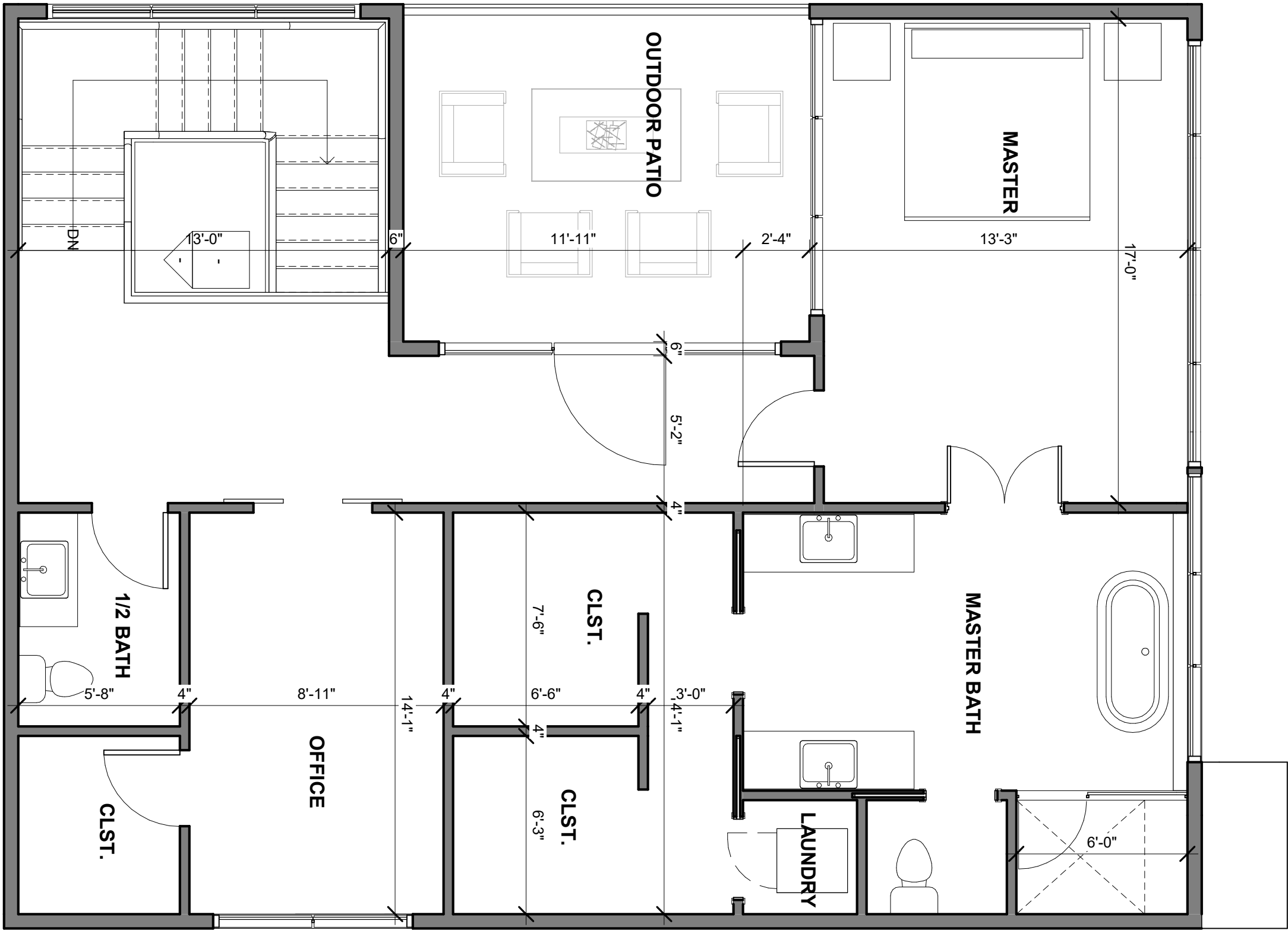
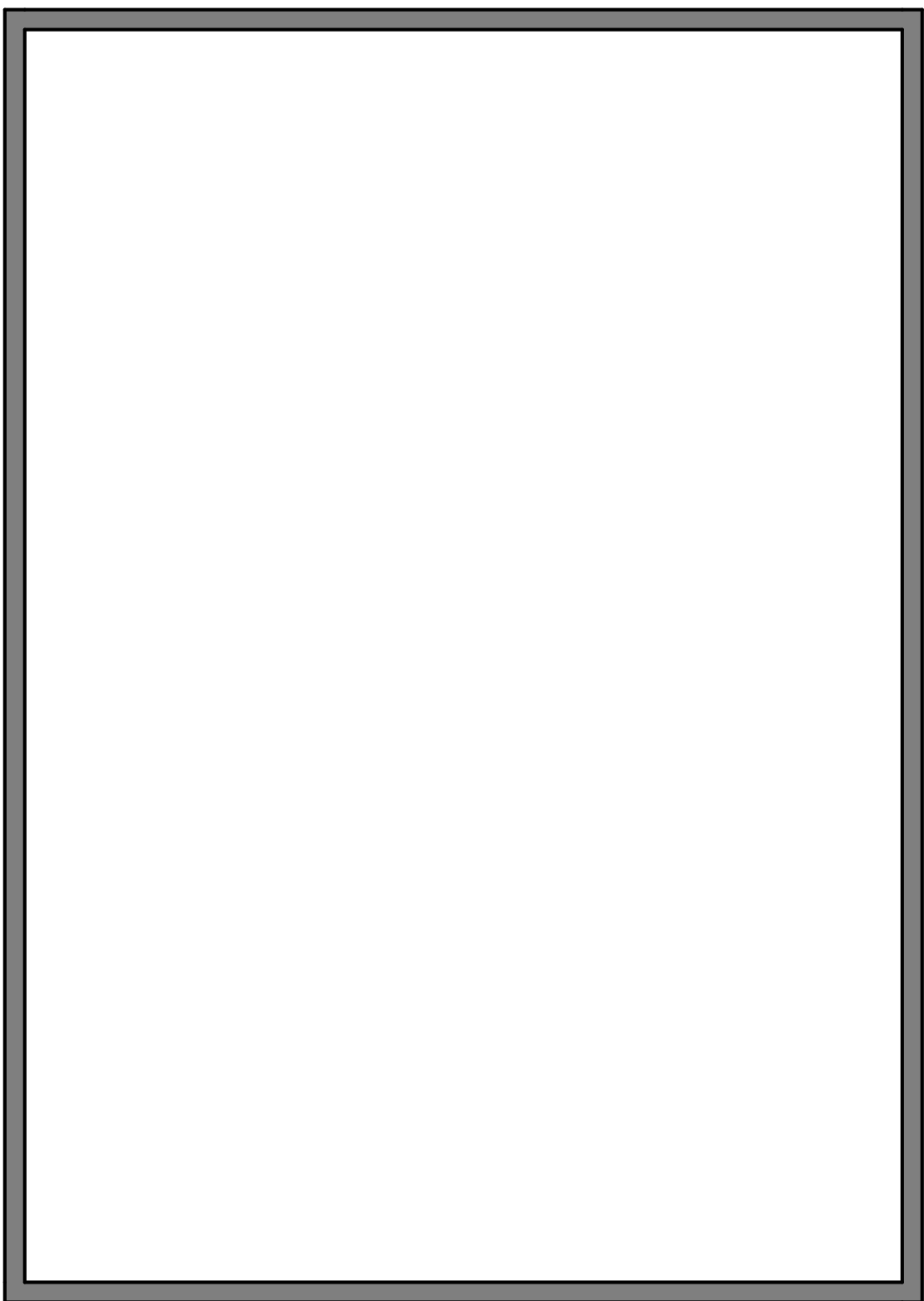
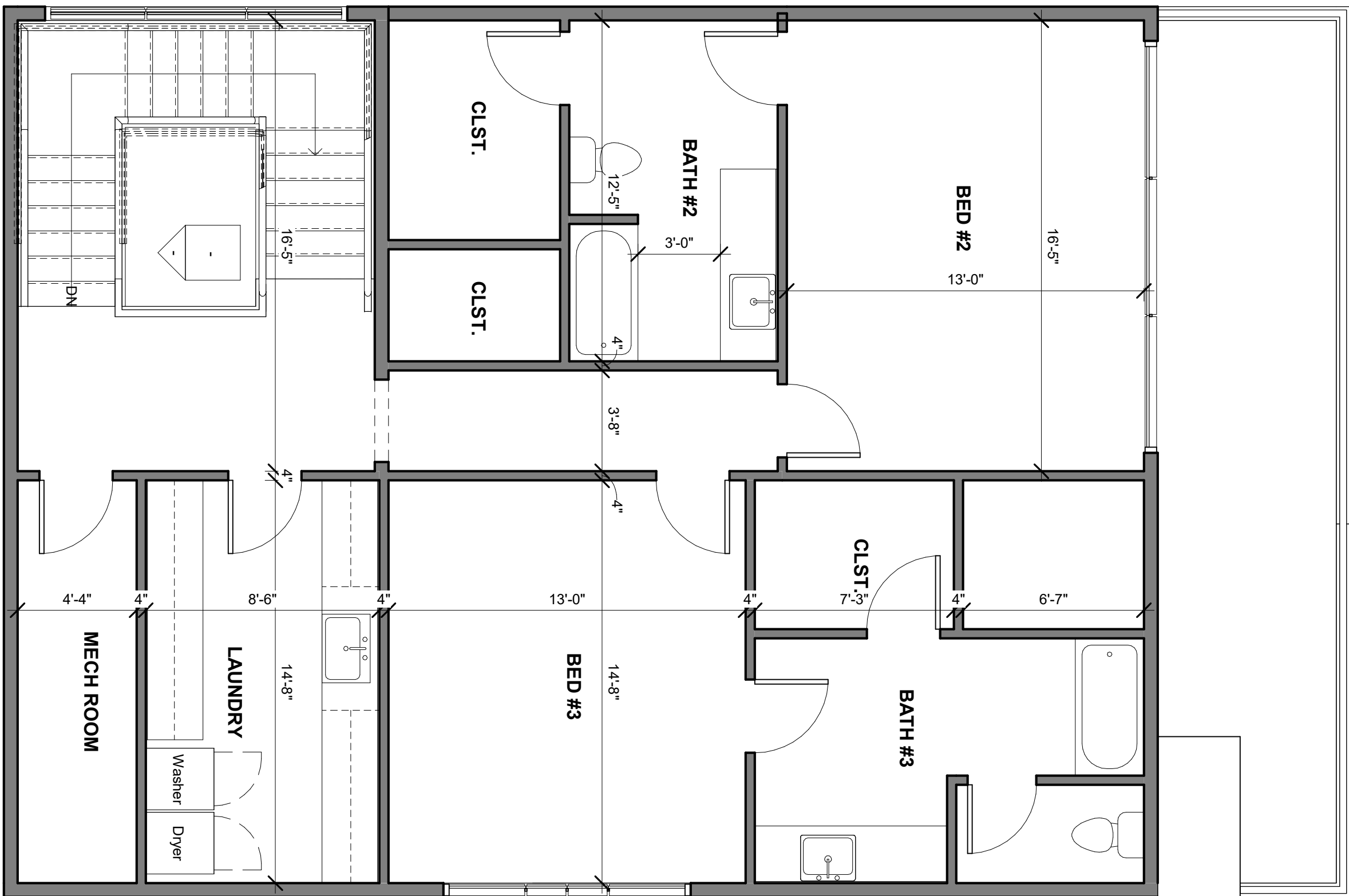
A-1

FLOOR PLANS

Jefferson and Lefors

DRAWING	Author
	Checked
	Checker
	Issue Date
PROJECT NO.	1000000000
	1000000000
	1000000000
	1000000000
REVISION DATES	DATE
	DESCRIPTION
	1
	2

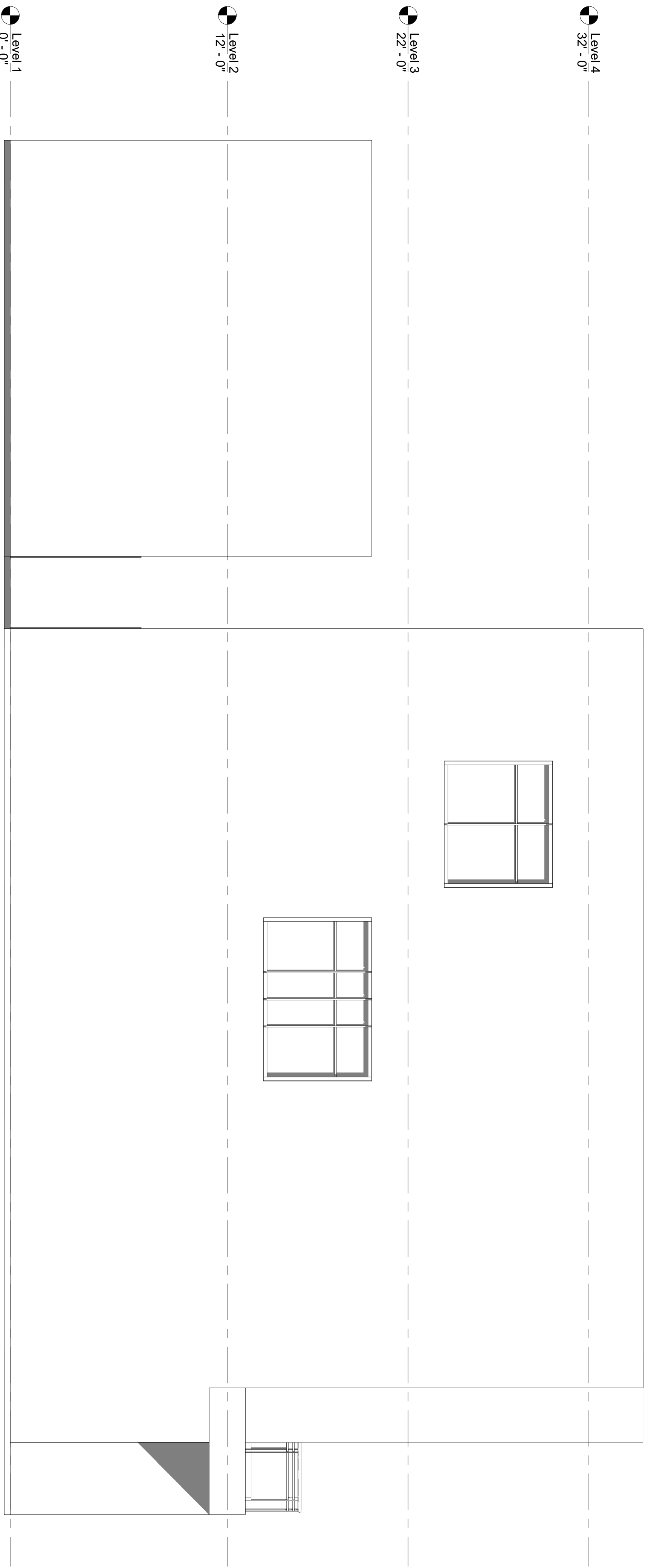
DRAWING
A-2
FLOOR PLANS



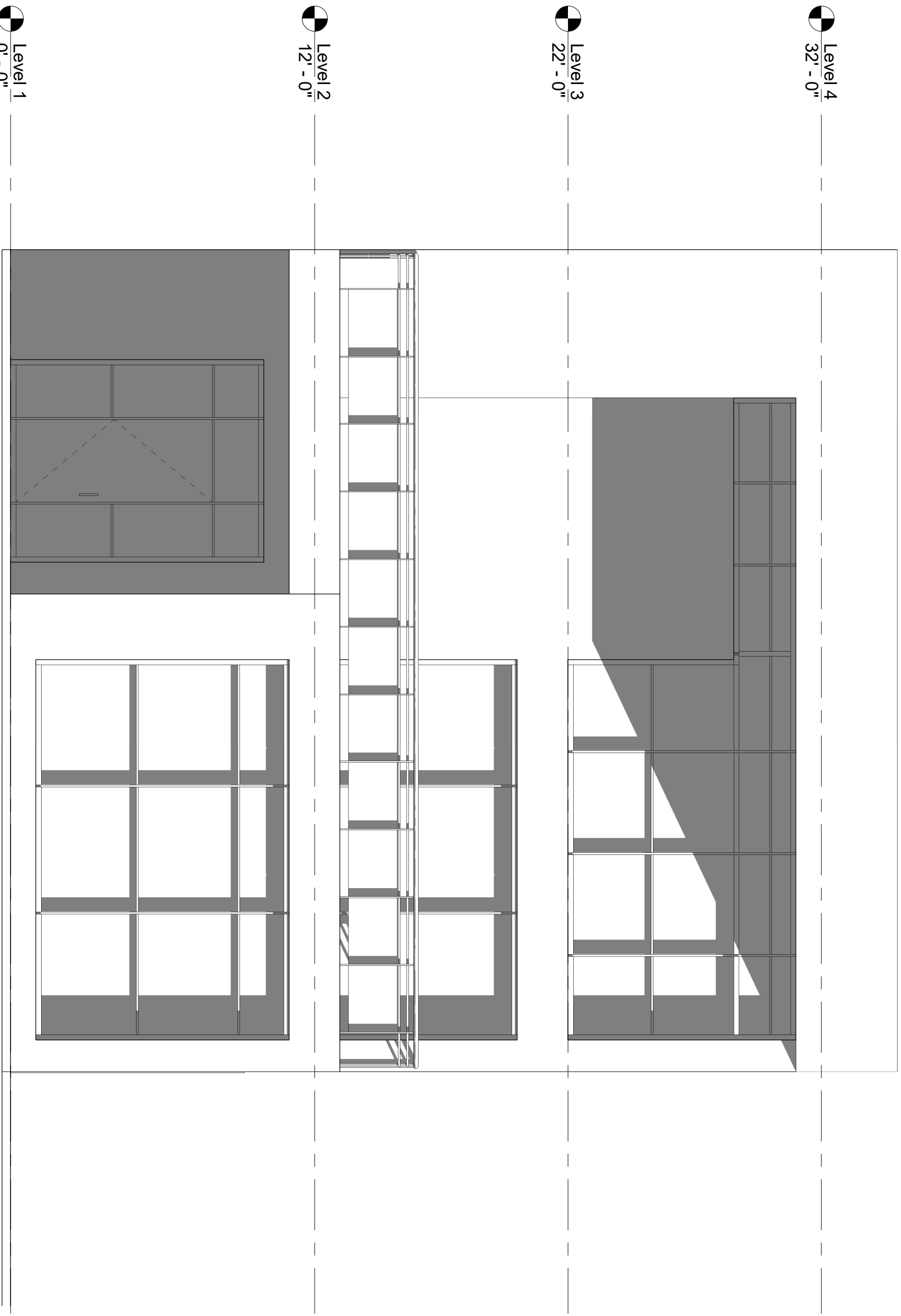
Level 3
1/4" = 1'-0"

Level 2
1/4" = 1'-0"

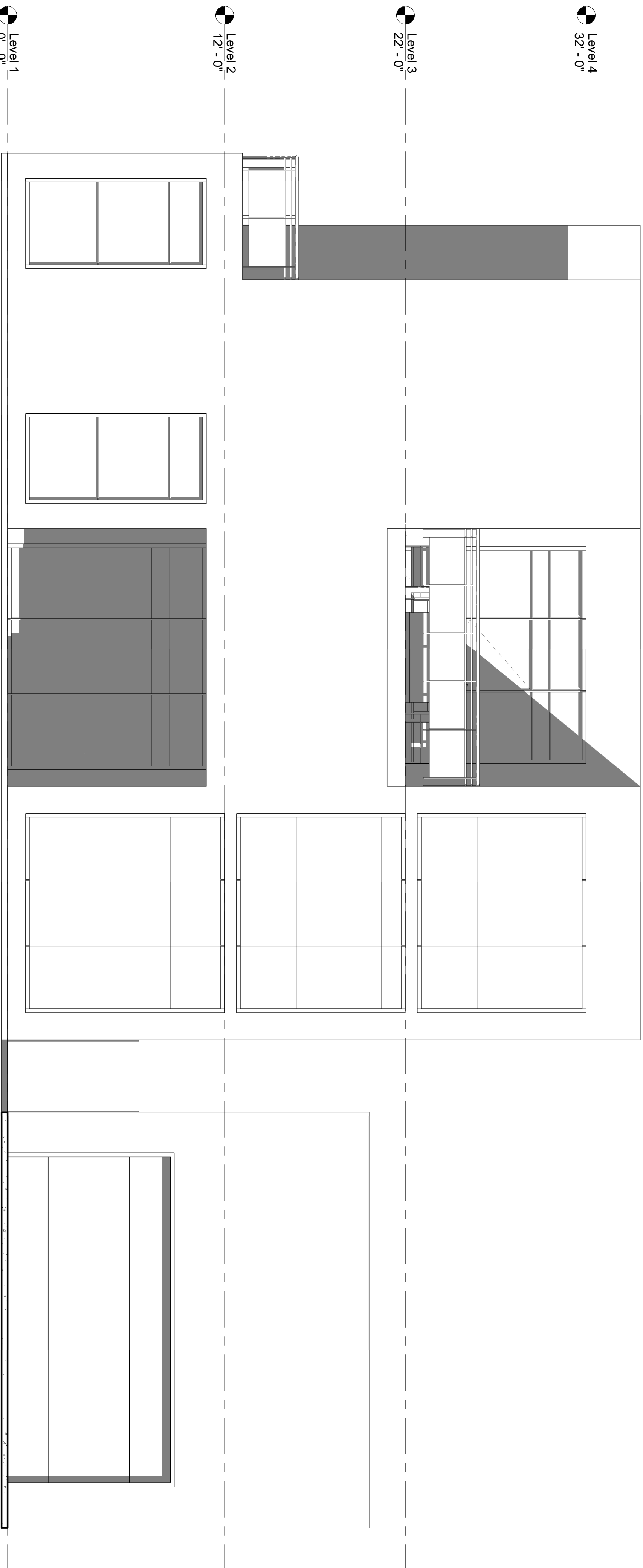
Project Status



③ Elevation 3 - a
1/4" = 1'-0"



② Elevation 2 - a
1/4" = 1'-0"



① Elevation 1 - a
1/4" = 1'-0"

TRENT ROGERS
ARCHITECTURE | PLANNING | DESIGN

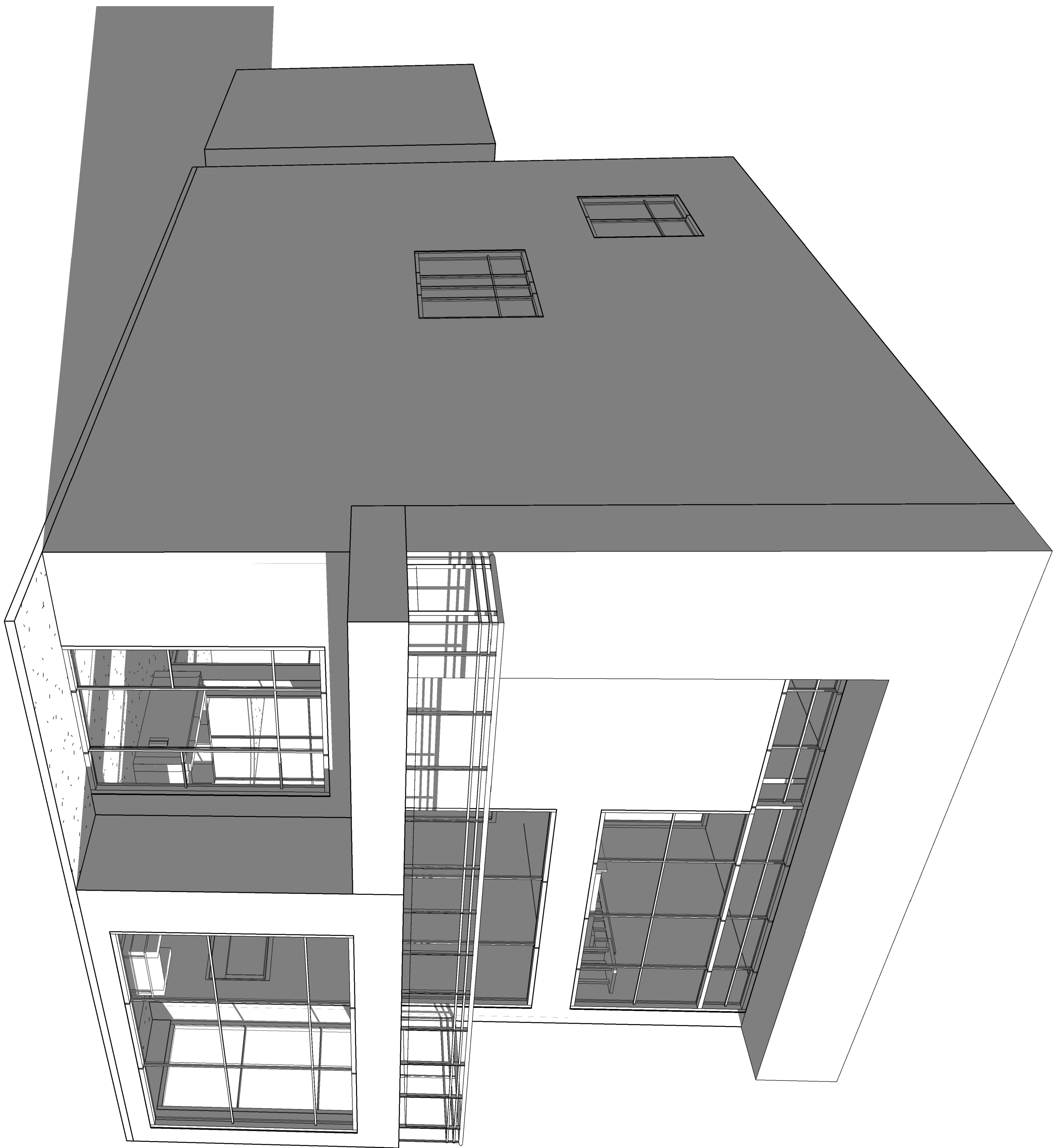
2 Ashbury Ln | Bella Vista, AR 72714
PH: 479.721.1791 | trent.rogers24@gmail.com

Jefferson and Lefors

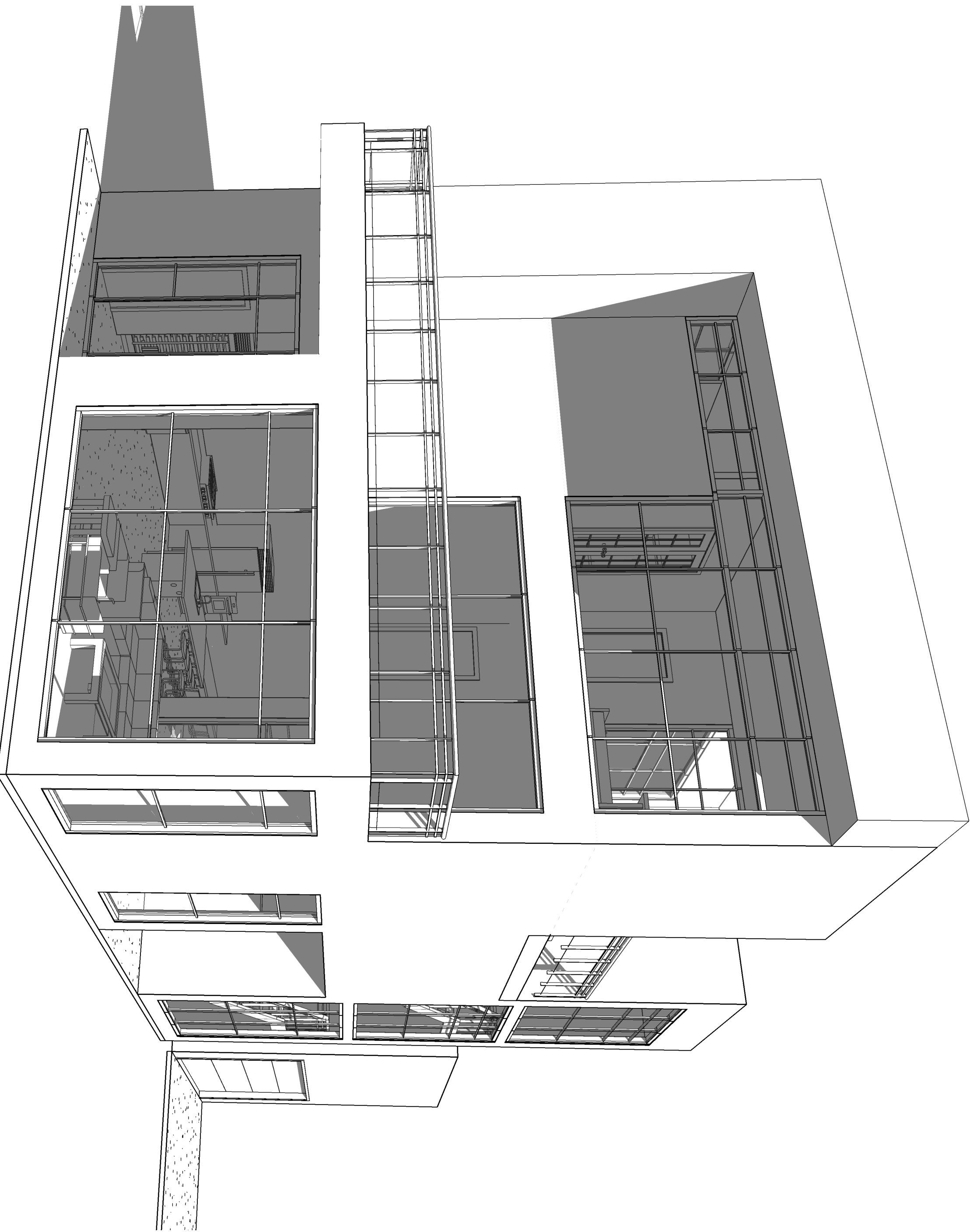
Author
Checked
Issue Date
Project No.
Revision Dates
Description

DRAWING
A-3
ELEVATIONS

1 VIEW 1
1/2" = 1'-0"



2 VIEW 2
1/2" = 1'-0"



3 VIEW 3
1/2" = 1'-0"



Jefferson and Lefors

TRENTROGERS

ARCHITECTURE | PLANNING | DESIGN

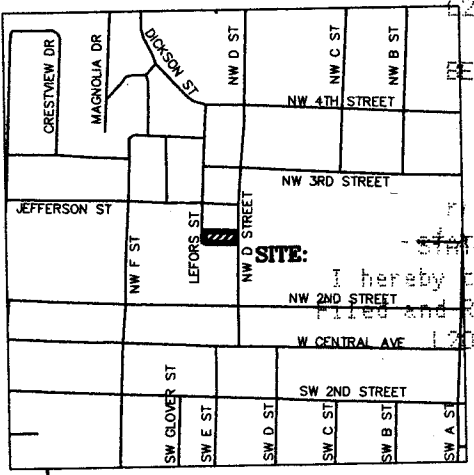
2 Ashbury Ln | Bella Vista, AR 72714

PH: 479.721.1791 | trent.rogers24@gmail.com

Project Status

DRAWING	Author	
	Checker	
A-4	Issue Date	
	Project No.	
DATE	Revision Dates	
	DATE	

User Name: VILLI
CERTIFICATE OF RECORD
STATE OF ARKANSAS, COUNTY OF BENTON
I hereby certify that this instrument was
Filed and Recorded in the Official Records
L201962469 11/21/2019 8:01:06 AM
Brenda DeShields, Circuit Clerk
BENTON CO, AR FEE \$15.00



FLOOD CERTIFICATION
THIS PROPERTY DOES NOT LIE IN A TYPE
"A" FLOOD ZONE SHOWN ON FEMA PANEL
#05007C0255 K, DATED JUNE 5, 2012.

PARENT DESCRIPTION
LOT 7, HUFFMAN'S ADDITION TO THE
CITY OF BENTONVILLE, BENTON COUNTY,
ARKANSAS AS RECORDED IN BOOK
L2017, PAGE 56698, ON OCTOBER 30,
2017.

PROPERTY DESCRIPTION - NEW LOT 26
LOT 26, HUFFMAN'S ADDITION TO THE CITY OF
BENTONVILLE, BENTON COUNTY, ARKANSAS.
FURTHER DESCRIBED AS FOLLOWS: BEGINNING AT
THE SOUTHEAST CORNER OF LOT 26, THENCE
NORTH 87°57'27" WEST 179.25 FEET; THENCE
NORTH 02°02'47" EAST 66.75 FEET; THENCE
SOUTH 87°44'55" EAST 178.75 FEET; THENCE
SOUTH 01°37'01" WEST 66.10 FEET TO THE POINT
OF BEGINNING, CONTAINING 0.273 ACRES MORE
OR LESS, SUBJECT TO THE RIGHT OF WAY OF NW
D STREET ALONG THE EAST LINE OF THE
PROPERTY.

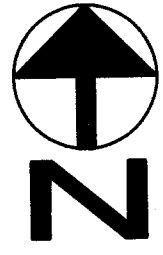
LOT 7
HUFFMAN ADDITION
CREATING LOT 26

PROPERTY LINE ADJUSTMENT		REVISIONS		
		No.:	BY:	DATE:
OWNER: BRENDA COMPTON 209 NW 'D' STREET BENTONVILLE, AR 72712		#1	CITY	9/17/19
		#2	CITY	10/10/19
DRAWN BY: DP/ZS CHECKED BY:		DATE:		9/09/19
		JOB No.:		2019162
CONSULTING INC. P.O. BOX 223 BENTONVILLE, AR 72712		SCALE:		1"=30'
		SHEET:		1

PROJECT NUMBER (PLA19-0029)

LEGEND

- C.P. COMPUTED POINT
- ⊙ FOUND PIPE
- S.I.P. SET IRON PIN
- F.I.P. FOUND IRON PIN
- PROPERTY LINE
- FENCE
- OVERHEAD ELECTRIC
- CENTERLINE
- ⊕ POWER POLE
- ⊕ WATER METER



CITY REQUIRED NOTES:

1. SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE
BUILDER / OWNER AT THE TIME OF BUILDING PERMIT
ISSUANCE.
2. OWNER / DEVELOPER SHALL COORDINATE WITH ALL
LOCAL UTILITIES TO INSURE THAT EACH LOT HAS
WATER, SEWER AND ELECTRIC SERVICE.
3. THERE MAY NOT BE FENCES OR ANY OTHER
STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.
4. BEFORE ANY WORK IN THE RIGHT-OF-WAY
COMMENCES, CONTRACTOR AND OR OWNER IS TO
OBTAIN A RIGHT-OF-WAY PERMIT FROM THE CITY OF
BENTONVILLE TRANSPORTATION DEPARTMENT.
5. ALL STRUCTURES MUST MAINTAIN MINIMUM OF 20'
CLEARANCES FROM ALL ELECTRIC LINES.

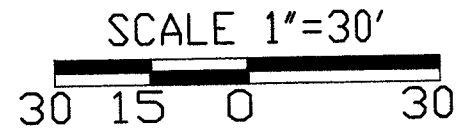
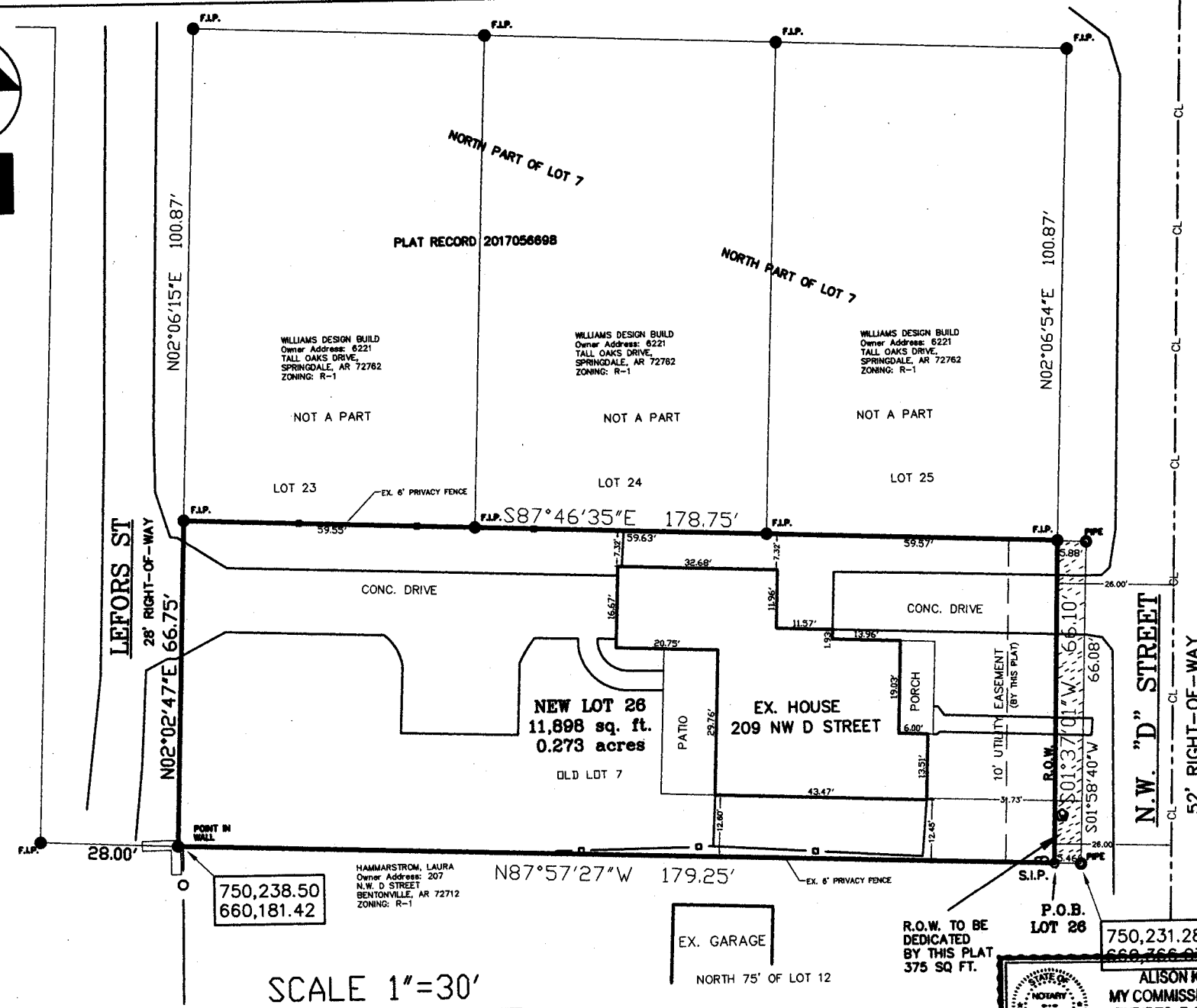


NOTES

1. PARENT DEED FILED IN DEED RECORD
2016 AT PAGE 12433.
2. PROPERTY IS COUNTY TAX PARCEL
#01-03179-000.
3. THE CURRENT ZONING FOR THE PROPERTY IS
RESIDENTIAL (R-1).
4. ALL EASEMENTS AVAILABLE AT THE TIME OF
THE SURVEY ARE SHOWN, TO FIND ALL IF ANY,
WILL REQUIRE A TITLE SEARCH.
5. ATLAS PAGE 361.
6. BASIS OF BEARINGS IS TIED INTO STATE PLANE
COORDINATES, ARKANSAS GRID NORTH.

CERTIFICATE OF ACCURACY

I, DAVID B. PLATZ HEREBY CERTIFY THAT THIS PLAT
CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND
BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY
EXIST AND THEIR LOCATION, TYPE AND MATERIAL ARE CORRECTLY
SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS
MINIMUM STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.
DATE OF EXECUTION: 10/22/19
SIGNED: David B. Platz
REGISTERED LAND SURVEYOR
NO. 1553
STATE OF ARKANSAS



CERTIFICATE OF APPROVAL

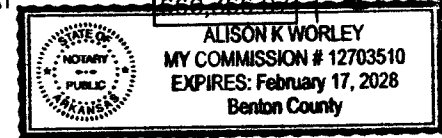
PURSUANT TO THE BENTONVILLE SUBDIVISION
REGULATIONS AND ALL OTHER CONDITIONS AND
APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT
IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY
EXECUTED UNDER THE AUTHORITY OF THE SAID RULES
AND REGULATIONS.

DATE OF EXECUTION: _____
SIGNED: Stephanie Ouman
MAYOR
SIGNED: Linda Spence
CITY CLERK
SIGNED: [Signature]
PLANNING COMMISSION CHAIRMAN

CERTIFICATE OF OWNERSHIP

WE, THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN
AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE
LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF,
PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS
PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC
THE STREETS, ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON
SAID PLAT.

DATE OF EXECUTION 10/30/2019
SIGNED: Brenda S. Compton
NAME AND ADDRESS: 209 NW D St, Bentonville, AR
PRINT NAME: Brenda Compton
SOURCE OF TITLE: D.R. _____
PAGE: _____
STATE OF ARKANSAS)
COUNTY OF BENTON)
SWORN TO AND SUBSCRIBED BEFORE ME THIS 30 DAY OF
October, 2019.
Alison K Worley
NOTARY PUBLIC SIGNATURE



BOARD OF ADJUSTMENT STAFF REPORT



Schmidt, Robert Whitten Trustee

303 NW C Street

BOA Date: 4/14/2021

Reviewer: Baylea Birchfield, Planning Tech

Project Number	VAR21-0009
Applicant / Current Owner	Schmidt, Robert Whitten Trustee
Site Area	+/- 0.28 acres
Current Zoning	R-1, Single Family Residential
Variance Request	<i>Land Development Code, Article 1100, Design Standards, Section 1100.06, Fence design standards, Subsection h, Fence height</i>

Property Description

This property is located at 303 SW C Street. It is currently zoned R-1, Single-Family Residential.

Regulation

According to Land Development Code Article 1100, Section 1100.06, Fence design standards, section h, Fence height, the maximum fence height shall be six feet above grade.

Variance Request

The applicant is requesting that the total height of a retaining wall and fence to total 8.5-feet, which is a variance of 2.5-feet from the 6-feet required by ordinance.

Background

According to the applicant's narrative, the home was built up 6" from street level for a single-level design for wheelchair access for a double amputee. The applicant wants to build a new fence around their pool and hot tub. Due to the back deck requiring a 2.5-foot threshold, a retaining wall needed to be built down the west side of the property.

The intent of the applicant's fence height variance is to allow for the construction of a typical 6-foot fence on top of the existing 2.5-foot retaining. According to the applicant this would act as a buffer to keep children from climbing over to get in the pool, and provide proper security and privacy for the homeowner.

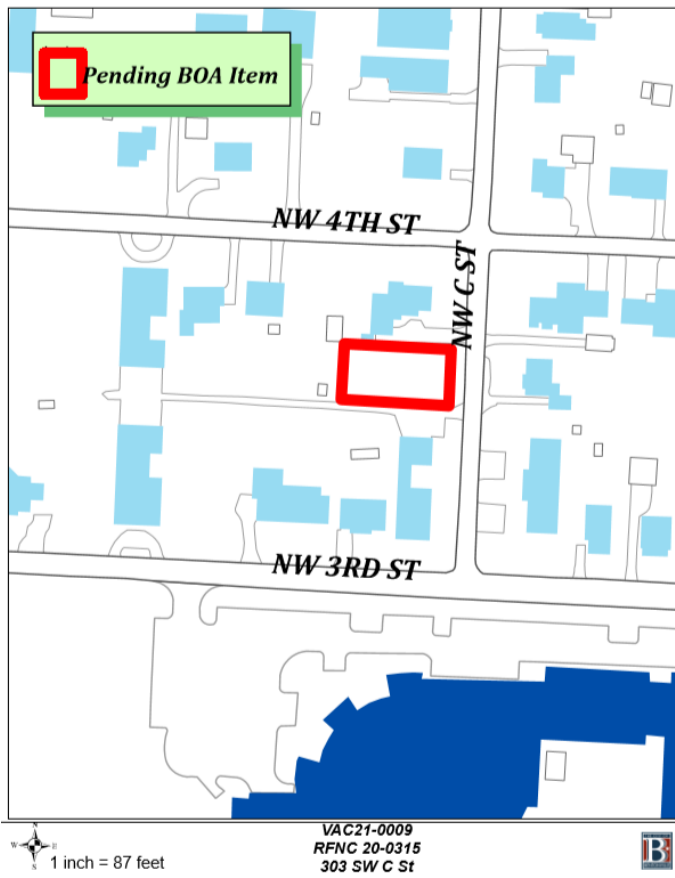
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, as provided by the applicant within this application.
2. The applicant shall be required to obtain an approved fence permit prior to construction.



BOARD OF ADJUSTMENT STAFF REPORT

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

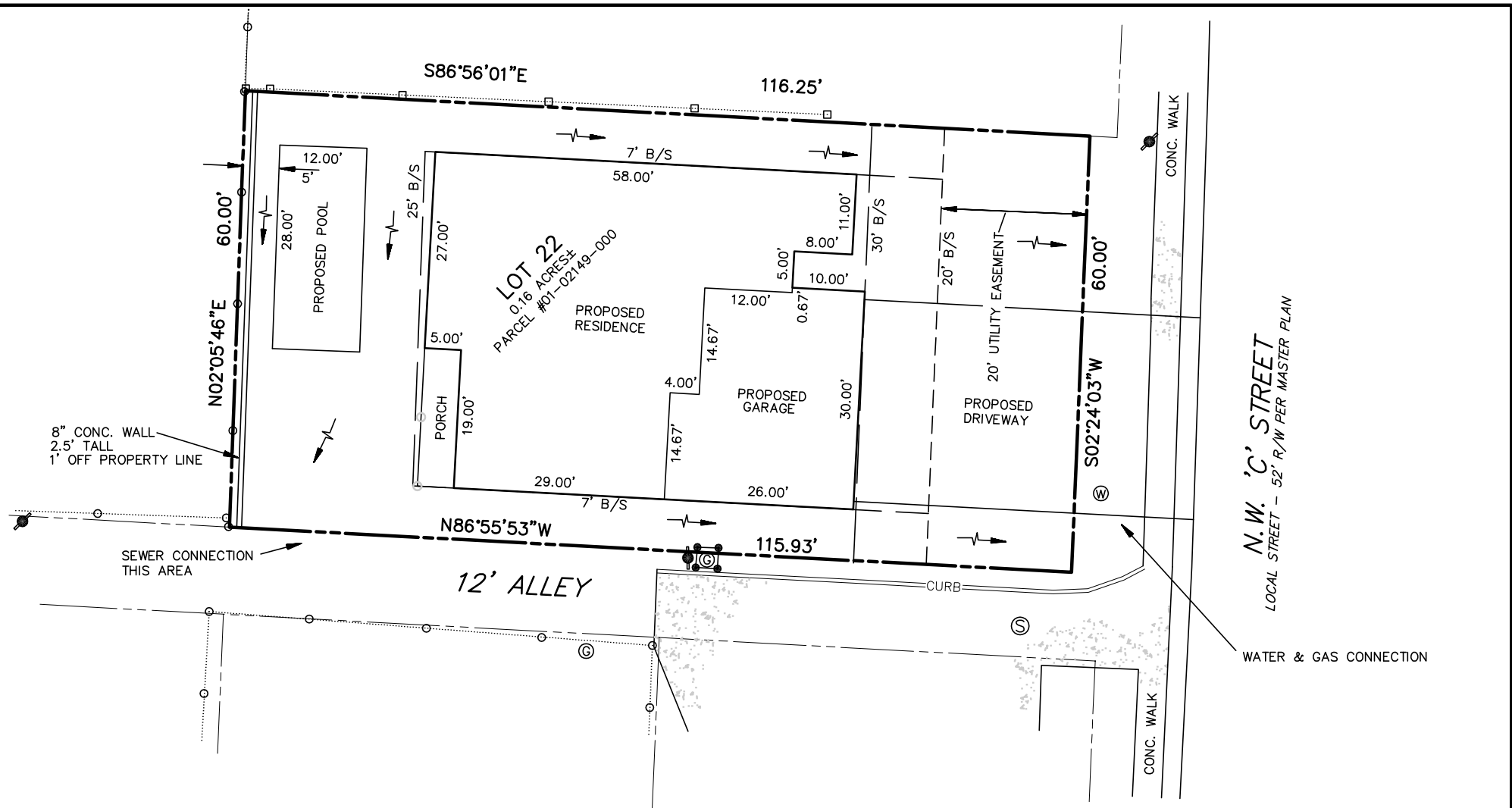
(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

To whom it may concern,

We built the home at 303 SW C St. for a double amputee. The home was built up 6" from street level with the design of being all one level for wheelchair use. Installed was therapeutic pool with automatic cove. Setting the back deck at threshold level required a 2.5' retaining wall to be built down the side and back of the property. To stay with code on fence height we would only be able to build a 3.5' tall fence around the pool and hot tub. We are requesting a variance on the fence height to allow 8.5' to enable us to build the owners a normal 6' privacy fence on top of the wall. To help buffer keeping children from climbing over to get to the pool, and to provide proper security and privacy for the homeowner.

Thank You

Oliver Kiesel



LEGEND

- PROPERTY LINE
- BUILDING SETBACK LINE
- CHAIN-LINK FENCE
- WOOD FENCE
- W WATER METER
- G GAS METER
- S UTILITY POLE
- S SANITARY MANHOLE
- S SURFACE FLOW DIRECTION



GRAPHIC SCALE
(IN FEET)
1 inch = 20 ft.

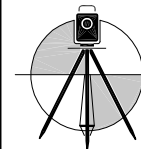
PLOT PLAN

for EVE J. ISBELL & O.A.K. CONSTRUCTION

LOT 22, BLOCK 7

DEMING'S ADDITION

BENTONVILLE, BENTON COUNTY, ARKANSAS



Costello Land Surveying

4342 E. STATE HIGHWAY 90

PINEVILLE, MO. 64856

(417) 226-4524

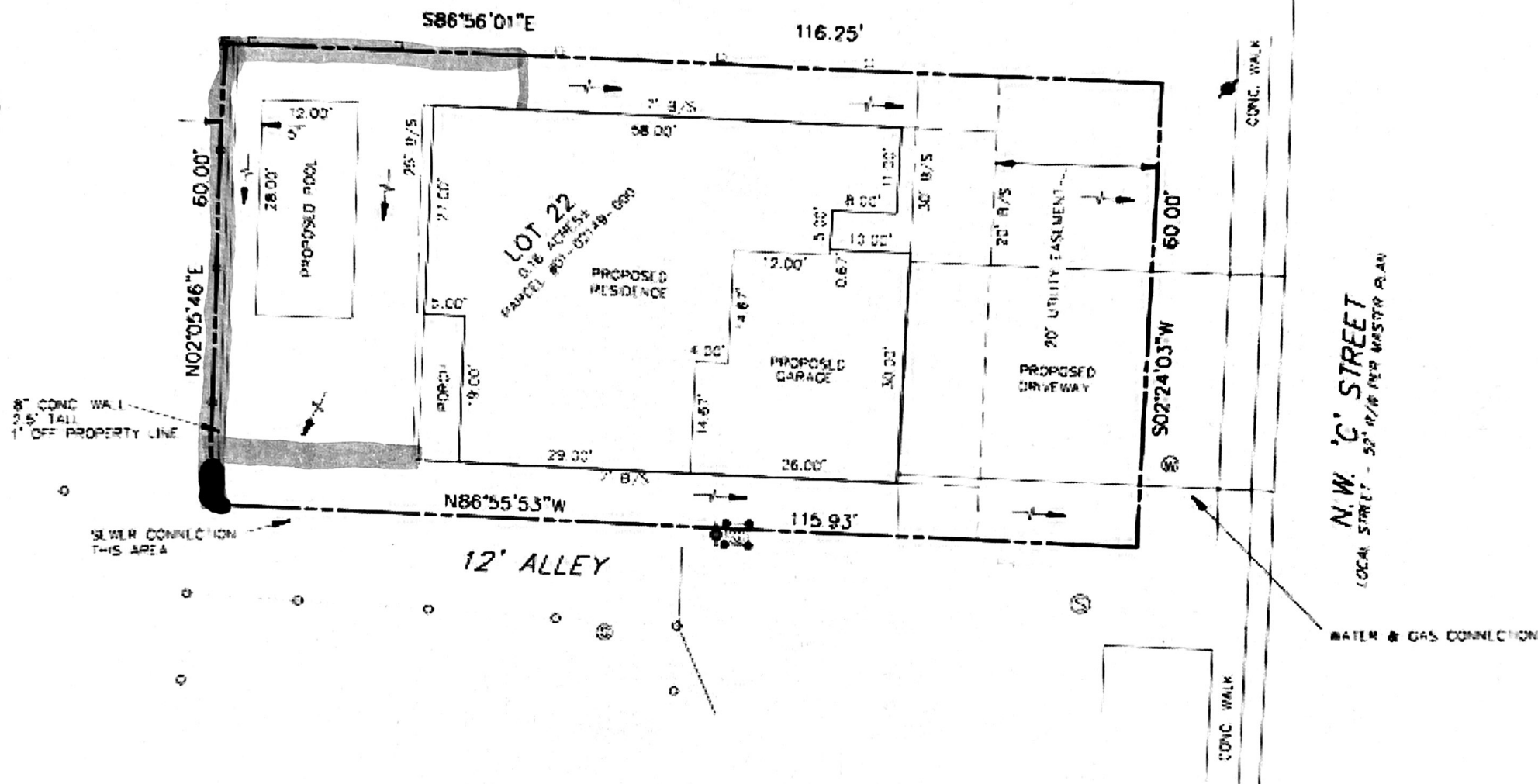
JOB NO. 19093

DATE: 1-13-2020

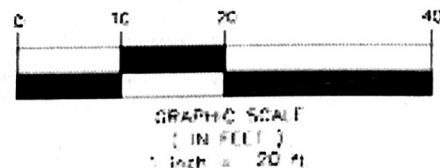
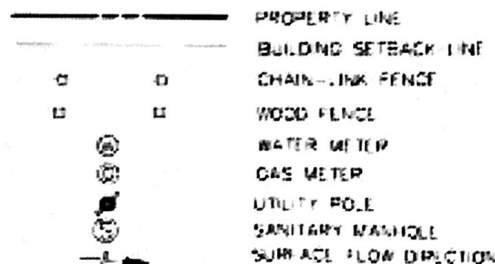
SHEET 1 OF 1

DRAWING: BNDY

- fence



LEGEND



PLOT PLAN

for EVE J. ISBELL & D.A.K. CONSTRUCTION
LOT 22, BLOCK 7
DEMING'S ADDITION
BENTONVILLE, BENTON COUNTY, ARKANSAS



Costello Land Surveying
4342 E. STATE HIGHWAY 90
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JOB NO. 19093
SHEET 1 OF 1

DATE: 1-13-2020
DRAWING: BNDY



Office and Retail Square Footage Interpretation

PC Date: 4/14/2021

Reviewer: Tyler Overstreet, Planning Services Manager, AICP

Type	Staff Interpretation Ruling
Code Impacted	Zoning Code
Section(s)	Sec. 201.02 Definitions of Terms and Uses, Sec. 401.05 Table of Uses For Zoning Districts

Issues

Staff has determined that there are several ways to interpret the application of small-scale and large scale office uses, and therefore, are seeking a judgement from the Board of Adjustments to guide future enforcement.

Background

The City of Bentonville Zoning Code currently defines small scale and large scale retail and office uses in Section 201.02. 4,000 square-feet is used as the differentiator between these “small-scale” and “large-scale” uses. Please review the definitions below:

Office, Small Scale: An office facility with a gross floor area of 4,000 square feet or less, characterized by low employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include "medical services, doctor office" which is separately defined.

Office, Large Scale: An office facility with a gross floor area of more than 4,000 square feet, characterized by high employee densities and occupied by a business engaged in information processing, providing professional services or engaged in the production of intellectual property. This definition does not include "medical services, doctor office" which is separately defined.

Retail, Large Scale: A retail store with a gross floor area of more than 4,000 square feet for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, auto parts and accessories, and similar consumer goods. The term "food store" includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this article that are specifically listed.

Retail, Small Scale: A retail store with a gross floor area of 4,000 square feet or less for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, auto parts and accessories, and similar consumer goods. The term "food store" includes a grocery, delicatessen, and convenience and specialty foods stores. This use does not include other uses in this article that are specifically listed.

Staff currently has two interpretations of these definitions and their proper enforcement.

Current: The article is meant to be enforced on a per-building basis. In other words, the gross square footage of a single retail or office building may be no more than 4,000 gsf. Under this interpretation, two 4,000 square foot office buildings would be allowed on a single piece of property, but one 6,000 square foot building would be prohibited.

Alternative: The article is meant to be enforced on a per suite basis. As the purpose of the table of

STAFF INTERPRETATION STAFF REPORT

permitted uses is to enforce allowable uses, not building sizes, a multi-tenant office or retail building could be larger than 4,000 gsf, but no single tenant space may be larger than 4,000 gsf. Under this interpretation, you could have an 8,000 square foot office or retail building with 4 suites as long as no single suite or tenant space is larger than 4,000 gsf.

Recent rezoning requests from C-1, Neighborhood Commercial and R-O, Residential Office to C-2, General Commercial necessitate the need for Board of Adjustment's interpretation. Many existing R-O and C-1 zoned developments along SW 14th Street and SW Regional Airport Boulevard would not be permitted under today's interpretation of the Code.

An important note, if a development fits within another defined use (such as a medical clinic/office or convenience store, which are separately defined) it does not fall under the same 4,000 gsf limitations as general office or retail uses.

Relationship to the Community Plan

The Commerce and Industry Chapter of the Bentonville Community Plan discusses opportunities for integrating commercial goods and services in new residential areas (p. 66). The plan discusses the importance of supporting well-integrated local commercial nodes that provide easy access to day-to-day retail, services, and jobs as residential development occurs. Historically, staff and Planning Commission have used "smaller-scale" commercial districts such as C-1, Neighborhood Commercial and R-O, Residential Office to help accomplish these goals. Current staff interpretation of the Zoning Code is encouraging applicants to rezone their properties to C-2, General Commercial, which allows for greater height and flexibility in allowable uses. Staff interpretation may be hindering our ability to implement the goals and vision of the Community Plan.