

Note – Some of the members of the Board of Adjustment, as well as City staff members, may attend this meeting virtually. For public health reasons, those who attend in person should consider personal hygiene, the use of facial coverings, and social distancing.



**BOARD OF ADJUSTMENT
AGENDA
July 28, 2021**

Registration Link: https://zoom.us/webinar/register/WN_OfRNy8dCQfu-nhsHFlwtng

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

- 1. Bentonville Plaza Lot 4** **Variance***
1101 S Walton Boulevard ([VAR21-0021](#))
 - Sign Setback
- 2. Newell Residence** **Variance***
102 NW 3rd Street ([VAR21-0023](#))
 - Fence Setback

**Denotes public hearing*

ReservationsBoard of Adjustment
Minutes
July 14, 2021

Meeting called to order by Rick Rogers, Chairman.

Present: Joe Haynie, Jan Holland, Rick Rogers, Sam Pearson, Rustin Chrisco
Absent:
Staff: Tyler Overstreet, Baylea Birchfield, Christian Togmus, Dan Weese

Motion by Mr. Haynie, seconded by Mr. Pearson to approve the minutes of June 9, 2021 as written
Approved 5-0

New Business

Item #1

Tracy Johnson, 714 NE 2nd Street, VAR21-0018

Baylea Birchfield reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Tracy Johnson, applicant, speaks on the request.

There is discussion amongst Board members and staff.

Mr. Rogers moved to approved adjusted Conditions of Approval #1, to state "The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application".

Approved 5-0

Item #2

Southern Sights, 501 & 503 NW K Street, VAR21-0019

Baylea Birchfield reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Mark Haney, applicant, 525 NW J Street, speaks on the reason for the request.

There is discussion amongst Board members and staff.

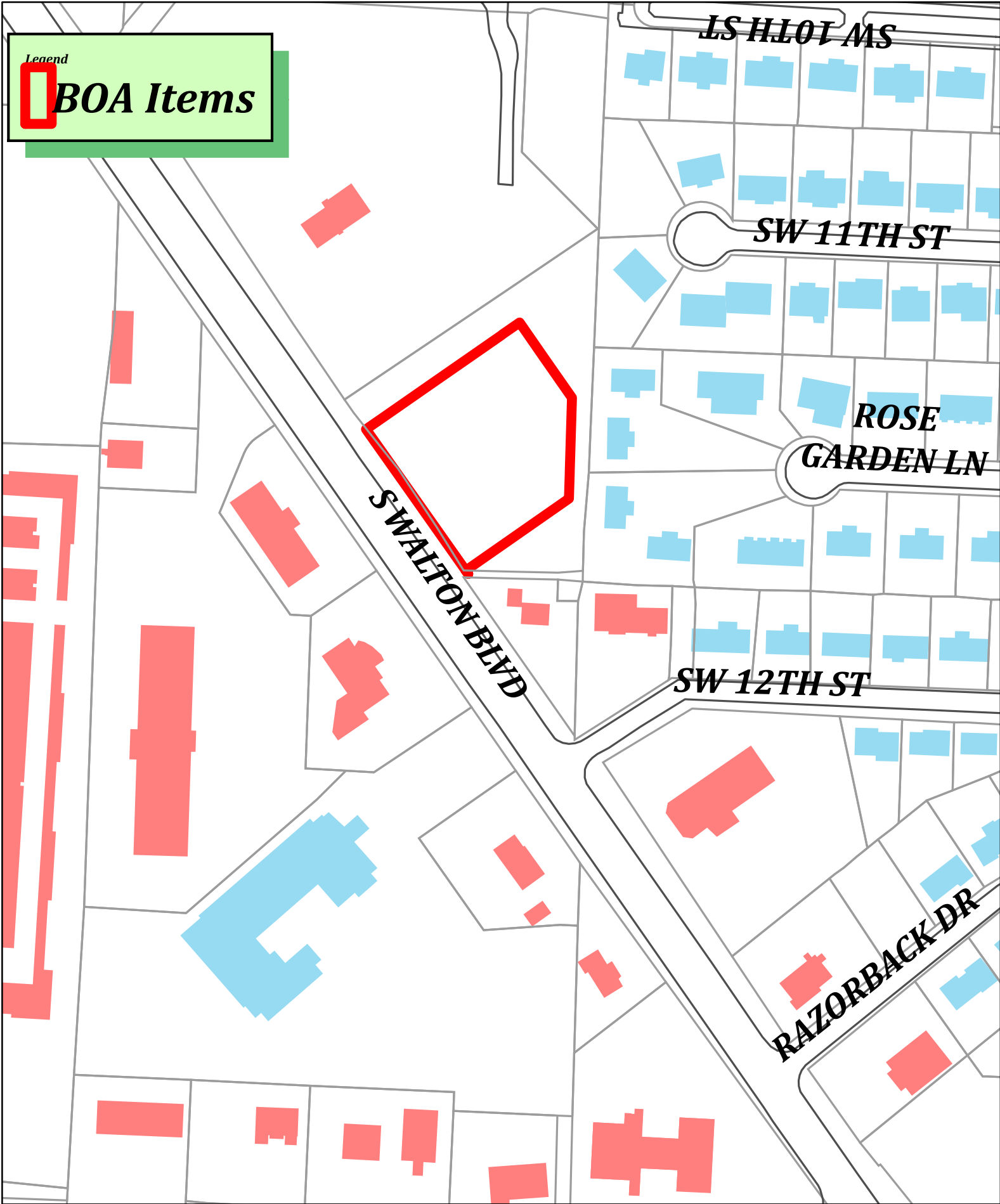
Approved 5-0

Motion by Mr. Pearson, seconded by Mrs. Holland to adjourn the meeting.

Meeting adjourned

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

Christian Togmus



VAR21-0021

***Lot 4 Bentonville Plaza Sign Setback Reduction
1101 S Walton Boulevard***



BOARD OF ADJUSTMENT STAFF REPORT



Bentonville Plaza Lot 4

1101 S Walton Boulevard

BOA Date: 7/28/2021

Reviewer: Elizabeth Johnson, Senior Planner, AICP

Project Number	VAR21-0021
Applicant / Current Owner	Redbud Holdings, LLC
Site Area	+/- 2.5 acres
Current Zoning	C-2, General Commercial
Variance Request	Zoning Code Article 801.15(c)(2)

Property Description

This property is located at 1101 S Walton Boulevard. It is currently zoned C-2, General Commercial.

Regulation

According to Zoning Code Article 801.15, Signs Allowed with a Sign Permit, section c, Freestanding Signs, subsection 2, Setback, signs that are more than 32-square feet must be setback a minimum of 10 feet from the property line.

Variance Request

The applicant is requesting to reduce the sign setback to 0 feet from the property line.

Background

According to the applicant's narrative, the entire frontage of the property is filled with water, sewer, fiber optic, telephone, and underground electric lines. The applicant is requesting a variance from the sign setback in order to keep the 5' clearance from the public utility lines. Additionally, the adjacent lot is an unbuildable, drainage lot owned by the same entity.

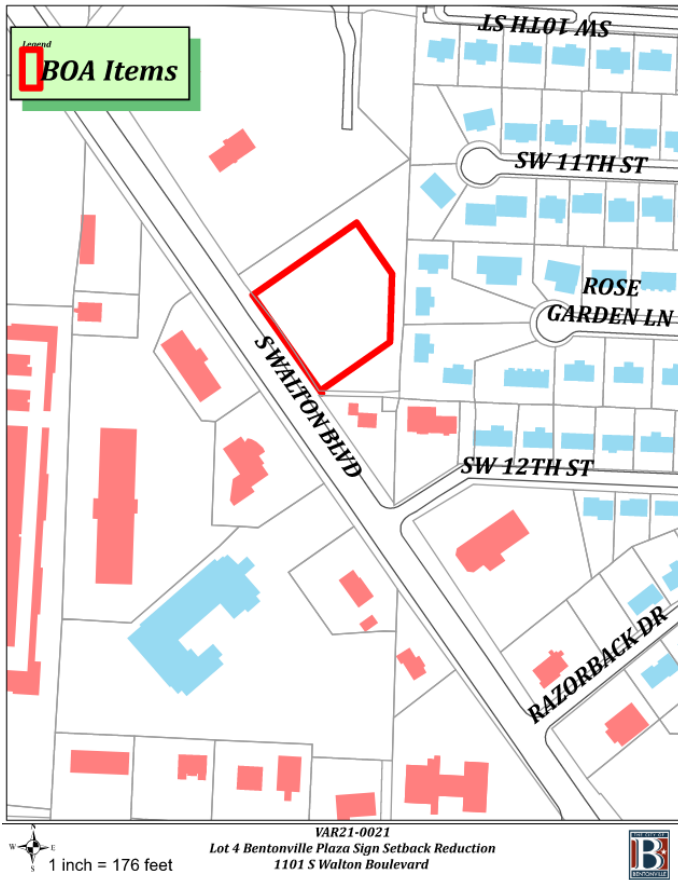
Public Comment

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 sign size and location as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved sign 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.



July 12th, 2021

**Re: Lot D, Bentonville Plaza
1101 S. Walton Blvd.
Bentonville, AR 72712
Signage Setback Variance Request**

Dear Commissioners,

Harrison French & Associates is writing to request a variance from Art. 801.15(c)(2), sign setbacks. The requirement is for 5' or 10' setbacks. We are proposing a 32.5 sq. ft. sign but are requesting no setbacks from the property line. The reason for the request is we're having difficulty finding a location for the sign along Walton. HFA and the owners have reduced the size of the sign considerably to make it fit without a variance. With the number of utilities along the frontage surrounding the lot, we have done so to no avail. Below, we'll detail how this request is in line with Bentonville's variance criteria.

- A. That there are special conditions and circumstances affecting the land involved that the strict application of the provisions of these regulations would deprive the applicant of the reasonable use of this land.*

Along the entire frontage of the property there are water, sewer, fiber optic, telephone lines and underground electric. We've, therefore shifted the sign as far south as possible but still within our property. It is worth mentioning the adjacent property is owned by the same entity and is also a non-buildable drainage lot.

- B. That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

The nature of these businesses and businesses in general require a sign for customers to find their stores safely and easily.

- C. That the granting of the waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area.*

As mentioned above, the adjacent property is a non-buildable lot intended for drainage. The drainage lot and our design property is part of the same subdivision and owned by the same entity.

- D. That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accord with the provision of these regulations.*

As mentioned under criteria C, the sign would border an undevelopable piece of land serving as drainage for the City of Bentonville. Any future development would be under the purview of the City of Bentonville.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rick McGraw', is written over a horizontal line.

Rick McGraw PLA, ASLA, CLARB Certified
Team Lead / Landscape Architect
(479) 273-7780

BENTONVILLE ELECTRIC UTILITY DEPARTMENT NOTES

- CONTACT BEUD AT 479-271-3135 BEFORE PERFORMING ANY GRADING WITHIN 5' OF EXISTING OR PROPOSED POWER POLES.
- BEUD DESIGN LAYOUT DRAWING TAKES PRECEDENCE OVER ANY ELECTRIC INFORMATION SHOWN ON THE SITE UTILITY PLAN.
- ELECTRIC FACILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST REVISION OF THE ELECTRIC SPECIFICATIONS FOUND ON THE WEBSITE. CONTRACTOR IS RESPONSIBLE FOR COMPLIANCE WITH THIS DOCUMENT.

PARCEL ID: 01-11093-000
REBUD HOLDINGS, LLC
1 ALLIED DRIVE SUITE 1500
LITTLE ROCK, AR 72202
BENTONVILLE PLAZA ADD. LOT 12

LOT 3
±46,922 SF
±1.08
ACRES
ZONED C-2

ZONING: C-2

PR-35'
EASEMENT
TO BE PLATTED
PER PP20-0007

PR-25'
EASEMENT
TO BE PLATTED
PER PP20-0007

LOT 4
±62,127 SF
±1.43 ACRES
ZONED C-2
±11,004 SF
CENTER

PARCEL ID: 01-03646-000
GRAY, SHEILA A
905 S SW 11TH ST
BENTONVILLE AR 72712-6281
PARK II SUBDIVISION LOT 12

ZONING: C-3

PARCEL ID: 01-05976-010
ANDMARK INVESTMENT FUND IV LLC
1012 SW A ST
BENTONVILLE AR 72712
ROSE GARDEN SUBDIVISION TR. B LOT 11

ZONING: R-3

PARCEL ID: 01-05976-011
ANDMARK INVESTMENT FUND IV LLC
1012 SW A ST
BENTONVILLE AR 72712
ROSE GARDEN SUBDIVISION TR. B LOT 12

PR. GEN U.E.
(WIDTH VARIES)

ZONING: C-2

EX. ELECTRIC
TRANSFORMER

PARCEL ID: 01-03859-000
ANDMARK INVESTMENT FUND IV LLC
1012 SW A ST
BENTONVILLE AR 72712
RAZORBACK ADDITION LOT 1 & 2 & EXCEPTION

PARCEL ID: 01-04898-000
SLUTTER, AARON & CHERYL
PO BOX 919
BENTONVILLE AR 72712
JOHNSON ADDITION LOT 1

PARCEL ID: 01-09407-000
EXECUTIVE CENTER I LLC
1104 S WALTON BLVD STE 102
BENTONVILLE AR 72712-6120
EXECUTIVE CENTER PLACE LOT 4

PARCEL ID: 01-09406-000
EXECUTIVE CENTER I LLC
1104 S WALTON BLVD STE 102
BENTONVILLE AR 72712-6120
EXECUTIVE CENTER PLACE LOT 3

PARCEL ID: 01-07068-000
FIRST WESTERN BANK
401 W WALNUT
ROGERS AR 72756-5451
CASSIDY ADDITION LOT 2



PROPOSED LEGEND

- PROPERTY LINE
- CURB & GUTTER
- SETBACK LINE
- EASEMENT LINE
- LIMITS OF PONDING
- ELECTRIC METER
- PARKING COUNT

NOTES

- MULTI-TENANT MONUMENT SIGN
- DUMPSTER PAD
- TRANSFORMER PAD
- DRIVE-THRU LANE
- CLEARANCE BAR FOOTING AND CONDUIT WITH BOLLARD
- PRE-MENU BOARD FOOTING AND CONDUIT
- ORDER POINT CANOPY WITH DIGITAL ORDER SCREEN AND CONDUIT WITH BOLLARD
- 5 PANEL MENU BOARD, FOOTING AND CONDUIT
- DRIVE-THRU WINDOW, DRIVE-THRU SHELF, TIMER LOOP AND AIR CURTAIN
- 24"X 12" CONCRETE WALL AROUND PATIO
- "MOBILE ORDER PARKING ONLY" SIGN
- "THANK YOU/EXIT ONLY" SIGN, (FOOTING & CONDUIT BY LL)
- DUMPSTER ENCLOSURE. SEE ARCH. SHEET A210 FOR DETAILS.
- NOT USED
- DIRECTIONAL ARROWS
- 376 SF PATIO
- 264 SF PATIO
- HANDICAP SPACE SIGN
- HOSE BIB & GREASE INTERCEPTOR
- HEAVY DUTY CONCRETE
- INTEGRAL CONCRETE IN DT LANE FROM MIN. 10'-0" IN FRONT OF ORDER POINT TO MIN. 10'-0" AFTER DT WINDOW
- SITE AMENITY OUTDOOR BENCH. VICTOR STANLEY PARK BENCH PER CITY OF BENTONVILLE STANDARD
- ELECTRIC SWITCH BOX
- SITE TRIANGLE. NOTHING BETWEEN 30" AND 60" IS ALLOWED WITHIN THE SHADED AREAS OF THE SITE TRIANGLE.

DETAILS

- SITE SIGN BASE DETAIL, SEE DETAIL 1/C10.1
- PARKING LOT STRIPING, SEE DETAIL 2/C10.1
- CONCRETE SIDEWALK, SEE DETAIL 3/C10.1
- PRECAST CONCRETE WHEEL STOP, SEE DETAIL 4/C10.1
- HEAVY DUTY CONCRETE, SEE DETAIL 5/C10.1
- MEDIUM DUTY CONCRETE, SEE DETAIL 5/C10.1
- TYPE "A" CURB AND GUTTER, SEE DETAIL 7/C10.1
- MEDIUM DUTY ASPHALT PAVING, SEE DETAIL 6/ C10.1
- BIKE RACK DETAIL, SEE DETAIL 8/ C10.1
- CONCRETE SIDEWALK ABUTTING PARKING, SEE DETAIL 10/ C10.1
- PIPE BOLLARD, SEE DETAIL 9/ C10.1
- ADA RAMP AT HANDICAP STALL, SEE DETAIL 11/ C10.1
- ADA RAMP IN SIDEWALK, SEE DETAIL 12/ C10.1
- TYPE "B" INTEGRAL CURB AND GUTTER, SEE DETAIL 13/ C10.1
- EDGE TREATMENT FOR CURB CUTS, SEE DETAIL 14/ C10.1
- 12" CONCRETE RIBBON, SEE DETAIL 15/ C10.1
- CONCRETE FLUME, SEE DETAIL 3/ C10.2
- FIRE LANE STRIPING, SEE DETAIL 16/ C10.1

PROPERTY ZONED

C-2 ZONING

BUILDING SETBACKS

SETBACKS ARE SHOWN PER SEC. 401.08 COMMERCIAL (C) DISTRICTS REGULATIONS AS STATED IN THE MOST RECENT CITY OF BENTONVILLE ZONING CODE. FOR MORE INFO VISIT WWW.BENTONVILLE PLANNING.COM OR CALL THE PLANNING DEPARTMENT @ 479-271-3122.

ZONING	SETBACKS	
C-2	FRONT	50'
	SIDE	30'
	SIDE	7'
	REAR	20'
		(WITH PARKING ON FRONT)
		(WHEN ADJACENT TO RESIDENTIAL ZONE)
		(WHEN ADJACENT TO NON-RESIDENTIAL ZONE)
		(WHEN ADJACENT TO NON-RESIDENTIAL ZONE)

HEIGHT REQUIREMENTS (C-2)

MAXIMUM HEIGHT: 60FT HIGHEST PARAPET: 24'-4"

LOT REQUIREMENTS (C-2)

MIN LOT AREA: 7,000 SQ FT LOT AREA: 62,127 SQ FT
MIN LOT WIDTH: 70 FT IMPERVIOUS AREA: 48,352 SQ FT
MAX LOT COVERAGE: 60% LOT COVERAGE: 18%

PARKING REQUIREMENTS

RESTAURANTS: MINIMUM - 1 SPACE PER 4 OCCUPANTS + 1 PER EMPLOYEE BASED ON LARGEST SHIFT.
GENERAL BUSINESS: 1 SPACE PER 250 SF OF NET FLOOR AREA.

RESTAURANT SF: 2,200 SF: 935 SF PUBLIC/ 1,265 SF KITCHEN (62 OCCUPANTS) 4 = 16 + 7 EMPLOYEES = 23 SPACES
RETAIL/ BUSINESS SF: 8,994 SF (8,994/ 250 SF = 36 SPACES)

TOTAL REQUIRED: 23 + 36 = 59 SPACES

TOTAL PROVIDED: 75 SPACES

FOR DRIVE-THROUGH COMMERCIAL FACILITIES, IN ADDITION TO THE OTHER PARKING SPACE REQUIREMENTS, HOLDING OR STACKING SPACES FOR EACH SERVICE WINDOW. EACH STACKING SPACE SHALL BE NO LESS THAN 10 FEET WIDE BY 20 FEET LONG

CITY NOTES

- ALL PROPOSED SIGNAGE WILL REQUIRE A SEPARATE PERMIT.
- NO FENCING IS PROPOSED AT THIS TIME. FENCING WILL REQUIRE A SEPARATE PERMIT.
- ALL MECHANICAL EQUIPMENT (ROOF AND GROUND MOUNTED) SHALL BE SCREENED ON ALL SIDES BY SIMILAR MATERIALS TO THE BUILDING.
- DUMPSTER ENCLOSURE SHALL BE CONSTRUCTED WITH SIMILAR MATERIALS TO THE BUILDING. PLEASE ALSO SEE NOTE CALLOUT 13N.

CITY OF BENTONVILLE PROJECT NUMBER: LSD 21-00027



HARRISON FRENCH & ASSOCIATES, LTD

1705 S. Walton Blvd., Suite 3
Bentonville, Arkansas 72712
t 479.273.7780
f 888.520.9685
www.hfa-ac.com

STIPULATION FOR REUSE
THIS DRAWING WAS PREPARED FOR USE ON A SPECIFIC SITE AT: 18-20-00076 Lot D
CONTEMPORANEOUSLY WITH ITS ISSUE DATE: 05/17/2021
THE USE OF THIS DRAWING FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF HFA ARCHITECTS ENGINEERS INTERIORS IS PROHIBITED. ANY REPRODUCTION OF THIS PRODUCT IS NOT AUTHORIZED AND MAY BE CONSIDERED A VIOLATION OF THE LAW.

BENTONVILLE PLAZA LOT D

1101 S WALTON BLVD
BENTONVILLE, AR 72712

PROJ. NUMBER: 18-20-00076

ISSUE BLOCK

#	TITLE	DATE
1	OTP	5.17.2021

STORE NO.:

DOCUMENT DATE: 5/17/2021

CHECKED BY: WFM

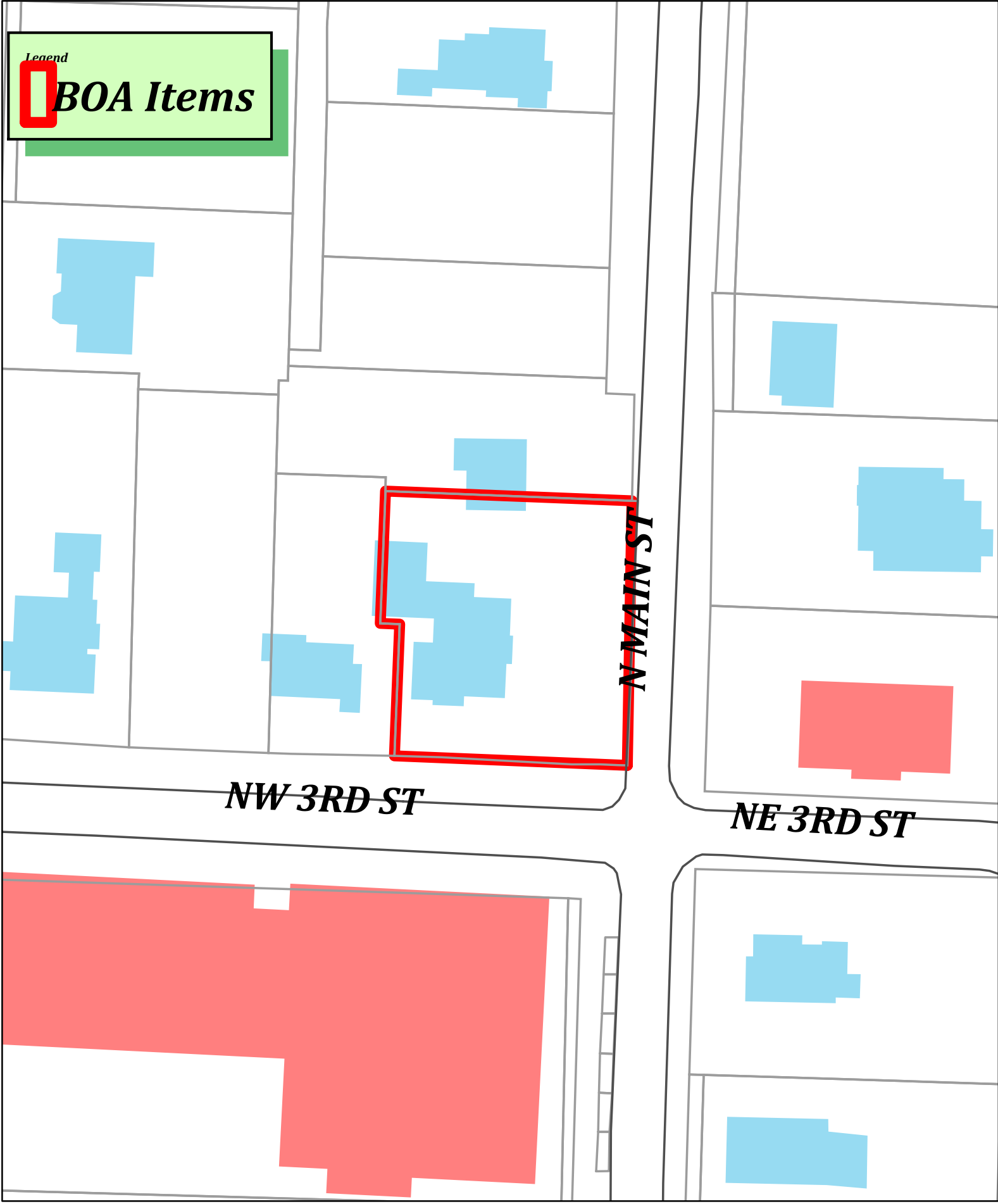
DRAWN BY: ELN

FOR REVIEW
ONLY

SITE
PLAN

SHEET:

C2.0



BOARD OF ADJUSTMENT STAFF REPORT



Newell Residence

102 NW 3rd Street

BOA Date: 7/28/2021

Reviewer: Elizabeth Johnson, Senior Planner, AICP

Project Number	VAR21-0023
Applicant / Current Owner	Jake and Jennifer Newell
Site Area	+/- 0.41 acres
Current Zoning	DE, Downtown Edge
Variance Request	Land Development Code Article 1100.06

Property Description

This property is located at 102 NW 3rd Street. It is currently zoned D-E, Downtown Edge and is surrounded by D-E, Downtown Edge to the north and east, D-C, Downtown Core to the south, and R-1, Low Density Single-Family Residential to the west.

Regulation

According to Land Development Code Article 1100.06, Fence and Wall Requirements, section g, subsection 2, Fence location adjacent to public right-of-way, a fence shall be placed no closer than five feet to the current or proposed right-of-way.

Variance Request

The applicant is requesting the fence setback to be zero feet, which is a variance of five feet.

Background

According to the applicant's narrative, they are upgrading an existing four-foot black metal fence to a metal fence with brick columns. The existing fence sits three feet beyond the property line. They are proposing to push the existing fence back to the property line. The applicant states that if they were to place the fence back five feet from the property line, then they would have to remove three large, mature trees.

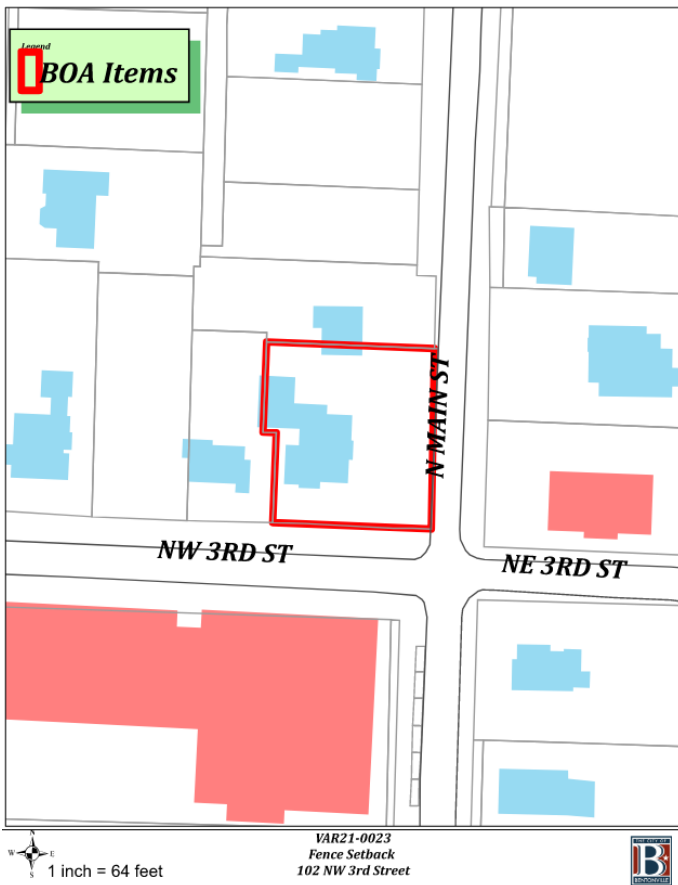
Public Comment

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 fence height, location, and materials as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved fence permit prior to constructing the fence.
3. The fence shall meet the requirements for fences located within utility easements listed within the Land Development Code.



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.



Ecological Design Group, Inc
216 W Birch Street
Rogers, AR 72756

Variance Request

To: City of Bentonville
From: Ecological Design Group, Inc – on behalf of Jake and Jennifer Newell
Date: July 09, 2021
Re: Newell Residence Fence Upgrade @ 102 NW 3rd St, Bentonville, AR

On behalf of Jake and Jennifer Newell, Ecological Design Group, Inc. (EDG) is submitting this Variance Request.

Project Description: Proposed fence upgrade includes approximately 250 LF of black-coated metal Victorian-style fence panels between approximately (32) 48"x16" brick columns, one new pedestrian gate, and one vehicular gate. A conceptual site plans is included with this variance for reference. The property is zoned D-E (Downtown Edge).

This Variance Request items are listed below:

- **Build a new fence at the property line and not set back 5 feet from the property line.**
 - Per the City of Bentonville fence regulations, fences must be located at least 5' from the street or public R.O.W.
 - Adhering to the City of Bentonville fence regulations would be detrimental to the three mature trees on the southern and western edge of the property. The trees are a 24" diameter oak, a 12" diameter sugar maple, a 10" diameter sugar maple, and a 24" white pine. If the fence was set back 5' from the property line, it would be located too close to the roots and trunk of the mature trees. The footings required for the brick columns would damage the tree's roots and result in significant damage and potential loss of the trees. The southern edge of the property hosts a significant amount of tree canopy that provides shade and privacy for the property owners, as well as shade for the residents of Bentonville.
 - The design proposal of the fence location specifies that the face of the brick columns will be located at, but not exceeding, the property line.
 - The granting of this variance would allow the fence and the mature trees to coexist with adequate spacing for each and would reduce the potential damage to the trees from significant to minor.

With the hardship listed above, the applicant is requesting a waiver to allow the new fence to be constructed at, but not exceeding, the property boundary.

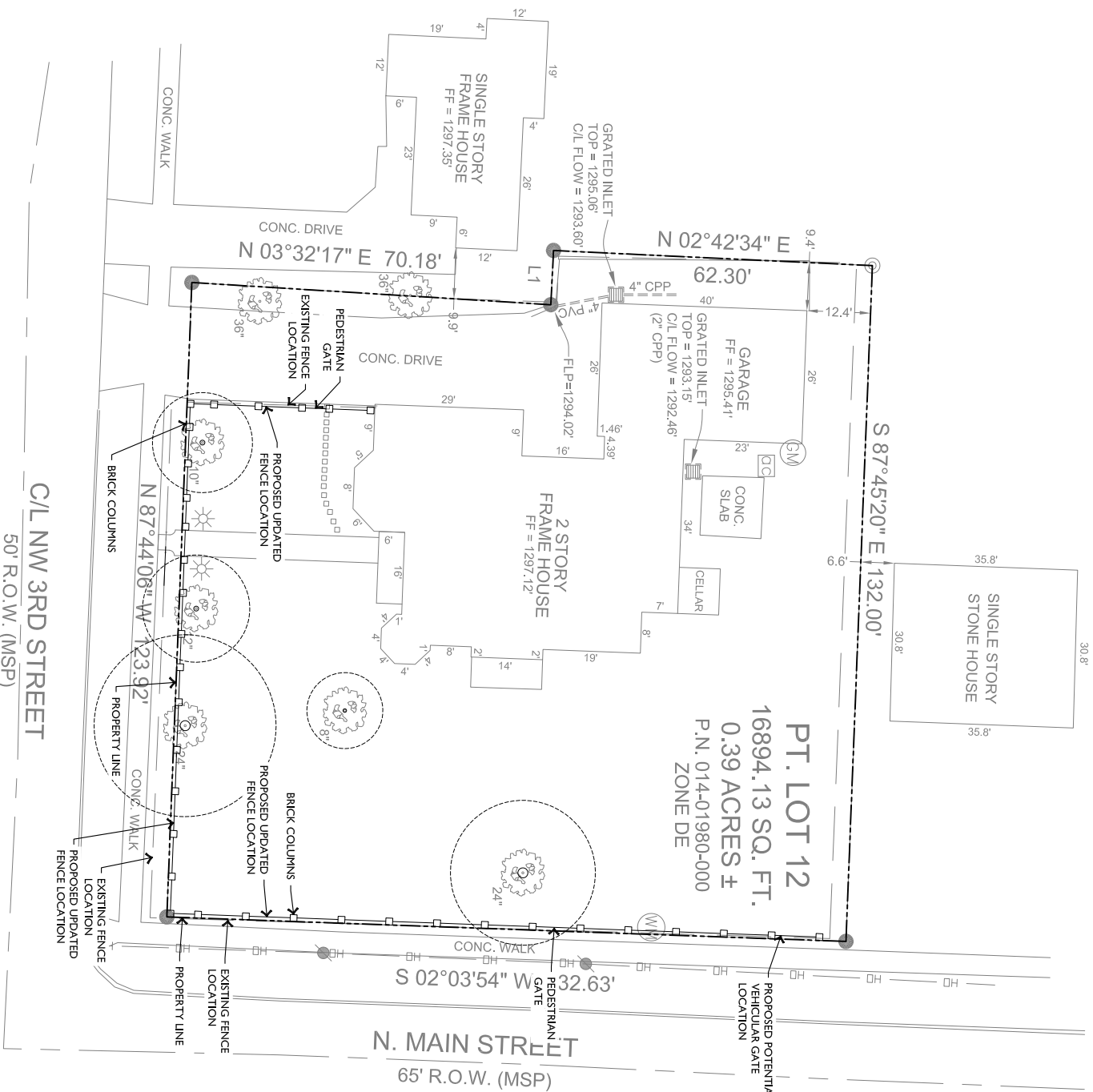
If you have any further questions or concerns, please contact me at snorman@ecologicaldg.com or 501.282.2567.

Sincerely,

Shannon Norman, Project Manager
Ecological Design Group, Inc.

LEGEND

- PROPERTY LINE
- PROPOSED FENCE
- EXISTING FENCE



PROPOSED FENCE UPDATE SITE PLAN

SCALE: 1" = 30'-0"

