

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
October 27, 2021**

Registration Link: https://us06web.zoom.us/webinar/register/WN_Oezr85NITEqRSeC7qWGkNQ

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

- 1. FSB Realty, LLC**
403 SE 8th Street ([VAR21-0033](#))
 - Building Height Variance
 - Setback Variance

Variance*

Board of Adjustment
Minutes
October 13, 2021

Meeting called to order by Mr. Rogers

Present: Rick Rogers, Joe Haynie, Jan Holland, Sam Pearson
Absent: Rustin Chrisco
Staff: Tyler Overstreet, Elizabeth Johnson, Luke Aitken

Motion by Mr. Rogers, seconded by Mr. Haynie to approve the minutes of September 22, 2021 as written

Approved 4-0

New Business

Item #1

Skylight Homes, 1801 SW Regional Airport Boulevard, Suite 5, VAR21-0029

Elizabeth Johnson reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Peter Horton, Matt Reese, and Brandon Hoover of Sign Studio and Franco Tompeterini of Skylight Homes are all available to speak on the item.

There is discussion amongst Board members and staff.

Approved 4-0

Item #2

Walmart Campus Layout Center, 01-02497-000 (SE 8th Street), VAR21-0030

Elizabeth Johnson reads the staff report.

Mr. Rogers recuses himself due to a conflict of interest.

Mrs. Holland takes over as Chairwoman

Opened public hearing

No public comments

Closed public hearing

Clinton Muse of CEI Engineering is available in person to speak on the item

There is discussion amongst Board members and staff.

Approved 3-0

Item #3

L Street Development, 3302 SE L St, VAR21-0032

Elizabeth Johnson reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Mitch Moore, representing the developer and owner and Jenny Burbidge, representing the civil engineer and architect, are both available in person to speak on the item.

There is discussion amongst Board members and staff.

Approved 4-0

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

Meeting adjourned

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

Luke Aitken

BOARD OF ADJUSTMENT STAFF REPORT



FSB Realty, LLC

403 SE 8th Street

BOA Date: 10/27/2021

Reviewer: Tyler Overstreet, Planning Services Manager, AICP

Project Number	VAR21-0033
Applicant / Current Owner	FSB Realty, LLC
Site Area	+/- .08 acres
Current Zoning	DE, Downtown Edge
Variance Request	Zoning Code Article 401.08-B(d) Zoning Code Article 401.08-B(e)

Property Description

This property is located at 403 SE 8th Street. It is currently zoned DE, Downtown Edge. Adjacent zoning districts are DE, Downtown Edge to the north, south, east, and west. The property is located directly adjacent to SE 8th Street, an arterial roadway.

Regulation

According to Zoning Code Article 401, Section 401.08-B, Downtown (D) Districts Regulations, subsection (d), *Downtown (D) districts setback requirements*, the setback requirements for DE zoned properties are 7-feet on the side and 12-feet in the rear when adjacent to residential and 7-feet when adjacent to commercial.

According to Zoning Code Article 401, Section 401.08-B, Downtown (D) Districts Regulations, subsection (e), *Downtown (D) districts height standards*, the maximum height in zoning district DE is 50-feet.

Variance Request

The applicant requests zero-foot side setbacks for their east and west property lines, which is a variance of 7-feet from the 7-foot setbacks required by the ordinance.

The applicant requests a zero-foot rear setback for their northern property line, which is a variance of 12-feet from the 12-foot setbacks required by the ordinance.

The applicant requests an 80-foot height maximum, which is a variance of 30-feet from the 50-foot height maximum required by the ordinance.

Background

The applicant's narrative is attached for review.

Public Comment

At the time of writing this staff report, staff has not received public comment on this item.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, setbacks, and density, as provided by the applicant within this application.
2. There shall be no encroachments nor overhangs into any utility easements without the approval of all affected private and public utilities.
3. The applicant shall be required to obtain an approved building permit before 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.

403 SE 8th Street
Bentonville, AR. 72712

Parcel: 01-03561-000

Tracts: 29, 29E

Eminent Domain. AHTD PROJECT 090377

Case # 04CV-15-1384

Board of Adjustment Overview Request

The property was purchased in 2007, and completely rebuilt in 2007 into a 3 bedroom rental home on 8th street. The house was a 3 bedroom, 1 bath, open kitchen design, with island seating, pendant lighting and new can lighting throughout. It also boasted a sizeable fenced in backyard for pets and children.

In 2015 the City of Bentonville acquired over 87% of the property via eminent domain for 8th street improvement, electrical utilities, and a bike path. Homeowner was told at the time of taking the lot would be zero lot lines.

However, when the homeowner explored a development opportunity, the zoning was actually for downtown edge, with setbacks on 7' on each side and a 12' setback on front and back, taking an additional 50% of remaining available property.

After the homeowner met with the transportation engineering department, the road will be will a 2 lane, one way only in and out from the property, thus rendering a reclassification of downtown Core counter-intuitive to the goals of downtown core zoning (creating a zone for businesses and residential to co-exist).

However, in order for the homeowner to build a "like structure" on 403 SE 8th street pursuant to the laws of eminent domain, the only way to do to would be a zero lot line variance approval so a 3 bedroom, ranch style home could be replicated in the remaining property.

This property is unusual in that of all the properties involved in eminent domain, this parcel and the greatest amount of taking of any other property. So building a like structure is not possible with the amount of taking that the city undertook rendering the taking price under contention between the homeowner and the city (with a jury trial date set for February 2). If the lot line restriction is approved the homeowner is willing to drop the trial date process because there will be a "like structure" that can be built on the lot.

The following pages outline the taking, the purchase price, and the revised design requested with a basic A&E plan on this parcel.

We look forward to talking to the board in the hopes that we may reach a mutually beneficial solution, so that this parcel is not the only piece of land to actually lose monetary value with downtown improvement.

Yours Truly, Shannon Bedore

Property Owner Consent form

Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

I, Shannan Bedae/FSB Realty am the legal owner of the
(Owner's name, printed)
property located at 403 SE 8th Street, identified as Parcel
(Address or Street Name)
Identification Number 01-03561-000, located in
(Parcel ID)
Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.

Shannan Bedae 10/4/2021
(Property Owner Signature) (Date)

Legal Description

Legal description from Warranty Deed dated June 25, 2011, filed in Benton County, Arkansas on June 27, 2001 and recorded in deed book 2011, page 32873.

A part of Lots 8, 9, and 12 and a part of a closed alley in Block "B" in Orchard Addition to the City of Bentonville, Benton County, Arkansas, described as follows: Beginning 58 feet East of the SW corner of said Lot 12; running thence North 115 feet; thence West 60 feet; thence South 115 feet; thence East 60 feet to the place of beginning.

Minus the following section taken by eminent domain by the City of Bentonville on September 17, 2015 (Benton County Civil Case No. 2015-1384-1).

Part of Lot 12, Part of Lot 9, and part of a vacated alley, Block E, Orchard Addition to the City of Bentonville, Benton County, Arkansas, described as follows: Commencing at the southeast corner of Lot 12, as determined by a parcel survey for AHTD Job No. 090218, dated 4-21-2011; thence N87°35'47"W a distance of 92.00 feet to the POINT OF BEGINNING; thence along and with the North right-of-way of SW 8th Street N87°35'47"W distance of 59.32 feet; thence leaving said right-of-way N02°31'26"E a distance of 56.72 feet; thence S87°02'44"E a distance of 59.54 feet; thence S02°44'38"W a distance of 56.15 feet to the POINT OF BEGINNING, containing 3,354 square feet or 0.08 acres, more or less, being part of tract C-029, as shown on the above referenced survey.

Remaining parcel encumbered by the following permanent utility easement taken by eminent domain by the City of Bentonville on September 17, 2015 (Benton County Civil Case No. 2015-1384-1).

Part of Lot 9, and part of a vacated alley, Block E, Orchard Addition to the City of Bentonville, Benton County, Arkansas, described as follows: Commencing at the southeast corner of Lot 12, as determined by a parcel survey for AHTD Job No. 090218, dated 4-21-2011; thence N87°35'47"W a distance of 92.00 feet; thence N02°44'38"E a distance of 56.15 feet to the POINT OF BEGINNING; thence N87°02'44"W a distance of 59.54 feet; thence N02°31'26"E a distance of 25.00 feet; thence S87°02'44"E a distance of 59.64 feet; thence S02°44'38"W a distance of 25.00 feet to the POINT OF BEGINNING, containing 1,491 square feet or 0.03 acres, more or less, being part of tract C-029, as shown on the above referenced survey.

Circuit Clerk Filing

EXHIBIT A

Real property located in Benton County, Arkansas, to-wit:

Tract 1:

Lot 16 of the Woodbriar Subdivision, Phase 1, in the City of Bentonville, Benton County, Arkansas.

Tract 2:

PART OF THE NE 1/4 OF THE SW 1/4 OF SECTION 30, TOWNSHIP 20 NORTH, RANGE 30 WEST, DESCRIBED AS BEGINNING 315 FEET SOUTH AND 66 FEET WEST OF THE SE CORNER OF LOT 29, MCANDREW & JACKSON ADDITION, BENTONVILLE, THENCE SOUTH 24 DEGREES 14 MINUTES WEST 128.9 FEET; THENCE ON A CURVE TO THE RIGHT (R-139 FEET) 146 FEET; THENCE EAST 126.5 FEET TO THE PLACE OF BEGINNING.

Tract 3:

A PART OF LOTS 8, 9, AND 12 AND A PART OF CLOSED ALLEY IN BLOCK "E" IN ORCHARD ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS DESCRIBED AS FOLLOWS: BEGINNING 58 FEET EAST OF THE SW CORNER OF SAID LOT 12; RUNNING THENCE NORTH 115 FEET; THENCE WEST 60 FEET; THENCE SOUTH 115 FEET; THENCE EAST 60 FEET TO THE PLACE OF BEGINNING.

Book 2011 Page 32874
Recorded in the Above
DEED Book & Page
06/27/2011

Benton County, AR
I certify this instrument was filed on
06/27/2011 2:49PM
and recorded in DEED Book
2011 at pages 32872 - 32874
Brenda DeShields-Circuit Clerk

Notarized Property Ownership

DATED this 25th day of June, 2011.

Book 2011 Page 32873
Recorded in the Above
DEED Book & Page
06/27/2011

The Bedore Family Trust U/T/D October 3, 2007

By: [Signature]
Frederic D. Bedore, Trustee

By: [Signature]
Shannon J. Bedore, Trustee

STATE OF ARKANSAS)
)SS. **ACKNOWLEDGMENT**
COUNTY OF BENTON)

BE IT REMEMBERED that on this day came before the undersigned, a Notary Public within and for the county and state aforesaid, duly qualified, commissioned and acting, appeared **Frederic D. Bedore and Shannon J. Bedore, Co-Trustees of The Bedore Family Trust U/T/D October 3, 2007**, to me well known as the Grantor in the foregoing Trustee's Deed, and stated that they had executed the same for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 25th day of June, 2011.

My Commission Expires:

11-15-20

(S E A L)



[Signature]
Notary Public

Warranty Deed

TRUSTEE'S WARRANTY DEED

Brenda DeShields-Circuit Clerk
Benton County, AR
Book/Pg: 2011/32872
Term/Cashier: CASH/Alice M. Young
06/27/2011 2:49PM
Tran: 157295
Total Fees: \$25.00

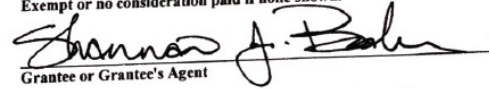
Book 2011 Page 32872
Recorded in the Above
DEED Book & Page
06/27/2011

KNOW ALL PERSONS BY THESE PRESENTS that **Frederic D. Bedore (a/k/a Fred Bedore) and Shannon J. Bedore (a/k/a Shannon Bedore), Co-Trustees of The Bedore Family Trust U/T/D October 3, 2007**, hereinafter called "GRANTOR", for and in consideration of the sum of One Dollar and other valuable consideration, in hand paid by the Grantee hereinafter named, do hereby grant, bargain, sell and convey unto **FSB Realty, LLC, an Arkansas limited liability company**, hereinafter called "GRANTEE" and unto its successors and assigns forever, all of Grantor's right, title and interest in and to the following described real property situated in Benton County, Arkansas:

See Attached Exhibit A

NO CONSIDERATION EXCHANGED.

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument. Exempt or no consideration paid if none shown.


Grantee or Grantee's Agent

Grantee's Address: 111 Somerset, Bentonville, AR 72712

AND GRANTOR hereby covenants with the said Grantee that they will forever warrant and defend the title to the said real property against all claims or encumbrances done or suffered by him but against none other.

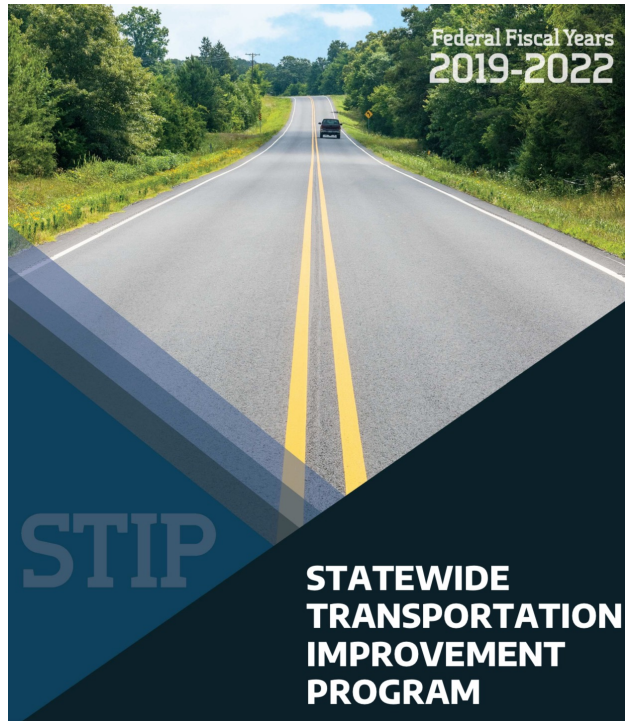
TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns forever, together with all appurtenances thereunto belonging.

This Instrument Was Prepared By:
MITCHELL, WILLIAMS, SELIG, GATES &
WOODYARD, PLLC
Attorneys at Law
5414 Pinnacle Point Drive, Suite 500
Rogers, Arkansas 72758

SEND TAX STATEMENTS TO:
Mr. and Mrs. Frederic D. Bedore
111 Somerset
Bentonville, AR 72712

8th Street improvement project

- https://www.arkansashighways.com/stip/2019-2022/2019-2022_STIP_Final_General_Electronic.pdf



[Return to Table of Contents](#)

2019-2022 STIP

JOB	COUNTY	ROUTE	TERMINI	LENGTH	TYPE WORK	ESTIMATED COST Funding Breakdown (in thousands)	AGENCY CARRYING OUT THE PROJECT	FFY	MPO
08X143	Pope	7	Hwy. 7/O St. Intersection Drainage Impvts. (Russellville)	0.25	Drainage Improvements	4,700 - TOTAL 3,760 - NHPP 940 - State	State	2021	
Partnering project. City of Russellville to design, fund utility relocation and assume ownership of a portion of Highway 326. Arkansas Tech University to provide construction easement.									
009784	Newton	7	Buffalo River Str. & Apprs. (Pruitt) (S)	-	Str. & Apprs.	9,600 - TOTAL 7,680 - NHPP 1,920 - State	State	2019	
009916	Marion	14	Union Pacific RR Str. & Apprs. (Summit)	-	Str. & Apprs.	600 - TOTAL 480 - NHPP 120 - State	State	2021	
090069	Benton	New	Northwest Arkansas Regional Airport Access (F)	3.60	New Location	30,000 - TOTAL 10,668 - Earmark 19,332 - Local	Local	2020	NARTS
090238	Benton	102	Hwy. 279 South - Hwy. 102B (Centerton)	1.11	Major Widening	5,300 - TOTAL 4,240 - STBGP 1,060 - State	State	2022	NARTS
090338	Benton	71B	Dixieland Rd. - 8th St. (Rogers) (S)	1.01	Major Widening	17,900 - TOTAL 14,228 - NHPP 92 - TAP >200K 2,557 - State 23 - Local	State	2019	NARTS
Partnering project. City of Rogers to provide 50% of project costs up to \$5.0M plus an additional \$200,000 for 6' sidewalks. Total reflects overall project costs minus funding amount obligated.									
090377	Benton	CS	SW "I" - Moberly Lane (8th Street Widening) (Bentonville) (S)	-	Major Widening	15,000 - TOTAL 15,000 - Local	Local	2019	NARTS
090384	Benton	62	Pea Ridge National Military Park Mitigation (S)	-	Mitigation	2,500 - TOTAL 2,000 - STBGP 500 - State	State	2021	NARTS
090402	Benton	264	Little Osage Creek Str. & Apprs. (S)	-	Str. & Apprs.	2,500 - TOTAL 2,000 - NHPP 500 - State	State	2019	NARTS
090423	Carroll & Madison	23	Huntsville - Eureka Springs (Safety Impvts.) (Sel. Secs.) (S)	20.67	Safety Improvements	7,000 - TOTAL 6,300 - HSIP 700 - State	State	2020	

STATE & LOCAL PROJECTS SORTED BY DISTRICT & JOB NUMBER

Page 116

Project is using LOCAL FUNDS to complete

403 SE 8th Street



Fully Remodeled (down to studs) in 2007
Single level Ranch
3 Bedroom
Open Kitchen/LR Floorplan with Island
Bonus Room
Separate Laundry Area
Fenced in Yard

9/17/2015: Condemnation filed

9/24/2015: City paid. \$82,700

11/2/2016: City paid \$31,300

\$114,000

- Independent MAI Appraisal completed June 2015

RES.=0.20 AC ±

SE "B" ST.

ORCHARD ADDITION BLOCK D

RES.=0.30 AC ±

24

25

RES.=0.09 AC ±

28

RES.=0.04 AC

29

SE "C" ST.

ORCHARD ADDITION BLOCK E

Buildable area - setbacks

Right of Way

NOTE #31-4

8TH STREET

TRACT 2

RES.=0.33 AC ±

92

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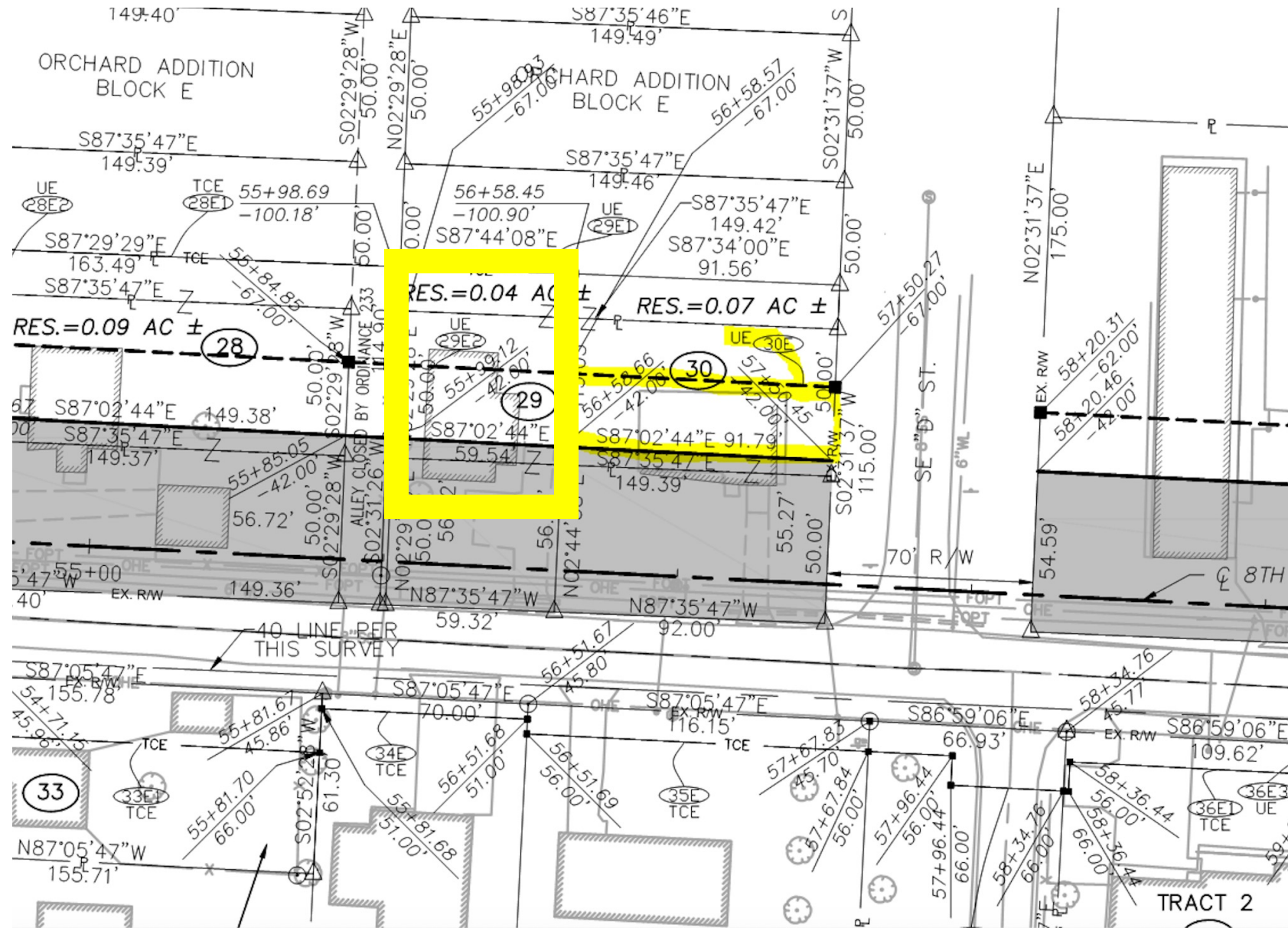
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Buildable area - Setbacks for that zoning Classification

Right of Way

TRACT 2

8th Street Rendering: Lot 29 is 403 8th Street



3 Areas of concern

- Dollar Value of Property at time of Condemnation
 - MAI Monopoly/Appraisal
 - Rebuilding does not account for current lot line restrictions that were miscommunicated at the time of taking in 2015.
- Lost revenue after condemnation due to city project that has been unfinished since time of taking in 2015
 - Lost rental income with 60% increase in property tax valuation since 2015
- City Mis-Information on zoning and restrictions occurred from 2015-2020
 - Downtown Core vs. Downtown Edge and buildable lot size and architectural requirements on re-building

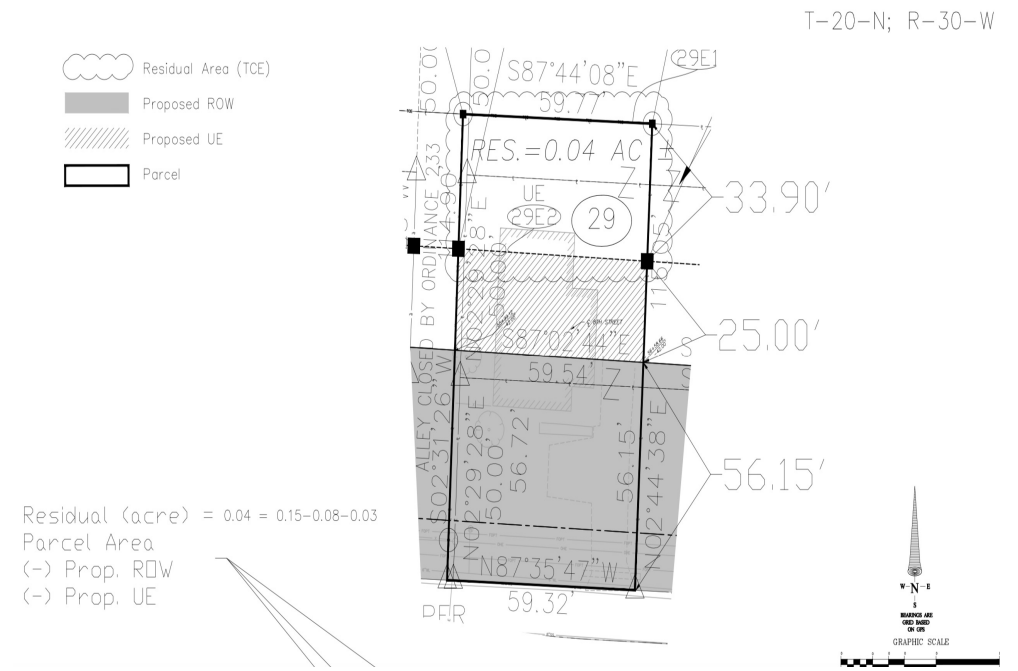
Lot 29 taking versus other 8th street taking

TRACT	OWNERSHIP	TITLE	Parcel Sq Ft	SQ FT ROW Acquire	Sq Ft PUE Acquire	Remaining SQ Ft PUE + ROW	% Property LOSS	REMARKS
23	Kerry M. Laman	23	0.21	9,147.60	-	389,109.60	0%	TCE 23E1= 157 SQ FT +/-23E2 = 38 Sq Ft
24	Dagoberto Salcedo	24	0.22	9,583.20	-	837	8746.2	-9% TCE 24E1 = 346 Sq Ft or .01AC +/- PUE24E2= 837 SQ Ft or .02 AC
25	Lois Lee McNelly	25	0.46	20,037.60	4,089.00	3257	16780.6	-37% TCE 25E1 = 4719 sq ft or .11 AC +/- PUE25E2 = 3257 Sq Ft or .07 AC
26	Margie M. Ivy	28	0.4	17,424.00		5916	11508	-34% TCE +.1 AC +/- .12AC
29	FSB Realty	29	0.15	6,534.00	3,354.00	1491	5043	-74% TC 29E1 = 2002 Sq Ft or .05 AC +/- PUE 29E2 = 1491 Sq Ft or .03 AC
30	Roberto Antonion Reyes	30	0.24	10,454.40	5,119.00	2294	8160.4	-71% PUR 30S = 2294 Aq Ft or .05 AC
31	Maxwell Construction LLC	31	1.27	55,321.20	16,707.00		55321.2	-30%
31R	Maxwell Construction LLC	31	0.88	38,332.80	38,382.00		38332.8	-100%
32	Northwest Arkansas Wholesale CO	32	12.11	527,511.6	48,170.00	16959	510552.6	-12% TCE 31E1 = 2387 Sq Ft or .05 AC +/-: PUE 32E2 = 16959 Sq Ft or .39 Ac
33	Patrick Wright & Michael Wright	33	0.24	10,454.40	-	906	9548.4	-9% TC33I1: 2221 Sq Ft or .05 Ac +/-: 906 Sq Ft or .02 AC
34	Estaban Almarex & Guadalupe Almarez	34	0.27	11,761.20	-		11761.2	0% TCE 34E = 362 Sq Ft or .01 Ac
35	Reynolds LLC	35	0.69	30,056.40	-		30056.4	0% TCE 35E = 1191 Sq Ft or .03 Ac
36	Stephen J Deborah Phillips H/W	36	2.23	97,138.80	-	302	96836.8	0% TCE 36E1 = 2050 Sq Ft or .05 Ac +/- TCE 36E2: 1483 Sq Ft or .03 Ac +/-: PUE 36E3 302 Sq Ft or .01 Acr
37	Not Used						0	
38	Not Used						0	
39	James A & Lola Behrends H/W	39	0.18	7,840.80	-	1395	6445.8	-18% PUE 39E: 1395 Sq Ft or .03 Ac
40	Michael Sinclair	40	0.15	6,534.00	-	2006	4528	-31% PUE 40E: 2006 Sq Ft or .05 Ac
92	North Arkansas Wholesale Co	92	0.24	10,454.40	1,227.00	1652	8802.4	-28% PUE 92E = 1652 Sq Ft or .04 AC
93	North Arkansas Wholesale Co	93	0.37	16,117.20	75.00	1837	14280.2	-12% PUE 93E = 1837 Sq Ft or .04 Ac

The taking was the most impactful to this property based on city information of neighboring property

TRACT	OWNERSHIP	TITLE	PARCEL	Parcel Sq Ft	SQ FT ROW Acquire	Sq Ft PUE Acquire	Remaining SQ Ft PUE + ROW	% Property LOSS	REMARKS
29	FSB Realty	29	0.15	6,534.00	3,354.00	1491	5043		TC 29E1 = 2002 Sq Ft or .05 AC +/- -74% PUE 29E2 = 1491 Sq Ft or .03 AC

- No other property has lost the size and value as Tract 29
- Over an 87% reduction in Total Property with Downtown Edge Zoning
- Buildable lot size now, would only be 21' Deep, and 47' wide with setbacks.
- This is smaller than the house taken from city and cannot be replaced with valuation as the only "replacement" would have to be multi-story and the "taking" from city does not account for multi-story replacement value



Lot Dimensions: 403 SE 8th Street

T-20-N; R-30-W



Initial Lot .15 ACRE

ROW: .08 TAKING

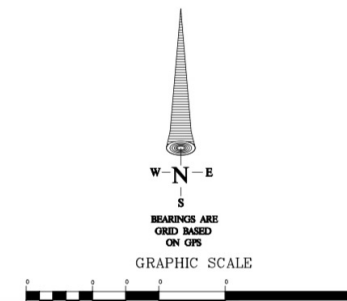
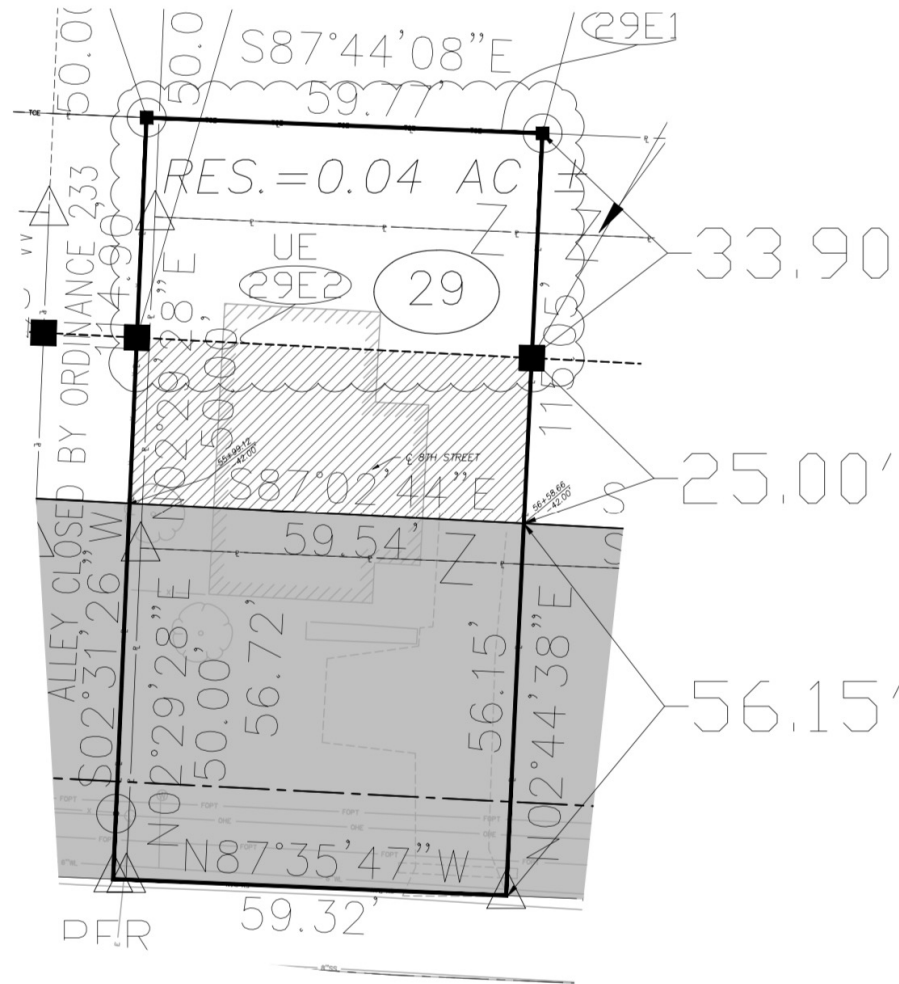
UTILITY EASEMENT: .03 TAKING

Residential Remaining=.04

Residential with setbacks MINUS .02

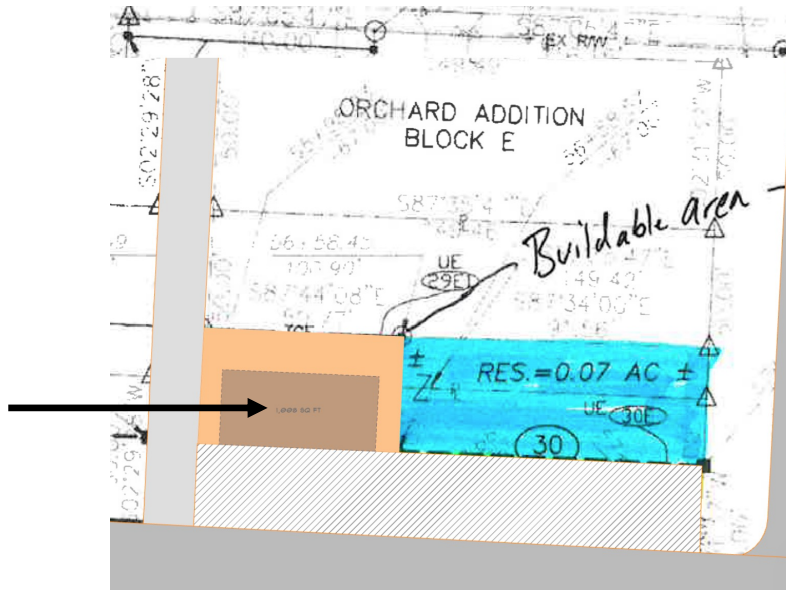
TOTAL RESIDENTIAL REMAINING: 0.02

Residual (acre) = 0.04 = 0.15 - 0.08 - 0.03
Parcel Area
(-) Prop. ROW
(-) Prop. UE



Downtown Edge requirements do not allow for a like home to be built

987 Square feet

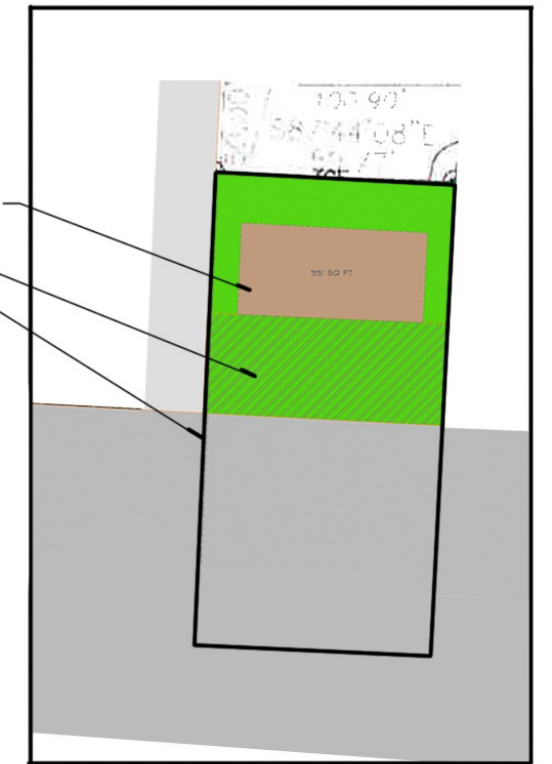


NEW BUILDABLE AREA
AFTER SETBACK REQUIREMENTS

NEW EASEMENT

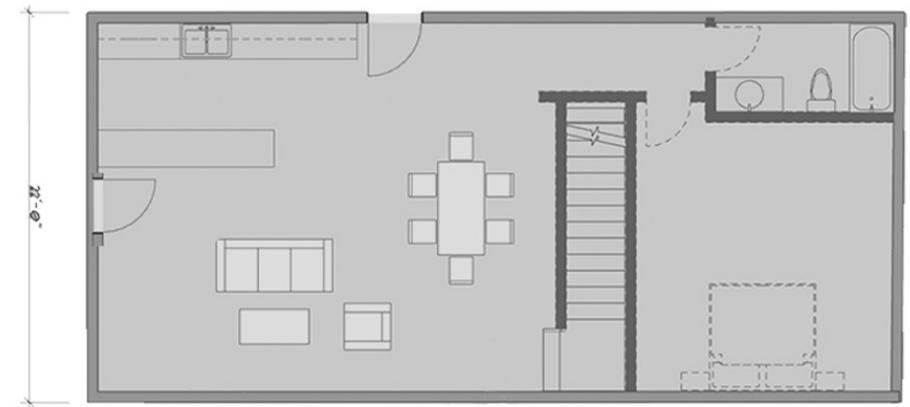
FORMER PROPERTY EDGE

FORMER SINGLE FAMILY HOME

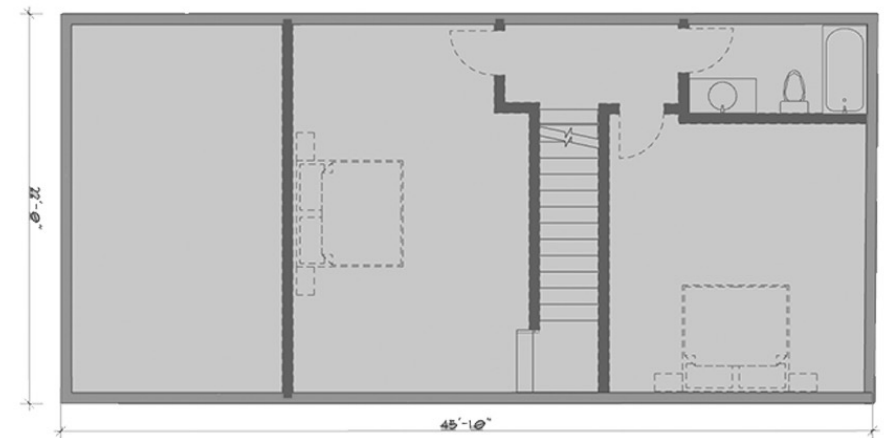


PROPERTY - AFTER RIGHT OF WAY & EASEMENT

This is a comparable home and would cost 4.5x
condemnation paid from city of Bentonville



FIRST FLOOR



SECOND FLOOR

Property Tax Assessment had a 60% increase since condemnation

YEAR	VALUATION	% Change YOY
2011	12500	
2012	13640	
2013	14780	
2014	15140	
2015	15140	Home demolished
2016	16650	
2017	18160	
2018	19670	
2019	21180	40% increase from 2015 to 2019 and demolished house
2020		

In 2015: City took possession of property in August 2015. Have paid \$114,000

- City continued to increase property taxes from 2015 to 2016 by 40%.
- Even the city acknowledges through their increase of tax rate that the property has increased in 40% value, and this is WITHOUT a structure now
- City still continued to charge taxes on the entire property of .15 acres, even though nothing can be done with it.

2019 Tax Statement Benton County AR

SURVEY L-31

01-03561-000	C6	21,180	63.70 Real Estate	1,349.17	
					\$1,349.17
FSB REALTY LLC					
403 SE 8TH ST					
Lot W58'9 ETC					
Block E					
ORCHARD ADD-BENTONVILLE					
32-20-30 0.15 acres					
W58' 9, W58' S15' 8, 2' ALLEY W SIDE					

Zoning was DC and communicated multiple times to FSB Realty

- In 2017 it was zoned Downtown Core, and there were no setbacks per email from City confirming zoning (Jon Stanley)
 - This would have been a .04 lot remaining (59.7' WIDE X 33' Deep) available for rebuilding
- Called 10/20/2020: Listed as downtown Edge now, not Downtown Core per email in 2017 with City Planning confirmation
 - .15 Acre Beginning Lot Size
 - .11 Acre TAKEN with ROW and UE
 - .02 with new setbacks
 - = .02 buildable lot size now

(Remaining lot: $33.9 \times 59.77 = 2026.20$. Side Setbacks: $12 \times 59.77 = 717.24$. Back setback: $12 \times 33.9 = 406.8$. Total Setback = 1124.09)

Jon Stanley

RE: 403 SE 8th Street, BV (FSB Realty)

To: shannon Bedore

Inbox - sha...ore@gmail.com January 4, 2017 at 1:05 PM

JS

Shannon,

Since the lot is zoned DC the entire lot would be buildable. The setbacks in this zoning are 0'.

-----Original Message-----

From: shannon Bedore [mailto:shannonjbedore@gmail.com]

Sent: Wednesday, January 04, 2017 11:21 AM

To: Jon Stanley <JStanley@bentonvillear.com>

Subject: Re: 403 SE 8th Street, BV (FSB Realty)

Hi Jon,

I'm having a hard time figuring out, with the property that is remaining, what the approximate buildable property is with the new Downtown Core restrictions.

Can you give me the remaining lot size and then help me with the math on what a building size would approximately fit with the restrictions?

Thanks so much for your help and quick response. Appreciate it.

Best,
Shannon

On Jan 4, 2017, at 9:39 AM, Jon Stanley <JStanley@bentonvillear.com> wrote:

Shannon,

The zoning designation for the property is DC- Downtown Core. The DC zoning designation is very desirable in the downtown area as it will allow for both residential and non-residential development and provide the most potential for the property to redevelop.

I have attached the information pertaining to the DC zoning district in this email. Upon review if you have questions we can set up some time to meet. I can meet any day next week EXCEPT Tuesday.

Thank you

-----Original Message-----

From: shannon Bedore [mailto:shannonjbedore@gmail.com]

Sent: Tuesday, January 03, 2017 11:27 AM

To: Jon Stanley <JStanley@bentonvillear.com>

Subject: Re: 403 SE 8th Street, BV (FSB Realty)

Hi Jon,

Thanks for the quick response.

The Parcel number is: 01-03561-000, Parcel Key: 3640.

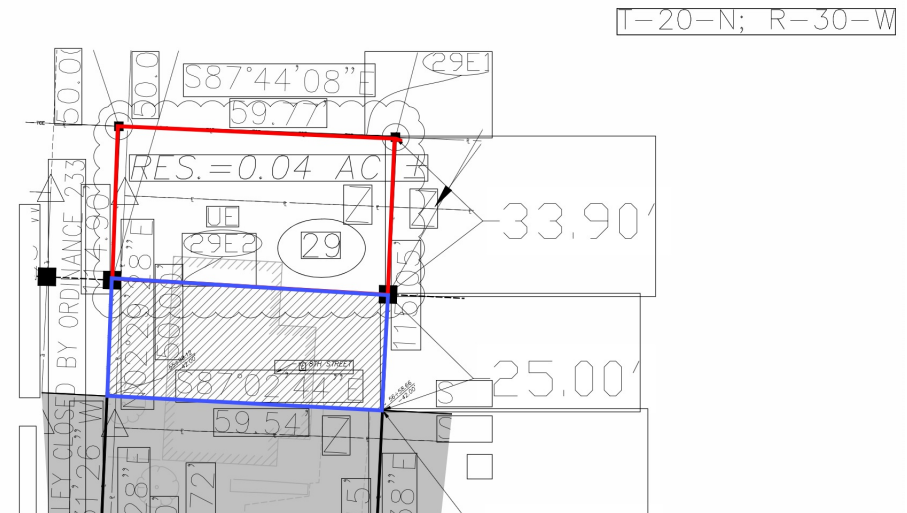
Jon Stanley

To: shannon Bedore

 Inbox - shannonjbedore@gmail.com January 6, 2017 at 3:17 PM

S

On Jan 6, 2017, at 12:20 PM, Jon Stanley <JStanley@bentonvillear.com> wrote:



The city has changed building material requirements, rendering a “like structure” impossible to afford, nor does acquisition amount equate to new standards

New structure could only be two stories (at least now). Costing much more to build.

New Structure will require design elements that are much more expensive to buy

The remaining lot, has been rendered useless from original purchase intent now more than 87% has been taken with ROW+UE+SETBACKS

BUILDING DESIGN	
(Subdivision Code, SEC. 1100.15 DESIGN STANDARDS FOR DOWNTOWN DISTRICTS)	
MATERIAL – min. of two materials required	
Primary Material	
Coverage	75% min. of façade, exclusive of windows
Permitted	Brick, stone, manufactured stone, architectural steel, architectural concrete
Prohibited	Aluminum, Vinyl , Fiberglass
Secondary Material	
Coverage	25% max. of façade, exclusive of windows
Permitted	Tile, stone, glass block, copper flashing, metal and wood, EIF
COLOR	
Primary	
Coverage	75% min. of façade
Permitted	Earth tones
Secondary	
Coverage	25% max. of façade
Permitted	earth tones, light and bright colors
Note: All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match or compliment the color of the adjacent surface, unless being used expressly as a trim or access element.	
WALL ARTICULATION	
Vertical	50' min. between articulation
Horizontal	Articulation required between first and second floor
Techniques: Breaks in the surface wall; Windows and door openings; Balconies, awnings and canopies; Series of display windows; Recess entries; Decorative materials / tile	
FACADES	
Loading docks, overhead doors, and other service entries are prohibited on primary street-facing facades.	
Features added to the façade, such as balconies and shutters, shall be useable and/or operational to ensure authenticity of design.	
ROOFS	
Core	Gable, hipped, flat
Edge	Gable, hipped
ENTRANCES	
Emphasis	All primary entrances shall be emphasized with one of the techniques below, or as approved by Planning Commission
Techniques	slightly recessed; change in color; materials or paving treatment
WINDOWS	
First Floor Coverage	50% min. of façade (Downtown Core only)
Note	First floor windows shall not be opaque.

403 SE 8th street has incurred losses since condemnation

- Lost Rental Income
 - Newly remodeled home, with new appliances in downtown area for 7 years
- 60% increase in property taxes from the County since time of taking
- Legal, MAI, and architectural fees incurred and ongoing 7 years later
- Revised architectural standards from time of taking
- Any new building will require an licensed architect due to revised architectural standards (unlike remodeling an existing home)
- Mis-information from the city since the time of taking regarding buildable lot size
- City has not actually completed the city work, rendering owner hostage with high fees, inability to sell the property (due to lot lines that don't allow for livable home, etc.)

2 Asks

- Dollar Value of Property at time of Condemnation
 - New Valuation applied, which incorporates outside MAI appraisal and their techniques for 2015 taking price
 - Compensation for revised building codes set during condemnation
- Lost revenue after condemnation due to city project that has been unfinished since time of taking in 2015
 - Tax reimbursement
 - Lost Rental Income since condemnation
- City Mis-Information on zoning and restrictions occurred from 2015-2020
 - Downtown Core standards for lot 29 only, with guarantee that adjacent lots retain downtown edge zoning
- Requesting Zero Lot line and 80ft height allowance on a like structure

Proposed Structure 403 SE 8th Street (A1)



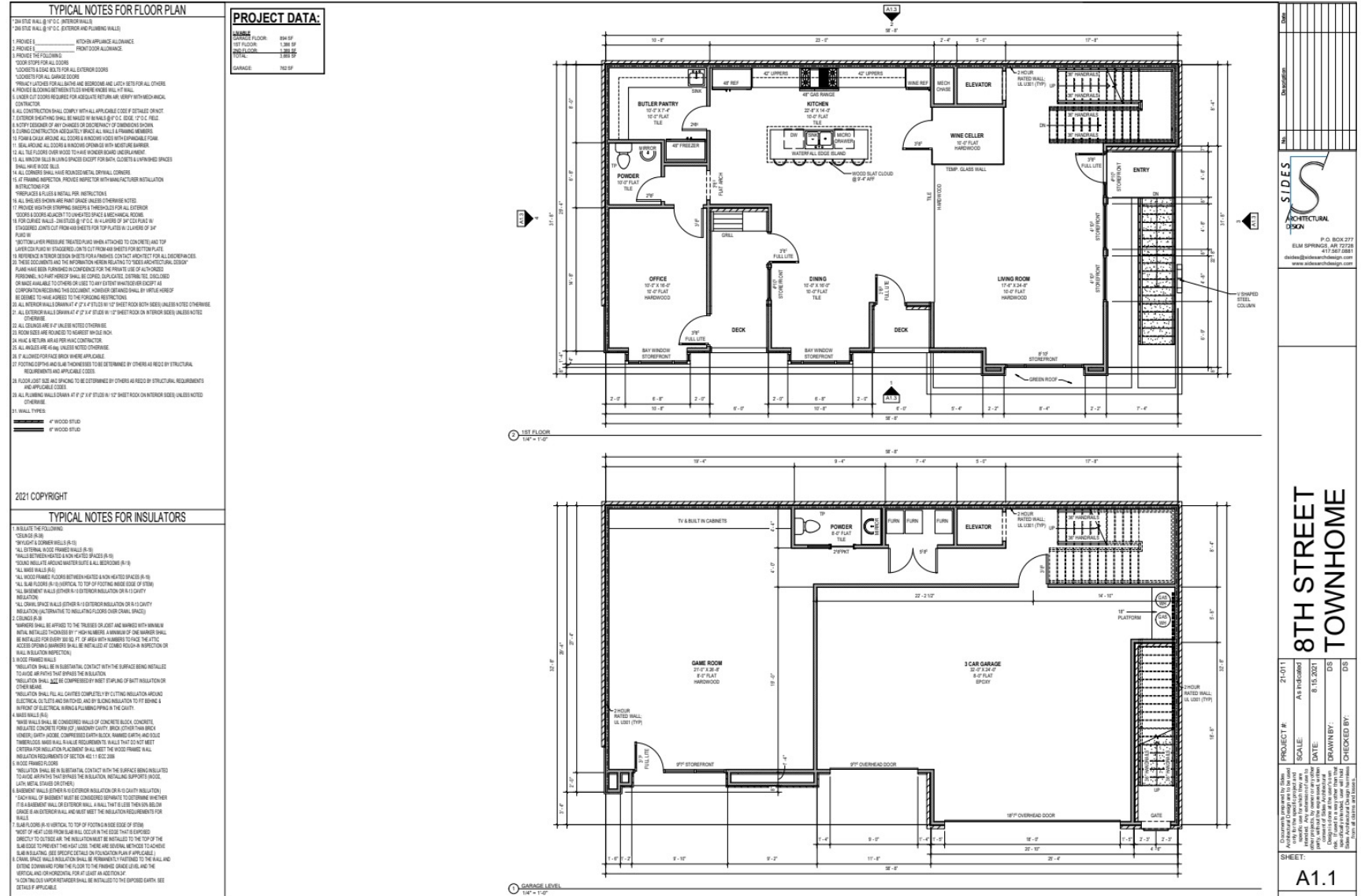
① FRONT PERSPECTIVE WEST



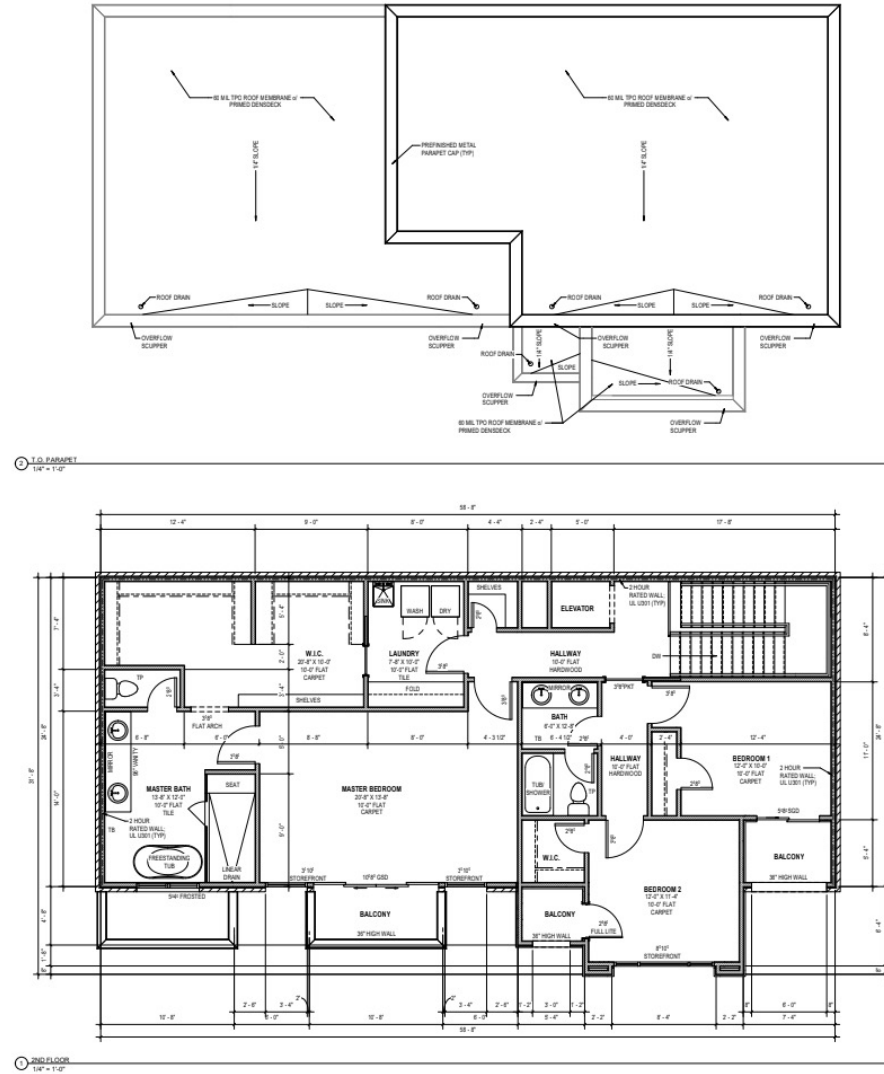
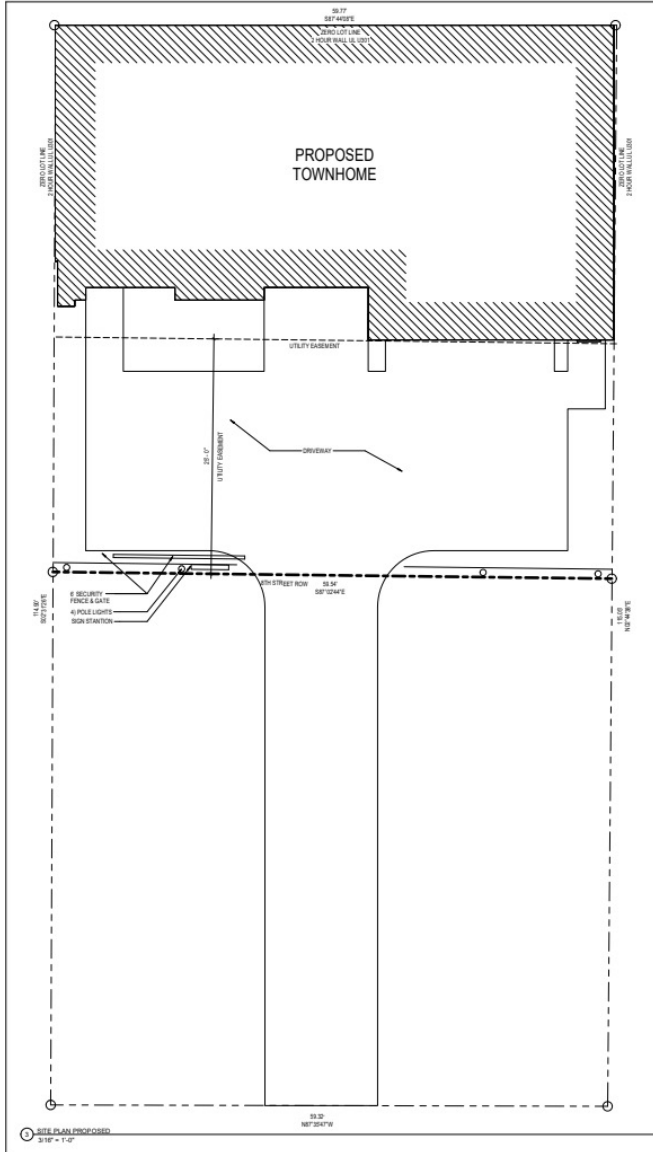
② FRONT PERSPECTIVE EAST

8TH STREET TOWNHOME	
PROJECT #	21-011
SCALE	
DATE	8.15.2021
DRAWN BY:	DS
CHECKED BY:	DS
SHEET: A1.0	

Proposed Structure 403 SE 8th Street



Proposed Structure 403 SE 8th Street

[illegible]

Proposed Structure 403 SE 8th Street

- The road turns into a 5 lane road on the adjacent property West of 403 SE 8th Street. That property will likely rezone to Downtown Core
- The property adjacent East is hindered by a one-way road similar to 403 SE 8th Street.
- 403SE 8th street will be the bridge way between Downtown Edge and Downtown Core



403 8th Street

Downtown Core is not appropriate zoning for this parcel:

- 1.) No windows will be allowed on three sides of the building if rezoned to Downtown Core because of the following building codes for Section R302. If Downtown Core is mandated zoning, the taking price will not be sufficient to build a like structure per the rules of eminent domain and will be evaluated in the revised taking price on February 2.
- 2.) Very few businesses will desire a one way street for customers to access business, thus rendering a downtown core zoning less viable then Downtown Edge.

SECTION R302 FIRE-RESISTANT CONSTRUCTION

R302.1 Exterior walls.

Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); or dwellings equipped throughout with an automatic sprinkler system installed in accordance with Section P2904 shall comply with Table R302.1(2).

Exceptions:

1. Walls, projections, openings or penetrations in walls perpendicular to the line used to determine the *fire separation distance*.
2. Walls of dwellings and accessory structures located on the same lot.
3. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.
4. Detached garages accessory to a dwelling located within 2 feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102 mm).
5. Foundation vents installed in compliance with this code are permitted.

TABLE R302.1(1) EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
 Walls	Fire-resistance rated	1 hour—tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	< 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Projections	Fire-resistance rated	1 hour on the underside	≥ 2 feet to < 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
 Openings in walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 5 feet
		None required	5 feet

403 SE 8th Street

- Downtown Edge is appropriate zoning for this property, due to the road plan provided by Bentonville Transportation Engineering Department that the lack of a 2 way road in front of property.
- Lights will be placed at Intersection C, G, and J only on 8th street as of 10/4/2022 meeting
- All electrical and utilities will be buried underground.

In Conclusion

- Homeowner requests:
 - Zero lot line to rebuilt a single family townhome on property purchased in 2007 with the intent to always live downtown Bentonville
 - Higher height allowance (80') to mitigate that no balcony's or overhangs will be allowed on any side of the building, regardless that all utilities will be buried
 - Reimbursement on taxes from 2015 to present on property that the homeowner doesn't even own but still have many calls the city will still not reverse and reimburse to homeowner.