



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

## AGENDA (Zoning) Board of Adjustment Meeting Monday, March 21, 2016 at 3:30 P.M. City Hall Council Chambers 201 E. Walnut

### Call to Order

- ITEM 1:** Accept Don Ogle's resignation as Vice-Chairman and elect a new Vice-Chairman.
- ITEM 2:** Approval of January 20, 2016 Minutes.
- ITEM 3:** **ZBA2016-03**—The Board to hear public input and consider taking action on a request from Richard Stevens for a special exception from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a special exception to the City of Decatur Zoning Ordinance minimum front yard setback requirements, Ordinance 2015-03-01, Section 5.1.3. "SF-2, Single-Family Residential District" (Regulations have not yet been codified), to reduce the required 25' front yard setback to 6'9", a variance of 18'3" along Collins Street. The subject property is described as Lot 1B, Block 26, South Decatur Addition and is more commonly referred to as 504 E. Collins Street, City of Decatur, Wise County, Texas.
- ITEM 4:** **ZBA2016-04**—The Board to hear public input and consider taking action on a request from Randy Neighbors for a special exception to the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a special exception to the City of Decatur Zoning Ordinance minimum front yard setback requirements, Ordinance 2015-03-01, Section 5.1.3. "SF-2, Single-Family Residential District" (Regulations have not yet been codified), to reduce the required 25' front yard setback to 12.5', a variance of 12.5' along S. Stratton Street. The subject property is described as Lot 2 and the north 23 feet of Lot 3, Block 51, South Decatur Addition and is more commonly referred to as 600 E. Hale Street, City of Decatur, Wise County, Texas.
- ITEM 5:** New and/or future business items.

### Adjournment

Prepared and posted this 19<sup>th</sup> day of March 2016 in accordance with Chapter 551, Texas Government Code.

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Dedra D. Ragland, AICP  
Director of Planning and Development

**MINUTES**  
**(ZONING) BOARD OF ADJUSTMENT MEETING**  
**Wednesday, January 20, 2016 at 3:30 P.M.**  
**City Hall Meeting / Council Chambers**  
**201 E. Walnut**

A meeting of the City of Decatur (Zoning) Board of Adjustment was held at 3:30 p.m. on January 20, 2016, at City Hall with the following in attendance:

**MEMBERS PRESENT:**

Chairman Mark Duncum  
 Vice Chairman Don Ogle  
 Wayne Stone (Alternate)  
 Steve Goolsby  
 William Klose

**MEMBERS ABSENT:***Sat with the Audience*

Lisa Caraway (arrived @ 3:45 pm)  
 Murvelle Chandler (Alternate) (arrived @  
 3:50 pm)

Others present were: Planning Director Dedra Ragland and Legal Counsel Patricia Adams, representing the staff; and Thom Lambert, EDC Director, representing the applicant.

**Call to Order: Chairman Duncum called the meeting to order at 3:30 p.m.**

**ITEM 1:** Administer Statement of Appointed Official and Oath of Office to Mark Duncum (Regular), Will Klose (Regular), Dennis McCreary (Alternate) and Don Ogle (Regular).

**ITEM 2:** Approval of the September 21, 2015 Minutes.

**Board Member Goolsby made a motion to approve the September 21, 2015 minutes. Board Member Stone seconded the motion. The motion passed 5-0.**

**ITEM 3:** **ZBA2016-01**—The Board to hear public input and consider taking action on a request from Joe Hilliard, on behalf of Corporation for Economic Development (“Property Owner”) and Gatehouse Decatur Development, LLC, (“Applicant”) for a Special Exception from the City of Decatur’s Zoning Ordinance minimum front yard and rear yard setback requirements (Ordinance 2015-03-01, Section 5.1.11 “C-2, Thoroughfare Business District”). Specifically, the Applicant is requesting a Special Exception from the required front yard setback of 25’ and rear yard setback of 10’ to a front and rear yard setback of 5’ in a Commercial Zoning District. The subject property is legally described as a 0.515 acres of land, more or less, located in the Joseph H. Moore Survey, Abstract No. 538, the George M. Vigil Survey, Abstract No. 857, and the John B. Williams Survey, Abstract No. 880, in Wise County, Texas; said tract being a portion of a tract of land described in Deed to the City of Decatur recorded

in Vol. 712, p. 208, Real Records of Wise County, Texas; the complete legal description is included in the Staff Report and the legal notice.

Planning Director Ragland presented the staff report. Applicant is requesting a Special Exception from the required front yard setback of 25' and rear yard setback of 10' to a front and rear yard setback of 5' in a Commercial Zoning District. Staff recommends approval.

**Board Member Klose made a motion to approve ZBA2016-01, Special Exception to allow a front and rear yard setback of 5' in a Commercial Zoning District. Board Member Goolsby seconded the motion. The motion passed 5-0.**

**ITEM 4: ZBA2016-02**—The Board to hear public input and consider taking action on a request from Joe Hilliard, on behalf of Corporation for Economic Development (“Property Owner”) and Gatehouse Decatur Development, LLC, (“Applicant”) for a Special Exception from the City of Decatur’s Zoning Ordinance regarding parking. Specifically, applicant is requesting a Special Exception to the off-street parking provisions (Ordinance 2015-03-01, Section 7.3.2 “Off-Street Parking Provisions”). The subject property is legally described as a 0.515 acres of land, more or less, located in the Joseph H. Moore Survey, Abstract No. 538, the George M. Vigil Survey, Abstract No. 857, and the John B. Williams Survey, Abstract No. 880, in Wise County, Texas; said tract being a portion of a tract of land described in Deed to the City of Decatur recorded in Vol. 712, p. 208, Real Records of Wise County, Texas; the complete legal description is included in the Staff Report and the legal notice.

Planning Director Ragland presented the staff report. Applicant is requesting a Special Exception to the off-street parking provisions (Ordinance 2015-03-01, Section 7.3.2 “Off-Street Parking Provisions”). Staff recommends approval.

**Board Member Klose made a motion to approve ZBA2016-02, Special Exception to the off-street parking provisions (Ordinance 2015-03-01, Section 7.3.2 “Off-Street Parking Provisions”). Vice Chairman Ogle seconded the motion. The motion passed 5-0.**

**ITEM 5:** Discuss and Approve 2016 Meeting Schedule.  
**Board Members concurred with the prosed 2016 Meeting Schedule.**

**ITEM 6:** New and/or future business items  
**No new or future business items were presented to the Board.**

**The meeting was adjourned at 3:58 p.m.**

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Mark Duncum, Chairman

**ATTEST:**

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Dedra Denée Ragland, Planning Director



met the stated conditions, then the Board may approve the variation as long as it meets these criteria (§211.009.a.3):

- 1) The variation is not contrary to the public interest.
- 2) The variation is due to special conditions.
- 3) A literal enforcement of the ordinance would result in unnecessary hardship.
- 4) The spirit of the ordinance is observed and substantial justice is done.

**Recommendation:**

***Staff has the following findings:***

1. The requested variance **does not** violate the intent and spirit of the ordinance. The Prevailing Character Map (Attachment 7) shows the front yard setbacks to vary from 1' to 53' for residential structures within a couple of blocks of the subject property.
2. There **are no** special topography features that are peculiar to the subject parcel that are not applicable to other parcels of land in the same zoning district. This is an interior lot. According to the applicant, the existing garage will not accommodate the length of the applicant's current automobile. The garage could be extended by 1'6" and structure stay within the 25' front yard setback, however, it is likely the car would still not fit inside the garage and the expense to extend the garage would exceed the cost to construct a carport. Also, a 20' alley to the west of the lot was vacated and 10' of said alley went to Mr. Stevens' lot. This area has been asphalted to widen the driveway. The carport is anticipated to cover this driveway. (Attachment 8)
3. The hardship **is not** a result of the applicant. It would appear that there is no way for the applicant to construct a carport that would meet the 25' front yard setback requirements and the 8.5' (10% of lot width) side yard setback requirement. The garage was built at the time the home was built and prior to the applicant purchasing the home.
4. The interpretation of the provisions in this ordinance **might deprive** the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions. Strict adherence to the 25' front yard setback along Collins Street will result in applicant not being able to protect his vehicle from the elements. As it is presently configured, the existing garage cannot be used for storage of his automobile.

Eleven (11) property owners were notified. To date, staff has received one (1) notice neutral to the request and no notices in favor or opposed to the request.

**Options:**

**Recommend approval:**

From the evidence, testimony and plans presented, I move that the Board grant the special exception request ZBA2016-03 for a 6'9" front yard setback along Collins Street for Lot 1B, Block 26, South Decatur Addition and more commonly referred to as 504 E. Collins Street.

**Recommend approval with conditions:**

From the evidence, testimony and plans presented, I move that the Board grant the variance request ZBA2016-03 for a 6'9" front yard setback along Collins Street for Lot 1B, Block 26, South Decatur Addition and more commonly referred to as 504 E. Collins Street with the following conditions:...

**Recommend denial:**

From the evidence, testimony, and plans presented, I move that the Board deny the variance request ZBA2016-03 for a 6'9" front yard setback along Collins Street for Lot 1B, Block 26, South Decatur Addition and more commonly referred to as 504 E. Collins Street based on the following findings:...

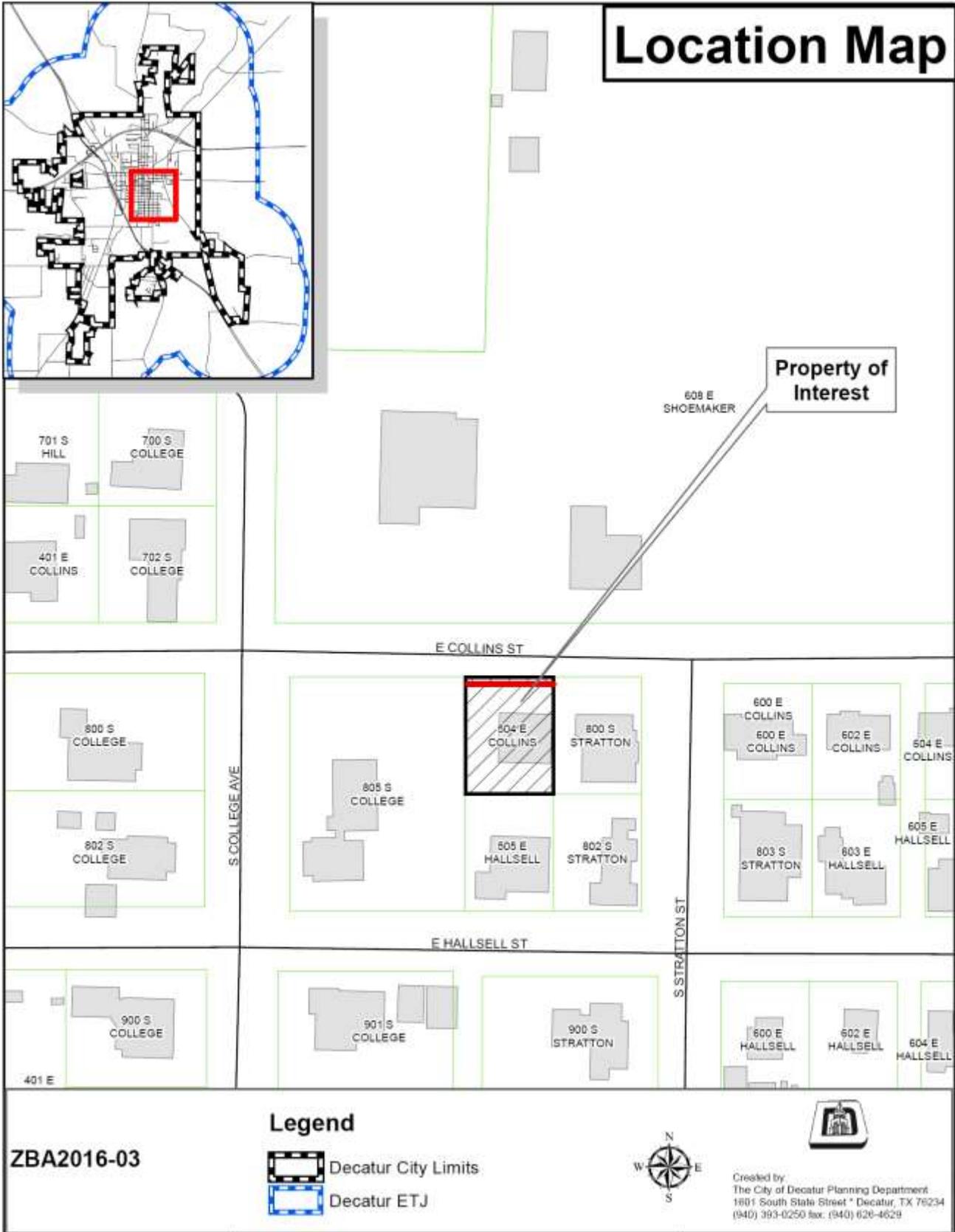
Recommend postponing consideration:

From the evidence, testimony, and plans presented, I move that the Board postpone consideration of variance to a date certain, and requesting additional information for the variance request ZBA2016-03 for a 6'9" front yard setback along Collins Street for Lot 1B, Block 26, South Decatur Addition and is more commonly referred to as 504 E. Collins Street, additional data being:...

**Attachments**

1. Location Map
2. Application and Checklist
3. Letter of Intent
4. 200' Notification Map and Property Owner Responses
5. Plat Exhibit
6. Proposed Site Plan
7. Prevailing Character Map (Front Yard Setbacks)
8. Site Photos

Attachment 1  
**Location Map**



Attachment 2  
**Application and Checklist**

**CITY OF DECATUR DEVELOPMENT SERVICES UNIVERSAL APPLICATION**

*Check box to indicate application type* *Incomplete applications will be rejected*

<input type="checkbox"/> Annexation Petition	<input type="checkbox"/> Gas Well Development Plat	<input type="checkbox"/> Special Use Permit
<input type="checkbox"/> Amending Plat	<input type="checkbox"/> Plat Extension-Final or Preliminary	<input type="checkbox"/> Subdivision Variance
<input type="checkbox"/> Comprehensive Plan Amendment	<input type="checkbox"/> Preliminary Plat	<input type="checkbox"/> Zoning Change
<input type="checkbox"/> Conveyance Instrument	<input type="checkbox"/> Replat	<input checked="" type="checkbox"/> Zoning Variance (ZBA)
<input type="checkbox"/> Design Standards Variance	<input type="checkbox"/> ROW Use Agreement	<input type="checkbox"/> Vacation Plat
<input type="checkbox"/> Final Plat	<input type="checkbox"/> ROW Abandonment/ Closing	<input checked="" type="checkbox"/> Other <u>SETBACK</u>

**Application Requirements:** Signed application form, application fees, Copy and filing fees, Proof of Ownership (Recorded Deed or current tax statements), required # of plats / plans, signed checklist and a PDF of all documentation.

**PROJECT INFORMATION:**  Residential  Commercial Is this property platted?  Yes  No  
If this property is not platted, submit a survey with complete metes and bounds description sealed by a licensed surveyor

Project Name: CARPORT Total Acres: \_\_\_\_\_

Project Address (Location): 504 E. COLLINS ST Parcel(s) Tax ID R # 00026019  
(LOT, BLOCK & SUBDIVISION OR STREET WIDTH METES & BOUNDS DESCRIPTION SEALED BY A LICENSED SURVEYOR)

Parent Project Name/Number \_\_\_\_\_ Parcel(s) Tax ID GEO #: \_\_\_\_\_

Brief Description of Project: 25x20 4 POST R PANEL CARPORT ETJ  Yes

Please state the identity of any individual(s), or other entities that presently hold a lien upon the real estate which is the subject of this request: \_\_\_\_\_ Lien holder/mortgagee must also sign plat for filing of record.

Existing Use: DRIVEWAY Existing Zoning: SF2 # of Existing Lots: \_\_\_\_\_ # of Existing Units: \_\_\_\_\_  
carport

Proposed Use: PARK CAR Proposed Zoning: \_\_\_\_\_ # of Proposed Lots: \_\_\_\_\_ Proposed Units: \_\_\_\_\_

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**APPLICANT INFORMATION:** Please circle your preferred method of contact.

Applicant / Company: RICHARD V. STEVENS Email: RICKSHARKEY@HOTMAIL.COM

Address: 504 E. COLLINS Phone: 940-389-2457 Fax: 940-627-3940

City: DECATUR State: TX Zip: 76234

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Property Owner: SAME Email: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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Key Contact/Company: Same as applicant Email: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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**(MUST BE SIGNED FOR ALL APPLICATIONS)** - Letter of authorization required if signature is other than property owner and a letter of authorization is required from lienholder/mortgagee, if applicable.  
 I hereby certify that I am the owner of the property identified in this application; or, that I am the authorized agent of the owner of said property; and that I am authorized to act in their behalf, and that this application, to the best of my knowledge and belief, is true and correct.

RICHARD V. STEVENS SIGNATURE OF LIEN HOLDER  
 SIGNATURE OF PROPERTY OWNER

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**PLAT WAIVER (MUST BE SIGNED FOR ALL PRELIMINARY, FINAL & REPLATS)**

I waive the statutory time limits in accordance with Section 212 of the Texas Local Government Code.

\_\_\_\_\_  
 SIGNATURE OF PROPERTY OWNER SIGNATURE OF LIEN HOLDER

Known to me to be the person(s) whose name is subscribed to the above and foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration expressed and in the capacity therein stated. Given under my hand and seal of office on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
 Notary Public

*For Departmental Use Only*

Case: ZBA2016-03

Project Mgr: DDR

Total Fee(s): \$455

Payment Method: \_\_\_\_\_

Submittal Date: 2-16-16

Accepted By: [Signature]

3



# CITY OF DECATUR, TEXAS

Development Services • 1601 S. State St • P.O. Box 1299 • Decatur, TX 76234 • www.cityofdecatur.org

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FEB 16 2016

## Board of Adjustment Application Checklist

### General Requirements:

- 1  A universal application form and the appropriate fees.
- 2  A letter of explanation/justification.
- 3  Submit a total of five (5) copies of site plan (if applicable) for the property. These copies should be individually folded with drawing side out.
- 4  A location map clearly indicating the site in relation to adjacent streets, distance to nearest intersection and other landmarks.
- 5  Submit one (1) copy of proof of ownership (recorded property deed or current year tax statements).
- 6  Submit documentation on any and all liens and lien holders of property.
- One (1) CD-ROM containing the general required documents in Adobe PDF format.
- I have reviewed the checklist and all submittals for completeness and accuracy. If application submittal is determined to be incomplete, additional fees may be assessed.

RICHARD V. STEVENS  
Signature

2/16/16  
Date

### Content of the Letter of explanation/justification for a Zoning Variance:

I understand that I am applying for a variance from the Zoning Ordinance of the City of Decatur and that this variance can only be granted if I prove hardship by meeting four of the conditions below. I also understand that financial or self-induced hardship cannot be considered for granting a variance. Below I explain exactly how I meet these four conditions.

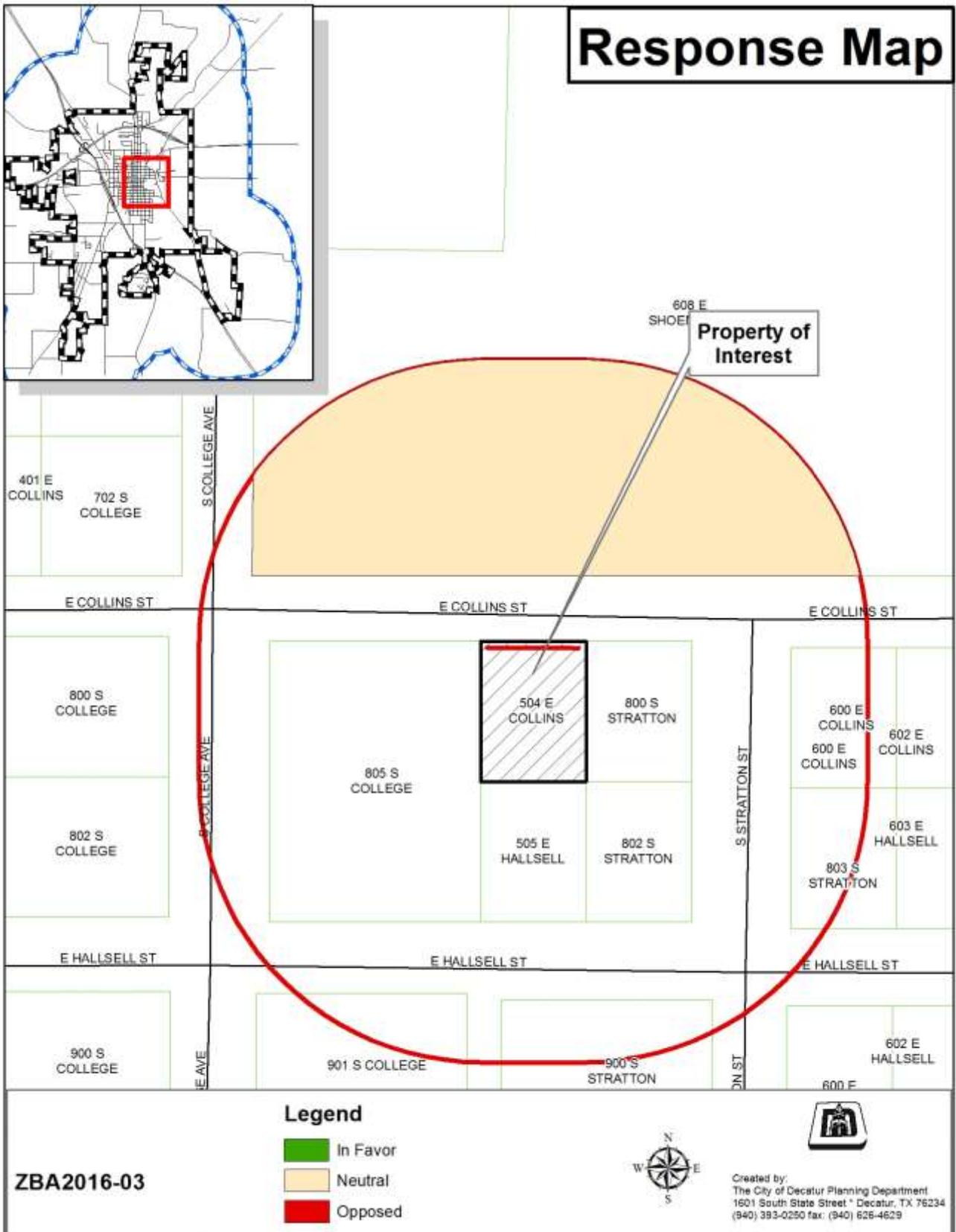
1. The requested variance does not violate the intent and spirit of the ordinance:  
BY SIGHT OR CONSTRUCTION THE CARPORT WILL IN NO WAY NEGATIVELY EFFECT ANY OF MY NEIGHBORS AROUND MY PROPERTY
2. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to the other parcels of land in the same zoning district:  
THERE NO FEATURES THAT EXIST THAT ARE PECULIAR TO THE LOCATION OF MY INTENDED CARPORT.
3. The hardship is in no way the result of the applicant's action:  
PRIOR OWNER INSTALLED WASHER AND DRYER ON THE BACK WALL OF MY GARAGE, MY CAR IS BOTH TO LONG & WIDE TO PARK IN THE GARAGE.
4. The interpretation of the provisions in this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions:  
I HAVE HAD TWO HAIR LOSSES ON MY 2012 AZEKA IN 2015 TOTALING JUST UNDER 8K I WOULD LIKE TO PROTECT MY CAR.

Attachment 3  
**Letter of Intent**

The main reason that I would like to have a carport is to protect my car. I recently replaced my asphalt driveway with concrete. The existing driveway was unsightly and poorly installed. Also, every time it rained I had an accumulation of water in my garage. The concrete drive perfectly drains the water away from my home and is an aesthetic improvement to the property. In the next several months the roof will be replaced, the yard will be landscaped and the house painted. My desire is to increase my property value and be more in line with my neighbors property.

**RECEIVED**  
FEB 16 2016  
CITY OF DECATUR  
DEVELOPMENT SERVICES

# 200' Notification Map and Property Owner Responses





# CITY OF DECATUR, TEXAS

Development Services • 1601 S. State Street • Decatur, TX 76234 • (940) 393-0250 voice • (940) 626-4629 fax

Mailed 03/09/16

## NOTICE OF PUBLIC HEARING

ZBA2016-03

Zoning Board of Adjustment of the City of Decatur will hold a public hearing on **Monday, March 21, 2016, at 3:30 p.m.** at the City Hall Council Chambers located at 201 E. Walnut, Decatur Texas, to consider and take action on a request from Richard Stevens for a variance from the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a variance to the City of Decatur Code of Ordinances, Appendix B., Zoning, Pt.VII., Appendix 4., Area Regulations, to reduce the required 25' front yard setback to 6'9", a variance of 18'3" along Collins Street. The subject property is described as Lot 1B, Block 26, South Decatur Addition and is more commonly referred to as 504 E. Collins Street, City of Decatur, Wise County, Texas.

By law, the Zoning Board of Adjustment must first hold a public hearing to gather input from interested parties and decide whether or not to allow the variance based on proven hardship as defined in the State Enabling Act.

By law, you have the right to present your views before the Zoning Board of Adjustment during their public hearing. At the hearing, you may speak, have someone speak on your behalf or be represented by legal counsel. You may also present your views in writing or present a petition listing the signatures of people who represent your views. Either way, your input must come before or during the public hearing to be considered.

**This letter is sent to all City taxpayers shown on the approved City of Decatur 2016 tax roll who own real property within two hundred (200) feet of property requesting a zoning action.** This is your legal notification that these public hearings are being held and your official invitation to attend the public hearing. Please, in order for your opinion to be taken into account, return this form with your comments prior to the date of the public hearing. *(This in no way prohibits you from attending and participating in the public hearing.)* You may fax form to the number located at the top of this page, mail form to the address below, or drop form off in-person:

Planning Department  
1601 S. State Street  
Decatur, Texas 76234

Attn: Dedra D. Ragland, AICP, Planning Director

These forms are used to calculate the percentage of landowners that support and oppose the request. The Board is informed of the percent of responses in support and in opposition.

Please circle one:

In favor of request

Neutral to request

Opposed to request

Reasons for Opposition:

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

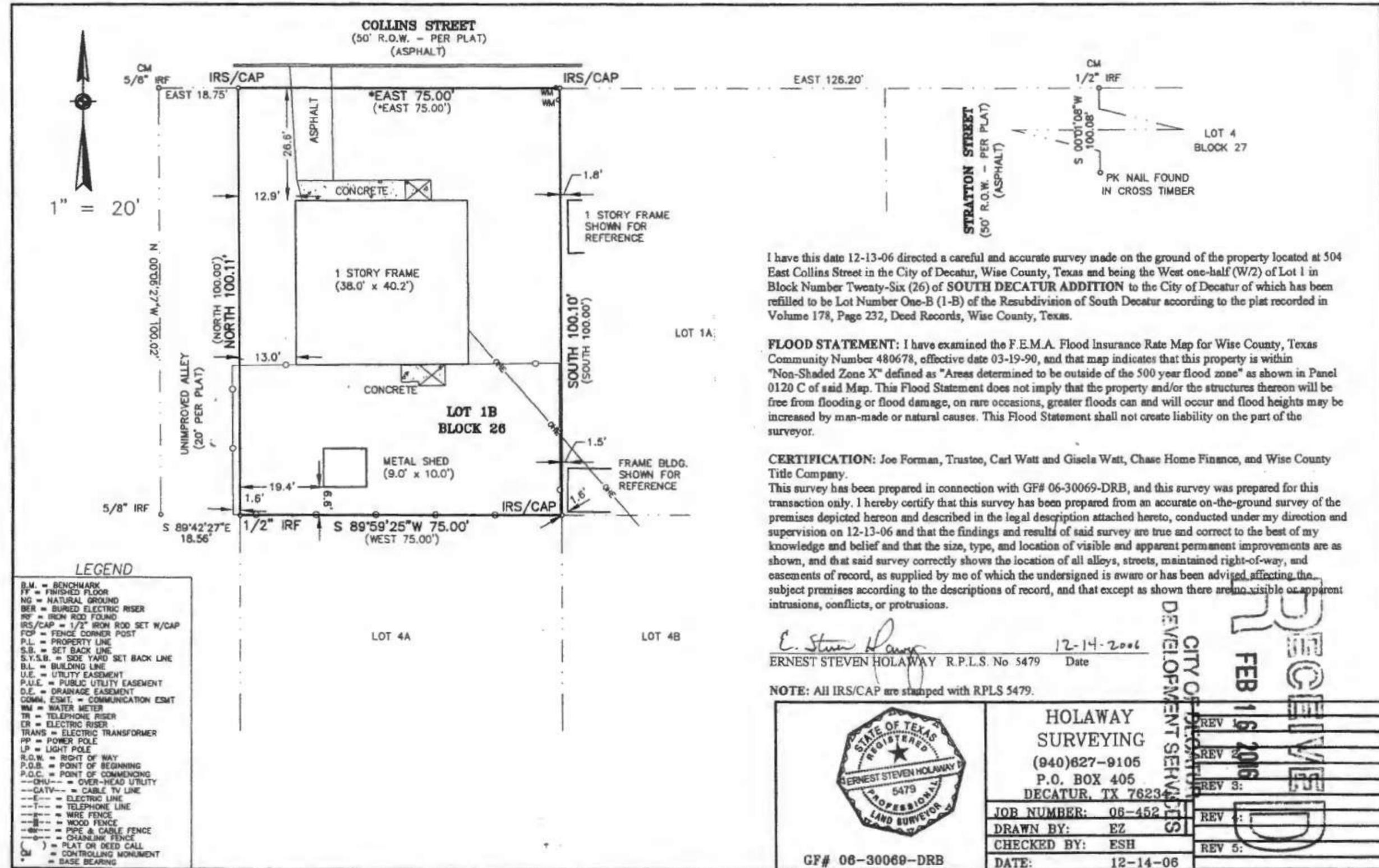
Mailing Address: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Physical Address of Property within 200 feet: Tax ID: **R000026411** Address: **608 E.SHOEMAKER**

Attachment 5  
Plat Exhibit



I have this date 12-13-06 directed a careful and accurate survey made on the ground of the property located at 504 East Collins Street in the City of Decatur, Wise County, Texas and being the West one-half (W/2) of Lot 1 in Block Number Twenty-Six (26) of SOUTH DECATUR ADDITION to the City of Decatur of which has been refilled to be Lot Number One-B (1-B) of the Resubdivision of South Decatur according to the plat recorded in Volume 178, Page 232, Deed Records, Wise County, Texas.

**FLOOD STATEMENT:** I have examined the F.E.M.A. Flood Insurance Rate Map for Wise County, Texas Community Number 480678, effective date 03-19-90, and that map indicates that this property is within "Non-Shaded Zone X" defined as "Areas determined to be outside of the 500 year flood zone" as shown in Panel 0120 C of said Map. This Flood Statement does not imply that the property and/or the structures thereon will be free from flooding or flood damage, on rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Flood Statement shall not create liability on the part of the surveyor.

**CERTIFICATION:** Joe Forman, Trustee, Carl Watt and Gisela Watt, Chase Home Finance, and Wise County Title Company. This survey has been prepared in connection with GF# 06-30069-DRB, and this survey was prepared for this transaction only. I hereby certify that this survey has been prepared from an accurate on-the-ground survey of the premises depicted hereon and described in the legal description attached hereto, conducted under my direction and supervision on 12-13-06 and that the findings and results of said survey are true and correct to the best of my knowledge and belief and that the size, type, and location of visible and apparent permanent improvements are as shown, and that said survey correctly shows the location of all alleys, streets, maintained right-of-way, and easements of record, as supplied by me of which the undersigned is aware or has been advised affecting the subject premises according to the descriptions of record, and that except as shown there are no visible or apparent intrusions, conflicts, or protrusions.

*E. Steven Holaway* 12-14-2006  
ERNEST STEVEN HOLAWAY R.P.L.S. No 5479 Date

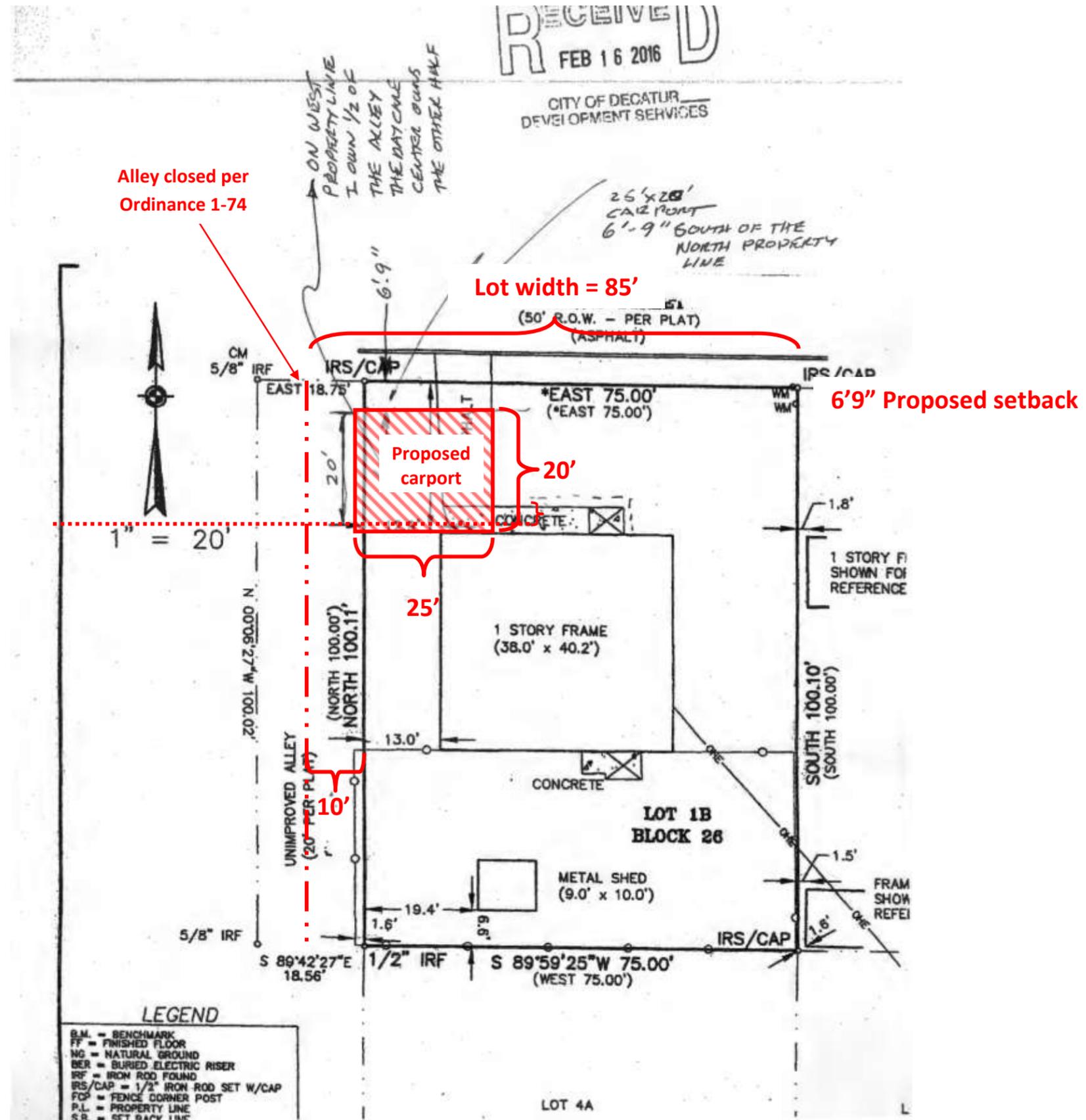
NOTE: All IRS/CAP are stamped with RPLS 5479.

	<b>HOLAWAY SURVEYING</b> (940)627-9105 P.O. BOX 405 DECATUR, TX 76234		REV 1: _____ REV 2: _____ REV 3: _____ REV 4: _____ REV 5: _____
	JOB NUMBER: 06-452		FEB 16 2016
	DRAWN BY: EZ		DEVELOPMENT SERVICES
	CHECKED BY: ESH		RECEIVED
	DATE: 12-14-06		D

Attachment 6  
Proposed Site Plan

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CITY OF DECATUR  
DEVELOPMENT SERVICES



Prevailing Character Map (Front Yard Setbacks)



Attachment 8  
**Site Photos**





## ***STAFF REPORT***

*March 21, 2016 - Board of Adjustment Meeting*

**TO: (Zoning) Board of Adjustment**

**CASE: ZBA2016-04**

**FROM: Dedra D. Ragland, AICP, Planning Director**

**APPLICANT: Randy Neighbors**

**DATE: March 14, 2016**

**REQUEST: Special Exception to front yard setback requirements**

### **Subject:**

Board to hear public input and consider taking action on a request from Randy Neighbors for a special exception to the City of Decatur's Zoning Ordinance regarding front yard setbacks. Specifically, applicant is requesting a special exception to the City of Decatur Zoning Ordinance minimum front yard setback requirements, Ordinance 2015-03-01, Section 5.1.3. "SF-2, Single-Family Residential District" (Regulations have not yet been codified), to reduce the required 25' front yard setback to 12.5', a variance of 12.5' along S. Stratton Street. The subject property is described as Lot 2 and the north 23 feet of Lot 3, Block 51, South Decatur Addition and is more commonly referred to as 600 E. Hale Street, City of Decatur, Wise County, Texas.

### **Case Notes:**

The applicant is requesting a variance of 12' 6" along the Stratton Street frontage. Applicant has also submitted an application to rezone the property to Two-Family Zoning. The zoning request is appropriate given that the Long Range Land Use for the property is Medium Density Residential (MDR), which does allow for a gross density of 5.3 – 9.6 dwelling units/acre. Gross density is the number of dwelling units for each acre of land, including areas devoted to streets, parks, sidewalks, and other public rights-of-way. The property is approximately 0.423 acres and applicant is proposing to develop as two lots, with one duplex per lot; a proposed density of 4 dwelling units/acre.

### **Legality:**

According to the Texas Local Government Code, the Board of Adjustment can legally authorize variations to the Zoning Ordinance subject to the conditions listed below (§211.008 010). Each case before the board must be heard by 75 percent of its members (§211.008.d), and the board can only authorize a variation from the terms of the Zoning Ordinance with a concurring vote of 75 percent (§211.009.c).

### **Conditions for Approval:**

The applicant must meet all of the following four conditions to be legally granted a variance.

#### Financial or self-induced hardship cannot be considered:

1. The requested variance does not violate the intent and spirit of the ordinance. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel and are not applicable to other parcels of land in the same zoning district.
2. The hardship is not the result of the applicant's actions, and
3. The interpretation of the provisions in this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.

### Deciding Factors:

The Board of Adjustment reviews the application and the response to the four conditions, and then hears the case to determine if the applicant qualifies. If the Board feels the applicant has met the stated conditions, then the Board may approve the variation as long as it meets these criteria (§211.009.a.3):

- 1) The variation is not contrary to the public interest.
- 2) The variation is due to special conditions.
- 3) A literal enforcement of the ordinance would result in unnecessary hardship.
- 4) The spirit of the ordinance is observed and substantial justice is done.

### Recommendation:

#### *Staff has the following findings:*

1. The requested variance **does not** violate the intent and spirit of the ordinance. The subject lot is a corner lot and therefore a 25' front yard setback is required on both Stratton Street and Hale Ave. The orientation of the structure will be Hale Street, thus in effect, making Stratton Street a side yard. The maximum side yard setback for the lot in its current configuration is 15' (10% of the lot width). The applicant is proposing to rezone the property for Two-Family and replat the lot to include the northern 23' of Lot 3 and split the lot into two (2) 75' x 123' lots, if the zoning is approved. The required side yard setbacks for the lots, if the zone change application and the replat application are approved, will be 7.5'. The request for the special exception would meet the side yard setback requirement if it is approved.
2. There **are** special topography features that are peculiar to the subject parcel that are not applicable to other parcels of land in the same zoning district. The subject lot is a corner lot and therefore a 25' front yard setback is required on both Stratton Street and Hale Ave. From the Prevailing Character Map (Attachment 7), the setbacks of surrounding corner lots vary from 6' to 25'.
3. The hardship **is not** a result of the applicant. In order for the applicant to construct two duplexes on the property, and assuming the zone change application, which based on the Future Land Use Map is appropriate, and replat application are approved, the optimal layout is to treat Stratton Street as a side yard.
4. The interpretation of the provisions in this ordinance **would deprive** the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions. Strict adherence to the 25' front yard setback along Stratton Street will reduce the buildable size of lot, which could impact the size of the structure that can be built on the lot, whether the lot is used for single-family or two-family development.

Twenty-two (22) property owners were notified. To date, staff has received no notices in favor of, neutral to or opposed to the request.

### Options:

#### Recommend approval:

From the evidence, testimony and plans presented, I move that the Board grant the special exception request ZBA2016-04 for a 12'6" front yard setback along Stratton Street for Lot 2 and the north 23 feet of Lot 3, Block 51, South Decatur Addition and more commonly referred to as 600 E. Hale Street.

#### Recommend approval with conditions:

From the evidence, testimony and plans presented, I move that the Board grant the variance request ZBA2016-04 for a 12'6" front yard setback along Stratton Street for Lot 2 and the north 23 feet of Lot 3, Block 51, South Decatur Addition and more commonly referred to as 600 E. Hale Street with the following conditions:...

Recommend denial:

From the evidence, testimony, and plans presented, I move that the Board deny the variance request ZBA2016-04 for a 12'6" front yard setback along Stratton Street for Lot 2 and the north 23 feet of Lot 3, Block 51, South Decatur Addition and more commonly referred to as 600 E. Hale Street based on the following findings:...

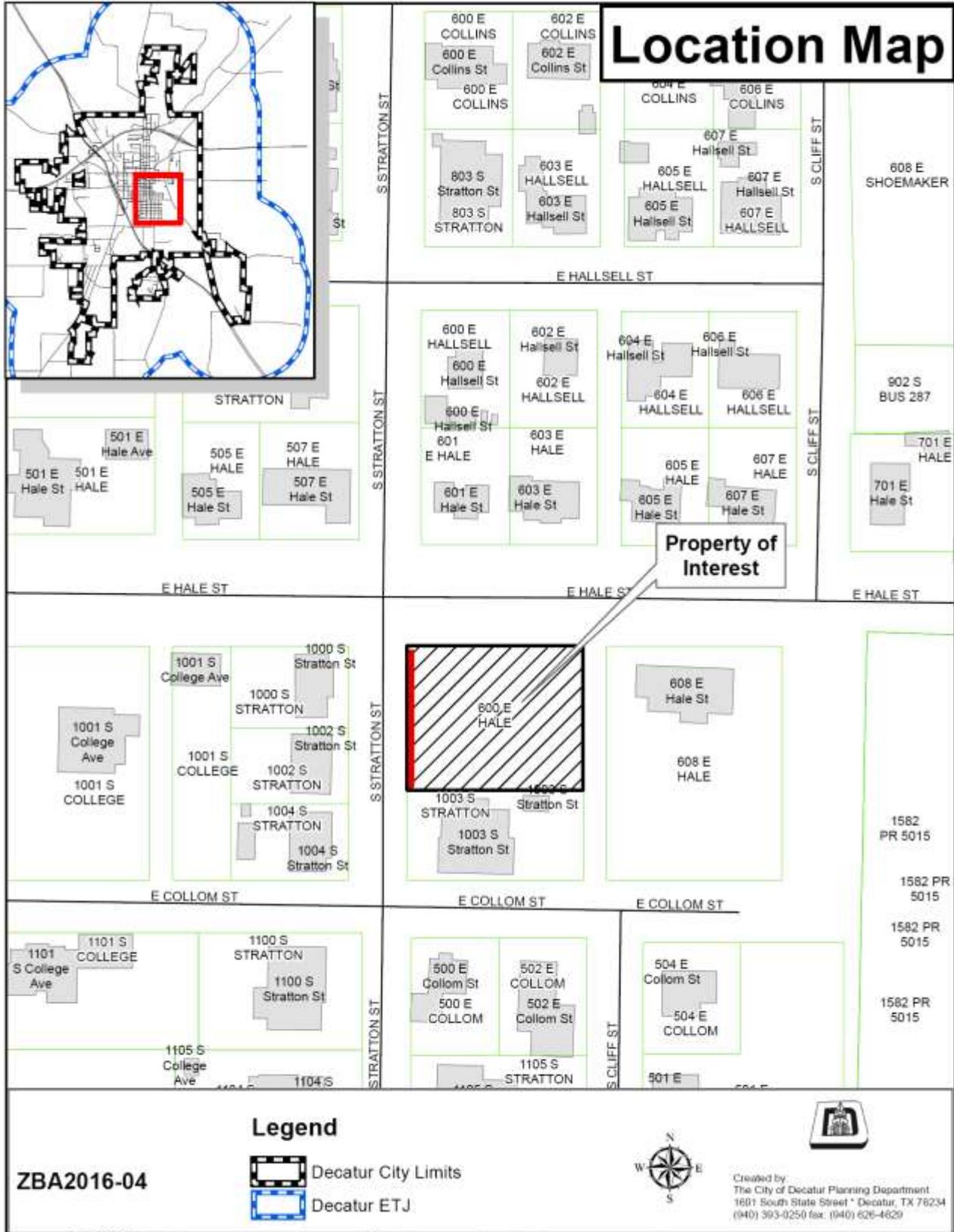
Recommend postponing consideration:

From the evidence, testimony, and plans presented, I move that the Board postpone consideration of variance to a date certain, and requesting additional information for the variance request ZBA2016-04 for a 12'6" front yard setback along Stratton Street for Lot 2 and the north 23 feet of Lot 3, Block 51, South Decatur Addition and more commonly referred to as 600 E. Hale Street, additional data being:...

**Attachments**

1. Location Map
2. Application and Checklist
3. Letter of Intent
4. 200' Notification Map and Property Owner Responses
5. Plat Exhibit
6. Proposed Site Plan
7. Prevailing Character Map (Front Yard Setbacks)
8. Proposed Elevation
9. Site Photos

Attachment 1  
**Location Map**



ZBA2016-04

**Legend**

-  Decatur City Limits
-  Decatur ETJ



Created by:  
 The City of Decatur Planning Department  
 1601 South State Street • Decatur, TX 76234  
 (940) 393-0250 fax: (940) 626-4629

## Attachment 2 Application and Checklist

### CITY OF DECATUR DEVELOPMENT SERVICES UNIVERSAL APPLICATION

Check box to indicate application type

*Incomplete applications will be rejected*

<input type="checkbox"/> Annexation Petition <input type="checkbox"/> Amending Plat <input type="checkbox"/> Comprehensive Plan Amendment <input type="checkbox"/> Conveyance Instrument <input checked="" type="checkbox"/> Design Standards Variance <input type="checkbox"/> Final Plat	<input type="checkbox"/> Gas Well Development Plat <input type="checkbox"/> Plat Extension-Final or Preliminary <input type="checkbox"/> Preliminary Plat <input type="checkbox"/> Replat <input type="checkbox"/> ROW Use Agreement <input type="checkbox"/> ROW Abandonment/ Closing	<input type="checkbox"/> Special Use Permit <input type="checkbox"/> Subdivision Variance <input type="checkbox"/> Zoning Change <input checked="" type="checkbox"/> Zoning Variance (ZBA) <input type="checkbox"/> Vacation Plat <input type="checkbox"/> Other _____
---	---	---

**Application Requirements:** Signed application form, application fees, Copy and filing fees, Proof of Ownership (Recorded Deed or current tax statements), required # of plats / plans, signed checklist and a PDF of all documentation.

**PROJECT INFORMATION:**       Residential     Commercial      Is this property platted?     Yes     No  
If this property is not platted, submit a survey with complete notes and bounds description sealed by a licensed surveyor

Project Name: Randy Neighbors      Total Acres: 0.423

Project Address (Location): 600 East Hale Street      Parcel(s) Tax ID R #: R000026122  
(DOT, BLOCK & SUBDIVISION OR SURVEY WITH METES & BOUNDS DESCRIPTION SEALED BY A LICENSED SURVEYOR)

Parent Project Name/Number: Randy Neighbors      Parcel(s) Tax ID GEO #: D2790.0188.00

Brief Description of Project: Construction of two Duplexes houses      ETJ  Yes

Please state the identity of any individual(s), or other entities that presently hold a lien upon the real estate which is the subject of this request: N/A      Lien holder/mortgagee must also sign plat for filing of record.

Existing Use: vacant lot    Existing Zoning: SF-2    # of Existing Lots: 1 parcel # of Existing Units: 0

Proposed Use: 2-Duplexes    Proposed Zoning: 2F    # of Proposed Lots: 2    Proposed Units: 4

**APPLICANT INFORMATION:**      Please circle your preferred method of contact.

Applicant / Company: Randy Neighbors      Email: rmancon@gmail.com

Address: 2103 Deer Park Road      Phone: 940-622-9981      Fax: 940-622-1525

City: Decatur      State: Texas      Zip: 76234

Property Owner: Same      Email: \_\_\_\_\_

Address: \_\_\_\_\_      Phone: \_\_\_\_\_      Fax: \_\_\_\_\_

City: \_\_\_\_\_      State: \_\_\_\_\_      Zip: \_\_\_\_\_

Key Contact/Company: Same      Email: \_\_\_\_\_

Address: \_\_\_\_\_      Phone: \_\_\_\_\_      Fax: \_\_\_\_\_

City: \_\_\_\_\_      State: \_\_\_\_\_      Zip: \_\_\_\_\_

**(MUST BE SIGNED FOR ALL APPLICATIONS)** - Letter of authorization required if signature is other than property owner and a letter of authorization is required from lienholder/mortgagee, if applicable.

I hereby certify that I am the owner of the property identified in this application; or, that I am the authorized agent of the owner of said property; and that I am authorized to act in their behalf, and that this application, to the best of my knowledge and belief, is true and correct.

Randy Neighbors      Randy Neighbors  
 SIGNATURE OF PROPERTY OWNER      SIGNATURE OF LIEN HOLDER

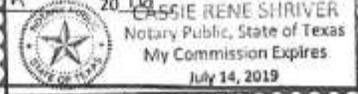
**PLAT WAIVER (MUST BE SIGNED FOR ALL PRELIMINARY, FINAL & REPLATS)**

I waive the statutory time limits in accordance with Section 212 of the Texas Local Government Code.

Randy Neighbors      Randy Neighbors  
 SIGNATURE OF PROPERTY OWNER      SIGNATURE OF LIEN HOLDER

Known to me to be the person(s) whose name is subscribed to the above and foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration expressed and in the capacity therein stated. Given under my hand and seal of office on this 3 day of March, 2016

Cassie Rene Shriver  
 Notary Public



*For Departmental Use Only*

Case#: ZBA 2016-04

Project Mgr: DDR

Total Fee(s): 455.00

Payment Method: CR

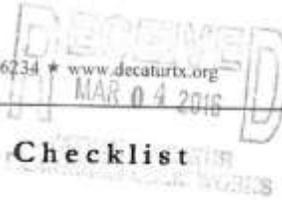
Submittal Date: 3-4-16

Accepted By: JL



# CITY OF DECATUR, TEXAS

Development Services • 1601 S. State St • P.O. Box 1299 • Decatur, TX 76234 • www.decaturnx.org



## Board of Adjustment Application Checklist

### General Requirements:

- A universal application form and the appropriate fees.
- A letter of explanation/justification.
- Submit a total of five (5) copies of site plan (if applicable) for the property. These copies should be individually folded with drawing side out.
- A location map clearly indicating the site in relation to adjacent streets, distance to nearest intersection and other landmarks.
- Submit one (1) copy of proof of ownership (recorded property deed or current year tax statements).
- Submit documentation on any and all liens and lien holders of property.
- One (1) CD-ROM containing the general required documents in Adobe PDF format.
- I have reviewed the checklist and all submittals for completeness and accuracy. If application submittal is determined to be incomplete, additional fees may be assessed.

[Signature]  
Signature

3-1-2016  
Date

### Content of the Letter of explanation/justification for a Zoning Variance:

I understand that I am applying for a variance from the Zoning Ordinance of the City of Decatur and that this variance can only be granted if I prove hardship by meeting four of the conditions below. I also understand that financial or self-induced hardship cannot be considered for granting a variance. Below I explain exactly how I meet these four conditions.

1. The requested variance does not violate the intent and spirit of the ordinance:  
The lot can be considered to be a corner lot with 2 side streets going down both sides with Hale street being the primary street. The proposed houses would meet the SF-2 restrictions or RF restrictions if Stover Street was deemed as side street all set backs would be relevant to these restrictions.
2. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to the other parcels of land in the same zoning district:  
It appears that the proposed lots would not only meet SF-2 + RF requirements, but would be even more restrictive than many of the existing lots that structure set at zero lot lines or even beyond their lot lines.
3. The hardship is in no way the result of the applicant's action:  
No it is not
4. The interpretation of the provisions in this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions:  
yes, because many of the set backs in this area do not even comply to SF2 or RF restrictions due to their set backs especially those lots that are considered to be corner lots.

Attachment 3  
**Letter of Intent**



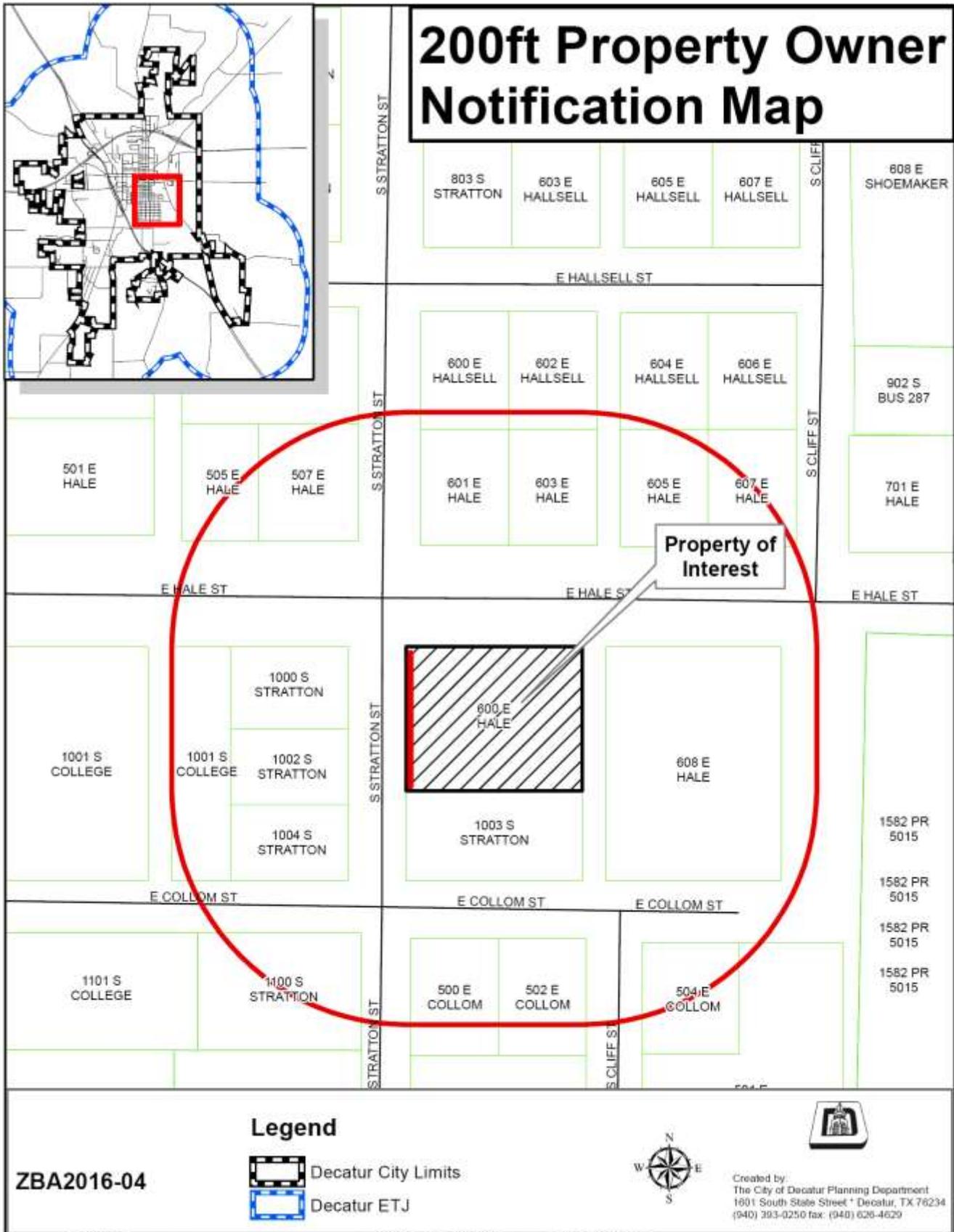
Adjustment Request Letter for 600 Hale St.

This request is to reduce the side yard setbacks at 600 E. Hale St. from 25' to 12'-6". The proposed buildings setbacks in the front and rear already fall under the guidelines of SF-2 at 25' and 10'. If the lots could be considered a normal lot then all restrictions would be under the 10% side yard rules. Straton street would become the side street because both buildings would face north towards Hale street, all garages are proposed to be at the rear of the property. The proposed set backs would not affect anything surrounding this property, looking at the city maps many corner lots are on the property lines, and some of them even extend into city street right-of-ways. Given the information above, and viewing the city maps, I ask the board of adjustments to consider these proposed set backs.

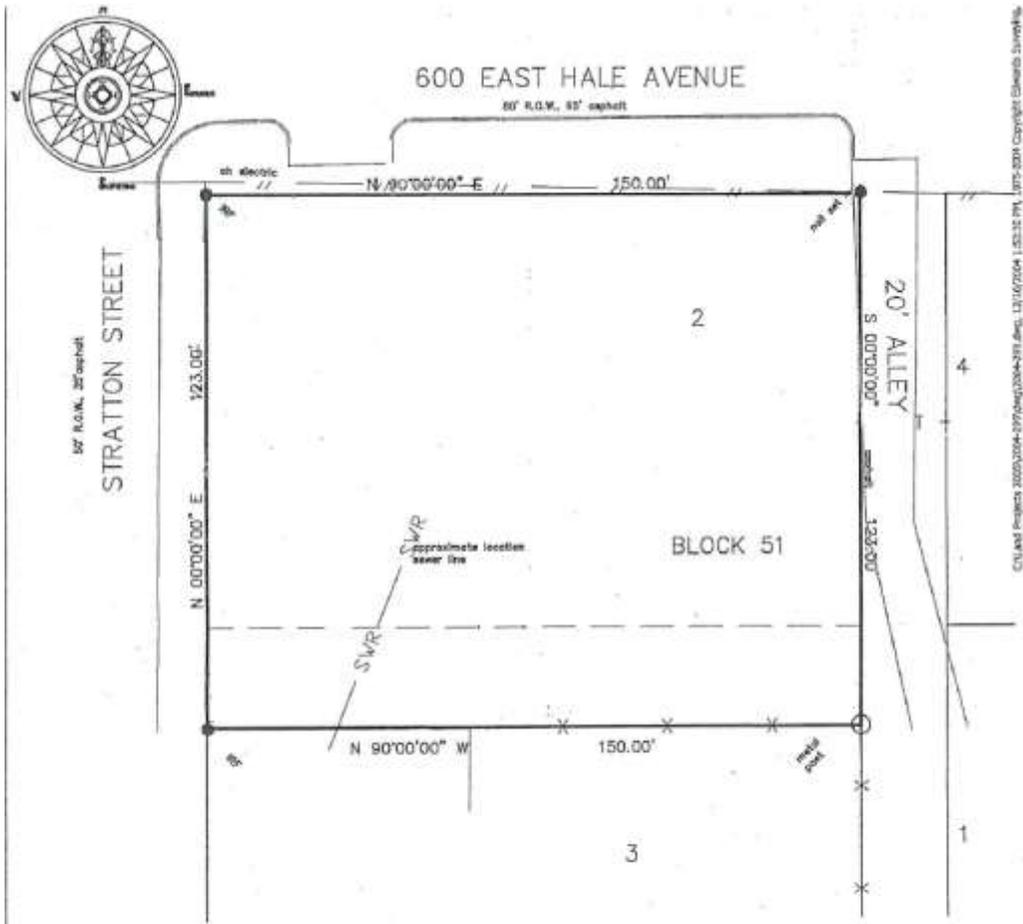
Thank you,

*Randy Neigbora*

# 200' Notification Map and Property Owner Responses



Attachment 5  
**Plat Exhibit**



Lot 2 and the north 23 feet of Lot 3, Block 51, SOUTH DECATUR ADDITION, an addition to the city of Decatur, Wise County, Texas, according to the plat recorded in Volume 8, Page 642, Deed Records, Wise County, Texas.

This plat was prepared from a true and accurate survey as surveyed on the ground under my personal supervision on this date and there are no apparent visible easements or encroachments, except as shown.

Tony T. Edwards  
 Registered Professional Land Surveyor No. 1869

*Tony T. Edwards*

**RECEIVED**  
 MAR 04 2013

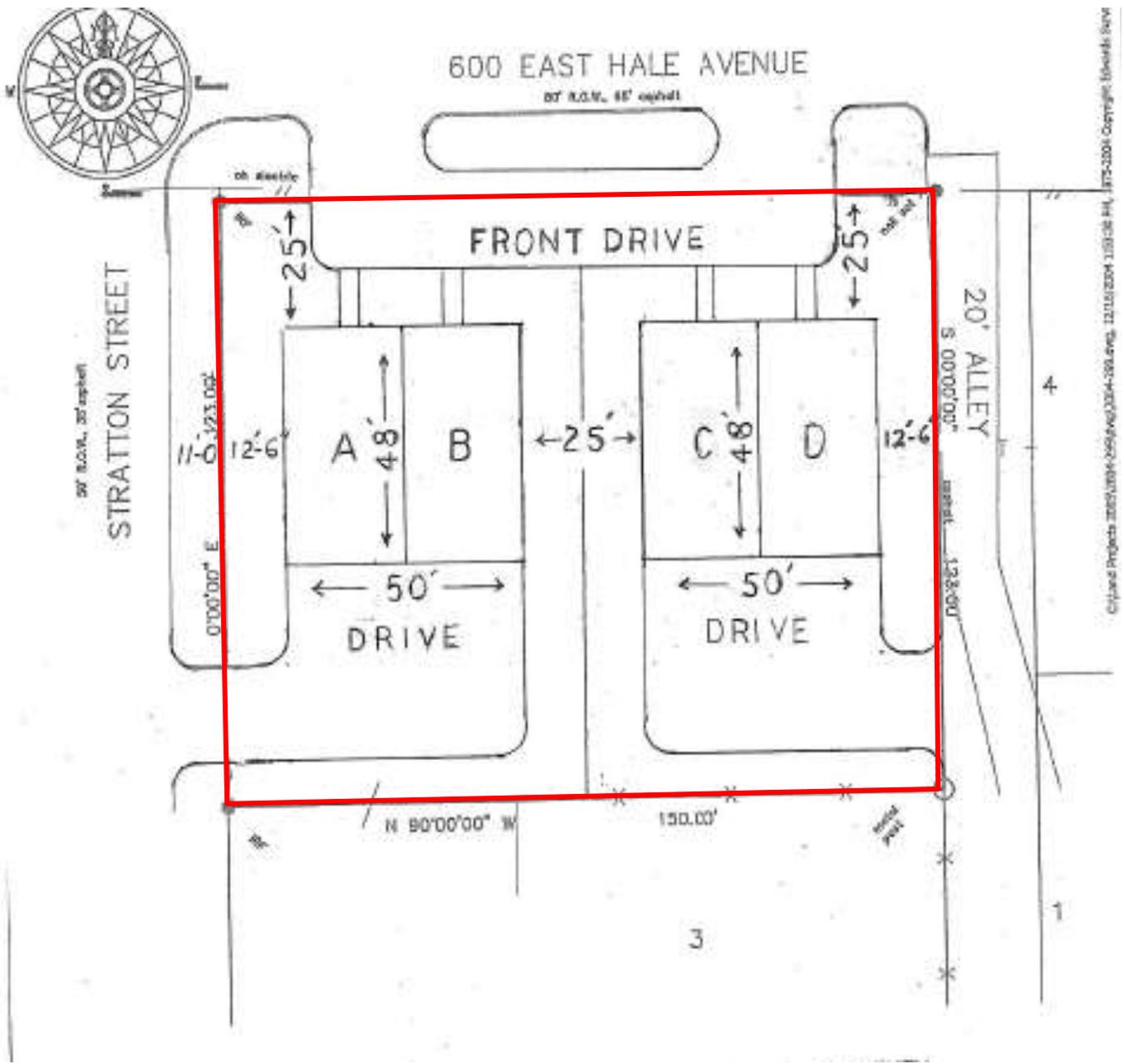
CITY OF DECATUR  
 DEVELOPMENT SERVICES

**EDWARDS SURVEYING, L.L.C.**  
 TEXAS REGISTERED PROFESSIONAL LAND SURVEYORS  
 P.O. BOX 618  
 308 WEST WALNUT STREET  
 DECATUR, TEXAS 76234  
 (840)-627-2881 OFFICE  
 (840)-627-3981 FAX  
 edwardsurvey.com

JOB No.: 2004-299  
 SCALE: 1" = 30'  
 DATE: 12-16-04

C:\Land Projects\2004\2004-299\edwards\2004-299.dwg, 12/16/2004 1:53:32 PM, 2015-2011 Copyright Edwards Surveying, L.L.C.

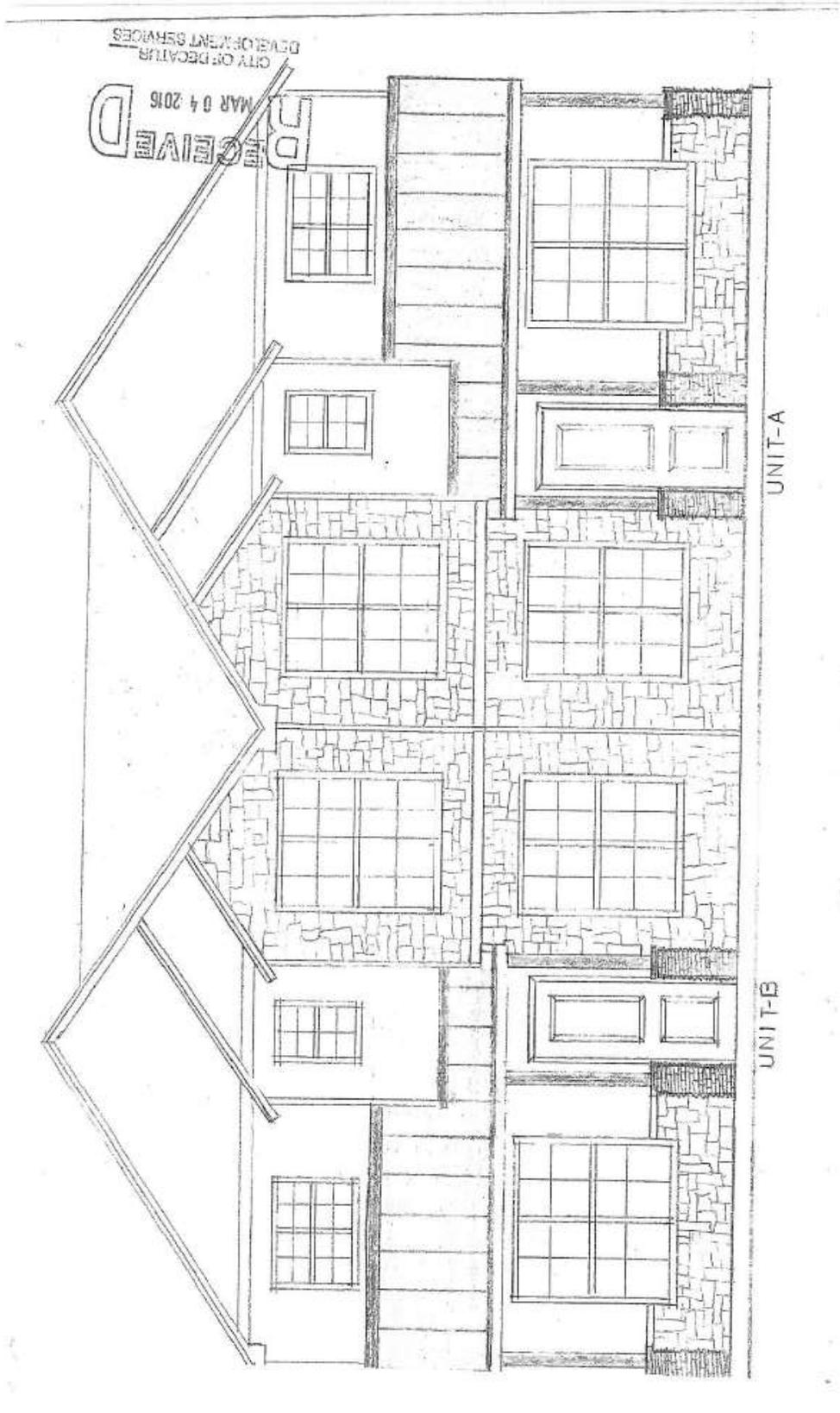
Attachment 6  
**Proposed Site Plan**



Prevailing Character Map (Front Yard Setbacks)



Attachment 8  
**Proposed Elevation**



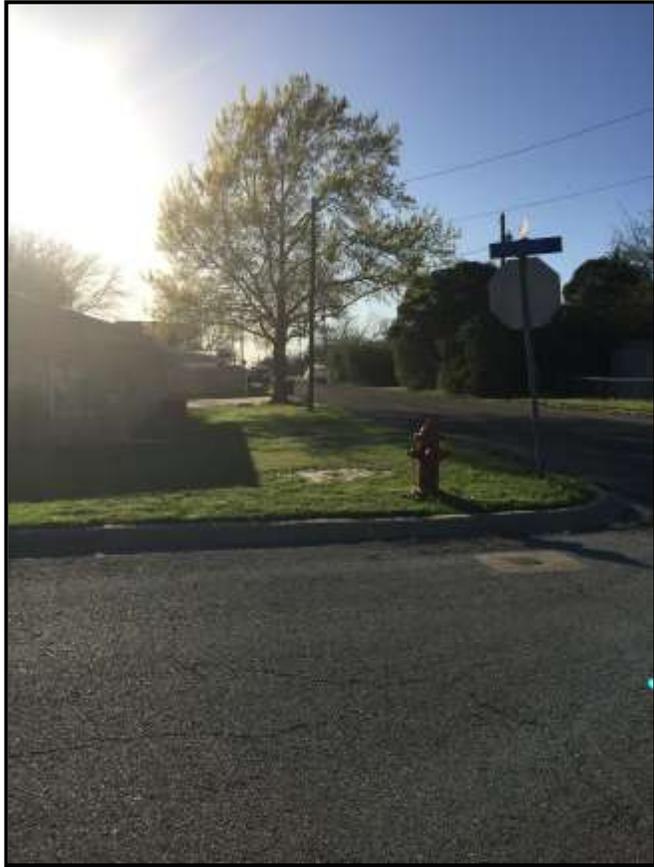
Attachment 9  
**Site Photos**



**Site looking east**



**Site looking south**



**Surrounding Context**  
**Corner Lots**

