



College Station, TX

City Hall
1101 Texas Ave
College Station, TX 77840

Meeting Agenda - Final Zoning Board of Adjustment

The City Council may or may not attend this meeting.

Tuesday, November 4, 2014

6:00 PM

City Hall Administrative Conference Room

1. Call meeting to order.
2. [14-767](#) Consideration, possible action and discussion to approve meeting minutes.
Attachments: [October 7, 2014.pdf](#)
3. [14-768](#) Consideration of Absence Requests.
- David Ohendalski - October 7, 2014
Attachments: [Oct 7 ZBA.pdf](#)
4. [14-811](#) Public hearing, presentation, possible action, and discussion to consider a building setback variance for the property located at West Park Addition, Block 1, Lot 13, generally located at 114 Park Place which is zoned GS General Suburban. Case # 14-00900263 (J. Cuarón)
Attachments: [Staff Report](#)
[Application](#)
[New Survey](#)
[Photos](#)
5. [14-190](#) Public hearing, presentation, possible action, and discussion to consider a variance for an accessory living quarters for the property A-901 Thomas Carruthers, Tract 25.5, 36.829 acres and adjoining 52 acres, generally located at 1199 Haywood Drive which is zoned R Rural. Case #14-00900261 (M. Bombek)
Attachments: [Staff Report](#)
[Application](#)
6. Discussion and possible action on future agenda items - A member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
7. Adjourn.

The Board or Commission may adjourn into Executive Session to consider any item

listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion.

APPROVED

City Manager

I certify that the above Notice of Meeting was posted at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on _____, 20xx at 5:00 p.m.

City Secretary

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764 3517 or (TDD) 1 800 735 2989. Agendas may be viewed on www.cstx.gov. Council meetings are broadcast live on Cable Access Channel 19.



Legislation Details (With Text)

File #: 14-767 **Version:** 1 **Name:** Minutes
Type: Minutes **Status:** Agenda Ready
File created: 10/22/2014 **In control:** Zoning Board of Adjustment
On agenda: 11/4/2014 **Final action:**
Title: Consideration, possible action and discussion to approve meeting minutes.
Sponsors:
Indexes:
Code sections:
Attachments: [October 7, 2014.pdf](#)

Date	Ver.	Action By	Action	Result
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Consideration, possible action and discussion to approve meeting minutes.



MINUTES
ZONING BOARD OF ADJUSTMENT
Regular Meeting
October 7, 2014
City Hall Council Chambers
1101 Texas Avenue
6:00 P.M.

MEMBERS PRESENT: Chairman Hunter Goodwin, Johnny Burns, Jim Davis, Patrick Forgarty

MEMBERS ABSENT: David Ohendalski

STAFF PRESENT: Staff Assistant Deborah Grace-Rosier, Staff Planner Jerry Cuarón, Assistant Director of Planning & Development Services Molly Hitchcock, Assistant City Attorney John Haislet, Action Center Representative Amy Esco

AGENDA ITEM NO. 1: Call to order – Explanation of functions of the Board.

Chairman Goodwin called the meeting to order at 6:00 p.m.

AGENDA ITEM NO. 2: Discussion of requested Administrative Adjustments.

- 14-00900210 thru 14-00900231 – 400 - 421 Hayes Ln; Increase 25-foot wide driveways to 27 feet
- 14-00900246 - 2609 Goodrich Ct; Reduce 20-foot rear setback by 17 inches

There was no discussion.

AGENDA ITEM NO. 3: Consideration, possible action and discussion to approve meeting minutes.

- September 2, 2014

Board Member Burns motioned to approve the meeting minutes. Board Member Davis seconded the motion which passed unopposed (4-0).

AGENDA ITEM NO. 4: Presentation, possible action, and discussion to authorize a rehearing of a building setback variance for the property located at West Park Addition, Block 1, Lot 13, generally located at 114 Park Place which is zoned GS General Suburban. Case # 14-00900190 (J. Cuarón)

Staff Planner Cuarón stated that the applicant has requested a rehearing and has supplied the Board with additional information.

There was a general discussion amongst the Board.

Board Member Burns motioned to approve the rehearing. Board Member Fogarty seconded the motion.

There was a general discussion amongst the Board concerning the new information provided by the applicant. Chairman Goodwin called for the motion to approve the rehearing. Board voted (4-0). Motion passed.

AGENDA ITEM NO. 5: Consideration and possible action on future agenda items – A Zoning Board Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

There were no items discussed.

AGENDA ITEM NO. 6: Adjourn.

Board Member Burns motioned to adjourn. Board Member Davis seconded the motion, which passed (4-0). The meeting was adjourned at 6:06.

ATTEST:

Staff Assistant, Deborah Grace-Rosier

APPROVED:

Chairman, Hunter Goodwin



Legislation Details (With Text)

File #: 14-768 **Version:** 3 **Name:** Absence Request
Type: Absence Request **Status:** Agenda Ready
File created: 10/22/2014 **In control:** Zoning Board of Adjustment
On agenda: 11/4/2014 **Final action:**
Title: Consideration of Absence Requests.
- David Ohendalski - October 7, 2014

Sponsors:

Indexes:

Code sections:

Attachments: [Oct 7 ZBA.pdf](#)

Date	Ver.	Action By	Action	Result
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Consideration of Absence Requests.
- David Ohendalski - October 7, 2014



CITY OF COLLEGE STATION
Planning & Development Services

**Absence Request Form
For Elected and Appointed Officers**

Name David Ohendalski

Request Submitted on October 7, 2014

I will not be in attendance at the meeting of October 7, 2014
for the reason(s) specified: (Date)

Welcoming new born son.

Via e-mail DGR



Legislation Details (With Text)

File #: 14-811 **Version:** 1 **Name:** 114 Park Place
Type: Variance **Status:** Agenda Ready
File created: 10/28/2014 **In control:** Zoning Board of Adjustment
On agenda: 11/4/2014 **Final action:**
Title: Public hearing, presentation, possible action, and discussion to consider a building setback variance for the property located at West Park Addition, Block 1, Lot 13, generally located ar 114 Park Place which is zoned GS General Suburban. Case # 14-00900263 (J. Cuarón)

Sponsors:

Indexes:

Code sections:

Attachments: [Staff Report](#)
[Application](#)
[New Survey](#)
[Photos](#)

Date	Ver.	Action By	Action	Result
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Public hearing, presentation, possible action, and discussion to consider a building setback variance for the property located at West Park Addition, Block 1, Lot 13, generally located ar 114 Park Place which is zoned GS General Suburban. Case # 14-00900263 (J. Cuarón)



CITY OF COLLEGE STATION

**VARIANCE REQUEST
FOR
114 Park Place
14-00900263**

REQUEST: A variance to Unified Development Ordinance Section 12-5.2 'Residential Dimensional Standards', to allow for an 8-foot variance to the required rear setback of 20-feet.

LOCATION: 114 Park Place
West Park Addition, Block 1, Lot 13

APPLICANT: Tim & Amber Krivdo, property owners

PROJECT MANAGER: Jerry Cuarón, Staff Planner
gcuaron@cstx.gov

BACKGROUND: The subject property is located in the West Park Addition Subdivision and is zoned GS General Suburban, which allows for single-family residential uses. The property was originally platted in 1946 and is designated Urban and Redevelopment on the Comprehensive Plan Future Land Use and Character Map. A concrete foundation currently encroaches into the 20-foot rear setback eight feet and this location is grandfathered. The applicant is proposing to construct a garage on the existing foundation. The variance was denied by the Zoning Board of Adjustment on September 2, 2014. The applicant submitted a new survey and photographs of the property and requested a rehearing of the building setback variance which was granted at the October 7, 2014 Board meeting. **Therefore, the applicant is requesting a variance to the Unified Development Ordinance (UDO) Section 12-5.2, 'Residential Dimensional Standards' to allow for a reduction of 8 feet to the 20-foot rear setback.**

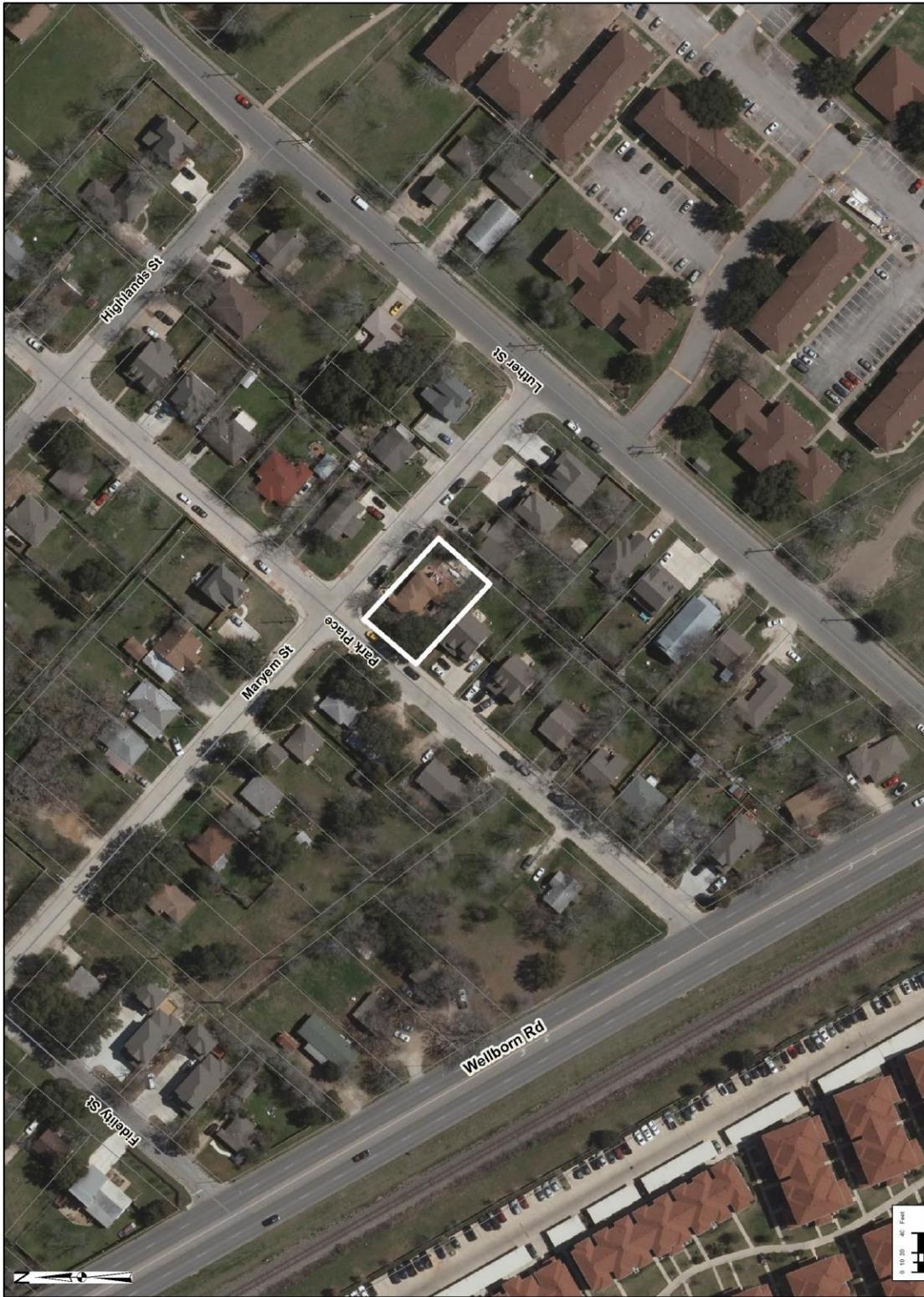
APPLICABLE ORDINANCE SECTION: UDO Section 12-5.2 'Residential Dimensional Standards'

ORDINANCE INTENT:

UDO Section 12-5.2, 'Residential Dimensional Standards' sets design standard requirements that usually allow for some degree of control over population density, access to light and air, and fire protection. These standards are typically justified on the basis of the protection of property values.

RECOMMENDATION:

Staff recommends denial of the variance request as all nine criteria for approval have not been met.

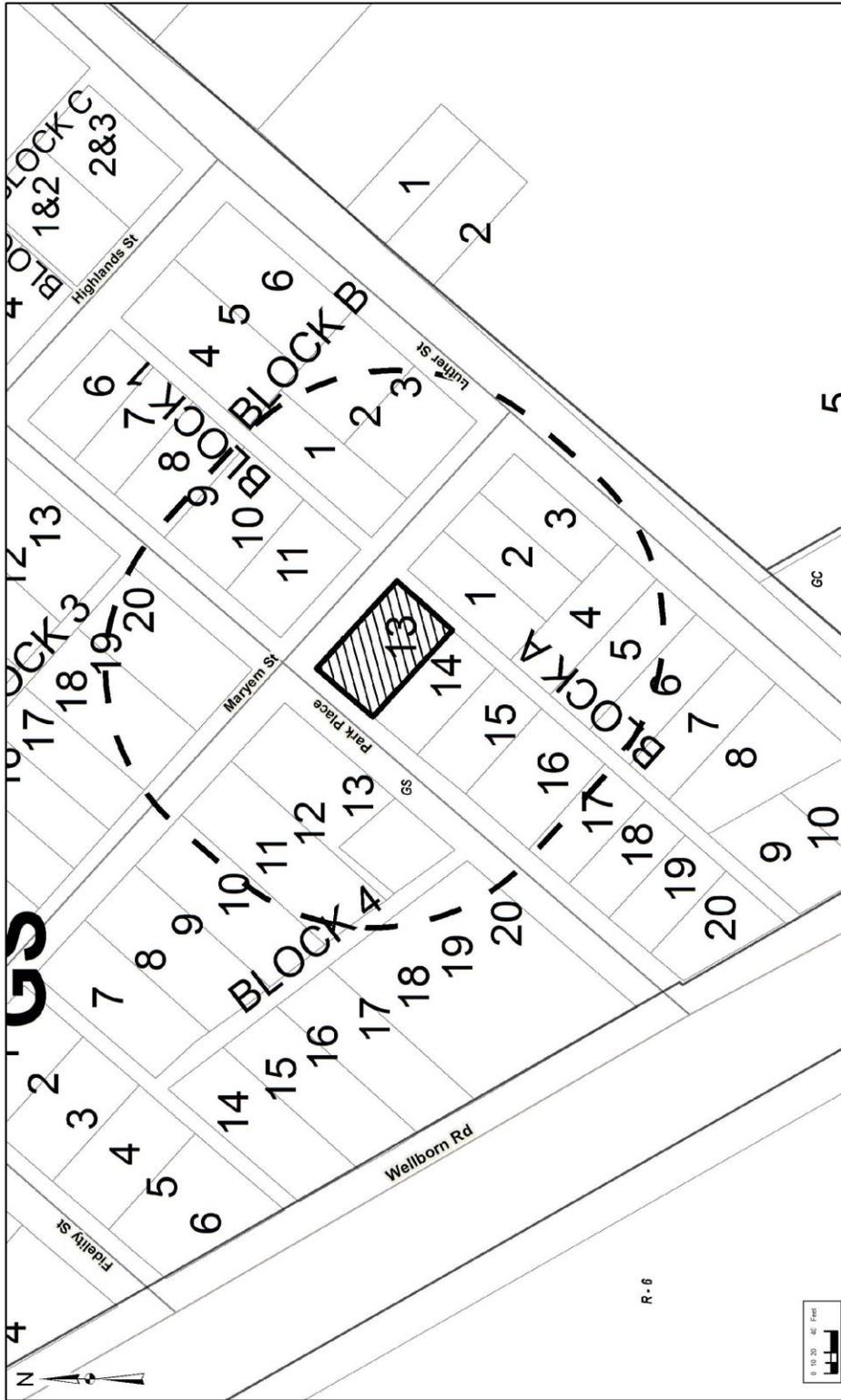


Case: 14-190
ZBA

114 PARK PLACE

DEVELOPMENT REVIEW





Zoning Districts

R	Rural	R-4	Multi-Family	BPI	Business Park Industrial	PDD	Planned Development District
E	Estate	R-6	High Density Multi-Family	NAP	Natural Areas Protected	WPC	Wolf Pen Creek Dev. Corridor
RS	Restricted Suburban	MHP	Manufactured Home Park	C-3	Light Commercial	NG-1	Core Northgate
GS	General Suburban	O	Office	M-1	Light Industrial	NG-2	Transitional Northgate
R-1B	Single Family Residential	SC	Suburban Commercial	M-2	Heavy Industrial	NG-3	Residential Northgate
D	Duplex	GC	General Commercial	C-U	College and University	OV	Corridor Overlay
T	Townhouse	CI	Commercial-Industrial	R & D	Research and Development	RDD	Redevelopment District
		BP	Business Park	P-MUD	Planned Mixed-Use Development	KO	Krenek Tap Overlay

	DEVELOPMENT REVIEW	114 PARK PLACE	Case: 14-190	ZBA
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NOTIFICATIONS

Advertised Board Hearing Date: November 4, 2014

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed: 22
Contacts in support: None at the time of this report.
Contacts in opposition: None at the time of this report.
Inquiry contacts: None at the time of this report.

ZONING AND LAND USES

Direction	Zoning	Land Use
Subject Property	GS General Suburban	Single-Family Residence
North (Across Park Place)	GS General Suburban	Single-Family Residence
South	GS General Suburban	Single-Family Residence
East (Across Maryem Street)	GS General Suburban	Single-Family Residence
West	GS General Suburban	Single-Family Residence

PHYSICAL CHARACTERISTICS

- Frontage:** The subject property has approximately 70.5 feet of frontage on Park Place.
- Access:** The subject property is accessed from Park Place.
- Topography and vegetation:** The subject property is relatively flat with some mature vegetation.
- Floodplain:** The subject property is not located within FEMA regulated floodplain.

REVIEW CRITERIA

According to Unified Development Ordinance Section 12-3.19.E 'Criteria for Approval of Variance', no variance shall be granted unless the Board makes affirmative findings in regard to all nine of the following criteria:

- Extraordinary conditions:** *That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the UDO will deprive the applicant of the reasonable use of his land.*

The applicant states that due to the subject property being located on a corner lot, they will not be able to comply with the current rear building setback of 20 feet for the construction of

a new garage. Staff does not believe that an extraordinary or special condition exists in this case as the surrounding properties are subject to the same rear setback. A strict application of the UDO would not deprive the applicant of the reasonable use of the property.

This property is located in the West Park Neighborhood and as designated on the Comprehensive Plan Future Land Use and Character Map as Urban and Redevelopment.

2. **Enjoyment of a substantial property right:** *That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

The variance is not necessary for the preservation and enjoyment of the substantial property right of the applicant. If the proposed variance is not granted, the garage will have to be built to meet the 20-foot rear setback in compliance with the UDO. The current use of the property as a single-family residence in an older subdivision is grandfathered to its current setback encroachment. If the proposed variance request is not granted, the applicant will still be allowed to use the property as a non-conforming structure; therefore, they are not being denied a substantial property right.

3. **Substantial detriment:** *That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO.*

Granting the variance would not be as detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO as the rear of this property is adjacent to a 5-foot reserve which helps separate it from the adjacent property.

4. **Subdivision:** *That the granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of this UDO.*

The granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of the UDO because the subject and surrounding properties cannot be further subdivided unless they comply with the subdivision regulations.

5. **Flood hazard protection:** *That the granting of the variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements.*

The granting of this variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements due to no portion of this property being located within floodplain.

6. **Other property:** *That these conditions do not generally apply to other property in the vicinity.*

For new construction, the same setback requirements apply to all properties zoned GS General Suburban and are not unique to this property.

7. **Hardships:** *That the hardship is not the result of the applicant's own actions.*

A hardship does not exist on the subject property. The applicant has proposed locating the new garage on an existing foundation. The request to encroach eight feet into the 20-foot

rear setback is a result of the applicant's own actions and is not the result of a special condition of the property.

8. **Comprehensive Plan:** *That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this UDO.*

The granting of this variance does not substantially conflict with the Comprehensive Plan but does conflict with the provisions of this UDO in that it does not comply with current building setback requirements that are applicable to all new structures on single-family properties.

9. **Utilization:** *That because of these conditions, the application of the UDO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

The application of the UDO standards to this particular property does not prohibit the applicant in the utilization of their property. The setback does not restrict the applicant from utilizing a large portion of the property. New structures can be built within required building setbacks.

ALTERNATIVES

The applicant has not provided any alternative solutions to the location of their garage outside of the rear building setback.

STAFF RECOMMENDATION

Staff recommends denial of the variance request as all nine criteria for approval have not been met.



FOR OFFICE USE ONLY	
CASE NO.:	14-2603
DATE SUBMITTED:	10.15.14
TIME:	3:00
STAFF:	SS

ZONING BOARD OF ADJUSTMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- \$350 Zoning Board of Adjustment Application Fee.
- Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- Additional materials may be required of the applicant such as site plans, elevation drawings, sign details, and floor plans. The applicant shall be informed of any extra materials required.

Date of Optional Preapplication Conference _____

ADDRESS 114 PARK PLACE

LEGAL DESCRIPTION (Lot, Block, Subdivision) LOT 13, BLOCK 1, WEST PARK

APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name TIM + AMBER KRIVDO E-mail TKrivdo@gmail.com

Street Address 114 PARK PLACE

City COLLEGE STATION State TX Zip Code 77840

Phone Number (979) 571-9999 Fax Number _____

PROPERTY OWNER'S INFORMATION (Please attach an additional sheet for multiple owners): *above*

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Phone Number _____ Fax Number _____

Current zoning of subject property _____

Action requested (check all that apply):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Setback variance | <input type="checkbox"/> Appeal of Written Interpretation |
| <input type="checkbox"/> Parking variance | <input type="checkbox"/> Special Exception |
| <input type="checkbox"/> Sign variance | <input type="checkbox"/> Drainage Variance |
| <input type="checkbox"/> Lot dimension variance | <input type="checkbox"/> Other _____ |

Applicable ordinance section to vary from:

SECTION 12-5.2 REAR SETBACK REQUIREMENTS

GENERAL VARIANCE REQUEST

1. The following specific variation from the ordinance is requested:

8'-0" VARIANCE FROM 20'-0" REAR SET BACK

2. This variance is necessary due to the following special conditions:

Special Condition Definition: To justify a variance, the difficulty must be due to unique circumstances involving the particular property. The unique circumstances must be related to a physical characteristic of the property itself, not to the owner's personal situation. This is because regardless of ownership, the variance will run with the land.

Example: A creek bisecting a lot, a smaller buildable area than is seen on surrounding lots, specimen trees.

Note: A cul-de-sac is a standard street layout in College Station. The shape of standard cul-de-sac lots are generally not special conditions.

DUE TO THE EXISTING BUILDING LAYOUT I AM REQUESTING THE 8'-0" VARIANCE IN REGARD TO THE 20'-0" BACK OF LOT SETBACK

3. The unnecessary hardship(s) involved by meeting the provisions of the ordinance other than financial hardship is/are:

Hardship Definition: The inability to make reasonable use of the property in accord with the literal requirements of the law. The hardship must be a direct result of the special condition.

Example: A hardship of a creek bisecting a lot could be the reduction of the buildable area on the lot, when compared to neighboring properties.

MY HOUSE WAS CONSTRUCTED BEFORE MANY OF THE SETBACKS HAD BEEN PLACED. VERY LIMITED AREA TO BUILD ON

4. The following alternatives to the requested variance are possible:

NO ALTERNATIVES DUE TO EXISTING CONDITIONS

5. This variance will not be contrary to the public interest by virtue of the following facts:

AS SUBMITTED IN 1940 + 1946 COUNTY + CITY PROPERTY SURVEYS THERE IS NOT AN ALLEY WAY SOUTH OF MY PROPERTY. ONLY A 5'-0" STRIP RESERVED FOR DEVELOPERS

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct, and complete. IF THIS APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, this application must be accompanied by a power of attorney statement from the owner. If there is more than one owner, all owners must sign the application or the power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.

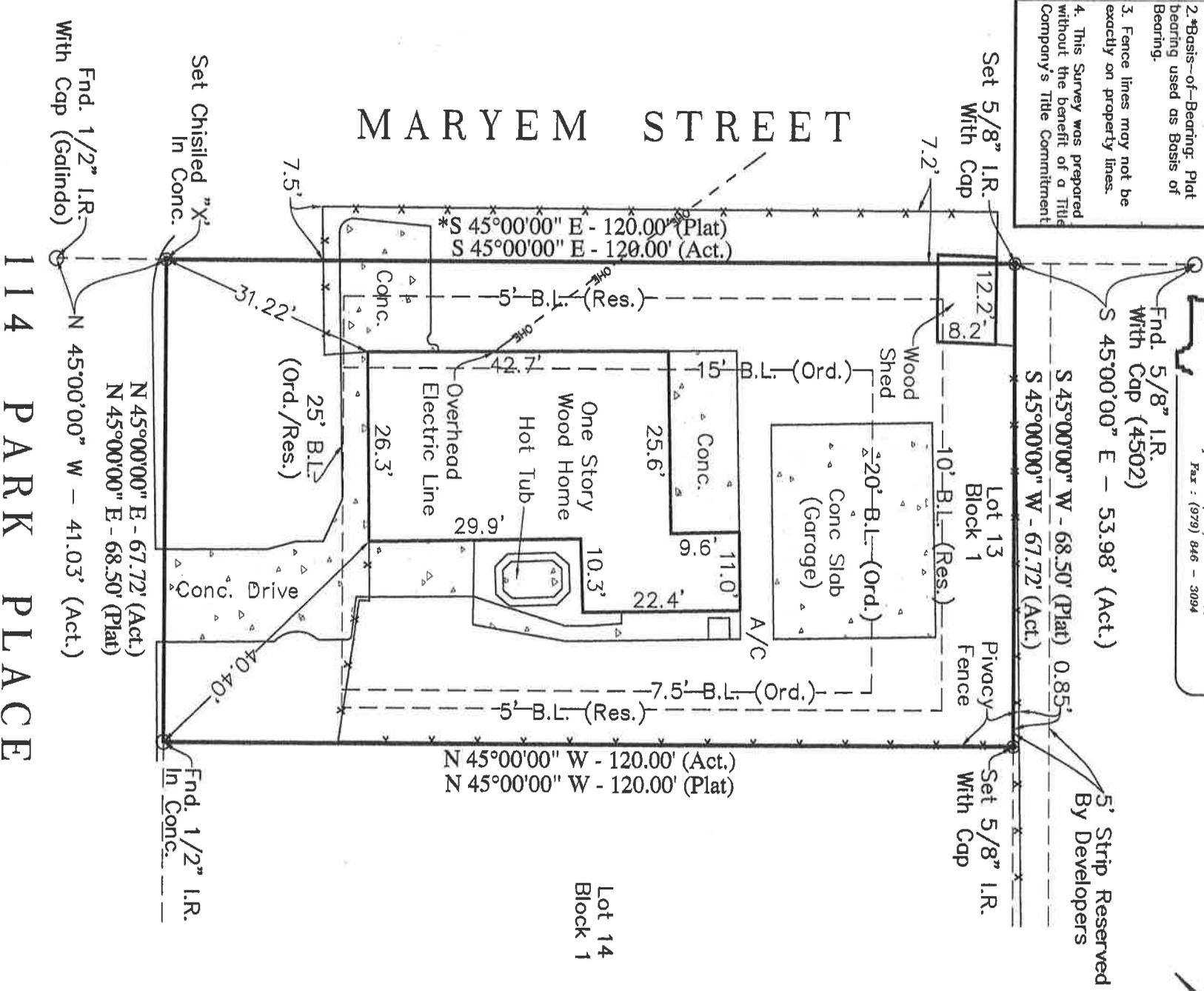

Signature and title

10/15/14
Date

NOTES:
 1. "This survey is invalid without the original signature and is only valid for the initial transaction."
 2.*Basis--of--Bearing: Plat bearing used as Basis of Bearing.
 3. Fence lines may not be exactly on property lines.
 4. This Survey was prepared without the benefit of a Title Company's Title Commitment

GARRETT ENGINEERING
 Consulting Engineering & Land Surveying
 4444 Carter Creek Parkway, Suite 108
 Bryan, Texas 77802
 Telephone : (979) 846 - 2688
 Fax : (979) 846 - 3094

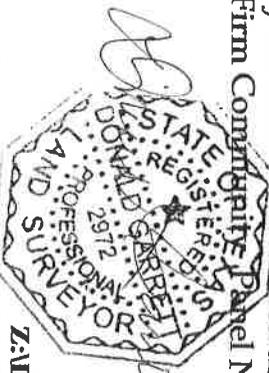
SCALE: 1" = 20'



Lot 13, Block 1, WEST PARK ADDITION, City of College Station, Brazos County, Texas, according to the plat recorded in Volume 102, Page 198 of the Deed Records of Brazos County, Texas.

I, Donald Garrett, Registered Professional Land Surveyor, No. 2972 do hereby certify that the above plat is true and correct and agrees with a survey made on the ground under my supervision on September 17, 2014. I further certify that no improvements on this property encroach on adjacent property nor do any improvements on adjacent property encroach on this property, except as shown.

This property is not in a 100-year flood hazard area as established by the Federal Emergency Management Agency, Fema Firm Community Panel No. 48041C0305F, April 2, 2014.



Z:\Donnie\survey-Jobs\Survey-Jobs 2014\14-155\14-155.dwg

A & M COLLEGE

PARK ADDITION

COLLEGE STATION, TEXAS

BURGESS & RUSSELL DEVELOPERS

J.A. GERR, ENGINEER & SURVEYOR

SCALE 1" = 100'

1948

G. Bush



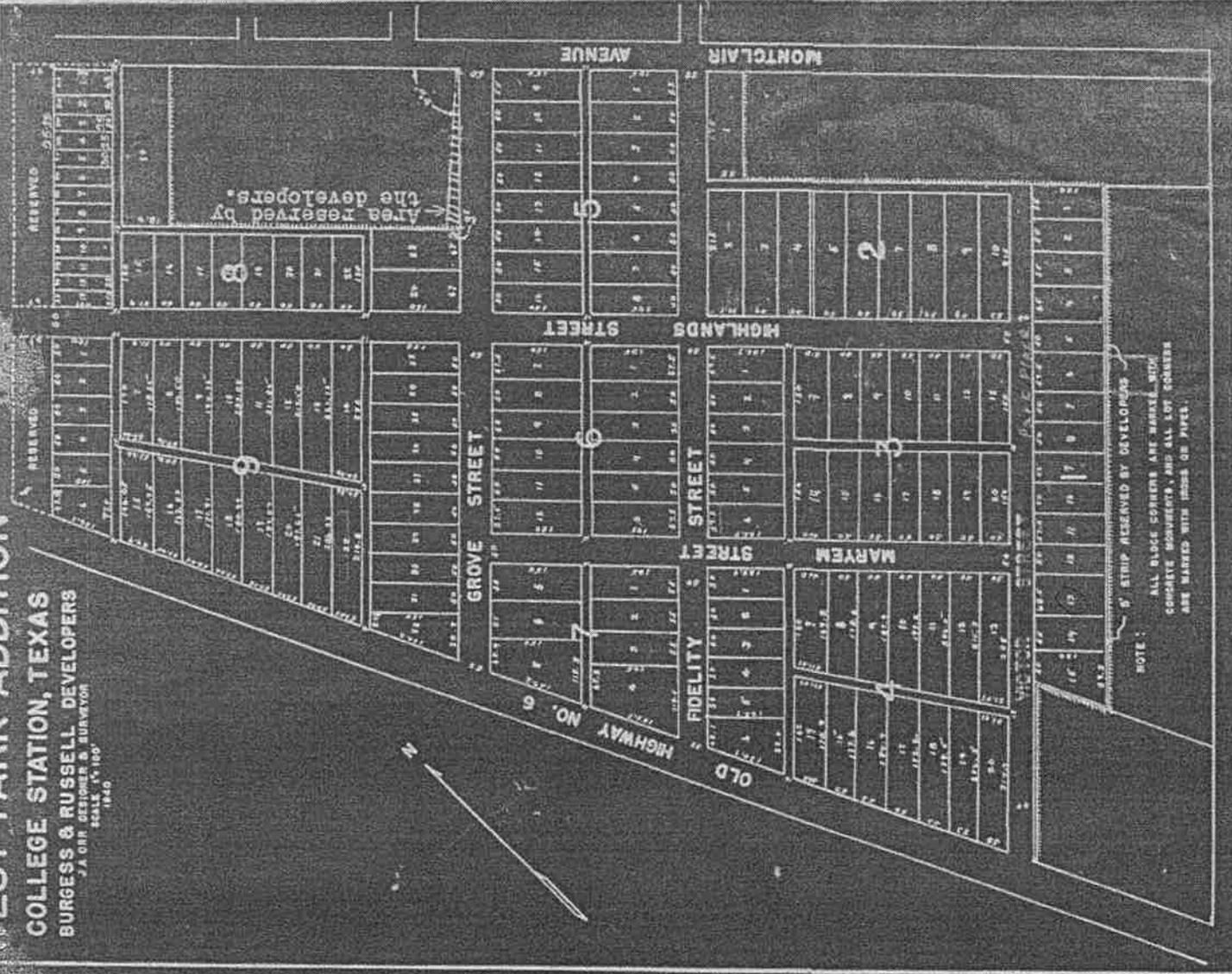
The above is a small photostatic reproduction of original plat which was filed for record in this

West Waller County (

ASI

I KNOW ALL MEN BY THESE PRESENTS: That West Park Realty Company, a pe
 H. E. Burgess and Daniel Russell, of Brazos County, Texas, do hereby declar
 Division of a 35 acres tract of land in the J. E. Scott League, Abstract
 county, Texas, the same to be known as WEST PARK ADDITION to the City of

COLLEGE STATION, TEXAS
BURGESS & RUSSELL, DEVELOPERS
A PROFESSIONAL SURVEYOR
SCALE: 1" = 100'
1940



The above is a small photostatic reproduction of the original plat which was filed for record in this office.

THE STATE OF TEXAS

COUNTY OF BRAZOS

I KNOW ALL MEN BY THESE PRESENTS: That West Park Realty Company, a partnership composed of H. E. Burgess and Daniel Russell, of Brazos County, Texas, do hereby declare

to have ~~dedicated~~ *dedicated* a 35 acres tract of land in the J. T. Scott League, abstract No. 50, Brazos County, Texas, the same to be known as WEST PARK ADDITION to the City of College Station, Texas, and being the 35 acre tract of land conveyed to West Park Realty Company, a partnership composed of H. E. Burgess and Daniel Russell by Ludvika Lana, by deed dated October 18, 1939, and recorded in Volume 101, page 367, of the Brazos County Deed Records, and we hereby dedicate to the use of the public for road, street and alley purposes all interest we have in the streets and alleys shown on said map.

Wm. H. Williams
County Clerk.



WEST PARK 2ND ADDITION

COLLEGE STATION, TEXAS

BURGESS & RUSSELL DEVELOPERS

J. A. ORR SURVEYOR

SCALE 1" = 100'

1946





Legislation Details (With Text)

File #: 14-190 **Version:** 1 **Name:** 1199 Haywood Dr
Type: Variance **Status:** Agenda Ready
File created: 10/22/2014 **In control:** Zoning Board of Adjustment
On agenda: 11/4/2014 **Final action:**

Title: Public hearing, presentation, possible action, and discussion to consider a variance for an accessory living quarters for the property A-901 Thomas Carruthers, Tract 25.5, 36.829 acres and adjoining 52 acres, generally located at 1199 Haywood Drive which is zoned R Rural. Case #14-00900261 (M. Bombek)

Sponsors:

Indexes:

Code sections:

Attachments: [Staff Report](#)
[Application](#)

Date	Ver.	Action By	Action	Result
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Public hearing, presentation, possible action, and discussion to consider a variance for an accessory living quarters for the property A-901 Thomas Carruthers, Tract 25.5, 36.829 acres and adjoining 52 acres, generally located at 1199 Haywood Drive which is zoned R Rural. Case #14-00900261 (M. Bombek)



**VARIANCE REQUEST
FOR
1199 Haywood Drive
14-00900261**

REQUEST: A variance to Unified Development Ordinance Section 12-6.5.B.5 'Accessory Uses-Living Quarters', to allow for a 25% variation from the accessory use provision.

LOCATION: 1199 Haywood Drive
A-901, Thomas Carruthers, Tract 25.5, 36.829 acres, and adjoining 52 acres

APPLICANT: M.B. Flippen, property owner

PROJECT MANAGER: Mark Bombek, Staff Planner
mbombek@cstx.gov

BACKGROUND: The subject property is located to the east of the Foxfire subdivision. The property is zoned R Rural, which allows for limited activity related to large lot residential development. It is intended to preserve the open space and agricultural character of the property. The property is currently not platted and is designated as Estate on the Comprehensive Plan Future Land Use and Character Map.

In October 2013, the applicant submitted building plans for a separate accessory carriage house to be built on the property. As the carriage house exceeded the maximum allowed square footage for an accessory living quarters, the building plans were denied. The City later approved building plans that would allow the applicant to construct a heated hallway to connect the primary residence to the carriage house. Attaching the two structures in this manner no longer defined the carriage house but as an addition to the primary residence that would not be limited in size. The applicant would like to proceed with construction without having to construct this hallway. Eliminating the hallway between

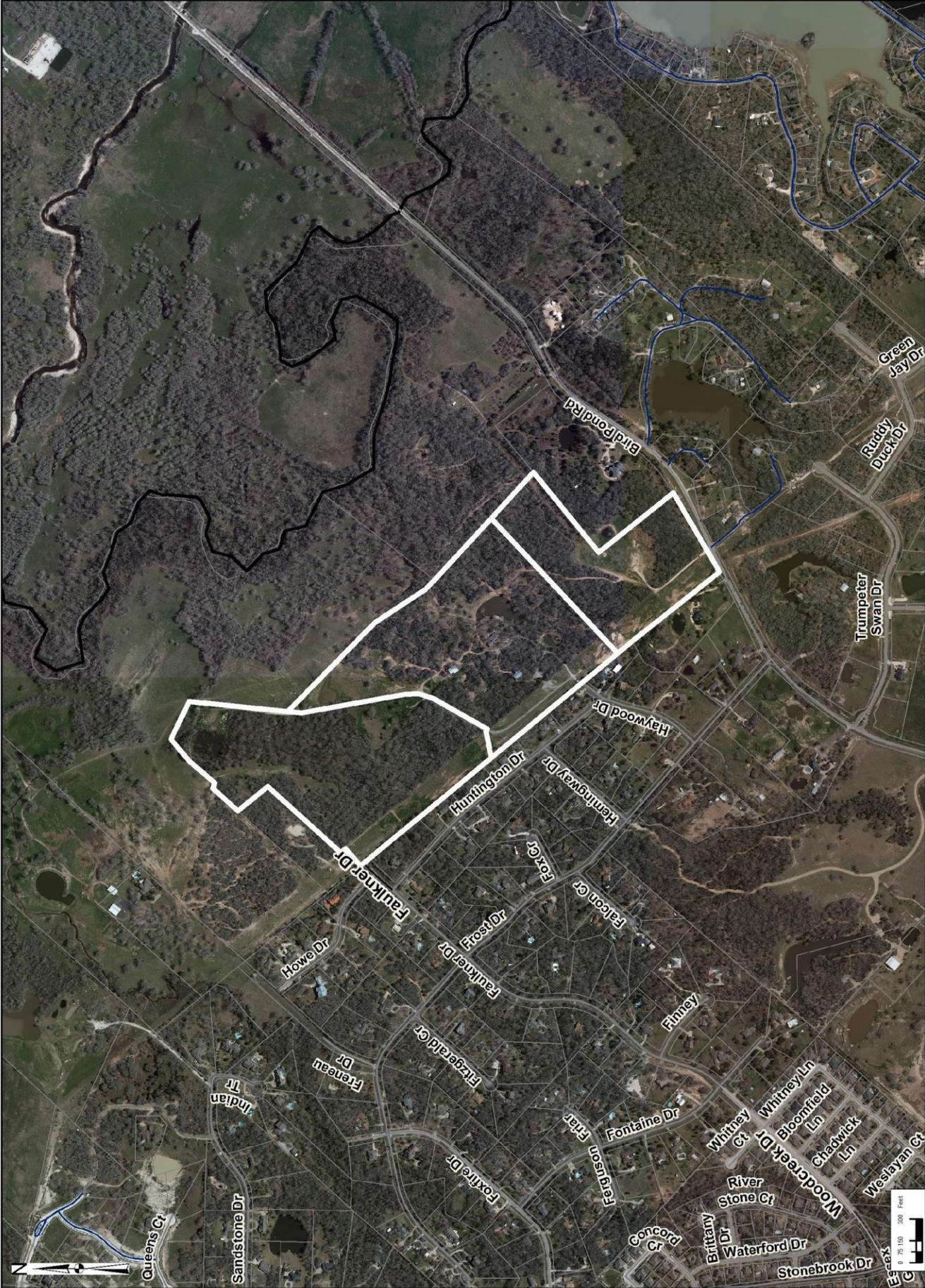
the two structures requires the accessory carriage house to meet the accessory living quarters size limitations. At its proposed finished state the carriage house will contain 3,188 square feet; this is equal to 50% of the principal structure. Section 12-6.5.B.5 of the UDO states that “In combination all accessory uses shall contain no more square footage that 25% of the habitable floor area of the principal structure (with exception of garage or carport areas devoted to the storage of vehicles, which shall not be included in the calculation and may exceed the 25% restriction).” The area of the proposed accessory dwelling unit is 25% (1,293.25 square feet) larger than what is allowed by ordinance (1894.75 square feet). **Therefore, the applicant is requesting a variance to the Unified Development Ordinance (UDO) Section 12-6.5.B.5 ‘Accessory Uses-Living Quarters’ to allow for a 25% increase from the current provision, for a total of 50% of the living area of the principal structure.**

Principal Structure		Accessory Structure	
Total Livable Area	6,353 square feet	Proposed Livable Area	3,188 square feet
25% of Principal Structure	1,588.25 square feet	Area Greater than 25% (3,188 s.f.- 1894.75 s.f.)	1599.75 square feet or 25%

APPLICABLE

ORDINANCE SECTION: UDO Section 12-6.5.B.5’ Accessory Uses-Living Quarters’

ORDINANCE INTENT: To allow for the construction of accessory structures that are subordinate to and serve the primary use or principal structure while protecting the character and integrity of the surrounding residential area.



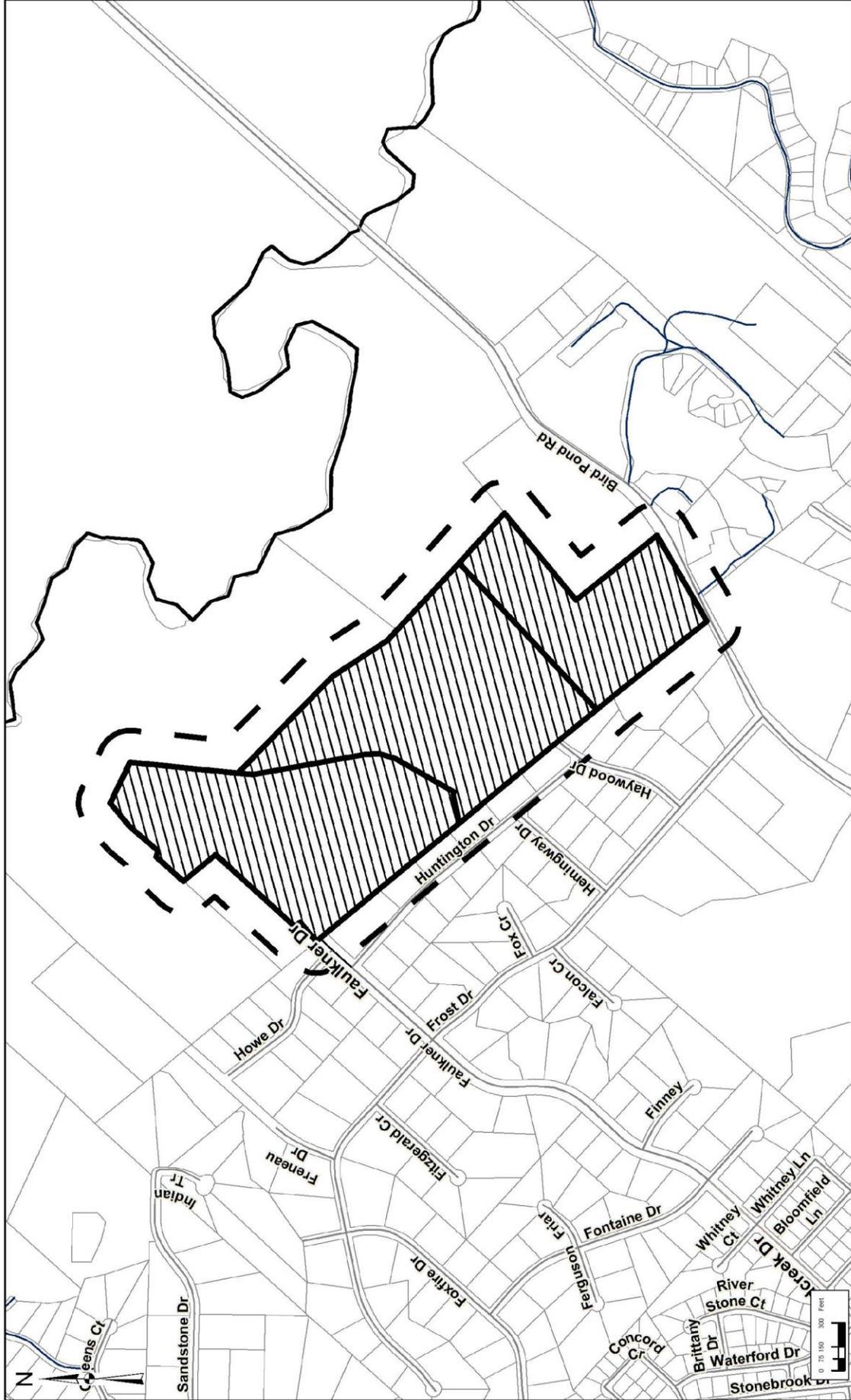
ZBA

Case: 14-261

1199 HAYWOOD DR

DEVELOPMENT REVIEW





Zoning Districts	R-4	Multi-Family	BPI	Business Park Industrial	PDD	Planned Development District
R	Rural	High Density Multi-Family	NAP	Business Park Industrial	WPC	Wolf Pen Creek Dev. Corridor
E	R-6	Manufactured Home Park	C-3	Natural Areas Protected	NG-1	Core Northgate
RS	MHP	Office	M-1	Light Commercial	NG-2	Transitional Northgate
GS	O	Suburban Commercial	M-2	Light Industrial	NG-3	Residential Northgate
R-1B	SC	General Commercial	C-U	Heavy Industrial	OV	Corridor Overlay
R-1B	GC	Commercial-Industrial	R & D	College and University	RDD	Redevelopment District
D	CI	Business Park	P-MJD	Research and Development	KO	Krenek Tap Overlay
T	BP			Planned Mixed-Use Development		

DEVELOPMENT REVIEW		1199 HAYWOOD DR	Case: 14-261	ZBA
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NOTIFICATIONS

Advertised Board Hearing Date: November 4, 2014

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed: 23
Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: None at the time of this report

ZONING AND LAND USES

Direction	Zoning	Land Use
Subject Property	R Rural	Single-Family Residence
North	R Rural	Single-Family Residence
South	R Rural	Single-Family Residence
East	R Rural	Single-Family Residence
West	E Estate	Single-Family Residence

PHYSICAL CHARACTERISTICS

- Frontage:** Faulkner Drive and Haywood Drive both stub to the edge of the subject property line.
- Access:** The subject property is accessed from Haywood Drive.
- Topography and vegetation:** The subject property is fairly dense in mature vegetation.
- Floodplain:** The subject property is not located within FEMA regulated floodplain.

REVIEW CRITERIA

According to Unified Development Ordinance Section 12-3.19.E 'Criteria For Approval of Variance', no variance shall be granted unless the Board makes affirmative findings in regard to all nine of the following criteria:

- Extraordinary conditions:** *That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the UDO will deprive the applicant of the reasonable use of his land.*

The applicant states that due to the water drainage pattern on the property, rural nature of the property, and the placement of mature trees on the property constitute special conditions justifying a variance. Additionally, installing a hallway between the residential structure and carriage house will result in disruption of the natural water drainage patterns on the property and damage to large mature oak trees, both of which the applicant considers to be a hardship. The applicant would also like to note that installing the hallway between the residence and carriage house is a possible, but a highly impractical, alternative.

It is staff's opinion that a special condition does not exist on the property that creates a hardship limiting the applicant in a way that restricts their ability to meet the 25% floor area requirement for the accessory living quarters.

2. **Enjoyment of a substantial property right:** *That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

The granting of the variance is not necessary for the preservation and enjoyment of a substantial property right of the applicant. If the proposed variance is denied, the applicant is not prohibited from utilizing the property for residential use or having an accessory living quarters.

3. **Substantial detriment:** *That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO.*

The granting of the variance will not be detrimental to the city public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO as the property owner is allowed to build an accessory structure on their lot regardless of Zoning Board of Adjustment's decision. Denying the applicants request does not prohibit them from constructing an accessory living quarter; it will only restrict the size of the livable area.

However, granting the variance would be detrimental to the City in administering this UDO as it would essentially allow two primary structures on the property. The intent of an accessory living quarter is to be subordinate to the primary living structure. Granting the proposed variance allows the accessory structure an area that is half the size of the primary structure.

4. **Subdivision:** *That the granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of this UDO.*

The approval of this variance will not limit the future subdivision of land on or surrounding this property.

5. **Flood hazard protection:** *That the granting of the variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements.*

The granting of this variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements due to no portion of this property being located within floodplain.

6. **Other property:** *That these conditions do not generally apply to other property in the vicinity.*

The special conditions provided by the applicant are not unique to this property. The standards of Section 12-6.5.B.5 apply to any property owner proposing to construct an accessory dwelling unit on their property.

7. **Hardships:** *That the hardship is not the result of the applicant's own actions.*

A hardship does not exist on the subject property. The applicant is proposing to construct the carriage house with a resulting square footage that totals to 50% of the total square footage of the primary residence. The request to relief from the 25% requirement is a result of the applicant's own actions and is not the result of a special condition of the property.

8. **Comprehensive Plan:** *That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purpose of this UDO.*

The granting of this variance would conflict with the Comprehensive Plan, and provisions of this UDO because it essentially allows two primary structures on a single-family lot.

9. **Utilization:** *That because of these conditions, the application of the UDO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

The application of the UDO standards to this particular property does not prohibit the applicant in the utilization of their property.

ALTERNATIVES

The applicant currently has the approval to alternatively construct a heated hallway connecting the two structures so both can be considered a primary residence.

STAFF RECOMMENDATION

Staff recommends denial of the request for a variance for an accessory living quarter that has a livable area 25% larger than what is allowed by the UDO. The applicant has not provided evidence that there is a physical condition that will deprive them of the reasonable use of their property. The applicant has an active building permit to construct an addition to their single-family dwelling on the property therefore; the outcome of this variance request will not prohibit or restrict the applicant from continuing to utilize their property.

SUPPORTING MATERIALS

1. Application



FOR OFFICE USE ONLY	
CASE NO.:	<u>14-261</u>
DATE SUBMITTED:	<u>10/20/14</u>
TIME:	<u>4:00</u>
STAFF:	<u>AJ</u>

(Resubmitted application)

ZONING BOARD OF ADJUSTMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- \$350 Zoning Board of Adjustment Application Fee.
- Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- Additional materials may be required of the applicant such as site plans, elevation drawings, sign details, and floor plans. The applicant shall be informed of any extra materials required.

Date of Optional Preapplication Conference _____

ADDRESS 1199 Haywood Drive

LEGAL DESCRIPTION (Lot, Block, Subdivision) A-901, Thomas Carruthers, Tract 25.5, 36.829 ac. and adjoining 52 ac.

APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name M.B. Flippen flip@flippengroup.com E-mail mike.gentry@westwebblaw.com

Street Address 1199 Haywood Drive

City College Station State Texas Zip Code 77845

Phone Number (979) 693-7660 Fax Number _____

PROPERTY OWNER'S INFORMATION (Please attach an additional sheet for multiple owners):

Name M.B. Flippen E-mail flip@flippengroup.com

Street Address 1199 Haywood Drive

City College Station State Texas Zip Code 77845

Phone Number (979) 693-7660 Fax Number _____

Current zoning of subject property A-O

Action requested (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Setback variance | <input type="checkbox"/> Appeal of Written Interpretation |
| <input type="checkbox"/> Parking variance | <input type="checkbox"/> Special Exception |
| <input type="checkbox"/> Sign variance | <input type="checkbox"/> Drainage Variance |
| <input type="checkbox"/> Lot dimension variance | <input checked="" type="checkbox"/> Other <u>Please see attached letter of explanation</u> |

Applicable ordinance section to vary from:

Section 12-6.5.B.5 (Accessory Uses - Living Quarters)

GENERAL VARIANCE REQUEST

1. The following specific variation from the ordinance is requested:

A 25% variation from the "accessory use" provision of Section 12-6.5.B.5 (Living Quarters), enabling Applicant to not construct a planned hallway between his residence and carriage house. Please see attached letter.

2. This variance is necessary due to the following special conditions:

Special Condition Definition: To justify a variance, the difficulty must be due to unique circumstances involving the particular property. The unique circumstances must be related to a physical characteristic of the property itself, not to the owner's personal situation. This is because regardless of ownership, the variance will run with the land.

Example: A creek bisecting a lot, a smaller buildable area than is seen on surrounding lots, specimen trees.

Note: A cul-de-sac is a standard street layout in College Station. The shape of standard cul-de-sac lots are generally not special conditions.

The water drainage pattern on the property, rural nature of the property, and the placement of mature trees on the property constitute special conditions justifying a variance. Please see attached letter.

3. The unnecessary hardship(s) involved by meeting the provisions of the ordinance *other than financial hardship* is/are:

Hardship Definition: The inability to make reasonable use of the property in accord with the literal requirements of the law. The hardship must be a direct result of the special condition.

Example: A hardship of a creek bisecting a lot could be the reduction of the buildable area on the lot, when compared to neighboring properties.

Installing a hallway between the residential structure and carriage house will result in disruption of the natural water drainage patterns on the property and damage to large mature oak trees, both of which Applicant considers to be a hardship. Please see attached letter.

4. The following alternatives to the requested variance are possible:

Installing a hallway between the residence and carriage house is a possible, but highly impractical, alternative. Please see attached letter.

5. This variance will not be contrary to the public interest by virtue of the following facts:

The applicable structures are located the middle of a 93 acre ranch. The granting of this variance will not effect neighboring landowners or the public interest. Please see attached letter.

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct, and complete. IF THIS APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, this application must be accompanied by a power of attorney statement from the owner. If there is more than one owner, all owners must sign the application or the power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.

Signature and title

Date

WEST, WEBB, ALLBRITTON & GENTRY

A PROFESSIONAL CORPORATION

— Established in 1982 —

ATTORNEYS:

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ROY D. BRANTLEY * +
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DONALD DELGADO
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TEXAS BOARD OF LEGAL SPECIALIZATION

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October 20, 2014

WEB SITE: <http://www.westwebblaw.com>

Writer's e-mail: mike.gentry@westwebblaw.com

+ Partner

*** BOARD CERTIFIED
ESTATE PLANNING AND PROBATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

Zoning Board of Adjustments
City of College Station
1101 Texas Ave.
College Station, TX 77840

Re: Requested Variance by M.B. Flippen ("Applicant") From UDO "Accessory Use" Provision for Property Located at 1199 Haywood Drive ("Property")

Dear Board Members:

This matter concerns a requested variance by the Applicant from the "accessory use" provision contained in Section 12-6.5.B.5 of the City's Uniform Development Ordinance ("UDO"). Applicant believes that special conditions exist which justify a variance in this instance.

The Property

Applicant purchased the 36.829 acre parcel on which the subject structures sit in 1990. Applicant also owns 34.448 and 23.76 acre parcels of land directly adjacent to the 36.829 acre parcel, resulting in a 93.057 acre "ranch" Property (**see Exhibit "1"**). The Property is located adjacent to the Foxfire Subdivision, near the northeastern edge of the City limits, and was annexed by the City in 1992.

Variance Requested

Applicant lives in a house located in the middle of the Property ("**Residence**") (**see Exhibit "1"**). In October 2013, plans were approved by the City for Applicant to build a combined garage (on the first floor) and guest quarters (on the second floor) ("**Carriage House**") next to the Residence, and to expand and remodel the Residence. Applicant plans to live on the second floor of the Carriage House while the Residence is being remodeled. The

original plans called for the Carriage House to be connected to the Residence by a heated, attached hallway ("**Hallway**") (see **Exhibit "2"**).

Applicant now seeks to finish construction of the Carriage House and remodel the Residence without the attached Hallway, which will cause the Carriage House to be considered an "accessory use" under Section 12-6.5.B.5 of the UDO. Section 12-6.5.B.5 provides that any "accessory use" shall "*contain no more square footage than 25 percent of the habitable floor area of the principal structure, (with the exception of garage or carport areas devoted to the storage of vehicles, which shall not be included in the calculation and may exceed the 25 percent restriction).*"

In Applicant's case, the Residence as remodeled will contain ^{6,353}~~7,579~~ square feet (see **Exhibit "3"**), and the Carriage House when completed, not including garage space, will contain 3,188 square feet (see **Exhibit "4"**). Thus, the Carriage House will contain 50% of the square footage of the Residence, rather than the allowed 25%. Applicant is requesting a variance of 25% (50% minus 25%) from the UDO provision.

Special Conditions

Applicant believes several special conditions justify a variance in this instance.

1. Water Drainage Patterns. One special condition is the water drainage pattern in the area. The Residence and Carriage House are located in the middle of a downward sloping portion of the Property. Subsequent to the Plans being approved by the City, the area has experienced several periods of excessive rainfall. It has become clear that the drainage pattern for a significant portion of the surrounding area causes water to drain in a channel directly between the Residence and Carriage House, in the location of the intended Hallway (see **Exhibit "5"** and **video from September 18, 2014**). In fact, rainfall in the past month has caused more than a foot of soil to erode from the drainage channel area, exposing several utility pipes (see **Exhibit "6"**). Applicant believes that the construction of the Hallway and diversion of the water from this channel to another location will not only present a significant and costly engineering challenge, but will adversely affect the water drainage pattern of the surrounding area.

2. Rural, Secluded Property. Another special condition is the rural and secluded nature of the Property. As explained above, the Residence is situated in the middle of a 93 acre ranch. The granting of this variance will in no way effect neighboring landowners, nor is it likely to set a precedent for future similar structures.

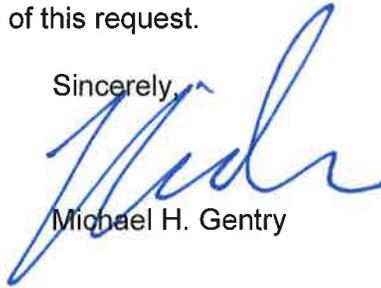
3. Tree Damage. Finally, several large, mature live oak trees surround the existing Residence and Carriage House, which applicant has worked diligently to preserve and nurture (see **Exhibit "5"**). The addition of the Hallway will likely cause substantial damage to both the branches and root systems of these trees, and necessitate the removal of at least one tree.

Conclusion

Applicant believes that special conditions exist which merit an adjustment in this matter by the Zoning Board of Adjustments. Applicant requests that the Board grant a 25% "accessory use" variance from Section 12-6.5.B.5 of the UDO.

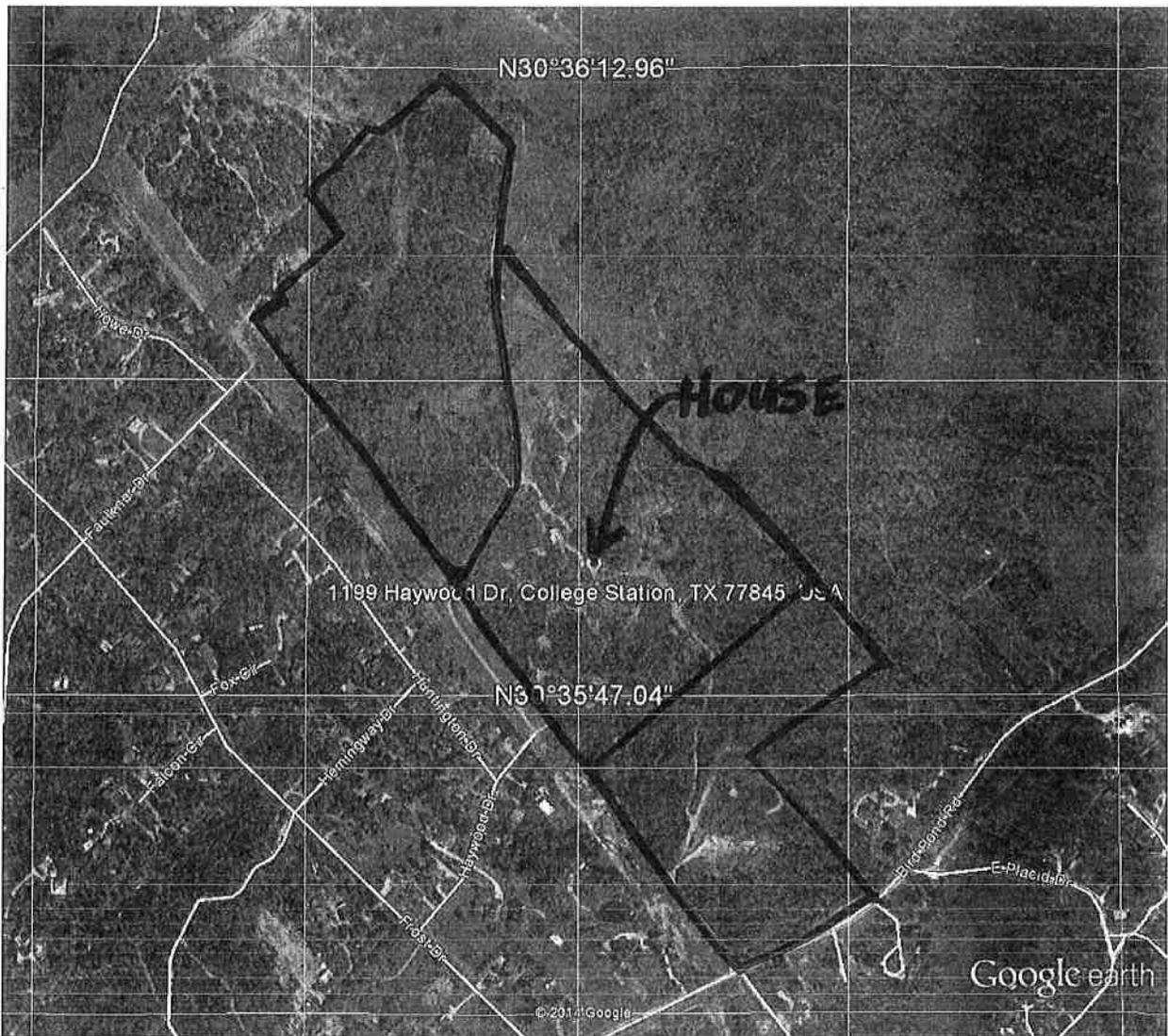
Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael H. Gentry", written over the typed name.

Michael H. Gentry

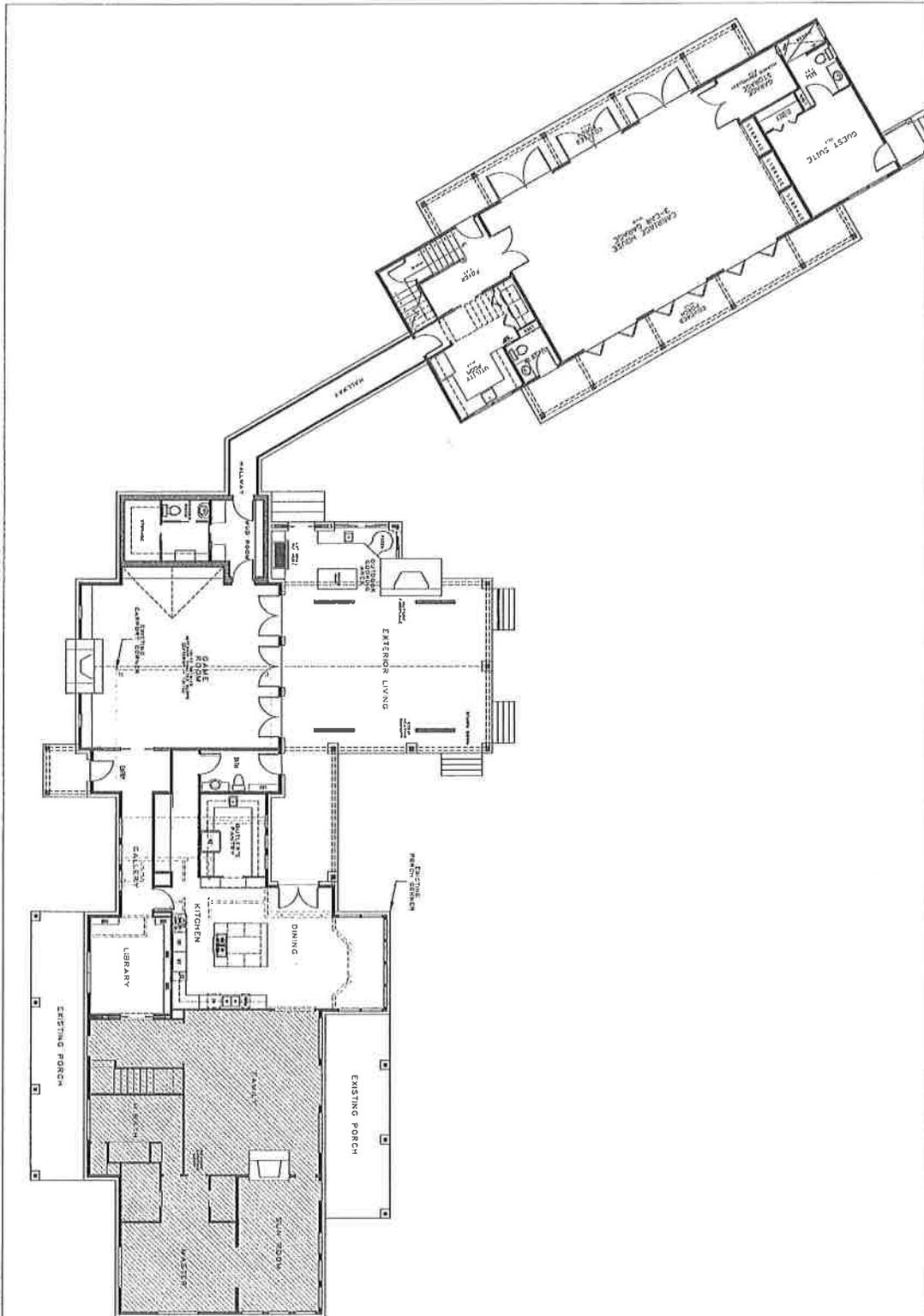
Exhibit "1"
(the "Property")



Google earth



Exhibit "2"



A1

Floor Plan
3/4" = 1'-0"

Flippen Residence
1199 Haywood Drive College Station TX

CGM Home Builders
3204 Longmire College Station TX 77845 (979)764-6701

JTH

10-24-13

Exhibit "3"

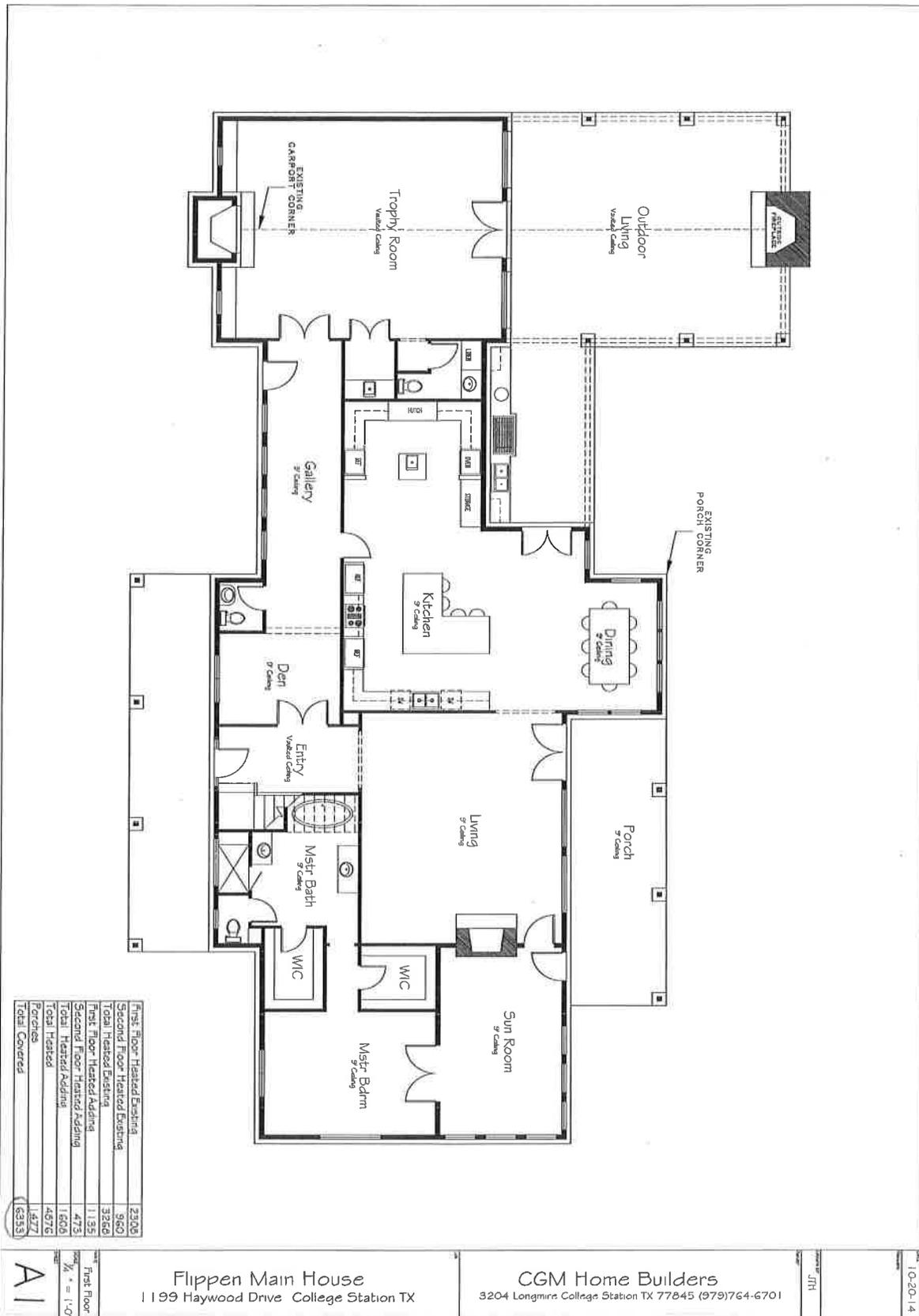


Exhibit "4"

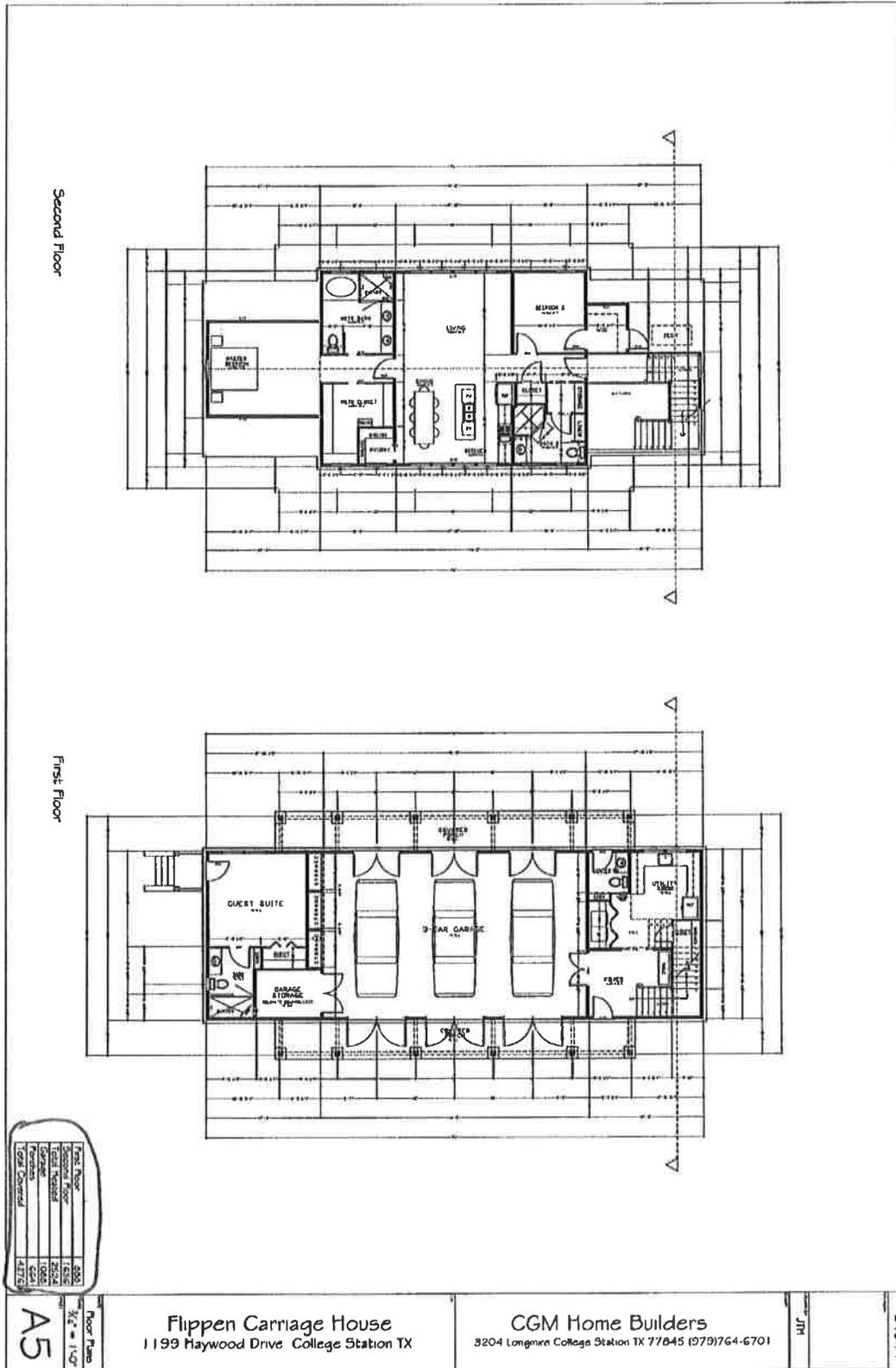


Exhibit "5"



Exhibit "6"

