BOARD OF ADJUSTMENT
REPORT

Meeting Date: 9/7/2016
Item No.: 2

ACTION

70th & Earll Townhomes Variances
10-BA-2016

Request to consider the following:

1. Approve a variance request to the City of Scottsdale Zoning Ordinance, Section 5.704.B.2 pertaining to the restriction in building height to one (1) story adjacent to a single-family residential district, for a property located at 3106 N. 70th Street with Medium Density Residential (R-3) zoning.
2. Approve a variance request to the City of Scottsdale Zoning Ordinance Section 5.704.D.1 pertaining to relief from the building setback abutting a R-1 district, for a property located at 3106 N. 70th Street with Medium Density Residential (R-3) zoning.

OWNER

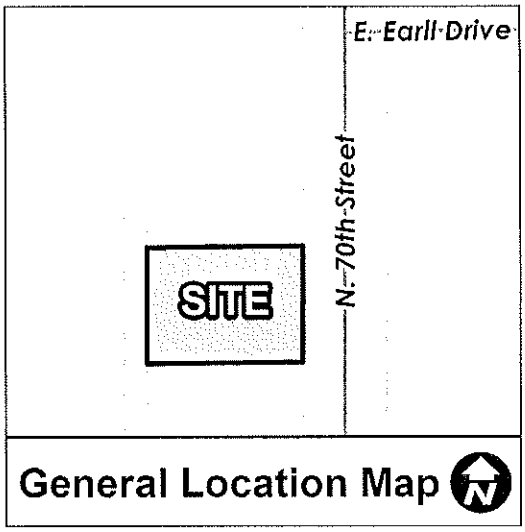
Bonnie Griffing
480-612-7275

APPLICANT CONTACT

Steven Bruckal
Bruckal Developments
480-309-4163

LOCATION

3106 N. 70th Street



BACKGROUND

History

The subject property is lot 38 of the Western Villa subdivision which was platted within Maricopa County in 1955. Maricopa County Assessors' records indicate the existing building on the property was constructed in 1957. The property and the surrounding area were annexed into the City of Scottsdale in 1965. The current zoning was applied at the time of annexation.

Zoning/Development Context

The subject site is zoned Medium Density Residential (R-3) and is located at the southwest corner of E. Earll Drive and N. 70th Street. The site is surrounded by a mix of residential uses including single-family residential, duplex, triplex and greater density multi-family. Please refer to context graphics attached.

Adjacent Uses and Zoning

- North — Exception parcel of Western Villa subdivision, zoned Single-family Residential district (R1-7) and Medium Density Residential (R-3). Property currently has an active rezoning request for a Zoning District Map Amendment from Single-family Residential (R1-7) zoning to Medium Density Residential (R-3) zoning; existing single-family residence and multi-family residences.
- South — Western Villa subdivision, zoned Medium Density Residential (R-3); existing multi-family residences.
- East — Security Acres & Security Acres Amended subdivision (east side of N. 70th Street), zoned Single-family Residential district (R1-7); existing vacant lot
- West — Western Villa subdivision, zoned Single-family Residential district (R1-7); existing multi-family residences.

Zoning Ordinance Requirements

Pursuant to Section 5.704.B.2 of the City of Scottsdale Zoning Ordinance pertaining to the restriction in building height to one (1) story adjacent to a single-family residential district: If the R-3 development abuts a single-family residential district or an alley abutting a single-family district, the building height may be limited to one (1) story as determined by Development Review Board approval.

The applicant is requesting the deletion of this requirement in order to redevelop the site with multi-level townhomes.

Pursuant to Section 5.704.D.1 of the City of Scottsdale Zoning Ordinance pertaining to relief from the building setback abutting a R-1 district: Wherever an R-3 development abuts an R-1, R-4, R-4R or M-H district or an alley abutting any of those districts, a yard of not less than fifteen (15) feet shall be maintained, except that accessory buildings for purposes of storage or carports may be constructed within fifteen (15) feet of the adjacent district boundary line.

The applicant is requesting a variance of ten (10) feet, which would reduce the required building setback for this parcel from fifteen (15) feet to five (5) feet along the west property line that abuts a R-1 district.

Code Enforcement Activity

There has been no recent code enforcement activity at the subject site.

Community Input

Notification was sent to properties within 750 feet of the subject site. Staff has not received any neighborhood input, as of the writing this report.

Discussion

The applicant is proposing to redevelop the property in conjunction with the abutting property to the north into a ten (10) unit, townhouse type product on the properties. The zoning requirements currently may restrict the buildings on the property to one (1) story, as determined by Development Review Board, and would affect the proposed multi-level design of the new development. The fifteen (15) foot zoning required setback from a R-1 district would impact the applicant's desired number of units or unit size. The existing building on the site appears to be adhering to the R-3 zoning standards currently.

VARIANCE CRITERIA ANALYSIS

1. **That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district:**

   The applicant states the property is considerably smaller at 9,234 square feet (.21 acres) than most other properties in Scottsdale that have developed with this zoning district. The dimensions of the property are also restrictive being 83 feet wide and only 110 feet deep. Typically parcels developed within this district have a depth of at least 150 feet and often 300 feet. This leaves little room on the property to achieve residential building construction as well as circulation for vehicular access.

   The R1-7 district area across the alley to the west is actually a four-plex multi-family unit. It was built in 1962 under Maricopa County jurisdiction apparently under a single-family zoning district since the city practice and ordinance at the time was to directly apply the city zoning district most like the county zoning district that already existed. This may have been during a "zoning hiatus" in the County prior to the area being annexed by the City of Scottsdale in 1965. This is a unique circumstance to the area bounded by Osborn, 68th Street, Thomas, and 70th Street. There are virtually no other areas in the city with this zoning condition. The property to the south of the one across the alley has the same zoning (R1-7) and physical condition of multi-family use as well as another 25 properties in the vicinity. The four units on the abutting property represent a gross density of 15.9 units per acre, which typically would require a R-5 zoning application, if the correct zoning had been applied at the time of annexation it would actually be possible to build at the property line.

   Staff Analysis: The R-3 zoning district does not have a minimum parcel size or minimum lot dimensions and the subject site is similar in size and shape to other R-3 properties in the area. While the multi-family use on the abutting R-1 district would appear to be legally nonconforming and subject to Section 1.1300 of the City of Scottsdale Zoning Ordinance pertaining to nonconforming uses and structures, a R-3 district abutting a R-1 zoning district is not unique, and the R-1 zoning of the abutting property remains.

2. **That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located:**

   The applicant states the R-3 district was created to allow for a lower density, transitional type of multi-family housing product that can serve as a transition from more intense uses to single-family neighborhoods. This site serves that purpose well, with more intense uses to the east and single-family uses two properties away to the west. The proposed variances of the R-3 standards would allow for the development of the property in a manner commensurate with this intent.

   Three properties south of this site as well as two lots to the west on Pinchot Avenue also have R-3 zoning and have as many as 3-4 dwelling units per parcel. A similar number of units would be achieved for this parcel in combination with the property to the north which is being requested to be rezoned to R-3 as well. The variance would allow for a use of the property similar to the other nearby properties in a much more updated and better quality manner.

   Staff Analysis: The R-3 zoning allows for the lower density, transitional type of multi-family housing product that can serve as a transition from more intense uses to the single family neighborhoods that the applicant is proposing. Similar R-3 zoned properties in the neighborhood that are abutting a R-1 district appear to be adhering to the one (1) story height restriction, but not all of them meet the 15 foot building setback from abutting R-1 districts and would appear to be legal non-conforming and subject to Section 1.1300 of the City of Scottsdale Zoning Ordinance pertaining to nonconforming uses and structures.

3. **That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:**

   The applicant states the existing building on the site was constructed in 1957, the lot is a part of Western Villa subdivision that was recorded in 1955 and the building to the west was built in 1962. The current city zoning was applied to the properties in 1965. The unique circumstances of this and the adjacent properties have been applicable to the area for over 50 years, well before this applicant sought to purchase the property.

   There is no indication as to why and how the unusual zoning and land use patterns was established but it was likely not done by initiative of the property owners.

   Staff Analysis: The zoning on the property and the neighboring properties are not self-imposed, but the desire to build within the building setback and higher than one (1) story is self-imposed by the proposed design.

4. **That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:**

   The applicant states there are currently seven structures along the alley within the block the subject property is located within that have setbacks ranging from 0 to 10 feet, many in the 4 to 7 foot range. The proposed buildings would not create an unusual physical condition in this location. The only property built within the block since the mid-1960's is a two-story multi-family project (ca 1980). When considering several other nearby infill projects to the north along 70th Street, the proposed two-story height is lower than what has been common in the most recent projects nearby. Except for two single-family lots at the south end of the block (facing Pinchot) and the adjacent lot to the north (built in 1945), all other land use on the block is multi-family. The proposed project would achieve a significant upgrade to the character of buildings on the block and would be in line with several recent and nearby infill developments.

   Staff Analysis: The ability to limit the building height to one story in the R-3 zoning district can be determined by the Development Review Board, as part of the design review of the proposed project (Sec. 5.704.B.2.). An R-3 project abutting an R-1 zone, proposed with multiple stories to the Development Review Board, may be reviewed on the sensitive design along the R-1 abutting edge. To eliminate this standard would preempt the Development Review Board and their review of edge-adjacent building height for this project. If the single story restriction were to remain on the property, a building within the R-3 district could still be built to the maximum thirty (30) foot height, subject to the Development Review Board review.

   Regarding the fifteen (15) foot building setback variance, if the ten foot variance is granted, to allow a five foot setback it will allow the district's thirty (30) foot height limit to be as close as five feet from the property line and may be detrimental to the neighboring R-1 property. Staff has not received any correspondence regarding the proposed variances.

SUMMARY

Based on the facts presented by the applicant, the evidence would support a finding that the property may not have special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The size, shape, or configuration of the property is not unique and applicable. However, the zoning and land use of the surrounding properties is unique to the area and potentially applicable. The applicant's proposed variances could be detrimental to persons residing or working in the surrounding neighborhood. However, the decision about whether the criteria have been met is for the Board to make after hearing all the evidence at the hearing.

APPROVED BY

Ben Moriarity, Report Author — Date: 8/17/16

Brad Carr, AICP, Board of Adjustment Liaison
480-312-7713, bcarr@scottsdaleaz.gov — Date: 8.22.2016

Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov — Date: 8/23/2016

Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov — Date: 8/23/16

ATTACHMENTS

1. Applicant's Justification
2. Context Aerial
3. Aerial Close-Up
4. Zoning Map
5. Site Photographs
6. Proposed Site Plan

1120-PA-2015

Type of variance requested, section(s) of the Zoning Ordinance to be varied:

R-3 District (Medium Density Residential) – Section 5.704 – Property development standards

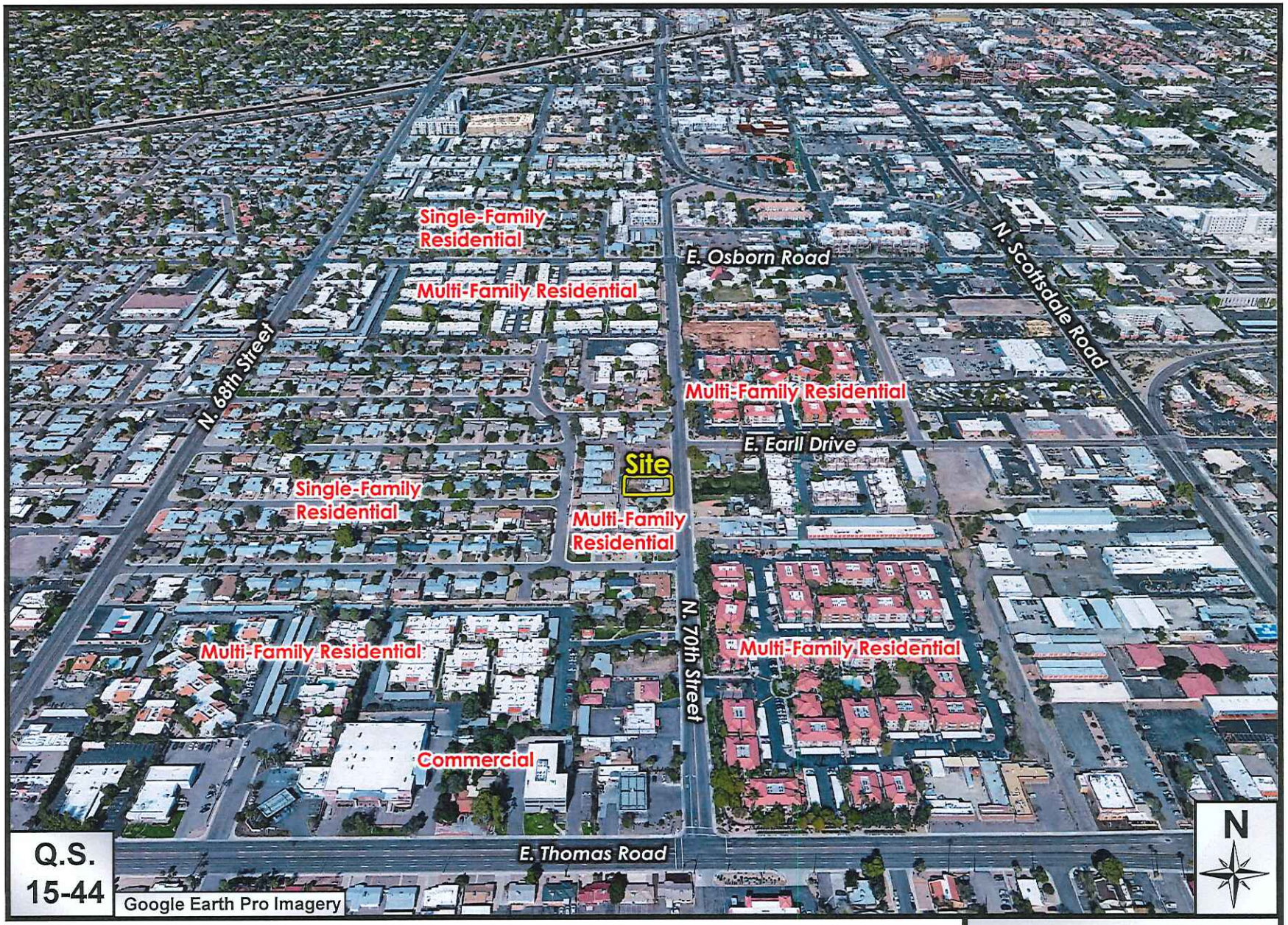
- *B. Building Height. – 2. If the R-3 development abuts a single-family district or an alley abutting a single-family district, the building height may be limited to one (1) story as determined by Development Review Board approval:* Delete this section.
- *D. Building setback. – 1. Wherever an R-3 development abuts an R-1, R-4, R-4R or M-H district or an alley abutting any of those districts, a yard of not less than fifteen (15) feet shall be maintained, except that accessory buildings for purpose of storage or carports may be constructed to within fifteen (15) of the adjacent district boundary line.:* Vary from fifteen (15) to five (5) feet for the setback abutting an R-1 district.

1. **That because of special circumstances applicable to the property including its size, shape, topography, or surroundings, the strict application of the zoning ordinance will deprive such property enjoyed by other property of the same classification in the same zoning district:**
    a. The R-3 parcel at 3106 N 70th Street is considerably smaller at 9,234 square feet (.21 acres) than most other properties in Scottsdale that have been developed with this zoning district. The dimensions of the property are also restrictive being 83 feet wide and only 110 feet deep. Typically parcels developed within this district have a depth of at least 150 feet and often over 300 feet. This leaves little room on the property to achieve residential building construction as well as circulation for vehicular access.
    b. The R1-7 district area across the alley to the west is actually a four-plex multi-family unit. It was built in 1962 under Maricopa County jurisdiction apparently under a single-family zoning district since the city practice and ordinance at the time was to directly apply the city zoning district most like the county zoning district that already existed. This may have been done during a "zoning hiatus" in the County prior to the area being annexed by the City of Scottsdale in 1965. This is a unique circumstance to the area bounded by Osborn, 68th Street, Thomas and 70th Street. There are virtually no other areas in the city with this zoning condition. The property to the south of the one across the alley has the same zoning and physical condition as well as another 25 properties in the vicinity. The four units on the abutting property represent a gross density of 15.9 units per acre, which typically would require an R-5 zoning application. If the correct zoning had been applied at the time of annexation it would actually be possible to build at the property line.
2. **That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located:**

a. The R-3 district was created to allow for a lower density, transitional type of multi-family housing product that can serve as a transition from more intense uses to single family neighborhoods. This site serves that purpose well, with more intense uses to the east and single family uses two properties away to the west. The proposed variations of the R-3 standards would allow for the development of the property in a manner commensurate with this intent.
b. The three properties south of this site as well as two lots to the west on Pinchot Avenue also have R-3 zoning and have as many as 3-4 dwelling units. A similar number of units would be achieved for this parcel in combination with the property to the north which is being requested to be rezoned to R-3 as well. The variance would allow for a use of the property similar to other nearby properties in a much more updated and better quality manner.

3. **That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:**
   a. The existing building on the site was constructed in 1957, the subdivision the lot is a part of ("Western Villa") was recorded in 1956 and the building to the west was built in 1962. The current city zoning was applied to the properties in 1965. The unique circumstances of this and adjacent properties have been applicable to the area for over 50 years, well before this applicant sought to purchase the property.
   b. There is no indication as to why and how the unusual zoning and land use patterns was established but it was likely not done by initiative of the property owners.
4. **That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:**
   a. There are currently seven structures along the alley within the block the subject property is located within that have setbacks ranging from 0 to 10 feet, many in the 4 to 7 feet range. The proposed buildings would not create an unusual physical condition in this location.
   b. The only property built within the block since the mid-1960s is a two-story multi-family project (ca 1980). When considering several other nearby infill projects to the north along 70th Street, the two-story height is lower than what has been common in the most recent projects nearby.
   c. Except for two single family lots at the south end of the block (facing Pinchot) and the adjacent lot to the north (built in 1945), all the other land use on the block is multi-family. The proposed project would achieve a significant upgrade to the character of buildings on the block and would be in line with several recent and nearby infill developments.
   d. There would not be a detrimental impact on adjacent properties and the general neighborhood likely would not be aware of the results of the varied development standards.

ATTACHMENT #2



70th & Earll Townhomes Variances

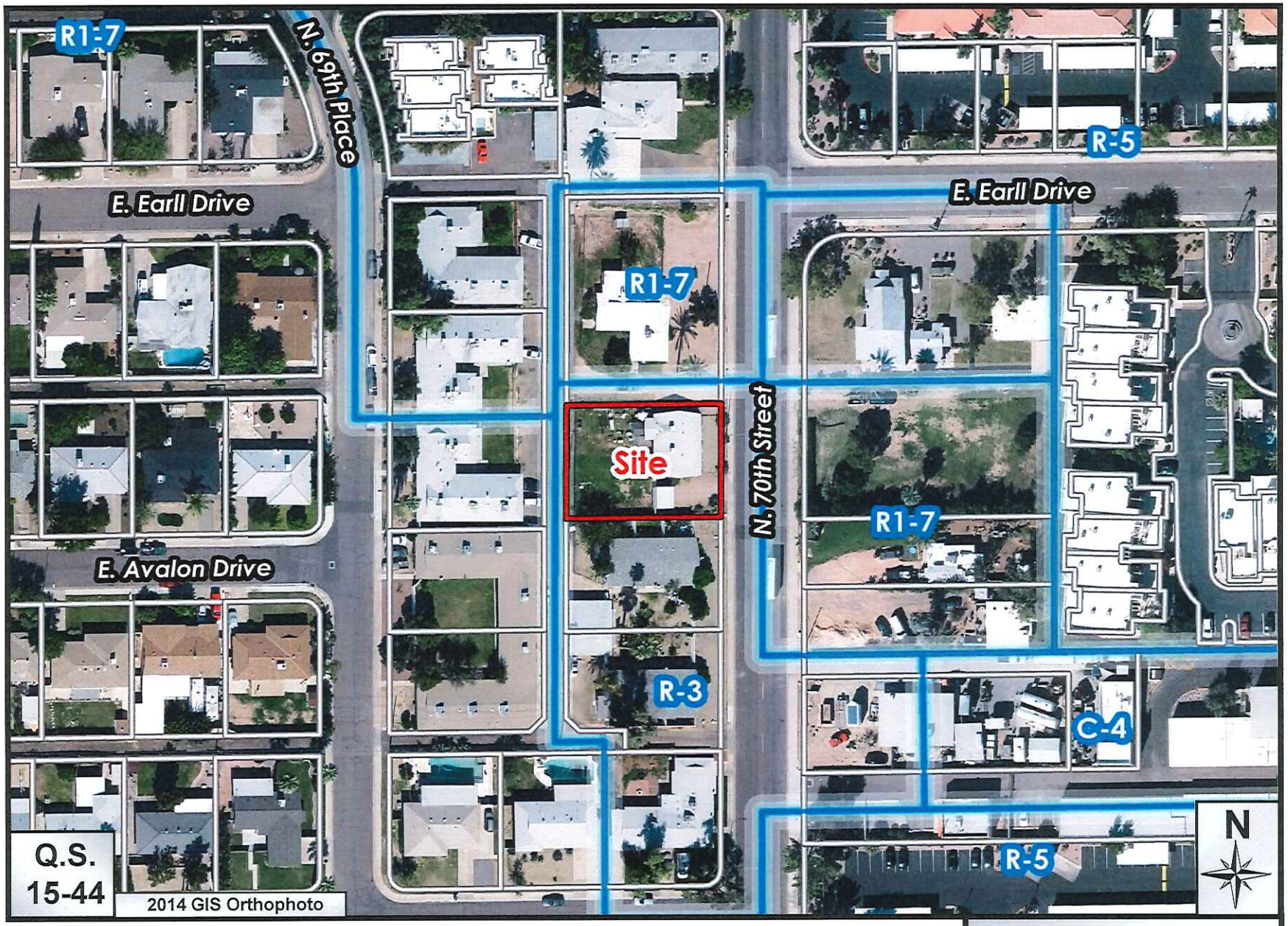
10-BA-2016

ATTACHMENT #3

70th & Earll Townhomes Variances

10-BA-2016

ATTACHMENT #4

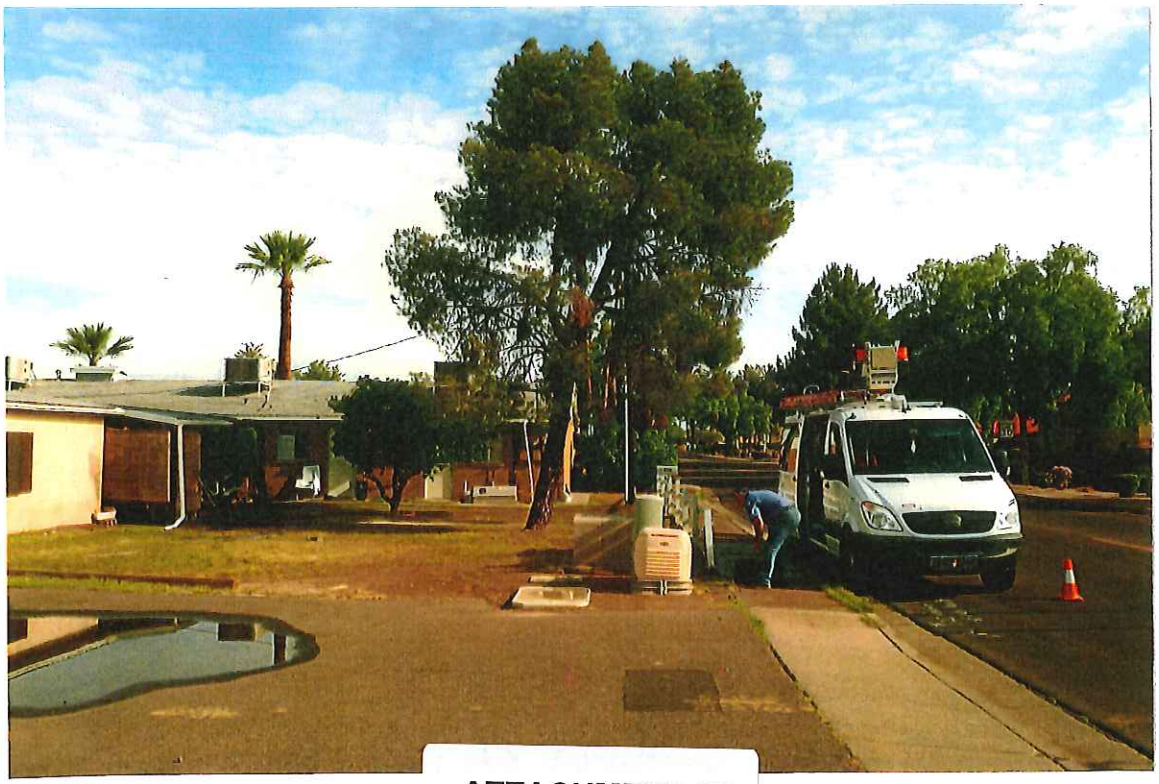


70th & Earll Townhomes Variances

10-BA-2016

Northeast corner looking east (down Earll Drive)

Northeast corner looking north



ATTACHMENT #5

Northeast corner looking west

Northeast corner looking south

East side looking east

East side looking west

Southeast corner looking east

Southeast corner looking south

Site Photographs – 70th St & Earll

Southeast corner looking west

Southeast corner looking north

Southwest corner looking west

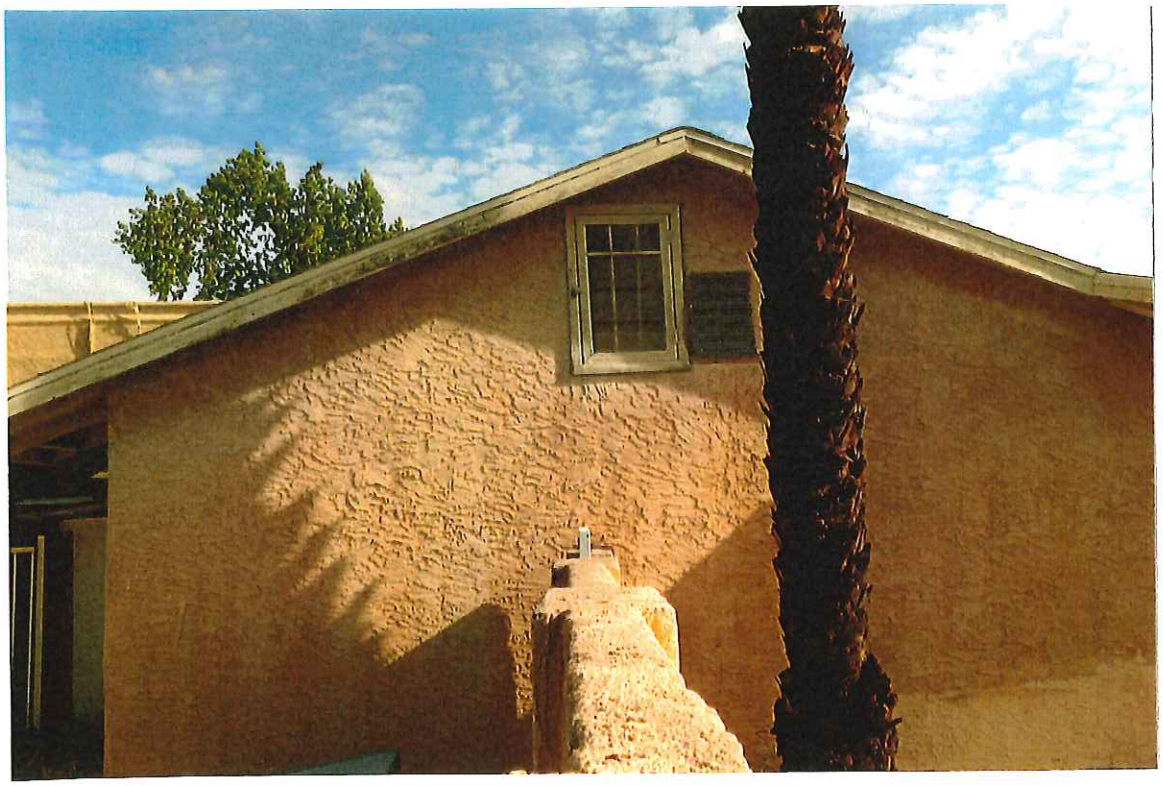
Southwest corner looking south

Southwest corner looking east

Southwest corner looking north

Northwest corner looking west

Northwest corner looking north



Northwest corner looking east

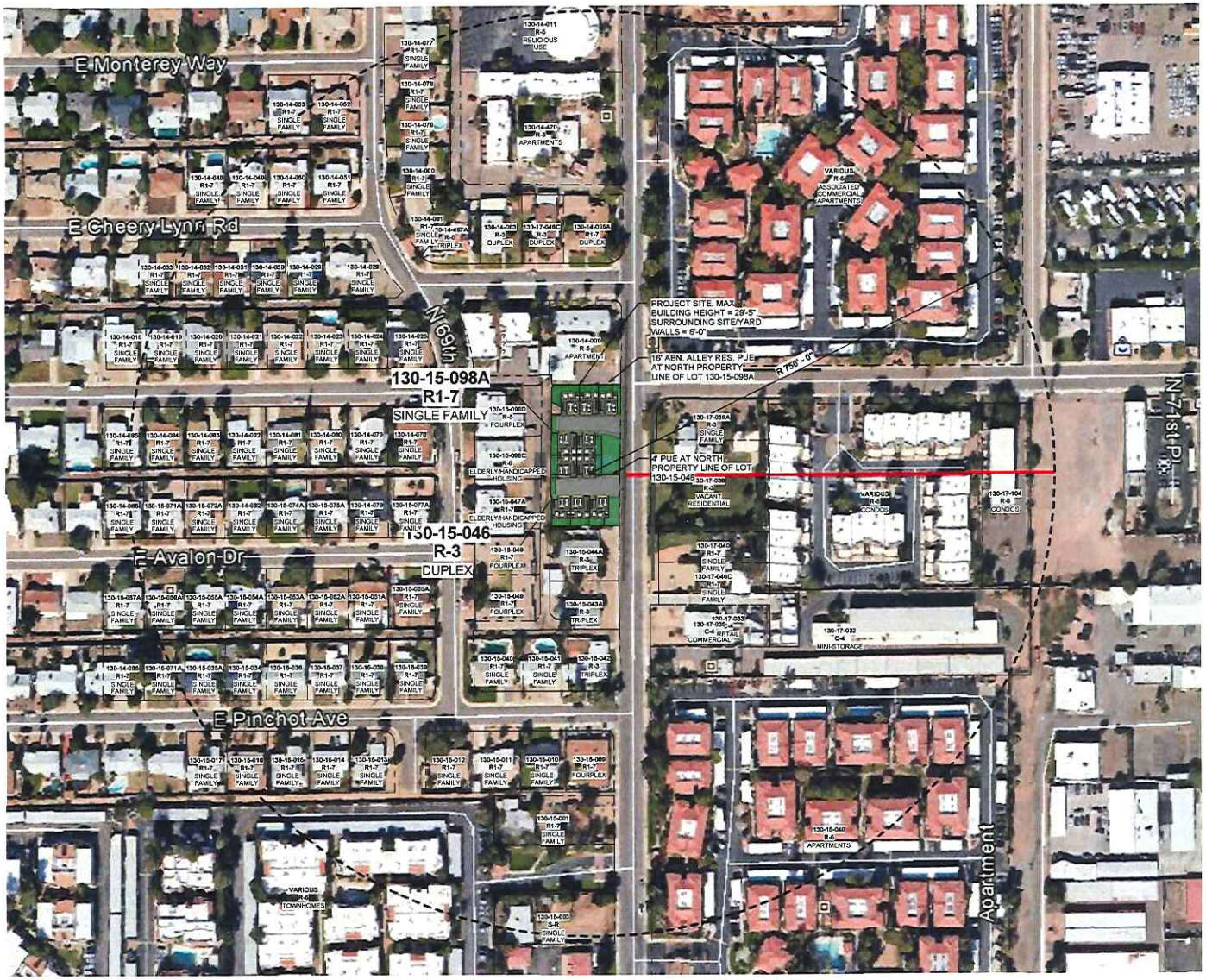
Northwest corner looking south

Center of west side looking east

Center of west side looking west

Northwest corner looking northwest

Northeast corner looking northeast



1 00_SITE PLAN CONTEXT AERIAL
1" = 80'-0"

ATTACHMENT #6

10-BA-2016
7/27/16

ARCHITECTURE

FOR ILLUSTRATIVE PURPOSES, NOT FOR APPROVAL OR CONSTRUCTION

54983
MICHAEL J. HAUER
Expires 9/30/2016

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STEVEBRUCKAL@GMAIL.COM

ARCHITECT:
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MHAUER2012@GMAIL.COM

No.	Description	Date

SCOTTSDALE TOWNHOMES

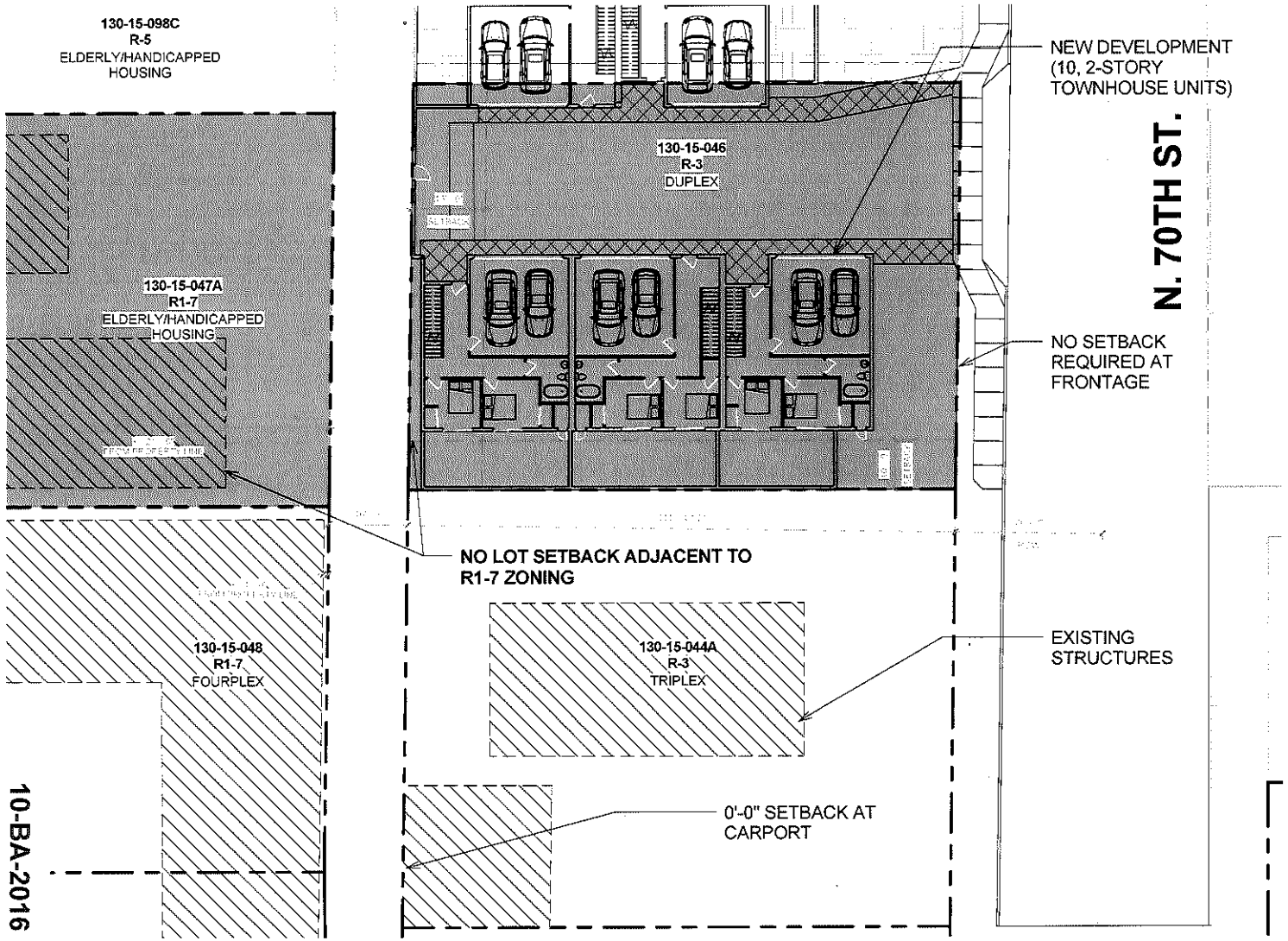
CONTEXT AERIAL

Project number	1502.00
Date	06/21/2016
Drawn by	MJH
Checked by	MJH

RZ001

Scale 1" = 80'-0"

6/22/2016 6:09:07 PM



10-BA-2016
7/27/16

① VARIANCE SITE PLAN
3/64" = 1'-0"

ZONING ORDINANCE:

PER SECTION 5.704.D.1

"Wherever an R-3 development abuts an R-1, R-4, R-4R or M-H district or an alley abutting any of those districts, a yard of not less than fifteen (15) feet shall be maintained, except that accessory buildings for purpose of storage or carports may be constructed to within fifteen (15) feet of the adjacent district boundary line."

VARIANCE REQUEST:

ALLOW LOT BUILDING TO BE CONSTRUCTED ON PROPERTY LINE. VARIANCE TO 15' SETBACK REQUIREMENT BASED ON ADJACENCY TO LOT ZONED R1-7.

DATE: 07/26/2016