



City of Gainesville
Department of Doing
Planning Division

PO Box 490, Station 11
Gainesville, FL 32627-0490
306 NE 6th Avenue
P: (352) 334-5022
F: (352) 334-2648

DEVELOPMENT REVIEW BOARD STAFF REPORT

PUBLIC HEARING DATE: October 29, 2019

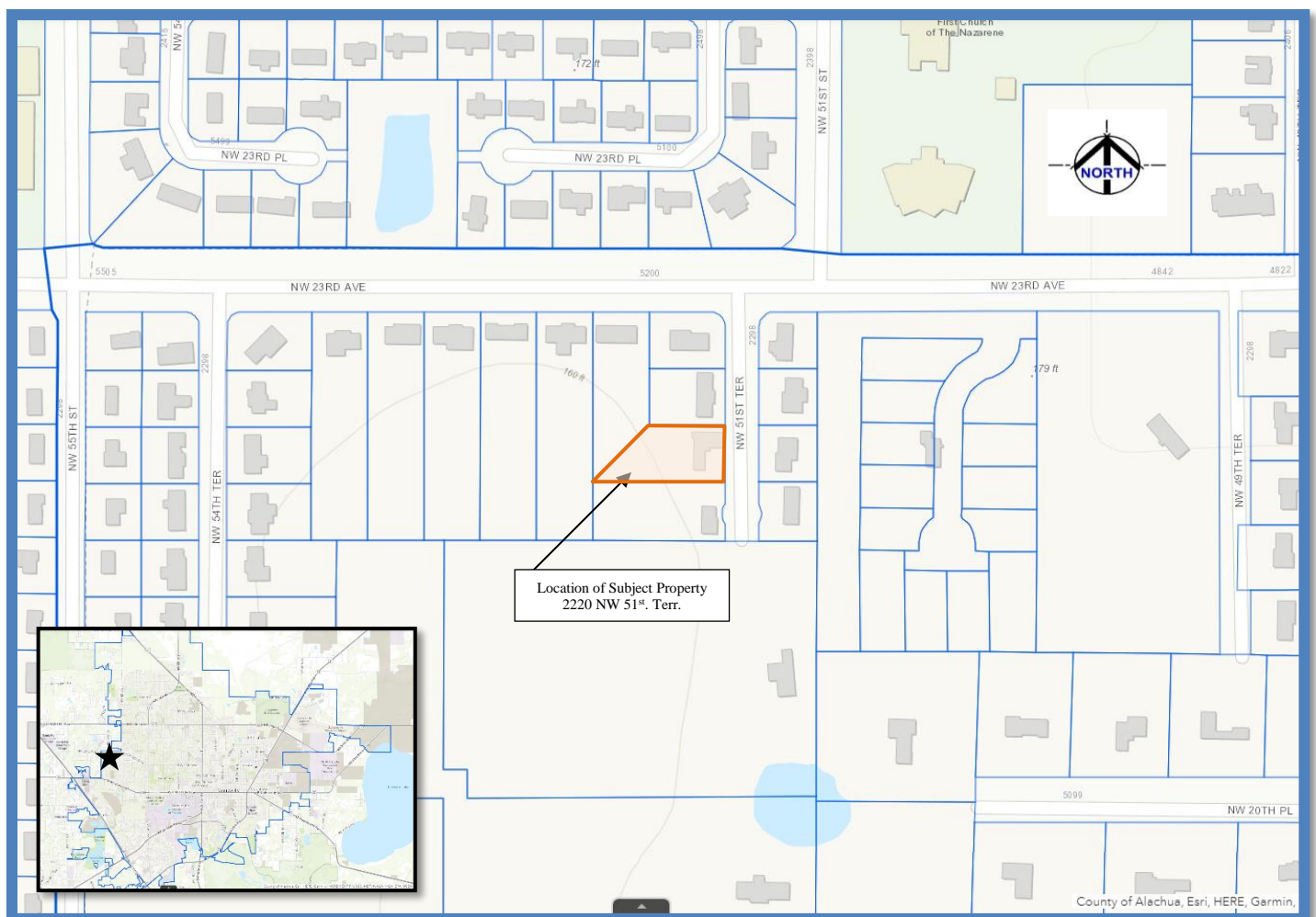
ITEM NO: 1.

PROJECT NAME AND NUMBER: Patrick Dodds, agent for Ms. Barbara Wheeler, Petition DB-19-04 VAR

APPLICATION TYPE: Variance with no Development Plan

CITY PROJECT CONTACT: Lawrence Calderon, Planner III

Map 1. General Location Map of Lot 6, Pine Estate Addition #1.



Map 1: General Location Map of Lot 6, Pine Estate Addition #1.

APPLICATION INFORMATION:

Agent/Applicant: Patrick Dodds

Property Owner(s): Ms. Barbara H. Wheeler

Related Petition(s): N/A

Legislative History: None

Neighborhood Workshop: Not Required

SITE INFORMATION:

Address: 2220 NW 51st Terrace

Parcel Number(s): 06356-002-000

Acreage: Approximately 10,454 square feet

Existing Use(s): Single-family residence

Land Use Designation(s): SF: Single Family

Zoning Designation(s): RSF-1 Single-family Residential

Overlay District(s): None

Transportation Mobility Program Area (TMPA): Area B

Water Management District: Saint John's River Water Management District

Special Feature(s): Property is adjacent to a regulated wetland with about 30% of the property is within a wetland area.

Annexed: 1979

Code Violations: No record of Code Violations

ADJACENT PROPERTY CHARACTERISTICS:

	EXISTING USE(S)	LAND USE DESIGNATION(S)	ZONING DESIGNATION(S)
North	Single family dwelling	Single-Family	RSF-1: Single-Family Residential
South	Single family dwelling	Single-Family	RSF-1: Single-Family Residential
East	Single family dwelling	Single-Family	RSF-1: Single-Family Residential
West	Single family dwelling	Single-Family	RSF-1: Single-Family Residential

BACKGROUND AND EXPLANATION:

Background:

The subject property is located in a small subdivision called Pine Estates Addition #1, in the 5100 Block, on the south side of NW 23rd Avenue. The subdivision contains 30 lots ranging in size from 10,100 to 40,550 square feet. The overall subdivision is served by one main east/west roadway, NW 23rd Avenue and two north/south cul-de-sac roadways, NW 51st Terrace and NW 54th Terrace. All lots within the subdivision exceed the minimum dimensions of 90 feet deep by 85 feet wide, established by the RSF-1 zoning district. The subject property is 18,546 square feet with dimensions of 135 feet deep by 100 feet wide. Dimensional standards for the RSF-1 are listed below in Table 1. The property has a Single Family land use designation and a zoning of RSF-1: Single-family Residential (3.5 dwelling units per acre). Except for the front setback encroachment, the property complies with the dimensional standards of the RSF-1 zoning district.

Explanation:

According to records from the Alachua County Property Appraiser’s office, the single-family dwelling was constructed in 1978. Stephen and Barbara Wheeler purchased the subject property on January 11, 1985 with the garage encroachment into the front setback. Recently the owners attempted to sell the property and discovered that the mortgage and title companies require resolution of the front encroachment. This petition is the owner’s attempt to resolve the setback encroachment by applying for a variance to reduce the front yard setback from 20 feet to 9 feet. The encroachment may also be resolved through a Single-lot Replat, which is a more complex process.

TABLE 1.

DIMENSIONAL REQUIREMENTS FOR RSF-1 ZONING DISTRICT

Principal Structures		
STANDARDS	RSF-1	SUBJECT PROPERTY: LOT 6
Maximum density	3.5 du/acre	3.5 du/acre
Minimum Lot area	8,500 sq. ft.	18,529 sq. ft.
Minimum lot width at front setback	85 ft.	100 ft.
Minimum lot depth	90 ft.	135 to 235 ft.
Minimum yard setbacks:		
Front	20 ft.	10 ft.
Side (interior)	7.5 ft.	22.5 ft. South Side 10.2 ft. North Side
Side (street)	10 ft.	N/A.
Rear ^{1,2}	20 ft.	89 to 151 ft.
Maximum Building Height	35 ft.	12 ft.

STAFF ANALYSIS:

Staff reviewed this petition in the context of **Sec. 30-4.17** and **Sec. 30-3.55** of the Land Development Code. Those sections of the code set development standards, define a variance and authorize the Board to grant variances from certain provisions of the code. It also places restrictions on granting variances and outlines the general requirement for granting a variance. The Land Development Code is clear in outlining findings needed for granting a variance.

Staff identifies the following key issues as directly related to the requested variance:

1. The applicant purchased the property with the single-family dwelling existing in its current configuration with the front setback encroachment.
2. The property has an unusual shape.
3. Approximately 30 percent of the rear portion of the property is occupied by wetlands.
4. There is a required average 35 to 50 foot building setback from the boundaries of wetland areas; the building is forced towards the front to accommodate the wetland setback.

In considering a request for a variance, the code requires that the board establish findings that the request demonstrates the following:

1. *That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.*

The conditions unique to the property are the shape of the lot, existence of a wetland area, and the history of construction. The lot has an unusual shape in that its rear portion ends in a triangular shape resulting in a shorter depth along the north side of the property. This limits the ability of the building placement, forcing it closer to the front setback and the adjacent street. The rear portion of the lot, 5,342 square feet, and (28.8%) is occupied by a wetland area and associated wetland buffers, within which no structures can be built. This forces the building closer to the street and towards the front setback line. The property was constructed by the previous owner while under the jurisdiction of Alachua County with an R-1a zoning district which required a 10-foot front setback (see Table 2. below). When the property was annexed into the City of Gainesville, it received an RSF-1 zoning which requires a 20-foot front setback (see Table 1 above).

TABLE 2.

Alachua County Table 403.07.2

Setback Requirements for Residential Lots

Setbacks ¹	Front or Street	Garage Front ³	Rear	Side	Accessory Buildings
Lots less than 1 acre in size, Minimum Principal Building (ft.)	10'	20'	10'	5' ²	Same as principal building except rear is 7.5 ft.
Lots 1 acre or greater in size, Minimum Principal Building (ft.)	15'	20'	15'	10' ²	Same as principal building except rear is 10 ft.

1. *Minimum side setbacks do not apply to detached zero lot line units provided the building spacing requirements of the Florida Building Code, Table 600, are met and also do not apply to single-family attached units.*
2. *Minimum side setbacks do not apply to single-family attached units.*
3. *The garage front setback applies only to the garage portion of the structure when the garage opening faces the front of the street.*

Those elements listed above are unique to the property and are not typical of other lands, structures and buildings in the same zoning district.

2. *That the special conditions and circumstances do not result from the action of the applicant.*

The conditions and circumstances listed above do not result directly from the actions of the applicant.

3. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures or buildings in the same district.*

The Board's review of the variance must be based on the criteria and findings of fact necessary to grant a variance. A decision based on the required criteria will not be viewed as conferring special privileges on the applicant that are denied to other land, structures, or buildings in the same district. In reaching a decision on the requested variance, the board must consider the material facts and competent substantial evidence presented at the meeting. The applicant has provided documentation illustrating reasons for the requested variance and the circumstances resulting in the need for such a variance. A variance based on the listed criteria establishes a sound basis for deviating from the zoning standards and is not considered a special privilege.

4. *That literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or Building code.*

According to records from the Alachua County Property Appraiser's office, the owners purchased the property on January 11, 1985 being aware of its size, design and amenities which included the garage footprint. The improvements existing on the property were permitted by Alachua County and there is no evidence of Code violations from the City of Gainesville. The property was annexed into the City of Gainesville and allocated a different set of development standard per the RSF-1 zoning district. The City of Gainesville accepts the property improvements as existing nonconforming and is not mandating enforcement of the 20-foot front setback.

Besides the variance, the applicant has other options to resolving the current encroachment; a Single-lot Replat, a full Subdivision Replat, a rezoning, acceptance of the encroachments as nonconforming by the mortgage and Title companies; and lastly, removal of the structure. Those options are lengthy, require complex review processes, authorization from other property owners within the subdivision, costly and ultimately, approval by the City and County governments.

Denial of this variance will not deprive the applicant of rights commonly enjoyed by most property owners but would make it more difficult and complex to achieving resolution of the front setback encroachment.

5. *The variance requested is the minimum variance required to make possible the reasonable use of the land, building or structure.*

The encroachment is approximately 10.25 feet into the front setback; the applicant is requesting the minimum possible to allow the existing building placement to become conforming.

6. *The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code, and such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.*

The intent of the variance procedure is to provide relief to property owners who have demonstrated hardships in pursuing development in strict compliance with the Land Development regulations, but in harmony with the characteristics of the neighborhood and without being injurious to the neighborhood. In this case, there are demonstrated hardships resulting in the need for the variance. The property has existed in its current location for more than thirty (30) years; the City has received no comments from surrounding neighbors and there are no outstanding violations on the property. Granting the variance will not be injurious to the abutting properties.

The petitioner must demonstrate compliance with the findings necessary to issue a variance and show restricting hardships.

POST-APPROVAL REQUIREMENTS:

If approved the variance will become immediately effective unless there is an appeal of the board's decision.

LIST OF ATTACHMENTS:

Attachment A: Application and Supporting Documents.

Attachment B: Some Relevant Land Development Code References



**City of Gainesville
Department of Doing
Planning Division**

PO Box 490, Station 11
Gainesville, FL 32627-0490
306 NE 6th Avenue
P: (352) 334-5022
F: (352) 334-2648

ATTACHMENT "A" – APPLICATION AND SUPPORTING DOCUMENTS

Petition DB-19-04 VAR

October 29, 2019

Attachment A: Application and Supporting Documents.

Attachment B: Some Relevant Land Development Code References



APR 11 2019

PETITION TO THE BOARD OF ADJUSTMENT
Planning & Development Services Department

(BA-19-00003) OFFICE USE ONLY	
Petition No. <u>DB-19-00004</u>	Fee: \$ <u>317.00</u>
Hearing Date: _____	EZ Fee: \$ <u>N/A</u>
Account No. 001-660-6680-3401 <input checked="" type="checkbox"/>	
Account No. 001-660-6680-1124 (Enterprise Zone) []	
Account No. 001-660-6680-1125 (Enterprise Zone Credit) []	

CHECK ONE:

Variance Appeal of Administrative Decision Special Exception Special Permit

Please note that a pre-application conference is required before submitting this application

Owner(s) of Record (please print)	Agent Authorized to Act on Owner Behalf
Name: Barbara H. Wheeler	Name: Patrick Dodds
Address: 26365 E. Fork Rd.	Address: 214 W. University Ave.
Laurelville, OH 43135	Suite B
	Gainesville, FL 32601
E-mail Address: mistygal2017@hotmail.com	E-mail Address: info@gnvttitle.com
Phone: 740-887-3877	Phone: 352-231-3847
Fax: _____	Fax: 352-240-1693

PROPERTY INFORMATION:

Street address: 2220 NW 51st Terrace, Gainesville, FL 32606

Tax parcel no(s): 06356-002-006

Legal description (may be attached): see attached

Existing Zoning: RSF-1 Lot size: _____

Present use: Single Family Proposed use: Single Family

Historic District or Landmark? Yes No

Present structures (type) and improvements upon the land: SFR

SURROUNDING PROPERTY INFORMATION: (List all uses surrounding the subject property under "Existing use." Staff is available to supply zoning and land use information.)

	Zoning	Land Use	Existing Use
North	RSF-1	SFR	SFR
South	RSF-1	SFR	SFR
East	RSF-1	SFR	SFR
West	RSF-1	SFR	SFR

Certified Cashier's Receipt:

Signed, sealed and delivered
in the presence of:

Sarah M. Wheeler
Name: Sarah M. Wheeler

Barbara H. Wheeler
Barbara H. Wheeler

Name: _____

STATE OF Ohio)

) SS:

COUNTY OF Loss)

THE FOREGOING INSTRUMENT was acknowledged before me this 9 day of April, 2019, by Barbara H. Wheeler, who personally appeared before me at the time of notarization, and who is personally known to me or who has produced OH DL VA 480928 as identification.



TINA M. BAILEY
Notary Public, State of Ohio
My Commission Expires
December 29, 2023

Tina Bailey
Name: _____
NOTARY PUBLIC, STATE OF
My Commission expires: 12-29-2023

VARIANCE

The process for requesting a variance is documented in the Land Development Code Chapter 30-354(d)(3).

Indicate the specific code a variance is requested from and summarize the context:

Code source:	<input checked="" type="checkbox"/> Land Development Code	<input type="checkbox"/> Fire Code	<input type="checkbox"/> Building Code
Section:			

The following questions must be answered to demonstrate the foundation for the variance request as specifically required by the Land Development Regulations. As the applicant, you bear the burden of proving the variance criteria.

(1) What special conditions and circumstances peculiar or unique to this land, structure or building exist that necessitate the variance?

The eastern portion of the building exceeds the required 25 foot setback by approximately 15 feet. This portion of the structure is permanently affixed to the structure.

(2) Are these special conditions or circumstances applicable to other lands, structures, or buildings in the same district? YES NO

(3) Does a literal enforcement of the provisions of the zoning or building code limit the use of the property or building in a manner unlike that of other properties in the same district? If so, please describe the limitation or hardship.

Currently, the building's setback issue does not allow for title insurance to be underwritten on the property, thus barring the owner from ever transferring full, marketable title. This renders the property virtually unsellable.

(4) Were these special conditions or circumstances described in (1), above, the result of your actions?

The property was built in 1978. I believe this was prior to the city's annexation of the subdivision. At the time of construction, a 10 foot setback for side-entry garages like this were allowable. Following the city's annexation, the RSF-1 requirements were applied and the property became non-conforming.

(5) Explain how the requested variance will not confer a special privilege on you that is not enjoyed by other properties in the same district.

The subject property is an existing structure that is consistent with the neighborhood .

(6) Has an application for a variance been filed within the last 2 years in connection with these premises? Please note that the board will not entertain an application for a variance within two years of the board issuing a denial of the same variance request. Yes No

Please continue on additional pages as needed

(Variance, continued)

In addition to the above criteria, the Board of Adjustment will be required to make the following findings to authorize the variance request: *(please acknowledge by initialing each item)*

- AW (a) That the applicant has met the requirements set forth in section 30-354(d)(3) of the Land Development Code
- AW (b) That the reasons set forth in the application justify granting the variance
- AW (c) That the variance is the minimum variance that will make possible the reasonable use of the land, structure, or building
- AW (d) That granting the variance will be in harmony with the general intent and purpose of the land development code or building chapters
- AW (e) That granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare

Check below that you have included these items with your application:

- Scaled drawing, site plan, or survey depicting property boundaries, easements, existing and proposed structures shown with their distance to the property line and existing building setback lines. The requested variance should be clearly illustrated with respect to each of these features.
- Reduced images or digital submission for oversized paper documents (greater than 11x17)
- Legal description, if not entered on front page
- Any other supporting materials you wish to provide

Variances are only authorized for height of structures, size of yard setbacks, driveway widths, street line corner clearances, and property line edge clearances as provided in section 30-336(15); and landscape and tree management and flood control provisions as provided in section 30-310.

A variance may not be granted for the following reasons:

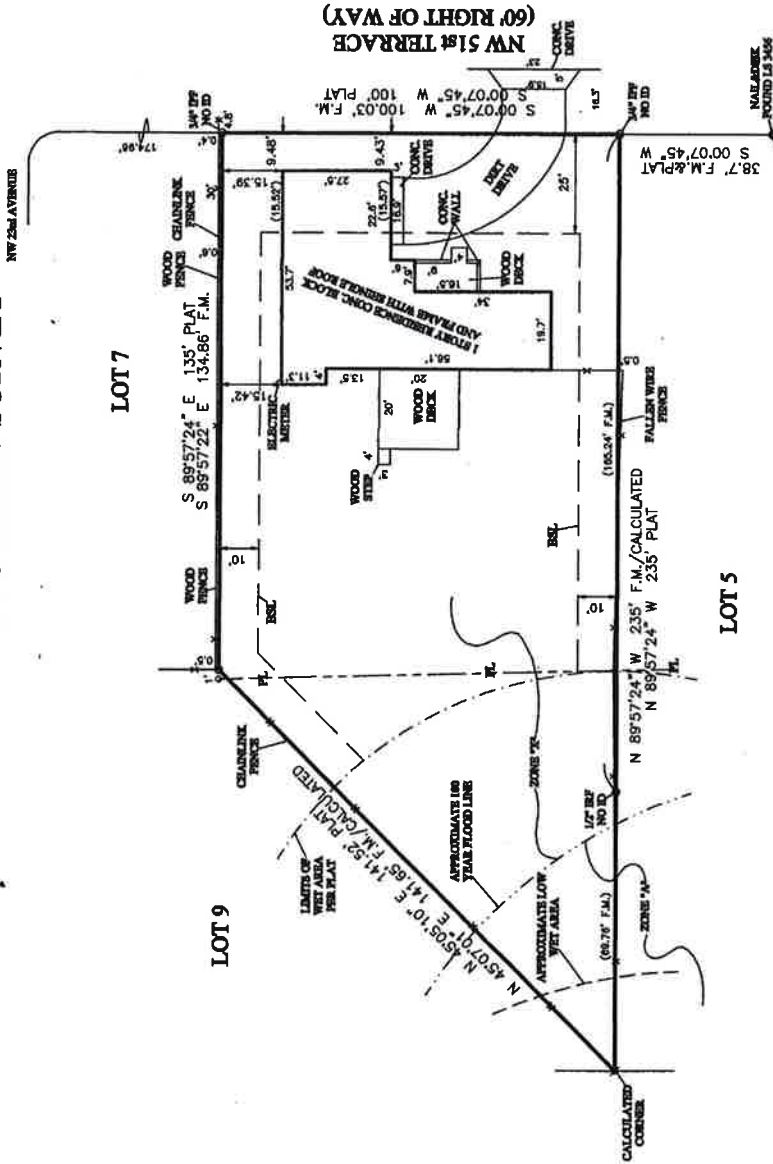
- For establishment or expansion of a use otherwise prohibited
- Because of the presence of nonconformities in the zoning district or adjoining districts
- Because of financial loss or business competition
- Because the property was purchased with the intent to develop or improve the property, and the intended development or improvement would violate the restrictions of the land development code or building chapter, whether or not it was known at the time of purchase that such development would be a violation

Exhibit A

Lot 6, Pine Estates Addition No. 1, according to the map or plat thereof as recorded in Plat Book G, Page 33, Public Records of Alachua County, Florida.

Parcel Identification Number: 06356-002-006

BOUNDARY SURVEY



THIS SURVEY IS NOT TO BE USED AS A BASIS FOR ANY OTHER SURVEY, LENDING OR INSTITUTION OR ENTITY.

Philip A. Pistorino, P.A.
 7400 N.W. 47th Court, Gainesville Florida 32606 - (352) 372-0946

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
 THIS SURVEY IS BASED ON RECORD PLAT BART LANE LOT 1 AND RECORD PLAT BART LANE LOT 2.
 UNDERGROUND IMPROVEMENTS IF ANY NOT LOCATED DESCRIPTION FURNISHED BY CLIENT.
 SUBJECT PROPERTY WITHIN FLOOD PLUME AREA "A" AND "B" IS NO. 4118 FLORIDA

THIS SURVEY IS NOT TO BE USED AS A BASIS FOR ANY OTHER PERSONAL, LENDING OR INSTITUTION OR ENTITY.
 SCALE: 1"=30'
 FILED DATE: 9/10/2019
 DRAWN BY: CHARLES PISTORINO

LEGEND

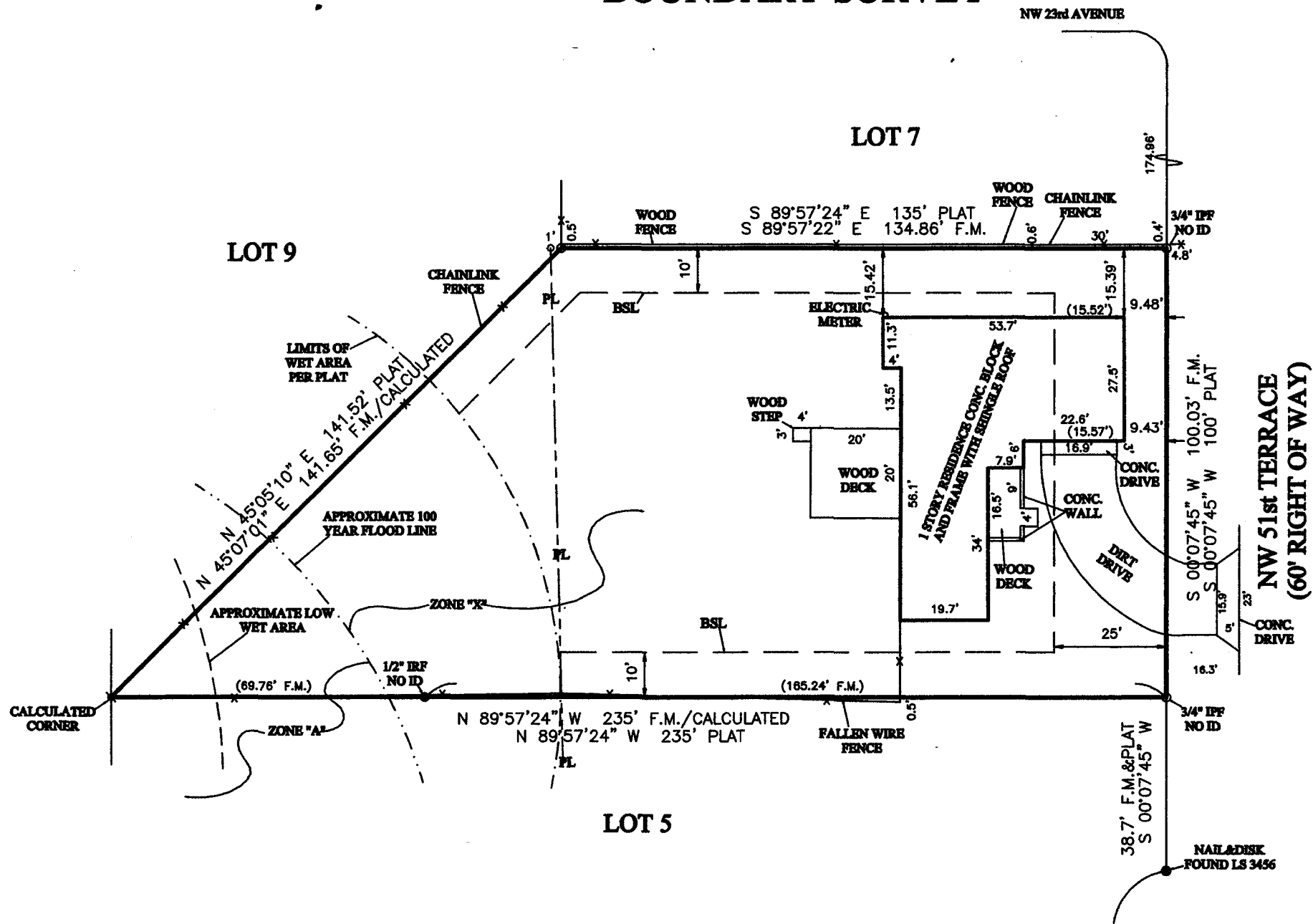
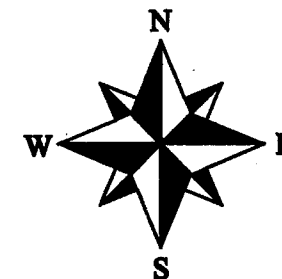
- O.R. OFFICIAL RECORDS
- CORR. CONCRETE
- CONV. COVERED
- P.M. FIELD MEASURED
- IRON IRON REBAR FOUND
- IRON IRON PIPE FOUND
- IRON IRON WELDED JOINT FOUND
- CONC. CONCRETE FOUND
- W.M. WATER METER
- C.B. CABLE BOX
- E.R. ELECTRIC RIG
- ID. IDENTIFICATION
- B.B. BUILDING SETBACK LINE
- PUB. PUBLIC UTILITIES EASEMENT
- C.P. CENTERLINE
- P.V. POWERLINE

*QUADRANT BUILDING SETS TO ELEVATION PER PLAT - 10.00 FEET MEAN SEA LEVEL.
 *PLAT BOUNDARY TO CITY OF GAINESVILLE O.R. BOOK 1794, PAGE 122
 19 PLAT BOUNDARY, 1/2 FIRST BIRTH NUMBER OF UTILITY

THIS SURVEY IS CERTIFIED TO:
 LAUREN S. DRORACH
 SILVERTON MORTGAGE
 GAINESVILLE TITLE, F.L.L.C., A LAW FIRM
 OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
 PROPERTY ADDRESS: 2220 NW 51st TERRACE
 Gainesville, Florida

LEGAL DESCRIPTION:
 LOT 6, EISEL STATES ADDITION NO. 1,
 AS PER PLAT THEREOF
 RECORDED IN PLAT BOOK G PAGE 24 OF PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA

BOUNDARY SURVEY



*MINIMUM BUILDING SITE ELEVATION PER PLAT = 163.00 FEET MEAN SEA LEVEL

*EASEMENT TO CITY OF GAINESVILLE
O.R. BOOK 1798, PAGE 122
15' EASEMENT, 7.5 FEET EITHER SIDE OF UTILITY

THIS SURVEY IS NOT TRANSFERABLE FOR USAGE TO ANY OTHER PERSON, LENDING INSTITUTION OR ENTITY

THIS SURVEY IS CERTIFIED TO:
LAUREN S. DROBACH
SILVERTON MORTGAGE
GAINESVILLE TITLE, PLLC, A LAW FIRM
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

PROPERTY ADDRESS: 2220 NW 51st TERRACE
Gainesville, Florida

LEGAL DESCRIPTION:
LOT 6, PINE ESTATES ADDITION NO. 1,
AS PER PLAT THEREOF
RECORDED IN PLAT BOOK G PAGE 33 OF PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA

LEGEND

O.R.	OFFICIAL RECORDS
CONC.	CONCRETE
COV.	COVERED
F.M.	FIELD MEASURED
IRF	IRON REBAR FOUND
IPF	IRON PIPE FOUND
IRS	IRON REBAR SET
CMF	CONCRETE MONUMENT FOUND
W.M.	WATER METER
C.B.	CABLE BOX
E.B.	ELECTRIC BOX
ID	IDENTIFICATION
BSL	BUILDING SETBACK LINE
PUE	PUBLIC UTILITIES EASEMENT
CL	CENTERLINE
PL	POWERLINE

Philip A. Pistorino, P.A.

7400 N.W. 47th Court, Gainesville Florida 32606 - (352) 372-0946

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY PANEL #
BEARINGS BASED ON RECORD PLAT EAST LINE LOT 6
UNDERGROUND IMPROVEMENTS IF ANY NOT LOCATED
DESCRIPTION FURNISHED BY CLIENT
SUBJECT PROPERTY WITHIN FLOOD PRONE AREA "X" AND "A"

Philip A. Pistorino
LS NO. 4116 FLORIDA

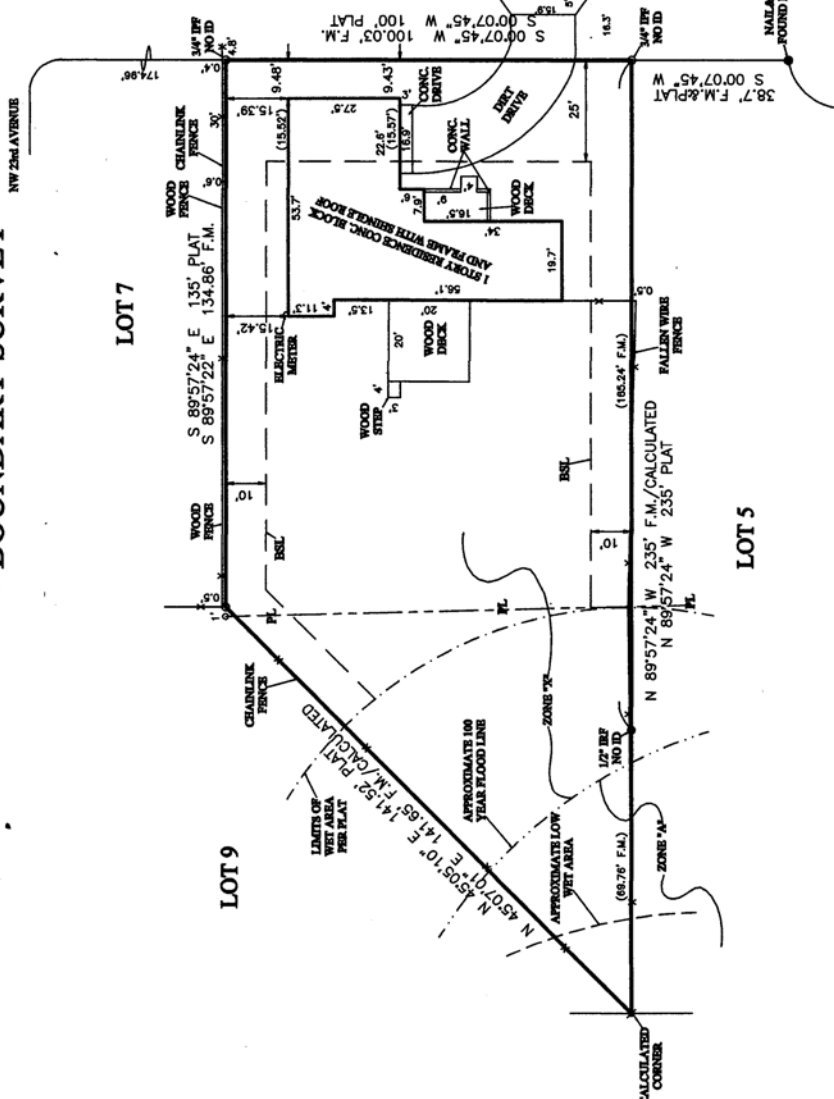
THIS SURVEY IS NOT TRANSFERABLE FOR USAGE TO ANY OTHER PERSON, LENDING INSTITUTION OR ENTITY

SCALE: 1"=30'

FIELD DATE: 3/11/2019

DRAWN BY: CHARLES PISTORINO

BOUNDARY SURVEY



THIS SURVEY IS NOT TRANSFERABLE FOR USAGE TO ANY OTHER PERSON, LENDING INSTITUTION OR ENTITY

Philip A. Pistorino, P.A.
 7400 N.W. 47th Court, Gainesville Florida 32606 - (352) 372-0946

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
 NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY PANEL # [Signature]
 UNDERGROUND UTILITIES ANY NOT LOCATED SUBJECT PROPERTY WITHIN FLOOD PHONE AREA 'W' AND 'X'
 LS NO. 4116 FLORIDA

THIS SURVEY IS NOT TRANSFERABLE FOR USAGE TO ANY OTHER PERSON, LENDING INSTITUTION OR ENTITY

SCALE: 1"=30'

DRAWN BY: CHARLES PERFORMINO
 FIELD DATE: 3/17/2019

LEGEND	
O.R.	OFFICIAL RECORDS
C.C.	CONCRETE
COV.	COVERED
F.M.	FIELD MEASURED
IRF	IRON REBAR FOUND
IRP	IRON PIPE FOUND
IRS	IRON REBAR SET
CBF	CONCRETE CURB FOUND
W.M.	WATER METER
C.B.	CABLE BODY
U.D.	UTILITY DEPTH
ID.	IDENTIFICATION
BSL	BUILDING SETBACK LINE
PUB	PUBLIC UTILITIES EASEMENT CENTERLINE
CL	CURB
FL	POWERLINE

*GROUNDWATER BUILDING SETS ELEVATION PER PLAT - 10.00 FEET MEAN SEA LEVEL

*EASEMENT TO CITY OF GAINESVILLE O.R. BOOK 179, PAGE 122

15' EASEMENT, 7.5 FEET EITHER SIDE OF UTILITY

THIS SURVEY IS CERTIFIED TO:
 LAUREN S. DROBACH
 SILVERTON MORTGAGE
 GAINESVILLE TITLE, PLLC, A LAW FIRM
 OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

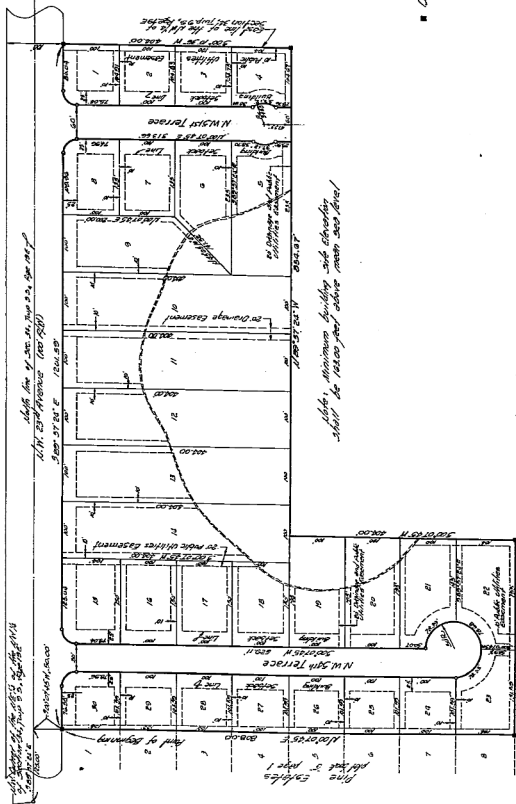
PROPERTY ADDRESS: 2220 NW 51st TERRACE
 Gainesville, Florida

LEGAL DESCRIPTION:
 LOT 5, PINE ESTATES ADDITION NO. 1,
 AS PER PLAT THEREOF
 RECORDED IN PLAT BOOK G PAGE 33 OF PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA

PINE ESTATES ADDITION NO 1

SITUATED IN THE NW 1/4 OF SEC. 34 TWP. 9 S. RGE. 19 E. - ALACHUA COUNTY - FLORIDA

Plat Book G Page 33



Lot	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)
1	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
2	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
3	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
4	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
5	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
6	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
7	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
8	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
9	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
10	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
11	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
12	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
13	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
14	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
15	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
16	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
17	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
18	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
19	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
20	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
21	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
22	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
23	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
24	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000

On April 14, 1964, the undersigned, Commissioner of Alachua County, Florida, in accordance with the provisions of Chapter 190, Florida Statutes, approved the plat of the Pine Estates Addition No. 1, situated in the Northwest Quarter of Section 34, Township 9 South, Range 19 East, Alachua County, Florida, as shown on the attached plat. The plat was prepared by the undersigned, Commissioner of Alachua County, Florida, and the plat is hereby approved and the same is hereby certified as being a true and correct copy of the original plat on file in the office of the undersigned, Commissioner of Alachua County, Florida.

Approved by the undersigned, Commissioner of Alachua County, Florida, on this 14th day of April, 1964.

 Commissioner of Alachua County, Florida

Approved by the undersigned, Commissioner of Alachua County, Florida, on this 14th day of April, 1964.

 Commissioner of Alachua County, Florida

Approved by the undersigned, Commissioner of Alachua County, Florida, on this 14th day of April, 1964.

 Commissioner of Alachua County, Florida

Approved by the undersigned, Commissioner of Alachua County, Florida, on this 14th day of April, 1964.

 Commissioner of Alachua County, Florida

Approved by the undersigned, Commissioner of Alachua County, Florida, on this 14th day of April, 1964.

 Commissioner of Alachua County, Florida

Approved by the undersigned, Commissioner of Alachua County, Florida, on this 14th day of April, 1964.

 Commissioner of Alachua County, Florida

G



**City of Gainesville
Department of Doing
Planning Division**

PO Box 490, Station 11
Gainesville, FL 32627-0490
306 NE 6th Avenue
P: (352) 334-5022
F: (352) 334-2648

ATTACHMENT “B” – SOME RELEVANT LAND DEVELOPMENT CODE REFERENCES

Petition DB-19-04 VAR

October 29, 2019

Attachment A: Application and Supporting Documents.

Attachment B: Some Relevant Land Development Code References

DIVISION 3. - RESIDENTIAL

Sec. 30-4.16. - Permitted uses.

The following table contains the list of uses allowed, and specifies whether the uses are allowed by right (P), accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the use is not allowed. No variances from the requirements of this section shall be allowed.

Table V-4: Permitted Uses in Residential Districts.

USES	Use Standards	RSF-1 to 4	RC	MH	RMF-5	RMF-6 to 8
Accessory dwelling units	30-5.33	-	A	A	A	A
Adult day care homes	30-5.2	P	P	P	P	P
Assisted living facilities		-	-	-	P	P
Attached dwellings (up to 6 attached units)		-	-	-	P	P
Bed and breakfast establishments	30-5.4	S	P	P	P	P
Community residential homes (up to 6 residents)	30-5.6	P	P	P	P	P
Community residential homes (7 to 14 residents)	30-5.6	-	-	-	-	P
Community residential homes (over 14 residents)	30-5.6	-	-	-	-	P
Day care centers	30-5.7	-	P	P	P	P
Dormitory, small	30-5.8	-	-	-	-	P
Dormitory, large	30-5.8	-	-	-	-	S
Emergency shelters		-	-	-	-	P

Family child care homes	30-5.10	P	P	P	P	P
Fowl or livestock (as an accessory use)	30-5.36	-	-	-	-	-
Mobile homes		-	-	P	-	-
Multi-family dwellings		-	-	-	P	P
Multi-family, small-scale (2-4 units per building)		-	P ¹	-	P	P
Places of religious assembly	30-5.21	S	P	P	P	P
Libraries		-	S	S	S	S
Public parks		P	P	P	P	P
Schools (elementary, middle and high)		S	P	P	P	P
Single-family dwellings		P	P	P	P	P
Skilled nursing facility		-	-	-	-	S
Social service homes/halfway houses	30-5.26	-	-	-	-	S

LEGEND:

P = Permitted by right; S = Special use permit; A = Accessory; Blank = Use not allowed.

1 = No more than two dwellings units per building are permitted in the RC district.

Sec. 30-4.17. - Dimensional standards.

The following tables contain the dimensional standards for the various uses allowed in each district:

Table V-5: Residential Districts Dimensional Standards.

	RSF-1	RSF-2	RSF-3	RSF-4	RC	MH	RMF-5	RMF-6	RMF-7	RMF-8
DENSITY/INTENSITY										
Residential density (units/acre)										
Min.	None	None	None	None	None	None	None	8 ¹	8 ¹	8 ¹
Max. by right	3.5	4.6	5.8	8	12	12	12	10	14	20
With density bonus points	-	-	-	-	-	-	-	See Table V-6	See Table V-6	See Table V-6
Nonresidential building coverage	35%	35%	40%	40%	50%	50%	50%	50%	50%	50%
LOT STANDARDS										
Min. lot area (sq. ft.)	8,500	7,500	6,000	4,300	3,000	3,000	3,500	None	None	None
Min. lot width (ft.)										
Single-family	85	75	60	50	35	35	40	40	40	40
Two-family ²	NA	NA	NA	NA	70	NA	75	75	75	75
Other uses	85	75	60	50	35	35	85	85	85	85
Min. lot depth (ft.)	90 ³	90 ³	90 ³	80 ³	None	None	90	90	90	90
MIN. SETBACKS (ft.)										

Front	20 ³	20 ³	20 ³	20 ³	10 ⁴	15	10 min. 100 max.	10 min. 100 max.	10 min. 100 max.	10 min. 100 max.
Side (street)	10	10	7.5	7.5	NA	NA	15	15	15	15
Side (interior) ^{5,6}	7.5	7.5	7.5	7.5	5	5	10	10	10	10
Rear ^{6,7}	20	20	15	10	20	15	10	10	10	10
Rear, accessory	7.5	7.5	5	5	5	5	5	5	5	5
MAXIMUM BUILDING HEIGHT (stories)										
By right	3	3	3	3	3	3	3	3	3	3
With building height bonus	NA	NA	NA	NA	NA	NA	NA	5	5	5

LEGEND:

1 = Parcels 0.5 acres or smaller existing on November 13, 1991, are exempt from minimum density requirements.

2 = Assumes both units on one lot. Lot may not be split, unless each individual lot meets minimum lot width requirement for single-family.

3 = Lots abutting a collector or arterial street shall have a minimum depth of 150 feet and a minimum building setback of 50 feet along that street.

4 = Attached stoops or porches meeting the standards in sections 30-4.13 and 30-4.14 are permitted to encroach up to five feet into the minimum front yard setback.

5 = Except where the units are separated by a common wall on the property line of two adjoining lots. In such instances, only the side yard setback for the end unit is required.

6 = Accessory pre-engineered or pre-manufactured structures of 100 square feet or less and one story in height may be erected in the rear or side yard as long as the structure has a minimum yard setback of three feet from the rear or side property line, is properly anchored to the ground, and is separated from neighboring properties by a fence or wall that is at least 75 percent opaque.

7 = Accessory screened enclosure structures, whether or not attached to the principal structure, may be erected in the rear yard as long as the enclosure has a minimum yard setback of three feet from the rear property line. The maximum height of the enclosure at the setback line shall not exceed eight feet. The roof and all sides of the enclosure not attached to the principal structure shall be made of screening material.

Sec. 30-4.18. - Density bonus points.

Development criteria described in the density bonus points manual, when met, shall allow increases in development intensity based upon the limits in this section. These increases in intensity shall be allowed should a developer propose to undertake a project that will result in a development sensitive to the unique environmental and developmental needs of the area. For each criterion met by the developer, certain points shall be credited to the project. Those points, calculated in accordance with the Density Bonus Points Manual, shall determine the maximum allowable density.

Table V-6: Permitted Density Using Density Bonus Points

RMF-6		RMF-7		RMF-8	
Points	Max. residential density (du/ac)	Points	Max. residential density (du/ac)	Points	Max. residential density (du/ac)
0	10	0	14	0	20
26	11	20	15	16	21
52	12	39	16	30	22
79	13	59	17	46	23
108	14	79	18	59	24
138+	15	98	19	75	25

Sec. 30-3.55. - Variances.

- A. *Generally.* Variance from strict compliance with the requirements of the Land Development Code is provided for in this section.
- B. *Authorized variances.* Variances may be approved only for height of structures; size of yard setbacks; driveway widths; building form standards in transect zones; building design standards for transect zones (dimensional standards only); landscaping requirements for vehicular use areas; landscape buffer requirements for buffer strip areas; landscape zones; street setbacks; glazing percentages; and minimum first floor height. Under no circumstances may a variance be granted to allow a use not permitted generally or by special use permit in the district involved, or any use expressly or by necessary implication prohibited in the district by the terms of this chapter.
- C. *Review criteria.* A variance from the terms of this chapter or building chapters shall not be granted unless the appropriate reviewing board affirmatively finds that each of the following criteria have been met:
1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and that are not applicable to other lands, structures, or buildings in the same district.
 2. The special conditions and circumstances do not result from the action of the applicant.
 3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures, or buildings in the same district.
 4. Literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or building chapters.
 5. The variance requested is the minimum variance required to make possible the reasonable use of the land, building, or structure.
 6. The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code, and such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.
- D. *Prohibited considerations.* The following factors shall not be considered in any variance request:
1. The presence of nonconformities in the zoning district or adjoining districts.
 2. Financial loss or business competition.
 3. Whether the property was purchased with the intent to develop or improve the property, whether or not it was known at the time of purchase that such development would be a violation.
- E. *Review procedures.*
1. *Pre-application meeting.* A pre-application meeting is not required; however, the applicant is encouraged to attend a meeting with staff to review procedural and regulatory requirements.
 2. *Application submittal.* The applicant shall submit a complete application on a form prescribed by the city and accompanied by the applicable fee and plans.
 3. *Staff review.* The city manager or designee shall review the application and prepare a staff report for submittal to the appropriate review board.
 4. *Board hearing.* The appropriate reviewing board shall hold a public hearing to consider the request according to the review criteria provided in this section.
- F. *Conditions and limitations.* In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with the Land Development Code or building chapters. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable according to applicable law. If a variance

request is denied, the same variance may not be considered for the property for a period of two years from the date of denial.

- G. *Expiration.* Any variance granted shall expire one year after the date of variance approval, unless a building permit based upon and incorporating the variance is issued within the aforesaid one-year period and construction has begun thereunder.

Sec. 30-3.58. - Board decisions.

- A. *Authority of hearing officer.* The hearing officer has authority to hear and decide appeals of the decisions of the boards established by or administering the Land Development Code, including the city commission and the reviewing boards provided in this article, when all of the following criteria are met:
1. The board decision was quasi-judicial, meaning the board applied established policy or law to a specific, individualized situation. Quasi-judicial board decisions include but are not limited to rezonings, special use permits, subdivisions, and development plan review. Quasi-judicial board decisions do not include legislative decisions such as land use changes or text amendments to the Comprehensive Plan and Land Development Code.
 2. The board decision was final, and not advisory.
 3. The appeal is not a challenge to a development order controlled by F.S. § 163.3215.
- B. *Standing to appeal.* The following persons shall have standing to appeal a board decision pursuant to this section:
1. An applicant who is adversely affected by the decision.
 2. A property owner whose property is the subject of the decision.
 3. All owners of real property that lies within 400 feet of the property that is the subject of the decision.
 4. Any resident, landowner, or person having a contractual interest in land in the city who demonstrates a direct adverse impact from the decision that exceeds in degree the general interest in community good shared by all persons.
- C. *Appeal procedures.*
1. A notice of appeal of a board decision, together with the applicable fee as set forth in Appendix A and any submittal requirements established by the city, shall be filed with the city within 30 calendar days of the effective date of the board decision at issue. The notice of appeal shall set forth a detailed basis for the appeal.
 2. *Stay during appeal.* The filing of a timely notice of appeal shall stay all proceedings in furtherance of the decision being appealed, including the issuance of any building permit or development order, until the appeal has been concluded in accordance with this division. The applicant may file applications, plans, or other information with the city pending the outcome of the review, but the filing of such shall create no rights to any related approval by the city.
 3. Reserved.
 4. Within 20 calendar days of the filing of a notice of appeal pursuant to this section, any person with standing may intervene and become a party to the appeal by filing a notice of appeal in accordance with this section.
 5. The matter shall be set for a public hearing within 50 calendar days of the date of the notice of appeal. This period may be extended by agreement of the city and all parties appealing the decision.
 6. The hearing shall be limited to the record on appeal and shall consist of oral argument by city staff and parties with standing, each of whom may be represented by legal counsel. The hearing shall be conducted in accordance with established Florida law for quasi-judicial hearings.
 7. *Record on appeal.* The record on appeal shall consist of an exact replication of the information that was before the board for the decision being appealed, which may include the following:
 - a. The application and accompanying information.

- b. Staff reports and recommendations, and any accompanying information.
 - c. All exhibits and documentary evidence.
 - d. The summary, findings, conclusions, and decision of the board that is the subject of the appeal.
 - e. Any audio or video recording of the board hearing that is the subject of the appeal.
 - f. Any verbatim transcript available of the board hearing that is the subject of the appeal.
8. The hearing officer shall make a decision based on the appeal criteria provided in this section, and may either affirm the board decision or remand the decision back to the reviewing board with specific issues for the reviewing board to address.
 9. The decision of the hearing officer shall be rendered in writing not later than seven calendar days after the date of the hearing's conclusion, and shall include findings of fact, if any, and conclusions of law.
 10. If the hearing officer affirms the board decision at issue, the hearing officer's decision shall be final and may be subject to judicial review as provided in law.
 11. If the hearing officer remands the board decision at issue, the reviewing board shall reconsider its decision and shall consider the issues specified by the hearing officer and may accept, reject, or modify the hearing officer's findings and conclusions in making the final decision. After considering the hearing officer's findings and conclusions, the reviewing board's decision shall be final and may be subject to judicial review as provided in law.
- D. *Appeal criteria.* The hearing officer shall affirm the board decision unless an appealing party with standing demonstrates that any one of the following three requirements was not met. The hearing officer shall use established Florida law as it relates to this standard of review.
1. The appealing parties were afforded procedural due process, which includes:
 - a. Notice of the board hearing that is the subject of the appeal;
 - b. A fair hearing before an impartial decision-maker;
 - c. An opportunity to be heard and present evidence at the hearing; and
 - d. The opportunity to cross-examine any witnesses.
 2. The reviewing board observed the essential requirements of law.
 - a. A departure from the essential requirements of law is something more than mere legal error. A decision made according to the form of the applicable law and the rules prescribed for rendering it, although it may be erroneous in its conclusion as applied to the facts, is not an act that amounts to a departure from the essential requirements of law.
 - b. The hearing officer shall examine the seriousness of any error and exercise discretion only when there has been a violation of a clearly established principle of law that results in a miscarriage of justice.
 3. The reviewing board's decision was supported by competent substantial evidence.
 - a. Competent substantial evidence means such evidence that may establish a substantial basis from which the fact at issue can be reasonably inferred, or material and relevant evidence that a reasonable mind could accept as adequate to support a conclusion. The opinions and recommendations of experts, including city staff, are deemed expert testimony and constitute competent substantial evidence. Citizen testimony during any public comment portion of a hearing may constitute competent substantial evidence if it is fact-based and not a mere generalized statement of support or opposition.

- b. The hearing officer may not reweigh the evidence or substitute his or her judgment for that of the reviewing board, but rather shall rule upon only whether the reviewing board's decision was supported by any competent substantial evidence.

ARTICLE II. - DEFINITIONS

Sec. 30-2.1. - Definitions.

Throughout this chapter, the following words and phrases shall have the meanings indicated unless the text of the article or section in which used clearly indicates otherwise. Any word or phrase used in this chapter that is not defined in this chapter shall have the common dictionary meaning most appropriate to the context in which such word or phrase is used.

Abut means to physically touch or border upon, or to share a common property line.

Accessory dwelling unit means a subordinate living unit added to, created within, or detached from a single-family dwelling (but within the same lot) that provides basic requirements for independent living, sleeping, eating, cooking and sanitation.

Accessory structure means a subordinate structure (not exceeding 50 percent of the building square footage of the principal structure), the use of which is incidental to that of the principal structure on the same lot.

Accessory use means an activity, or function that is incidental to, and on the same lots as, a principal use.

Adjacent means when two properties, uses or objects are not abutting but are separated only by a right-of-way, street, pathway or similar minimum separation.

Adversely affected person means any person who is suffering or will suffer an adverse effect to an interest protected or furthered by the Comprehensive Plan, including but not limited to: interests related to health and safety; densities or intensities of development; transportation facilities; recreational facilities; educational facilities; health care facilities, or services; and environmental or natural resources. The alleged adverse effect may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.

Attached dwelling means two or more dwelling units that are attached horizontally, where each unit has its own front yard and direct entrance from the ground level. This term includes townhouses and rowhouses, and dwelling units that may be on one combined lot or individual lots.

Building means any structure, either temporary or permanent, except a fence or as otherwise provided in this definition, used or built for the enclosure or shelter of persons, vehicles, goods, merchandise, equipment, materials or property generally. This definition shall include tents, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, storerooms, jails, barns or vehicles serving in any way the function of a building as described herein. This definition shall not include individual doll houses, play houses, and animal or bird houses.

Building envelope means the outermost surfaces forming the complete enclosure of a building.

Building frontage means the total length in linear feet of a building façade(s) within a development that fronts directly on a required street or urban walkway. Building frontage is regulated as a required percentage of the total length of the development frontage along the street or urban walkway. For corner lots, the building frontage calculation shall exclude the widths of the required landscape zone, sidewalk zone and building frontage areas.

Building frontage zone means the area between the edge of the sidewalk opposite to the travel lane and the building façade.

Building height means the vertical distance measured from the average elevation of the proposed finished grade to the top plate of the highest story.

Building official means the person designated as building official by the city manager.

Building permit means an official document or certificate issued by the building official, as provided for in the Standard Building Code as adopted in [chapter 6](#) of the City of Gainesville Code of Ordinances, authorizing performance of construction or alteration of a building or structure.

Building setback line means a line, established at the minimum setback line as set forth by the applicable zoning district, within a lot or other parcel of land so designated on the plat.

Certificate of occupancy means certification by the city manager or designee that any development or change of use of any building, lands, water or portion thereof has been found to meet the requirements of this Code and the applicable final development order pertaining to development of the lot, parcel or tract of land.

Cul-de-sac means a street that terminates at one end with vehicle turnaround facilities at the end.

Curb or curbline means the inside vertical face of a masonry curb, the centerline of a valley gutter, or the edge of the pavement where no curb or gutter exists.

Density means the extent of development of residential uses, expressed in dwelling units per acre of land.

Developed area means the area within an imaginary line formed by the outer perimeter of all structures, parking lots, and other paving and manmade alterations to the natural condition of any lot or parcel of land, except for sidewalks in public rights-of-way and driveways, the perimeters to be adjusted to the closest geometric shape for which an area may be reasonably easily calculated.

Developer means any person who engages in or proposes to engage in a development activity either as the owner or as the agent of an owner of property.

Development or development activity means any of the following activities:

- A. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil or vegetation of a site.
- B. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface or water management system, and including the long term storage of materials.
- C. The erection, placement, alteration, remodeling or reconstruction of any building on any land or the authorization of any improvements on any land to facilitate the use of such land.
- D. Subdividing land into two or more parcels.
- E. A tree removal for which authorization is required under this Code of Ordinances.
- F. Erection of a permanent sign unless expressly exempted by this Code of Ordinances.
- G. Alteration of a historic property for which authorization is required under this Code of Ordinances.
- H. Changing the use of a site so that the need for parking is increased.
- I. Construction, elimination or alteration of a driveway onto a public street.
- J. For the purpose of vested rights, development has the meaning given to it in F.S. § 380.04 as amended.

Development agreement means an agreement entered into between the city and a developer for the purpose of assuring the city that the developer shall provide required public facility capacity. Development agreements include, but are not limited to, agreements authorized pursuant to F.S. § 163.3220 and F.S. § 380.01, et seq., both as amended from time to time.

Development order means any order granting, denying or granting with conditions an application for approval of a development project or activity.

Development permit means any official city document that authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include: all types of construction permits (plumbing, electrical, foundation, mechanical and so forth, in addition to the building permit itself), grading and clearing permits, tree removal permits, sign permits, etc.

Development plan means a plan indicating the permitted design and extent of development of a parcel of land, approved under and pursuant to this chapter.

Driveway, width (W) means the narrowest width of the driveway measured parallel with the edge of the street or roadway at the street right-of-way line.

Dwelling means any building used primarily for human habitation. The term "dwelling" shall not include a hotel, motel, tourist court or other building for transients, but shall include group housing.

Dwelling unit means a room or rooms in a dwelling, other than a dormitory, comprising the essential elements of a single housekeeping unit. Each area with one address for billing, one electric meter, and/or one full kitchen shall be considered a separate dwelling unit.

Easement means an interest in land granted for a specific purpose or purposes but not conveying fee simple title to real property.

Encroach means to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback, into the public or private frontage zone, or above a height limit.

Encroachment means any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the public or private frontage zone, or above a height limit.

Enforcing officer means the city employee authorized by the city manager to enforce particular sections of this chapter or the Code of Ordinances.

Erect means to build, construct, attach, hang, place, suspend or affix a sign, structure or building.

Family means one or more natural persons who are living together and interrelated as spouse, domestic partner, child, stepchild, foster child, parent, stepparent, foster parent, brother, sister, grandparent, niece, nephew, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or legal guardian, as evidenced by written documentation of such relationship, plus no more than two additional unrelated natural persons occupying either the whole or part of a dwelling unit as a separate housekeeping unit. A family also includes a community residential home, as defined in this chapter, with six or fewer residents. The persons constituting a family may also include domestic servants and temporary gratuitous guests. "Temporary gratuitous guests" as used herein shall refer to natural persons occasionally visiting such housekeeping unit for a short period of time not to exceed 30 calendar days within a 90-day period.

Front open space means the area enclosed by the side lot lines, the street right-of-way line in the front of the property and the established line of setback. The established line of setback shall be the line, drawn parallel to the street in front of the property, extending from the point at which the principal building is closest to the street outward to the lot lines. All area directly in front of any part of the principal building shall also be considered to be in front of the established line of setback.

Frontage means the length of the property line of a lot or tract of land abutting a public or private street, road, highway or other right-of-way.

Improvements means physical changes made to raw land and structures placed on or under the land surface, in order to make the land more usable. Typical improvements would be clearing and grubbing, grading, street pavements, sidewalks, bicycle facilities, curb and gutter, drainage ditches, required trees, storm and sanitary sewers, streetlights, fire hydrants, street name signs, permanent control points (PCP's), etc.

Intensity of development or intensity of use means the extent of development of any land, expressed as building coverage and/or building height.

Local street means any street that is not designated as a collector or arterial on the roadway map on file in the public works department, is not functionally classified by the state department of transportation, and, by nature of its physical design, the local nature of trip purposes and the existing and anticipated traffic characteristics, is not suited to carry more than 1,200 average daily trips.

Lot means a parcel of land contained within property lines of a specific area, including land within easements and building setback lines of the area, but excluding any land within street right-of-way. The word "lot" includes the words "plot," "unit," "parcel" and "tract."

- A. Corner lot means a lot located at the intersection of two streets and abutting such streets on two adjacent sides of the lot, or a lot with two adjacent sides abutting adjoining and deflected right-of-way lines of the same street that form an interior angle of less than 135 degrees.
- B. Double-frontage lot means a lot other than a corner lot having frontage on two or more streets or two portions of the same street.
- C. Interior lot means a lot other than a corner lot having frontage only on one street.
- D. Reverse-frontage lot means a lot extending between and having frontage on a collector or arterial street and a local street and shall include double-frontage lots.

Lot area means the total horizontal area included within lot lines.

Lot coverage means the maximum combined area occupied by all principal and accessory buildings or structures expressed as a percentage, measured from the exterior walls that are roofed or otherwise covered.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot line or property line means the boundary line of a lot.

A.

Front lot line means that property line that abuts a public street. If a lot abuts on two or more streets, the front lot line shall be that property line abutting a street that has been so designated by the owner at the time of an application for a building permit, provided such lot is not thereby made nonconforming.

B.

Side lot line means any property line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

C.

Rear lot line means that property line that is most distant from and is, or is most nearly, parallel to the front lot line.

Lot of record means, for the purposes of determining vested rights, a designated parcel, tract or area of land established by plat, lot split, metes and bounds description, or otherwise permitted by law, to be used, developed or built upon as a unit and which existed in the records of the county property appraiser on November 16, 1992.

Lot split means the division of a single tract of land into two lots or parcels, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this chapter.

Lot width means the shortest horizontal distance between side lot lines, measured along any line that intersects the minimum required front yard setback line.

Luminaire means a complete lighting unit (i.e., fixture), consisting of a lamp, or lamps and ballast(s) when applicable, together with the parts designed to distribute the light (e.g., reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

Nonconforming lot means any lot that does not meet the requirements for minimum lot area, lot depth or lot width, for any use, for the zoning district in which such lot is located.

Nonconforming structure means any building or structure that does not meet the applicable zoning district's regulations for dimensions and location, site improvements or development standards.

Nonconforming use means the use of any building or land for anything other than a use specifically permitted in the zoning district in which such building or land is located.

Occupant (occupancy) means a legal occupant of a building or premises licensed to engage in a business, occupation or profession, or exempt from license due to governmental, educational, religious or other privileged status.

Owner means a person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including, without limitation, an authorized agent, attorney, executor, personal representative or trustee) has legal or equitable title to any property in question, or a tenant, if the tenancy is chargeable under his/her lease for the maintenance of the property.

Primary frontage means the site frontage facing the primary street.

Primary street means the street that a property for development fronts. At street intersections, the larger, more important street shall be recognized as the primary street.

Principal structure means a structure in which is conducted the principal use of the lot on which it is situated, including any attached carport, shed, garage or any other structure that is a part of the principal building and structurally dependent, totally or in part, on the principal building. In a residential district any dwelling shall be deemed to be the principal structure on the lot on which the same is situated.

Principal use means the use that constitutes the primary activity, function or purpose of a parcel of land or building.

Private school means a school that is not operated by any governmental agency but that meets all criteria imposed by law or ordinance to satisfy the requirements for mandatory school attendance of elementary, middle or high school.

Private street, approved means any privately-owned accessway that has been determined by the city manager or designee to meet the access and construction standards set forth in this code. For purposes of lot split or minor subdivision, "existing" approved private street means an approved private street that exists on the date of filing the application for the minor subdivision or lot split. "New" approved private street means a new street is being approved as part of the minor subdivision or lot split process.

Project means a single development as designated by the applicant, but two or more purportedly separate developments shall be considered one project if the city manager or designee determines that three or more of the following criteria exist:

- A. The purportedly separate developments are located within 250 feet of each other;
- B. The same person has an ownership interest or an option to obtain an ownership interest of more than 50% of the legal title to each purportedly separate development;
- C. There is a unified development plan for the purportedly separate developments;
- D. The purportedly separate developments voluntarily do or shall share private infrastructure; or

E. There is or will be a common management or advertising scheme for the purportedly separate developments.

Secondary frontage means that frontage facing the secondary street.

Secondary street means any street fronting a development that is not identified as the primary street.

Setback or setback line means a line determined by measurement, parallel to a lot line, creating an area between the lot line and the setback line in which all structures (unless otherwise limited) may not be erected.

Setback, street means a line determined by measurement, parallel to the street curb (on all sides of the lot facing a street), creating an area between the street curb and building façade.

Single-family dwelling means a single residential building consisting of one dwelling unit that is arranged, intended or designed for one family. A residential building with more than one kitchen, one meter for any utility (unless multiple meters are needed and billing is combined to one address); more than one address to the property; or more than two of the same major appliance (refrigerator, range, oven, kitchen sink, dishwasher, washer or dryer), even if consolidated in one kitchen or area, shall be considered a multifamily dwelling.

Street means any publicly dedicated accessway such as a street, road, highway, boulevard, parkway, circle, court or cul-de-sac, and shall include all of the land lying between any right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved, except those accessways such as easements and rights-of-way intended solely for utilities and similar facilities and easements of ingress and egress.

Street centerline means the surveyed and prescribed centerline of a street established by the state department of transportation or city public works department or, if no centerline has been so established, the line midway between the existing or proposed street right-of-way lines.

Street right-of-way means a strip or area of land dedicated or deeded for use of and by the public as a public street.

Street right-of-way line means that line denoting the edge of the right-of-way of the street and being identical with the property lines of persons owning property fronting on the streets. For the purposes of establishing the vision triangle as described in the Engineering Design and Construction Manual, the street right-of-way line for a private driveway or private roadway shall be set as a parallel line 10 feet from the face of the curb, edge of pavement or edge of the driving surface.

Structure means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, and having a height of four inches or more, except for patios, ground-level parking and loading facilities, fences and individual doll houses, play houses, and animal or bird houses that are neither to be used for human habitation, i.e., a place of permanent or temporary residence, nor storage as a principal use.

Yard means the space on any lot between the lot lines and the minimum required setback line for principal structures.

- A. **Front yard** means the area between the front lot line and the minimum required front yard setback.
- A. **Front yard** means the area between the front lot line and the minimum required front yard setback.
- B. **Rear yard** means the area between the rear lot line and the minimum required rear yard setback.
- C. **Side yard** means the area between the side lot line and the minimum required side yard setback, not including any part of the front or rear yard.