

**APPLICATION INFORMATION:**

**Agent/Applicant:** Cynthia L. Diven and Joanne Rice

**Property Owner(s):** Cynthia L. Diven and Joanne Rice

**Related Petition(s):** N/A

**Legislative History:** None

**Neighborhood Workshop:** Not Required

**SITE INFORMATION:**

**Address:** 2892 NW 4<sup>th</sup> Lane

**Parcel Number(s):** 06470-006-000

**Acreage:** Approximately 23,958 square feet (0.55 Acres)

**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 A  
**Census Tract:**

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

**Special Feature(s):** Property lays on a north boundary with the Hogtown Creek

**Annexed:** 1961

**ADJACENT PROPERTY CHARACTERISTICS:**

	<b>EXISTING USE(S)</b>	<b>LAND USE DESIGNATION(S)</b>	<b>ZONING DESIGNATION(S)</b>
<b>Parcel</b>	Single family dwelling	SF: Single-Family	RSF-1: Single-Family Residential
<b>North</b>	Vacant Undeveloped Hogtown Creek	CON: Conservation	CON: Conservation
<b>South</b>	Single family dwelling	SF: Single-Family	RSF-1: Single-Family Residential
<b>East</b>	Single family dwelling	SF: Single-Family	RSF-1: Single-Family Residential
<b>West</b>	Easement Area	PF: Public and Institutional Facilities	PS: Public Services and Operations

## **BACKGROUND AND EXPLANATION:**

### **Background:**

The subject property is located in the northwest quadrant of the City within an established single-family residential subdivision called Black Acres. The subdivision is located east of NW 34<sup>th</sup> Street, between NW 8<sup>th</sup> Avenue to the north and West University Avenue to the south. The property is one of a smaller group of six lots called Black Acres, Unit 2 with frontage along NW 4<sup>th</sup> Lane and a rear boundary with the banks of Hogtown Creek. Lots within the subdivision range in size from 0.55 to 2.76 acres; the subject lot being the smallest. The property is improved with a single-family dwelling, a detached two-car garage, a pool and a recreational vehicle parked in the southeast corner of the lot. All structures on the subject lot comply with the setback standards for the RSF-1 zoning district and all lots within the subdivision exceed the minimum required standards of the RSF-1 zoning district. The subject lot sits at the corner of a drainage easement and NW 4<sup>th</sup> Lane. This lot configuration places the house with its front looking towards the southwest corner of the lot, rendering the east front as a side where the attached and detached garages are located and the placement of the recreational vehicle is proposed.

### **Explanation:**

The applicant purchased the property in 2003 and soon after acquired a recreational vehicle which has been parked in the front yard within the allowable standards for such vehicles. Due to the proximity of the creek, surround tree canopy and the Florida weather the applicant needed to protect the investment of the recreational vehicle and explored options of using a structure to house or shelter the vehicle. The applicant indicates that due to existing site improvements and design of the primary single-family structure, the vehicle could not be placed along the sides or to the rear of the property. A review of options, resulted in an in-place structure to shelter the recreational vehicle; a structure to fully enclose the vehicle would be too intrusive.

This petition is a request to reduce the front yard setback from 20 feet to 3 feet to allow construction of a structure to cover the recreational vehicle in its current location. The applicant is proposing vegetation and structural screening to minimize the impact of the proposed structure.

## **STAFF ANALYSIS AND RECOMMENDATION:**

### **Analysis:**

Staff reviewed this petition in the context of Sec. 30-4.17, Sec. 30-3.55 and Sec. 30-5.43 – “Recreational, service and commercial vehicle parking and storage” of the Land Development Code. These 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.

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

1. The subject property has a common rear boundary with the Hogtown Creek.
2. The subject parcel is the smallest lot within the subdivision.
3. The subject lot is on an isolated street with very low traffic volumes.

4. The lot is improved with a single-family dwelling which has an unusual front orientation to the southwest corner of the lot.
5. Recreational Vehicles are allowed on a single-family lot subject to certain regulations.
6. The proposed expansion is 3 feet from the front right-of-way line of NW 4<sup>th</sup> Lane.

TABLE 1.

DIMENSIONAL REQUIREMENTS FOR RSF-1 ZONING DISTRICTS

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.	23,848 Sq. Ft.
Minimum lot width at front setback	85 ft.	129 – 132 ft.
Minimum lot depth	90 ft.	178 - 236 ft.
Minimum yard setbacks:		
Front	20 ft.	20 ft.
Side (interior)	7.5 ft.	7.5 - 20 ft.
Side (street)	10 ft.	N/A
Rear <sup>1,2</sup>	20 ft.	75 – 90 ft.
Maximum Building Height	35 ft.	15 ft.

Accessory Structures <sup>1</sup> Excluding Fences and Walls

Minimum front and side yard setbacks	requirements are for the principal structure.
Minimum yard setback, rear <sup>2</sup>	7.5 ft.
Maximum building height	25 ft.

1. *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 must be made of screening material.

In considering a request for a variance, the code requires that the board establishes findings that demonstrate compliance with 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 applicant identifies the unusual shape of the lot, its location along the Hogtown Creek and the low volume of traffic on the adjacent street to be unique to the property. The lot is the smallest of all lots fronting the local street, NW 4<sup>th</sup> Lane. The applicant states that the placement and orientation of the primary dwelling and its accessory structures are unique and relevant to the variance request. The front of the primary dwelling is oriented towards the southwest corner of the property creating the front open space and the focus of front activities towards that southwest area. This design leaves the largest portion of the true front functioning as a side yard with side yard activities. Placing the recreational vehicle towards the southwest where there is more open space will result in greater exposure and more visually intrusive to the surrounding properties.

The recreational vehicle exists on the site and is allowed by code in its current location. However, an accessory structure such as the one proposed as a shelter for the vehicle is not allowed, except through a variance to the minimum setback standards. The proposed location of the structure exposes it to three surrounding properties. However, existing vegetation and fencing provides screening to buffer the view from surrounding lots. Additional fencing and screening landscaping materials are planned with construction of the shelter.

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

The unique conditions listed above are mostly naturally occurring and inherent to the original design of the subdivision. However, the decision to undertake the type, scale and location of the improvement is completely due to 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 findings of fact listed in the Land Development Code (LDC) in order to avoid any appearance of conferring special privileges. In reaching a decision on the requested variance, the Board must consider the material facts and competent substantial evidence presented at the public hearing. The applicant has provided documentation illustrating reasons for the requested variance and the circumstances resulting in the need for such a variance. Staff has provided an analysis of the request based on the findings of fact listed in the LDC and additional information will be presented at the public hearing. A decision on the variance request based on the merits of the information is considered a sound decision and not one that is based on conferring special privilege.

- 4. That literal enforcement of the provisions of the Land Development Code (LDC) 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.***

Construction of a shelter over a recreational vehicle is not a right commonly enjoyed by all property owners within the neighborhood. However, the applicant claims that ownership of a recreational vehicle is a feature that is becoming a common aspect of the lifestyle of many property owners. Use of a recreational vehicle should be granted the same flexibilities where it can be demonstrated that there are no negative impacts to the neighborhood. While the structure is primarily for the purpose of protecting and covering a recreational vehicle, it is not much different than many of the typical accessory structures

customarily associated with single-family residences. Staff concludes that strict application and literal enforcement of the provisions of the Land Development Code or Building Chapters will not deprive the applicant of rights typically enjoyed by most property owners.

The board is authorized to limit the extent of property improvements that encroach into setbacks to ensure the overall health, welfare and safety of the community.

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

Based on the survey information and the dimensions of the proposed structure, the requested 3 feet is the minimum possible to allow the recreational vehicle to remain in the current location of the property. If the structure is placed in the southwestern area of the site, the request 3 feet is not the minimum. However, placement of the structure in any other location between the building and the street will create a greater impact to the neighborhood. Given the inability to place the structure in the rear or side yards and the proposed screening; the requested 3 feet is the minimum necessary to enable the least visual impact to the neighborhood.

6. ***The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code (LDC), 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 LDC, without being injurious and in disharmony within the overall characteristics of the neighborhood. In considering variances it is important to consider whether the requested variance is consistent with the findings of fact listed in Section 30-3.55 for granting a variance. An analysis of those findings have been presented above showing that the request addresses the criteria relative to the subject property and the physical and operational factors related to the site. The applicant hopes that there are some unique aspects related to the property which may be considered by the board as sufficiently pressing to warrant granting the variance.

The applicant states that the code allows recreational vehicles as well as a variety of accessory structures similar to the one proposed. The size placement and layout of the structure will have a similar or lesser impact on the neighborhood than the recreational vehicle itself. Granting the variance is therefore similar to allowing the recreation vehicle and should be considered as meeting the variance criteria and will not be injurious to the neighborhood.

The applicant also claims that due to existing plant materials along the property frontage, only the top five feet of the structure will be visible from the opposing properties. This exposure results in a lesser visual impact than the roof exposure of the primary single-family dwelling and other permitted accessory structures. The proposed structure will therefore have minimal impact on the surrounding properties. The applicant states that due to its orientation, layout and isolated location of the lot, the proposed structure will be potentially visible to only three lots. The provision of additional landscaping materials, and fencing along the street edge will create a compatible relationship and minimize the potential visual impact to surrounding properties. A variance from the required setbacks can be implemented in a manner that will neither be injurious to abutting lands nor detrimental to the public welfare.

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

**RECOMMENDATION:**

Review the application, Petition DB-18-06 VAR, for compliance with the criteria for granting a variance.

**POST-APPROVAL REQUIREMENTS:**

If approved the applicant has six months to implement the variance; failing implementation of the variance, the approval becomes null and void and will require a new application.

**LIST OF ATTACHMENTS:**

**Attachment A: Application and Supporting Documents.**

**Attachment B: Some Relevant Land Development Code References**

**Attachment “A”**

**Application and Supporting Documents**



Operator: Michael Hoge

SEP 19 2018

Receipt no: 78880

Item	Description	Account No	Payment	Payment Reference	Paid
BA-18-00006 02892 NW 4TH LN Rice Variance	Variance Special Except Non-conform Use Permit	001-660-6680-3401	CREDIT		\$317.00
Total:					\$317.00

Transaction Date: 09/19/2018

Time: 10:51:40 EDT



SEP 19 2018

**PETITION TO THE BOARD OF ADJUSTMENT**  
**Planning & Development Services Department**

**OFFICE USE ONLY**

Petition No. BA-18-0006 Fee: \$ 317.00  
Hearing Date: \_\_\_\_\_ EZ Fee: \$ N/A  
Account No. 001-660-6680-3401 ☒ Receipt # 78880  
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*

<b>Owner(s) of Record (please print)</b>		<b>Agent Authorized to Act on Owner Behalf</b>	
Name: <u>JoAnne Rice/Cynthia Diven</u>		Name: _____	
Address: <u>2892 NW 4 Ln</u>		Address: _____	
<u>Gainesville FL 32607</u>		_____	
E-mail Address: <u>cdiven@cox.net</u>		E-mail Address: _____	
Phone: <u>352-371-7814</u>		Phone: _____	
Fax: _____		Fax: _____	
<b>PROPERTY INFORMATION:</b>			
Street address: <u>2892 NW 4 Ln</u>			
Tax parcel no(s): <u>06470-006-000</u>			
Legal description (may be attached): <u>see attached</u>			
Existing Zoning: <u>RSF-1</u>		Lot size: <u>.55 acre +/-</u>	
Present use: <u>SF</u>		Proposed use: <u>00100</u>	
Historic District or Landmark?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Present structures (type) and improvements upon the land: <u>House, screen enclosure + Pool, Detached Garage</u>			
<b>SURROUNDING PROPERTY INFORMATION:</b> (List all uses surrounding the subject property under "Existing use." Staff is available to supply zoning and land use information.)			
	<b>Zoning</b>	<b>Land Use</b>	<b>Existing Use</b>
North	<u>SF + Con</u>	<u>Cont RSF</u>	<u>Passive Recreation + Single Family Dwelling</u>
South	<u>SF</u>	<u>RSF-1</u>	<u>Single Family Dwelling / Road</u>
East	<u>SF</u>	<u>RSF-1</u>	<u>Single Family Dwelling / Road</u>
West	<u>PF</u>	<u>PS</u>	<u>Unimproved Utility Easement</u>

**Certified Cashier's Receipt:**

*See Rice/Dixon Attachment* **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 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?

*Our Property is bordered by the Creek and an easement to a biologically wetland preservation area. The only area available to erect a carport cover is toward the street side of our garage. This requested variance will afford us protection of a valuable asset (RV) and be only marginally visible from the street as we have vegetation both sides.*

(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.

*No other property is so limited. There are other properties in the neighborhood which are bordered by the Creek. However, ours is the only one with creek and easement. Property to the SW direction has a full lot that is so buffers their land/house.*

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

<i>No</i>

(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.

*As we are the only property limited by the Creek & 30' Easement to the utility, wetland and sewer there is no other property so limited.*

(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)*

- \_\_\_\_\_ (a) That the applicant has met the requirements set forth in section 30-354(d)(3) of the Land Development Code
- \_\_\_\_\_ (b) That the reasons set forth in the application justify granting the variance
- \_\_\_\_\_ (c) That the variance is the minimum variance that will make possible the reasonable use of the land, structure, or building
- \_\_\_\_\_ (d) That granting the variance will be in harmony with the general intent and purpose of the land development code or building chapters
- \_\_\_\_\_ (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

**SIGNATURE PAGE**

1. (a) I hereby attest to the fact that the above supplied parcel number(s) and legal description(s) is (are) the true and proper identification of the area of this petition.  
(b) I authorize staff from the Planning and Development Services Department to enter onto the property in question during regular city business hours in order to take photos which will be placed in the permanent file.
2. I/We understand that this petition becomes a part of the permanent records of the Board of Adjustment. I/We hereby certify that the above statements and the statements or showings made in any document or plans submitted herewith are true and correct to the best of my/our knowledge.

Property Owner Signature: \_\_\_\_\_

*JA EK*

Date: \_\_\_\_\_

*7/18/18*

STATE OF FLORIDA

COUNTY OF Alachua

Sworn to and subscribed before me this 18<sup>th</sup> day of September 2018  
by (Name) To Anne E. Rice

*Kathlene Driggers*  
Signature – Notary Public

Personally Known ☒ OR Produced Identification ☐ (Type) \_\_\_\_\_



Kathlene Driggers  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF938456  
Expires 1/25/2020



## Rice/Diven Variance

This variance request is to relax the street setback of 20ft to 3ft to allow for the placement of a 16' X 36' open metal RV cover adjacent to our detached garage to provide cover for our RV.

Our house, located at 2892 NW 4<sup>th</sup> Lane in Black Acres subdivision, is situated differently than other properties in the neighborhood; we are in a corner lot which is bordered by the Hoggetown Creek to the NW and utility easement to the SW. Our detached garage is located on the NE side of the property and is in a 'side yard' rather than "front yard" and faces SW towards the easement, with the side of the garage facing the road. This is the area we would like to place the RV cover. It is visually blocked from the street by a 6 ft wooden fence and a row of azaleas.

Other possibilities that could fit the RV cover (other than what we are requesting a variance for) would be in the front yard, or SW side yard along the utility easement and footpath to Loblolly. To access either of these areas we would need to take down a fence, several large trees, and hedge rows of long established ligustrums; which provide a great deal of habitat for birds and other wildlife living near the creek.

For the **front yard**, in addition to the trees and hedge row that would need to be removed, having an RV parked in the front of the yard would be an eyesore. Additionally this area is the main space used by our son to play with other children in the neighborhood. It would also isolate the house and block the view from the road which could cause a safety issue as well as block our view of the neighborhood. Additionally for those who use the easement and footpath to access the creek and 8th avenue they would have a view of a carport and RV rather than vegetation and well-kept yard.

For the **side yard**, in addition to having to remove the trees, (one of which is a heritage loblolly pine) fence and row of hedges there isn't enough overhead space due to incoming house service lines and cable, and there is house generator located in this area. The same considerations mentioned above for those walking the path to the greenway.

An additional note: Many years ago the City stopped cutting the grass into the greenway along this easement and placed concrete barriers to prevent motorized vehicles from access. Since that time we have maintained the area and include this access point to the greenway in our bi-monthly yard care, ensuring the path is accessible to nature lovers, and utility workers..

Any other options would cause a great deal of expense for ground preparation, and installing electrical hook up, removing trees and vegetation, removing and reinstalling fence and blocking views in and out of our property.

Other considerations:

- we have kept our RV parked alongside our garage occupying the space which we are requesting a variance for 1.5 years. We have nearly \$3,000 invested in the ground preparation using expensive interlocking grid work, gravel, and we have access to the garage power to keep the unit hooked up to prevent mold growth.

We have resided in the Black Acres subdivision for over 15 years and feel strongly that the location we are requesting is a logical location, it is protected from sight by trees, vegetation, and

a wooden fence and would not detract from this beautiful established neighborhood. It would not be as visibly noticeable, as it would be in either the front or side yard both of which run alongside the easement access. Many other neighbors enjoy an RV and RV cover.

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T TO  
ESS THAN  
DRAINAGE  
REAS

ATTED LANDS  
L # 06471-003-000)

LOT 4 OF BLACK  
ACRES UNIT NO. 6  
(PLAT BOOK "H",  
PAGE 84)

feet; thence  
feet to the P  
deg. 47 min.  
deg. 40 min.  
12 deg. 47 mi  
South 69 deg.  
run South 35  
thence run No  
the Point of  
1/4 of Section  
containing .5

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other

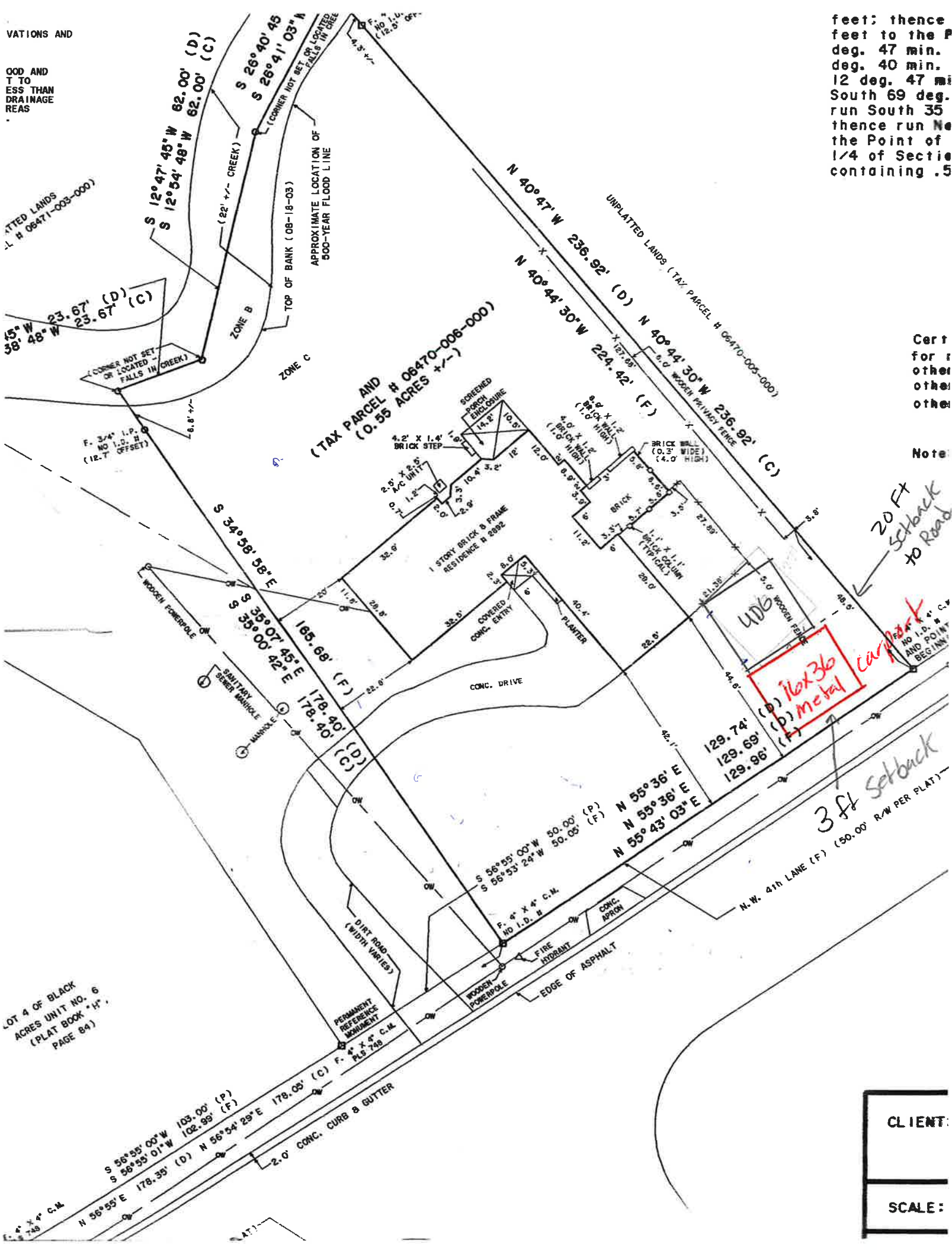
Note:

20 Ft  
Setback  
to Road

3 ft  
Setback  
(50.00' R/W PER PLAT)

CLIENT:

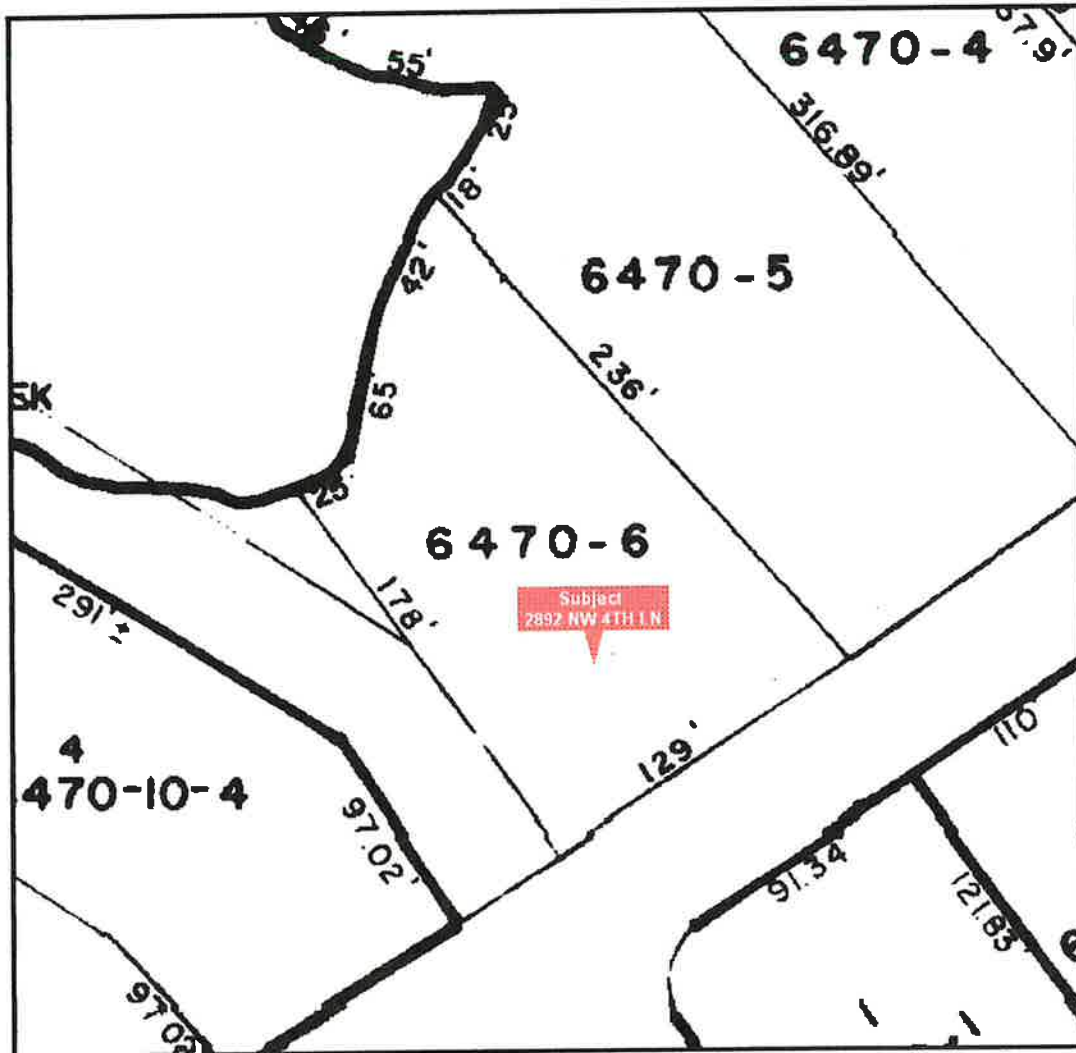
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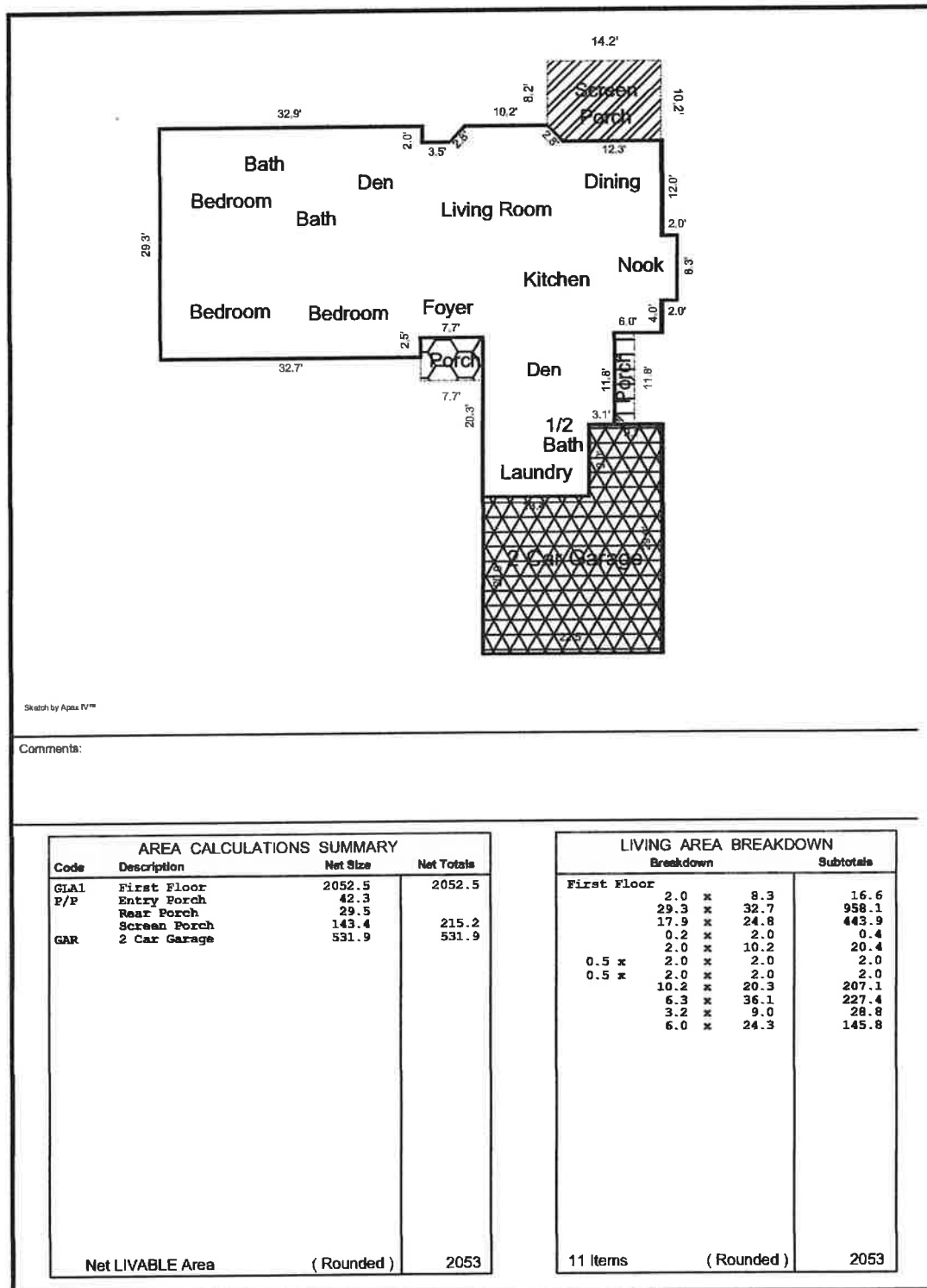
**Plat Map**

Borrower/Client Cynthia Diven & Joanne Rice			
Property Address 2892 NW 4TH LN			
City Gainesville	County Alachua	State FL	Zip Code 32607-2508
Lender 1st Credit Union of Gainesville			

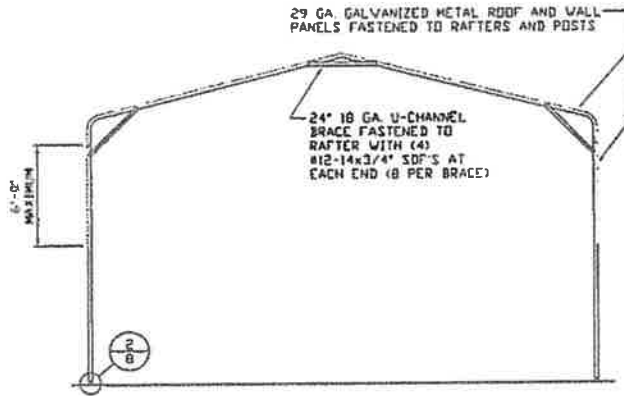


**Building Sketch (Page - 1)**

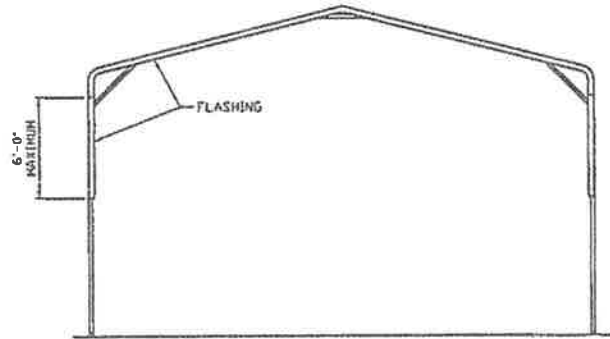
Borrower/Client Cynthia Diven & Joanne Rice			
Property Address 2892 NW 4TH LN			
City Gainesville	County Alachua	State FL	Zip Code 32607-2508
Lender 1st Credit Union of Gainesville			



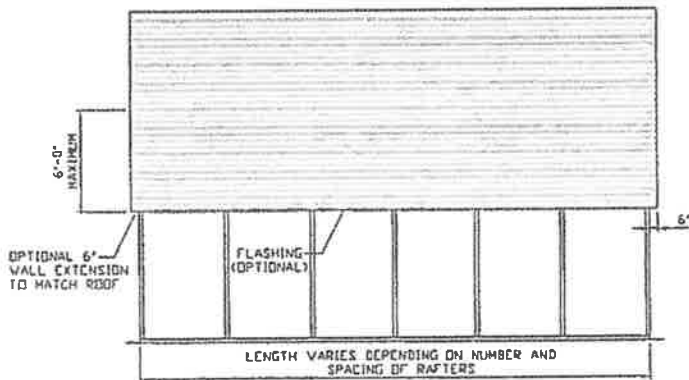
## **BOW RAFTER EXTRA SIDE PANEL OPTION**



**TYPICAL RAFTER/POST FRAME  
SECTION EXTRA SIDE PANELS**  
SCALE: NTS



**TYPICAL END ELEVATION  
EXTRA SIDE PANELS**  
SCALE: NTS



**TYPICAL SIDE ELEVATION  
EXTRA SIDE PANELS**  
SCALE: NTS

**MOORE AND ASSOCIATES  
ENGINEERING AND CONSULTING, INC.**

**DRAWN BY: LT**

**CHECKED BY: PDH**

**PROJECT MGR: WSH**

**CLIENT: TBS**

**TUBULAR BUILDING SYSTEMS  
30'-0"x20'-0" FULLY OPEN CARPORT EXP. B**

**DATE: 12-18-17**

**SCALE: NTS**

**SHT. 13**

**DWG. NO: SK-1**

**JOB NO:  
16022S/17300S**

**REV: 4**

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## **Attachment “B”**

### **Some Relevant Land Development Code References**

Sec. 30-5.43. - Recreational, service and commercial vehicle parking and storage.

A. *Recreational vehicles.* The following regulations apply to the use, parking, storage and keeping of recreational vehicles in all zoning districts:

1. Recreational vehicles may be used for living, sleeping or housekeeping purposes only in mobile home parks and those districts permitting camps and recreational vehicle parks, except that recreational vehicles may be used on a lot of record in a residential district in accordance with regulation of temporary mobile homes. Development plan approval is required for any development of a recreational vehicle park.
2. Parking of recreational vehicles is permitted only for the purpose of storing the vehicles in all districts, except as provided in subsection 1. of this section. Such vehicle shall not:
  - a. Be used for the storage of goods, materials or equipment other than those items considered to be part of the vehicle essential for its immediate use;
  - b. Discharge or discard any litter, effluent, sewage or other matter into any public right-of-way or upon any private property while parked and provided in this section;
  - c. Be occupied or used for living, sleeping or housekeeping purposes; or
  - d. Be stored on any vacant, unoccupied or unimproved lot.
3. No owner shall allow any recreational vehicle 18 feet or more in length to be parked on a public street longer than eight hours in any 24-hour period.
4. In all residential districts the following additional restrictions shall also apply to the parking, storing or keeping of recreational vehicles:
  - a. Parking is permitted inside any enclosed structure which complies with the dimensional requirements of the particular district.
  - b. Parking is permitted outside any structure in the side or rear yard, provided the vehicle is a minimum of two feet from the lot line.
  - c. Parking is permitted outside any structure in the front yard, provided:
    - i. Space is not available in the rear or side yard and no structure for storage is available or there is no access to either the side or rear yard.
    - ii. The vehicle is parked perpendicular to the front property line. No part of the vehicle may extend over a public sidewalk, bike path or street.
5. In all mixed use, business, office and industrial districts storage of such vehicles shall comply with requirements for outdoor storage.

B. *Public service vehicles.* Public service vehicles may be parked in non-residential districts for up to nine hours in any 30-day period. Public service vehicles may be parked in these districts for longer periods only when a permit is obtained. Application for this permit shall be submitted to the city manager or designee, who shall issue such permits upon satisfaction of the following conditions:

1. For up to 72 hours in any 30-day period on other than a public right-of-way: With written consent of the owner of the property and acknowledgment that public service vehicle parking shall not occur within the required minimum setbacks for accessory structures in the zoning district.
2. For up to 72 hours in any 30-day period in a public right-of-way:
  - a. No adjacent property abutting on the right-of-way may be zoned residential.
  - b. The permit shall be reviewed by the police, public works and planning, each of which shall approve the permit unless the proposed use shall be considered a hazard to the public health, safety or general welfare, taking into account the flow and control of traffic, parking availability, auto and pedestrian safety, and the effect which such use and activity will have on surrounding uses.

3. For up to 30 days within any 90-day period on other than a public right-of-way:
    - a. Written consent of the owner of the property.
    - b. Compliance with all setback lines for accessory structures in the zoning district.
    - c. The lot shall be a conforming one for both the zoning district and the existing use, if any.
    - d. The proposed activity may not use or interfere with the use of more than five percent of any parking spaces required as a minimum by any existing use on the property.
    - e. The permit shall be reviewed by the police, public works and planning, each of which shall approve the permit unless the proposed use shall be considered a hazard to the public health, safety or general welfare, taking into account the flow and control of traffic, parking availability, auto and pedestrian safety, and the effect which such use and activity will have on surrounding uses, particularly adjoining residential uses.
  4. For all permits: No more than one valid permit for one public service vehicle shall be outstanding at any time for any location.
- C. *Other vehicles.* The following regulations shall apply to all residential zoning districts:
1. Parking for any vehicle is permitted inside any enclosed structure which complies with the dimensional requirements of the particular zoning district.
  2. Parking shall not be allowed outside of an enclosed structure for any vehicle in excess of 10,000 pounds gross vehicle weight (manufacturer's capacity rating).
  3. Any vehicle containing a vehicle sign, as defined in article II, shall be stored in either an enclosed building or a location that would shield view of such advertising from the street.

### 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





(units/acre)										
Min.	None	None	None	None	None	None	None	8 <sup>1</sup>	8 <sup>1</sup>	8 <sup>1</sup>
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%
<b>LOT STANDARDS</b>										
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 <sup>2</sup>	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 <sup>3</sup>	90 <sup>3</sup>	90 <sup>3</sup>	80 <sup>3</sup>	None	None	90	90	90	90
<b>MIN. SETBACKS (ft.)</b>										
Front	20 <sup>3</sup>	20 <sup>3</sup>	20 <sup>3</sup>	20 <sup>3</sup>	10 <sup>4</sup>	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) <sup>5,6</sup>	7.5	7.5	7.5	7.5	5	5	10	10	10	10
Rear <sup>6,7</sup>	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

## DIVISION 11. - MODIFICATIONS AND VARIANCES

### Sec. 30-3.54. - Modifications.

- A. *Purpose.* In order to provide flexibility for the unique circumstances of individual developments, certain modifications from the standards provided in this chapter, as provided in this section, may be requested by an applicant as part of the development review process.
- B. *Review procedures.* All requests for modifications shall be submitted in writing with the application for development review on forms provided by the city. If an applicant requests multiple modifications, each modification shall be evaluated independently. The city manager or designee shall have the authority to approve the modifications specifically set forth in this section. The request shall be approved or denied during development plan review and, if approved, shall be noted on the final development plan. No administrative appeals are available for any decision to approve or deny a modification.
- C. *Review criteria.* The city manager or designee may approve a modification if the request meets all of the following criteria:
1. The request is consistent with the Comprehensive Plan and meets the intent of this chapter and the zoning district.
  2. The applicant is providing a compensating enhancement of the public realm.
  3. The request will not have a material negative impact on adjacent uses, and is not injurious to the public health, safety, and welfare.
- D. *Available modifications.*

REQUESTED MODIFICATION	MIN. COMPENSATING ENHANCEMENT OF PUBLIC REALM
Variation in required street setback up to 3 feet.	1. 10% increase above required 1 <sup>st</sup> floor glazing.
Reduction in required glazing percentages up to 10%.	2. Increase of 2 feet above required sidewalk width.
Reduction in required building frontage percentages up to 10%.	3. 10% increase above required building frontage.
Reduction in required landscape zones up to 2 feet; however, in no case shall a landscape area be less than 4 feet in depth.	4. Increase of 4 feet above min. 1 <sup>st</sup> floor height.
	5. Increase of 2 feet above min. landscape zone.

### 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.