



Board of Zoning Adjustment

DATE: July 25, 2023

**TO: Board of Zoning and Adjustments: Delayne Dean,
Chair, Brad Townsend, Chester Ayers, George Allen, Michael
Maurer, and Mark McCurry**

BOARD OF ZONING ADJUSTMENT

July 25, 2023

Pre-meeting – 3:30 p.m. (7th Floor)

Meeting – 4:00 p.m. (Council Chambers)

Table of Contents

MINUTES JUNE 2023.....3

JULY 2023 AGENDA.....9

CASE NO. 1 2407 BELTLINE RD. SE10

CASE NO. 2 2026 6TH AVE SE AND 2020 STRATFORD RD SE11

DIAGRAM12

 PICTURE13

 LAND OWNER AGREEMENT14

CASE NO. 3 3915 PALOMINO DR. SW15

 SURVEY.....16

CASE NO. 4 2201 SORRENTO PL SW17

DIAGRAM18

Minutes June 2023

MEMBERS PRESENT: Delayne Dean, Mr. Brad Townson, Mr. Chester Ayers,

SUPERNUMERARIES: Mr. J. Michael Maurer, Mr. Mark McCurry

COPIED TO: Mr. George Allen

OTHERS PRESENT: Mrs. Ruth Priest, Asst. City Attorney
Mr. Lee Terry, Planning Department
Mr. Bob Sims, Building Inspector

Chair, Delayne Dean called the meeting to order at 4:07 p.m. in the council chambers on the first floor at City Hall.

Mr. Bob Sims, Building Department, called the roll.

The minutes from the May 2023 meeting were approved Mr. Mike Mauer motioned to approve the minutes. Mr. Brad Townson seconded the motion. On a voice vote, the motion carried.

CASE NO. 1

Application and appeal of Encore Rehabilitation, Inc. for a 72 square foot area variance from Section 25-77 (c)(3) and a 25 foot setback variance from Section 25-78 in order to install a sign located at 251 Johnston St SE. The property is located in a B-5 Central Business District.

Mr. Jonathan Henderson representing Encore Rehabilitation presented this case to the Board. Mr. Henderson stated the address for the business was 251 Johnston St SE.

Mr. Henderson stated that a twenty one foot setback variance was being requested in order to install a sign at 251 Johnston St SE.

Chair, Dean asked Mr. Henderson if the sign was new and if so, would the new sign be replacing an old sign.

Mr. Henderson stated the sign will be new and it would be replacing an old sign.

Mr. Henderson stated that a rendering had been provided to show what the new sign would look like in front of the building.

Chair, Dean asked Mr. Henderson about the size of the new sign.

Mr. Henderson stated that the new sign would be 64 square feet whereas the old sign was 40 square feet.

Chair, Dean asked for questions from the Board.

Mr. Brad Townson asked Mr. Henderson if a square footage variance on the sign was being requested.

Mr. Henderson replied it would not be a sign variance just a setback variance, that the 64 square feet was the maximum allowed in this zoning district.

Chair, Dean asked for any further questions from the Board or the public, there were no comments.

Mr. Bob Sims, Building Department had no comments.

Mr. Lee Terry, Planning Department, stated to the Board that when the motion was made to state that the motion is to approve the 25 foot setback.

There was a discussion about the wording of the agenda.

Mr. Henderson stated when a survey was requested at the May meeting it was decided to redesign the sign, now only a setback variance is needed and a sign variance was no longer needed, the Board understood.

Mr. Mark McCurry motioned to approve this case stating the setback variance only. Mr. Chester Ayers seconded the motion. On a roll-call vote of 5-0 the motion carried.

CASE NO. 2

Application and appeal of O'Reilly Automotive Stores, Inc. for a 15 foot setback variance and a 10 foot height variance from Section 25-77 (e) (3) in order to relocate the existing pole sign which has been repeatedly hit by motorists when entering and existing the drive lane located at the North end of the lot. The property is located at 1109 6th Ave SE, in a B-2 General Business Zoning District.

Mr. Parks Harris, representing Trav-Ad Signs and Ross Coggin, store manager for O'Reilly Auto Parts, presented this case to the Board.

Mr. Harris stated the sign located at the O'Reilly's store on 6th Ave. SE has been hit several times and the goal is to raise the sign.

Mr. Harris stated the sign had been hit several times and there was concern for public safety.

Mr. Coggin stated the sign had to be repaired about five times in the last twenty years.

Chair, Dean asked Mr. Harris if the sign would be moved and raised or left in its current location and only raised.

Mr. Harris referred the question to Mr. Bob Sims, Building Department.

Mr. Sims stated if the sign is moved anywhere else on the lot the sign would be blocked.

Mr. Sims stated if the sign was moved using the same setback a light pole would be in the way and if the sign is moved anywhere else the sign would be in the middle of the parking lot.

Mr. Sims stated that the sign could be moved to the south end of the parking lot into a grassy area but, the setback would still be further back and a parking space cannot be taken up.

Mr. Coggin stated that the objective was to raise the sign so the bigger trucks and box trucks will stop hitting the sign, Chair, Dean understood.

Chair, Dean verified the sign would be the same size just a different height, Mr. Harris agreed.

Mr. Sims asked Mr. Harris what the clearance of the new sign would be from the ground to the base of the sign. Mr. Harris stated it would be seventeen feet.

Mr. Mike Maurer asked if the trucks hitting the sign was large trucks.

Mr. Coggin stated it was trucks that have been raised and box trucks.

Mr. Brad Townson asked if there were any concerns for the pole being hit. Mr. Harris stated there were no concerns about the pole being hit.

Mr. Harris stated that Advanced Auto has a sign with about the same setback and the sign is much higher and on the same side of the street.

Chair, Dean asked for further questions from the Board or the public, there were no comments.

Mr. Bob Sims had no comments.

Mr. Lee Terry stated that some type of bollard needed to be considered.

Mr. Brad Townson motioned to approve this case as submitted. Mr. Mike Maurer seconded the motion. On a roll-call vote of 5-0 the motion carried.

CASE NO. 3

Application and appeal of Frances Tate, Ceota Nonprofit, for a 12 foot rear setback from Section 25.10.10 (2) (d) and an 8 foot side yard setback from Section 25-14 in order to place the home of Judge Horton in old Decatur as part of a museum, located at 212 Church St. NW. The property is located in a R-3 Single Family Zoning Residential Zoning District.

Ms. Frances Tate presented this case to the Board. Ms. Tate stated she was representing Ceota and was asking for a twelve foot rear setback and an eight foot side yard side back on Grove Street.

Ms. Tate stated that a Civil Rights museum was in the process of being developed in Decatur.

Ms. Tate stated that the Judge Horton house will become part of the museum and will be moved from Greenbriar Al. to Decatur, Al. and why a setback is needed for this property.

Chair Dean asked for questions from the Board.

Chair, Dean stated that the survey shows that there is more room on the south side of the property and would not need as much of a setback if the house was moved over and asked why that was not considered.

Ms. Tate stated the property was a little higher on that side, and an elevator has to be installed in the building and they are anticipating the need for the elevator, Chair Dean understood.

Chair, Dean asked Ms. Tate considering the variances if there would be enough parking.

Ms. Tate stated yes and described where the potential parking could be located.

Chair, Dean asked for questions from the Board or public, there were no comments.

Mr. Bob Sims had no comments.

Mr. Lee Terry had no comments.

Mr. Mike Maurer motioned to approve this case as submitted. Mr. Chester Ayers seconded the motion. On a roll-call vote of 5-0 the motion carried.

CASE NO. 4

Application and appeal of DH Morris Development, LLC for a 1000 square foot area variance from Section 25-10.11 (2) (a) in order to build three townhomes on parcel # 03-04-19-1-028-001.000. The property is located in a R-4 Multifamily Residential Zoning District.

Mr. Brad Townson motioned to dismiss this case. Mr. Chester Ayers seconded the motion. On a roll-call vote of 5-0 the motion carried and dismissed the case as requested by the applicant before the start of the meeting.

CASE NO. 5

Application and appeal of K.L. Enterprises, for a use permitted on appeal, from Section 25-12 in order to build an apartment complex located at 2409 Beltline Rd. SW. This request is conditional that the property is approved to be rezoned to an R-4 Multifamily Residential Zoning District.

This case was moved to the end of the agenda when no one came forward to present the case when called.

CASE NO. 6

Application and appeal of Murphy Oil USA, Inc. for the following variances:

- Allow placement of the canopy in the 35 foot setback from Section 25-6.
- Allow a variance from the dumpster and accessory setback requirement from Section 25-163.
- Allow a variance from the off-street parking requirement and allow the use of Wal-Mart/Murphy parking agreement.

The property is located at 2800 E Spring Av. SW in a M-1A Expressway Commercial District.

Mr. Westin Miller a civil engineer with Pan American Engineers located at 1717 Jackson St, Alexandria LA is the representative for Murphy Oil USA. Also, a representative for Murphy Oil was present, Mr. Ballenger.

Mr. Miller explained that the project proposed was completely demolishing the Murphy Oil gas station along with digging up all of the fuel tanks and going back with completely new tanks, building, canopies, fuel pumps and concrete.

Mr. Miller stated the three variances that were being requested.

Mr. Miller stated that the new building would be a walk in store where item could be purchased not just a walk up window.

Mr. Miller stated there would be six fueling islands instead of four.

Mr. Miller stated the job would be a general facelift for the area and in order to do this Murphy would need the three variances.

Mr. Miller stated that the parking would continue as it is now utilizing the Wal Mart parking spaces along with a handicap parking space that Murphy now uses and a copy of the parking agreement will be provided to staff.

Chair Dean, stated that the variance for the dumpster is not going to be considered at this meeting.

Approval for the dumpster will take place with the planning process with the Building Department, Mr. Miller agreed and understood.

Chair, Dean asked for questions from the Board or the public, there were no comments.

Mr. Bob Sims had no comments.

Mr. Lee Terry had no comments.

Mr. Brad Townson motioned to approve this case as submitted minus the dumpster variance, Mike Maurer seconded the motion. On a roll-call vote of 5-0 the motion carried.

CASE NO. 5

Application and appeal of K.L. Enterprises, for a use permitted on appeal, from Section 25-12 in order to build an apartment complex located at 2409 Beltline Rd. SW. This request is conditional that the property is approved to be rezoned to an R-4 Multifamily Residential Zoning District.

This case was dismissed when no one came forward when called to present the case to the Board.

Mr. Brad Townson motioned to dismiss, Mike Maurer seconded the motion. On a roll-call vote of 5-0 the motion carried.

NEW BUSINESS:

Chair Dean stated: by request from the Mayor the pre-meetings for any future BOZA meetings will now be held on the 7th floor.

Chair Dean, asked for a motion.

The new business was moved and seconded that future BOZA pre-meetings be carried out on the 7th floor.

All in favor stated "Aye".

The motion passed.

DeLayne Dean, Chair

Time of adjournment 4:22 p.m

JULY 2023 AGENDA

The Board of Zoning Adjustment of the City of Decatur will hold a public meeting in the COUNCIL CHAMBERS ON THE FIRST FLOOR OF City Hall, 402 Lee Street NE, on Tuesday, July 25, 2023 at 4:00 p.m. And, also broadcast live on City of Decatur You Tube Channel at <https://www.youtube.com/c/CityofDecaturAl> for the purpose of hearing the following applications and appeals at which time all interested parties are requested to be present and will be given an opportunity to be heard. Submit questions via email at bozaquestions@decatur-al.gov.

CASE NO. 1

Application and appeal of K.L. Enterprises, for a use permitted on appeal, from Section 25-12 of the Zoning Ordinance in order to build an apartment complex located at 2409 Beltline Rd. SW. This request is conditional that the property is approved to be rezoned to an R-4 Multifamily Residential Zoning District.

CASE NO. 2

Application and appeal of Davenport Family Dentistry and Decatur Family Eye Care for a variance to Sections 25-77(e) (4), 25-77 (e) (5), 25-76 (p), and 25-72 (7) to construct an off premise business center sign in a B-2 General Business District. This properties are located at 2020 Stratford Ct. SE and 2026 6th Ave. SE.

CASE NO. 3

Application and appeal of Rodney and Cindy Darby, for a 8 foot setback variance from Section 25-10.3 (1) (e) (2) of the Zoning Ordinance in order to construct a residence at 3915 Palomino Dr. SW. This property is located in a R-5 Residential District.

CASE NO. 4

Application and appeal of H.M. Nowlin for a 12 foot setback variance from Section 25-10.3 (1) (e) (2) and a variance from Section 25-10.3 (1) (b) of the Zoning Ordinance in order to build a new house and construct a driveway with a cut onto Castle Gate Blvd. SW located at 2201 Sorrento Pl. SW. This property is located in a R-5 Residential Zoning District.

X2



402 Lee St NE 1st Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: K.L. Enterprises, Inc
MAILING ADDR: 26741 Portola Pkwy IE-696
CITY, STATE, ZIP: FOOTHILL Ranch, CA 92620
PHONE: 714-928-8812

PROPERTY OWNER: MITCHELL VENTURES, LLC
OWNER ADDR: 898 Rock Street SE
CITY, STATE, ZIP: HORTSMORE AL 35640 PHONE: _____

ADDRESS FOR APPEAL: 2407 BELTLINE RD SW

NATURE OF APPEAL:

- ☐ HOME OCCUPATION ☐ SETBACK VARIANCE ☐ SIGN VARIANCE
☒ USE PERMITTED ON APPEAL ☐ APPEAL OF ADMINISTRATIVE DECISION
☐ OTHER ☐ SURVEY FOR VARIANCES ATTACHED ☐ DRAWINGS FOR VARIANCES ATTACHED

*****Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard*****

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

R4- USE ON APPEAL IMA M1A ZONING DISTRICT

Applicant Name (print) KEN LIEM
Signature [Signature]
Representative Name (print) Douglas McCallough
Signature [Signature]
Date 7-3-23

If applicant is using a
representative for the
request both signatures
are required

Office Use Received By: LT
Zone R4
Hearing Date July 25, 2023
Approved Disapproved _____

CASE NO. 1 2407 BELTLINE RD. SE

3



402 Lee St NE 1st Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: DAVENPORT FAMILY DENTISTRY & DECATUR FAMILY EYE CARE
MAILING ADDR: 2020 STRATFORD CT SE
CITY, STATE, ZIP: DECATUR, AL 35601
PHONE: 256-355-0185

PROPERTY OWNER: GENERATIONS LAND LLC & MATTHEW 6:22 PROPERTIES LLC
OWNER ADDR: 2020 STRATFORD CT SE
CITY, STATE, ZIP: DECATUR, AL 35601 PHONE: 256-355-0185

ADDRESS FOR APPEAL: 2020 STRATFORD CT SE
-- & 2026 6TH AVE SE DECATUR AL

NATURE OF APPEAL:

- ☐ HOME OCCUPATION ☒ SETBACK VARIANCE ☒ SIGN VARIANCE
☐ USE PERMITTED ON APPEAL ☐ APPEAL OF ADMINISTRATIVE DECISION
☐ OTHER ☒ SURVEY FOR VARIANCES ATTACHED ☒ DRAWINGS FOR VARIANCES ATTACHED

*****Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard*****

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

- ① APPEAL TO REQUEST A 15' SETBACK VARIANCE FOR SIGN PLACEMENT.
② APPEAL TO PERMIT SIGN TO "STRADDLE" DIAGONAL PROPERTY LINES
(SEE GREEN BOX ON SURVEY). ELIMINATING THE ISSUE OF "OFF-PREMISES
SIGNAGE."
③ REMOVAL OF EXISTING "DAVENPORT FAMILY DENTISTRY" SIGN.
④ SIGNED AGREEMENT ATTACHED FROM PROPERTY OWNERS. SIGN DIMENSIONS: LESS

Applicant Name (print) PAUL BISHOP

Signature PAUL BISHOP

Representative Name (print) (SAME)

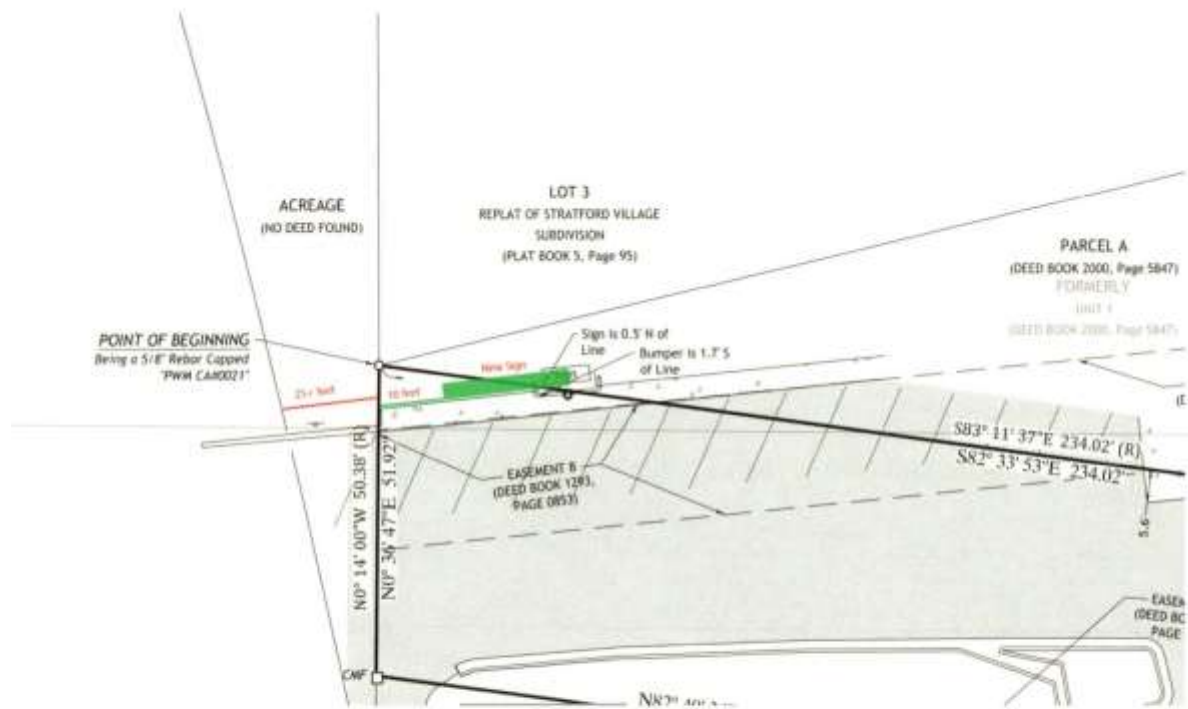
Signature

Date 7/7/23

If applicant is using a
representative for the
request both signatures
are required

Office Use Received By: Cindy
Zone B-2
Hearing Date 7/25 4:00
Approved Disapproved PROCCUPANT

CASE NO. 2 2026 6TH AVE SE AND 2020 STRATFORD RD SE



DIAGRAM



PICTURE

July 6, 2023

Re: Land Owner Agreement for Common Signage

To whom it may concern:

The undersigned land owners (Generations Land LLC and Matthew 6:22 Properties LLC) agree to erect and maintain a common sign for two businesses at 2020 Stratford Ct & 2026 6th Ave SE. The land owners agree to the sign position and understand that the sign will sit on both properties. The sign will take up approximately the same amount of space on both properties. Any future decisions about the sign must be agreed upon by both land owners. In the event that either or both properties are sold, the new owners are expected to honor this agreement moving forward or revisit it as needed in the future.


Generations Land LLC Partner

7/6/23
Date


Matthew 6:22 Properties LLC Owner

7/6/23
Date

LAND OWNER AGREEMENT

4



402 Lee St NE 1st Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: Rodney and Cindy Darby

MAILING ADDR: 3913 Palomino Drive, SW

CITY, STATE, ZIP: Decatur, AL 35603

PHONE: 256-566-5527

PROPERTY OWNER: Rodney and Cindy Darby

OWNER ADDR: 3913 Palomino Drive, SW

CITY, STATE, ZIP: Decatur, AL 35603 PHONE: 256-566-5527

ADDRESS FOR APPEAL: 3915 Palomino Drive, SW

NATURE OF APPEAL:

- ☐ HOME OCCUPATION ☒ SETBACK VARIANCE ☐ SIGN VARIANCE
- ☐ USE PERMITTED ON APPEAL ☐ APPEAL OF ADMINISTRATIVE DECISION
- ☐ OTHER ☐ SURVEY FOR VARIANCES ATTACHED ☐ DRAWINGS FOR VARIANCES ATTACHED

*****Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard*****

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

We request a 5-foot variance to the setback along Bridle Path for Lot 1 of The Farm. The setback was originally platted as 28 feet rather than the required 20 feet per zoning. We would like to provide an additional 5 feet along the side lot line to place the house 10 feet off the side lot line. This will allow for additional green space between lot 1 and lot 2. The house will still meet the typical 20-ft setback from Bridle Path (R-5 Zone).

Applicant Name (print) <u>Rodney Darby</u>	If applicant is using a	Office Use Received By: <u>CM</u>
Signature <u>Rodney Darby</u>	representative for the	Zone <u>R-5</u>
Representative Name (print) <u>Richard Humphrey</u>	request both signatures	Hearing Date <u>July 25, 2023</u>
Signature <u>R. Humphrey</u>	are required	Approved/Disapproved
Date <u>7-10-23</u>		

Section 25-10.3(1)(d)

CASE NO. 3 3915 PALOMINO DR. SW

#5



402 Lee St NE 1st Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: H. M. Nowlin

MAILING ADDR: PO Box 1149

CITY, STATE, ZIP: Decatur AL 35602

PHONE: 256-227-8601

PROPERTY OWNER: Brown-Nowlin-Almon Development Co., L.L.C.

OWNER ADDR: PO Box 1149

CITY, STATE, ZIP: Decatur, AL 35602

PHONE: 256-227-8601

ADDRESS FOR APPEAL: 2201 Sorrento Pl, SW, Decatur, AL 35603

NATURE OF APPEAL:

☐ HOME OCCUPATION

☒ SETBACK VARIANCE

☐ SIGN VARIANCE

☐ USE PERMITTED ON APPEAL

☐ APPEAL OF ADMINISTRATIVE DECISION

☐ OTHER

☐ SURVEY FOR VARIANCES ATTACHED

☒ DRAWINGS FOR VARIANCES ATTACHED

*******Applicants or Duly Appointed Representative MUST be present in order**

For the case to be heard*****

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

I am requesting a twelve foot (12') setback variance on a corner lot located at the intersection of Sorrento Pl, SW, and Castle Gate Blvd, SW, Decatur, AL 35603. Mrs. Brenda Greenhill has contracted to purchase this lot, contingent upon obtaining this variance, to build her personal residence. This lot was developed in 2006 and has not been marketable because of this forty foot (40') setback.

Applicant Name (print) H. M. Nowlin

Signature [Signature]

Representative Name (print) _____

Signature _____

Date 07/07/2023

If applicant is using a
representative for the
request both signatures
are required

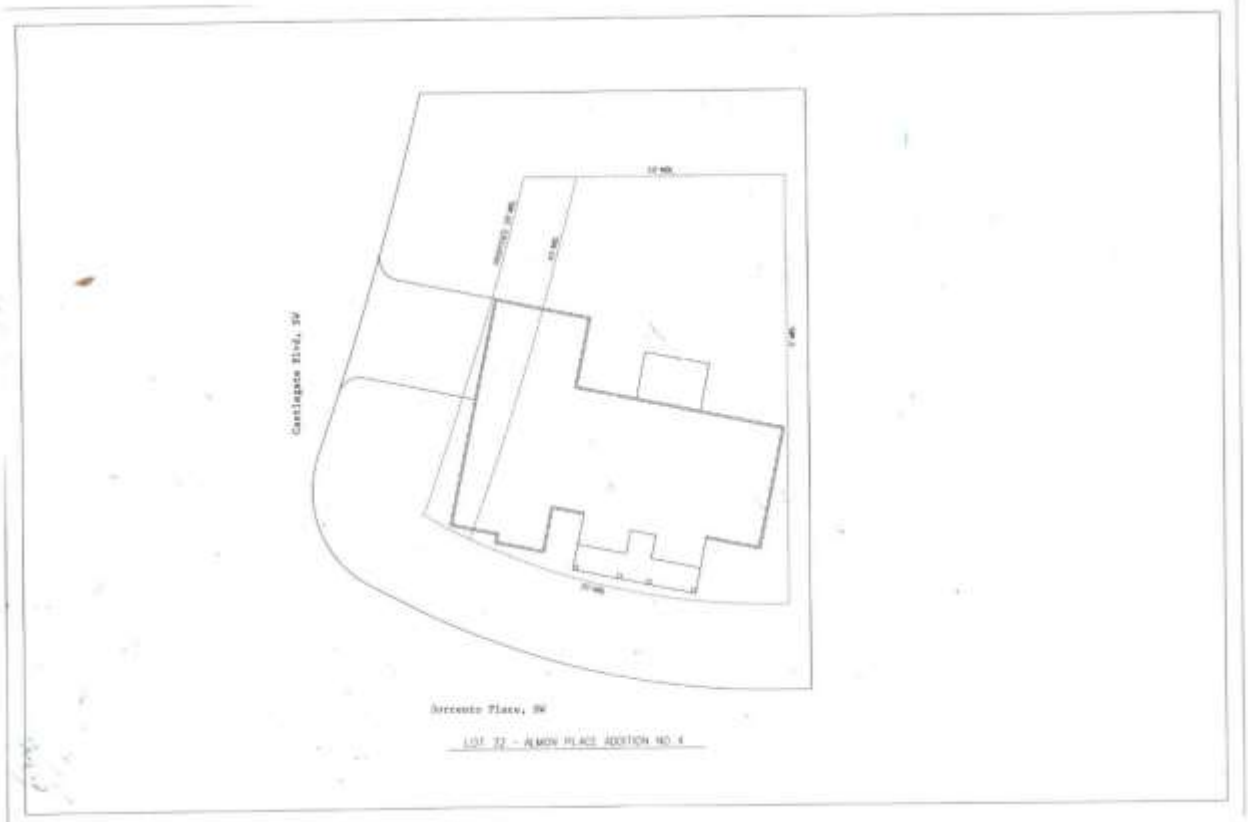
Office Use Received By [Signature]

Zone R-5

Hearing Date 7-25

Approved Disapproved _____

CASE NO. 4 2201 SORRENTO PL SW



DIAGRAM