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TOWN ADMINISTRATOR
Tobin E. Maples, AICP



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MEMBERS
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Lydia Novakov
Don Snell
Leland White

June 14, 2023

BOARD OF ADJUSTMENT MEMBERS

Chuck Reeder, Chairman
Stacey Furst
Joan Clark
Alison Hunsicker
Robert McCulloch
Nancy Rogers, Alternate Member
Jim Yoder, Alternate Member

Dear Board Members,

The Board of Adjustment will conduct a public hearing at 8:30 a.m. on Wednesday, June 28, 2023, to consider a variance from Section 7-201 (4) the definition of Accessory Building or Structure on a lot located at 4321 Lakeside Drive. Section 7-201 (4) of the Zoning Ordinance states “in a residence district, a subordinate building or structure, attached or detached and used for a purpose customarily incidental to the main structure”. Accessory Buildings or Structures are not considered incidental without a Main Building or Structure. The property owner and builder are requesting to place various accessory structures on the lot without constructing a main structure.

The agenda, application, and meeting details are available on the Town’s website www.hptx.org by clicking on the “Board of Adjustment” webpage.

Enclosed is a copy of: (i.) the application to the Board, (ii.) property survey, (iii.) the site plan, (iv.) the public hearing notice map, (v.) a location map of the property, and (vi) staff memo on accessory structures.

Feel free to contact me at your convenience if you have any questions.

Sincerely,
Hugh Pender
Director of Development Services
hpender@hptx.org

cc: Will Beecherl, Mayor, via e-mail
Tobin Maples, Town Administrator, via e-mail
Matthew C.G. Boyle, Town Attorney, via e-mail
Steve Alexander, Chief Financial Officer, via e-mail
Joanna Mekeal, Town Secretary, via e-mail

**APPEAL TO THE BOARD OF ADJUSTMENT
TOWN OF HIGHLAND PARK**

(Please Type or Print)

ADDRESS ~~4311~~ 4321 Lakeside Drive Owner's Name Ian and Jamie Charles

LEGAL DESCRIPTION: Lot(s) 1, 2, and 3 (partial) Block 1 Addition HIGHLAND PARK ACREAGE

Mailing Address 4115 Stanford Avenue

City Dallas State TX Zip Code 75225

1. Request: Permission to install a perimeter fence, landscape edging, stair access from adjacent property pool area down to grade, entry driveway, access gate, motor court and steps up to grade, a sculpture garden, and retaining and landscape walls on the 4321 Lakeside Drive property without a Primary Residence structure on that parcel.

2. Jurisdiction: [Applicant has reviewed Section 17-200 a,b, and c of the Highland Park Zoning Ordinance (copy attached) and is of the opinion that the Board of Adjustment has jurisdiction for the following reason(s)]

The hardship we face is 20' of fall across the site, making it difficult to access a motor court or garage entry. An entrance from Oaklawn is dangerous as it is a much busier street with difficult sightlines and is at the high end of the topography. Our proposed driveway comes in closer to average natural grade off of Lakeside, requiring the least amount of earthwork and protecting as many existing mature trees as possible. Landscape walls are also proposed to contain the lawn and step the landscaping down as smoothly as possible and retain existing grade.

Additional information submitted by applicant Site plan and renderings of proposed landscaping.

Fee Paid _____ Date _____ Phone _____

3. Signature of Owner 

(To be completed by Building Inspection Department)

Reason for denial: Section 7-201 (4)

Explanation:

Section 7-201 (4) of the Zoning Ordinance states "in a residence district, a subordinate building or structure, attached or detached and used for a purpose customarily incidental to the main structure". Accessory Buildings or Structures are not considered incidental without a Main Building or Structure.

Hugh Pender 06/14/2023
Building Inspector Date

OAK LAWN AVENUE
(80' R.O.W.)

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These documents have been prepared specifically for the Charles Guest House. They are not suitable for use on other projects or in other locations without the approval of the Architect.



shm ARCHITECTS
4514 Travis Street, Suite 302, Dallas, Texas 75205
214.252.3830 • 214.252.3840 Fax • shmarchitects.com

CHARLES GUEST HOUSE
HIGHLAND PARK, TEXAS
Construction Set

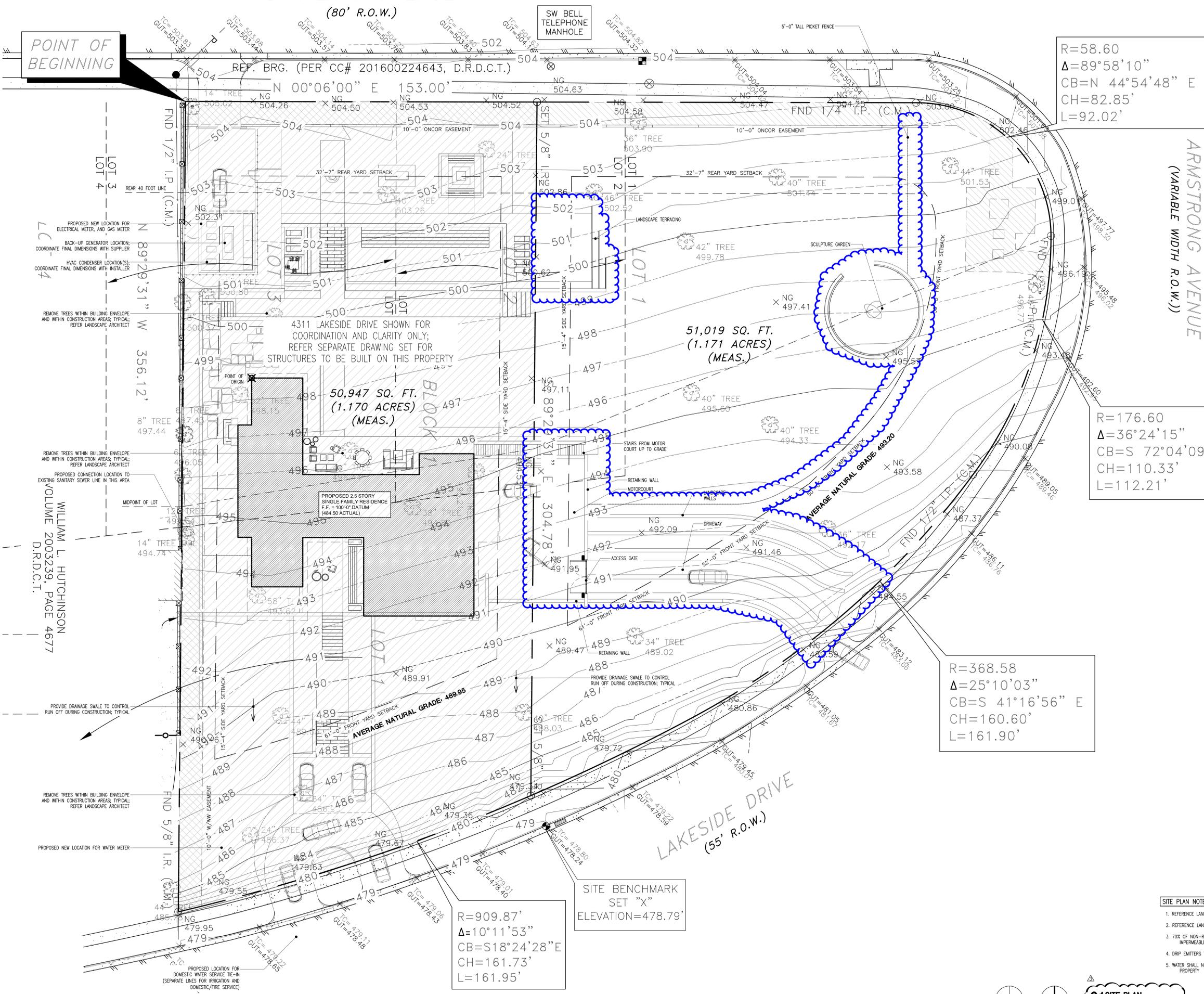
SHM PROJECT #
21-084

PERMIT SET 12.02.2022
CONSTRUCTION SET 12.22.2022
REVISION 03 05.18.2023

ISSUE DATE
DECEMBER 22, 2022

SITE PLAN

A1.02



POINT OF BEGINNING

R=58.60
Δ=89°58'10"
CB=N 44°54'48" E
CH=82.85'
L=92.02'

R=176.60
Δ=36°24'15"
CB=S 72°04'09" E
CH=110.33'
L=112.21'

R=368.58
Δ=25°10'03"
CB=S 41°16'56" E
CH=160.60'
L=161.90'

R=909.87'
Δ=10°11'53"
CB=S18°24'28" E
CH=161.73'
L=161.95'

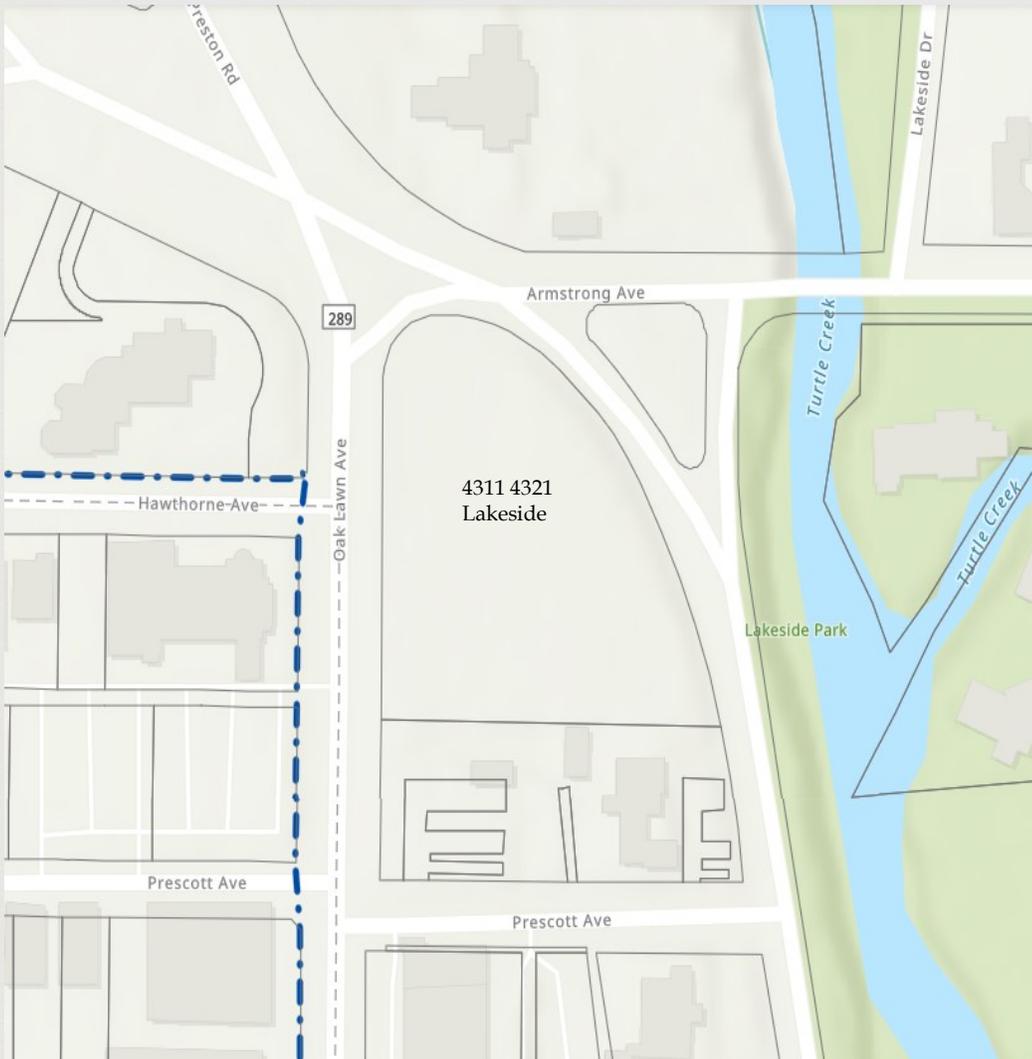
SITE BENCHMARK
SET "X"
ELEVATION=478.79'

PROPOSED NEW LOCATION FOR ELECTRICAL METER, AND GAS METER
BACK-UP GENERATOR LOCATION; COORDINATE FINAL DIMENSIONS WITH SUPPLIER
HVAC CONDENSER LOCATION(S); COORDINATE FINAL DIMENSIONS WITH INSTALLER
REMOVE TREES WITHIN BUILDING ENVELOPE AND WITHIN CONSTRUCTION AREAS; TYPICAL; REFER LANDSCAPE ARCHITECT
REMOVE TREES WITHIN BUILDING ENVELOPE AND WITHIN CONSTRUCTION AREAS; TYPICAL; REFER LANDSCAPE ARCHITECT
PROPOSED CONNECTION LOCATION TO EXISTING SANITARY SEWER LINE IN THIS AREA
MIDPOINT OF LOT
PROVIDE DRAINAGE SWALE TO CONTROL RUN OFF DURING CONSTRUCTION; TYPICAL
REMOVE TREES WITHIN BUILDING ENVELOPE AND WITHIN CONSTRUCTION AREAS; TYPICAL; REFER LANDSCAPE ARCHITECT
PROPOSED NEW LOCATION FOR WATER METER

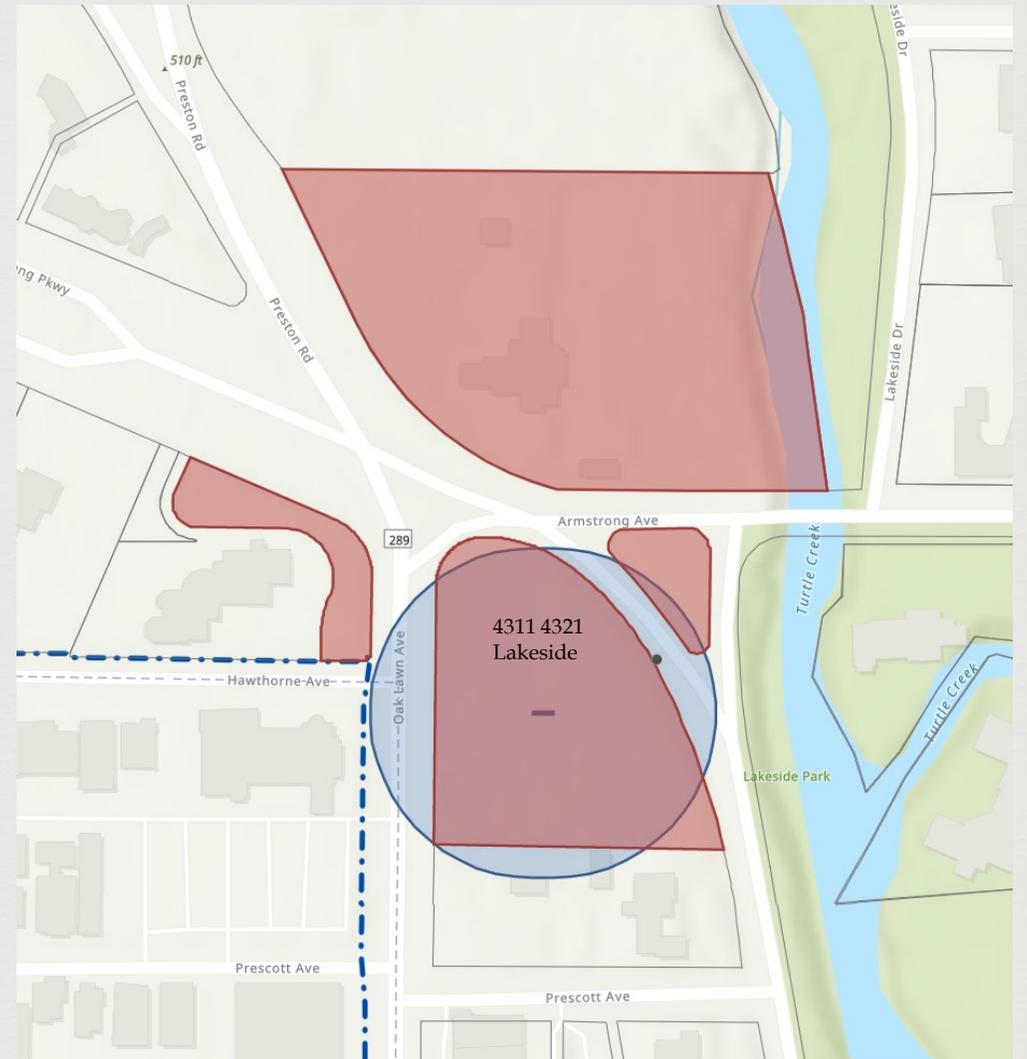
WILLIAM L. HUTCHINSON
VOLUME 2003239, PAGE 4677
D.R.D.C.T.

- SITE PLAN NOTES
1. REFERENCE LANDSCAPE ARCHITECT FOR SITE DRAINAGE
 2. REFERENCE LANDSCAPE ARCHITECT FOR SITE IMPROVEMENTS
 3. 70% OF NON-ROOF AREA TO BE VEGETATION, PERMEABLE PAVING, OR IMPERMEABLE PAVING WITH WATER RUNOFF
 4. DRIP EMITTERS TO BE INSTALLED AT ALL BEDDING AREAS
 5. WATER SHALL NOT BE REDIRECTED TO DRAIN ONTO ADJOINING PRIVATE PROPERTY

TRUE NORTH PLAN NORTH
01 SITE PLAN SCALE: 1/8"=1'-0"



Area map



200' notification map





Memorandum

To: FILE

From: Kirk Smith, Development Services Manager

Date: January 21, 2016

Subject: Prohibition of Accessory Structures/Uses on a Vacant Lot

The following compilation from the Town Zoning Ordinance outlines the Building Inspection Department's consistent interpretation of why an accessory building or accessory use of a building site is prohibited unless a main structure is located thereon.

Summary:

The purpose of the Zoning Ordinance is to promote the health, safety, morals, and general welfare of the Town; and to conserve the value of buildings and encourage the most appropriate use of land throughout the Town consistent with a Comprehensive Plan.

The use of land and buildings as defined in Section 7 sets forth permitted uses within specific zoning districts of the Town. A One-Family residence is permitted to exist on a building site as a primary residential use [7-102] together with permitted accessory buildings [13-101]. Accessory buildings are used for a purpose customarily incidental to the main structure and must not create a condition adverse to the use and enjoyment of adjacent residential property.

[7-201 (4)].

Detached accessory buildings must be located in the area defined as the rear yard [12-101 (1) (a)]. The rear yard is defined as an open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line [22-100 (57)]. A main building is defined as the building or buildings on a lot which are occupied by the primary use [22-100(40)]. A main building must be located on the building site in order to maintain a minimum required front yard setback [22-100 (56)] and side yard setback [22-100 (58)] and for which to provide defined yards and opens spaces for the location of accessory buildings.

Furthermore, multipurpose game courts, swimming pools, fences, play structures, etc. are allowed in specific locations relative to the position of the primary structure on the building site.

The Building Inspection Department has consistently and accurately enforced the provisions of this interpretation to also prohibit private concrete (e.g. sidewalks, retaining walls) and fencing on vacant building sites. Plantings (living landscape), trees, shrubs, irrigation and drainage systems are the only permitted improvements allowed on a vacant building site.

The Board of Adjustment does not have jurisdiction to vary the inherent allowed uses of zoned property within the Town of Highland Park. They do however, maintain the ability to vary the zoning

requirements related to height, yard, fence location and fence height, coverage, easement obstruction regulations and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification [17-200 (b)].

Therefore, unless a main building is located on a building site, accessory building/structures, which are incidental to the main building, are not allowed to be located thereon.

Supporting Information:

SECTION 2. PURPOSE

2-100 The Zoning Regulations and Districts as herein established have been made in accordance with a Comprehensive Plan for the purpose of promoting the health, safety, morals, and general welfare of the Town. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town consistent with a Comprehensive Plan.

SECTION 7. USE OF LAND AND BUILDINGS

7-100 LAND AND BUILDINGS IN EACH OF THE FOLLOWING CLASSIFIED DISTRICTS MAY BE USED FOR ANY OF THE FOLLOWING LISTED USES BUT NO LAND SHALL HEREAFTER BE USED, AND NO BUILDING OR STRUCTURE SHALL HEREAFTER BE ERECTED, ALTERED OR CONVERTED WHICH IS ARRANGED OR DESIGNED OR USED FOR OTHER THAN THOSE USES SPECIFIED FOR THE DISTRICT IN WHICH IT IS LOCATED AS SET FORTH BY THE FOLLOWING SCHEDULE:

7-101 The following symbols are applicable to the interpretation of the SCHEDULE OF USES, 7-102 through 7-107.

LEGEND



Designates use permitted in district indicated.



Designates use prohibited in district indicated.



Indicates use may be approved as Specific Use Permit (See Section 11)

Note: Symbols applicable to following Use Schedule Charts 7-102 through 7-107.

7-102 PRIMARY RESIDENTIAL USES

TYPE USE		DISTRICTS												
		A	B	C	D	E	F	G	H	CC	CS	GR	P D	
One-Family Residence (Detached)	(2)	X	X	X	X	X	X	X	X	X		X	X	X
One-Family Residence (Attached), Townhouse	(1)								X	X		X	X	X
Two-Family Residence Duplex								X	X	X		X	X	X
Multiple-Family Residence Apartment Building									X	X		X	X	X
Community Unit Development	(3)			S	S	S	S	S	S	S		S	S	S

7-103 SPECIAL AND ACCESSORY USES

TYPE USE		DISTRICTS												
		A	B	C	D	E	F	G	H	CC	CS	GR	P D	
Accessory Building	(4)	X	X	X	X	X	X	X	X	X	X	X	X	X
Accessory Food Service										S	X	S	S	S
Church and Rectory	(6)	X	X	X	X	X	X	X	X	X		X	X	X
Country Club w/Golf Course	(7)	X	X								X			
Home Occupation	(8)	X	X	X	X	X	X	X	X	X		X	X	X
Off-Street Parking Incidental to Main Use	(9)	X	X	X	X	X	X	X	X	X	X	X	X	X

Park, Playground or Community Center (Public)	(10)	X	X	X	X	X	X	X	X	X	X	X	X
School, Public	(11)												X
Servants or Caretakers Quarters	(12)	X	X	X	X	X	X	X	X	X	X	X	X
Swimming Pool (Private)	(13)	X	X	X	X	X	X	X	X	X	X	X	X
Tennis Court (Private)	(13a)	X	X	X	X	X				X			S
Tennis Court (Lighting)		S								S			
Multi-purpose Game Court (no lighting)	(13b)	X	X	X	X	X	X	X	X	X	X	X	X
Multi-purpose Game Court (lighting)	(13a) [(13c)]	S	S	S	S	S	S	S	S	S	S	S	S

7-200 SPECIAL DEFINITIONS AND EXPLANATIONS NOTED IN USE REGULATIONS

7-201 The following definitions and explanatory notes supplement, restrict and define the meaning and intent of the use regulations as set forth in the Use Schedule and Provisions 7-101 through 7-107 inclusive. **(PARTIAL LIST OF DEFINITIONS)**

(2) One-Family Residence (Detached)—A dwelling designed and constructed for occupancy by one family and located on a separate building site and having no physical connection to other buildings located on any other adjacent lot or building site and providing the normal front, side and rear yards.

(4) Accessory Building or Structure—In a residence district, a subordinate building or structure, attached or detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, air conditioning structure, tool house, lath or greenhouse as a hobby, home workshop, children’s playhouse, storage house or garden shelter, but in no case shall an accessory building involve the conduct of a business or the creation of a condition adverse to the use and enjoyment of adjacent residential property.

(13) Swimming Pool (Private)—A pool and related equipment located on a building site and which is an accessory use designed and used only in relation to the occupancy of the premises. See section 13-103 for location requirements.

(13a) Tennis Court—A detached accessory structure open and unobstructed to the sky designed and constructed with adequate drainage for playing the game of tennis and having a minimum area of seven thousand two hundred (7,200) square feet and minimum dimensions of sixty (60) feet by one hundred twenty (120) feet and enclosed and properly screened on all sides exposed to any street, alley, or lot line by a wall or fence having a minimum height of ten (10) feet. No tennis court shall be lighted for play.

(13b) Multi-Purpose Game Court (no lighting)—An all-weather surface designed for use in playing a variety of games including but not limited to basketball, volleyball, tennis with restricted flight balls, and badminton. Game courts may vary in size but will not provide lighting for play at night.

(13c) Multi-Purpose Game Court (lighting)—The installation of lighting to provide for nighttime use of multi-purpose courts. Lighting shall be designed and installed to illuminate the playing surface only.

8-401 MINIMUM REQUIRED FRONT YARD:

In all zoning districts except Planned Development Districts the minimum required front yard shall be the average front setback for the entire block as determined by measuring the setbacks of the main buildings on one side of the street.

8-500 SIDE YARD:

8-501 IN THE FOLLOWING ZONING DISTRICTS THE MINIMUM AND MAXIMUM REQUIRED SIDE YARD SHALL BE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE AND NO BUILDING, STRUCTURE OR USE SHALL HEREAFTER BE LOCATED SO AS TO HAVE A SMALLER SIDE YARD ON EITHER SIDE OF SUCH

BUILDING THAN HEREIN SPECIFIED.

SCHEDULE—MINIMUM AND MAXIMUM REQUIRED SIDE YARDS

TYPE USE	DISTRICTS										
	A	B	C	D	E	F	G	H	CS	GR	PD
(a) Minimum Side Yard Required 10% of Lot Width	10 Percent of Lot Width But Not Less Than Width Shown Below										
	20'	12'	7'	5'	5'	5'	See 8-502	See 8-502	See 8-502(8)	See 8-502(8)	See 8-502(7)

							(2)(3)(6)	(4)(6)(2)))	
(b) Maximum Side Yard Required*	25'	** 15'	** 10'	** 10'	** 8'	** 8'	See 8-502 (2)(3)(6)	See 8-502 (4)(6)(2)	See 8- 502(8)	See 8- 502(8)	See 8- 502(7)

* Side yard need not exceed the dimension specified in (b) even though 10% of lot width may exceed the maximum side yard dimension shown by the Schedule.

** The maximum side yard requirements of this Section shall not apply to combined building sites. See Section 8-502(11).

8-502 SPECIAL SIDE YARD REGULATIONS:

(1) Every part of a minimum required side yard shall be open and unobstructed except for accessory buildings, fences and other appurtenances as permitted herein and the ordinary projections of window sills, belt courses, cornices, chimneys and other architectural features projecting not to exceed twelve (12) inches into the required side yard, and roof eaves projecting not to exceed thirty-six (36) inches into the minimum required side yard.

(1a) Air-conditioning condensing units may be located in the required side yard with the following conditions:

(a) Air-conditioning condensing units adjacent to residential building sites shall be screened by a solid wood fence or wall. Air-conditioning condensing units abutting a street, alley, or easement can be screened by landscaping, but shall not exceed the height of the screening;

(b) No more than five (5) air-conditioning condensing units can be located in one side yard. A minimum clearance of twenty-four (24) inches shall be maintained between the air-conditioning condensing unit and the side property line, or at least one (1) required side yard shall be kept clear of all air-conditioning condensing units; and

(c) Placement of new air-conditioning condensing units associated with the renovation, addition, and/or construction of a new residential structure shall comply with the regulations set forth herein. Replacement of existing air-conditioning condensing units that maintain a nonconforming status will be allowed to continue until the building site is redeveloped.

8-600 REAR YARD:

8-601 NO BUILDING OR STRUCTURE SHALL HEREAFTER BE LOCATED, ERECTED OR ALTERED TO HAVE A REAR YARD SMALLER THAN HEREIN REQUIRED:

(1) In all districts permitting residential structures, no main residential building, including any basement or cellar, may be constructed nearer than ten feet (10') to the rear property line. In the B, C, D, E, and F Districts, any structure, or portion thereof, located

within forty feet (40') of the rear property line, shall not exceed twenty-five feet (25') in height, nor have a plate height exceeding twelve feet, six inches (12' 6"). Roof height shall be measured to the roof ridge, or projected roof ridge, whichever is higher, and the slope shall not exceed twelve (12) vertical units in twelve (12) horizontal units (12:12 pitch maximum). In all districts permitting residential structures, a main residential building shall not cover more than fifty percent (50%) of that portion of the lot lying to the rear of a line erected joining the midpoint on one side of the lot line with the midpoint of the opposite side lot line. For accessory buildings, see section 12. (See Appendix Illustration 3.)

(7) In B, C, D, E, and F residential districts, gables, dormers, windows, or doors located above the twelve-foot, six-inch (12' 6") plate line and within forty feet (40') of the rear property line, shall not face the side yards unless located a minimum distance twenty feet (20') from the side property line. Face shall mean a line of site directed perpendicular of the window glazing towards the referenced property line. Dormers or windows facing a side street on a corner lot shall not be required to meet this requirement. Dormers and windows cannot exceed four feet (4') in width, must be separated by a minimum of four feet (4'), and must be set back a minimum of thirty inches (30") from the top plate.

(8) In the B, C, D, E, and F residential districts, windows above the twelve-foot, six-inch (12' 6") plate line facing and within twenty feet (20') of the rear property line, shall be fixed and nontransparent.

(9) In B, C, D, E and F districts, a deck and/or porch more than thirty inches (30") above grade and a roof terrace and/or balcony shall not be located within forty feet (40') of the rear property line.

(10) In the B, C, D, E and F districts, fixed skylights that are flush-mounted with the roof are allowed above the twelve-foot, six-inch (12' 6") top plate line of the first floor within forty feet (40') of the rear property line. The lowest portion of such skylight shall be a minimum of six feet (6') high, measured vertically from the finished floor above the top plate.

SECTION 9. OFF-STREET PARKING AND LOADING SPACE REGULATIONS

9-100 OFF-STREET PARKING SHALL BE PROVIDED ON THE LOT OR TRACT ON WHICH THE USE IS LOCATED SUFFICIENT TO PROVIDE THE FOLLOWING RATIO OF VEHICLE SPACES FOR THE USES SPECIFIED IN THE DISTRICTS DESIGNATED.

9-101 IN THE FOLLOWING ZONING DISTRICTS THE MINIMUM OFF-STREET PARKING SPACES FOR RESIDENTIAL USES SHALL BE:

- | | |
|---|--|
| (1) A and B, One-Family Residence Districts | Two (2) spaces for each dwelling unit. |
| C, D and E, One-Family Residence Districts | Three (3) spaces for each dwelling unit. Two parking spaces shall be enclosed and shall be located behind the front building line. |

SECTION 10. HEIGHT REGULATIONS

10-100 NO BUILDING OR STRUCTURE SHALL BE LOCATED, ERECTED, OR ALTERED SO AS TO EXCEED THE HEIGHT LIMIT HEREINAFTER SPECIFIED FOR THE DISTRICT IN WHICH THE BUILDING IS LOCATED.

10-101 IN THE FOLLOWING ZONING DISTRICTS THE MAXIMUM HEIGHT OF BUILDINGS AND STRUCTURES SHALL BE:

- (1) A, One-Family Residence Districts Three (3) stories not to exceed forty-five (45) feet, except as noted in 10-102 following.

- (2) B, One-Family Residence Districts Two and one-half (2-1/2) stories not to exceed thirty-five (35) feet, except as noted in 10-102 following.

10-102 SPECIAL HEIGHT REGULATIONS

(1) In all districts, roofs with a slope of less than 3:12 shall be considered flat roofs or roofs with a flat surface. Roofs with a slope of 3:12 or greater, up to and including a slope of 18:12, shall be considered pitched roofs. Roofs with a slope of greater than 18:12 shall be considered a vertical wall and be limited to the maximum plate height limitation for the district where applicable.

SECTION 12. ACCESSORY BUILDING REGULATIONS

12-100 DEFINITION AND USE REGULATION

- a. In a residence or apartment district, an accessory building cannot be rented, cannot contain kitchen facilities nor can an accessory building be used for commercial purposes.

- b. In other districts, an accessory building is a subordinate building, the use of which is incidental to and used only in conjunction with the main building.

12-101 AREA REGULATIONS FOR ACCESSORY BUILDINGS IN RESIDENTIAL AND MULTIFAMILY DISTRICTS:

- (1) Front Yard.
 - (a) Attached accessory buildings shall have a front yard not less than that required for the main building. Detached accessory buildings shall be located in the area defined as the rear yard, except as provided in Subsection (b).

 - (b) Any detached accessory building located on a combined building site must be located in the rear yard, or in a side yard, to the rear of a line joining the midpoint of one side lot line with the midpoint of the opposite side lot line. (See Appendix Illustration 9)

- (2) Side Yard.
 - (a) Except as provided in Subsection (b), there shall be a side yard for any detached accessory building of not less than three (3) feet from any side lot line, alley line or easement line, except that adjacent to a side street the side yard requirement shall be the same as that required for the main building. An attached or

detached accessory building on a corner lot which opens directly to and is entered from the side street shall provide a side yard of not less than twenty (20) feet. Maximum overhang of roof of an accessory building into the required side yard is eighteen (18) inches.

(b) Except as provided below in Subparagraph 4 (Nonconforming Accessory Buildings), any detached accessory building to be located on a combined building site shall have a side yard that is not less than ten feet from any side lot line, alley line, or easement line. All other provisions of Subsection (a) shall apply to any detached accessory building located on a combined building site.

(3) Rear Yard. There shall be a rear yard for any accessory building of not less than (3) feet from the rear property lot line, alley line, or easement line, except that if no alley exists, the rear yard shall not be less than eight (8) feet as measured from the rear property line. In A, B, G and H Districts, the main dwelling and all accessory buildings shall not cover more than sixty (60) percent of that portion of the lot lying to the rear of a line erected joining the midpoint of one side lot line with the midpoint of the opposite side lot line. In C, D, E and F Districts, coverage for the main building and all accessory buildings is limited to not more than fifty (50) percent. Carports, garages or other detached accessory buildings located within the rear portion of the lot as heretofore described shall not be located closer than ten (10) feet to the main building, nor nearer than three (3) feet to any side lot line, except that a breezeway not exceeding fifteen (15) feet in height and six (6) feet in width, as measured to the outside face of support posts and exclusive of a maximum eighteen (18) inch roof overhang, shall be permitted connecting the dwelling structure to an accessory building, provided it is open on all sides from the eaves of the roof to the ground. Carports and garages which open directly to and are entered from an alley shall not be located nearer than ten (10) feet to the rear lot line. Maximum overhang for roofs of accessory buildings into the required rear yard is eighteen (18) inches.

(4) Special Provision for Play Structures. Play structures are permitted only in the rear yard, or in the side yard behind the midpoint of the lot depth. There shall be a side yard setback and rear yard setback of not less than three (3) feet, including any roof overhang, to any property line, alley line, or easement line.

13-101 Location of Dwellings and Buildings—Only one main building for one-family, two-family or multiple-family use with permitted accessory buildings may be located upon a lot or platted tract. Every dwelling shall face or front upon a public street, or approved place, other than an alley, which means of access shall have a minimum width of forty (40) feet. Whenever two (2) or more main buildings, or portions thereof, are proposed to be placed upon a single lot or tract and such buildings will not face upon a public street, the same may be permitted when the site plan for such development is approved by the Town Council so as to comply with the normal requirements for platting. No parking area, storage area, or required open space for one (1) building shall be computed as being the open space, yard or area requirements for any other dwelling or other use.

13-102 Temporary Construction Buildings—Temporary buildings, and temporary building material storage areas to be used for construction purposes may be permitted for a specified period of time in accordance with a permit issued by the Building Inspector and subject to periodic renewal by the Inspector for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices and buildings shall be removed at the direction of the Building Inspector.

13-103 Location of Tennis Courts, Multi-purpose Game Courts and Swimming Pools, and Water Storage—

(a) Private tennis courts or multi-purpose game courts which are accessory uses shall be located on a building site and shall not cover more than twenty percent (20%) of the building site.

(b) Except as provided in Subsection (d), no portion of a tennis court or multi-purpose court surface, fence or other appurtenance shall be located within the required front yard or side yard nor nearer to any side lot line than permitted for a building as specified in Section 8-501 (minimum and maximum required side yard schedule) of the zoning ordinance nor nearer than three (3) feet from the rear property line, easement line or alley line. Fences or walls that exceed ten (10) feet in height shall be set back from any side lot line one (1) foot for each foot the fence or wall exceeds ten (10) feet from the setback permitted for a building under Section 8-501 of the zoning ordinance.

(c) All swimming pools and equipment shall be located behind the front building line. The edge of the pool's water surface shall be located a minimum of three (3) feet from the side or rear yard line or easement line, if no alley exists. Pool equipment shall not be permitted in the required side yard, but may be located to the rear property line or easement line if no alley exists.

(d) A tennis court or multi-purpose court surface, swimming pool or other appurtenance located on a combined building site shall be located only in the rear yard or, in a side yard to the rear of a line joining the midpoint of one side lot line with the midpoint of the opposite side lot line, provided that such improvement(s) is (are) set back a minimum distance of ten (10) feet from the side lot line. (See Appendix Illustration 9)

17-200 Jurisdiction: When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards authorize the following special exceptions to the regulations herein established.

b. Permit such modifications of the height, yard, fence location and fence height, coverage, easement obstruction regulations and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification.

SECTION 22. GENERAL DEFINITIONS

22-100 CERTAIN WORDS IN THIS ORDINANCE NOT HERETOFORE DEFINED ARE DEFINED AS FOLLOWS:

WORDS USED IN THE PRESENT TENSE INCLUDE THE FUTURE; WORDS IN THE SINGULAR NUMBER INCLUDE THE PLURAL NUMBER AND WORDS IN THE PLURAL NUMBER INCLUDE THE SINGULAR NUMBER; THE WORD "BUILDING" INCLUDES THE WORD "STRUCTURE"; THE WORD "LOT" INCLUDES THE WORDS "PLOT" OR "TRACT"; THE WORD "SHALL" IS MANDATORY AND NOT DISCRETIONARY.

(8) Building—Any structure built for the support, shelter and enclosure of persons, animals, chattels or moveable property of any kind.

(21) Dwelling—A building or portion of building designed exclusively for residential occupancy by a family or families including one-family, two-family and multiple-family

dwellings but not including mobile homes, house trailers, hotels, boarding or lodging houses.

(23) Dwelling, One-Family—A detached building having accommodations for and occupied by not more than one family no portion of which is rented to anyone outside the immediate family and no portion of which is used for commercial purposes.

(27) Dwelling Unit—A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters of a family and including facilities for food preparation and sleeping.

(29) Fence—A structure of wood, stone, iron, brick, tile or cement, connected together and designed for use in the position fixed, erected upon the ground for decorative or functional purposes

(40) Main Building—The building or buildings on a lot which are occupied by the primary use.

(43) Open Space—Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of fences, cornices, eaves or porches.

(44) Parking Space, Off-Street—An enclosed or unenclosed all-weather-surfaced area of not less than one hundred eighty (180) square feet (measuring approximately nine (9) feet by twenty (20) feet) not on a public street or alley, together with an all-weather-surfaced driveway connecting the area with a street or alley permitting free ingress and egress without encroachment on the street or alley. Any parking adjacent to a public street wherein the maneuvering is done on the public street shall not be classified as off-street parking in computing the parking area requirements for any use.

(44A) Play Structure—A recreational structure (i.e., a tree house, playhouse, fort, prefabricated play structure, etc.), located at grade or elevated, not intended for habitation and without amenities such as electricity or plumbing.

(48) Residence—Same as a dwelling; also when used with “district,” an area of residential regulations.

(54) Structure—(Same as building)

(55) Yard—An open space, other than a court, on the lot in which a building is situated and which is not obstructed from a point thirty (30) inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special features.

(56) Yard, Front—An open spaces, unoccupied by structures, on a lot facing a street, extending across the front of the lot between the side lot lines and from the main building to the front lot or street line and providing the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located.

(57) Yard, Rear—An open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line

and having a depth between the building and the rear lot line as specified in the district in which the lot is situated.

(58) Yard, Side—An open, unoccupied space or spaces on one or two (2) sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or a front line shall be deemed a side line.

MAYOR
Will C. Beecherl

MAYOR PRO TEM
Craig Penfold

TOWN ADMINISTRATOR
Tobin E. Maples, AICP



TOWN COUNCIL
MEMBERS

Marc Myers

Lydia Novakov

Don Snell

Leland White

June 14, 2023

BOARD OF ADJUSTMENT MEMBERS

Chuck Reeder, Chairman
Stacey Furst
Joan Clark
Alison Hunsicker
Robert McCulloch
Nancy Rogers, Alternate Member
Jim Yoder, Alternate Member

Dear Board Members,

The Board of Adjustment will conduct a public hearing at 8:30 a.m. on Wednesday, June 28, 2023, to consider a variance from Sections 10-101 and 8-601 (1) to construct a new home that will exceed the maximum height for the C zoning district as well as within 40 feet of the rear property line on a lot located at 4501 Highland Drive. Section 10-101 of the Zoning Ordinance states the maximum height for the C zoning district is two (2) stories not to exceed 35 feet measured to the roof ridge. Section 8-601 (1) states that structures in the rear 40 feet of the lot shall be limited to 25 feet measured to the roof ridge. Height, in the C, D, E and F zoning districts, is the vertical distance of a building as measured from the average established grade at the street line or the natural front yard ground level at the building setback whichever is higher to the roof ridge. The existing topography drops in elevation approximately 7 feet from the northwest corner to the southeast corner of the property. The property owner and builder are requesting an additional 4 feet 6 inches of allowable height due to the topography of the property to construct a new single-family home.

The agenda, application, and meeting details are available on the Town's website www.hptx.org by clicking on the "Board of Adjustment" webpage.

Enclosed is a copy of: (i.) the application to the Board, (ii) email correspondence (iii.) the site plan, (iv.) building elevations, (v) site topography drawing, (vi) the public hearing notice map, and (vii.) a location map of the property.

Feel free to contact me at your convenience if you have any questions.

Sincerely,
Hugh Pender
Director of Development Services
hpender@hptx.org

cc: Will Beecherl, Mayor, via e-mail
Tobin Maples, Town Administrator, via e-mail
Matthew C.G. Boyle, Town Attorney, via e-mail
Steve Alexander, Chief Financial Officer, via e-mail
Joanna Mekeal, Town Secretary, via e-mail

APPEAL TO THE BOARD OF ADJUSTMENT
TOWN OF HIGHLAND PARK

(Please Type or Print)

ADDRESS 4501 Highland Dr Owner's Name Mrs. Hanna Cutshall

LEGAL DESCRIPTION: Lot(s) 7 Block 30 Addition Highland Park NO.2

Mailing Address 3419 Westminster #247

City Dallas State TX Zip Code 75205

1. Request: *We are requesting a variance to section 8-601 of the Town's zoning ordinance. Given the significant natural fall of the subject lot from the west to the east, as well as from the North to the South we believe this lot should qualify for a property hardship as it relates to "How average natural grade should be measured."*
(Please reference attached emails from Mr. Hugh Pender dated 3/28 + 5/1)

2. Jurisdiction: [Applicant has reviewed Section 17-200 a,b, and c of the Highland Park Zoning Ordinance (copy attached) and is of the opinion that the Board of Adjustment has jurisdiction for the following reason(s)]

17-200 b : Permit such modifications of height, yard, fence location and fence height, coverage, easement obstruction regulations and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification.

Additional information submitted by applicant _____

Fee Paid \$204 Date 5/18/23 Phone 214-537-3339

3. Signature of Owner _____

(To be completed by Building Inspection Department)

Reason for denial: Section 10-101 and 8-601
Explanation: _____

Section 10-101 of the Zoning Ordinance states the maximum height for the C zoning district is two (2) stories not to exceed 35 feet measured to the roof ridge.
Section 8-601 (1) states that structures in the rear 40 feet of the lot shall be limited to 25 feet measured to the roof ridge.
Height, in the C, D, E and F zoning districts, is the vertical distance of a building as measured from the average established grade at the street line or the natural front yard ground level at the building setback whichever is higher to the roof ridge.

Hugh Pender June 15, 2023
Building Inspector Date

Rusty Goff

From: Hannah Cutshall <hanncuts@me.com>
Sent: Thursday, May 18, 2023 12:19 PM
To: Rusty Goff
Cc: Dawn Hennig
Subject: Signed Variance request

**APPEAL TO THE BOARD OF ADJUSTMENT
TOWN OF HIGHLAND PARK**

(Please Type or Print)

ADDRESS 4501 Highland Dr Owner's Name Mrs. Hanna Cutshall

LEGAL DESCRIPTION: Lot(s) 7 Block 30 Addition Highland Park NO.2

Mailing Address 3419 Westminster #247

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1. Request: We are requesting a variance to section 8-601 of the Town's zoning ordinance. Given the significant natural fall of the subject lot from the west to the east, as well as from the North to the South we believe this lot should qualify for a property hardship as it relates to "How average natural grade should be measured."
(Please reference attached emails from Mr. Hugh Bender dated 2/13 & 2/14)

2. Jurisdiction: [Applicant has reviewed Section 17-200 a, b, and c of the Highland Park Zoning Ordinance (copy attached) and is of the opinion that the Board of Adjustment has jurisdiction for the following reason(s)]

17-200 b: Permit such modifications of height, yard, fence location and fence height, coverage, easement, obstruction, regulations and parking regulations as may be necessary to allow appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modifications.

Additional information submitted by applicant _____

Fee Paid \$204 Date 5/18/23 Phone 214-527-3339

3. Signature of Owner Hannah Cutshall

Reason for denial: _____
Explanation: _____

Building Inspector _____ Date _____

Sent from my iPhone

Rusty Goff

From: Hugh Pender <hpender@hptx.org>
Sent: Monday, May 1, 2023 10:31 AM
To: Rusty Goff
Cc: rmeadows@hptexas.org; John Reynolds
Subject: RE: 4501 Highland Drive

Rusty,

It appears that there is a grade change of at least 4 feet from the front build line to the rear of the property. With this topographic condition it seems like a classic case for the Board of Adjustment. I am generally available this week with the exception of Tuesday morning.

Hugh Pender | Director of Development Services | Town of Highland Park

4700 Drexel Drive
Highland Park, Texas 75205
hpender@hptx.org
Direct: 214.559.9408



From: Rusty Goff <Rusty@goffcustomhomes.com>
Sent: Friday, April 28, 2023 4:48 PM
To: Hugh Pender <hpender@hptx.org>
Cc: rmeadows@hptexas.org; John Reynolds <John@goffcustomhomes.com>
Subject: 4501 Highland Drive

Huge,
Attached, please find a Preliminary Site Plan for our upcoming project located at 4501 Highland Drive in Highland Park. Given the recent change in ordinance interpretation concerning structures in the rear 40' of the Lot, I would like to discuss this project with you. Our desire is to build a three car Garage structure in the rear 40' of the Lot, but given the natural grades on this Lot, and my understanding of how natural grade is going to be measured, I am not sure how this can be done? We are approaching completion of our Architectural and Structural Plans for this project, and prior to going much further with our efforts, I would like to meet with you and discuss the possibilities given the specific Lot characteristics? Please let me know when you might be available? Thanks and I look forward to hearing back from you?

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

To: 'kienast5@yahoo.com'; 'g.rankin@att.net'; 'dc@venturacustomhomes.com';
'ejwilliams076@gmail.com'; 'erik@barrowbg.com'; 'lboerder@lebarchitects.com';
'clow4us@sbcglobal.net'; 'Slprenovation@gmail.com'; 'lucy@level5retail.com';
'blake@knox-built.com'; 'taylor@starkcustomhomes.com'; 'joe@veritasdevelopers.com';
'BT@AVANDON.COM'; 'robby@sleepyhollowhomes.com';
'joe@newportgroupconstruction.com'; 'wwbenchmark@gmail.com'; 'Grant@lloydcc.net';
'invoices@sebastiancg.com'; 'arahad@msn.com'; 'smokate@scottandreid.com';
'j_colbycraig@yahoo.com'; 'ashley@oleriohomes.com';
'sheri@barringercustomhomes.com'; 'accounting@homesmithcustombuilders.com';
'Josh@joshzielkehomes.com'; 'tim@islerhomes.com'; 'patrick@mccowen-sainton.com';
'david@onedmac.com'; 'mendozabrother13@gmail.com'; 'claysnelling@me.com';
'diane@dianeledisdesign.com'; 'kyle@hermandarden.com'; 'cyrusbarcus@gmail.com';
'mason@roberthopsongroup.com'; 'ben@danescustomhomes.com';
'mikew@doubledoorproperties.com'; 'coreyford@tommyford.net'; 'Blake@hudcg.com';
'newellcustomhomes@gmail.com'; 'crystal@redhousesolutions.net';
'godwinsanchez@ymail.com'; 'chris@blacklinerenovations.com'; 'chrisj@hw homes.com';
'office@underwoodch.com'; 'nelson@devega.com'; 'accounts@ellengrasso.com';
'admin@rwagc.com'; 'barry@bufordhawthorne.com'; 'mark@markcliftonhomes.com';
'brent@haroldleidner.com'; 'dennis@MullinuxCustomHomes.com';
'LINDAMARQUART@ROCKETMAIL.COM'; 'smcilyar@att.net'; 'rhi700@aol.com';
'info@keiserelectric.com'; 'ben@rhclark.com'; 'joulia@proushomes.com';
'ben@coatshomes.com'; 'Neal@markmolthan.com'; 'aaron@tatumbrown.com';
'oates@oatesco.net'; 'heidi@mckinleybuilt.com'; 'mark@barrybullballas.com'
Cc: Jennifer Deaver; Randy Meadows; Serena Palomino; Dexter Davis
Subject: Building Heights

Good afternoon Builders,

Recently, staff has come across several scenarios where structures in the rear 40 foot portion of the lot have been constructed taller than the maximum allowance of 25 feet. I felt like this was an opportunity to provide some clarity surrounding the zoning regulations for structures located in the rear 40 foot portion of lots and where height is measured from on each lot for all structures (main and detached structures). Section 8-601 (1) of the Town's zoning ordinance states:

...In the B, C, D, E, and F Districts, any structure, or portion thereof, located within forty feet (40') of the rear property line, shall not exceed twenty-five feet (25') in height, nor have a plate height exceeding twelve feet, six inches (12' 6"). Roof height shall be measured to the roof ridge, or projected roof ridge, whichever is higher, and the slope shall not exceed twelve (12) vertical units in twelve (12) horizontal units (12:12 pitch maximum)...

Those requirements are fairly straightforward, however what most builders may not be aware of is where the datum (elevation) point to measure the height is set. While finished floor elevations seem to be the industry standard for the reference datum point on projects, many city zoning ordinances use average grade. The Town's is no different using a term of "average natural grade" as its point of reference for where heights are measured from. I have included an excerpt from the Town's zoning ordinance definitions: (Note: I have highlighted the portion where the reference datum is established)

In Districts C, D, E, and F, height is the vertical distance of a building as measured from the average established grade at the street line or from the average natural front yard ground level at the front building setback, whichever is higher to: (1) the highest point of the roof's surface if a flat roof, as defined in Section 10 "Height Regulations"; (2) to the deck line of mansard roofs; or (3) to the roof ridge or projected roof ridge,

whichever is higher, of a pitched roof, as defined in Section 10 “Height Regulations.” (Note: for A and B districts number (3) is changed to: the mean height level between eaves and ridge line.)

The typical lot in Highland Park slopes down from the rear of the lot toward the front street, this is very important to consider since the datum point for measuring height is located at one of the lower portions of the lot (especially when considering the rear 40 foot regulations). It is also worth noting, the definition of height spelling out where the datum reference where height is measured from has been in the Town’s zoning ordinance since its original codification date of November 3rd, 1965.

Staff has started asking for lot elevations at the street curb (where the projected side property line would intersect), at the side property lines in line with the front building setback and at the rear property pins in an effort to get out in front of this issue.

Please feel free to share this email with your architects, engineers and surveyors as you design your future projects to ensure all involved in the design process understand how the Town of Highland Park measures height.

Hugh Pender | Director of Development Services | Town of Highland Park

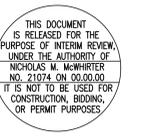
4700 Drexel Drive

Highland Park, Texas 75205

hpender@hptx.org

Direct: 214.559.9408





CUTSHALL RESIDENCE
 HIGHLAND PARK, TX

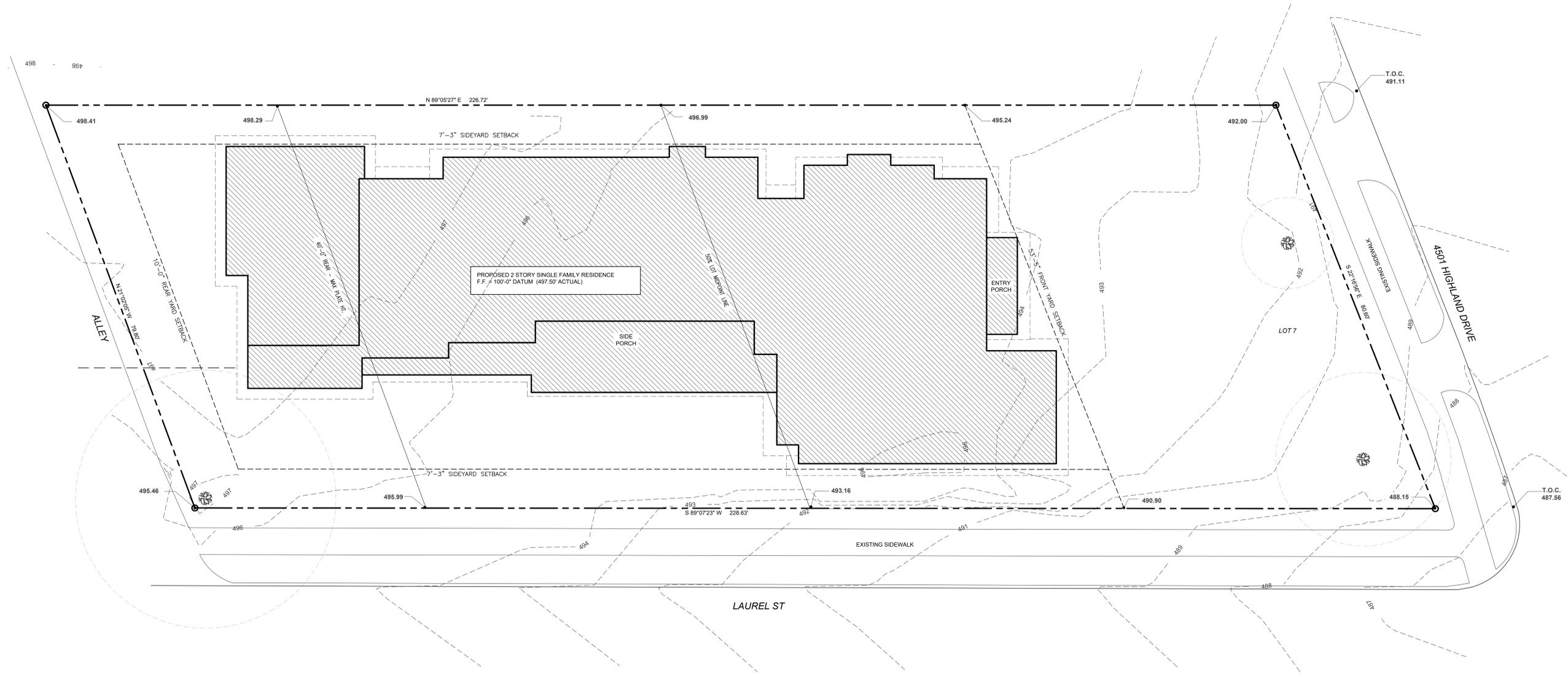
Construction Document NOT FOR CONSTRUCTION

SHM PROJECT #
 21-060

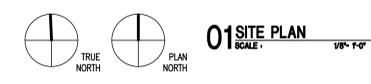
ISSUE DATE
 JUNE 01, 2023

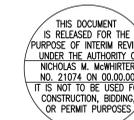
SITE PLAN

A1.03



- SITE PLAN NOTES**
1. REFERENCE LANDSCAPE ARCHITECT FOR SITE DRAINAGE
 2. REFERENCE LANDSCAPE ARCHITECT FOR SITE IMPROVEMENTS
 3. 70% OF NON-ROOF AREA TO BE VEGETATION, PERMEABLE PAVING, OR IMPERMEABLE PAVING WITH WATER RUNOFF
 4. DRIP EMITTERS TO BE INSTALLED AT ALL BEDDING AREAS
 5. WATER SHALL NOT BE REDIRECTED TO DRAIN ONTO ADJOINING PRIVATE PROPERTY
 6. ALL CURBS AND GUTTER TO BE REPLACED PER TOWN SPECS.





shmm ARCHITECTS
 4514 Travis Street, Suite 302, Dallas, Texas 75205
 214.252.3800 • 214.252.3840 Fax • shmmarchitects.com

CUTSHALL RESIDENCE
 HIGHLAND PARK, TX

Construction Document NOT FOR CONSTRUCTION

SHM PROJECT #
 21-060

ISSUE DATE
 JUNE 01, 2023

MOCK WALL

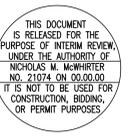
A3.00



02 WEST ELEVATION
 SCALE: 3/8" = 1'-0"



01 SOUTH ELEVATION
 SCALE: 3/8" = 1'-0"



shmm ARCHITECTS
4514 Travis Street, Suite 302 - Dallas, Texas 75205
214.252.3830 • 214.252.3840 Fax • shmmarchitects.com

CUTSHALL RESIDENCE
HIGHLAND PARK, TX

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SHM PROJECT #
21-060

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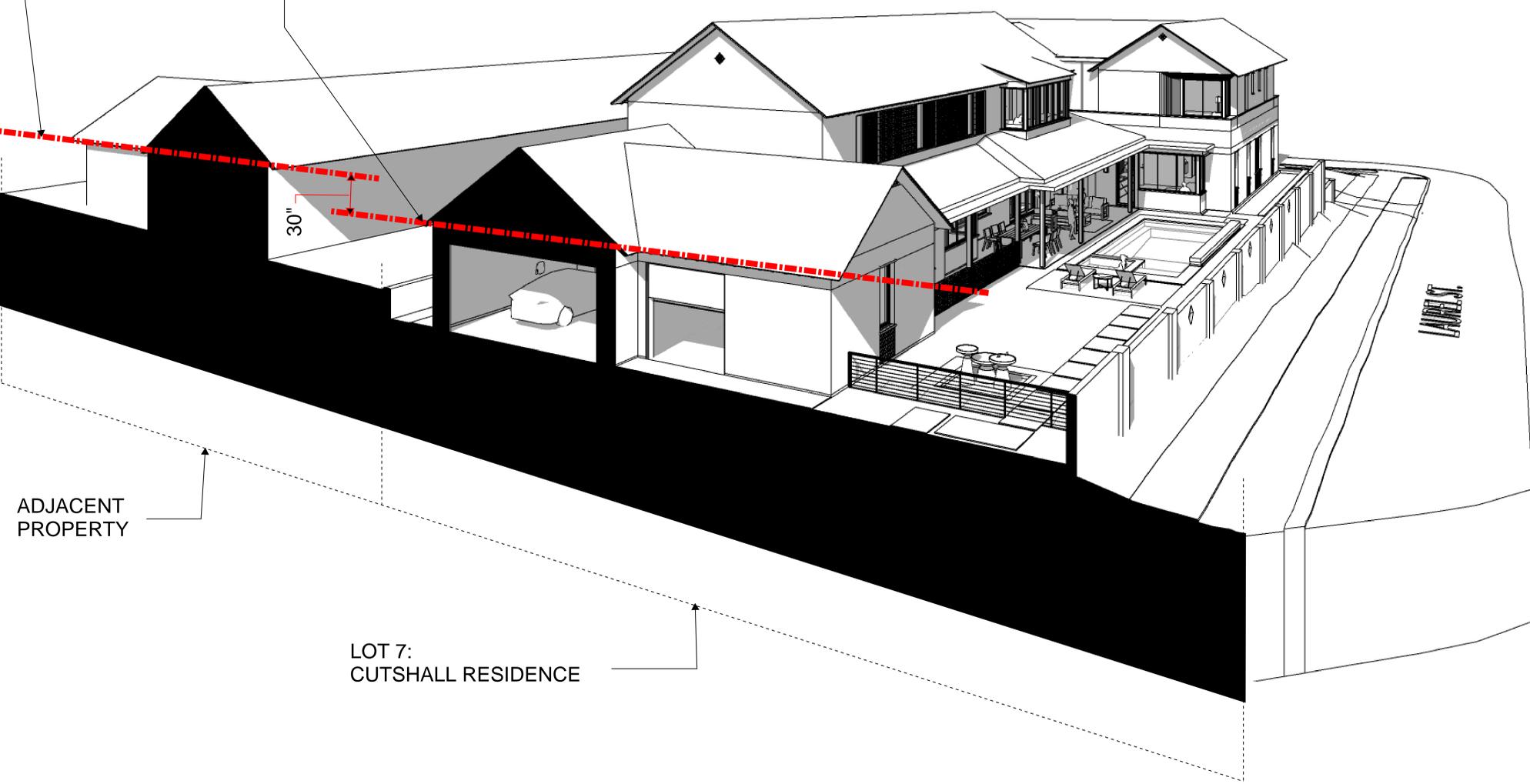
SITE SECTION
PERSPECTIVE

A4.00

T.O. PLATE
EL. = 12'-6"

T.O. PLATE
EL. = 12'-6"

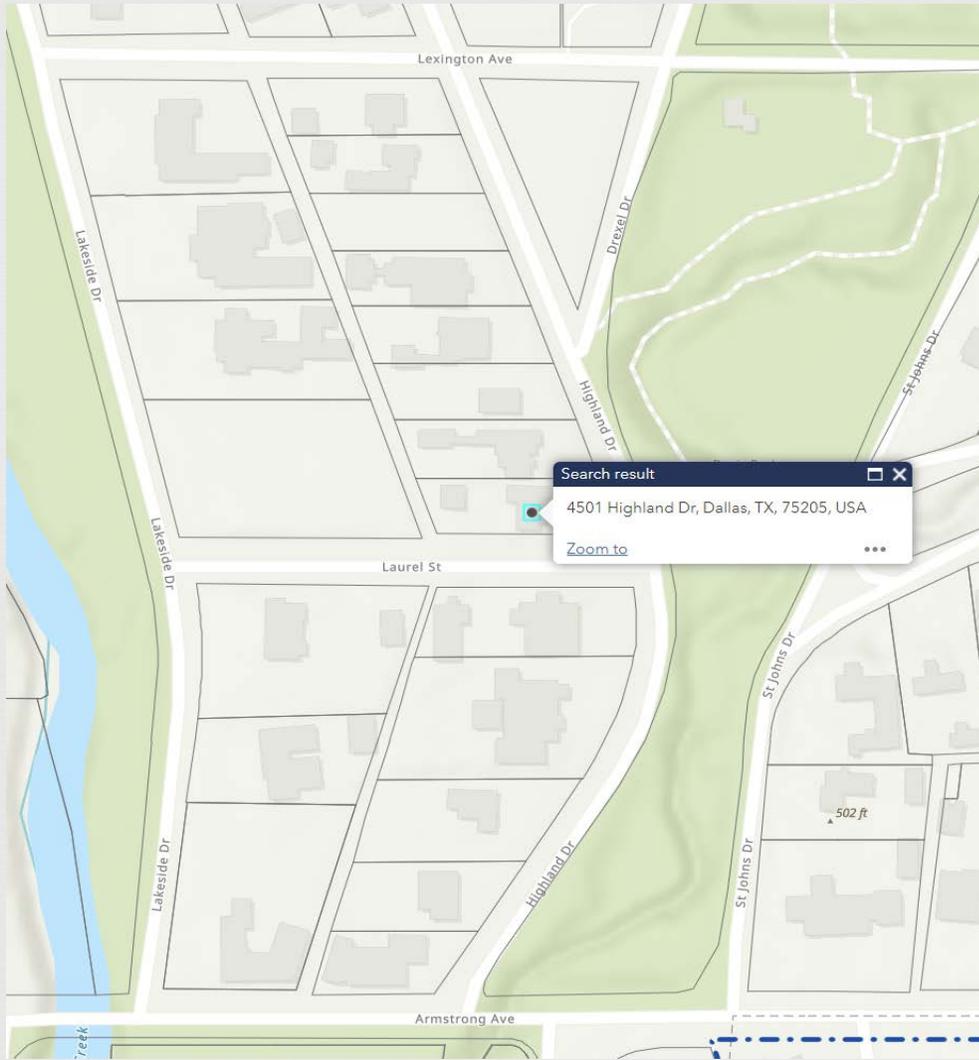
30"



ADJACENT
PROPERTY

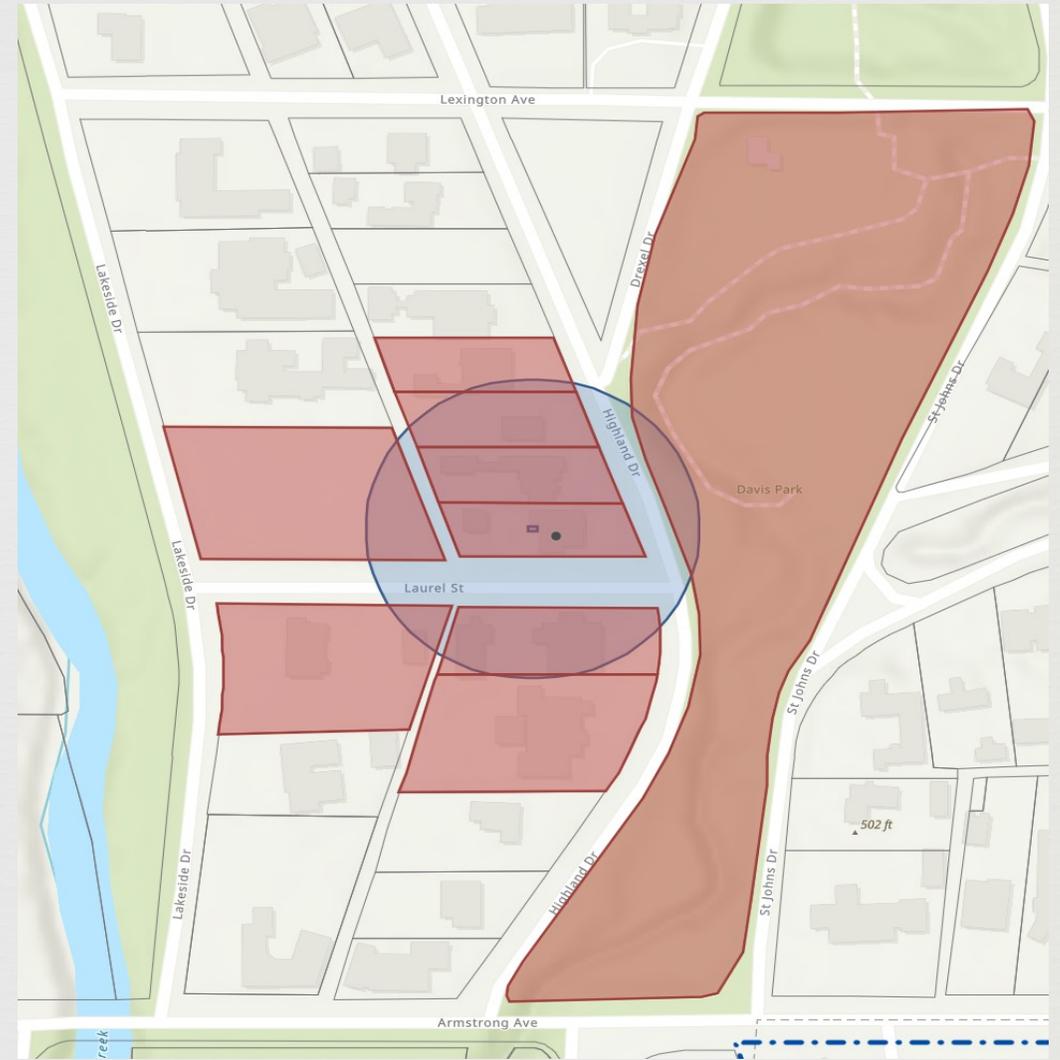
LOT 7:
CUTSHALL RESIDENCE

01 SITE SECTION
SCALE: NTS



THE TOWN OF
Highland Park

Area map



200' notification map

