

AGENDA
CITY OF GUNNISON
ZONING BOARD OF ADJUSTMENT AND APPEALS
SPECIAL MEETING
Rev. 6/6/2014

DATE: JUNE 11, 2014
TIME: 7:00 PM
PLACE: CITY HALL, COUNCIL CHAMBERS, 201 WEST VIRGINIA AVE.

- 7:00 I. CALL TO ORDER
- II. PUBLIC HEARING – VA 14-1, TOM AND JANI PULASKI REGARDING A VARIANCE REQUEST FOR A FRONT YARD SETBACK AT 101 N. 10TH STREET.
- 7:20 III. PUBLIC HEARING – VA 14-2, EVAN AND COLLEEN STRAUSS REGARDING A VARIANCE REQUEST FOR A SIDE YARD SETBACK AT 119 N. BOULEVARD STREET.
- IV. CONSIDERATION OF THE NOVEMBER 20, 2013 MINUTES
- V. UNSCHEDULED CITIZENS
- VI. BOARD MEMBER COMMENTS
- VII. STAFF COMMENTS
- VIII. ADJOURN

TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL
NEEDS ARE REQUESTED TO CONTACT THE CITY OF GUNNISON
COMMUNITY DEVELOPMENT DEPARTMENT AT 641.8090

This agenda is subject to change, including the addition or deletion of items at any time. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are posted at City Hall and on the City website at www.cityofgunnison-co.gov Work sessions are not recorded and formal action cannot be taken. For further information, contact the Community Development Department at 641-8090.

ALL ZONING BOARD OF ADJUSTMENTS & APPEALS MEETINGS
ARE BROADCAST LIVE ON LOCAL CABLE CHANNEL 15

STAFF REPORT
TOM PULASKI – 101 NORTH 10TH STREET

To: Zoning Board of Adjustments and Appeals
From: Community Development Staff
Date: June 11, 2014
RE: Variance Request VA 14-1 – Front Setback

CODE PROVISIONS

City of Gunnison Land Development Code (LDC), Section 8.1, Variances, authorize deviation from the standards of the underlying district zone and shall be authorized only for maximum height, minimum floor area, minimum building width, maximum lot coverage, minimum setbacks, maximum setbacks, parking requirements and minimum landscape area.

The *LDC* specifies that variance applications be reviewed by the Zoning Board of Adjustments and Appeals (Board) at a Public Hearing after 15 days public notice. The Board may approve, approve with conditions, deny, or remand the application back to the applicant. The Board is the final authority for variance applications.

Variances are authorization to deviate from the literal terms of the *LDC* that would not be contrary to the public interest in cases where the literal enforcement of the provisions of the *LDC* would result in undue or unnecessary hardship.

APPLICATION

The applicant, Tom and Jani Pulaski, is requesting a variance from the minimum front setback requirement of 15 feet. The legal description of the property is Lots 1 through 21, Block 17, along with the north/south alley in Block 17, West Gunnison Addition, City and County of Gunnison, Colorado. The applicants' narrative states:

“...This property lies directly west and across 10th street from Ace Hardware. Currently there are twelve structures on a 1.92 acre parcel. These structures were moved from Crested Butte in 1955 and were at first a motel, and most recently long term rental housing.

My wife, Jani, and I propose to split off the main house on the south east corner of this property to become its own separate parcel, thus requiring a minor subdivision change. The remaining eleven structures, we propose turning into individual ownership town homes instead of rentals...

...Our personal reasons for requesting these changes are two fold.

1. We bought this property in 2005 with the intention of turning it into a commercial endeavor. The economic climate has changed dramatically since then, and the possibility of this property becoming a commercial entity seems unlikely.
2. As Jani and my personalities are, we desire and require a high degree of pride in ownership. Since purchasing, we changed the property as many of you recall from a major eye sore on a highly visible corner within the city

STAFF REPORT
TOM PULASKI – 101 NORTH 10TH STREET

limits of Gunnison, to an attractive, orderly handsome cluster of homes.

...If Jani and I sold this property to other owners to be maintained as rentals, there is no guarantee that the property would be well maintained in a visually attractive manner.

As a Town Home Association with strict requirements and covenants, the current visual attractive would not only be maintained but enhanced. This creates a positive end result within the city limits of Gunnison.”

HISTORY OF APPLICATION

The applicants would ultimately like to subdivide the main house from the remaining 17 units and plat the 5 single unit structures and 6 duplex structures as townhomes. In order to achieve this, the applicant has submitted an application for a Minor Subdivision, Conditional Use (for the Townhomes) and Variance (with the ZBOAA for front setbacks).

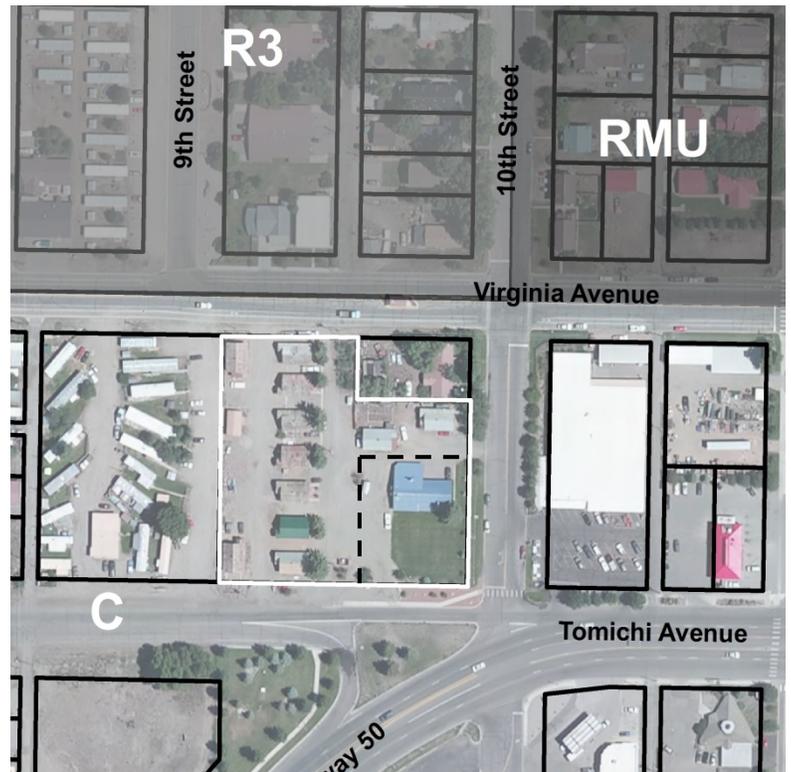
The Planning and Zoning Commission has reviewed and recommended approval, to City Council, the Minor Subdivision application. City Council will review the subdivision request and may take action on June 10, 2014. Additionally, the Commission approved the Conditional Use request for townhomes (common interest community) on May 28, 2014.

If the Minor Subdivision, Conditional Use and Variance applications are approved, the applicants could then pursue the Townhome Plat. Common Interest Community (townhomes) plats are categorized as Subdivision Exemptions which are processed at staff level and approved by the Community Development Director.

SITE ASSESSMENT

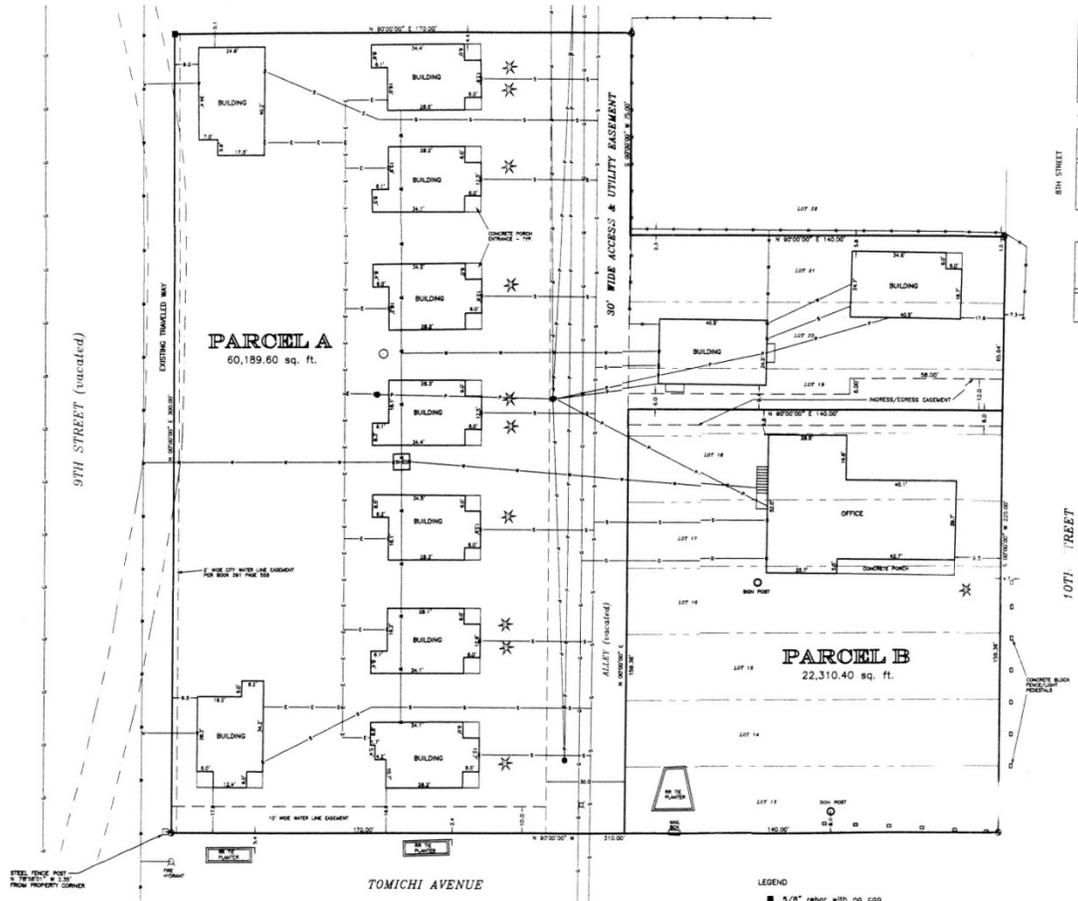
The property is located within the Commercial zone district with the R3 and RMU residential districts to the north. Neighborhood uses include residential to the west and north and commercial retail and service (Ace Hardware, Pizza Hut, Conoco, and Metamorphosis) to the east and south.

The property is 1.9 acres (82,500 square feet) and is adjacent to three street frontages of Virginia Avenue, 10th Street and Tomichi Avenue. The site contains a total of 18 units with a “main house” and 17 units also known as “the cabins.” The cabins are currently long-term rentals.

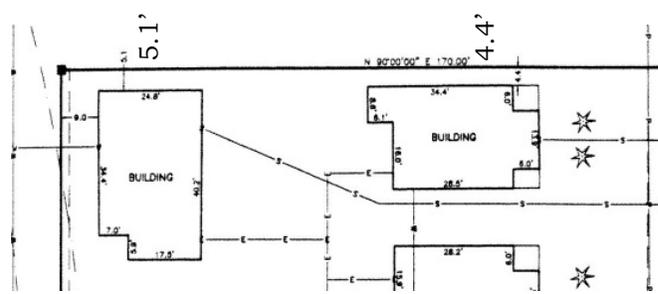


STAFF REPORT
TOM PULASKI – 101TH NORTH STREET

In the above diagram the entire parcel is shown in white and the proposed subdivision is indicated as a dashed line. The resultant parcels would be 20,000 square feet for the main house and 62,500 square feet for the remaining 17 units.



The two units adjacent to Virginia Avenue are considered nonconforming in regard to the front setback requirement of 15 feet. The setback for the two units is approximately five feet (5.1' on the unit to the west and 4.4' on the unit to the east). The *LDC* allows normal maintenance, repairs and alterations to a nonconforming structure as long as the nonconformity is not extended by an enlargement or expansion that increases its nonconformity.



This Variance application is pursued to permit the location of the structures in the event of damage or reconstruction. Approval of the Variance will allow the applicant to pursue the Townhome Plat application.

STAFF REPORT
TOM PULASKI – 101 NORTH 10TH STREET

DEPARTMENTAL COMMENTS:

Fire Marshall: No issue
Building Official: No issue
Parks and Recreation Dept.: No issue
Police Department: No issue
Public Works Director: No issue
City Engineer: No issue
Water/Sewer Superintendent: No issue
Electric Superintendent: No issue

STAFF OBSERVATIONS:

1. The applicant is requesting a Variance for the front setback adjacent to Virginia Avenue.
2. There are two nonconforming structures on the site in regard to the front setback. The LDC specifies a minimum of 15 feet is required along the Virginia Street frontage.
3. The existing nonconforming structures have been in place since 1955.
4. The applicant is proposing a minimum front setback of 5.1 feet on the unit to the west and 4.4 feet on the unit to the east as indicated on the subdivision plat dated May 28, 2014.
5. The applicant intends to pursue platting a common interest community (townhomes) with restrictive covenants that includes five single-family dwellings and six duplex structures (17 units) on the proposed subdivision Parcel A. A Minor Subdivision, Preliminary Plat to subdivide the parcel was approved by the Commission on May 14, 2014. Final plat review by the Commission is on May 28, 2014. The Commission also approved a Conditional Use for townhomes on May 28, 2014.
6. The requested subdivision does not affect the health, safety and welfare of the community.

REVIEW STANDARDS

Section 15.140.040 (Required Showing) states that "... *The applicant shall demonstrate the following to the Board before a variance may be authorized:*"

A. **Special Circumstances Exist.** There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood.

No Conflict. The existing structures were placed on the site in 1955. The Variance request is to maintain the existing setbacks of 5.1 feet on the west unit and 4.4 feet on the east unit adjacent to Virginia Avenue.

B. **Not Result of Applicant.** The special circumstances and conditions are not the result from any act of the applicant.

No Conflict. The locations of the structures are not the result of the applicant and have been placed at this location since 1955.

C. **Strict Application Deprives Reasonable Use.** The special circumstances and conditions are such that the strict application of the provisions of the *Land*

STAFF REPORT
TOM PULASKI – 101 NORTH 10TH STREET

Development Code would deprive the applicant of reasonable use of the land or building.

No Conflict. The applicant would like to pursue a Common Interest Community (Townhome) plat. In the case of damage or reconstruction, without variance approval, the structures would be required to meet current LDC standards. It is not feasible to move the structures and the request does not increase the nonconformity.

D. **Variance is Necessary to Provide Reasonable Use.** The granting of the variance is necessary to provide the applicant a reasonable use of the land or building.

No Conflict. The variance is necessary and reasonable for the use of the land.

E. **Minimum Variance.** The granting of the variance is the minimum necessary to make possible the reasonable use of the land or building.

No Conflict: The variance request is the minimum possible which is the setback from the existing structures.

F. **Not Injurious to the Neighborhood.** The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare or the environment.

No Conflict: The Variance will not be injurious to the neighborhood and will maintain the existing placement of the structures.

G. **Consistent with the *Land Development Code*.** The granting of the variance is consistent with the general purposes and intent of the *Land Development Code*.

No Conflict: The purpose of the *Land Development Code* includes: (1) establish standards for all proposed development in the City; (2) protect quality of life; (3) establish a review process; (4) provide for orderly development of the City; and (5) conserve property values. The requested use is consistent with the intent of the *Land Development Code*.

ACTION

At the Zoning Board of Adjustments and Appeals meeting of June 11, 2014, Board Member _____ moved, and Board Member _____ seconded to APPROVE the request by Tom and Jani Pulaski for Variance Application, VA 14-1 to maintain the existing front setback along Virginia Avenue at 101 North 10th Street based on the following findings of fact:

Findings of fact:

1. The Zoning Board of Adjustments and Appeals finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; provisions of the *City of Gunnison Land Development Code*; and the *City of Gunnison Master Plan (2007)*.
2. The Zoning Board of Adjustments and Appeals finds that the applicant is requesting a Variance for the front setback adjacent to Virginia Avenue.
3. The Zoning Board of Adjustments and Appeals finds that the applicant intends to plat a Common Interest Community (townhomes) on this property. A Minor Subdivision,

STAFF REPORT
TOM PULASKI – 101 NORTH 10TH STREET

Preliminary Plat to subdivide the parcel was approved by the Commission on May 14, 2014. Final plat review by the Commission is on May 28, 2014. The Board further finds that Conditional Use approval for the townhomes was granted by the Commission on May 28, 2014.

4. The Zoning Board of Adjustments and Appeals finds that there are two nonconforming structures on the site in regard to the front setback.
5. The Zoning Board of Adjustments and Appeals finds that the existing nonconforming structures have been in place since 1955.
6. The Zoning Board of Adjustments and Appeals finds that the applicant is proposing a minimum front setback of 5.1 feet on the unit to the west and 4.4 feet on the unit to the east as indicated on the subdivision plat dated May 28, 2014.
7. The Zoning Board of Adjustments and Appeals finds the requested variance does not affect the health, safety and welfare of the community.

Applicant Name(s): _____

Phone #: 641 88 97 **Fax #:** _____ **E-Mail:** thomaspuhaski@yahoo

Mailing Address: 870 CR 20

City: Gunnison **State:** CO **Zip:** 81230

Summary of Request: Conditional Use (townhomes) and Variance (setback)
From commercial to R3 and minor subdivision

Disclosure of Ownership- Please provide one of the following:

- Assessor Parcel Info Mortgage Deed Judgments
- Liens Contract Easement Agreement Other Agreements

Legal Description

Site Address of Property: 101 N 10th st **Zoning** _____

Block: 17 **Lot(s):** 13-21 **Addition:** _____

Attachments: Vicinity Map (8.5"x11") Written Narrative/Description of Proposal

Names, Addresses and Map of Adjoining Property Owners (From Assessor's Office)

Vested Property Rights Letter/Authorization of Agent (from Owner if not applicant)

Site Plan (11"x17") **to scale**, includes dimensions and location of all structures, parking spaces and access, snow storage, landscaping, live cover, utility lines, road/street names, land uses of adjacent properties, setbacks. Includes a table for all dimensional requirements based on 15-7-4. (See attached sample)

YOU ARE REQUIRED TO SUBMIT FOUR (4) COMPLETE COPIES OF YOUR APPLICATION

Signature(s)
Thomas Puhaski **Date** 3/3/14

For Office Use Only

- Conditional Use Variance Zoning Amendment
- Major Subdivision Minor Subdivision Subdivision Exemption
- Mobile Home/RV Park PUD Vacation
- Consolidated Application

Tomichi Cabins
minor subdivision change

Table of contents

1. written narrative
2. neighborhood map
3. warranty deed
4. Adjoining neighbors
5. Flood plane study
6. Traffic Flow + parking plan
7. site plan

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March 4, 2014

City of Gunnison
Planning and Zoning

Tom and Jani Pulaski
870 County Rd 20
Gunnison, CO 81230

To Whom it May Concern:

This zoning change, and minor subdivision proposal concerns the property address at 101 N. 10th Street, Gunnison, Colorado

This property lies directly west and across 10th street from Ace Hardware. Currently, there are twelve structures on a 1.92 acre parcel. These structures were moved from Crested Butte in 1955 and were at first a motel, and most recently long term rental housing.

My wife, Jani, and I propose to split off the main house on the south east corner of this property to become its own separate parcel, thus requiring a minor subdivision change. The remaining eleven structures, we propose turning into individual ownership town homes instead of rentals, thus requiring a zoning change from commercial to R3 residential

These would become very affordable homes in a great location for an entry level home buyer. As pride of ownership applies and town home convenience require, the property will be well maintained in a neat and orderly fashion.

Our personal reasons for requesting these changes are two fold.

1. We bought this property in 2005 with the intention of turning it into a commercial endeavor. The economic climate has changed dramatically since then, and the possibility of this property becoming a commercial entity seems unlikely.
2. As Jani and my personalities are, we desire and require a high degree of pride in ownership. Since purchasing, we changed the property as many of you recall from a major eye sore on a highly visible corner within the city limits of Gunnison, to an attractive, orderly handsome cluster of homes.

In order to do this, and make a living I, Tom Pulaski have to do the majority of the repairs, maintenance and up keep. At the age of 60 and not getting any younger, I have found that I no longer desire to do the maintenance and upkeep required since renters seem to be able to destroy things faster than I can fix them.

If Jani and I sold this property to other owners to be maintained as rentals, there is no guarantee that the property would be well maintained in a visually attractive manner.

As a Town Home Association with strict requirements and covenants, the current visual attractive would not only be maintained but enhanced. This creates a positive end result within the city limits of Gunnison

Thank you for your consideration

Tom and Jani Pulaski
Owners 101 N. 10th Street

101 N. 10th Street
SB 14-1

The following adjacent property owners were notified via certified mail:

- 1 James Dirksen
902 W. Virginia Avenue
Gunnison, CO 81230
- 2 Larry Matkovich
1035 Washington Street
Canon City, CO 81212-8550
- 3 Harry Miles
c/o James Miles
PO Box 1162
Gunnison, CO 81230
- 4 Miller CJZA Properties, LLC
618 N. Iowa Street
Gunnison, CO 81230
- 5 Jason Mullins
PO Box 33
Gunnison, CO 81230
- 6 Pester Marketing Company
4643 S. Ulster Street, Ste 350
Denver, CO 80237-2694
- 7 Salmon Rentals, LLC
28 Wild Goose Lane
Gunnison, CO 81230
- 8 Priscilla Swanson
901 W. Tomichi Avenue
Gunnison, CO 81230
- 9 Dale Weaver
212 Columbine Road
Gunnison, CO 81230
- 10 West Tomichi Land Company, LLC
820 W. Tomichi Avenue
Gunnison, CO 81230



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553097

Page: 1 of 1
04/29/2005 03:19P
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WARRANTY DEED

THIS DEED, Made effective the 29th day of April, 2005, between

Avedis Ajarlan aka Avedis J. Ajarlan and Menas Jamil Ajarlan aka Minas Ajarlan

of the * County of **Gunnison** and State of , grantor(s), and

Thomas J. Pulaski and Janice Wedmore Pulaski, in joint tenancy

whose legal address is **870 County Rd. 20
Gunnison, CO 81230**

of the * County of **Gunnison** and State of **Colorado**, grantee(s) :

WITNESSETH, That the grantor(s) for and in consideration of the sum of **Nine Hundred Seventy Nine Thousand and 00/100 DOLLARS**, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the grantees, their heirs and assigns forever, not in tenancy in common but in joint tenancy, all real property together with improvements, if any, situate, lying and being in the * County of **Gunnison** and State of Colorado, described as follows:

Lots 13 through 21, Block 17, City of Gunnison, according to the official plat of TOWN OF WEST GUNNISON, recorded June 15, 1880 at Reception No. 17078,

TOGETHER WITH the following described parcel of land: **Beginning at the point of intersection of the Easterly boundary of 9th Street and the Southerly boundary of Virginia Avenue; thence South 300 feet to the Northerly boundary of Tomichi Avenue; thence Easterly along the Northerly boundary of Tomichi Avenue to the Westerly boundary of the alley in Block 17; thence North along said alley to the Southerly boundary of Virginia Avenue; thence Westerly along said Virginia Avenue to the Point of Beginning. Said property has sometimes been referred to as Lots 1 through 12, Block 17, West Gunnison, however the said official Amended Plat of the Town of West Gunnison recorded at Reception No. 17078 does not depict this property platted as lots.**

TOGETHER WITH the North-South alley lying in Block 17, TOWN OF WEST GUNNISON bounded by Virginia Avenue on the North and Tomichi Avenue on the South.

All in the City of Gunnison, according to the official Amended Plat of TOWN OF WEST GUNNISON, recorded June 15, 1880 at Reception No. 17078.

**County of Gunnison,
State of Colorado.**

also known by street and number as: **101 North 10th Street, Gunnison CO 81230**
assessor's schedule or parcel number: **R001268 / 370135436009**

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with appurtenances, unto the grantees, their heirs and assigns forever. And the grantor(s), for themselves, their heirs and personal representatives, do covenant, grant, bargain, and agree to and with the grantees, their heirs and assigns, that at the time of the enrolling and delivery of these presents they are well seized of the premises above conveyed, have good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except **taxes for the year 2005 and subsequent years, and those matters appearing of public record.**

The grantor(s) shall and will **WARRANT AND FOREVER DEFEND** the above-bargained premises in the quiet and peaceable possession of the grantees, their heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

IN WITNESS WHEREOF, the grantor(s) have executed this deed on the date set forth above.

Avedis Ajarlan
Avedis Ajarlan aka Avedis J. Ajarlan
Avedis J. Ajarlan

Menas Jamil Ajarlan
Menas Jamil Ajarlan aka Minas Ajarlan

STATE OF COLORADO }
County of Gunnison } ss.

Page 1716f Packet

The foregoing instrument was acknowledged before me this 29th day of April, 2005.



0501057

500 Year Floodplain Delineation

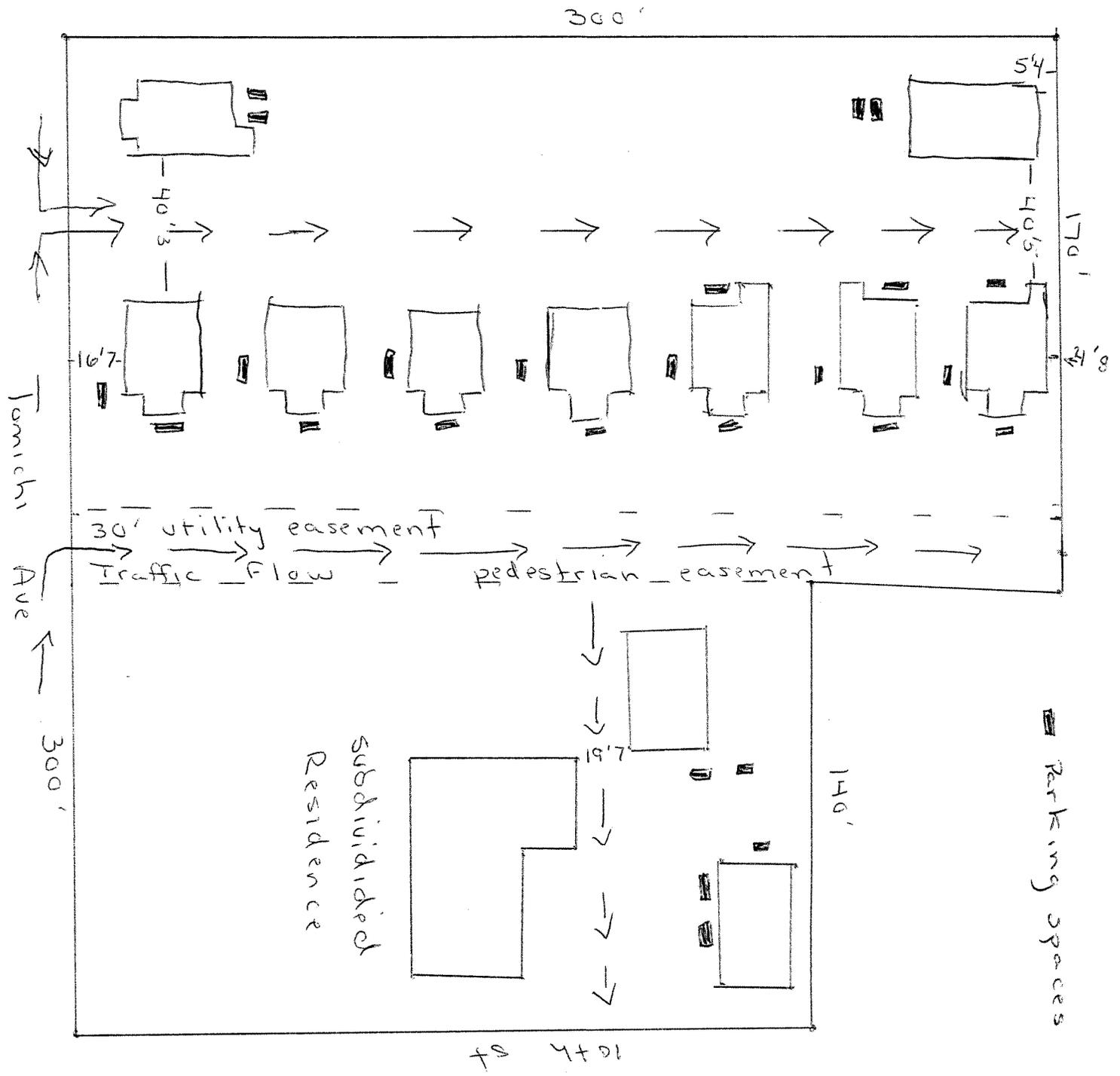
1 inch = 200 feet

60 120 360 480 Feet

Legend

—— S_FLD_HAZ_LN

Subject Property



**PULASKI SUBDIVISION
WITHIN BLOCK 17,
WEST GUNNISON AMENDED
CITY OF GUNNISON
GUNNISON COUNTY, COLORADO**

CERTIFICATE OF DEDICATION AND OWNERSHIP
WE, Thomas J. Pulaski and Janice Wedmore Pulaski, being the owners of the land described as follows:
Lots 13 through 21, Block 17, City of Gunnison, according to the official plat of TOWN OF WEST GUNNISON, recorded June 15, 1880 at Reception No. 17078.

TOGETHER WITH the following described parcel of land: Beginning at the point of intersection of the Easterly boundary of 9th Street and the Southerly boundary of Virginia Avenue; thence South 300 feet to the Northerly boundary of Tomichi Avenue; thence Easterly along the Northerly boundary of Tomichi Avenue to the Westerly boundary of the alley in Block 17; thence North along said alley to the Southerly boundary of Virginia Avenue; thence Westerly along said Virginia Avenue to the Point of Beginning. Said property has sometimes been referred to as Lots 1 through 12, Block 17, West Gunnison, however the said official Amended Plat of the Town of West Gunnison recorded at Reception No. 17078 does not depict this property platted as lots.

TOGETHER WITH the North-South alley lying in Block 17, TOWN OF WEST GUNNISON bounded by Virginia Avenue on the North and Tomichi Avenue on the South.

All in the City of Gunnison, according to the official Amended Plat of TOWN OF WEST GUNNISON, recorded June 15, 1880 at Reception No. 17078 in Gunnison County, Colorado,

have laid out, platted and subdivided the same as shown on this plat and do hereby dedicate and convey to the owners of parcels within this subdivision and their guests, but not to the public at large, the common right to use streets, alleys, roads and other public areas as shown hereon and hereby dedicate those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof Thomas J. Pulaski and Janice Wedmore Pulaski have subscribed their names this _____ day of _____, A.D. 20____.

By _____ By _____
Thomas J. Pulaski Janice Wedmore Pulaski

State of Colorado)
County of Gunnison) ss.

The foregoing instrument was acknowledged before me this _____ day of _____ A.D. 2014, by _____

My commission expires _____

Witness my hand and official seal.

Notary Public

ATTORNEY'S OPINION

I, _____, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and subdivided. Such title is held in the name of _____ and is free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

Dated this _____ day of _____, A.D. 20____.

Attorney-at-Law

CITY COUNCIL APPROVAL

This plat is approved for filing and the City hereby accepts the dedication of the streets and roads shown hereon subject to the provisions in "Street Maintenance" set forth above, and further accepts the dedication of the easements shown hereon.

Signed this _____ day of _____, 200____.

CITY OF GUNNISON

By: _____
Mayor

PLANNING COMMISSION APPROVAL

This plat is approved by the City of Gunnison Planning Commission this _____ day of _____, 200____.

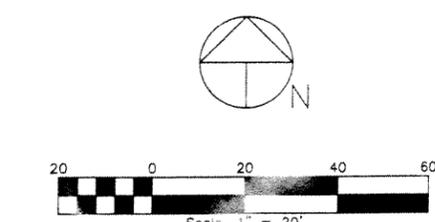
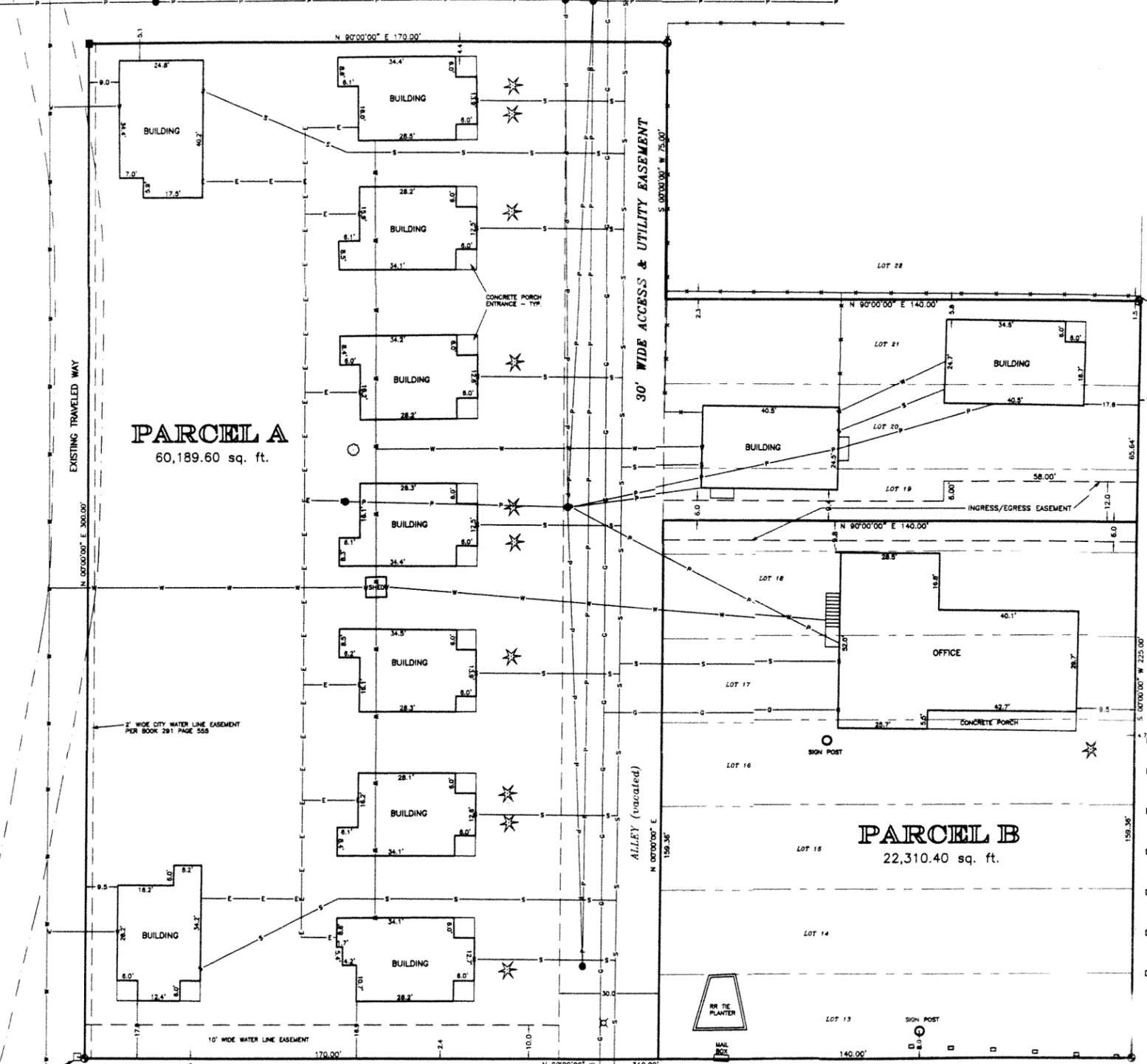
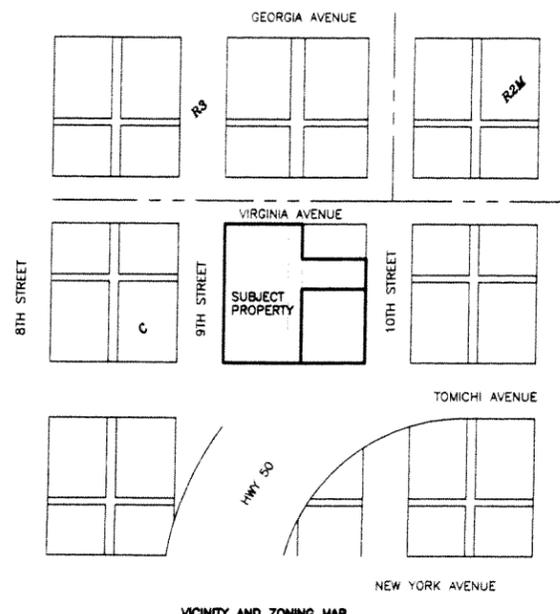
Chairman

RECORDER'S CERTIFICATE

This plat was filed for record in the office of the County Clerk and Recorder of Gunnison County at _____ M on the _____ day of _____, 200____, Reception No. _____.

County Clerk and Recorder

By: _____
Deputy



- LEGEND**
- 5/8" rebar with no cap
 - Rebar with plastic cap stamped "LS 34979"
 - Found steel fence post as noted
 - P— Overhead utility lines
 - X— Fence
 - S— Underground sewer line
 - W— Underground water line
 - G— Underground gas line
 - E— Underground electric line

CERTIFICATE OF STREET AND UTILITY MAINTENANCE
Public notice is hereby given that neither the dedicated roads nor the public utilities shown on this plat will be maintained by the City of Gunnison until and unless the subdivider constructs the streets and roads and utilities in accordance with the subdivision agreement, if any, and the subdivision regulations in effect at the date of the recording of this plat and approval of the City has been received.

NOTES:
1. Property was located by field measurements from city monument at the intersection of Main Street with Tomichi Avenue. Basis of bearings is NORTH between said monument and a similar monument at the intersection of Main Street with Denver Avenue.

STAFF REPORT
EVAN STRAUSS – 119 NORTH BOULEVARD

TO: Zoning Board of Adjustments and Appeals
FROM: Community Development Staff
DATE: June 11, 2014
RE: Variance Request VA 14-2 – Side Setback

CODE PROVISIONS

City of Gunnison Land Development Code (LDC), Section 8.1, Variances, authorize deviation from the standards of the underlying district zone and shall be authorized only for maximum height, minimum floor area, minimum building width, maximum lot coverage, minimum setbacks, maximum setbacks, parking requirements and minimum landscape area.

The *LDC* specifies that variance applications be reviewed by the Zoning Board of Adjustments and Appeals (Board) at a Public Hearing after 15 days public notice. The Board may approve, approve with conditions, deny, or remand the application back to the applicant. The Board is the final authority for variance applications.

Variances are authorization to deviate from the literal terms of the *LDC* that would not be contrary to the public interest in cases where the literal enforcement of the provisions of the *LDC* would result in undue or unnecessary hardship.

APPLICATION

The applicant, Evan Strauss, is requesting a variance from the minimum side setback requirement of 5 feet. The legal description of the property is Tract B, Lowe Subdivision (reception #554569), City and County of Gunnison, Colorado. The applicants' narrative states:

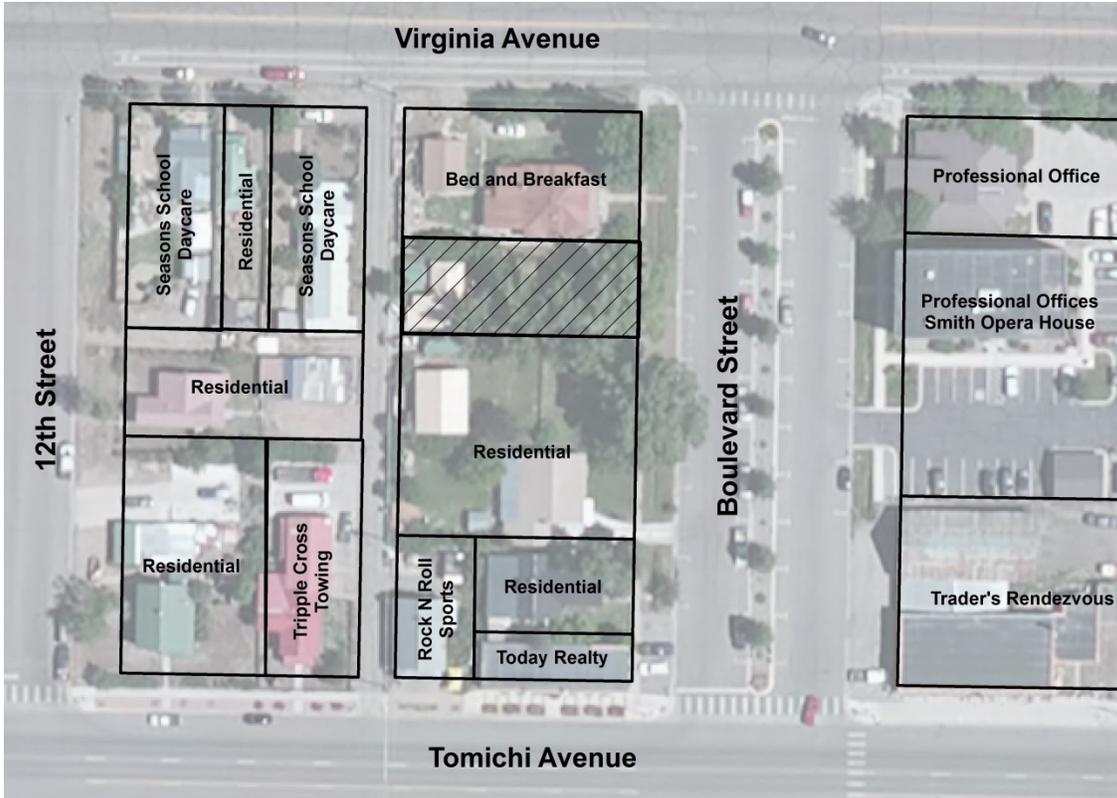
“I would very much appreciate a side setback variance of 4’8” from my current storage shed to a proposed boundary line adjustment. As of right now, the shed straddles my neighbor’s property and mine. I am in the process of listing my property for sale and would like to clean up the title first. The neighboring property owner, Keith Brennise, has happily agreed to a boundary line adjustment, but there is only 9’8” between his garage and my storage shed.

When I bought my property, the storage shed was already in place. Because of the placement of the existing structures (my house and Keith’s garage) I am unable to satisfy the 5’ setback requirement from my storage shed, which is in between my home and Keith’s garage, to the proposed boundary line. I feel that the placement of the existing structures restricts reasonable use of the property.”

SITE ASSESSMENT

The property is located within the B1 (Professional Business) and the Commercial zone district is adjoining on the southern boundary. Neighborhood uses include residential, daycare facilities, a bed and breakfast, professional offices, retail, and commercial service.

STAFF REPORT
 EVAN STRAUSS – 119 NORTH BOULEVARD



The site has a single-family residence and a large storage shed/garage near the rear (alley) of the property. The existing storage shed straddles the applicant’s property and the neighbor to the south (Keith Brennisse). The applicant intends to submit a Boundary Line Adjustment application, which is processed at a staff level, to gain title of the property situated under the storage shed. The existing separation of buildings (the storage shed and Mr. Brennisse’s garage to the south) is nine feet and eight inches. The applicant is proposing a five foot setback from Mr. Brennisse’s garage to the proposed boundary shown below, to comply with setback requirements. This would leave a four foot and eight inch setback from the storage shed to the proposed boundary on the subject property.



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Description	Required in B1 Zone District	Proposed-Applicant Parcel	Required in C Zone District	Proposed-Keith Brennisse Parcel
Minimum lot size (sq. ft.)	6,250	6,628 Exceeds Standards	8,000	13,095 Exceeds Standards
Minimum Side Setback	5 Feet South Side	0 Existing 4'8" Proposed Nonconforming	5 Feet North Side	15'8" Existing 5' Proposed Complies

The proposed Boundary Line Adjustment decreases the nonconformity of the side setback from zero to four feet and eight inches. The applicant is requesting a side setback variance of four feet and eight inches along the southern boundary line of the subject parcel.

DEPARTMENTAL COMMENTS:

Fire Marshall:	No issue
Building Official:	No issue
Parks and Recreation Dept.:	No issue
Police Department:	No issue
Public Works Director:	No issue
City Engineer:	No issue
Water/Sewer Superintendent:	No issue
Electric Superintendent:	No issue

STAFF OBSERVATIONS:

1. The applicant is requesting a side setback Variance of four feet and eight inches.
2. The applicant is proposing a Boundary Line Adjustment to gain title on the property under the existing storage shed.
3. The request decreases the existing nonconforming side setback from zero feet to four feet and eight inches.
4. The requested subdivision does not affect the health, safety and welfare of the community.

REVIEW STANDARDS

Section 15.140.040 (Required Showing) states that "... *The applicant shall demonstrate the following to the Board before a variance may be authorized.*"

A. Special Circumstances Exist. There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood.

No Conflict. The storage shed is established between the two property boundaries and other structures and shed would be impractical to move. The applicant is

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proposing a Boundary Line Adjustment to decrease the nonconforming setback from zero to four feet and eight inches.

B. Not Result of Applicant. The special circumstances and conditions are not the result from any act of the applicant.

No Conflict. The locations of the existing structures were not the result of the applicant. The applicant is attempting to clear up the boundary lines and title for the property.

C. Strict Application Deprives Reasonable Use. The special circumstances and conditions are such that the strict application of the provisions of the *Land Development Code* would deprive the applicant of reasonable use of the land or building.

No Conflict. Relocating the storage shed at this site is not practical. If the Boundary Line Adjustment is approved the side setback nonconformity decreases by four feet and eight inches.

D. Variance is Necessary to Provide Reasonable Use. The granting of the variance is necessary to provide the applicant a reasonable use of the land or building.

No Conflict. The Variance is necessary to move the boundary line from underneath the existing storage shed and will clear up the title to the subject property.

E. Minimum Variance. The granting of the variance is the minimum necessary to make possible the reasonable use of the land or building.

No Conflict: The applicant is proposing to decrease the nonconforming setback by four feet and eight inches.

F. Not Injurious to the Neighborhood. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare or the environment.

No Conflict: The granting of the Variance will not be detrimental to the neighborhood or public welfare.

G. Consistent with the *Land Development Code*. The granting of the variance is consistent with the general purposes and intent of the *Land Development Code*.

No Conflict: The purpose of the *Land Development Code* includes: (1) establish standards for all proposed development in the City; (2) protect quality of life; (3) establish a review process; (4) provide for orderly development of the City; (5) provide adequate public facilities; and (6) conserve property values. The requested use is consistent with the intent of the *Land Development Code*.

ACTION

At the Zoning Board of Adjustments and Appeals meeting of June 11, 2014, Board Member _____ moved, and Board Member _____ seconded to APPROVE

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the request by Evan Strauss for Variance Application, VA 14-2 for a side setback variance of four feet and eight inches on the southern boundary of 119 North Boulevard based on the following findings of fact and condition:

Findings of fact:

1. The Zoning Board of Adjustments and Appeals finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; provisions of the *City of Gunnison Land Development Code*; and the *City of Gunnison Master Plan (2007)*.
2. The Zoning Board of Adjustments and Appeals finds that the application meets the seven review standards as defined in the *Land Development Code* for variances.
3. The Zoning Board of Adjustments and Appeals finds that the applicant is requesting a Variance of four feet and eight inches on the south boundary side setback.
4. The Zoning Board of Adjustments and Appeals finds that the applicant is proposing to decrease the nonconforming side setback from zero feet to four feet and eight inches with approval of a Boundary Line Adjustment.
5. The Zoning Board of Adjustments and Appeals finds that the application promotes the long term health, safety, and welfare of the community.

Condition:

1. The applicant shall apply for a Boundary Line Adjustment prior to the Variance expiration date of June 11, 2015.

Application Fact Sheet

City of Gunnison Land Development Code
Minimum Application Contents
In accordance with §6.5 C.

City of Gunnison
P.O. Box 239
Gunnison, CO 81230
(970)641-8090

Applicant Name(s): EVAN STRAUSS

Phone #: (360) 927-0342 **Fax #:** N/A **E-Mail:** STRAUSS.EVAN@HOTMAIL.COM

Mailing Address: 119 N. BOULEVARD

City: GUNNISON **State:** CO **Zip:** 81230

Legal Description
Site Address of Property: 119 N. BOULEVARD ST. Zoning _____
Block: TRACT B Lot(s): _____ Addition: LOWE SUBDIVISION

Disclosure of Ownership- Please provide one of the following:
 Assessor Parcel Info Mortgage Deed Judgments
 Liens Contract Easement Agreement Other Agreements

Summary of Request: SIDE SETBACK VARIANCE OF 4" FROM SIDE OF CURRENT GARAGE TO PROPOSED BOUNDARY LINE. NEIGHBORS LOCATION OF GARAGE LEAVES ONLY 9'8" BETWEEN THE TWO BUILDINGS NOT ALLOWING US TO COMPLY W/ 5' FOOT SETBACKS.

Attachments: Vicinity Map (8.5"x11") Description of Proposal
 Names, Addresses and Map of Adjoining Property Owners (From Assessor's Office)
 Vested Property Rights Authorization of Agent (Power of Attorney from Owner, if not the applicant)
 Site Plan (11"x17") **to scale**, includes dimensions and location of all structures, parking spaces and access, snow storage, landscaping, live cover, utility lines, road/street names, land uses of adjacent properties, setbacks. Include a table for all dimensional requirements based on §2.6. (See attached sample)

YOU ARE REQUIRED TO SUBMIT FOUR (4) COMPLETE COPIES OF YOUR APPLICATION

Signature(s) Evan Strauss Date 5-12-14
Date _____

For Office Use Only
 Conditional Use Variance Zoning Amendment
 Major Subdivision Minor Subdivision Subdivision Exemption
 Mobile Home/RV Park PUD Vacation
 Consolidated Application

Description of Proposal

I would very much appreciate a side setback variance of 4'8" from my current storage shed to a proposed boundary line adjustment. As of right now, the shed straddles my neighbor's property and mine. I am in the process of listing my property for sale and would like to clean up the title first. The neighboring property owner, Keith Brennise, has happily agreed to a boundary line adjustment, but there is only 9'8" between his garage and my storage shed.

When I bought my property, the storage shed was already in place. Because of the placement of the existing structures (my house and Keith's garage) I am unable to satisfy the 5' setback requirement from my storage shed, which is in between my home and Keith's garage, to the proposed boundary line. I feel that the placement of the existing structures restricts reasonable use of the property.

Assessor Quick Links

[Gunnison Assessor Home](#)

[Find Property Records](#)

Assessor Property Record Search

Owner and Parcel Information

Owner Name & Mailing Address	Today's Date: May 13, 2014	Account Number: R040392	
STRAUSS EVAN R 119 N BOULEVARD ST GUNNISON, CO 81230-3012	Appraisal Year: 2013	Parcel Number: 3701-354-63-002	
Business Name: NA		Account Type: Residential	
		Economic Area: Econ Area 1	
		Tax District: 100	
		Mill Levy: 49.778	
Property Location: 119 N BOULEVARD ST, GUNNISON		Parcel Map Show Parcel Map	
Neighborhood: GUN RES IN COMMERCIAL		Building Photos Building Images	
LEA: GUNN RES 3126 TO 6250 SQFT (10010)		Building Sketches Building Sketches	
Subdivision: LOWE SUBDIVISION		Generate Neighboring Owner List by Distance	
Condo:		Search Sales By Subdivision	
Legal Description: TRACT B LOWE SUBDIVISION #554569			
Parcel Notes TOTAL PARCEL = 6,250 SF			

2014 Assessment Information

Land Actual Value	Land Assessed Value	Building Actual Value	Building Assessed Value	Total Actual Value	Total Assessed Value
\$42,800	\$3,410	\$57,070	\$4,540	\$99,870	\$7,950

Prior Year Assessment Information

Year	Actual Value	Assessed Value	Mill Levy	Ad Valorem Taxes
2013	\$99,870	\$7,950	49.778	\$395.73
2012	\$115,830	\$9,220	44.152	\$407.07
2011	\$115,830	\$9,220	44.343	\$408.84
2010	\$166,420	\$13,250	40.939	\$542.44
2009	\$166,420	\$13,250	39.757	\$538.96
2008	\$111,540	\$8,880	41.387	\$378.48
2007	\$111,540	\$8,880	36.186	\$333.40
2006	\$86,870	\$6,920	43.784	\$314.80

Contact the Treasurer's Office for current property tax amount due. Do not use the figures above to pay outstanding property taxes.

Land Information

Land Description	Land Type	Acres	Site Access	Electricity	Sewer	Water	Other Attributes
SINGLE FAM.RES.-LAND	Residential	0.143	YEAR ROUND	YES	CENTRAL	CENTRAL	LAND TYPE - MEADOW

Sales Information

Sale Date	Sale Amount	Grantor	Grantee	Vacant or Improved (at time of sale)	Reception #	Deed Type
06/14/2005	\$130,000	NIMMO HARLAN	STRAUSS EVAN R	Improved	554569	GEN WARR DEED - FEE
10/21/2003	\$117,500	PEARSON SHIRLEY M	NIMMO HARLAN	Improved	536108	GEN WARR DEED - FEE
11/29/2001	\$109,000	LOWE ROBERT W JR	PEARSON SHIRLEY M	Improved	518738	WARRANTY DEED - FEE

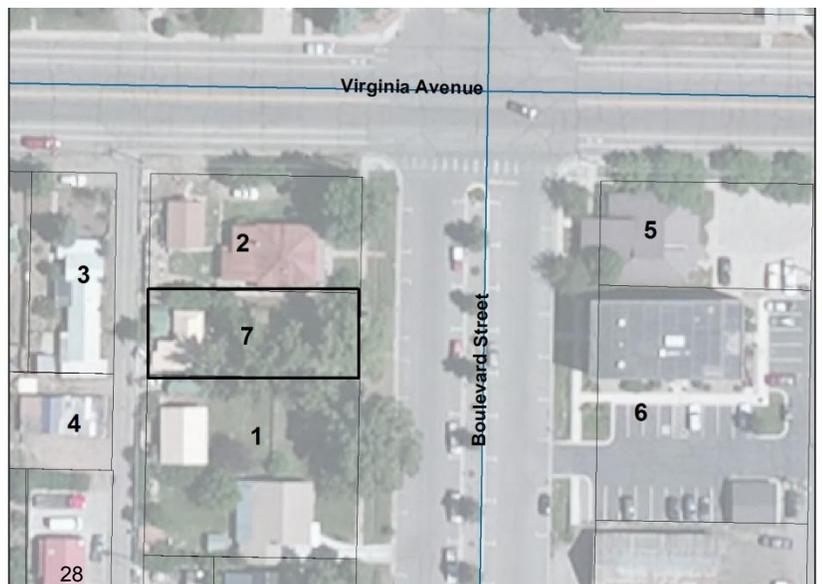
Building Information

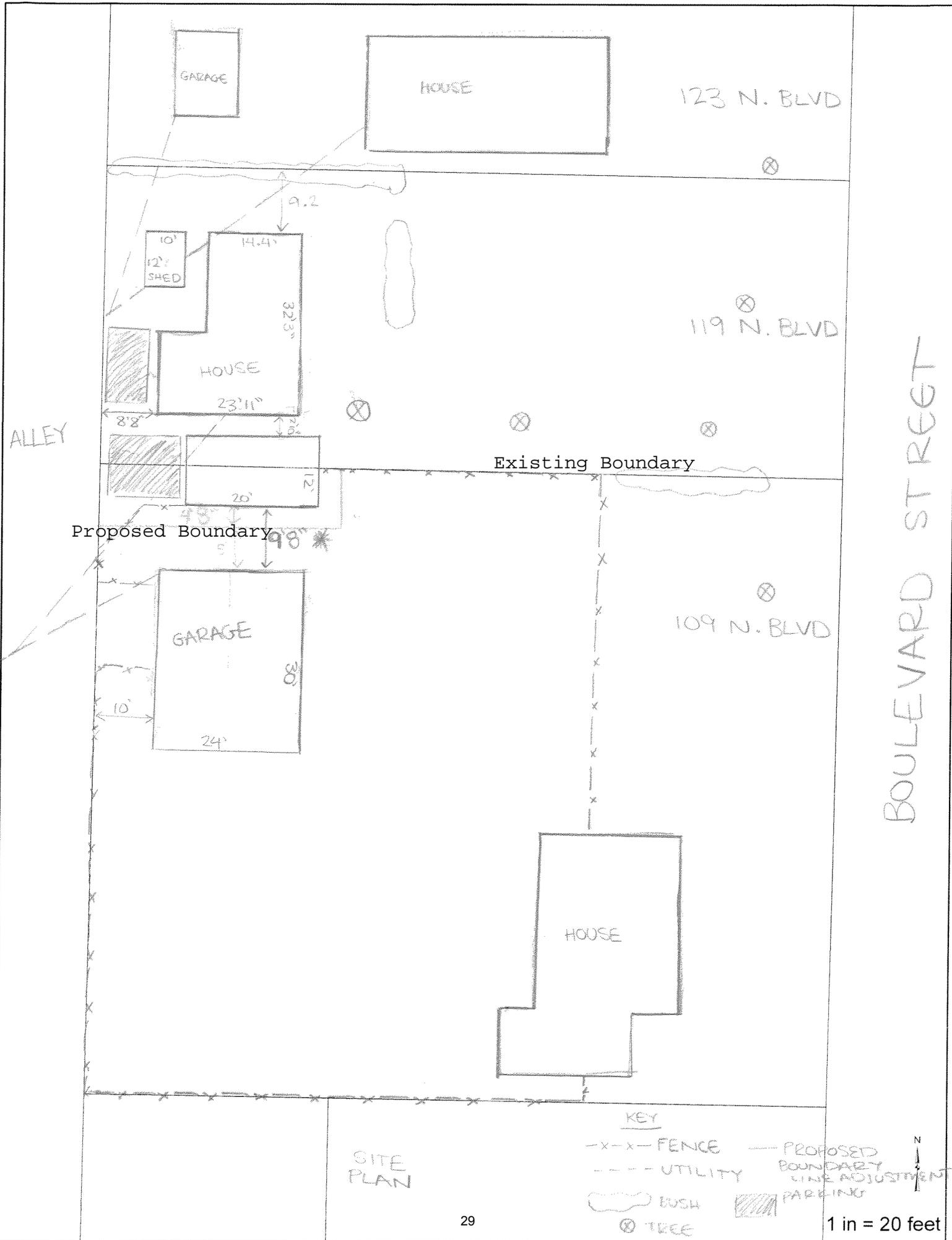
Building Number 1:						
Occupancy Type	CONVENTION	Quality of Construction	Fair	Stories	1	Primary Heating System
Building Description	CONVENTIONAL	Exterior Condition	Average	Roof	Preformed Metal	Domestic Hot Water
Original Year Built	1901	Interior Condition		Exterior		Landscaping
Effective Year Built	1937	Bedrooms	1	Foundation	Concrete	0

119 N. Boulevard
VA 14-2

The following adjacent property owners were notified via certified mail:

- | | | | |
|---|---|---|--|
| 1 | Bruce Brennise
PO Box 869
Gunnison, CO 81230 | 6 | Velocity Property LLC
PO Box 294
Gunnison, CO 81230 |
| 2 | Elizabeth Marcue
123 N. Boulevard
Gunnison, CO 81230 | 6 | Ellyn Houghton
76 Kubler Street
Crested Butte, CO 81224 |
| 3 | Anabel Hite
611 W. Virginia Avenue
Gunnison, CO 81230 | 6 | Cynthia Mount
406 Crocus Road
Gunnison, CO 81230 |
| 4 | Elizabeth Christensen
Raquel Archuleta
110 N. 12 th Street
Gunnison, CO 81230 | 6 | Gary Shondeck
114 N. Boulevard St., Ste 102
Gunnison, CO 81230 |
| 5 | Hal Yale
120 N. Boulevard
Gunnison, CO 81230 | 6 | Edward Howard
114 N. Boulevard, Ste 204
Gunnison, CO 81230 |
| 6 | Kurt and Diane Pederson
2445 Shavano Circle
Montrose, CO 81401-9843 | 6 | Nikkis Opera LLC
PO Box 486
Gunnison, CO 811230 |
| 6 | D Sanchez LLC
PO Box 7152
Gunnison, CO 81230 | 6 | Thompson Family Trust
1990 Emerald Drive
Longmont, CO 80504-7775 |
| 6 | William Lee Matthews III
114 N. Boulevard, Ste 105
Gunnison, CO 81230 | 6 | Patricia Louise White Special
Needs Trust
62 Blackfoot Trail
Gunnison, CO 81230 |





SITE PLAN

- KEY
- x-x- FENCE
 - UTILITY
 - (cloud shape) BUSH
 - ⊗ TREE
 - PROPOSED BOUNDARY LINE ADJUSTMENT
 - (hatched) PARKING

MEMBERS	PRESENT	ABSENT	EXCUSED
MARLA LARSON	X		
MARION HICKS	X		
WES BAILEY	X		
ELLEN HARRIMAN	X		
SCOTT FRAZIER	X		

OTHERS PRESENT: DIRECTOR STEVE WESTBAY, PLANNER ANDIE RUGGERA

I. CALL TO ORDER AT 7:00 pm BY CHAIR MARLA LARSON

II. CONSIDERATION OF THE AUGUST 18, 2011 MEETING MINUTES

Member Marion Hicks moved and Member Wes Bailey seconded to approve the August 18, 2011 meeting minutes as amended.

Roll Call Yes: Marla, Scott, Wes and Marion

Roll Call No:

Roll Call Abstain: Ellen – was not present at the August 18, 2011 meeting.

Motion Carried

III. BOARD COMMENTS

Member Bailey said it is a good to have a meeting.

IV. STAFF COMMENTS

Director Steve Westbay gave an update on business during the last year:

- a major evolution in the planning world has occurred with the completion of the *Land Development Code* update. The P&Z has made a recommendation for approval and the City Council will hold a public hearing on December 10, 2013;
- six months to one year ago was a scary fire season in Gunnison County and surrounding counties;
- a series of grant applications have been submitted including a river restoration grant and a trails improvement grant;
- the *Highway Access Control Plan* which encompasses Highway 50 from Main and Tomichi east, approximately 3 miles, to the industrial park was completed and adopted;
- the City and County have been working on comments for the possible listing of the Gunnison Sage-grouse as an endangered species;
- the Building Department has been busy with new developments including the Tractor Supply Store, demolition of the John Roberts building, Family Dollar and single-family residences; and,
- the City annexed the VanTuyl Ranch and future library site into the City of Gunnison.

V. ADJOURN

The meeting was adjourned to a work session at approximately 7:25 p.m.

Marla Larson, Chair

Attest:

Andie Ruggera, Secretary