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MEMORANDUM **Transportation & Development – BA Memo No. 13-011**

DATE: DECEMBER 11, 2013

TO: BOARD OF ADJUSTMENT

THRU: R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
JEFF KURTZ, PLANNING ADMINISTRATOR
KEVIN MAYO, PLANNING MANAGER KM

FROM: SUSAN FIALA, CITY PLANNER SMF

SUBJECT: VAR13-0008 PORTER RESIDENCE

Request: Variance from the Zoning Ordinance to allow an existing accessory building to remain in the front yard

Applicant: James Porter

Location: 300 North Hamilton Street, north of the northwest corner of Hamilton and Detroit streets

Existing Use: Two-family dwelling

Zoning: Medium-Density Residential District (MF-1)

RECOMMENDATION

Planning Staff, upon finding the need for a variance to be self-imposed and the criteria by which all variances are reviewed to not be fully satisfied, recommends denial of the requested variance.

BACKGROUND

The applicant requests a variance from the zoning ordinance to allow an existing accessory building to remain in the front yard [Zoning Code Section 35-2202]. The property is located at 300 N. Hamilton Street, north of the northwest corner of Hamilton and Detroit streets.

The property contains a two-family dwelling that was built in 1936, under Maricopa County jurisdiction. The property is located in the Greater Chandler Addition subdivision. The two lots to the north and east of the subject lot contain multi-family dwellings. The three lots to the south contain single-family dwellings.

The subject of this variance is the approximate 140 sq. ft. accessory building which is located in front of the principal building. The accessory building is used for storage and was installed in 2006. The accessory building was installed without building permits and does not match the building materials and style of the principal dwelling. The accessory building's siding is vertical metal and is raised off of the ground.

The minimum front yard setback for the MF-1 zoning district is 25 ft., based on the existing 66 ft. right-of-way width of Hamilton Street. The minimum side yard setbacks must be no less than 5 ft. on one side and the total of both side yards shall not be less than 15 ft. and the minimum rear yard setback is 10 ft. Accessory buildings are to be located in the rear area of the parcel, which is the land behind the front wall of the principal building. The principal building is setback 130 ft. from the front property line.

The residential dwelling has approximately 1,575 sq. ft. of livable area. The current property owner purchased the property in 2004. The lot is approximately 190 ft. in length and 75 ft. in width for an approximate area of 14,250 sq. ft.

According to the applicant, the property was approximately 40 acres in size when the 1936 residential dwelling was constructed and was in the center of the property. It was originally used as a farm house. In 1945, the Greater Chandler Addition subdivision was platted under Maricopa County regulations. The dwelling was within Block 8, Lot 12 and was approximately 86,724 sq. ft. in lot area. In 1956, Block 8 of the subdivision was annexed into the City of Chandler. In the 1970's, Lot 12 was further subdivided into several lots for single-family and multi-family development. Based on the configuration of the lots, the 1936 home was then situated toward the rear of the lot, thus creating a front yard of approximately 130 ft. in depth, which fronts Hamilton Street.

Building permits are required for accessory buildings. Additionally, accessory buildings are required to be architecturally integrated with the primary structure (the house). It may be possible to meet this requirement through the addition of stucco and roof elements. This requirement will need to be met if the variance is granted.

The City of Chandler Code Inspector issued a courtesy verbal notice of violation. No formal notice was issued.

CODE REQUIREMENTS

The regulations for accessory buildings are established in the following section of the Zoning Code:

35-2202. Accessory buildings.

(1) Accessory buildings shall be located in the rear of the principal building and shall not occupy more than thirty (30) percent of the rear area.

(2) Accessory buildings shall meet the minimum side and rear yard setbacks for the district in which it is located.

FINDINGS

Below is a list of the criteria that the Board of Adjustment must use to review each variance request. Following each criterion are Planning Staff's italicized responses. The applicant's written narrative answering the following criteria is included as an attachment.

1. **Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.**

   The approximate 14,250 sq. ft. lot is a typical sized lot for this neighborhood and is rectangular in shape. The special circumstance applicable is the location of the two-family dwelling on the lot. The dwelling was constructed in the middle of a larger parcel in 1936 and through subdividing the original parcel, the dwelling then became a part of the rear portion of the existing parcel. However, the placement of an accessory building in the front yard is a self-imposed condition. The accessory building was constructed without verification of zoning requirements and without the submittal for a building permit. The lot has no physical constraints that restrict the property's use as planned or zoned. Planning Staff is of the opinion that this criterion has not been fully satisfied.

2. **State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.**

   The existing two-family dwelling demonstrates that the property has been allowed to develop and the property owner has enjoyed substantial property rights since the dwelling was purchased in 2004. It is not a property right to violate the Zoning Code requirements. Planning Staff is of the opinion that this criterion has not been satisfied.

3. **Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.**

   The variance would be a detriment to neighboring properties as they do not legally enjoy, nor have been granted approval to construct accessory buildings in the front yard that do not abide by zoning regulations. Planning Staff is of the opinion that this criterion has not been satisfied.

PUBLIC/NEIGHBORHOOD NOTIFICATION

- This request was noticed in accordance with the requirements of the Chandler Zoning Code.
- At the time of this writing, Planning Staff has received one telephone call from a neighbor who is in support of the request.

SUMMARY

Planning Staff does not support this request. Although the two-family dwelling is located in the rear portion of the lot, the accessory building is not permitted to be in front of the principal building's front wall plane. The location of the accessory building is a self-imposed condition applicable to this property that does not apply equally to similar properties in the surrounding area. The requirement to meet the zoning requirements is not a hardship for this property that

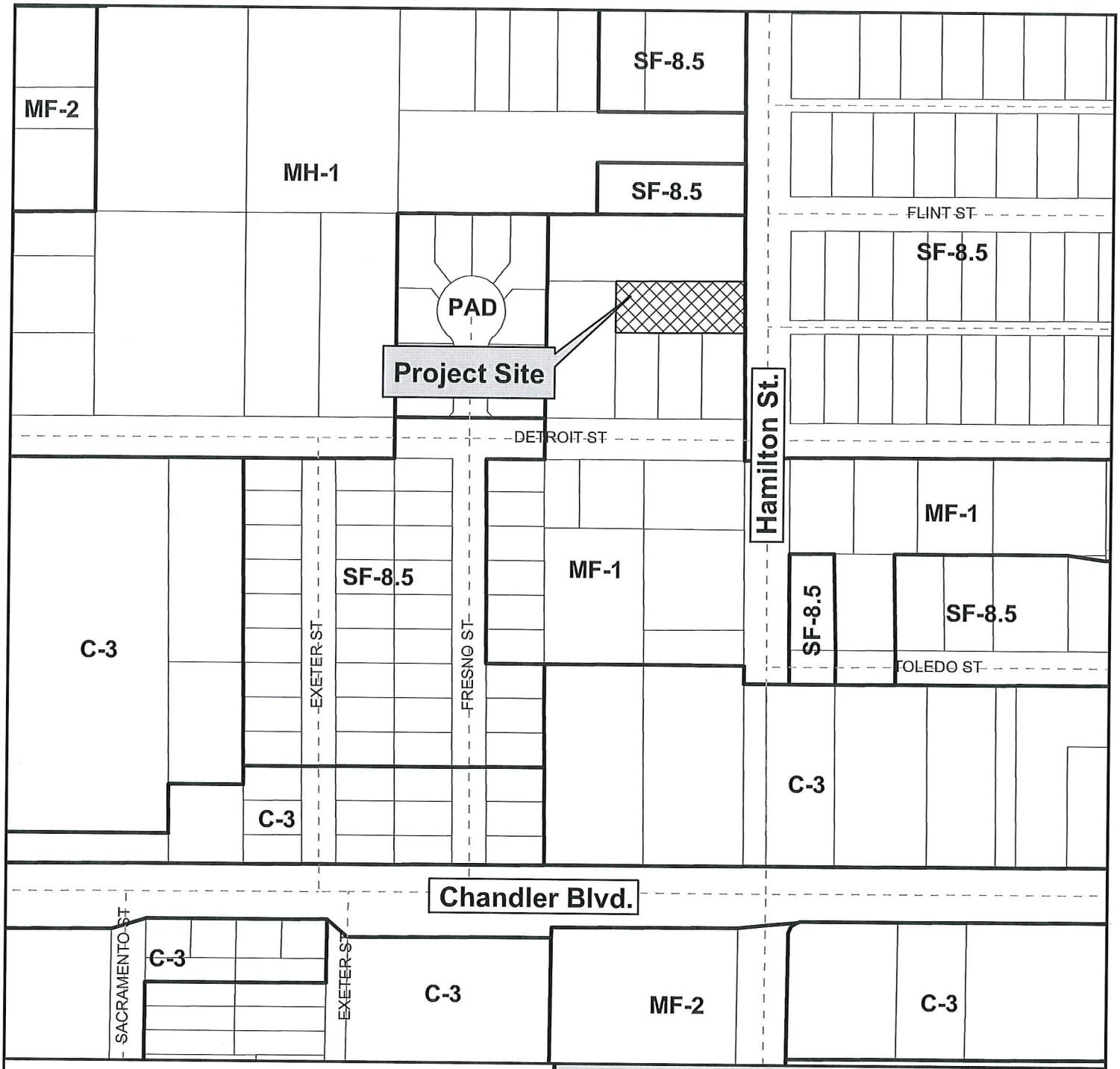
would prevent the enjoyment of substantial property rights. The property has been substantially developed and enjoying development rights since the owner purchased the two-family dwelling in 2004.

Granting a variance for this property would, in Staff's opinion, constitute a special privilege inconsistent with the limitations placed upon other similar properties. There are no unique conditions to this location that would support a finding in favor of this application.

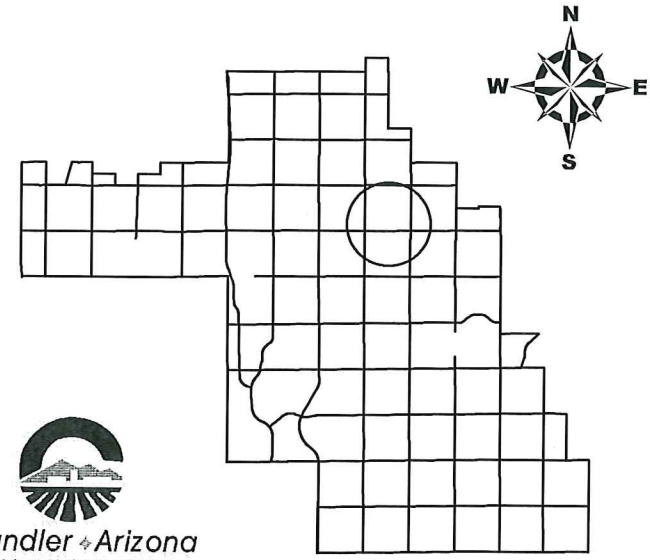
RECOMMENDED ACTION
Planning Staff recommends denial of this request.

PROPOSED MOTION
Move to deny the variance request VAR13-0008 PORTER RESIDENCE, as recommended by Planning Staff.

Attachments
1. Vicinity Maps
2. Aerial
3. Applicant Justification
4. Site Plan
5. Photos
6. Powers and Duties



Vicinity Map



VAR13-0008

Porter Residence
300 N. Hamilton St.

Chandler Arizona
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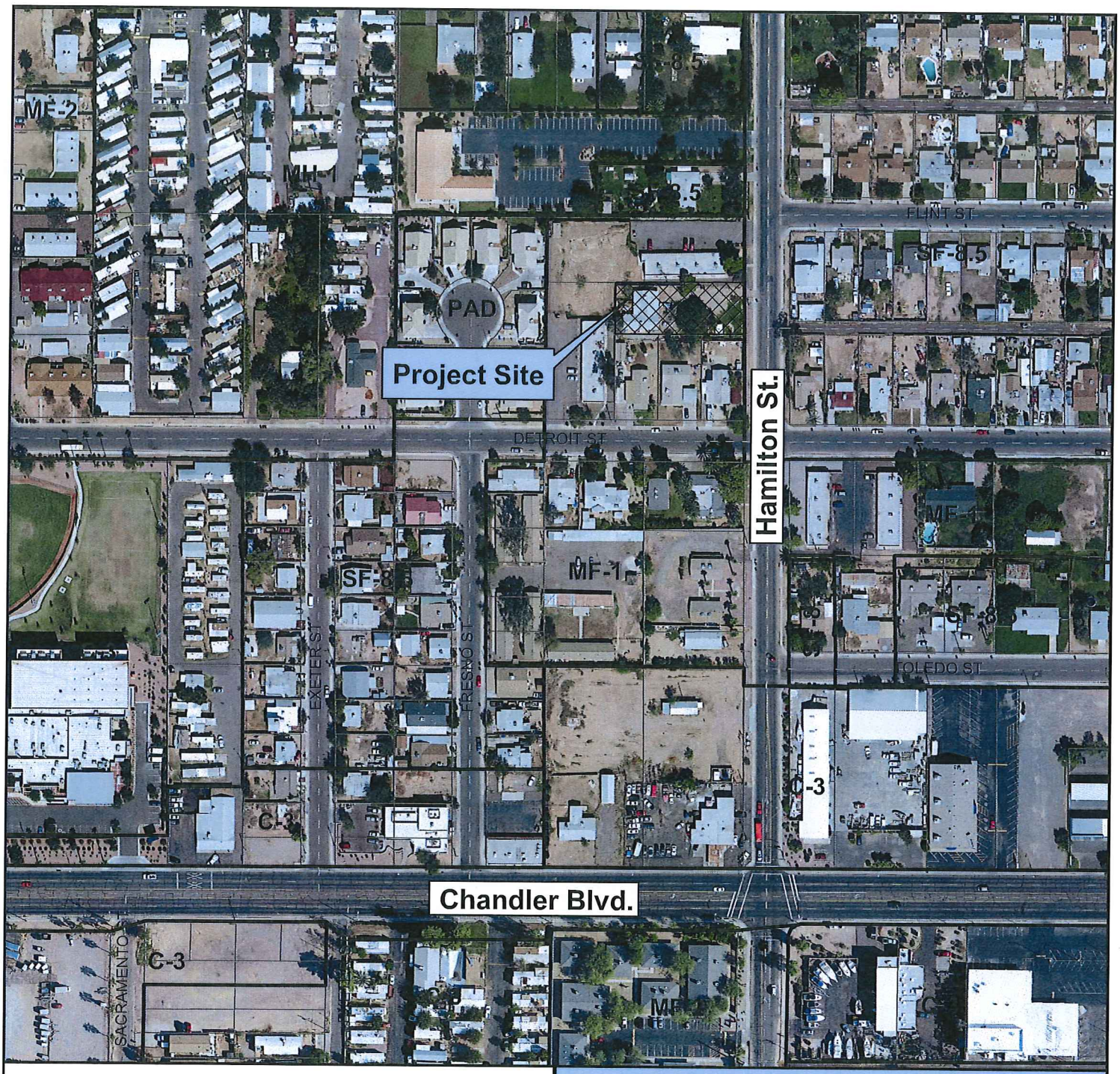
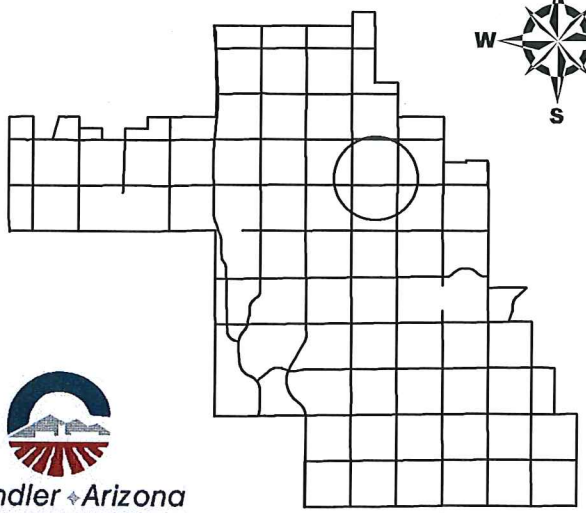
CITY OF CHANDLER 11/4/2013



Vicinity Map



VAR13-0008

Porter Residence
300 N. Hamilton St.

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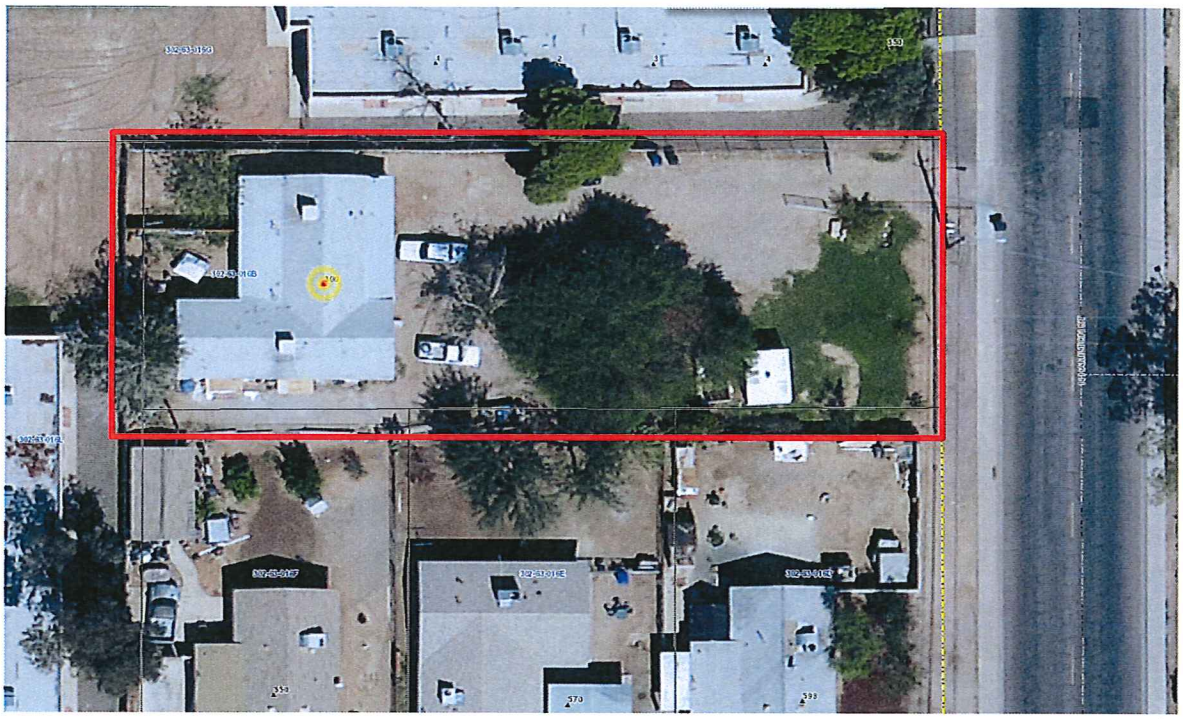
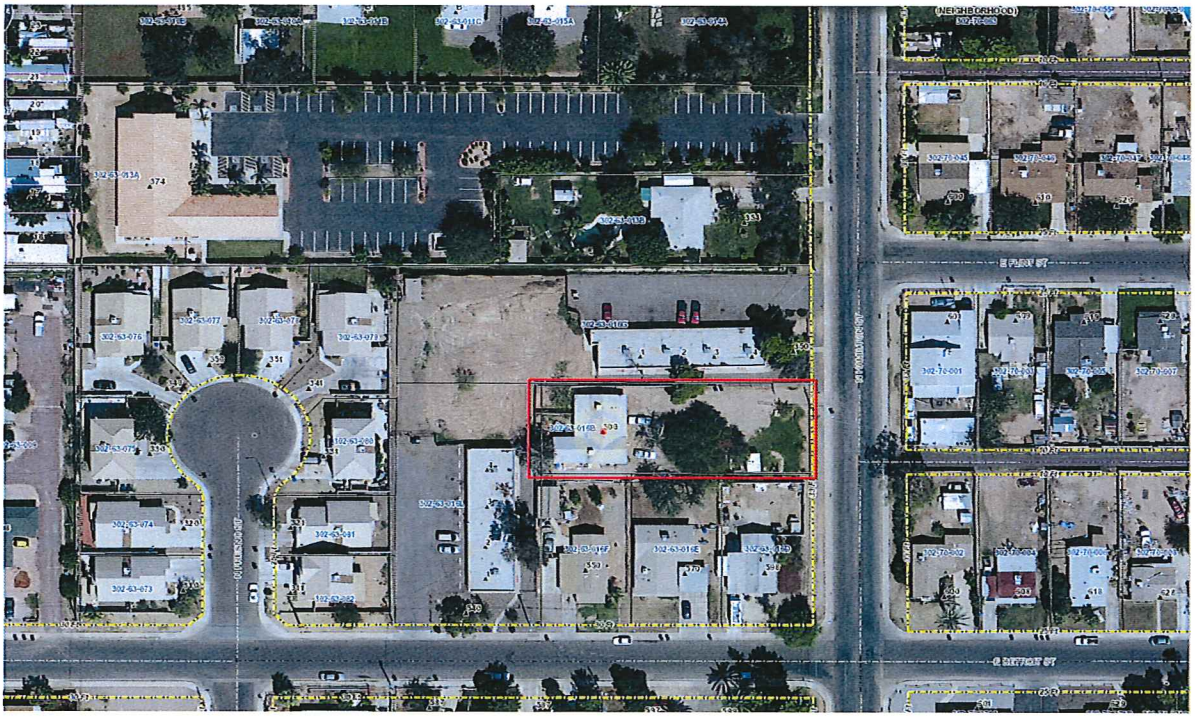
AERIAL

300 North Hamilton Street





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Justification for Variance Request

Please answer the following questions fully in order to prove your case to the Board.

1. Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.

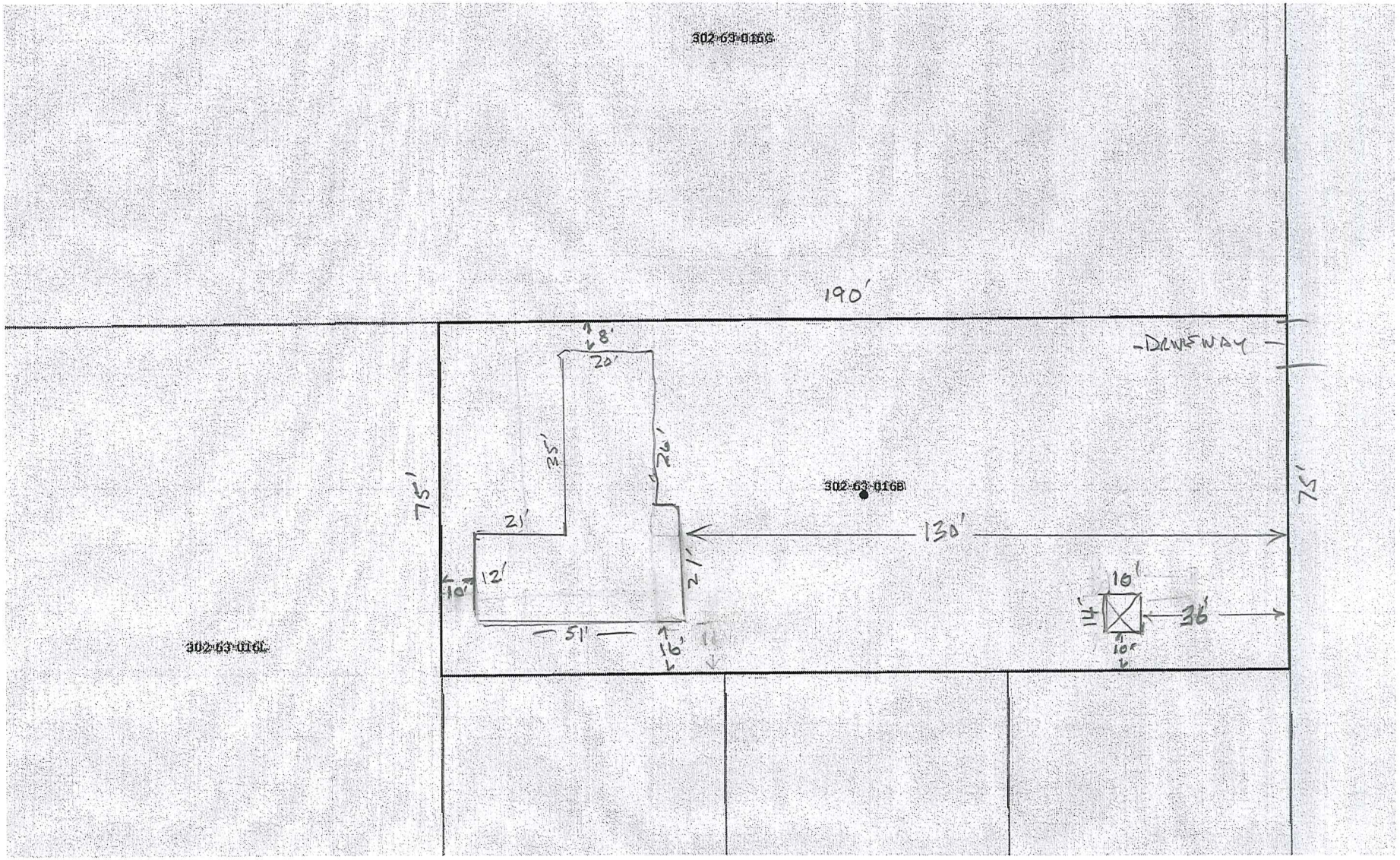
300 N. Hamilton is 190' deep and 75' wide. The 4-Bedroom house / 1-bdr apartment at the extreme rear of the property was built in 1936, when it was the main farm house located on approx. 40 acres. With subsequent residential development the farmland was subdivided, and the rear property line was set approx 12' from the house; one side yard is 16' and the other 8'. The house itself is located 130' from Hamilton St property line

2. State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.

This 1/3 - acre property is a rental duplex in a n MF-1 area and a shed seperate from the rental area is needed to contain gardening tools and materials needed in maintaining the trees, grass, bushes and parking areas in the front of the rental duplex (approx 130' x 75').

3. Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.

The property is essentially the same as when purchased in 2004. The residence/apartment was extensively upgraded (electric, gas, water) with all necessary City permits. The shed was installed in 2006, for the above reasons. It is located 10' from the South property line and 36' from the East (Hamilton St) property line. The property receives Salt Rive irrigation water, hence the shed is on 1-foot pylons. Shrubs have been planted to improve the street-view. When the shrubs mature, they should substantially screen the shed from Hamilton Street.



300 N. HAMILTON ST.
MF-1

DETROIT

10/24/2013
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300 N. ~~So~~ HAMILTON ST.

BOARD OF ADJUSTMENT

CHAPTER 35

35-2502. Powers and duties.

The Board of Adjustment shall have the following powers and duties:

(1) Adopt rules of procedure not inconsistent with the provisions of this Code for the conduct of its business and procedure.

(2) Hear and decide all appeals that may be taken by any person or any Officer, Department, Board or Division of the City when there is an alleged error in any such order, requirement or decision made by the Zoning Administrator in the enforcement of the provisions of this Code.

(3) Reverse or affirm in whole or in part or modify the order or decision as ought to be made, and [to] that end shall have the powers of the officer for whom the appeal is taken.

(4) Determine and establish the true location of district boundaries in any disputed case.

(5) Interpret any provision of the Zoning Code as it relates to a specific use of land or structure.

(6) In specific cases, authorize upon request such variances from the provisions of this Code that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary property hardships. A variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is located.

(a) A variance shall not be granted unless the Board of Adjustment shall find upon sufficient evidence:

1. There are special circumstances or conditions applying to the land, building or use referred to in the request;

2. The granting of the variance is necessary for the preservation and enjoyment of substantial property right; and

3. The granting of the variance will not materially be detrimental to persons, property or to the public welfare of the community.

(b) The Board of Adjustment may not:

1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning code provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this article.

2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.