



November 21, 2024

ZONING BOARD OF ADJUSTMENT

Notice is hereby given of a Regular Meeting of the Zoning Board of Adjustment to be held on the above date at 4:00 p.m. in the City Hall Council Chamber located at 202 East Pilar Street, Nacogdoches, Texas. One or more Board members may attend by video conference, but a quorum of the Board and Presiding Officer must be present at the above-stated physical location. There will be an opportunity for members of the public attending in-person to comment on the agenda items listed below. A live stream of the meeting is also available for public viewing at <https://nactx.us/21>.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.

2. PLEDGE OF ALLEGIANCE.

3. **CONSENT AGENDA**

- A. Approval of Minutes: Consider approval of minutes from the October 17, 2024, Zoning Board of Adjustment meeting.

4. **REGULAR AGENDA**

- A. **Public Hearing:** Consider a request for a variance to the Zoning Ordinance, Section 118-466 -*Off-street parking requirements*, for a reduction in the minimum off-street parking requirements in a B-2, General Business district, for Lot 7-T, City Block 69, generally located on the south side of N.E. Stallings Drive, approximately 250 feet east of Klein Drive. This request has been submitted by Jake Crawford with JB Crawford Construction on behalf of the owner, Carl Davis, MD. Case File ZBA-2024-06.
- B. **Public Hearing:** Consider a request for a variance to the Zoning Ordinance, Section 118-430(d) -*Street landscaping*, for a reduction in the minimum requirements for street landscaping in a B-2, General Business district. for Lot 7-T, City Block 69, generally located on the south side of N.E. Stallings Drive, approximately 250 feet west of Klein Drive. This request has been submitted by Jake Crawford with JB Construction on behalf of the owner, Carl Davis, MD. Case File ZBA2024-07.
- C. **Public Hearing:** Consider a request for a variance to the Zoning Ordinance, Section 118-427(a) -*District development chart*, for a reduction in the minimum side yard setbacks requirements in an I-1, Light Industrial district, for Lot(s) 2-2 and 2-5, CB 38, located at 114 East Craven Street. This request has been submitted by the owner, Rolando Rodriguez. Case File ZBA2024-08.



5. ADJOURN.

Aimee Cloutier

Aimee Cloutier, Planning Coordinator

CERTIFICATION

This meeting will be conducted pursuant to Chapter 551 of the Texas Government Code. The Board reserves the right to adjourn into Executive Session at any time during the meeting to discuss any of the above posted agenda, as authorized by Texas Government Code Section 551.071 [consultation with attorney]. The City of Nacogdoches is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications may be provided upon request. Please contact the City Secretary at (936) 559-2506 for information. I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, on November 15, 2024, by 4:00 p.m. pursuant to Chapter 551 of the Texas Government Code.

Aimee Cloutier, Planning Coordinator

**MINUTES TO THE
ZONING BOARD OF ADJUSTMENT
October 17, 2024, 4:00 p.m. Hybrid Meeting**

Regular Board Members Present: Rhonda Ward; David Shofner; Margaret Forbes; Larry King; Mary Ann Bentley;

Alternate Board Members Present: Charles “Ed” Pool; Jacqueline Pierre; John Sloane; Sally Ann Swearingen;

Members Absent: None

Staff Present: Planning Coordinator, Aimee Cloutier; Planning Consultant, Nathan Dietrich; Interim City Planner, Juan Pollette; City Attorney, Jerry Baker; Assistant City Engineer, Jason Vickery; Executive Director of Development & Infrastructure, Mike Neu; Public Works Director, Case Opperman (remote);

Call to Order: Chairwoman Rhonda Ward called the meeting to order at 4:02 p.m.

Pledge of Allegiance: Chairwoman Ward led the pledge of allegiance.

Consent Agenda: Approval of the Minutes: August 15, 2024, Regular Meeting.

Introduction of Executive Director of Development and Public Infrastructure, Mike Neu.

Executive Director of Development and Public Infrastructure introduced himself to the Board and gave remarks.

Chairwoman Ward called for a motion to approve the minutes as written. Board Member Shofner moved to approve the minutes as written with Board Member Bentley seconding. The minutes were approved as presented unanimously (4-0) with Board Member King not being present for the vote.

Regular Agenda:

5. A. Recognition of Olivia Kiritsy for her dedication and service as a Board Member and Chairperson for the Zoning Board of Adjustment.

5. B. Consideration and possible action to appoint two Zoning Board of Adjustment Board Members to the newly formed City of Nacogdoches Zoning Ordinance Amendment Committee.

Board Member King moved to appoint Chairwoman Ward and Board Member Forbes to the Zoning Ordinance Committee with Board Member Bentley making the second. The appointment was approved unanimously (5-0).

WORKSHOP

6.A. Welcome and Introductions

Planning Consultant (PC), Nathan Dietrich introduced staff.

6.B. Presentation and discussion regarding the Zoning Board of Adjustment roles and responsibilities, terms of appointment, tentative meeting dates, meeting procedures, and general Planning Zoning departmental policies and procedures.

PC Dietrich explained the Zoning Board of Adjustment roles and responsibilities, meeting dates, and that the Board is governed by Chapter 211 of the Texas Local Government Code and Chapter 18 of the City of Nacogdoches Zoning Ordinance. PC Dietrich went over what cases the Board was allowed to hear and what facts they had to review before granting or denying items.

There was discussion amongst the Board regarding the Future Land Use Plan and how it was a component of the Comprehensive Plan adopted in 2003.

PC Dietrich reviewed the ZBA rules and procedures and what the Board Members should follow.

There was discussion amongst the Board and staff regarding who could appeal decisions to the Board of a City Official.

Board Member King asked Chairwoman Ward to draft a letter to the Attorney General asking if the language in the ordinance is in line with state law to determine who has the authority to determine what cases the Zoning Board of Adjustment hears.

PC Dietrich stated the differences between the Zoning and Subdivision ordinances.

6.C. Presentation and discussion regarding conflict-of-interest provisions.

City Attorney, Jerry Baker reviewed the conflict-of-interest provisions that were relevant to the Zoning Board of Adjustment from the Local Government Code, Chapter 171.

6.D. Presentation and discussion regarding the Texas Open Meetings Act.

Board Member King stated he did not think the Board needed training since they all had taken the course. City Attorney, Jerry Baker explained that it was just an overview. The Board agreed they would skip the agenda item.

6.E. Discuss proposed revisions to the Zoning Board of Adjustment Rules and Procedures as requested by Board Member Forbes.

- (a) There was discussion amongst the Board and Staff regarding the lawsuit that Board Members King and Forbes were served with at a previous meeting and asked what preventative measures and actions could be taken in the future. It was discussed that an officer be present at confrontational meetings as well as executive sessions be put on future agendas.
- (b) There was discussion amongst the Board and Staff regarding how a submitted application is determined to be heard by the Zoning Board of Adjustment as well as how Board Members request items to be added to the agenda. It was agreed that rules and procedures be added to the Boards Rules and Procedures in the future.
- (c) There was a discussion regarding the procedures and order of the alternate board members between Staff and the Board. The Board agreed that the language of the order of the alternates should be added to the ZBA Rules and Procedures.
- (d) There was discussion and questions from the Board about whether or not the city code supersedes the Texas Local Government Code. Staff explained that the Local Government Code is more stringent than the current ordinance and the City Council can adopt more stringent rules but they cannot be less stringent.

6.F. Discuss the possibility of outside Counsel for the Zoning Board of Adjustment as requested by Board Member Forbes.

There was discussion amongst the Board stating the conflict of using the City Attorney appointed by City Council and they would like to seek outside counsel.

G. Discussion and establishment of guidelines regarding participation via ZOOM.

Chairwoman Ward asked for clarification regarding the participation in the meeting remotely. The City Attorney clarified the guidelines for the Board. There was discussion amongst the Board stating the reason there are alternates is for when regular members cannot attend a meeting in person.

Board Member King stated that sometimes it was better not to have an alternate show up depending on who that alternate was and what the case is, implying that staff chooses the alternate they want.

There was more discussion regarding if only four of the five members are present, does the applicant have the opportunity to reschedule the meeting?

Adjourn: Chairwoman Ward adjourned the meeting at 6:13 p.m.

Chairwoman, Rhonda Ward

Attest: Aimee Cloutier, Planning Coordinator

PRESENTER: Juan Pollette, Interim City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for a variance to the Zoning Ordinance, Section 118-466 -*Off-street parking requirements*, for a reduction in the minimum off-street parking requirements in a B-2, General Business district, for Lot 7-T, City Block 69, generally located on the south side of N.E. Stallings Drive, approximately 250 feet east of Klein Drive. This request has been submitted by Jake Crawford with JB Crawford Construction on behalf of the owner, Carl Davis, MD. Case File ZBA-2024-06.

TYPE OF REQUEST: Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of the property.

The ZBA rules and procedures state this type of variance may be requested “whenever, owing, to exceptional and extraordinary conditions, the literal enforcement of the provisions of the zoning regulations will result in unnecessary hardship in the development of the property.”

BACKGROUND INFORMATION:

The applicant is requesting a variance to the required number of off-street parking spaces for the development of a 3,320 square foot medical office building at the 4700 block of North East Stallings Drive.

This property, along with the adjacent properties, has a 120-foot wide Oncor utility easement that runs along the front of the properties parallel to North East Stallings Drive. Oncor’s easement requirements render 40 percent of the property undevelopable. Although the proposed medical office will not be in the utility easement, several of the required parking spaces will. Oncore’s guidelines state “Parking will be granted for overflow parking only; no occupancy or code-required parking will be allowed.

Per section 118-466 -*Off-street parking requirements*, the parking ratio for a medical office is 1 parking space for every 200 square feet, requiring a minimum of 17 parking spaces for the 3,320 square foot medical office.

Because 40 percent of the property is undevelopable due to the utility easement, the applicant is requesting a 40 percent reduction in required parking. This would reduce the required parking from 17 spaces to 10 spaces.

The applicant is proposing to locate 10 parking spaces in the rear of the building, outside the easement, and the remaining seven (7) spaces in front of the building as “overflow” parking spaces. See the attached preliminary site plan.

The adjacent properties are of similar uses and were constructed in the 80s and 90s. The adjacent businesses have similar building setbacks and parking locations to the proposed medical office. Oncor recently revised its easement guidelines in June 2022, which could be why the adjacent properties were able to locate their required parking inside the utility easement without a variance.

ZONING & SURROUNDING LAND USES

Direction	Zoning	Existing Land Use
Subject Property	B-2, General Business	Undeveloped
North	B-2, General Business	Medical
South	B-2, General Business & R-1, Single Family	Undeveloped
East	B-2, General Business	Commercial
West	B-2, General Business	Commercial

PHYSICAL CHARACTERISTICS

1. **Frontage:** The subject property has approximately 100 feet of frontage on North West Stallings Drive.
2. **Access:** The subject property takes access from North West Stallings Drive.
3. **Topography and vegetation:** The property is relatively flat with a slight drop in elevation to the north of the property. The property is mostly cleared with a few trees along the southern property line.
4. **Floodplain:** The property is not located within the FEMA-regulated floodplain.

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance.

The purpose of the comprehensive plan and zoning ordinance is to promote the health, safety, and welfare of Nacogdoches through orderly and efficient development. Furthermore, the purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses that might be located at the site over time.

Due to the existing site constraints and the Oncor utility easement rendering 40 percent of the property undevelopable, the reduction of the required parking outside the easement and the additional “overflow” parking in the utility easement will satisfy the traffic generated by the proposed use. Based on the proposal, staff believes the request is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district.

The proposed medical office will be developed similarly to the adjacent properties with similar front building setbacks aligning with the adjacent buildings to the east and west. The proposed parking will also be in the same location as the existing adjacent businesses. Granting of this variance should not affect the use of the adjacent property.

3. Such variance will not adversely affect the health, safety, or general welfare of the public. The owner indicated that, given the minimal number of patients scheduled at any one time, the reduced parking requirement will sufficiently accommodate patient needs. Additionally, with the proposed overflow parking at the front of the building, there will be ample parking available for

patients.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance sought is located.

The variance will not authorize a use other than those uses permitted in the B-2 General Business zoning district.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

The unique circumstance is the 120-foot utility easement rendering the front 40 percent of the property undevelopable.

6. The variance itself is not a self-created hardship.

Due to the existing site constraints related to the Oncor easement, staff believes this variance does not constitute a self-created hardship.

PUBLIC ENGAGEMENT:

- October 31, 2024 - Staff mailed thirty (30) public meeting notice letters to property owners within the 200-foot notification area. At the time of this report, Staff has received no responses in favor or in opposition of the request.
- November 3, 2024 – Legal ad published in the Daily Sentinel newspaper.

ATTACHMENTS:

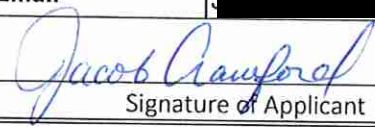
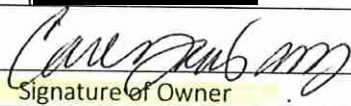
1. Application
2. Owner Certification Form
3. Statement
4. Oncor Easement Guidelines
5. Site Plan
6. Location Map
7. Aerial Map
8. Zoning Map
9. Notification Map
10. Site Photos



City of Nacogdoches Planning and Zoning Department

202 East Pilar | P.O. Box 635030 | Nacogdoches, Texas 75963-5030 | Phone: 936.559.2571 | Email: pz@nactx.us

APPLICATION FOR INTERPRETATION, VARIANCE OR SPECIAL EXCEPTION

Applicant		Owner (If different from Applicant)	
☒ Owner ☐ Tenant ☐ Agent ☐ Other		☒ Individual ☐ Trust ☐ Corporation	
Business Name	JB CRAWFORD CONSTRUCTION	Business Name	CARL DAVIS, MD-FAMILY MEDICINE
Name	JAKE CRAWFORD	Name	CARL DAVIS, MD
Mailing Address	[REDACTED]	Mailing Address	[REDACTED]
City/State	NACOGDOCHES, TEXAS	City/State	NACOGDOCHES, TEXAS
Zip	75964	Zip	75965
Phone	[REDACTED]	Phone	[REDACTED]
Email	[REDACTED]	Email	[REDACTED]
 Signature of Applicant		 Signature of Owner	
Legal Description of Property			
Subdivision: _____ Lot(s) 7-T _____		Subdivision BK _____ City BK 69 _____	
Physical Address NE STALLINGS DR _____		Parcel ID # 26589 _____	
PLEASE SELECT <u>ONE</u> TYPE OF APPEAL (per Texas Local Government Code § 211)			
☐ Interpretation of the meaning or intent of the zoning ordinance			
☐ Special Exception for the use or development of the property			
☒ Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property			
REQUIRED ATTACHMENTS (Per ZBA Rules & Procedures Section 4.4)			
1. For an appeal requesting an <u>interpretation</u> of the meaning or intent of the zoning ordinance, attach:			
☐ A statement/letter by the applicant describing staff's interpretation of the meaning or intent of the code, and then the way you as the applicant believe the regulation should be interpreted.			
☐ Site plan or other graphics, and illustrations explaining the applicant's interpretation (diagrams and charts illustrating the applicant's interpretation of the map or text provisions).			
2. For an appeal requesting a <u>special exception</u> for the use or development of the property, attach:			
☐ A letter/statement of facts by the applicant as to why the special exception is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown on the next page. <u>Each question shall be answered in sentence form or the application will be viewed as incomplete.</u>			
☐ A site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed exceptions that are being requested.			
3. For an appeal requesting a <u>variance</u> from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property, attach:			
☒ A letter/ statement of facts by the applicant as to why the variance is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown on the next page. <u>Each question shall be answered in sentence form or the application will be viewed as incomplete.</u>			
☒ A site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements.			

Updated 09.2024



City of Nacogdoches Planning and Zoning Department

202 East Pilar | P.O. Box 635030 | Nacogdoches, Texas 75963-5030 | Phone: 936.559.2571 | Email: pz@nactx.us

ZBA VARIANCE- OWNER CERTIFICATION FORM

NAME OF PROJECT CARL DAVIS, MD-MOB

ADDRESS or PARCEL ID (S) 26589

APPLICANT/ PROJECT MANAGER'S INFORMATION (primary contact for the project)

Name JAKE CRAWFORD E-Mail [REDACTED]

Mailing Address [REDACTED]

City NACOGDOCHES State TEXAS Zip Code 75964

Phone Number [REDACTED] Fax Number

PROPERTY OWNER'S INFORMATION

Name Carl Davis, MD Business Name Carl Davis, MD - Family Medicine

Mailing Address [REDACTED]

City Nacogdoches State TX Zip Code 75965

Phone Number [REDACTED] E-Mail [REDACTED]

The OWNER certifies that the Applicant has prepared the Rezoning application and that the facts stated herein and the application, and all exhibits attached as part of the application, are true, correct, and complete. If there is more than one owner, ALL owners must sign this certification or provide the power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.

Carl Davis, MD [Signature] 10-21-2024
Owner Name Owner Signature Date

Owner Name Owner Signature Date

Owner Name Owner Signature Date



JB Crawford Construction, LLC

October 25, 2024

City of Nacogdoches: Planning and Zoning

Subject: *Request for Variance for Dr. Carl Davis*

The property owner plans to develop a 3,320 square foot medical office building on NE. Stallings dr. (Lot 8-T, Bk69 or Parcel ID 26589). According to city of Nacogdoches ordinances, this development requires 17 parking stalls to include at least one ADA accessible space. The owner faces significant hardship due to an existing Oncor high voltage transmission main and the associated easement on the property. Oncor's easement encroachment guidelines restrict the available space for development, preventing the owner from building any structure or ordinance-required parking spaces within the limits of the easement. Due to existing site constraints such as the Oncor easement, an existing retaining wall to the east, the existing buildings to the west, and the proposed building footprint, the site can only accommodate 11 parking spaces that fall completely outside the limits of the easement. While Oncor allows parking in their right of way, it stipulates that these spaces must be classified as "overflow" parking rather than "required" parking spaces. Therefore, the property owner respectfully requests that city officials reduce the required number of parking spaces to 11, while permitting the construction of the remaining 7 spaces as "overflow" parking. This adjustment will enable the owner to comply with Oncor's easement encroachment guidelines while still constructing the necessary parking facilities for the development.

Sincerely,



Jake Crawford

JB Crawford Construction, LLC
Crawford Plumbing & HVAC
JBC Excavation, LLC
JB Crawford Development, LLC

██████████
Nacogdoches, TX 75964
██████████

www.jbccnac.com



Guidelines for Use of Company Property/Easements by Others

Oncor Electric Delivery Company Policy

It is the policy of Oncor to not unreasonably withhold the granting of easements, encroachments and licenses on its real estate fee owned property and easements for street, road, utility and drainage crossings, and other approved uses. **The following set of guidelines are intended to state Oncor Electric Delivery Company's general policy for use of its rights-of-way by others and are not all inclusive in nature nor do they imply approval of any kind by Oncor.** Each request for use is reviewed individually, and must be approved by Transmission Engineering, Transmission Operations, Distribution Planning, Transmission Planning and any other Company organization having a vested interest in the request. Approval must be obtained from all organizations in order to grant the request. When a request is granted, Oncor Transmission Right-of-Way will prepare the appropriate document for signatures by Oncor and the grantee.

All requests should be addressed to Oncor Electric Delivery Company, Transmission Right-of-Way, 777 Main Street, Suite 707, Fort Worth, TX 76102. Each request should be accompanied with the application form, a description of the rights sought, surveys (if required), maps, drawings, statement of purpose and any other information deemed necessary. A \$500 non-refundable administration fee, paid at the time of the request, is charged to cover Company review and document preparation. Any change in design will be resubmitted for approval.

Fee Simple Property (Property owned by Oncor)

- **Easement rights** for crossings of Oncor fee owned rights-of-way that do not interfere with the construction, reconstruction, operation and maintenance of Oncor facilities may be granted if the crossing is not less than 45 degrees to the centerline of the right-of-way.
- **License Agreements** for parking, agricultural and other surface uses may be granted provided the applicant is an adjacent landowner. The license will be personal, revocable and non-assignable. Licenses for parking will be granted for overflow parking only: **no ADA (handicapped), occupancy or code required parking will be allowed.** The licensee will be responsible for all mowing and maintenance of the right-of-way affected by the licensed area.

Refer to Construction Limitations below for criteria that must be met for any request.

Fees for easements and licenses will be based on county appraisal values of adjacent properties.

Easement Right-of-Way

- **Encroachment** by third parties on Oncor easement rights-of-way that meets the criteria in the below Construction Limitations may be granted by an Encroachment Agreement.
 - Encroachment rights for crossings of Oncor easements that do not interfere with the construction, reconstruction, operation and maintenance of Oncor facilities may be granted if the crossing is not less than 45 degrees to the centerline of the right-of-way.
 - Encroachments for parking and other surface and subsurface uses may be granted. Parking will be granted for overflow parking only: **no occupancy or code required parking will be allowed.**

The proposed user will be required to obtain whatever rights and permissions, other than Oncor's, which are necessary from the property owner.

PLEASE NOTE

Construction Limitations

The approved facilities will be subject to the following construction limitations:

1. You are notified, and should advise your employees, representatives, agents, and contractors, who enter the property that they will be working in the vicinity of high voltage electrical facilities and should take proper precautions, included but not limited to the following stipulations and in compliance, at all times, with Chapter 752, V.T.C.A., Health & Safety Code.
2. Construction on electric transmission line easements acquired by Oncor after January 1, 2003 shall comply with the requirements of Public Utility Commission Substantive Rules §25.101, as amended from time to time.
3. Power line safety equipment operations: hazard assessment and precautions inside the work zone area must be performed and in compliance with OSHA Standard §1926.1408 at all times. Equipment shall not be placed within fifteen (15) feet of the Oncor 138,000 volt or less power lines or within twenty (20) feet of the Oncor 345,000 volt power lines.
4. No obstruction shall be installed on the right-of-way that would interfere with access to Oncor structures or prevent mechanical maintenance. Including, but not limited to: buildings, dwellings, garages, barns, sheds, swimming pools, playground equipment, storage tanks, etc., will be permitted on the right-of-way.
5. Longitudinal rights will not be granted for the placement of utilities, roads, pipelines, fences, or other uses along Oncor rights-of-way.
6. No crossing less than 45 degrees to the centerline of the right-of-way.
7. **Fire Lanes** are not included in crossings and will be considered only when crossing at 90 degrees. Each Fire Lane request will be reviewed individually for approval.
8. No fire hydrants or manholes will be permitted.
9. No signs (including billboards), lights or guard lights will be permitted on the right-of-way.
10. No dumpsters will be allowed on Oncor right-of-way or fee owned property.
11. Any fencing (regardless of height) shall be pre-approved unless strictly stated within the easement. If metal in nature, will be grounded, at ten (10) feet intervals, with an appropriate driven ground. Gates should be at least sixteen (16) feet in width to allow Oncor access to the right-of-way.
12. Construction of lakes, ponds and retention or detention ponds/facilities will not be granted on Oncor rights-of-way.
13. No boring pits or other type of pits will be permitted within the right-of-way.
14. Oil and Gas Pipeline Protective Barrier; Grantee, at Grantee's sole expense, shall provide one of the following protective barriers; **1)** a concrete protective barrier between the surface and the pipe that is a minimum of one (1) foot thick by one (1) foot wide, if pipe is wider than one (1) foot, then width of pipe, with the top of the concrete barrier to be at least one (1) foot below the surface or final grade, **2)** construct the gas pipeline inside of a proper protective steel casing, **3)** where electric facilities are located above ground, install the pipeline a minimum of ten (10) feet below the ground surface, or **4)** where electric facilities are located below ground, install the pipeline at a depth that provides for a minimum of a ten (10) foot clearance between the pipeline and the underground electric facilities.

15. Landscaping may be permitted ONLY when Oncor approves such plans in writing. No trees will be considered. Ornamental landscaping (i.e. – bushes/shrubs) will be considered if mature height does not exceed 6'. No high pressure sprinkler systems will be allowed. Only low flow irrigation systems will be considered.
16. Septic systems or tanks will not be granted on Oncor rights-of-way. High pressure Aerobic system sprinkler heads will not be allowed within, but may spray into the right-of-way.
17. Any drainage feature that allows water to pond, causes erosion, directs stormwater toward the right-of-way or limits access to or around Oncor's facilities is prohibited. No discharging of water or drainage facilitation will be allowed within any portion of the right of way. Open drainage ditches will not be granted.
18. Right-of-way will be protected from washing and erosion by Oncor approved method before any permits are granted.
19. The existing grade shall not be disturbed, excavated or filled within 25 feet of the nearest edge of any Oncor Transmission Structure (tower, pole, guy wire, etc.)
20. Grading will be done in order to leave the right-of-way as near as possible to present condition. Spoil dirt will be removed from the right-of-way and no trash is to be left on right-of-way. Slopes shall be graded so that trucks can go down the right-of-way when required and such that the slopes can be mechanically maintained. (4:1 – 7:1 generally)
21. Equipment and materials of any sort (including hazardous materials) will not be stored on the right-of-way at any time. This includes construction lay down yards and temporary field offices.
22. For purposes of this document, "Hazardous Materials" means and includes those substances, including, without limitation, asbestos-containing material containing more than one percent (1%) asbestos by weight, or the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, chemicals known to cause cancer or reproductive toxicity and includes any items included in the definition of hazardous or toxic waste, materials or substances under any Hazardous Material Law. "Hazardous Material Laws" collectively means and includes any present and future local, state and federal law relating to the environment and environmental conditions including, without limitation, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, ("CERCLA"), 42 U.S.C. §§9601-9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Material Transportation Act, 49 U.S.C. §6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §741 et seq., the Clean Water Act, 33 U.S.C. §7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601-2629, the Safe Drinking Water Act, 42 U.S.C. §§300f-330j, and all the regulations, orders, and decrees now or hereafter promulgated thereunder.
23. Before any work is done within Oncor's ROW, requestor must notify the Regional Transmission Department, which will be provided once approval is received.
24. No park or park designation will be permitted.
25. Draglines will not be used under the line or on Oncor right-of-way.
26. Blasting is not to be permitted on Oncor right-of-way or under Oncor lines.

ZBA2024-06 Location Map



0 75 150 225 300 Feet

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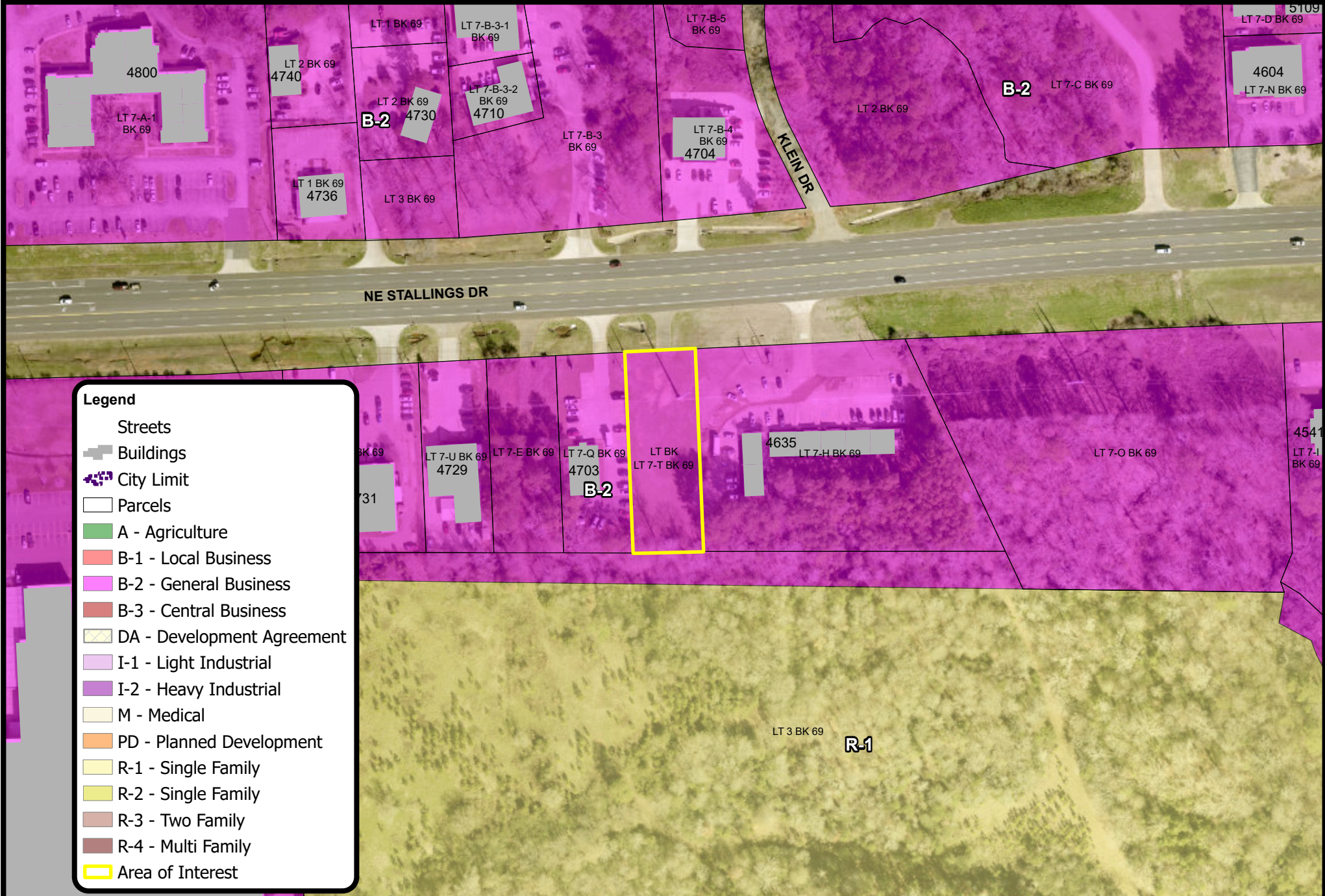
Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Nacogdoches
Engineering Department
GIS Division

ZBA2024-06 Aerial Map



ZBA2024-06 Zoning Map



0 75 150 225 300 Feet

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200 Foot Notification Map

ZBA2024-06: NE Stallings Drive

Legend



200 Foot Buffer



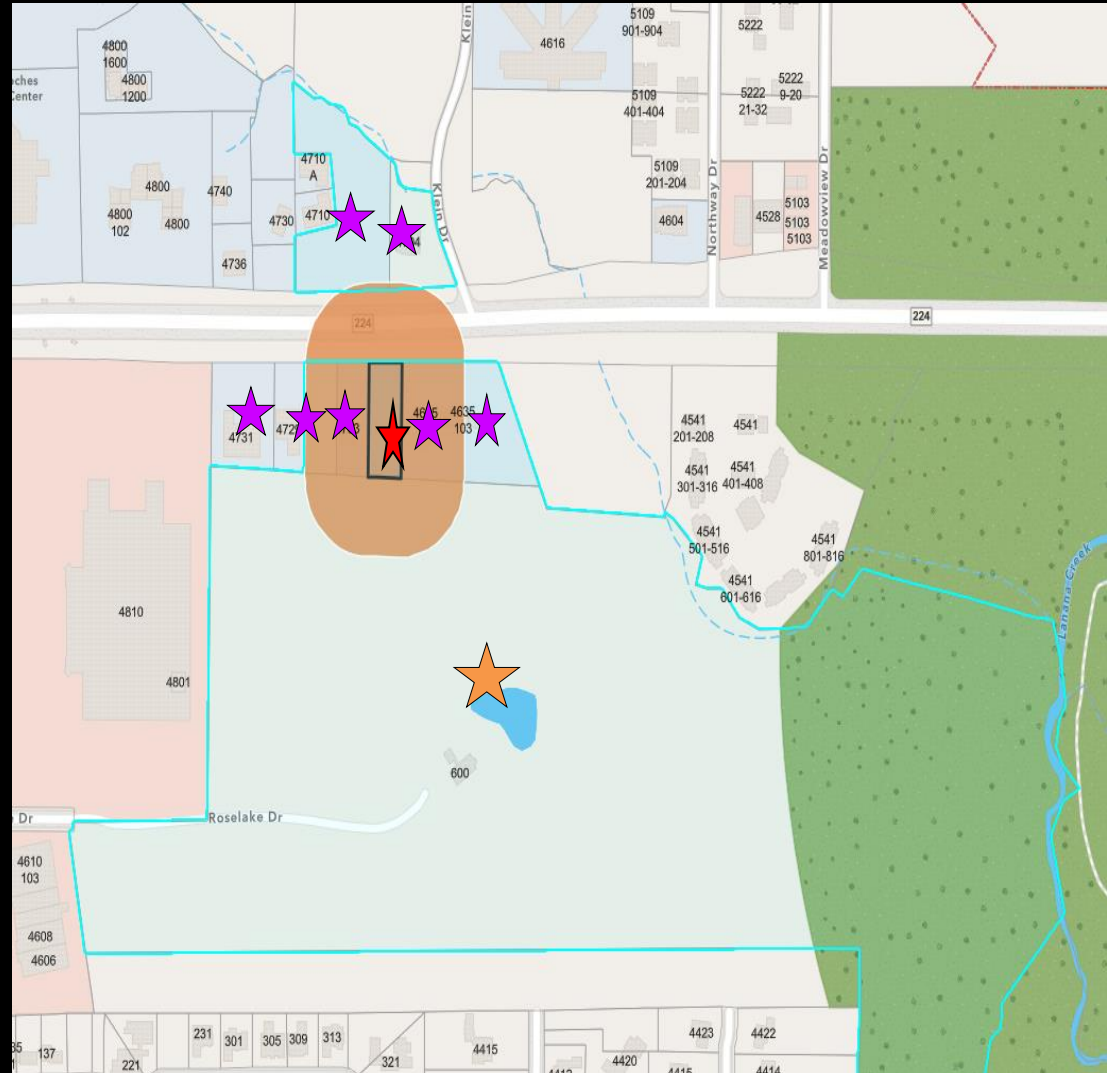
Proposed Interpretation



Single-Family- Rental



Commercial



Site Photos: ZBA2024-06

Street view of subject property.



Commercial offices to the east of subject property



Dental office to the west of subject property



Oncor Transmission lines





Zoning Board of Adjustments

Date: November 21, 2024

Case No: ZBA2024-07

PRESENTER: Juan Pollette, Interim City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for a variance to the Zoning Ordinance, Section 118-430(d) -*Street landscaping*, for a reduction in the minimum requirements for street landscaping in a B-2, General Business district. for Lot 7-T, City Block 69, generally located on the south side of N.E. Stallings Drive, approximately 250 feet west of Klein Drive. This request has been submitted by Jake Crawford with JB Construction on behalf of the owner, Carl Davis, MD. Case File ZBA2024-07.

TYPE OF REQUEST: Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of the property.

The ZBA rules and procedures state this type of variance may be requested “whenever, owing, to exceptional and extraordinary conditions, the literal enforcement of the provisions of the zoning regulations will result in unnecessary hardship in the development of the property.”

BACKGROUND INFORMATION:

The applicant is requesting a variance to the required street landscaping requirements for the development of a 3,320-square-foot medical office building at the 4700 block of North East Stallings Drive.

This property has a 120-foot wide Oncor utility easement that runs along the front of the property parallel to North East Stallings Drive. Oncor’s easement requirements state that “Landscaping may be permitted ONLY when Oncor approves such plans in writing. **No trees will be considered.**”

Section 118-430(d) - *Street Landscaping* of the City ordinance states that “For every 100 feet of street frontage, three (3) small mature-height or two (2) tall mature-height trees shall be planted between the front property line and a line measured 35 feet from the front property line.”

The utility easement is directly over the area designated per city ordinance to plant the trees. This property has approximately 100 feet of street frontage requiring either three (3) small mature-height or two (2) tall mature-height trees to be planted.

Because the 120-foot wide easement comes within feet of the medical office, the applicant is requesting that the required street landscaping be waived or approved at a suitable alternate location.

ZONING & SURROUNDING LAND USES

Direction	Zoning	Existing Land Use
Subject Property	B-2, General Business	Undeveloped
North	B-2, General Business	Medical
South	B-2, General Business &	Undeveloped

	R-1, Single Family	
East	B-2, General Business	Commercial
West	B-2, General Business	Commercial

PHYSICAL CHARACTERISTICS

1. **Frontage:** The subject property has approximately 100 feet of frontage on North West Stallings Drive.
2. **Access:** The subject property takes access from North West Stallings Drive.
3. **Topography and vegetation:** The property is relatively flat with a slight drop in elevation to the north of the property. The property is mostly cleared with a few trees along the southern property line.
4. **Floodplain:** The property is not located within the FEMA-regulated floodplain.

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance.

The intent of the street landscaping requirements is to promote aesthetic quality, enhance the streetscape, and contribute to the overall community character. In this case, the existing 120-foot wide utility easement significantly restricts the ability to meet the street landscaping requirements, specifically by prohibiting the planting of trees within the easement area. While the strict application of the landscaping requirements would not be possible due to the utility easement, the intent of the ordinance is not to impede development but to ensure that developments contribute positively to the community's visual appeal and environmental quality. The variance would allow the applicant to move forward with the project while possibly seeking alternative landscaping solutions to meet the intent of the regulation—such as planting in other available areas on the site.

Staff believes the request is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district.

The variance does not involve any changes that would directly impact neighboring properties' ability to use or develop their properties. The landscaping waiver will not result in a detrimental change to the area's overall aesthetic or environmental quality. Any alternative landscaping solutions proposed by the applicant can still enhance the streetscape within the available areas of the property, maintaining the intent of the zoning ordinance while accommodating the specific site limitations. Granting of this variance should not affect the use of the adjacent properties,

3. Such variance will not adversely affect the health, safety, or general welfare of the public. There are no anticipated negative impacts to the general welfare of the public, as the variance does not affect the overall use or enjoyment of the surrounding area. Therefore, granting the variance will not compromise public health, safety, or welfare in any way and will simply allow for a practical solution to the unique site conditions presented by the utility easement.

4. Such variance will not authorize the operation of a use other than those uses specifically

authorized for the district in which the property for which the variance sought is located.
The variance will not authorize a use other than those uses permitted in the B-2 General Business zoning district.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape, or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

The utility easement is a pre-existing condition that was not created by the property owner. This is not a financial hardship, but rather a physical constraint on the property that directly impacts the ability to comply with the street landscaping requirements.

6. The variance itself is not a self-created hardship.

Due to the existing site constraints related to the Oncor easement, staff believes this variance does not constitute a self-created hardship.

PUBLIC ENGAGEMENT:

- October 31, 2024 - Staff mailed thirty (30) public meeting notice letters to property owners within the 200-foot notification area. At the time of this report, Staff has received no responses in favor or in opposition to the request.
- November 3, 2024 – Legal ad published in the Daily Sentinel newspaper.

ATTACHMENTS:

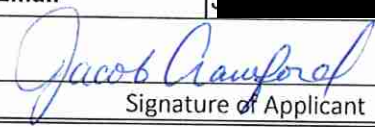
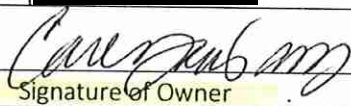
1. Application
2. Statement
3. Owner Certification Form
4. Oncor Easement Guidelines
5. Site Plan
6. Location Map
7. Aerial Map
8. Zoning Map
9. Notification Map
10. Site Photos



City of Nacogdoches Planning and Zoning Department

202 East Pilar | P.O. Box 635030 | Nacogdoches, Texas 75963-5030 | Phone: 936.559.2571 | Email: pz@nactx.us

APPLICATION FOR INTERPRETATION, VARIANCE OR SPECIAL EXCEPTION

Applicant		Owner (If different from Applicant)	
☒ Owner ☐ Tenant ☐ Agent ☐ Other		☒ Individual ☐ Trust ☐ Corporation	
Business Name	JB CRAWFORD CONSTRUCTION	Business Name	CARL DAVIS, MD-FAMILY MEDICINE
Name	JAKE CRAWFORD	Name	CARL DAVIS, MD
Mailing Address	[REDACTED]	Mailing Address	[REDACTED]
City/State	NACOGDOCHES, TEXAS	City/ State	NACOGDOCHES, TEXAS
Zip	75964	Zip	75965
Phone	[REDACTED]	Phone	[REDACTED]
Email	[REDACTED]	Email	[REDACTED]
 Signature of Applicant		 Signature of Owner	
Legal Description of Property			
Subdivision: _____ Lot(s) 7-T _____		Subdivision BK _____ City BK 69 _____	
Physical Address NE STALLINGS DR _____		Parcel ID # 26589 _____	
PLEASE SELECT ONE TYPE OF APPEAL (per Texas Local Government Code § 211)			
☐ Interpretation of the meaning or intent of the zoning ordinance			
☐ Special Exception for the use or development of the property			
☒ Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property			
REQUIRED ATTACHMENTS (Per ZBA Rules & Procedures Section 4.4)			
1. For an appeal requesting an Interpretation of the meaning or intent of the zoning ordinance, attach:			
☐ A statement/letter by the applicant describing staff's interpretation of the meaning or intent of the code, and then the way you as the applicant believe the regulation should be interpreted.			
☐ Site plan or other graphics, and illustrations explaining the applicant's interpretation (diagrams and charts illustrating the applicant's interpretation of the map or text provisions).			
2. For an appeal requesting a special exception for the use or development of the property, attach:			
☐ A letter/statement of facts by the applicant as to why the special exception is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown on the next page. Each question shall be answered in sentence form or the application will be viewed as incomplete.			
☐ A site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed exceptions that are being requested.			
3. For an appeal requesting a variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property, attach:			
☒ A letter/ statement of facts by the applicant as to why the variance is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown on the next page. Each question shall be answered in sentence form or the application will be viewed as incomplete.			
☒ A site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements.			

Updated 09.2024



JB Crawford Construction, LLC

October 25, 2024

City of Nacogdoches: Planning and Zoning

Subject: *Request for Variance for Dr. Carl Davis*

The property owner plans to develop a 3,320 square foot medical office building on NE. Stallings dr. (Lot 8-T, Bk69 or Parcel ID 26589). According to city of Nacogdoches ordinances, this development requires 17 parking stalls to include at least one ADA accessible space. The owner faces significant hardship due to an existing Oncor high voltage transmission main and the associated easement on the property. Oncor's easement encroachment guidelines restrict the available space for development, preventing the owner from building any structure or ordinance-required parking spaces within the limits of the easement. Due to existing site constraints such as the Oncor easement, an existing retaining wall to the east, the existing buildings to the west, and the proposed building footprint, the site can only accommodate 11 parking spaces that fall completely outside the limits of the easement. While Oncor allows parking in their right of way, it stipulates that these spaces must be classified as "overflow" parking rather than "required" parking spaces. Therefore, the property owner respectfully requests that city officials reduce the required number of parking spaces to 11, while permitting the construction of the remaining 7 spaces as "overflow" parking. This adjustment will enable the owner to comply with Oncor's easement encroachment guidelines while still constructing the necessary parking facilities for the development.

Sincerely,



Jake Crawford

JB Crawford Construction, LLC
Crawford Plumbing & HVAC
JBC Excavation, LLC
JB Crawford Development, LLC

██████████
Nacogdoches, TX 75964
██████████

www.jbccnac.com



City of Nacogdoches Planning and Zoning Department

202 East Pilar | P.O. Box 635030 | Nacogdoches, Texas 75963-5030 | Phone: 936.559.2571 | Email: pz@nactx.us

ZBA VARIANCE- OWNER CERTIFICATION FORM

NAME OF PROJECT CARL DAVIS, MD-MOB

ADDRESS or PARCEL ID (S) 26589

APPLICANT/ PROJECT MANAGER'S INFORMATION (primary contact for the project)

Name JAKE CRAWFORD E-Mail [REDACTED]

Mailing Address [REDACTED]

City NACOGDOCHES State TEXAS Zip Code 75964

Phone Number [REDACTED] Fax Number [REDACTED]

PROPERTY OWNER'S INFORMATION

Name Carl Davis, MD Business Name Carl Davis, MD - Family Medicine

Mailing Address [REDACTED]

City Nacogdoches State TX Zip Code 75965

Phone Number [REDACTED] E-Mail [REDACTED]

The OWNER certifies that the Applicant has prepared the Rezoning application and that the facts stated herein and the application, and all exhibits attached as part of the application, are true, correct, and complete. If there is more than one owner, ALL owners must sign this certification or provide the power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.

Carl Davis, MD [Signature] 10-21-2024
Owner Name Owner Signature Date

Owner Name Owner Signature Date

Owner Name Owner Signature Date



Guidelines for Use of Company Property/Easements by Others

Oncor Electric Delivery Company Policy

It is the policy of Oncor to not unreasonably withhold the granting of easements, encroachments and licenses on its real estate fee owned property and easements for street, road, utility and drainage crossings, and other approved uses. **The following set of guidelines are intended to state Oncor Electric Delivery Company's general policy for use of its rights-of-way by others and are not all inclusive in nature nor do they imply approval of any kind by Oncor.** Each request for use is reviewed individually, and must be approved by Transmission Engineering, Transmission Operations, Distribution Planning, Transmission Planning and any other Company organization having a vested interest in the request. Approval must be obtained from all organizations in order to grant the request. When a request is granted, Oncor Transmission Right-of-Way will prepare the appropriate document for signatures by Oncor and the grantee.

All requests should be addressed to Oncor Electric Delivery Company, Transmission Right-of-Way, 777 Main Street, Suite 707, Fort Worth, TX 76102. Each request should be accompanied with the application form, a description of the rights sought, surveys (if required), maps, drawings, statement of purpose and any other information deemed necessary. A \$500 non-refundable administration fee, paid at the time of the request, is charged to cover Company review and document preparation. Any change in design will be resubmitted for approval.

Fee Simple Property (Property owned by Oncor)

- **Easement rights** for crossings of Oncor fee owned rights-of-way that do not interfere with the construction, reconstruction, operation and maintenance of Oncor facilities may be granted if the crossing is not less than 45 degrees to the centerline of the right-of-way.
- **License Agreements** for parking, agricultural and other surface uses may be granted provided the applicant is an adjacent landowner. The license will be personal, revocable and non-assignable. Licenses for parking will be granted for overflow parking only: **no ADA (handicapped), occupancy or code required parking will be allowed.** The licensee will be responsible for all mowing and maintenance of the right-of-way affected by the licensed area.

Refer to Construction Limitations below for criteria that must be met for any request.

Fees for easements and licenses will be based on county appraisal values of adjacent properties.

Easement Right-of-Way

- **Encroachment** by third parties on Oncor easement rights-of-way that meets the criteria in the below Construction Limitations may be granted by an Encroachment Agreement.
 - Encroachment rights for crossings of Oncor easements that do not interfere with the construction, reconstruction, operation and maintenance of Oncor facilities may be granted if the crossing is not less than 45 degrees to the centerline of the right-of-way.
 - Encroachments for parking and other surface and subsurface uses may be granted. Parking will be granted for overflow parking only: **no occupancy or code required parking will be allowed.**

The proposed user will be required to obtain whatever rights and permissions, other than Oncor's, which are necessary from the property owner.

PLEASE NOTE

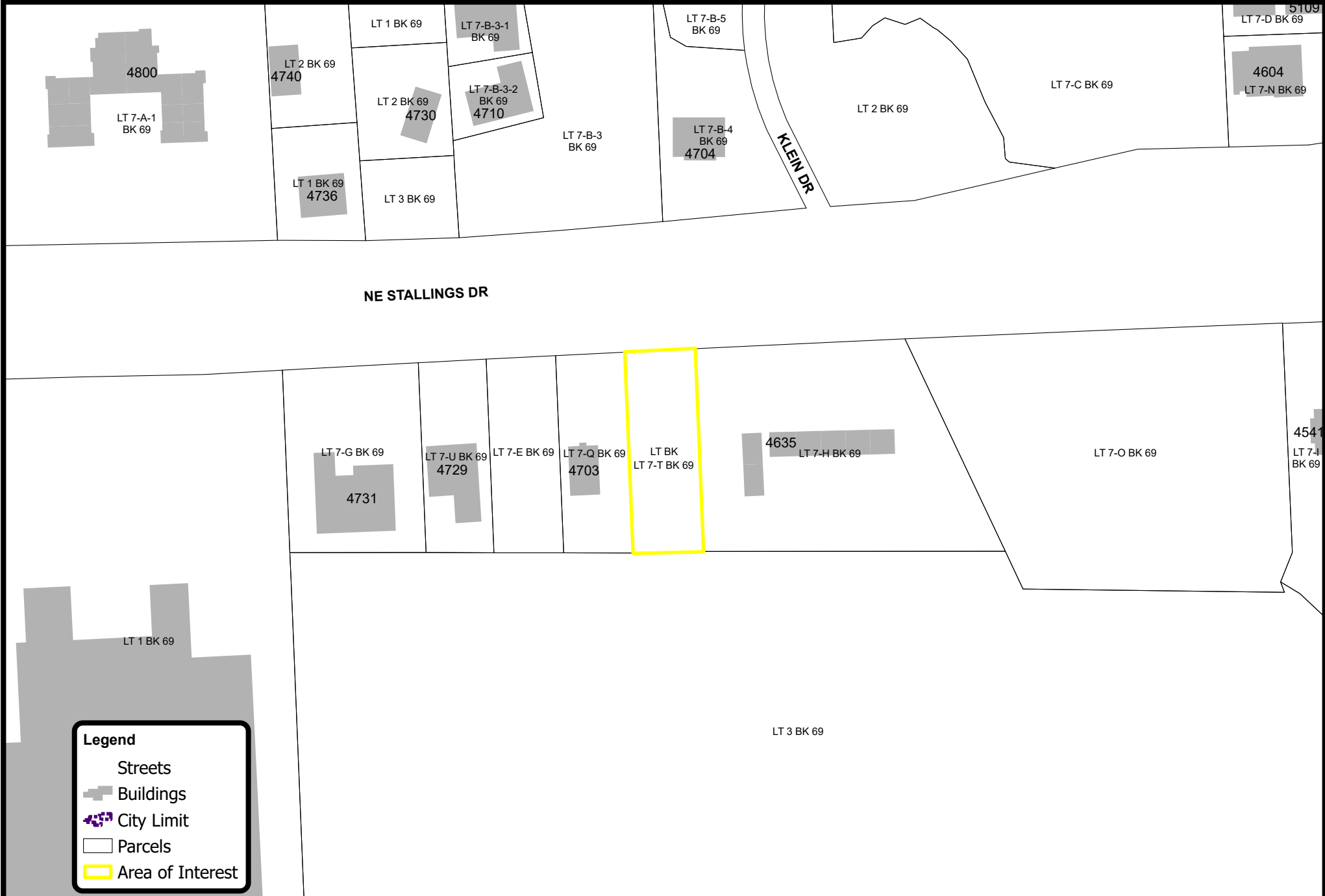
Construction Limitations

The approved facilities will be subject to the following construction limitations:

1. You are notified, and should advise your employees, representatives, agents, and contractors, who enter the property that they will be working in the vicinity of high voltage electrical facilities and should take proper precautions, included but not limited to the following stipulations and in compliance, at all times, with Chapter 752, V.T.C.A., Health & Safety Code.
2. Construction on electric transmission line easements acquired by Oncor after January 1, 2003 shall comply with the requirements of Public Utility Commission Substantive Rules §25.101, as amended from time to time.
3. Power line safety equipment operations: hazard assessment and precautions inside the work zone area must be performed and in compliance with OSHA Standard §1926.1408 at all times. Equipment shall not be placed within fifteen (15) feet of the Oncor 138,000 volt or less power lines or within twenty (20) feet of the Oncor 345,000 volt power lines.
4. No obstruction shall be installed on the right-of-way that would interfere with access to Oncor structures or prevent mechanical maintenance. Including, but not limited to: buildings, dwellings, garages, barns, sheds, swimming pools, playground equipment, storage tanks, etc., will be permitted on the right-of-way.
5. Longitudinal rights will not be granted for the placement of utilities, roads, pipelines, fences, or other uses along Oncor rights-of-way.
6. No crossing less than 45 degrees to the centerline of the right-of-way.
7. **Fire Lanes** are not included in crossings and will be considered only when crossing at 90 degrees. Each Fire Lane request will be reviewed individually for approval.
8. No fire hydrants or manholes will be permitted.
9. No signs (including billboards), lights or guard lights will be permitted on the right-of-way.
10. No dumpsters will be allowed on Oncor right-of-way or fee owned property.
11. Any fencing (regardless of height) shall be pre-approved unless strictly stated within the easement. If metal in nature, will be grounded, at ten (10) feet intervals, with an appropriate driven ground. Gates should be at least sixteen (16) feet in width to allow Oncor access to the right-of-way.
12. Construction of lakes, ponds and retention or detention ponds/facilities will not be granted on Oncor rights-of-way.
13. No boring pits or other type of pits will be permitted within the right-of-way.
14. Oil and Gas Pipeline Protective Barrier; Grantee, at Grantee's sole expense, shall provide one of the following protective barriers; **1)** a concrete protective barrier between the surface and the pipe that is a minimum of one (1) foot thick by one (1) foot wide, if pipe is wider than one (1) foot, then width of pipe, with the top of the concrete barrier to be at least one (1) foot below the surface or final grade, **2)** construct the gas pipeline inside of a proper protective steel casing, **3)** where electric facilities are located above ground, install the pipeline a minimum of ten (10) feet below the ground surface, or **4)** where electric facilities are located below ground, install the pipeline at a depth that provides for a minimum of a ten (10) foot clearance between the pipeline and the underground electric facilities.

15. Landscaping may be permitted ONLY when Oncor approves such plans in writing. No trees will be considered. Ornamental landscaping (i.e. – bushes/shrubs) will be considered if mature height does not exceed 6'. No high pressure sprinkler systems will be allowed. Only low flow irrigation systems will be considered.
16. Septic systems or tanks will not be granted on Oncor rights-of-way. High pressure Aerobic system sprinkler heads will not be allowed within, but may spray into the right-of-way.
17. Any drainage feature that allows water to pond, causes erosion, directs stormwater toward the right-of-way or limits access to or around Oncor's facilities is prohibited. No discharging of water or drainage facilitation will be allowed within any portion of the right of way. Open drainage ditches will not be granted.
18. Right-of-way will be protected from washing and erosion by Oncor approved method before any permits are granted.
19. The existing grade shall not be disturbed, excavated or filled within 25 feet of the nearest edge of any Oncor Transmission Structure (tower, pole, guy wire, etc.)
20. Grading will be done in order to leave the right-of-way as near as possible to present condition. Spoil dirt will be removed from the right-of-way and no trash is to be left on right-of-way. Slopes shall be graded so that trucks can go down the right-of-way when required and such that the slopes can be mechanically maintained. (4:1 – 7:1 generally)
21. Equipment and materials of any sort (including hazardous materials) will not be stored on the right-of-way at any time. This includes construction lay down yards and temporary field offices.
22. For purposes of this document, "Hazardous Materials" means and includes those substances, including, without limitation, asbestos-containing material containing more than one percent (1%) asbestos by weight, or the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, chemicals known to cause cancer or reproductive toxicity and includes any items included in the definition of hazardous or toxic waste, materials or substances under any Hazardous Material Law. "Hazardous Material Laws" collectively means and includes any present and future local, state and federal law relating to the environment and environmental conditions including, without limitation, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, ("CERCLA"), 42 U.S.C. §§9601-9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Material Transportation Act, 49 U.S.C. §6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §741 et seq., the Clean Water Act, 33 U.S.C. §7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601-2629, the Safe Drinking Water Act, 42 U.S.C. §§300f-330j, and all the regulations, orders, and decrees now or hereafter promulgated thereunder.
23. Before any work is done within Oncor's ROW, requestor must notify the Regional Transmission Department, which will be provided once approval is received.
24. No park or park designation will be permitted.
25. Draglines will not be used under the line or on Oncor right-of-way.
26. Blasting is not to be permitted on Oncor right-of-way or under Oncor lines.

ZBA2024-07 Location Map



0 75 150 225 300 Feet

Date Created: 10/30/24 14:57 | Document Generated Automatically

Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

ZBA2024-07 Aerial Map



Legend

- Streets
- Buildings
- City Limit
- Parcels
- Area of Interest

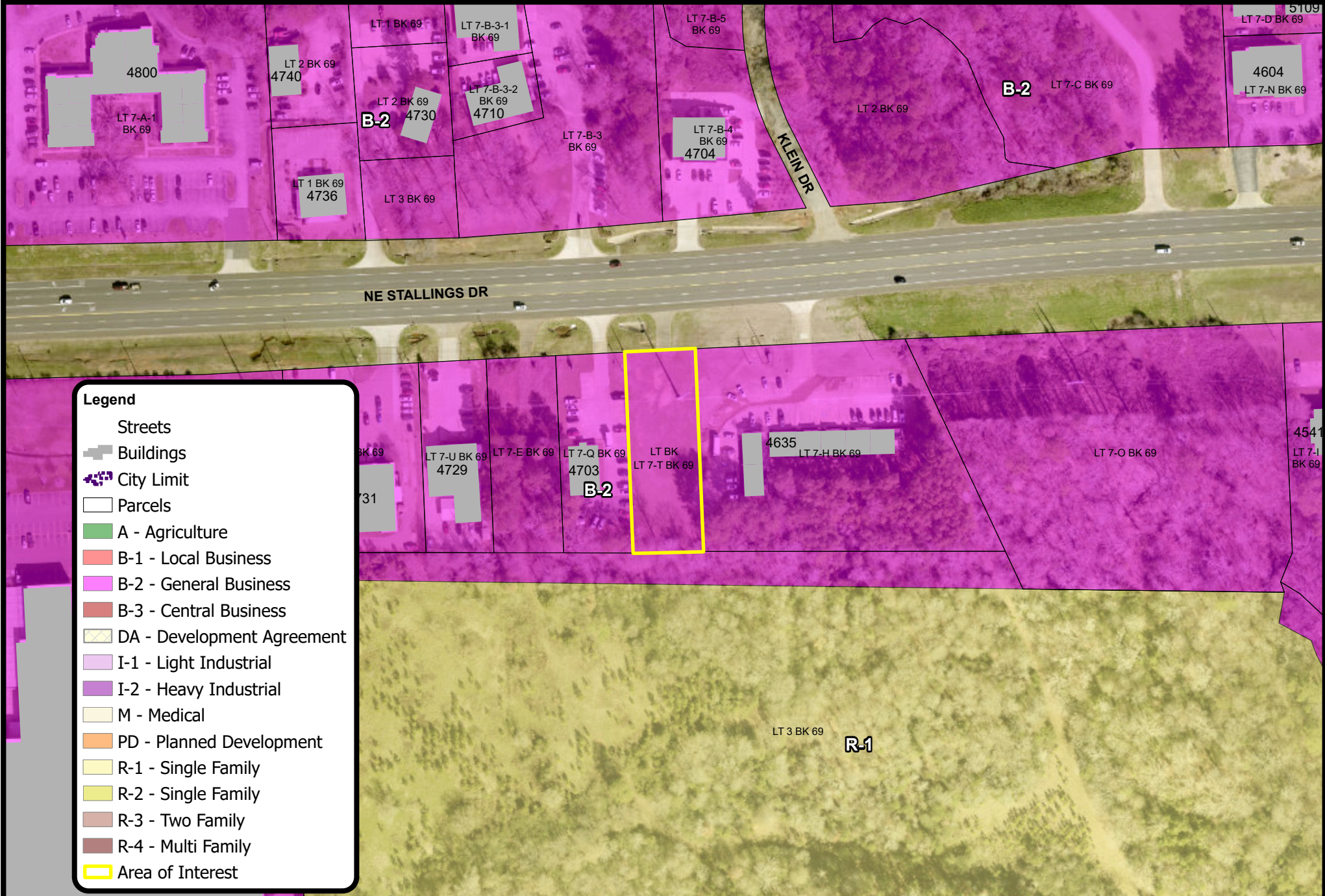


0 75 150 225 300 Feet

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ZBA2024-07 Zoning Map



0 75 150 225 300 Feet

Date Created: 10/30/24 14:57 | Document Generated Automatically

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200 Foot Notification Map

ZBA2024-07: NE Stallings Drive

Legend



200 Foot Buffer



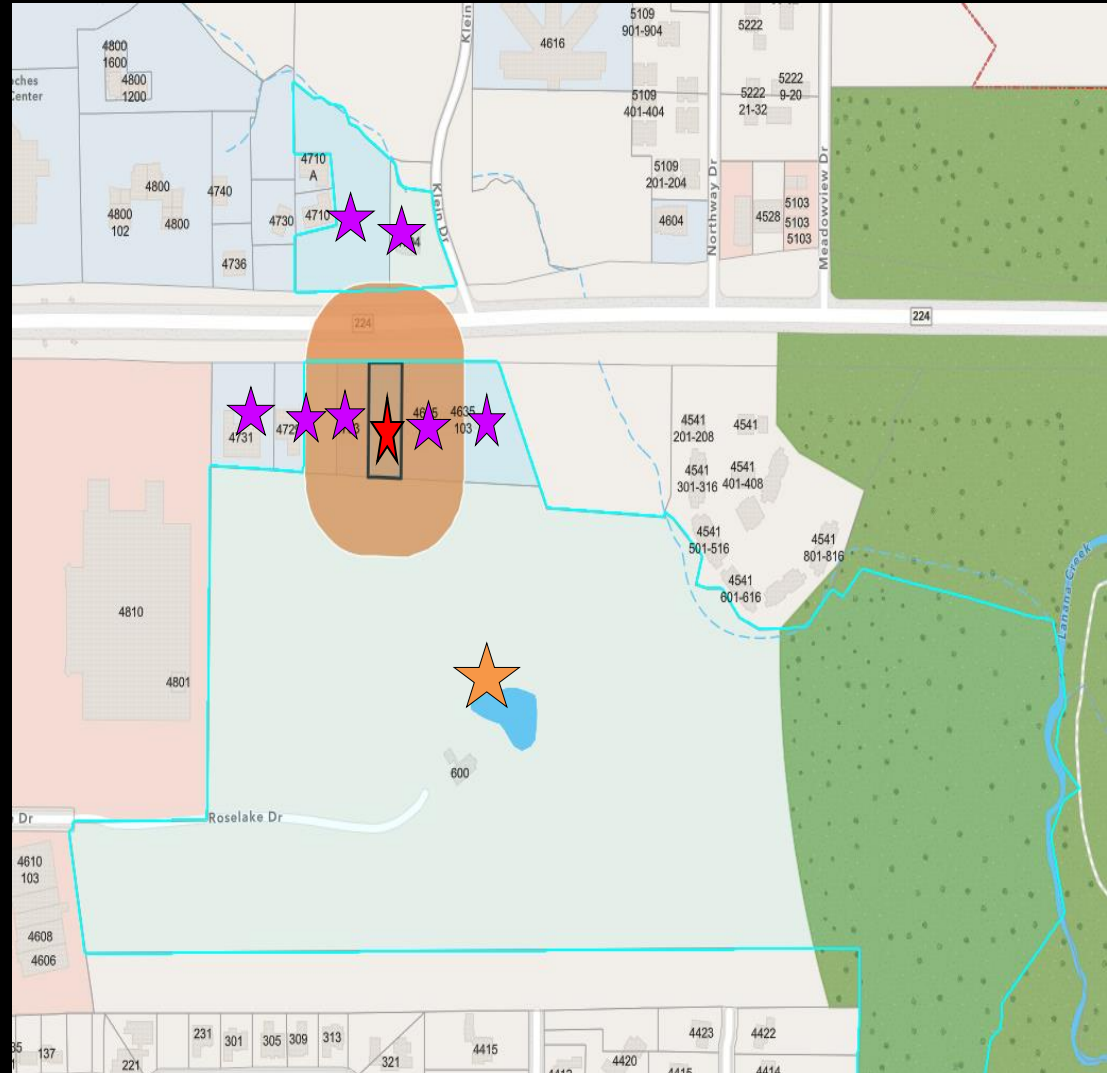
Proposed Interpretation



Single-Family- Rental



Commercial



Site Photos: ZBA2024-07

Street view of subject property.



Commercial offices to the east of subject property



2023 Google Image

Dental office to the west of subject property



Oncor Transmission lines





Zoning Board of Adjustments

Date: November 21, 2024

Case No: ZBA2024-08

PRESENTER: Juan Pollette, Interim City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for a variance to the Zoning Ordinance, Section 118-427(a) -*District development chart*, for a reduction in the minimum side yard setbacks requirements in an I-1, Light Industrial district, for Lot(s) 2-2 and 2-5, CB 38, located at 114 East Craven Street. This request has been submitted by the owner, Rolando Rodriguez. Case File ZBA2024-08.

TYPE OF REQUEST: Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of the property.

The ZBA rules and procedures state this type of variance may be requested “whenever, owing, to exceptional and extraordinary conditions, the literal enforcement of the provisions of the zoning regulations will result in unnecessary hardship in the development of the property.”

BACKGROUND INFORMATION:

The applicant is requesting a variance to the Zoning Ordinance ***Section 118-427 (a) - District Development Standards*** to reduce the required side yard building setback for I-2, Heavy Industrial from 20 feet to 13 feet.

The property is approximately 0.2 acres and is undeveloped. The applicant is requesting a variance from the required 20-foot building setbacks on all sides of the property in order to construct a 24' x 40' warehouse/storage building on a parcel that is 53 feet wide. The current zoning ordinance mandates a minimum 20-foot setback on all sides, which, if applied to the lot, would leave insufficient space to accommodate the proposed structure. Given the width of the lot and the constraints imposed by the setback requirements, it would leave only a 13-foot-wide building envelope. The applicant is seeking relief to allow for a building envelope of 24 feet in width leaving a 13-foot building setback on each side of the property.

Adjacent Land Use & Zoning

The subject property is zoned I-1, Light Industrial, and is undeveloped. The surrounding zoning and land uses are as follows:

Direction	Zoning	Existing Land Use
North (across E. Craven St)	I-1, Light Industrial	Commercial
South	I-1, Light Industrial	Commercial
East	I-1, Light Industrial	Residential
West	I-1, Light Industrial	Undeveloped

This property is surrounded by Light Industrial zoning and developed with a mix of commercial uses to the north and west and residential uses to the east.

Physical Characteristics

1. Frontage: The property has 53 feet of frontage on East Craven Street.
2. Access: The property takes direct access from East Craven Street.
3. Topography and vegetation: The property is relatively flat with vegetation along the south property line.
4. Floodplain: The subject property is located within the FEMA-regulated floodplain.

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

Per Section 118.99 of the Nacogdoches Zoning Ordinance, the applicant must demonstrate to the satisfaction of the board that the decisions of the board will be in the best interest of the community and would carry out the spirit and intent of the zoning regulations. The board of adjustment may grant variances and exceptions upon finding that the following conditions have been met:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance.

The 20-foot setback requirement is designed to ensure adequate separation between structures for reasons of fire safety, traffic flow, and aesthetic considerations. However, the lot's narrow width makes it difficult to comply with the setbacks without rendering the lot unbuildable or severely limiting its potential use. Granting the variance would allow the lot to be used as intended without undermining the broader goals of the zoning ordinance or the comprehensive plan.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district.

All of the surrounding properties along East Craven Street are developed with the exception of two undeveloped lots to the west. Granting this variance would not affect the appropriate use of the adjacent properties.

3. Such variance will not adversely affect the health, safety, or general welfare of the public. The proposed 24' x 40' warehouse/storage building will comply with all other applicable zoning regulations and development standards. Additionally, the requested setback reduction would still maintain a reasonable distance between the proposed building and adjacent properties, ensuring adequate space for emergency access, ventilation, and proper drainage. Staff believes the variance is unlikely to negatively affect the public's health, safety, or welfare and would support the reasonable use of the property while still maintaining the general integrity of the surrounding area.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance sought is located. The variance will not authorize a use other than those permitted under the current I-1, Light Industrial zoning district.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape, or slope; and

that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

The plight of the property owner is due to unique circumstances related to the size and shape of the lot, The property is approximately 0.2 acres in size and is only 53 feet wide. When applied to this narrow lot, the current 20-foot setback requirement on all sides significantly reduces the available building envelope, leaving only 13 feet of width to construct the proposed 24' x 40' warehouse/storage building. This narrow building envelope would make it virtually impossible to accommodate the intended structure while adhering to the setback requirements.

Additionally, a small section of the back half of property is located within the FEMA floodway, an area that is restricted from development due to floodplain regulations. The remaining property is in the flood zone which requires a structure to be constructed one (1) foot above the base flood elevation level. This further limits the usable area on the property and exacerbates the difficulty in meeting the setback requirements while also allowing for a functional building.

6. The variance itself is not a self-created hardship.

A self-created hardship is created by the owner or his or her predecessor in interest, rather than the nature of the property itself, and thus implies an intent to create a hardship. Staff believes the hardship is not self-created by the applicant, as the lot size and configuration are inherent to the property and were established prior to the applicant's ownership.

PUBLIC ENGAGEMENT:

- October 31, 2024 – Staff mailed fifteen (15) public meeting notice letters to property owners within the 200-foot notification area. At the time of this report, Staff has received no responses in favor or in opposition to the request.
- November 3, 2024 – Legal ad published in the Daily Sentinel newspaper

ATTACHMENTS:

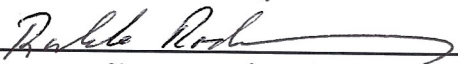
1. Application
2. Statement
3. Site Plan
4. Aerial Map
5. Flood Zone Map
6. Zoning Map
7. Notification Map
8. Site Photos

City of Nacogdoches Planning and Zoning Department

202 East Pilar | P.O. Box 635030 | Nacogdoches, Texas 75963-5030 | Phone: 936.559.2571 | Email: pz@nactx.us

APPLICATION FOR INTERPRETATION, VARIANCE OR SPECIAL EXCEPTION

Applicant		Owner (If different from Applicant)	
☒ Owner ☐ Tenant ☐ Agent ☐ Other		☐ Individual ☐ Trust ☐ Corporation	
Business Name		Business Name	
Name	Rolando (Ray) Rodriguez	Name	
Mailing Address	[REDACTED]	Mailing Address	
City/State	Nacogdoches Texas	City/State	
Zip	[REDACTED]	Zip	
Phone	[REDACTED]	Phone	
Email	[REDACTED]	Email	



Signature of Applicant

Signature of Owner

Legal Description of Property

Subdivision: _____ **Lot(s)** 2-2, 2-5 **Subdivision BK** _____ **City BK** 38

Physical Address 114 E. Craven St. **Parcel ID #** 23280

PLEASE SELECT ONE TYPE OF APPEAL (per Texas Local Government Code § 211)

☐ **Interpretation** of the meaning or intent of the zoning ordinance
☐ **Special Exception** for the use or development of the property
☒ **Variance** from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property

REQUIRED ATTACHMENTS (Per ZBA Rules & Procedures Section 4.4)

- For an appeal requesting an **interpretation** of the meaning or intent of the zoning ordinance, attach:
 - ☐ A statement/letter by the applicant describing staff's interpretation of the meaning or intent of the code, and then the way you as the applicant believe the regulation should be interpreted.
 - ☐ Site plan or other graphics, and illustrations explaining the applicant's interpretation (diagrams and charts illustrating the applicant's interpretation of the map or text provisions).
- For an appeal requesting a **special exception** for the use or development of the property, attach:
 - ☐ A letter/statement of facts by the applicant as to why the special exception is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown on the next page. **Each question shall be answered in sentence form or the application will be viewed as incomplete.**
 - ☐ A site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed exceptions that are being requested.
- For an appeal requesting a **variance** from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property, attach:
 - ☒ A letter/ statement of facts by the applicant as to why the variance is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown on the next page. **Each question shall be answered in sentence form or the application will be viewed as incomplete.**
 - ☒ A site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements.

REQUIRED FINDINGS (per City of Nacogdoches Code of Ordinances § 118-99):

The Zoning Board of Adjustment, pursuant to the powers conferred upon it by state law, the city ordinances, and this article, may grant variances and exceptions to the sections of this chapter upon the findings listed below: Please explain in your own words, how the request meets each of the findings listed below:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and this chapter

The variance request will be in full harmony with the intent and purpose of the comprehensive plan and chapter.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district;

The variance request will positively impact the area and bring revenue.

3. Such variance will not adversely affect the health, safety, or general welfare of the public

The variance request will not affect the health, safety or general welfare of the public.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variances are sought is located:

The variance request will allow this area to be used for its intended purpose and at its full potential.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape, and slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located;

The existing variance only allows a 10' wide build. The current variance creates hardships that was not self-created by owner.

6. The variance is not a self-created hardship *not needed for a special exception*:

If we allowed / followed existing variance, I would only be able to build a 10' wide building. This would not be feasible and creates hardships not self created by owner.

The Planning Department will only accept complete applications. This includes; a completed application form, proof of ownership (property deed), required attachments, property owner consent form if the applicant is not the owner, and a non-refundable filing fee of \$350.00 payable to the City of Nacogdoches. The Planning Department will consider the completed application as a request to be added to the next

Shaded areas to be completed by staff during application intake

ZBA		Additional Information	
Completed Application Form	☐	Filing Date	10/23/2024
Proof of Ownership	☐	Application Rcvd By:	J.P
Filing Fee	☐	Application Accepted By & Date	J.P., 10/29/2024
Adequate Information to locate the site	☐	Tentative ZBA Hearing Date	November 21, 2024
Owner Consent Form (if you are not the owner)	☐	Case File #	ZBA2024-07

PZ@MACTX.US



ROY RODRIGUEZ

RODZILLA DEVELOPMENTS INC

807 South Street
Nacogdoches Texas 75964
936-554-7229

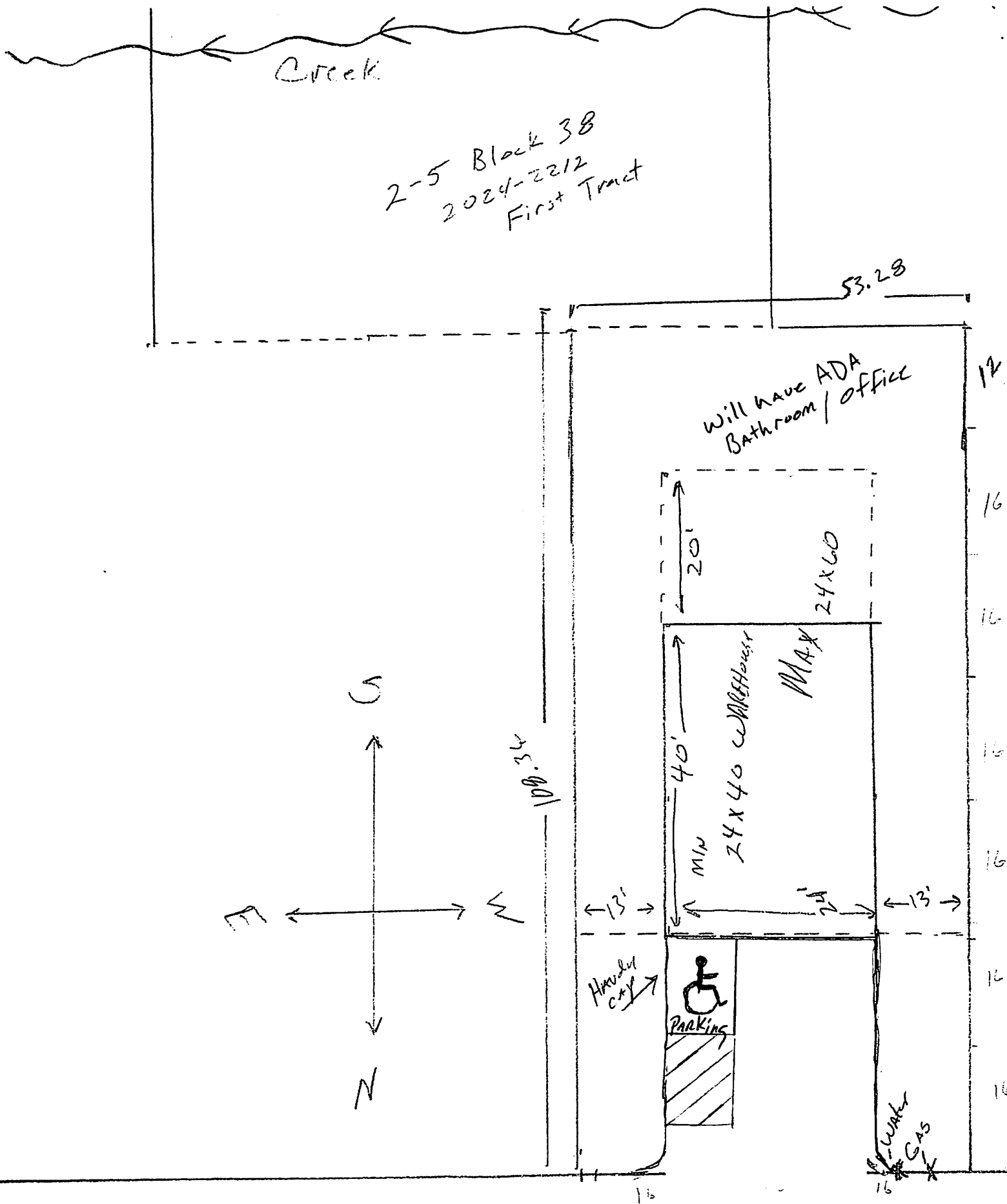
10-22-2024

To Whom It May Concern:

I am asking for a variance change for front lot 2-2,2-5 of block 38, 114 E. Craven St., Nacogdoches Tx, 75964. This lot is zoned L-1 Industrial. I am wanting to build a building on site (warehouse with storage and office space) approx. 24'w x 40' or 60' deep. The lot is 50 ft wide and present side setbacks are 20', that would make it impossible for any building to be built. I'm writing today to ask for a 5' or 10' setback to allow me to build an adequate building. I ask that you consider and approve my request.

Thanks

Roy Rodriguez
Rodzilla Developments Inc.



114 East Graven Street

ZBA2024-08 Aerial Map



Legend

- Streets
- Buildings
- City Limit
- Parcels
- Area of Interest

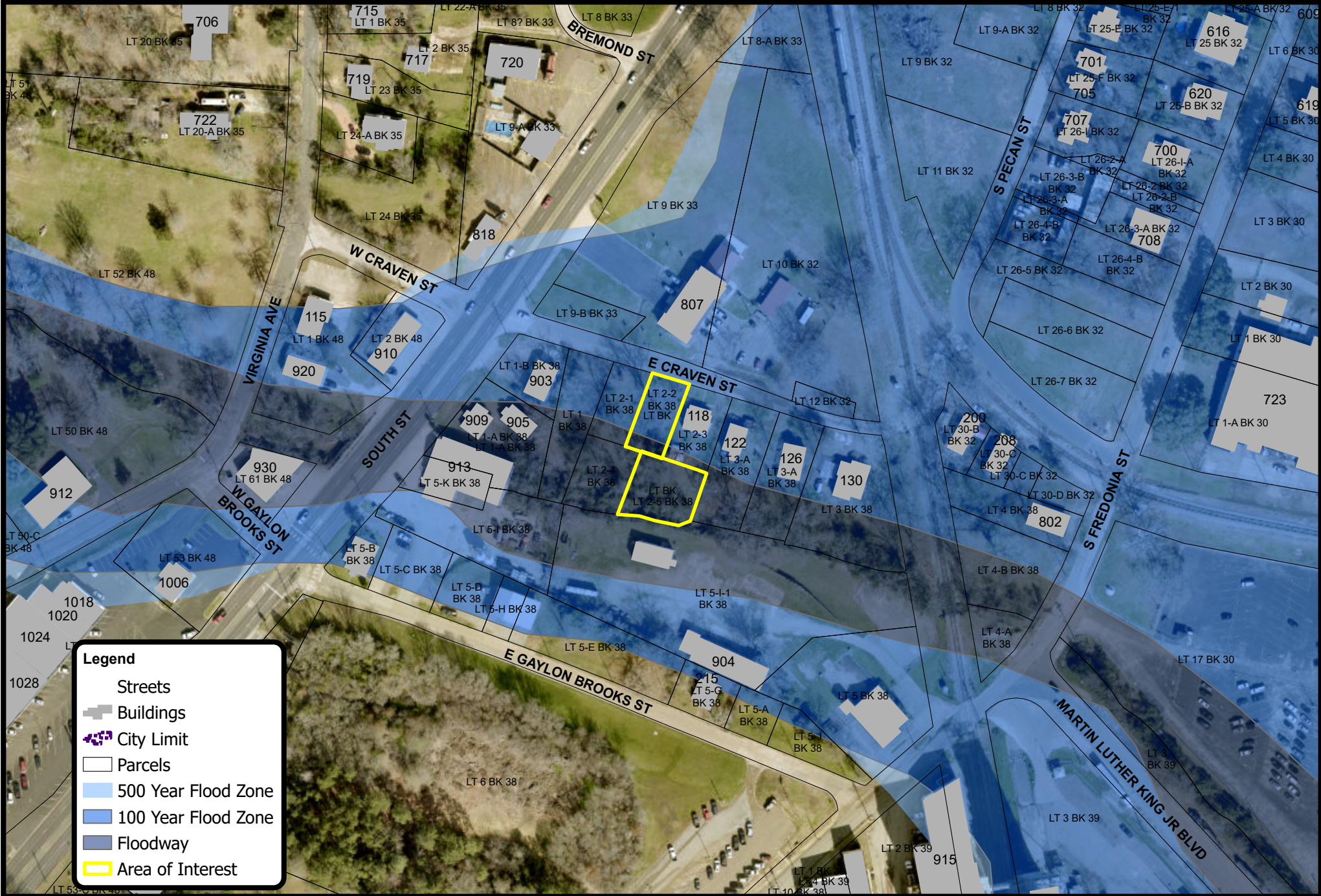


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Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

ZBA2024-08 Flood Map

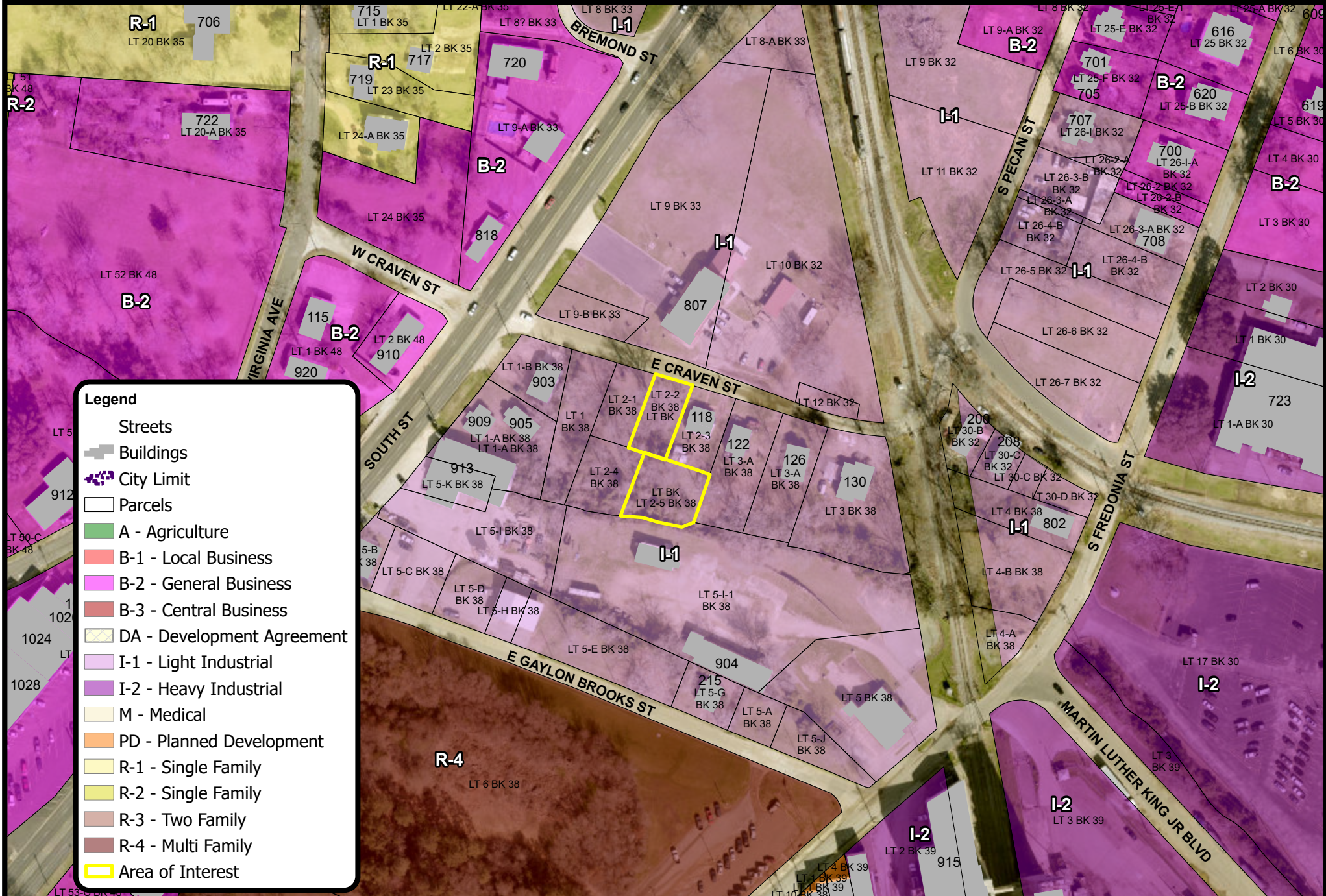


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ZBA2024-08 Zoning Map



Legend

- Streets
- Buildings
- City Limit
- Parcels
- A - Agriculture
- B-1 - Local Business
- B-2 - General Business
- B-3 - Central Business
- DA - Development Agreement
- I-1 - Light Industrial
- I-2 - Heavy Industrial
- M - Medical
- PD - Planned Development
- R-1 - Single Family
- R-2 - Single Family
- R-3 - Two Family
- R-4 - Multi Family
- Area of Interest



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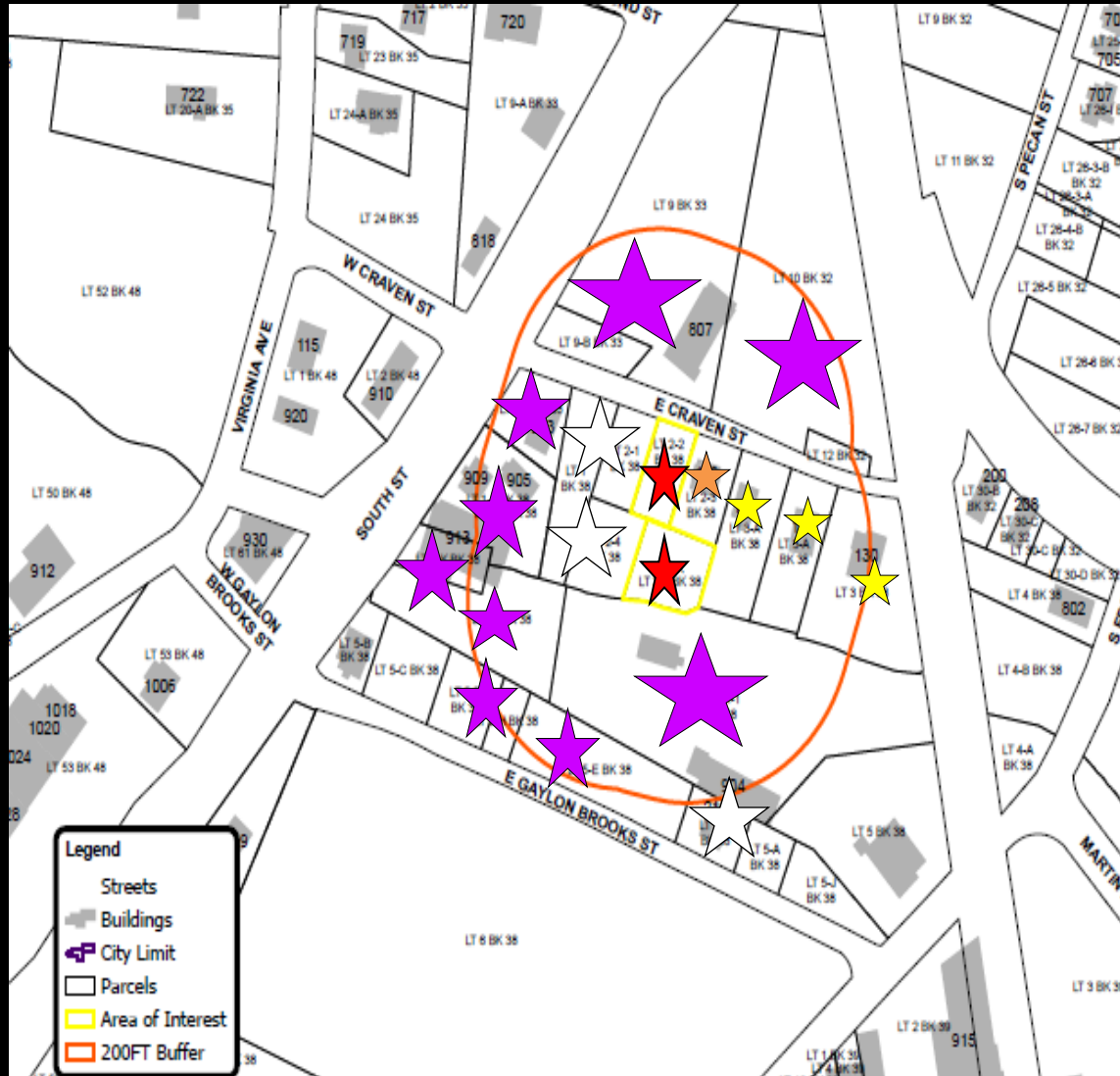
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200 Foot Notification Map

ZBA2024-08: East Craven St.

Legend

-  200 Foot Buffer
-  Proposed Interpretation
-  Single Family- Rental
-  Single Family- Owner Occupied
-  Undeveloped/ Vacant
-  Duplex Rental
-  Commercial



Site Photos: ZBA2024-08

Street view of subject property.



Residential homes to the east of subject property



Undeveloped parcel to the west of subject property



Commercial property to the north of subject property

