# AGENDA
# CITY OF FREDERICKSBURG
# BOARD OF ADJUSTMENT

Thursday, May 17, 2012

**5:30 P.M.**

CITY HALL CONFERENCE ROOM, 126 W. MAIN ST.

| | | *PAGE REF.* |
|---|---|---|
| 1. | Call to Order | |
| 2. | Approve Minutes of the January 2012 Meeting | *Pp 1 - 2* |

**PUBLIC HEARINGS**

| | | |
|---|---|---|
| 3. | PUBLIC HEARING: (ZBA2012-1) by Cavan McMahon at 112 W. Schubert to consider a variance to Section 3.110 of the Zoning Ordinance pertaining to residential density and front yard setback. | *Pp 3 - 25* |
| 4. | Consider taking action on ZBA2012-1 | |

**ADJOURN**

**STATE OF TEXAS**
**COUNTY OF GILLESPIE**
**CITY OF FREDERICKSBURG**

**BOARD OF ADJUSTMENT**
**January 12, 2012**
**5:30 P.M.**

On this the 12th day of January, 2012, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum:

MIKE DOOLEY - Chair
ROBERT DEMING
BRYON SCHAETTER
KATHY SANFORD
KAREN OESTREICH
BARBARA HEINEN

ABSENT: JIM MCAFEE

ALSO PRESENT: BRIAN JORDAN - Director of Development Services
PAT MCGOWAN – City Attorney
ANNETTE LOTH – Code Enforcement Officer
TAMMIE LOTH - Development Coordinator

The meeting was called to order at 5:30 P.M. by Mike Dooley.

**MINUTES**

Barbara Heinen moved to approve the minutes of the December 15, 2011 regular meeting and Bryon Schaetter seconded the motion. All voted in favor and the motion carried.

**PUBLIC HEARING - (ZBA 2011-5)-** by Paul & Mona Knopp at 214 E. Orchard to consider a variance to Section 3.100 of the Zoning Ordinance pertaining to street side yard setback. John Dodds and Mona Knopp presented the application. Mr. Dodds commented the structure they have started building over the original well, which is what is in question, will be adjusted so it is out of the right-of-way. Mr. Dodds stated the well has been in place since the house was built, but they have no evidence there was previously a structure over the well. Bryon Schaetter asked how deep the well is and Mr. Dodds estimated it to be 12 feet deep, but noted they believe it has been filled in over the years. Mr. Dodds commented they would like to finish building a wishing well structure over the existing well. Mr. Dodds stated the structure is currently 18 inches into the right-of-way and that will be corrected if they are allowed to continue with the construction.

**STAFF COMMENTS**

Brian Jordan, Director of Development Services, stated construction that has been done on the structure is located in the City's right-of-way and if it was not, the structure would be allowed by the zoning ordinance. Mr. Jordan stated there are photos to show there is a hand dug well on the property, but they have no evidence there was ever a structure over the well. Mr. Jordan noted he believes the applicant meets the criteria for allowing a variance since the location of the well was

already in place and the structure will not have a negative effect on the nearby properties. Mr. Jordan stated the concern is that the structure needs to be moved off the right-of-way. Mr. Jordan noted six letters were received in support of the request. Mr. Jordan noted Staff recommendation of approval with the condition the encroaching part of the structure be moved out of the right-of-way. Mike Dooley asked how wide the right-of-way is and Mr. Jordan stated that is not known, but the property corners were staked at one time and that should be done again to be certain. Mr. Dooley asked if there are other encroachments on Lincoln Street and Mr. Jordan stated there is not within a block or two, but there are high fences and approximately three blocks north there is one encroaching structure.

Mike Dooley closed Public Hearing 2011-5.

Karen Oestreich moved to approve request 2011-5 with the condition the portion of the structure that is encroaching into the right-of-way be moved to be in compliance.

With nothing further to come before the Board, Bryon Schaetter moved to adjourn the meeting and Barbara Heinen seconded the motion. All voted in favor and the meeting was adjourned at 5:40 p.m.

PASSED AND APPROVED this the 12th day of April, 2012.

SHELLEY BRITTON, CITY SECRETARY

MIKE DOOLEY, CHAIR

# VARIANCE BRIEF

*Request # 2012-1*

**APPLICANT:** Cavan McMahon

**ZONING:** R-2, Mixed Residential

**LOCATION:** 112 W. Schubert St. (Northeast corner of Schubert Street and Crockett Street)

**REQUEST:** Variance to Section 3.110 of the Zoning Ordinance, pertaining to a reduction in the Residential Density requirement and to reduce the Front Yard Setback from 15' to 10'.

**FINDINGS:**

- The subject property is located at the northeast corner of Schubert Street and Crockett Street (112 W. Schubert St).
- The subject property contains approximately 5,385 square feet (.12 acres), with approximately 68.6' of frontage on Crockett St. and 78.5' of frontage on Schubert St.
- The property is zoned R-2, Mixed Residential, as are surrounding properties to the west, north and east. Property to the south across Schubert Street is zoned CBD, Central Business District.
- Surrounding land uses include residential to the west and north, a B&B complex (All Season's) to the east and a multi-tenant commercial building to the south.
- Setbacks required per the zoning are 15' along Schubert St. and 15' along Crockett St. Density requirements are a minimum of 2,500 square feet of land area per efficiency unit.
- The applicant would like to build 3 guest houses, along with an accessory laundry/wash room building, pool and courtyard on the site.
- The applicant intends to take advantage of Section 7.820 (H) of the Zoning Ordinance, allowing head-in on street parking on Schubert St., to meet the parking requirements.

The Board of adjustment may grant a variance if it makes affirmative findings of fact on **each** of the criteria described below:

a. The Zoning Regulations applicable to the property do not allow for reasonable use. **While the property is relatively small compared to other lots within the block, the size does meet the minimum requirements of the R-2 zoning. Based on the density requirements of the zoning, the property would allow 2 efficiency units rather than 3 as proposed by the applicant (based on a minimum of 2,500 square feet of land per unit). The setbacks for the R-2 zone are 15' on both street frontages.**

b. The plight of the owner of the property is due to unique circumstances existing on the property, and 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 zoning district in which the property is located. **Aside from the relatively small size of the lot and the mix of uses within the block, circumstances relating to the property are not necessarily unique.**

c. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the zoning district in which the property is located. **We would not expect the proposed variance to affect the character of the neighborhood. However, allowing a variance to the density based solely on the size of the lot would seem to establish a precedent.**

**OPPOSITION/SUPPORT OF REQUEST:** None.

**STAFF RECOMMENDATION:**

The granting of the variance to the front yard setback along Crockett Street would seem reasonable given the circumstances within the vicinity, including the reduced setback of the adjoining property to the north, the 0' setback on the commercial property to the south and the relatively large right-of-way of Crockett Street. However, we do not believe there is justification for the reduction in the density requirement and therefore we would not recommend the allowance of the third unit on the property.

$50.00 application fee

APPEAL NO. 2012-1
DATE

RECEIVED
MAR 23 2012

# VARIANCE REQUEST APPLICATION TO BOARD OF ADJUSTMENT

1. APPLICANT: Cavan McMahon
2. ADDRESS: 518 1/2 Peach ST

PHONE: 830 456-5713 FAX:

3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:

ADDRESS: 112 Schubert

LEGAL DESCRIPTION: FBG ADD BLK 39 LOT UNBRD W of 535

LOT SIZE: 78.50' x 68.60 ZONING DISTRICT: R2

4. REQUEST IS MADE HEREWITH TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:

SECTION: 3.110 PAGE:

SUBSECTION: R2 Mixed Residential

ITEM: 1. Residential Density 2. Front yard setback

RELATING TO: 1. Efficiency 2. 15' setback

REQUIRING: 1. Max. 1 unit per 2500 S.F. of Land.
2. 15' setback

5. INFORMATION TO BE SUBMITTED BY THE APPLICANT:

A. Site plans, preliminary building elevations, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the Variance application:

a. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.

b. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.

c. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.

d. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvements related to or necessitated by the proposed use.

B. The Building Official and/ or Director of Development Services may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a Variance exists.

6. REASONS FOR THE REQUEST: 1. Request a variance to add one extra efficiency on lot. (Total of three)
2. Request a set back variance from 15' to 10'

A. The Board of Adjustment may grant a variance if it makes affirmative findings of FACT on EACH of the criteria. The applicant shall give a reason why the request complies with the following criteria:

1. The Zoning Regulations applicable to the property do not allow for a reasonable use.

See Attached

2. The plight of the owner of the property is due to unique circumstances existing on the property, and 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 zoning district in which the property is located.

See Attached

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the Zoning District in which the property is located.

See Attached

B. PARKING: ADDITIONAL CRITERIA-The Board may grant a Variance to a regulation prescribed by this ordinance with respect to the number of off-street spaces required if it makes findings of fact that the following additional criteria are also satisfied:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

2. The granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets.

_____

_____

_____

3. The granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this ordinance.

_____

_____

4. The Variance shall run with the use or uses to which it pertains, and shall not run with the site.

_____

_____

C. SIGNS: ADDITIONAL CRITERIA-The Board may grant a Variance to a regulation prescribed by the Sign Ordinance with respect to the placement of signs, the height of signs or the area of signs if it affirmatively finds each of the following.

1. That a sign is being replaced. For the purposes of this Section, replacement shall include the erection of a new or different sign due to the removal of another sign for any reason, including the change of name of a business, whether from change of ownership, business being conducted, or otherwise, the change of a sign for a continuing business containing the same or different information as the sign being replaced, and the replacement of signs due to damage or vandalism.

_____

_____

2. That all structures on the property for which the sign is proposed that would impede the replacement of a sign were constructed prior to February 17, 1986.

_____

_____

3. That it is impractical to abide by existing placement, height or area regulations due to the placement, size of construction of existing structures in relationship to the physical characteristics of the site. For purposes of illustration, physical characteristics may include topography of the site or the surrounding sites, structures on surrounding sites, traffic conditions, street layouts and existing natural vegetation.

_____

_____

_____

_____

4. That the other types of signs which are permitted by this Ordinance cannot practically be used. In making this determination of practicality , the Board may consider

   a. The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance ; or
   b. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
   c. That alternatives permitted by this Ordinance are prohibitively expensive; or
   d. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

_____

_____

_____

5. That the proposed sign has been reviewed by the Historic Review Board if applicable.

_____

_____

6. That the proposed variance is as close to the requirements of the sign ordinance as is feasible.

_____

_____

7. NOTICE TO APPLICANT: <u>YOU, OR YOUR REPRESENTATIVE ARE STRONGLY URGED TO ATTEND THE BOARD OF ADJUSTMENT MEETING AT WHICH YOUR VARIANCE REQUEST WILL BE CONSIDERED</u>- The Board will consider whatever evidence is presented at that time, and may approve, deny, or postpone consideration of your request. Failure to attend may result in the presentation of inadequate or inaccurate information which may result in denial or postponement.

Signature of Owner: [signature]

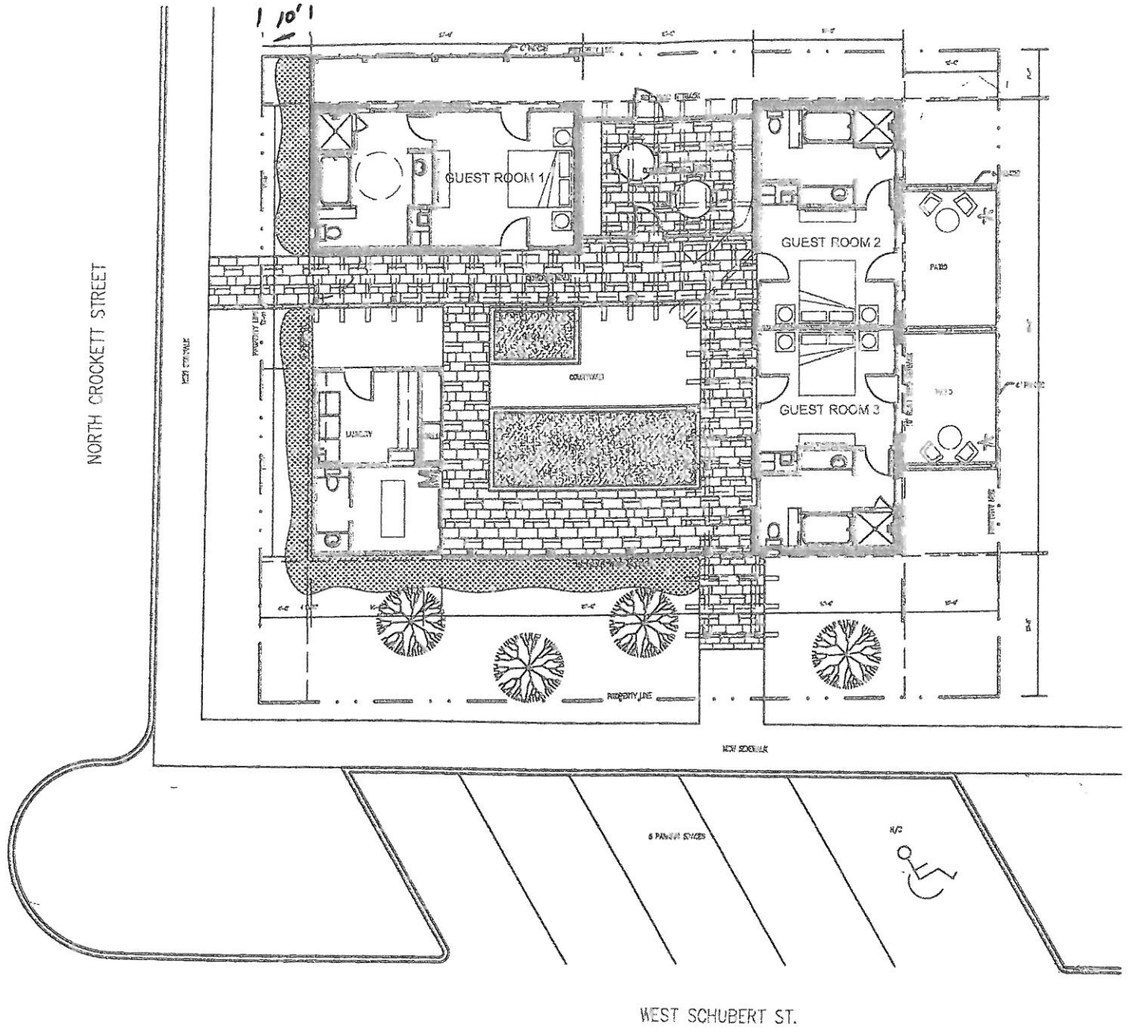
Date: 3/23/12 Fee Paid: $50.00

8. List of property owners within 200 ft. (Provided by City)

1. The R2 zoning regulations restrict the lot to two units per 2500 sf. of land. The lot is 78.50' x 68.60' (5385.10 sf). Because of specific conditions of the lot and its surround space the lot can lend itself to one extra unit. (3 total)
* There is head in off street parking. (5 spaces maximum)
* There is approximate 11' 4" of space between the Crockett street curb line and approximate 9'9" form the Schubert street curb line and with the 15' setbacks the building area is greatly reduced and there is an over abundance of unused space.
* The property across the street is a multi use commercial building.
* The adjacent properties are all operating quest houses.
* The middle property of the block is city public space (pool).
* The last two properties of the block are zoned commercial.
* There are no single-family residents on block.
* There is current discussion to block off street for future expansion of the city pool.
* There is an additional 17'6" of space in front of property due to concrete culvert for run off water drainage.
* The building setbacks positions the building site further back than the two other adjacent properties structures on Crockett Street. Hence the request for a 10' set back over the zoning regulation of 15'.

2. see 1.

3. This variance will not alter the character of the area adjacent to the property and will not impair the use of the adjacent conforming properties.




1 / C-10 SITE PLAN 1/8" = 1'-0"

PRINT 11 X 17 FOR CORRECT SCALE

CM

ISSUES

| # | DATE | ISSUE |
|---|---|---|
| 01 | 03.05.12 | CITY REVIE |

Craig McMahon Architects, Inc.
5021 Broadway
San Antonio, Texas 7820
p 210.320.3451
f 210.858.1344



# GUEST HOUSES

FREDRICKSBURG, TEXAS

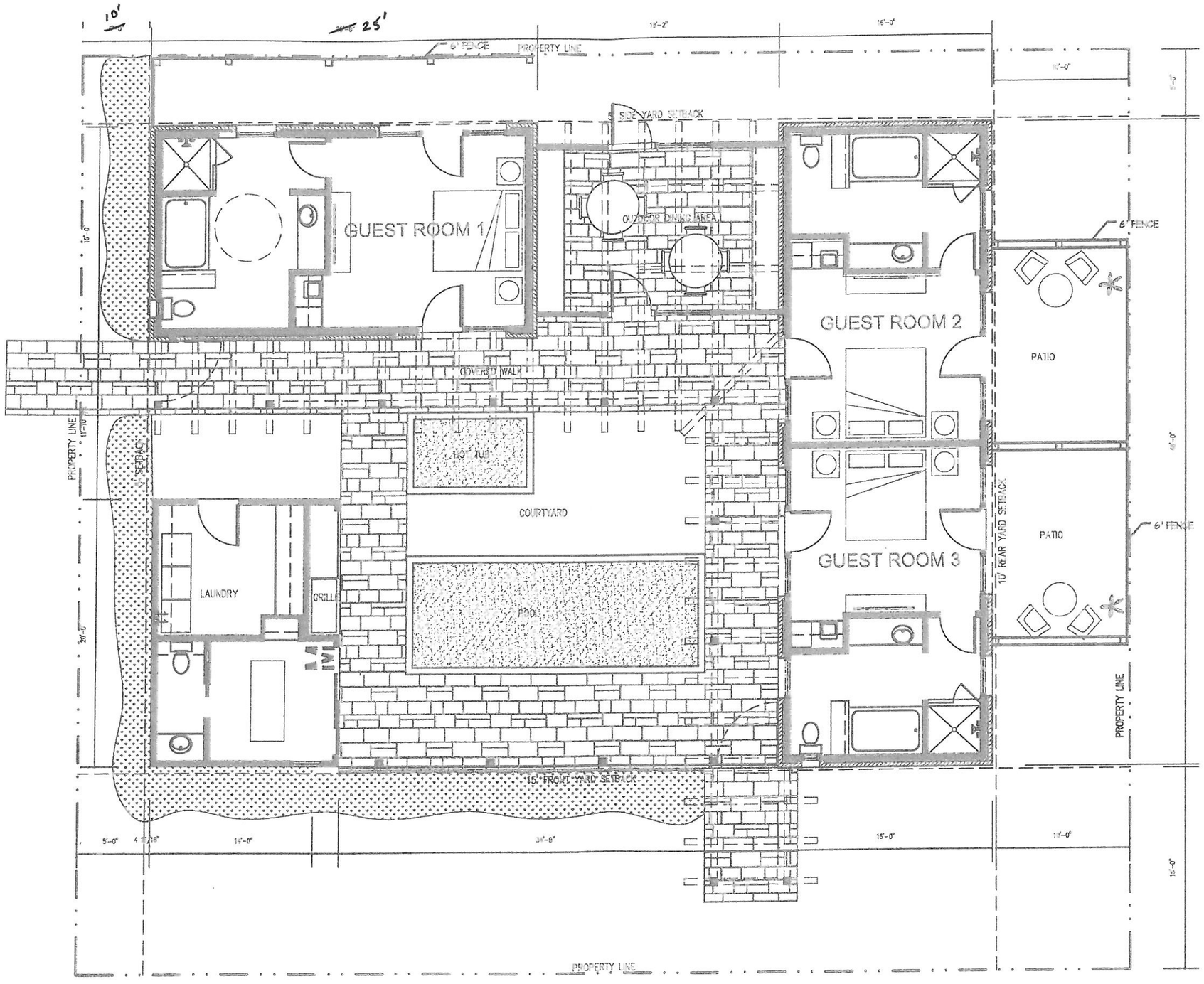
DRAWN BY: J.L.

DATE: MAR. 02 2012

SHEET CONTENTS: SITE PLAN

SHEET NO. C-10

5335 S.F.




1 A-11 FLOOR PLAN 1/8" = 1'-0"

11

CM

ISSUES

| # | DATE | ISSUE |
|---|---|---|
| 01 | 03.05.12 | CITY REVIEW |


Craig McMahon Architects, Inc.
5021 Broadway
San Antonio, Texas 78209
p 210.320.3451
f 210.858.1344




# GUEST HOUSES

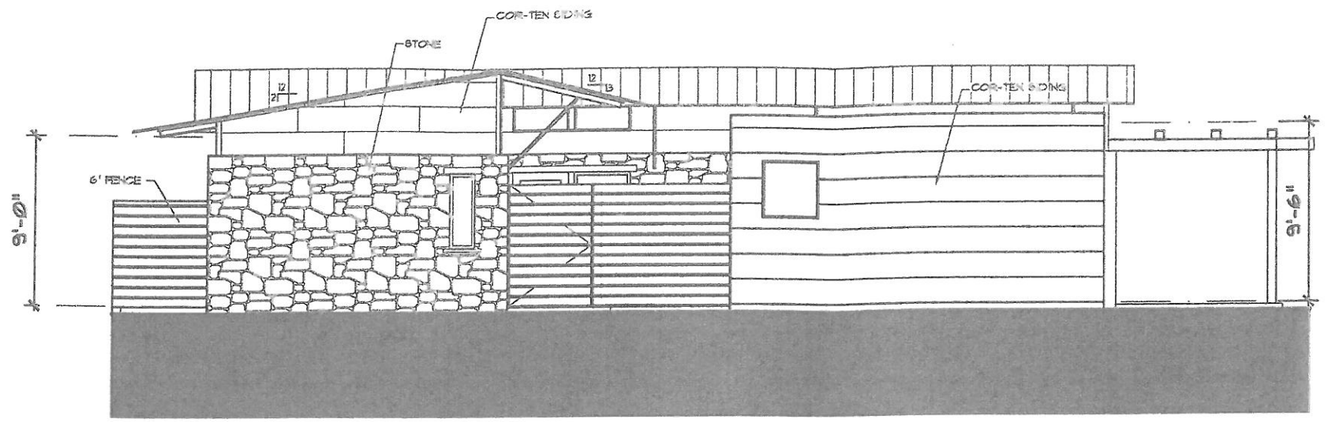
FREDRICKSBURG, TEXAS

DRAWN BY: I.L.

DATE: MAR. 02 2012

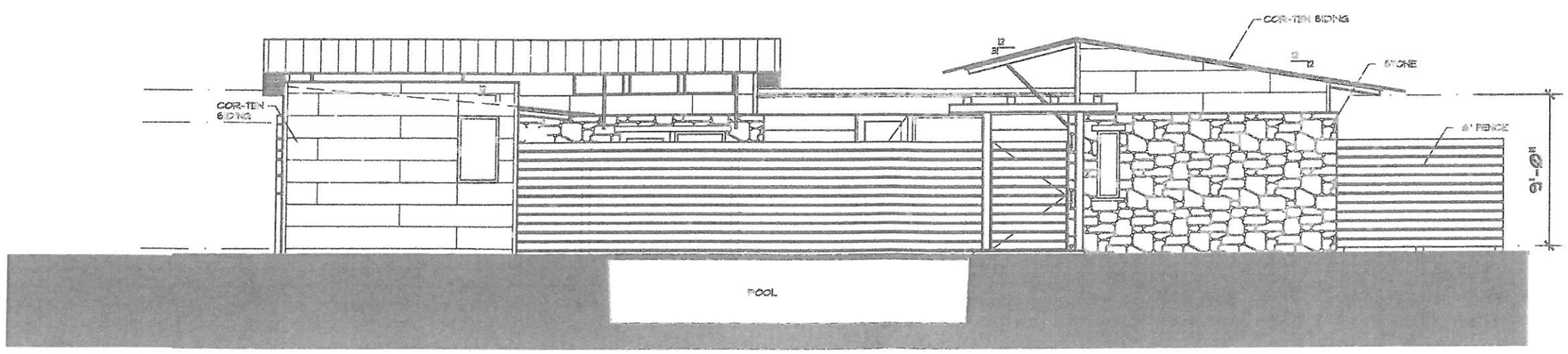
SHEET CONTENTS: FLOOR PLAN

SHEET NO. A-11




1 / A-21 CROCKET ELEV. 1/8" = 1'-0"

PRINT 11 X 17 FOR CORRECT SCALE




2 / A-21 SCHUBERT ELEV. 1/8" = 1'-0"

PRINT 11 X 17 FOR CORRECT SCALE

12

CM

ISSUES

| # | DATE | ISSUE |
|---|---|---|
| 01 | 03.05.12 | CITY REVIEW |


Craig McMahon Architects, Inc.
5021 Broadway
San Antonio, Texas 78209
p 210.320 3451
f 210.858.1344




# GUEST HOUSES

FREDRICKSBURG, TEXAS

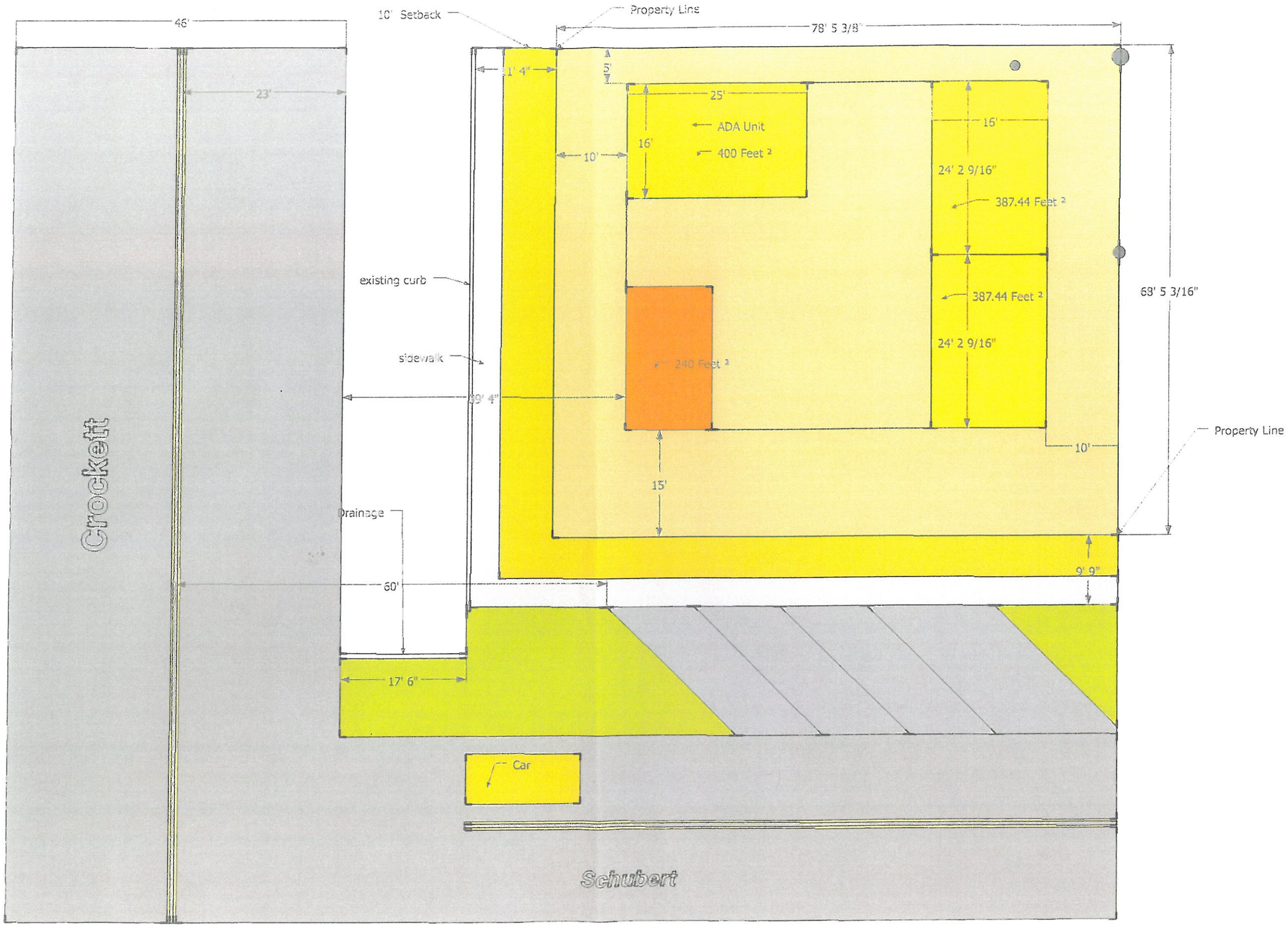
DRAWN BY: I.L.

DATE: MAR. 02 2012

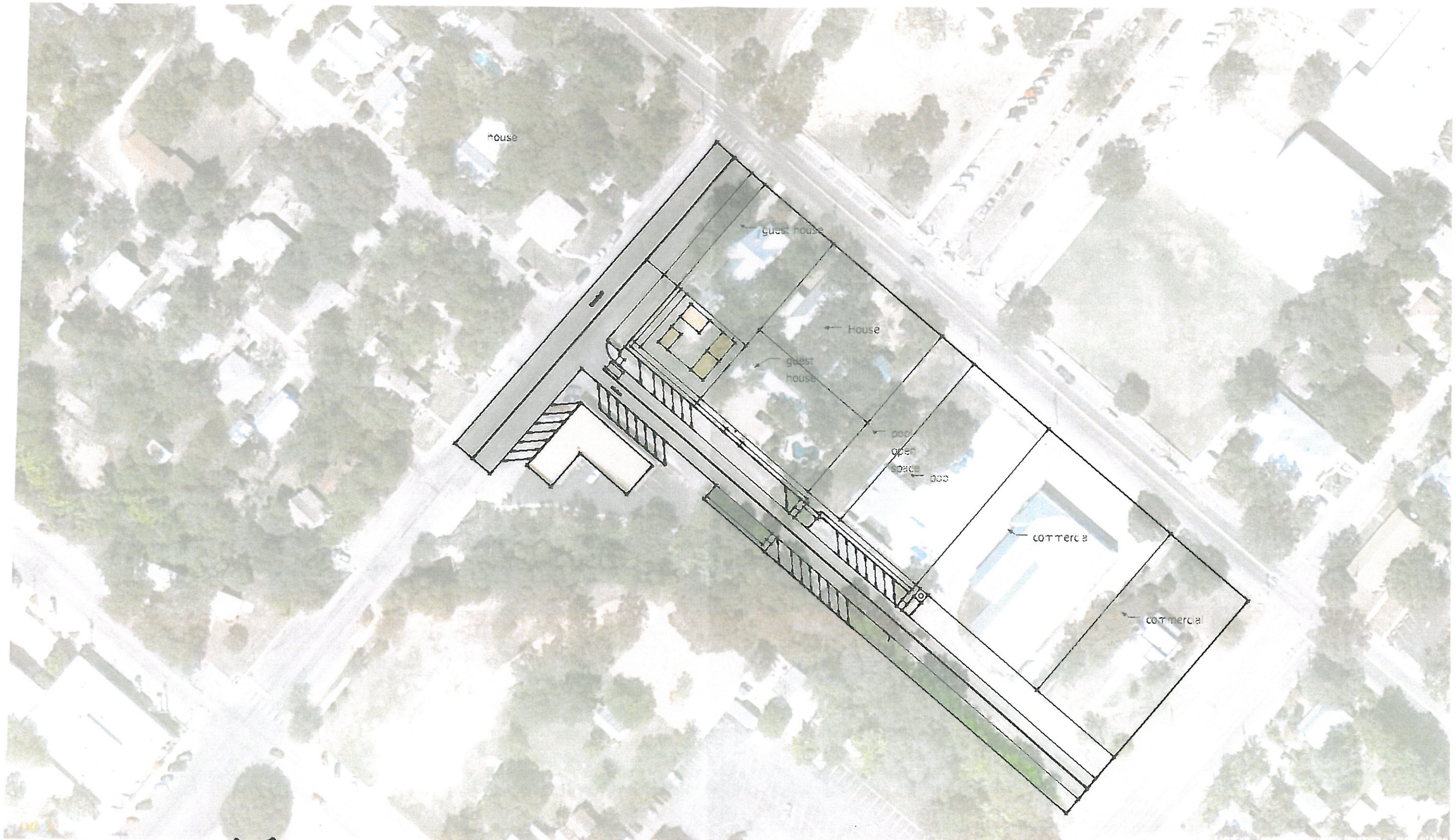
SHEET CONTENTS: ELEVATIONS OPTION 2-B

SHEET NO. A-21

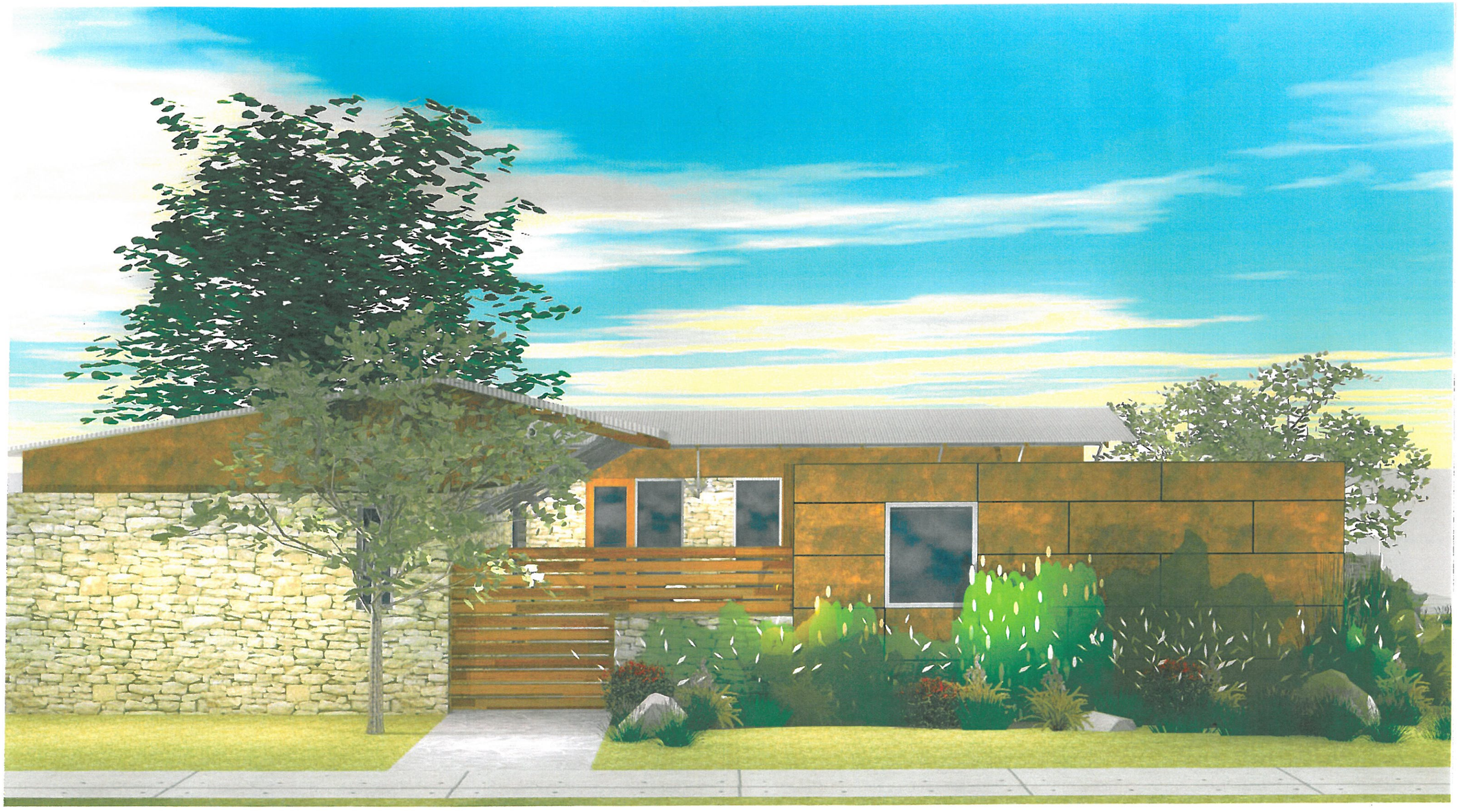

guest house
House
w/ Guest house's
guest
house
pool
side
yard
pool
commercial
commercial
Drain
no curb or prep work
curb
no curb or prep work
commercial


46'
23'
10' Setback
Property Line
78' 5 3/8"
1' 4"
5'
25'
ADA Unit
400 Feet ²
16'
10'
16'
24' 2 9/16"
387.44 Feet ²
387.44 Feet ²
24' 2 9/16"
68' 5 3/16"
existing curb
sidewalk
240 Feet ²
39' 4"
10'
Property Line
15'
Drainage
9' 9"
60'
17' 6"
Car
Crockett
Schubert

14


House
guest house
House
guest
house
pool
open
space
pool
commercial
commercial

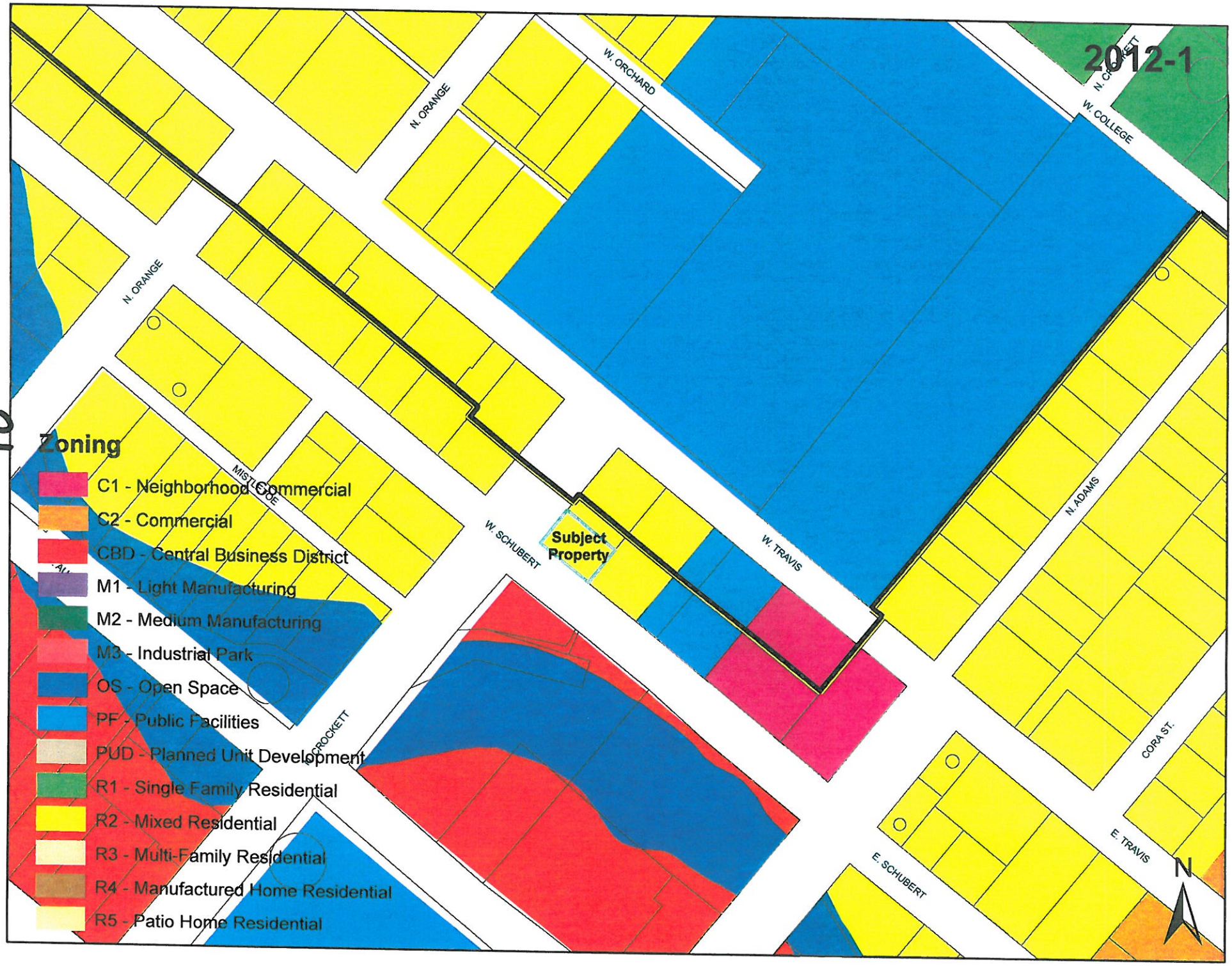
Schubert street View

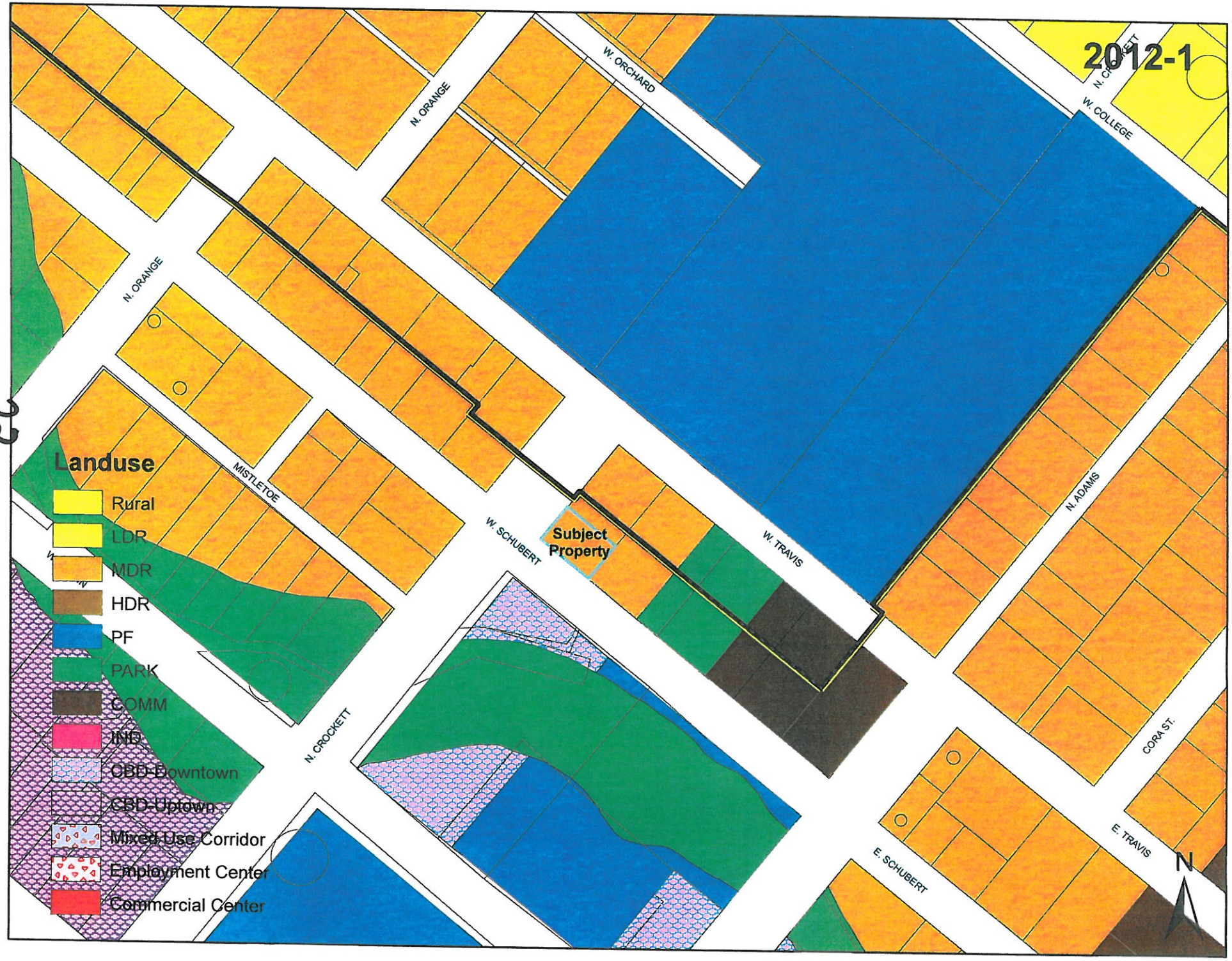


CROCKETT STREET

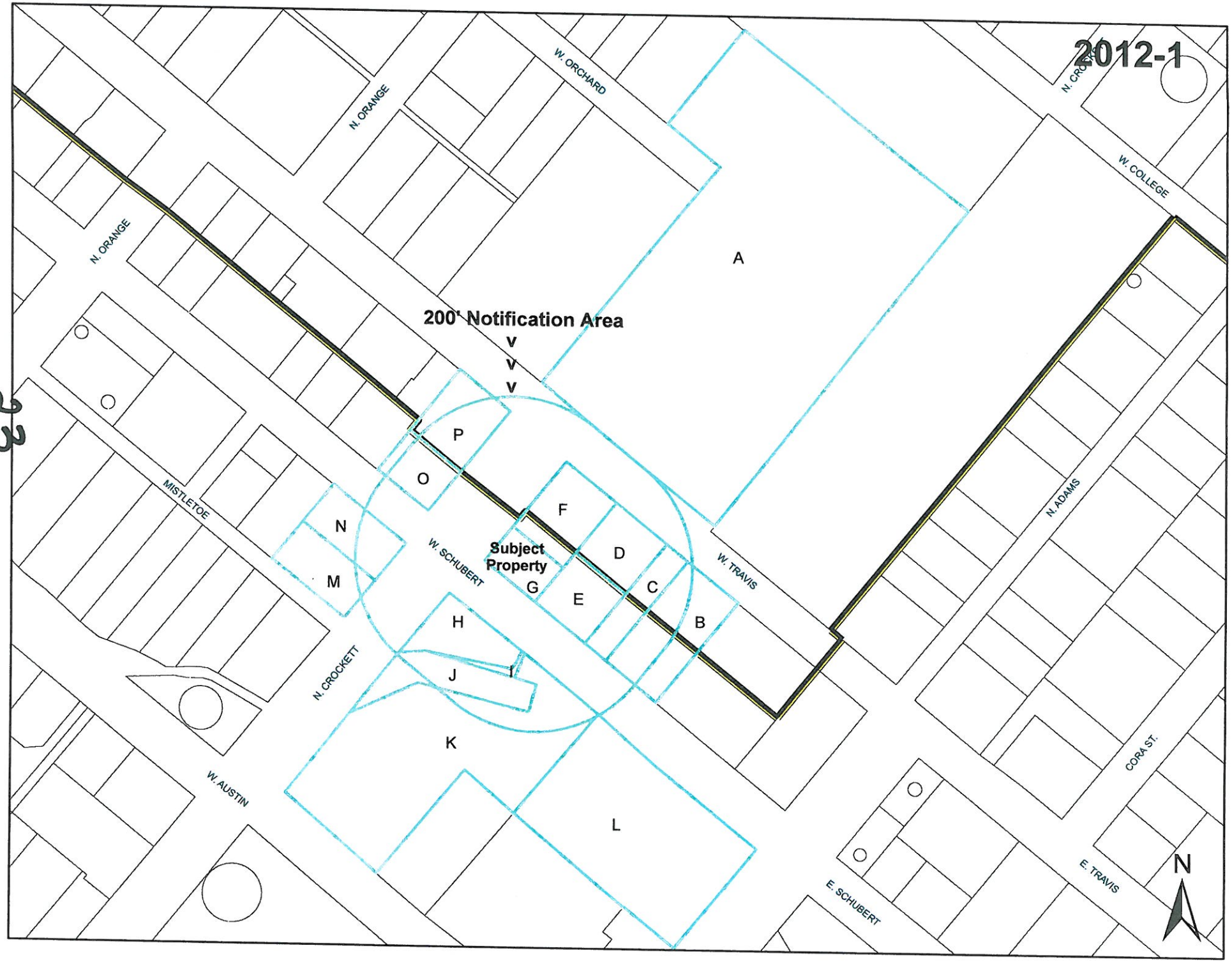
17

SCHUB
T ST.
N ADAMS


2012-1
Zoning
C1 - Neighborhood Commercial
C2 - Commercial
CBD - Central Business District
M1 - Light Manufacturing
M2 - Medium Manufacturing
M3 - Industrial Park
OS - Open Space
PF - Public Facilities
PUD - Planned Unit Development
R1 - Single Family Residential
R2 - Mixed Residential
R3 - Multi-Family Residential
R4 - Manufactured Home Residential
R5 - Patio Home Residential
Subject Property
N. ORANGE
W. ORCHARD
W. COLLEGE
N. CROCKETT
MISTLETOE
W. SCHUBERT
W. TRAVIS
N. ADAMS
CORA ST.
E. TRAVIS
E. SCHUBERT
N


2012-1
N. ORANGE
W. ORCHARD
N. CROCKETT
W. COLLEGE
MISTLETOE
W. SCHUBERT
Subject Property
W. TRAVIS
N. ADAMS
CORA ST.
E. TRAVIS
E. SCHUBERT
N. CROCKETT
Landuse
Rural
LDR
MDR
HDR
PF
PARK
COMM
IND
CBD-Downtown
CBD-Uptown
Mixed Use Corridor
Employment Center
Commercial Center
N

22


2012-1
W. ORCHARD
N. ORANGE
N. ORANGE
W. COLLEGE
A
200' Notification Area
P
O
F
D
C
B
E
G
Subject Property
N
M
W. SCHUBERT
W. TRAVIS
N. ADAMS
MISTLETOE
H
J
I
N. CROCKETT
K
L
W. AUSTIN
CORA ST.
E. TRAVIS
E. SCHUBERT
N

23

| Letter | Owner | |
|---|---|---|
| A | Fredericksburg Independent School District | |
| B | City of Fredericksburg | |
| C | City of Fredericksburg | |
| D | Kurt F. Ditges | |
| E | Walcloud Properties, LLC | |
| F | Lee R. & Deborah L. Kunkel | |
| G | Cavan & Donna McMahon | |
| H | Samuel K. & Patricia Weber | |
| I | City of Fredericksburg | |
| J | City of Fredericksburg | |
| K | Bethany Lutheran Church | |
| L | Bethany Lutheran Church | |
| M | Wayne A. Wehmeyer | |
| N | Shelly Jo Mazurek | |
| O | Marlene V. Deike Revocable Living Trust | |
| P | Michael & Nadine Starks | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

27

**2012-1**

City of Fredericksburg
126 West Main Street
Fredericksburg, TX 78624

## NOTICE OF PUBLIC HEARING ON VARIANCE REQUEST

**HEARING DATE: May 17, 2012** **TIME: 5:30 P.M.** **APPEAL NO. 2012-1**

**The BOARD OF ADJUSTMENT of the City of Fredericksburg will hold a public hearing at the above stated time and date in the Conference Room of City Hall, 126 W. Main St. to consider a variance request as indicated below.**

According to City Tax Record, you are the owner of real property within 200' of the requested variance. You are not required to attend the hearing, but if you care to attend you will be given full opportunity to be heard. If you cannot attend the hearing, but wish to comment on the request, please detach the response form below and return it to the City of Fredericksburg, 126 W. Main St., Fredericksburg, Texas 78624. All protests must be submitted in writing.

**The decision of the BOARD OF ADJUSTMENT on the requested variance is final. For additional information please do not hesitate to contact the Development Services Department at 830-997-7521.**

APPLICANT: **Cavan McMahon**

ADDRESS OF THE SUBJECT PROPERTY: **112 W. Schubert**

EXPLANATION OF REQUEST: **Variance to section 3.110 of the Zoning Ordinance pertaining to residential density and front yard setback**

(detach here)

**Appeal No. 2012-1**
As an interested property owner, I (PROTEST) (APPROVE) the requested variance represented by the above appeal number because:

_____

_____

_____

Signed _____ Address