

File #

4-H-21-VA



# BOARD OF ZONING APPEALS APPLICATION

Click on [Meeting Schedule, Deadlines and Fees](#) for information on submitting an application to be heard at a monthly Board meeting.

APPLICANT INFORMATION	APPLICANT IS:	THIS PROPOSAL PERTAINS TO:
Name: Logan Higgins	Owner <input type="checkbox"/>	New Structure <input checked="" type="checkbox"/>
Street Address: 133 S Gay St	Contractor <input type="checkbox"/>	Modification of Existing Structure <input type="checkbox"/>
City, State, Zip: Knoxville, TN, 37902	Tenant <input type="checkbox"/>	Off Street Parking <input type="checkbox"/>
Phone Number: 423.502.4210	Other <input checked="" type="checkbox"/>	Signage <input type="checkbox"/>
Email: LoganAHiggins@gmail.com		Other: <input type="checkbox"/>

## THIS IS A REQUEST FOR:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Zoning Variance (Building Permit Denied) | <input type="checkbox"/> Extension of Non-Conforming Use/or Structure |
| <input type="checkbox"/> Appeal of Administrative Official's Decision        | <input type="checkbox"/> Map Interpretation                           |

## PROPERTY INFORMATION

Street Address: 705 Deery St	City, State, Zip: Knoxville, TN
See KGIS.org for Parcel #: 094DJ027	and Zoning District: Rn-3

## VARIANCE REQUIREMENTS

### City of Knoxville Zoning Ordinance Article 16.3

The City of Knoxville Board of Zoning Appeals shall have the power and authority to grant variances from terms of this ordinance according to the procedure and under the restrictions set out in this section.

The purpose of the variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property as the zoning ordinance intended.

## DESCRIPTION OF APPEAL

### Describe your project and why you need variances.

In this neighborhood, there is a transition from downtown to traditional, single family houses. That transition is broken up by a number of blighted properties, this project attempts to remedy three of these blighted properties. This application is for one of the three.

The overall project goal is to do three duplex buildings that look similar to the town-homes seen throughout the neighborhood as a solution to the blighted lots. More information about the project and decision to take this approach are included in the attached packet.

The variance request will be to waive the zoning requirement of 7,500 sf min. for 2F down to 5,150 sf to allow 2F structures on this site. Along with this, a few other variances are required. We request a variance on the lot coverage percentage from 35% to 46%. 50% coverage is allowed in this zoning for TH, and the average of the neighborhood is closer to 50% coverage. We request a variance for the maximum allowed impervious area from 45% to 62.8%. 60% is allowed for town-homes in this neighborhood and the average area in the neighborhood is around 50%. This will cover the building, parking, and new sidewalks. We need a variance for the combined side setback from 15' to 12'. Finally, like most of the houses in the neighborhood, we request a variance on the required off-street parking from 2/du to 1/du.

### Describe hardship conditions that apply to this variance.

This zoning was placed over an area where the lots are unusually small compared to lots even just a few streets over. This creates a number of physical hardships for use.

## APPLICANT AUTHORIZATION

I hereby certify that I am the authorized applicant, representing ALL property owners involved in this request and that all owners have been notified of this request in writing.

REVISED

APPLICANT'S SIGNATURE

DATE Revised 4.21.21



CITY OF KNOXVILLE

**BOARD OF ZONING APPEALS APPLICATION****\*\*\*\*\*OFFICE USE ONLY\*\*\*\*\***Is a plat required? Yes ☐ No ☒Small Lot of record? ☐**VARIANCE REQUEST(S) WITH ORDINANCE CITATION(S):**

1. Reduce the minimum required lot size for a two-family dwelling from 7,500 s.f. to 5,150 s.f. Per Article 4, Section 4.3. Table 4-1.
2. Increase the maximum permitted building coverage from 35% to 46%. Per Article 4, Section 4.3. Table 4-1.
3. Increase the maximum permitted impervious surface coverage from 45% to 62.8%. Per Article 4, Section 4.3. Table 4-1.
4. Reduce the minimum permitted total of combined interior side yard setbacks from 15 feet to 12 feet. Per Article 4, Section 4.3. Table 4-1.
5. Reduce the minimum number of required parking spaces for a duplex from 4 spaces to 2 spaces. Per Article 11, Section 11.4. Table 11-2.

**PROJECT INFORMATION**

Date Filed 3-11-21

Fee Amount \$250.00

Council District 4th

BZA Meeting Date 4-20-21

**PLANS REVIEWER** Scott Elder**DATE** 4-28-21 (Revised)

**CITY OF KNOXVILLE, TENNESSEE**  
**BOARD OF ZONING APPEALS**  
**DECISION**

Application filed for variance of requirements of the City of Knoxville Zoning Ordinance was considered by the Board of Zoning Appeals at the public hearing on 04/20/2021 at 4:00PM , in the Small Assembly Room of the City/County Building, 400 Main Street, Knoxville.

**BZ04H21VA      LOGAN HIGGINS                      (705 DEERY ST KNOX)**

- 1    1) Reduce the minimum required lot size for a two-family dwelling from 7,500 s.f. to 5,150 s.f. (Article 4, Section 4.3. Table 4-1.)  
DESCRIPTION: BOARD VOTED 5-0 TO POSTPONE TO THE MAY 18, 2021 MEETING. JL  
04/20/2021: BZA Postponed
- 2    2) Increase the maximum permitted building coverage from 35% to 46%. (Article 4, Section 4.3. Table 4-1.)  
DESCRIPTION: BOARD VOTED 5-0 TO POSTPONE TO THE MAY 18, 2021 MEETING. JL  
04/20/2021: BZA Postponed
- 3    3) Increase the maximum permitted impervious surface coverage from 45% to 55%. (Article 4, Section 4.3. Table 4-1)  
DESCRIPTION: BOARD VOTED 5-0 TO POSTPONE TO THE MAY 18, 2021 MEETING. JL  
04/20/2021: BZA Postponed
- 4    4) Reduce the minimum permitted total of combined interior side yard setbacks from 15 feet to 12 feet. (Article 4, Section 4.3. Table 4-1.)  
DESCRIPTION: BOARD VOTED 5-0 TO POSTPONE TO THE MAY 18, 2021 MEETING. JL  
04/20/2021: BZA Postponed
- 5    5) Reduce the minimum number of required parking spaces for a duplex from 4 spaces to 0 spaces. (Article 11, Section 11.4. Table 11-2.)  
DESCRIPTION: BOARD VOTED 5-0 TO POSTPONE TO THE MAY 18, 2021 MEETING. JL  
04/20/2021: BZA Postponed

Appeal to City Council:

Date of Council Hearing:

Council Action:

Resolution Number, if approved:

Appeal to Chancery Court:

Docket Number:

Court Action:

**\*CONDITIONS OF APPROVAL**

1. Approved variances are limited to the variance request(s) as shown on the site plan submitted to the Board of Zoning Appeals.
2. A building permit may be issued on \_\_\_\_\_, if no appeal is filed with MPC within fifteen (15) days after the BZA meeting.

**Juliana LeClair**

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**From:** Arin Streeter <astreeter@breweringramfuller.com>  
**Sent:** Monday, April 19, 2021 10:11 PM  
**To:** Juliana LeClair; Scott Elder  
**Subject:** BZA - 4-H-21-VA  
**Attachments:** 705 Deery Street.jpg

Scott or Juliana,

Is it possible to forward my letter, and the attachment, on this application to the Commissioners? I'm not generally able to attend meetings in the afternoons, but in any case can't find an option to sign up to speak. I just noticed the sign posted on the lot today, which is not to say that it hasn't been there for a while, though I do walk by there often.

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Dear Board of Zoning Appeals,

I'm writing to oppose variance request number 4-H-21-VA, for 705 Deery Street.

There are several errors in the application packet, and I could quibble over specific claims of general nonconformity of existing properties with even the new zoning code, but those claims are not generally inaccurate – there are definitely existing historic structures in Fourth & Gill, especially in its south end, that have various degrees of nonconformity with the zoning that has been imposed on them – including all of the pieces being requested here – lot coverage, lot size, dwelling units per lot, setbacks, and off-street parking. The simple fact, however, is that these particular lots currently have none of those. All three are of conforming size, and given that they currently have no structures on them, this request is for the granting variances to address nonconformities that do not currently exist, but which are proposed to be created by the applicant.

The application does not make any claim that the current zoning “deprives the applicant of reasonable use of his/her land,” as the BZA’s rules contained in Knoxville’s Code of Ordinances requires – just that the *desired* use does not fit within the current zoning. As the lots exist, with no variances of any kind, single family dwellings are allowed on them. Given that those are the predominant building type in the neighborhood (regardless of diagrams that present building uses that are inarguably much denser, without regard for whether they are in the same RN-3 zoning district or not), those single family dwellings are, presumably, to be understood as a “reasonable use.”

The applicant makes the further argument that the “desired use” more closely conforms with the neighborhood’s existing development pattern. To quote from the last page of the application: “This request is for the bare minimum changes needed to build appropriately in sync with the historic fabric of the neighborhood.” This is clearly a discussion more suited to Historic Zoning Commission than BZA, but given that it is being presented as a reason for overriding the so-recently-revised zoning of this specific block, I’ve attached a section from the 1917 Sanborn Fire Insurance Map of the neighborhood, with the three lots in question in the center, shaded blue. Every one of the structures shown on Page 11 of the application, pictured as basis for why townhouses would clearly be the only “reasonable” uses of these lots, existed by this date. The three lots in question, though, held three two-story single-family dwellings. The argument being presented, then, is that if the re-development of these lots was to follow the *actual historic pattern* – three single-family houses, a development pattern that the current zoning does allow without any variances, that this would be incompatible with the historic character of the neighborhood. That’s worth repeating – the argument is that if those three historic houses *still existed*, they would somehow be incompatible with their own historical development pattern. As a basis for why these variances are required as a “bare minimum,” that argument obviously fails all logic.

It's a reasonable question anyway, to ask, "But what is the most appropriate development pattern for today?" If it is believed that these lots, and the "public interest" (as BZA's rules require) are better served by higher density development, that's certainly a debate worth having, but again, the Board of Zoning Appeals is not the correct venue. Fourth & Gill Neighborhood, during the ReCode process, expended a great deal of time and effort negotiating its zoning district boundaries. North of Lovenia Avenue, it's predominantly RN-2; south of Lovenia it's RN-3, except that southwest of Morgan Street, it's RN-4. This tiered zoning was agreed to less than two years ago, for addressing appropriately the transitions to the adjoining commercial zones along Broadway, Central Street, and Fifth Avenue. This application is asking for "zoning by variance" to what is essentially RN-7. The question of whether that's the appropriate development pattern for this site should be addressed by an approach to a rezoning, involving, again, a neighborhood discussion of its zoning boundaries and transitions. BZA needs to deny these variances and refer the applicant to Knoxville-Knox County Planning, to begin that process.

The final point I would like to make is the applicant's feeling that some sort of "bonus points" should be awarded for addressing "blighted property." "Blight," as a legal property term has specific qualifiers – the property should be deteriorating, have a deleterious effect on surrounding properties, be overcrowded, have substandard sanitation, or present an imminent danger to other people or property. These lots are none of those things. For several decades they have been fenced, mowed, maintained, and were home to a community garden run by McNabb Center's Friendship House. Residents who have lived in Fourth & Gill for decades are familiar with blight and disinvestment, and this is not what that looks like. These are simply vacant lots, no different than empty lots in any other neighborhood, or brand-new subdivision – except for probably being more regularly mowed.

Please deny these variance requests. They are inconsistent with the zoning, inconsistent with the historical development pattern, and the applicant makes no compelling or accurate arguments for hardship or deprivation of use. I'd ask that you review Paragraphs E and F of Article 16.3 of Knoxville's Code of Ordinances to see that denial is the appropriate action; and should the applicant want to move forward with this proposal, that they be referred to Knoxville-Knox County Planning to apply for a rezoning.

Thank you,

Arin Streeter  
925 Eleanor Street

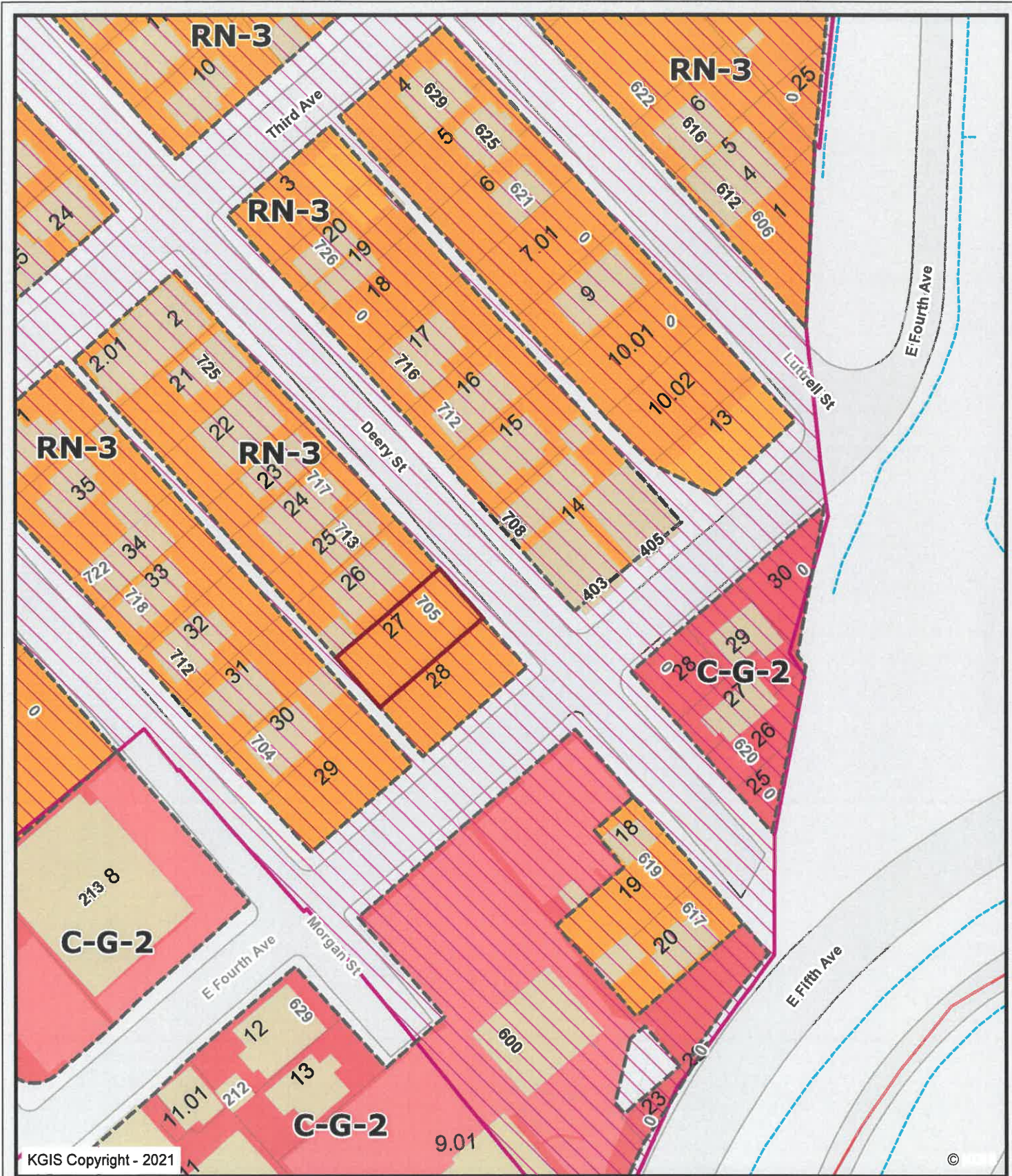




4-H-21-VA

Scale of 1" = 100'





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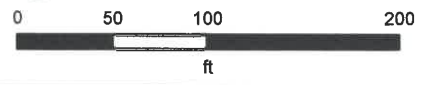
705 Deery St.

4-H-21-VA  
Logan Higgins

Knoxville - Knox County - KUB Geographic Information System

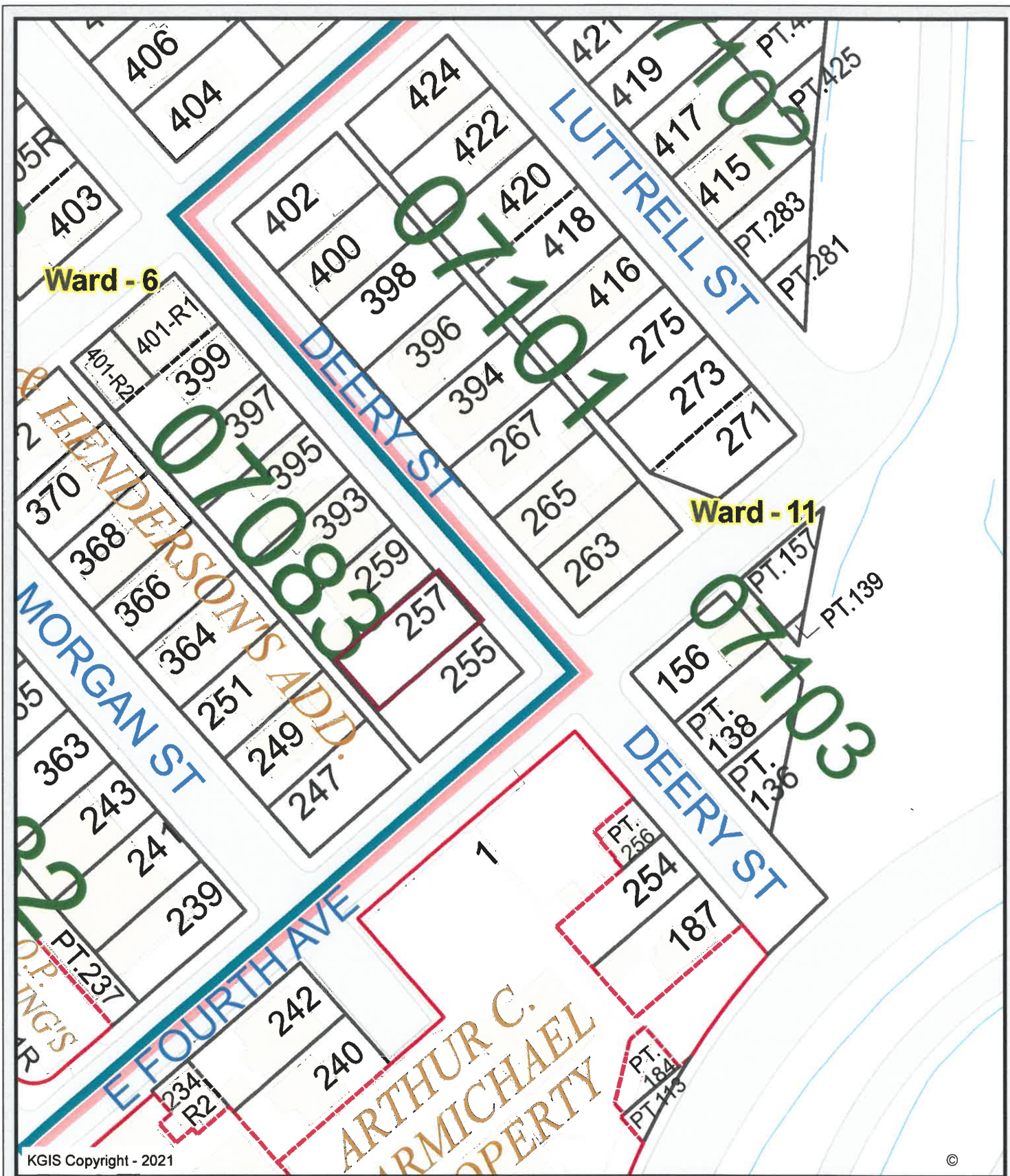


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705 Deery St.

4-H-21-VA  
Logan Higgins

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705 Deery St.

4-H-21-VA  
Logan Higgins

Knoxville - Knox County - KUB Geographic Information System



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Please see the below comments for the April BZA Applications. Please let me know if you need any additional information.

- 4H21VA - Operations has no comment
- 4D21VA - Operations has no comment
- 4E21VA - Operations has no comment
- 4F21VA - Operations has no comment

Thank you,



**Steven M. Borden, P.E.** | Director/Assistant Chief Engineer  
TDOT – Region 1  
7345 Region Lane  
Knoxville, TN 37914  
(865) 594-2400  
[Steve.Borden@tn.gov](mailto:Steve.Borden@tn.gov)  
[tn.gov/tdot](http://tn.gov/tdot)

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April 28, 2021

Mr. Scott Elder  
Board of Zoning Appeals  
Room 475, City-County Building  
P. O. Box 1631  
Knoxville, Tennessee 37901

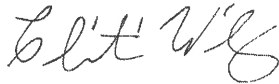
Dear Mr. Elder:

**Re: Variance Requests 4-D-21-VA, 4-E-21-VA, 4-F-21-VA, and 4-H-21-VA**

We have reviewed our records and, as far as we have been able to determine, KUB has no existing utility facilities located within the variance areas and we have no objection to the requested variances. However, KUB does not release and hereby retains all easements and rights for existing facilities, whether or not identified in our research.

If you have any questions regarding this matter, please call me at (865) 558-2483.

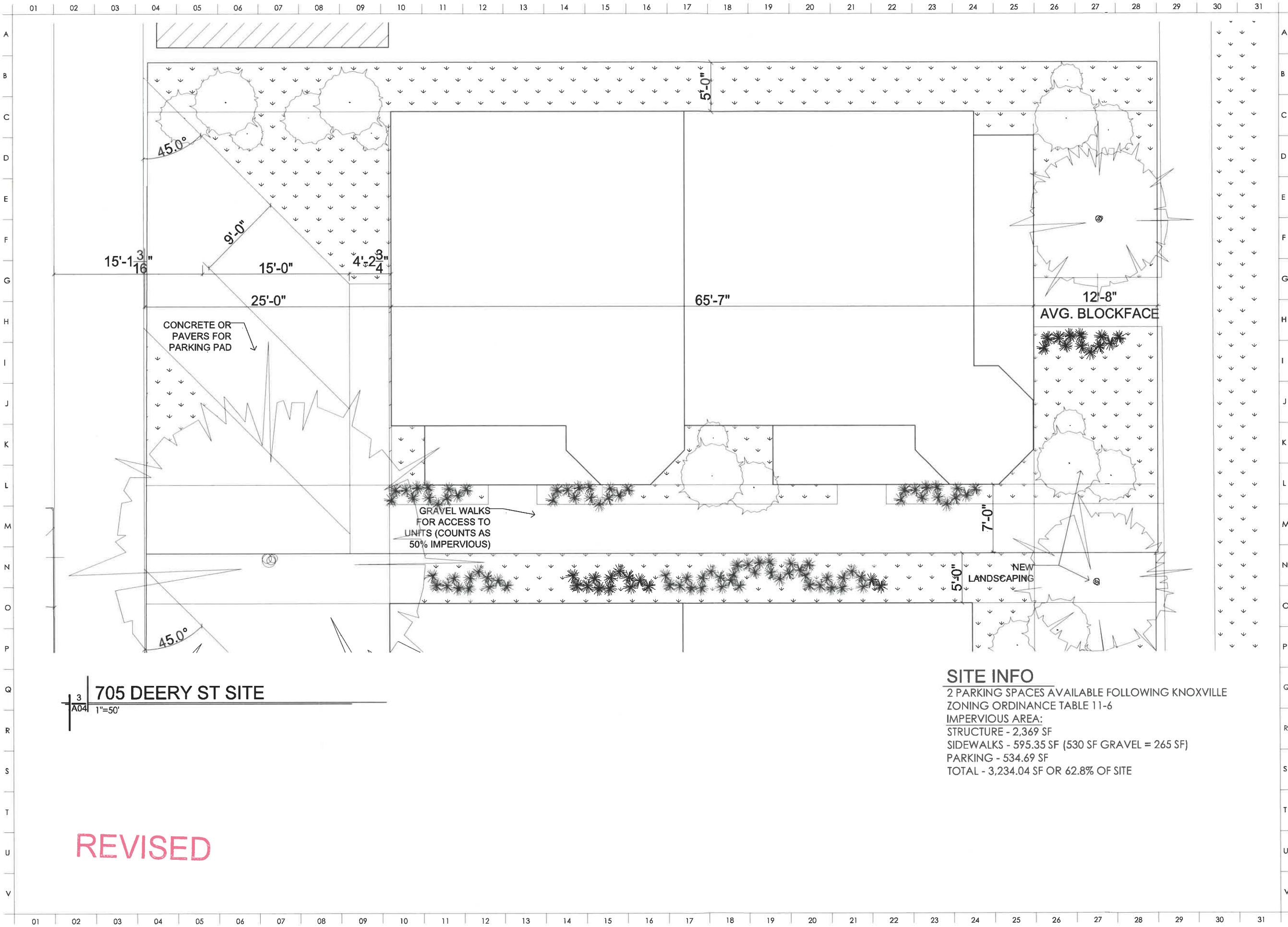
Sincerely,



Christian Wiberley, P.E.  
Engineering

CGW





Project:  
**FOURTH AVE  
COORDOR**

Number:  
**221001**

Owner:  
**NOx LLC**

Info:  
**INFILL DUPLEX  
DEVELOPMENT**

Location:  
**301 Fourth Ave  
Knoxville, TN 37917**



Logan Higgins

logan@heyoh.design

4.20.21

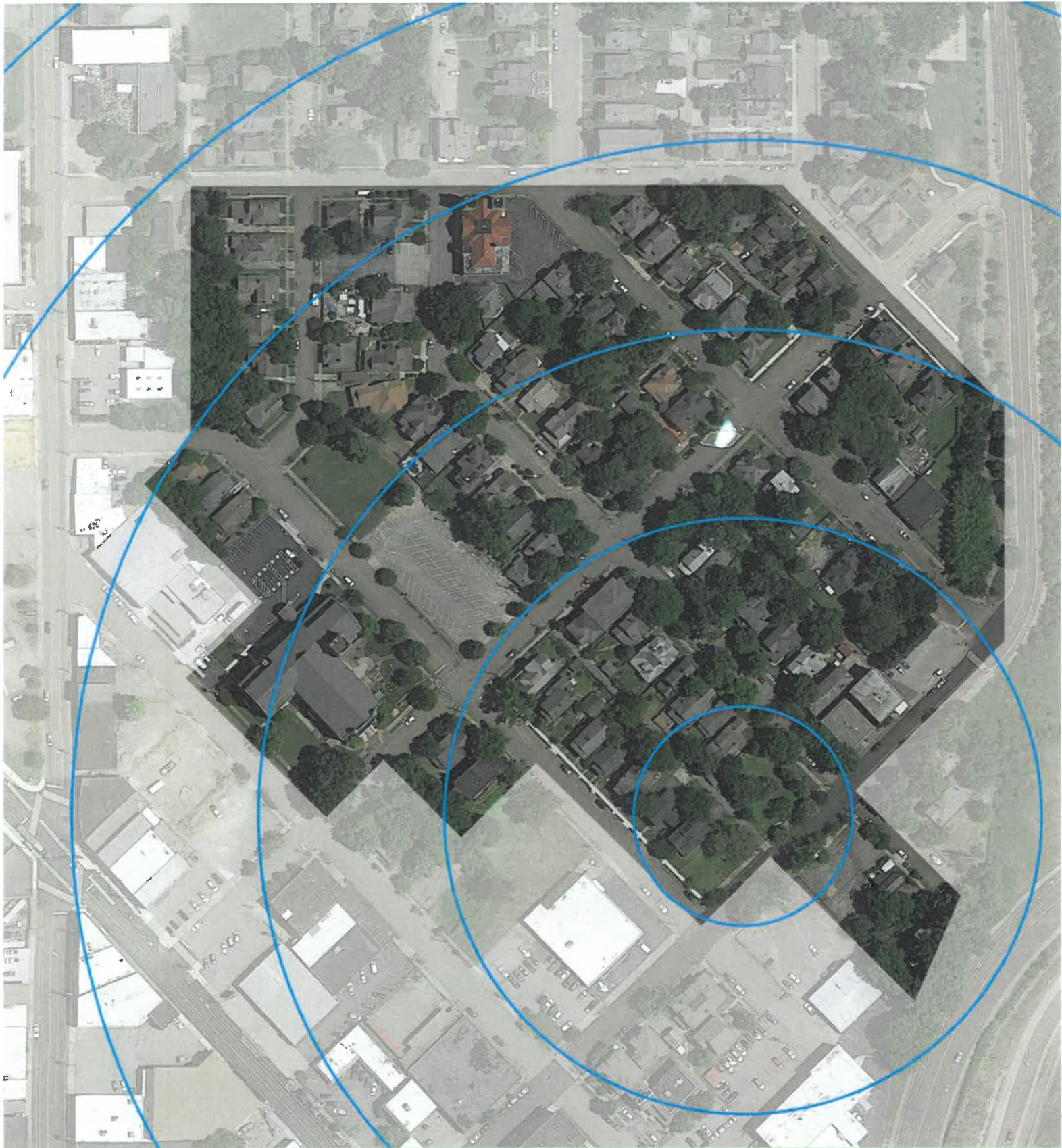
**SHEET**

**A03**

**OF A03**

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**VARIANCE REQUEST IN FOURTH  
AND GILL  
RN-3 ZONING**



# OVERVIEW

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This request includes three different lots that sit adjacent to one another.

On 301 & 305 Fourth Ave (same parcel, addressed for duplexes), we are requesting a variance for the minimum lot area required for two family homes, the maximum lot coverage allowed in RN-3 zoning, the required corner yard setback, the minimum rear setback, the maximum allowed impervious area, and required off street parking.

On 315 & 317 Fourth Ave (same parcel, addressed for duplexes), we are also requesting a variance for the minimum lot area required for two family homes, the maximum lot coverage allowed in RN-3 zoning, the minimum rear setback, the maximum allowed impervious area, and required off street parking.

On 705 Deery St, we are only requesting a variance for the minimum lot area required for two family homes, the maximum lot coverage allowed in RN-3 zoning, the maximum allowed impervious area, the minimum combined side setbacks, and required off street parking.

This packet will show the difficulties and hardships inflicted by unforeseen use of the zoning regulation on not just these properties but the entire neighborhood.

The zoning, RN-3 was meant to allow for higher density within a neighborhood, the ordinances that are preventing the highest and best use of these lots have good purpose in other places, but don't work in a neighborhood like this.

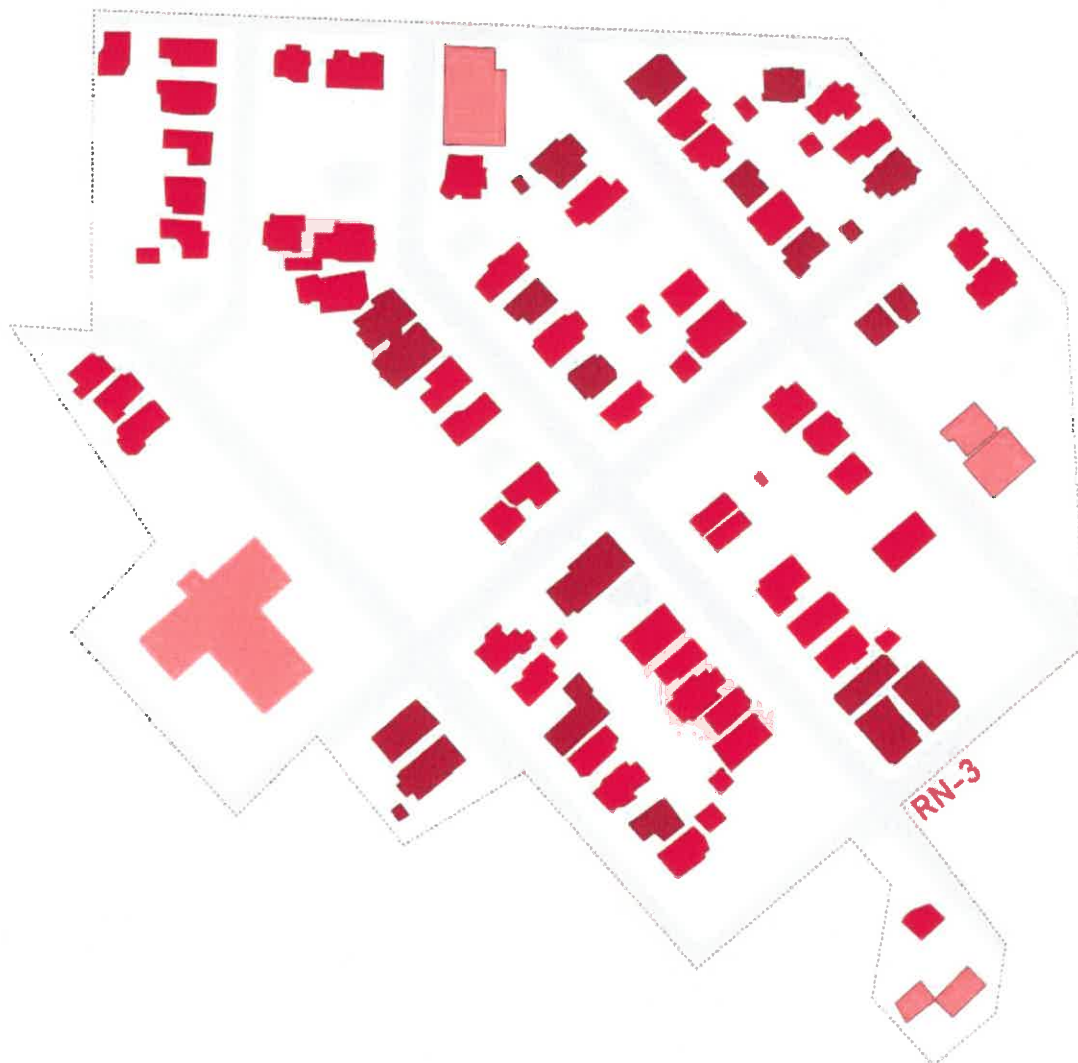
This neighborhood was built with none of those ordinances in mind and on lots that are much smaller than the average lot under this zoning. In fact, the lots we are requesting variances for are not outliers in the neighborhood, one is larger than most, but **under the current zoning, nearly every building in this neighborhood is illegal.**

This packet will show not only the above statement, but show instances of the other ordinances we are requesting a variance for, and how their existence goes against the very fabric of this neighborhood.

This occurrence is in a Historic Neighborhood and one of Knoxville's oldest Historic Neighborhoods. The City of Knoxville, the State of Tennessee, the National Parks Service, and the United States Federal Government all agree in the importance of Historic preservation, with emphases on both districts and individual structures. They all agree that when building in a historic district, every effort should be taken to preserve the fabric of that neighborhood. This doesn't mean by putting up faux materials to look old, this means matching patterns that contributed to the historic significance of the district.

The hardship we face is not a result of a topography, property easements, personal preference, or natural occurrence. This hardship is a result of a zoning code that completely goes against the historic fabric of this neighborhood, conflicting with city, state, and federal recommendations.

# ILLEGAL BUILDINGS



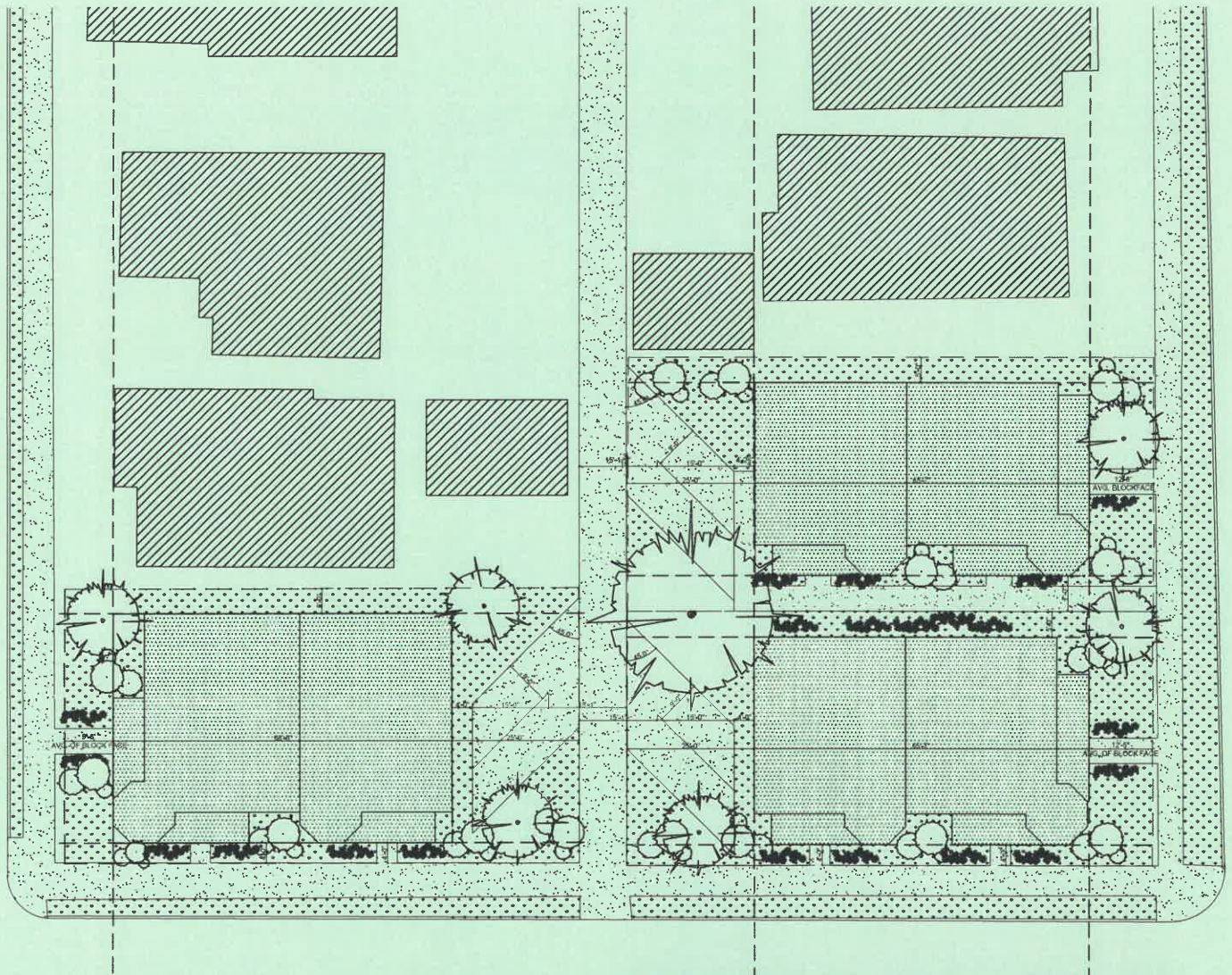
To further explain how this zoning code is in direct conflict with the entire neighborhood, we mapped out all of the houses and buildings that would not be allowed in the RN-3 zoning without a variance.

Only 7 % of the buildings in the zoning meet the basic requirements, and most of those have special circumstances such as double width lots.

- Two-family and multi-family residential buildings that exceed lot size/coverage ordinances
- Single-family residential buildings that exceed lot size/coverage ordinances
- Remaining buildings that do not meet setback ordinances
- Non-residential buildings that A) do not meet setback ordinances or B) exceed lot size/coverage ordinances



## SITE PLANS OF PROPOSED

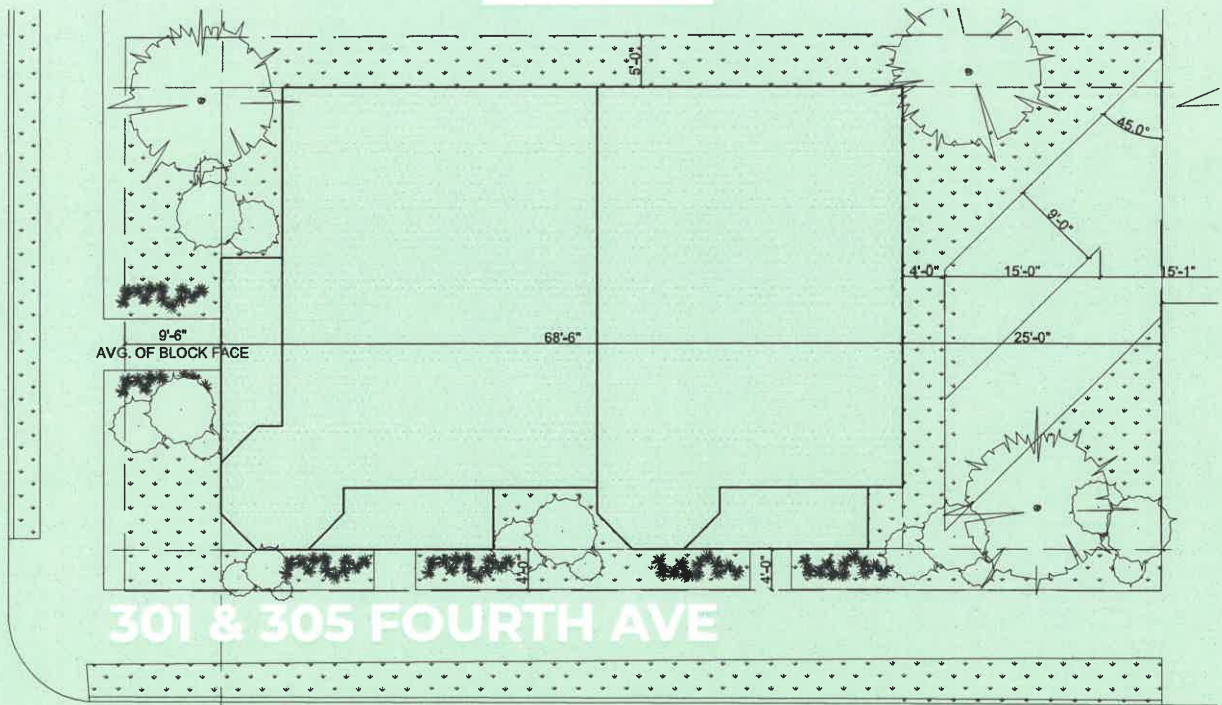


The site plan above shows the parallels between the proposed buildings. The designs mirror others in the neighborhood with proportions, porches, and bay windows. They address the street corners with double porches and corner bays. Although 705 Deery St isn't on a corner, it continues the new pattern and matched a similarly proportioned building directly in front of it on Deery. We also see the average blockface pattern being followed above.



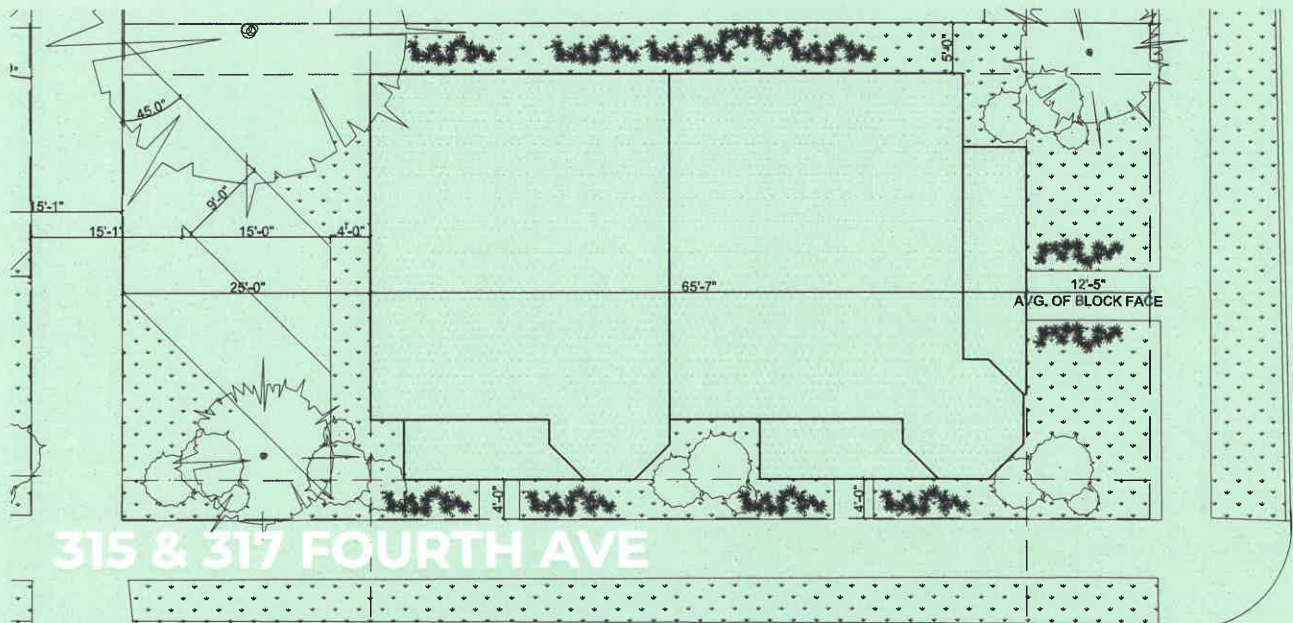


## SITE PLANS



With the porches, the building's footprint comes to exactly 50% lot coverage, matching the others in the neighborhood. By allowing for a variance on the corner lot setback, the

corner will match the average blockface of the houses on Morgan st. The rear setback 25' is clearly restrictive on a 50' wide lot.

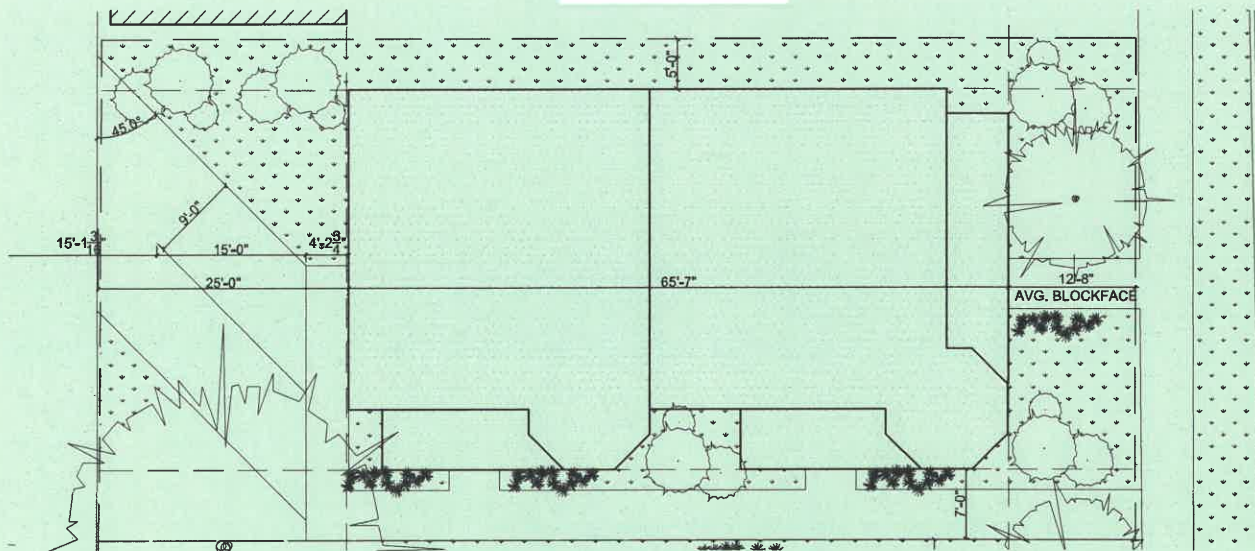


This building accomplishes much of the same as 301 Fourth Ave, it's footprint is slightly dif-

ferent however and comes out to 49.6% coverage. Following Deery's avg blockface, it won't need a corner setback.



# SITE PLANS



705 DEERY ST

## WHAT IS THE HARDSHIP HERE?

There is more to see below, but before we get to that, let's reiterate the hardships in written form, then address the conditions in diagram form.

### In General:

- This zoning renders 93% of the neighborhood illegal without a variance.
- Local, state, and federal guidelines call for matching proportions and patterns of historic districts. The current zoning restricts that ability on multiple lots, ours included.

### Hardship for Duplexes:

- These lots are smaller than average lots in the same zoning. This zoning was intended to allow for higher density in urban areas yet it restricts some of the most urban lots to the **lowest density**. By design, there should be higher density housing here, but the lots are small lots of record

### Lot Coverage:

- In order to build homes of appropriate size

on lots this small, a variance is required, this is evident in the high number of single family homes in the neighborhood that cover 40+% of their lots.

### Setbacks

- The rear setbacks are essential to build nearly anything here, a 25' setback on a 50' lot makes no sense.
- The one corner setback is to match the intent of the zoning code and allow for matching the avg. blockface

### Impervious Area

- This counts the building and paving; with the required parking and sidewalks, each lot is over the max. allowed.

### Parking

- Following the City of Knoxville's ordinances for the dimensions of parking design, only 2 spaces will be allowed per site.

# DUPLEXES AND MORE



The request to allow for duplexes on this property is to help with the transition from commercial to single family while staying in sync with the neighborhood's pattern of multi-family and single family buildings inter-mixed.

This is encouraged by historic zoning guidelines and would be recommended by most planners but is not allowed under the existing zoning law. However, as we have already established, the existing zoning overlay places a hardship on the neighborhood that contradicts the neighborhood itself.

By doing two family, we can build in the style of townhouses seen throughout the neighborhood, and accomplish the recommended effect.

See Next page for more details.



An example of the pattern, these apartments sit directly next to the lots in question.



## DUPLEXES AND MORE



The map above shows single family versus multifamily and duplexes. The darker the blue, the higher the number of units.

This is a neighborhood of mixed densities on lots the same size as ours, but the zoning directly conflicts with this.

## LOT COVERAGE

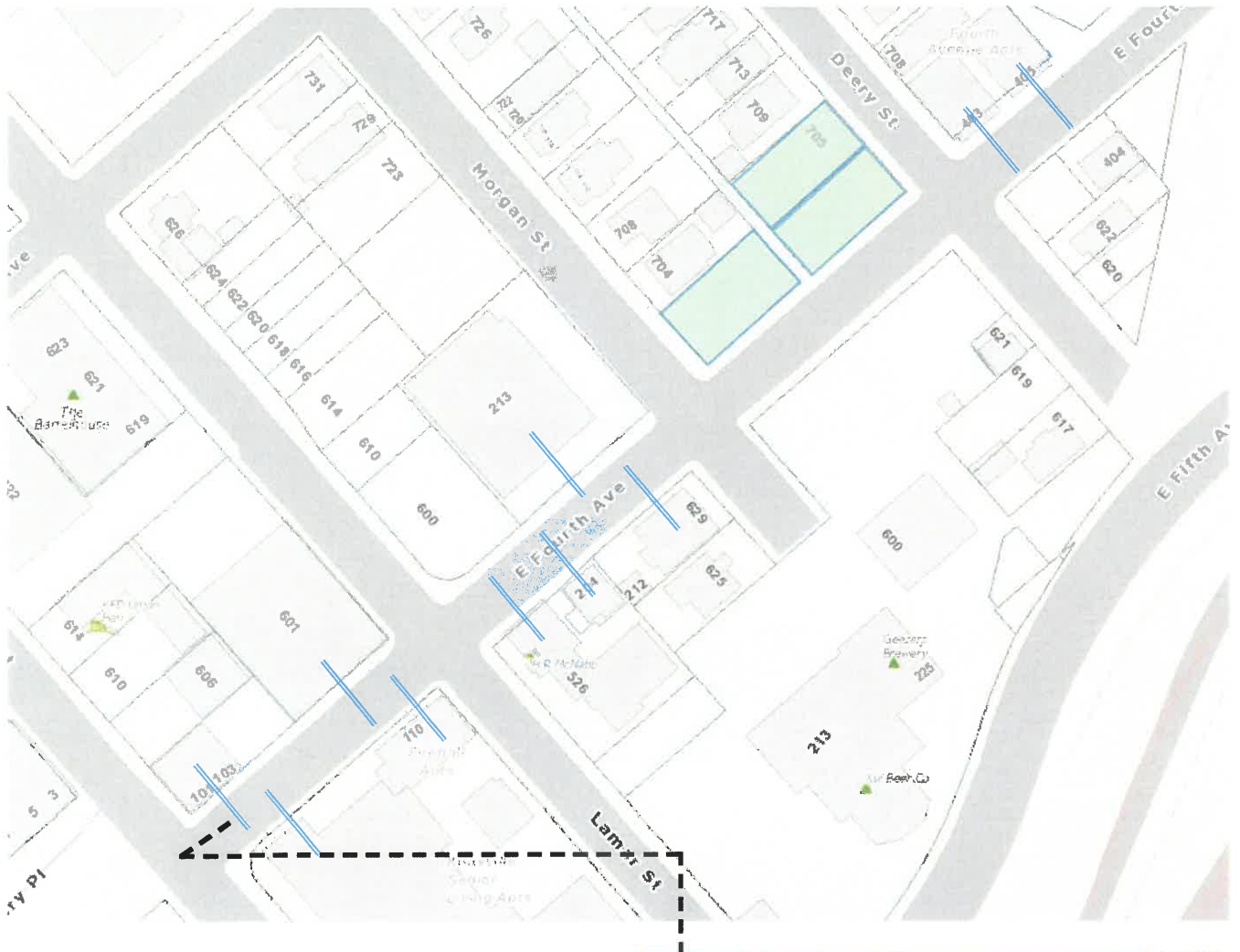


We requested the amount of lot coverage to change to allow for a structure that is more appropriately sized to those around it. Above, we look at different average lot coverages throughout the neighborhood. The av-

erage throughout the neighborhood is usually in the 40% but the blocks around our site are all 50-75%.



## STREET PATTERNS



These buildings will continue the pattern of higher density buildings facing Fourth Ave and by matching the corner side setbacks will allow for the sidewalk patterns to match the majority of the buildings on Fourth.

It is essential to the neighborhood that these blighted lots be developed in a way that is appropriate and contributes to the historic fabric of the neighborhood.



# CONCLUSION

The hardship placed with this zoning directly conflicts with the historic pattern and as a result conflicts with recommendations at local, state, and federal levels for historic infill construction.

This request is for the bare minimum changes needed to build appropriately in sync with the historic fabric of the neighborhood.

**This is not a selfish request for personal gain, this is a thoughtful and deliberate planning of how to fix blight in a historically appropriate way that is restricted by a zoning that is not appropriate for the location.**

The pictures here show similar buildings in the neighborhood, some of the buildings on Fourth Ave, and the street relationship on Deery St.











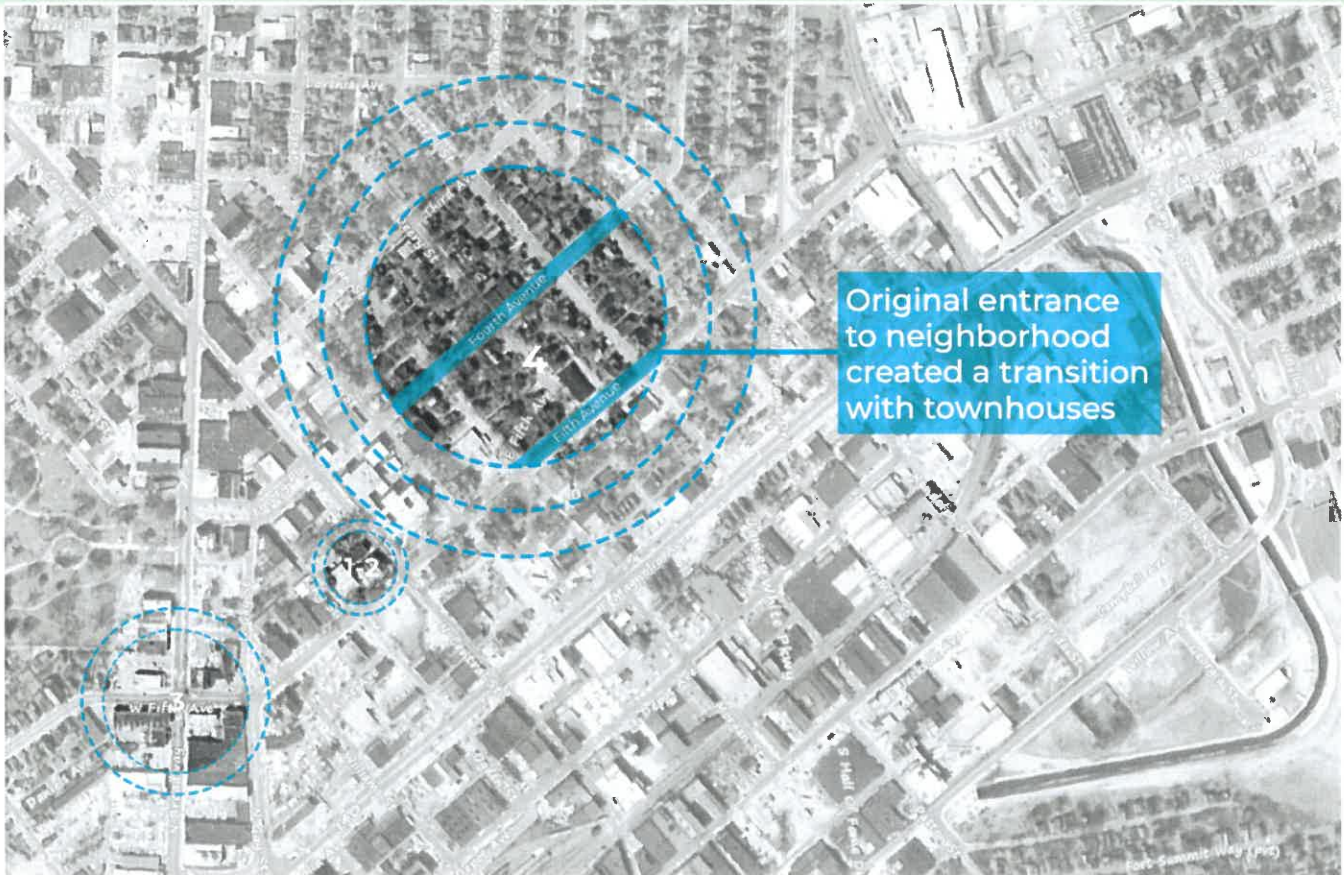




**4TH & GILL TOWNHOUSES**



## 1959 MAP



1. Historic 5th Avenue Townhouses



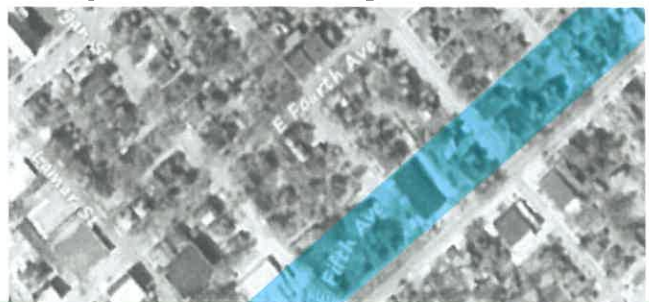
2. Historic N. Central Street Townhouses



3. 5th Avenue Motel

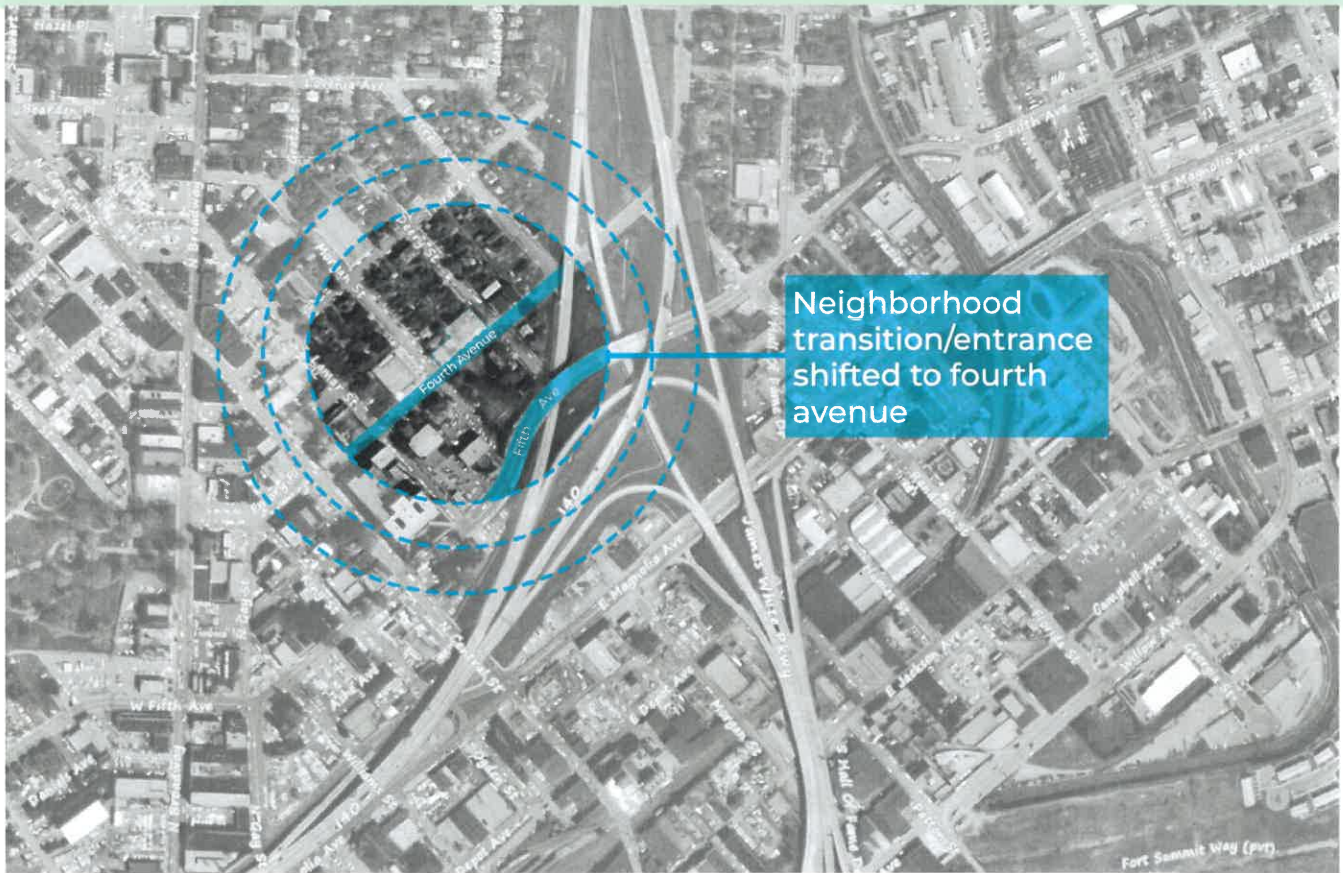


4. Original Entrance Along 5th Avenue

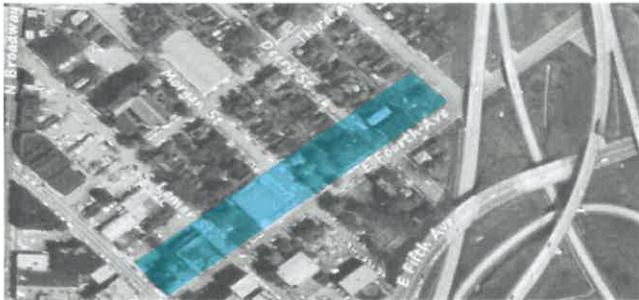




## 1969 MAP



New Entrance to Neighborhood at 4th Ave.



Other Buildings on 4th Ave.



View from 5th Ave to Interstate

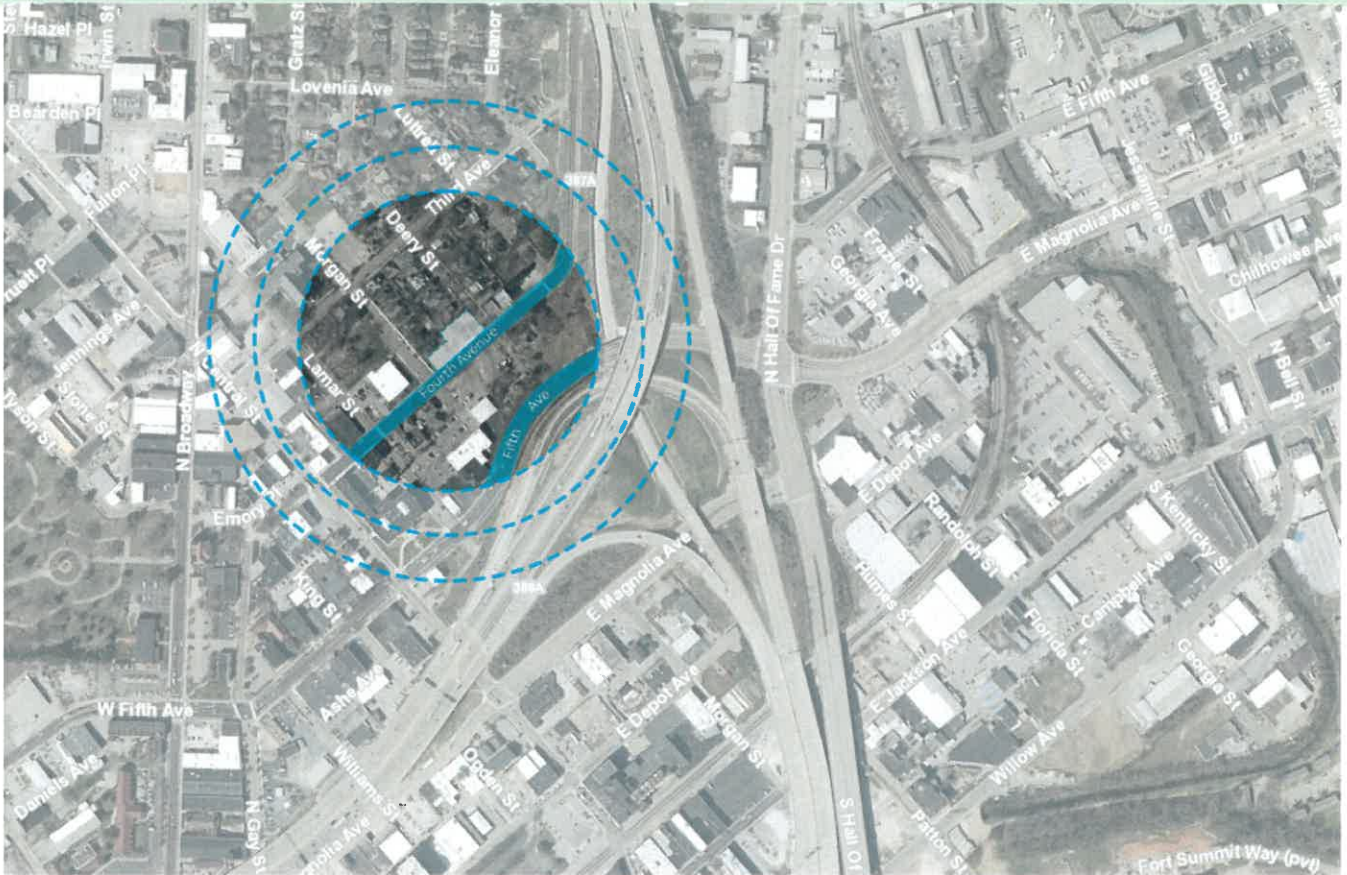


Existing Site on 4th Ave.





## CURRENT MAP



## Proposed 4th & Gill Townhouses



## Historic Knoxville High Renovation



## Proposed 4th & Gill Townhouses



Neighboring Building on 4th Ave.

