

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Appeal of the Board of Adjustment decision to deny a side yard setback variance from 7.5 feet to 3.33 feet for a proposed shed located at 759 Franklin Street; (Daniel Aponte, appellant).

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Dan Matthys **CONTACT:** Michael Rumer **EXT.** 7387

Agenda Date <u>09/13/05</u>	Regular <input type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input checked="" type="checkbox"/>	Public Hearing – 7:00 <input type="checkbox"/>		

MOTION/RECOMMENDATION:

1. **UPHOLD** the Board of Adjustment decision to deny a side yard setback variance from 7.5 feet to 3.33 feet for a proposed shed located at 759 Franklin Street; (Daniel Aponte, applicant); or
2. **REVERSE** the Board of Adjustment decision to deny a side yard setback variance from 7.5 feet to 3.33 feet for a proposed shed located at 759 Franklin Street; (Daniel Aponte, applicant); or
3. **CONTINUE** the request to a time and date certain.

Commission District #4, Henley Michael Rumer, Senior Planner

BOARD OF ADJUSTMENT'S DECISION:

At the June 27, 2005 regular meeting, the Board of Adjustment denied a side yard setback variance from 7.5 feet to 3.33 feet for a proposed shed. The Board of Adjustment based the denial for a side yard variance on staff recommendation and on the basis that the shed's height and roof style did not match the roof of the existing house.

On July 08, 2005, the applicant, Daniel Aponte, appealed the Board of Adjustment decision to the Board of County Commissioners.

STAFF RECOMMENDATION:

Uphold the Board of Adjustment decision to deny a side yard setback variance from 7.5 feet to 3.33 feet for a proposed shed, based on the staff findings.

- ATTACHMENTS:**
- Staff Report
 - Appeal Letter (07/01/05)
 - Site Plan
 - Supporting Documentation (11 pgs)
 - Aerial/Zoning Location Map
 - Future Land Use Location Map
 - Recorded Development Order
 - BOA Minutes (06/27/05)

Reviewed by:	
Co Atty:	<u>[Signature]</u>
DFS:	
Other:	<u>[Signature]</u>
DCM:	<u>[Signature]</u>
CM:	<u>[Signature]</u>
File No. <u>ph130pdp01</u>	

STAFF REPORT

BACKGROUND / REQUEST:	<ul style="list-style-type: none"> The applicant proposes to construct a 14' x 16'8" (236 s.f.) shed that will encroach into the minimum side yard setback of 7.5 feet. The height of the proposed shed is 10'9". The aforementioned variance is therefore requested. There is no record of prior variances having been granted for this property. 																											
ZONING & FUTURE LAND USE (FLU)	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Direction</th> <th style="width: 15%;">Existing Zoning</th> <th style="width: 20%;">Existing FLU</th> <th style="width: 50%;">Use of Property</th> </tr> </thead> <tbody> <tr> <td>Site</td> <td>R-1</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>North</td> <td>R-1</td> <td>Low Density Residential</td> <td>Vacant</td> </tr> <tr> <td>South</td> <td>R-1</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>East</td> <td>R-1</td> <td>Low Density Residential</td> <td>Vacant</td> </tr> <tr> <td>West</td> <td>R-1</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> </tbody> </table>				Direction	Existing Zoning	Existing FLU	Use of Property	Site	R-1	Low Density Residential	Single-Family (Conventional)	North	R-1	Low Density Residential	Vacant	South	R-1	Low Density Residential	Single-Family (Conventional)	East	R-1	Low Density Residential	Vacant	West	R-1	Low Density Residential	Single-Family (Conventional)
Direction	Existing Zoning	Existing FLU	Use of Property																									
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East	R-1	Low Density Residential	Vacant																									
West	R-1	Low Density Residential	Single-Family (Conventional)																									
STAFF FINDINGS:	<p>The Board of County Commissioners shall have the power to hear and decide appeals from Board of Adjustment decisions, including variances the Board of Adjustment is specifically authorized to pass under the terms of the Land Development Code upon determination that <u>all</u> of the following provisions of Section 30.43(b)(3) are satisfied:</p> <p>a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning classification.</p> <p>The R-1 District establishes a minimum side yard setback of 7.5 feet for accessory structures. No special circumstances have been identified or presented by the applicant to support the requested variance. The shed can be constructed to comply with the minimum setback requirements.</p> <p>b) That the special conditions and circumstances do not result from the actions of the applicant.</p> <p>As previously stated, staff has not been presented with any special circumstances that would support the need for the requested variance.</p> <p>c) That granting the variance requested will not confer on the applicant any special privilege that is denied by</p>																											

	<p>Chapter 30 to other lands, buildings, or structures in the same zoning classification.</p> <p>Because there are no identified special circumstances that support the need for the requested variance, staff believes the granting of the same would confer special privileges denied to other properties in the R-1 District by allowing encroachment into the side yard without the demonstration of a hardship.</p> <p>d) That literal interpretation of the provisions of Chapter 30 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would work unnecessary and undue hardship on the applicant.</p> <p>As previously stated, staff does not believe the literal interpretation of the provisions of Chapter 30 would deprive the applicant of rights commonly enjoyed by other properties, since the property is developed with a single-family home and a shed may be constructed on the site without the need for a variance.</p> <p>e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.</p> <p>The requested variance is not the minimum since reasonable use of the property already exists and a shed may be constructed on the site without the need for a variance.</p> <p>f) That the grant of the variance will be in harmony with the general intent and purpose of Chapter 30, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.</p> <p>The requested variance would not be compliant with the Land Development Code and would potentially allow structures that are inconsistent with the trend of neighborhood development.</p>
<p>STAFF RECOMMENDATION:</p>	<p>Based on the stated findings, staff recommends the Board of County Commissioners <u>uphold</u> the decision of the Board of Adjustment to deny a request for side yard setback variance from 7.5 feet to 3.33 feet. If the Board should decide to reverse the Board of Adjustment decision to deny the variance, staff recommends the following conditions of approval:</p> <ul style="list-style-type: none"> • Any variances granted should apply only to the proposed shed as depicted on the attached site plan; and

	<ul style="list-style-type: none">• Any additional condition(s) deemed appropriate by the Board, based on information presented at the public hearing.
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SEMINOLE COUNTY PLANNING & DEVELOPMENT DEPARTMENT
 PLANNING DIVISION
 1101 EAST FIRST STREET
 SANFORD, FL 32771
 (407) 665-7444 PHONE (407) 665-7385 FAX

RECEIVED
 MAY 06 2005

APPL. NO. BV 2005-074

APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division. Applications for SPECIAL EXCEPTION shall only be received for processing following pre-application conference.

APPLICATION TYPE:

- VARIANCE** West side setback from 7'6" to 3'9" for prop. Shed Addition.
- SPECIAL EXCEPTION**
- LIMITED USE**
- SF DWELLING UNDER CONSTRUCTION
- NIGHT WATCHMAN
- YEAR OF MOBILE HOME / RV (EXISTING _____) (PROPOSED _____)
- SIZE OF MOBILE HOME / RV _____
- PLAN TO BUILD YES NO IF SO, WHEN _____
- APPEAL FROM DECISION OF THE PLANNING MANAGER**

RECEIVED
 JUL 01 2005

PROPERTY OWNER		AUTHORIZED AGENT *
NAME	DANIEL APONTE	
ADDRESS	759 FRANKLIN ST. ALT. SPRGS. FL 32701	
PHONE 1	407-265-1791	
PHONE 2	407 339-8498	
E-MAIL		

RECEIVED
 MAY 06 2005

PROJECT NAME: SHED Addition
 SITE ADDRESS: 759 FRANKLIN STREET ALTAMONTE SPRINGS
 CURRENT USE OF PROPERTY: SINGLE FAMILY, MAIN RESIDENCE
 LEGAL DESCRIPTION: LOTS 3 & 4 E, SANLANDO SPRINGS, TRACK NO 77, AS RECORDED IN PLAT BOOK 9, PAGE 86, OF THE PUBLIC REC. OF SEM. CTY, FL.
 SIZE OF PROPERTY: 0.2870 acre(s) PARCEL I.D. 01-21-29-SCK-770E-0030
 UTILITIES: WATER WELL SEWER SEPTIC TANK OTHER _____
 KNOWN CODE ENFORCEMENT VIOLATIONS NONE

IS PROPERTY ACCESSIBLE FOR INSPECTION YES NO

This request will be considered at the Board of Adjustment regular meeting on 6/27/05 (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.

Daniel Aponte
 SIGNATURE OF OWNER OR AGENT* MAY 6, 2005
DATE

* Proof of owner's authorization is required with submittal if signed by agent.

ADDITIONAL VARIANCES

VARIANCE 2:

VARIANCE 3:

VARIANCE 4:

VARIANCE 5:

VARIANCE 6:

VARIANCE 7:

APPEAL FROM BOA DECISION TO BCC

APPELLANT INFORMATION	
NAME	DANIEL APOWIE
ADDRESS	759 Franklin STREET, ALT. SPRINGS, FL 32701
PHONE 1	407 265 1791
PHONE 2	407 415 8499
E-MAIL	

JUL 01 2005

NATURE OF THE APPEAL DO NOT FEEL THAT ALL ASPECTS OF
the case were properly discussed prior to decision
of board

APPELLANT SIGNATURE Daniel Apow

FOR OFFICE USE ONLY

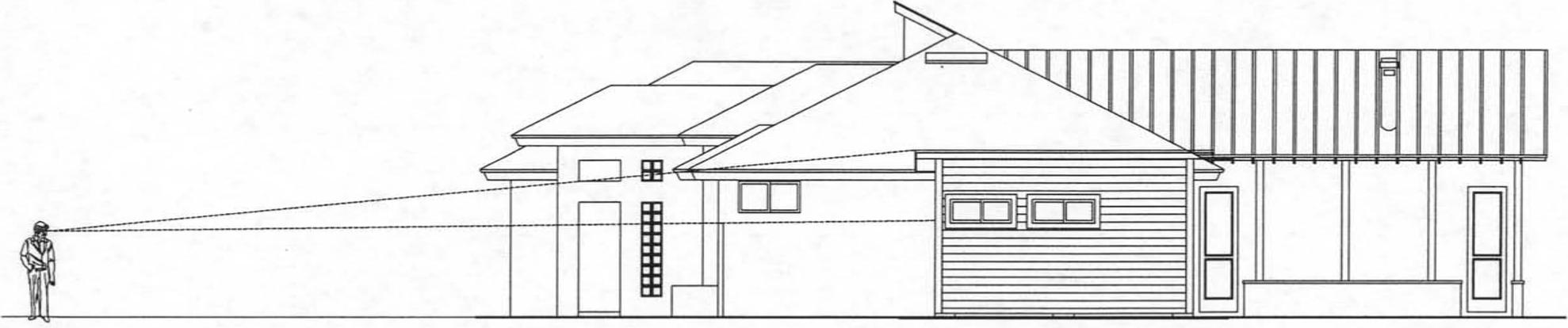
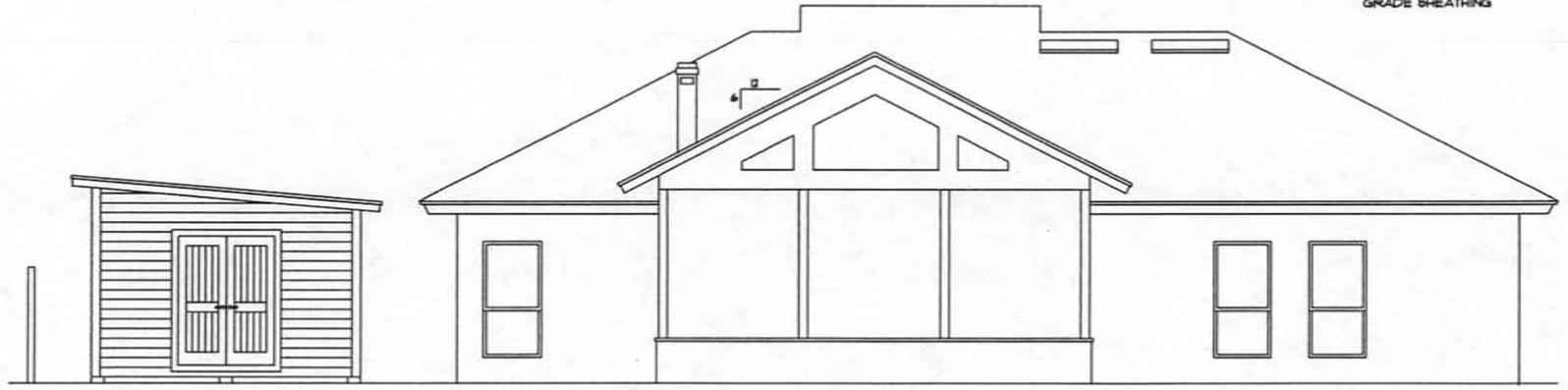
PROCESSING:
FEE(S): 150⁰⁰ COMMISSION DISTRICT 3 FLU/ZONING R-1/LDR
BCC HEARING DATE 9/13/05 (FOR APPEAL)
LOCATION FURTHER DESCRIBED AS south of Franklin St 2/10 mi. from
intersection of Franklin St & Francis St.
PLANNING ADVISOR RF DATE _____
SUFFICIENCY COMMENTS _____

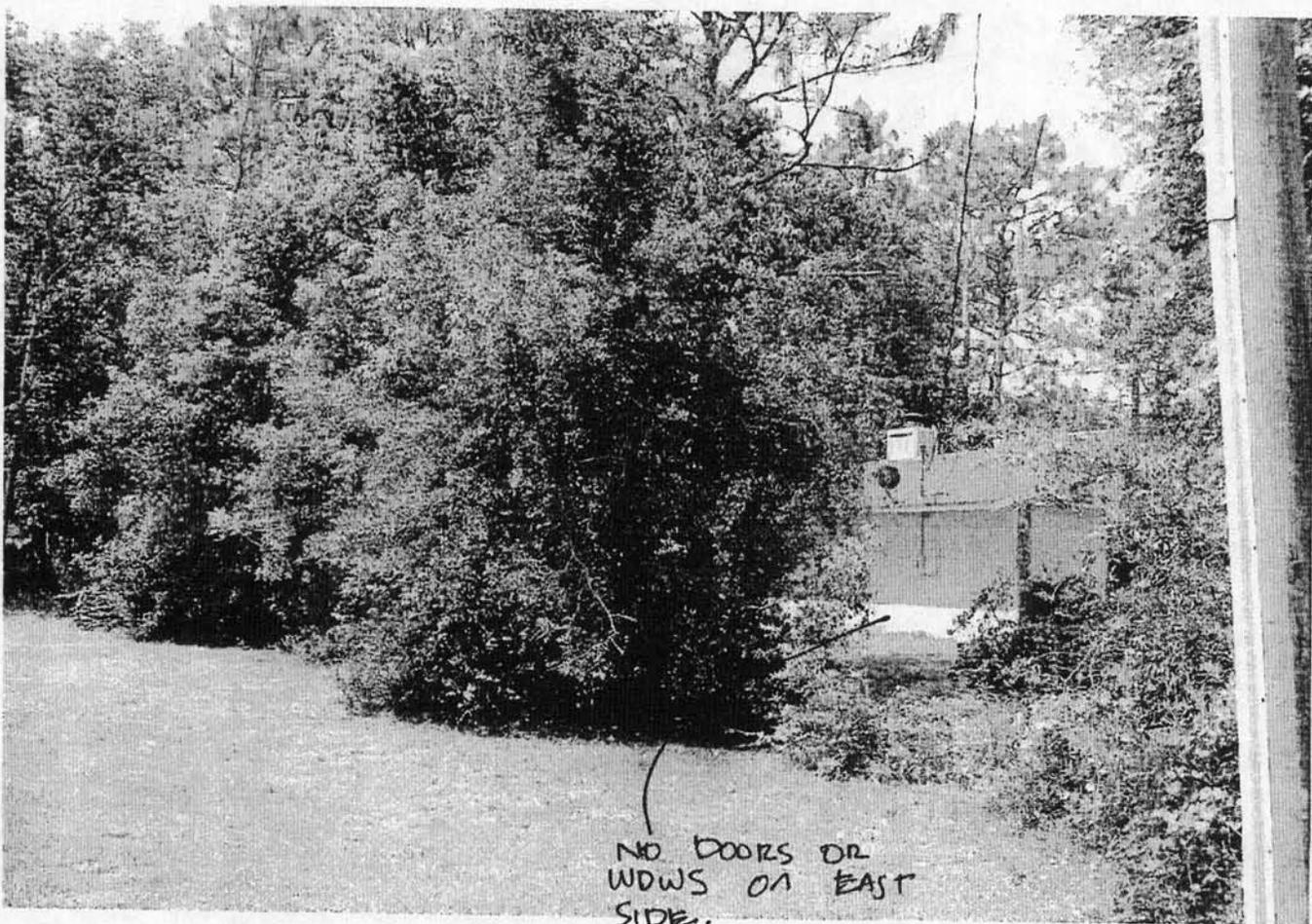
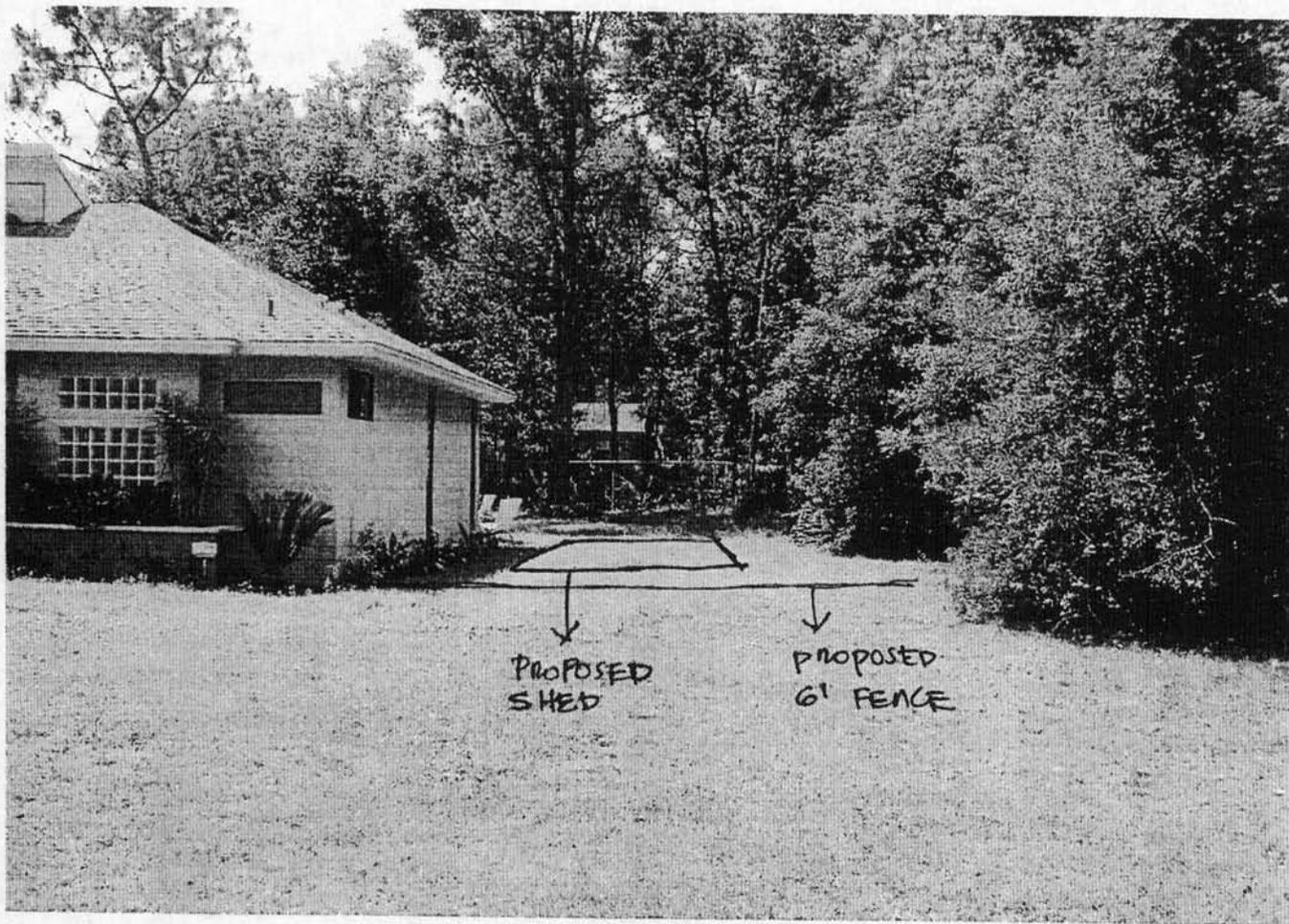
July 1, 2005

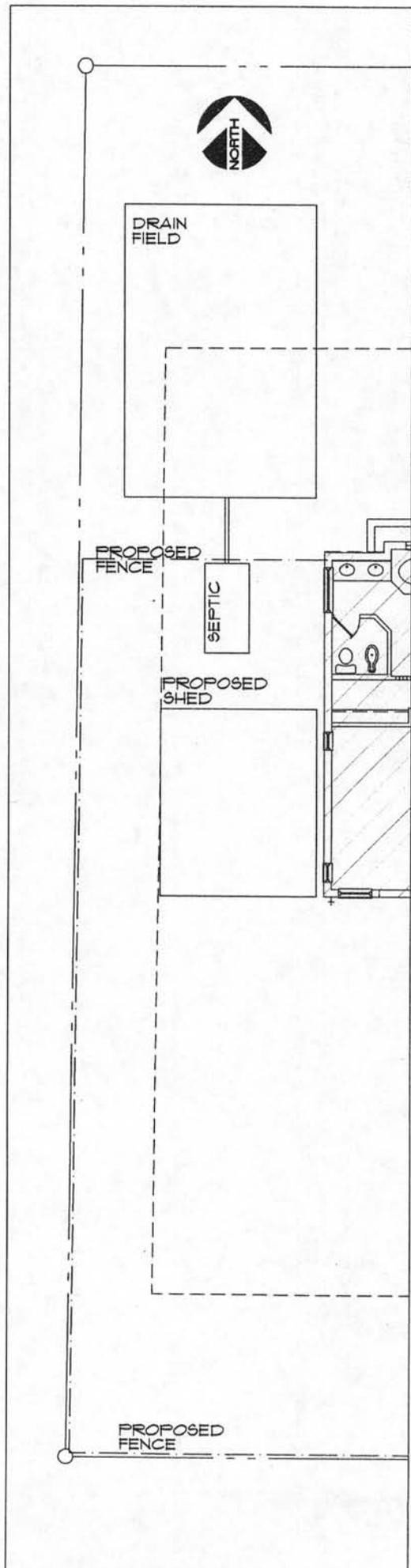
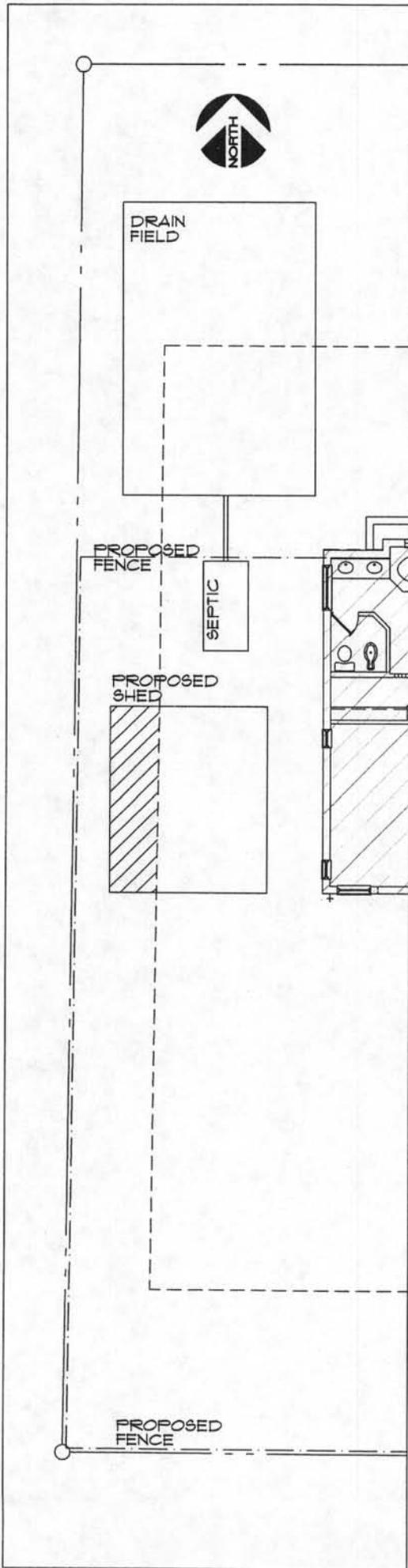
I Daniel Aponte would like to appeal the decision made by the Board of Adjustment in regards to the variance request on the side yard setback for 759 Franklin Street, Altamonte Springs, Florida.

Sincerely,

Daniel Aponte

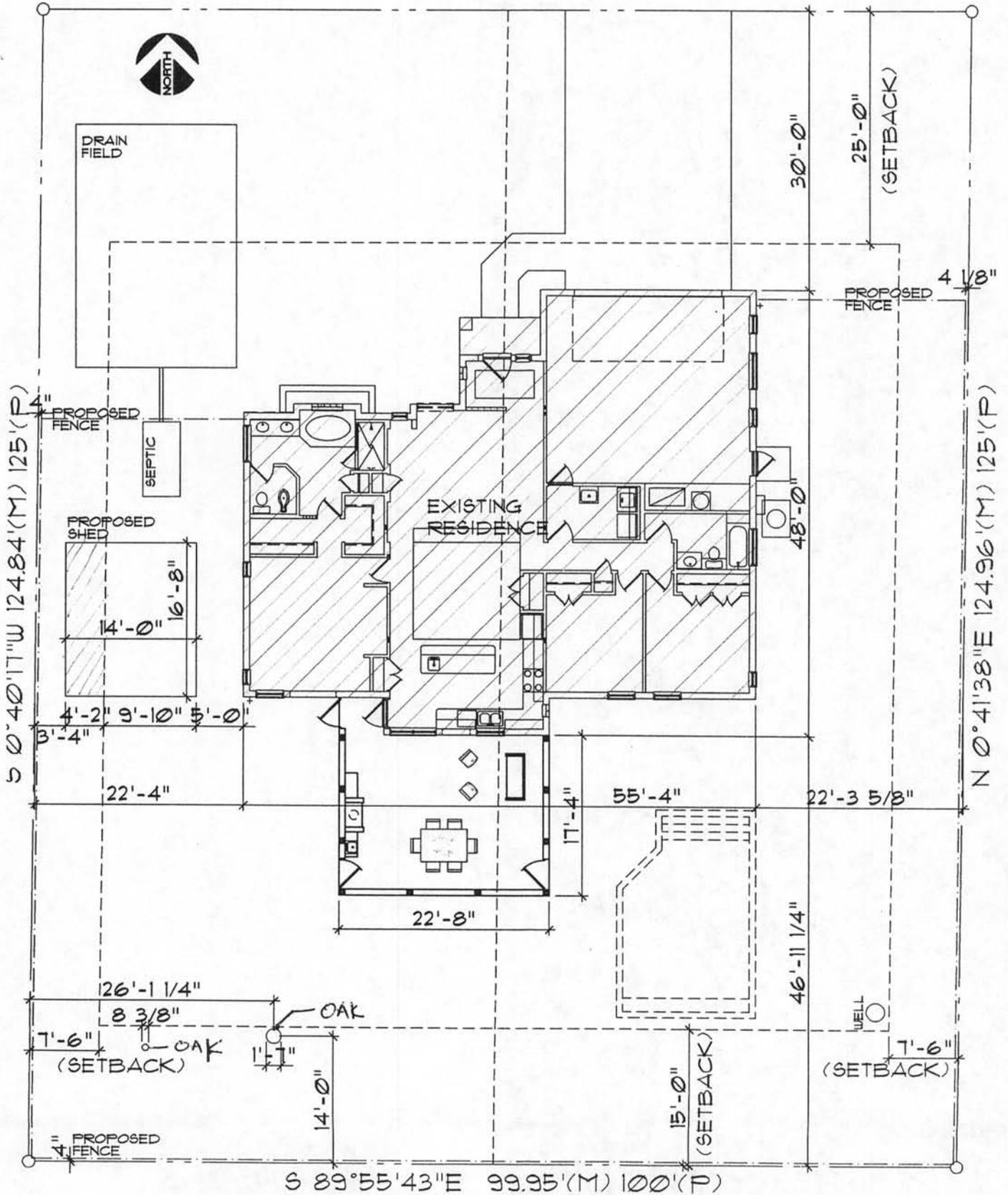


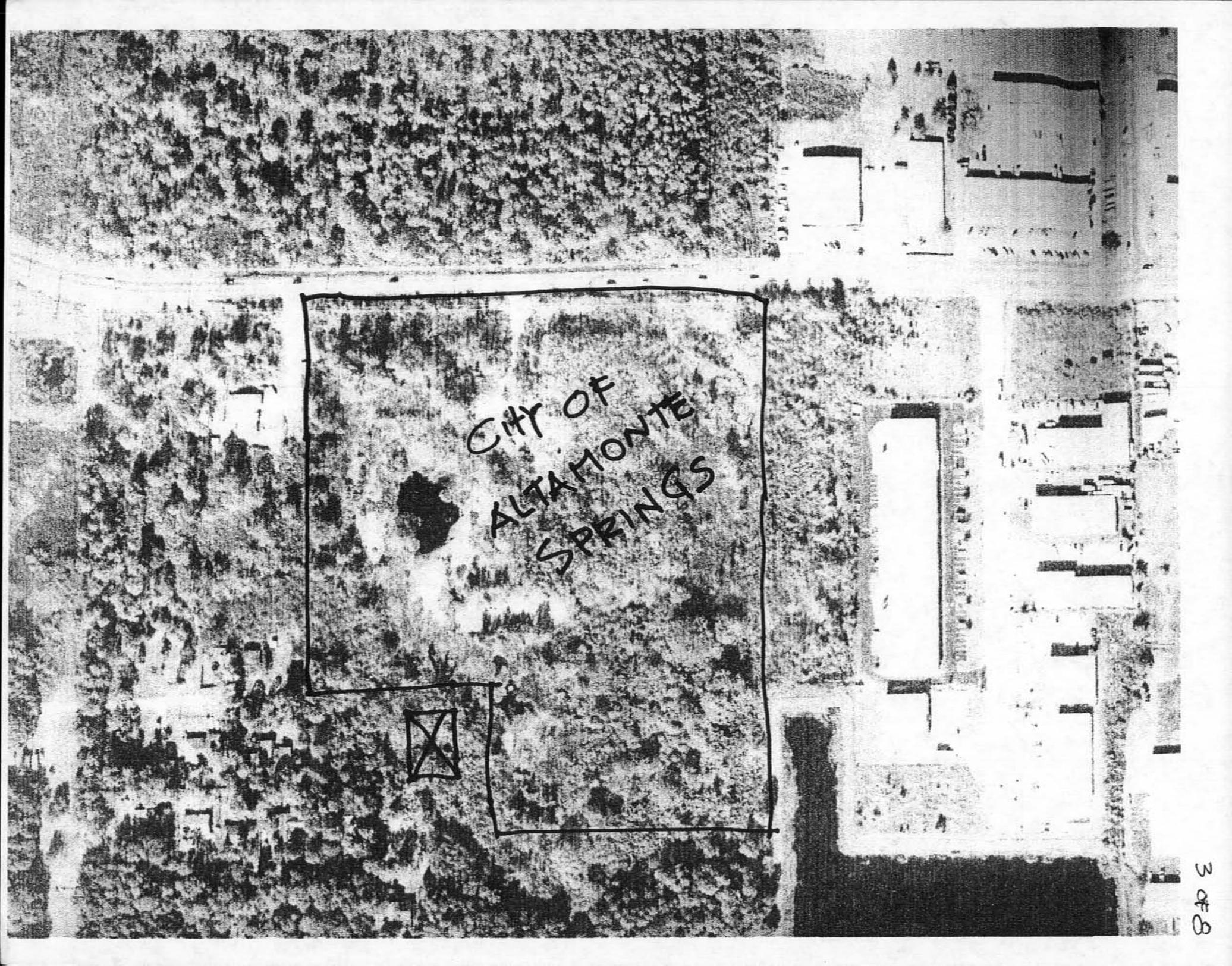




FRANKLYN STREET (UNIMPROVED) (50' R/W)

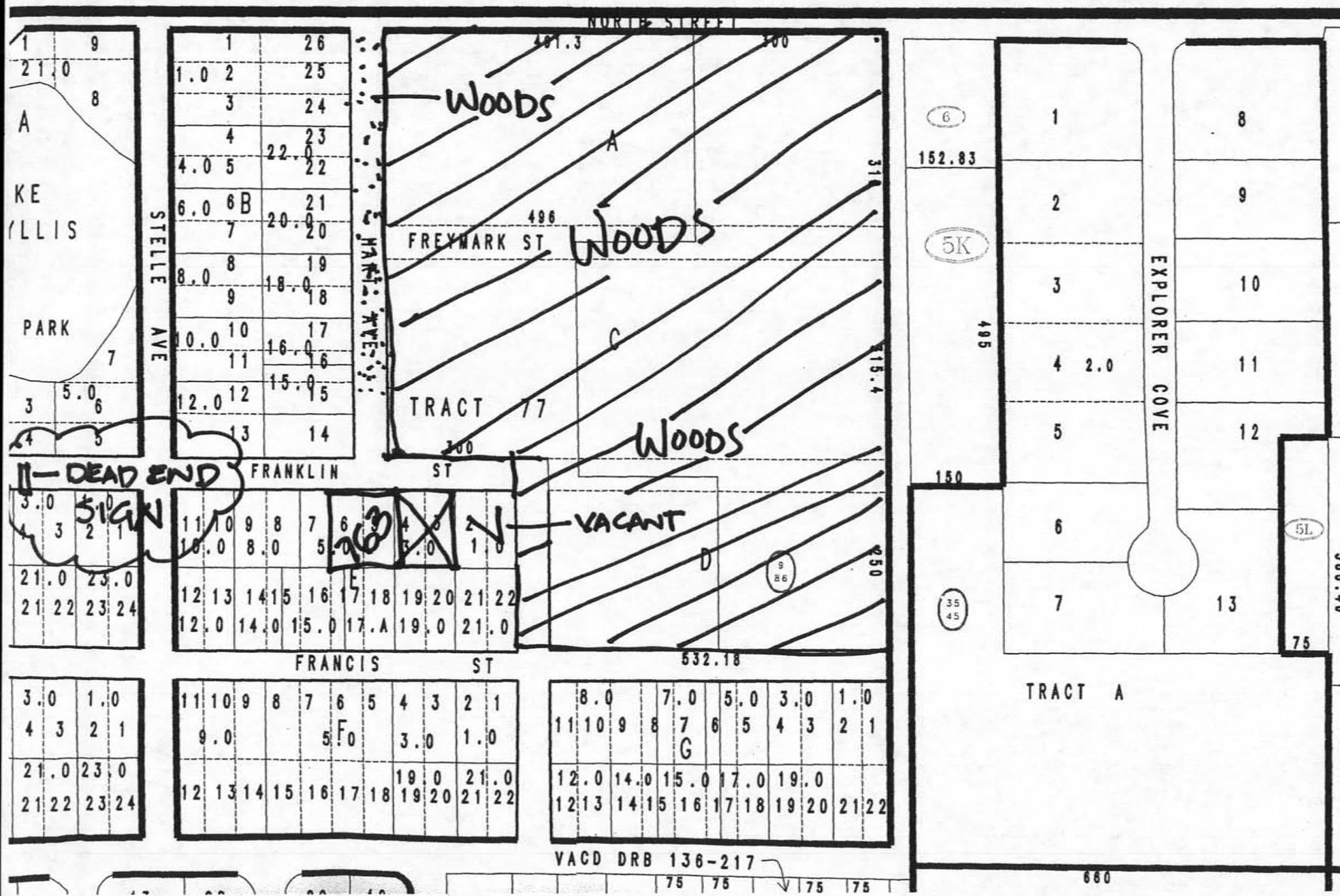
S 90°00'00"W (BB) 100'(P&M)





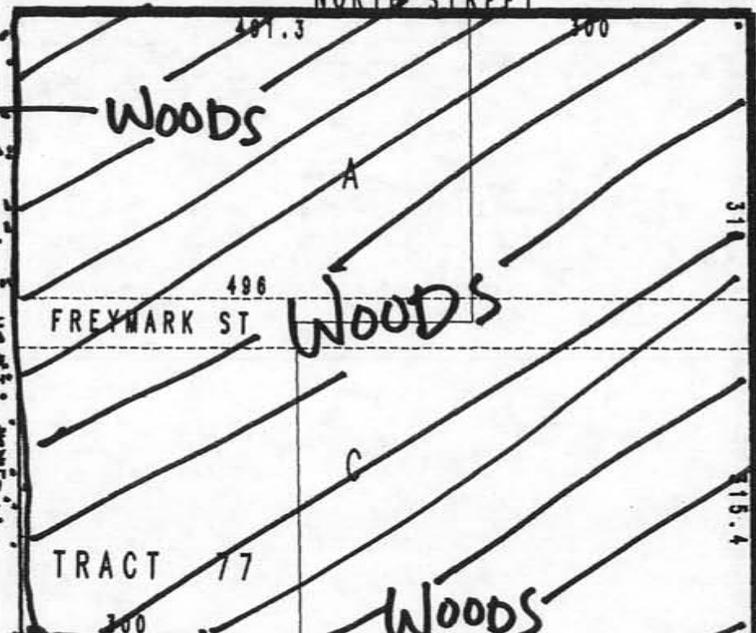
CITY OF
ALTAMONTE
SPRINGS

City of ALT. SPGS.



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DEAD END SIGN

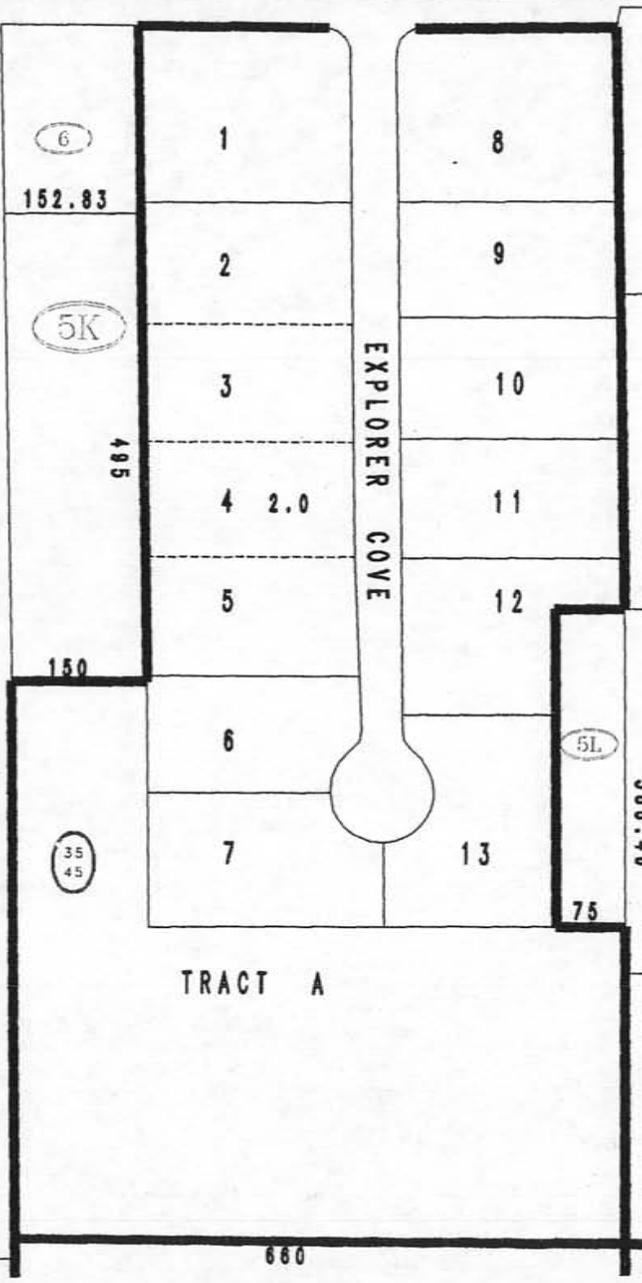
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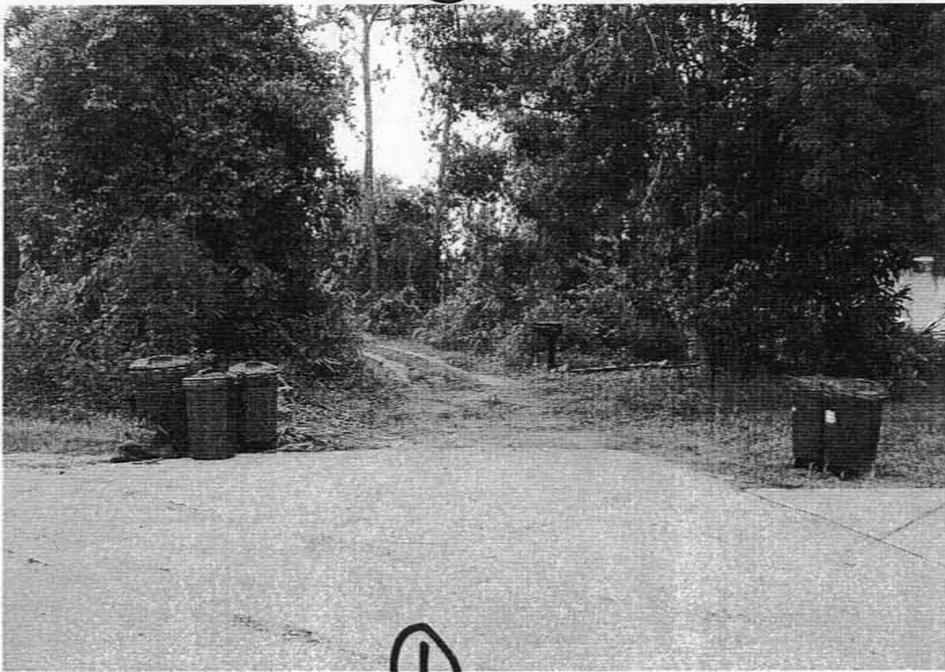
VACD DRB 136-217



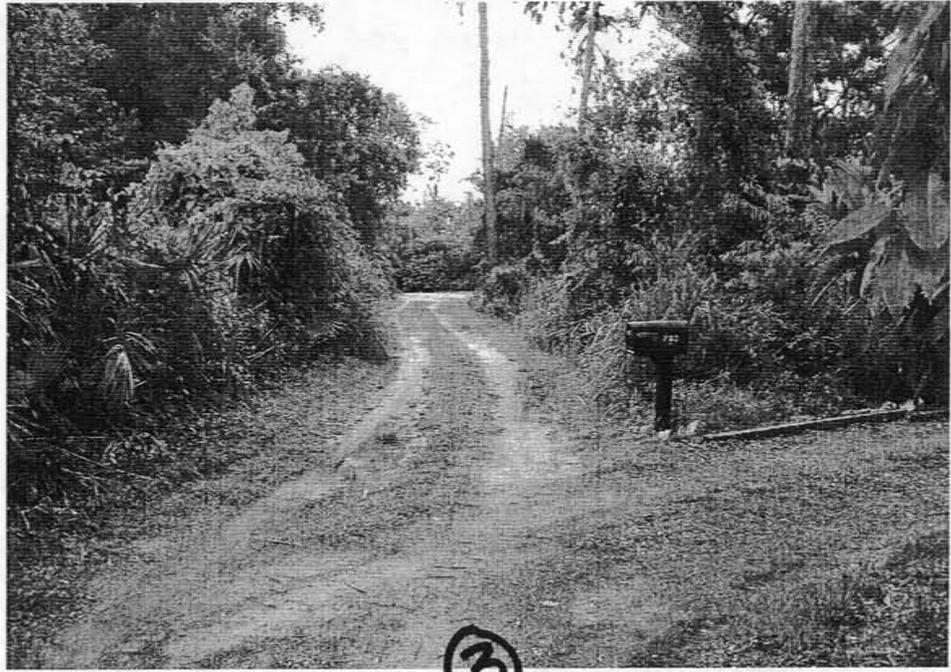
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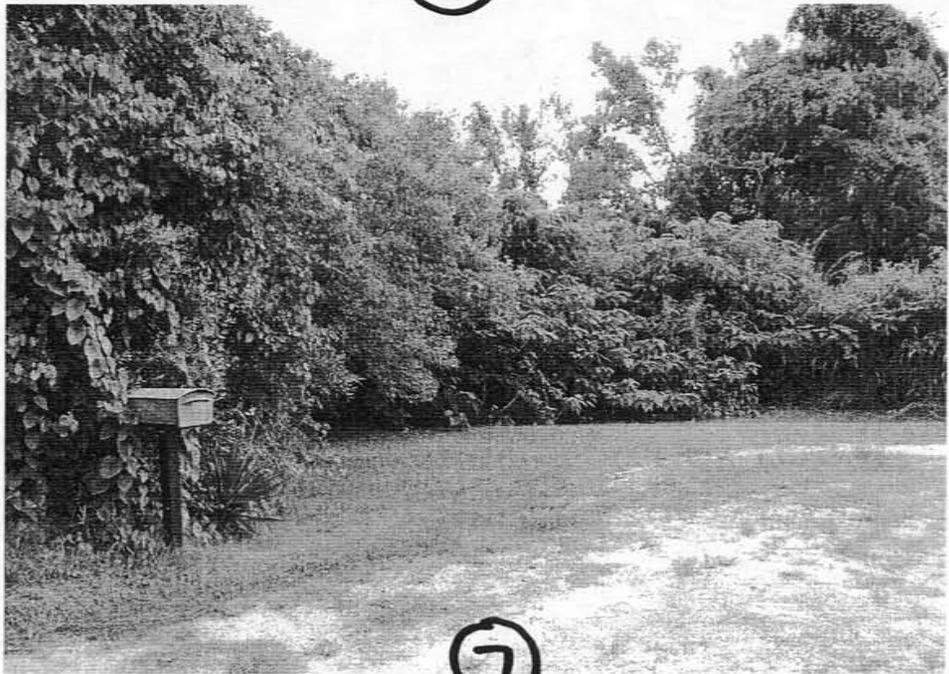
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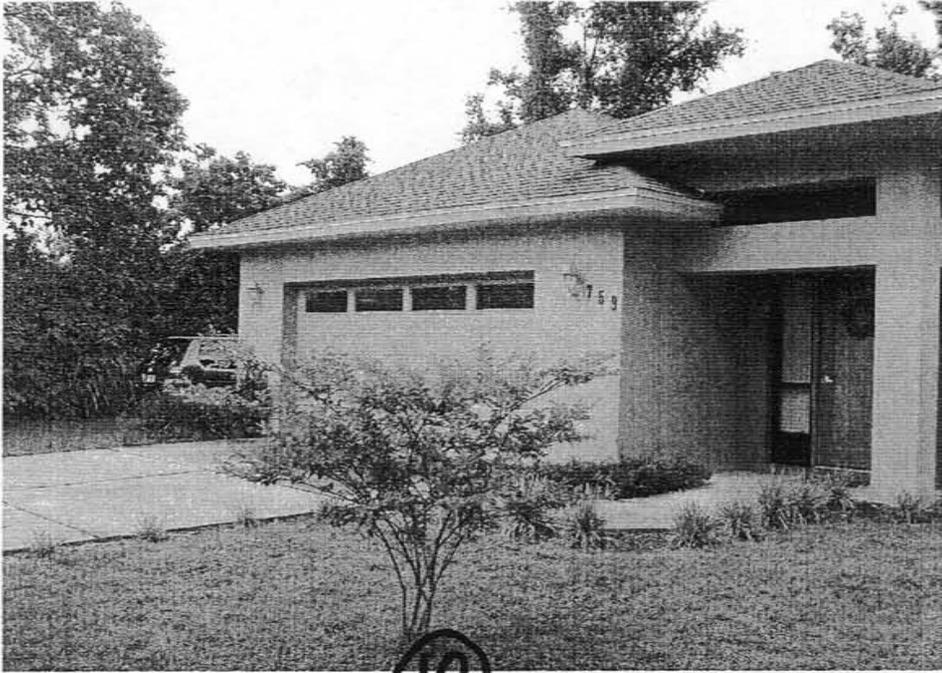


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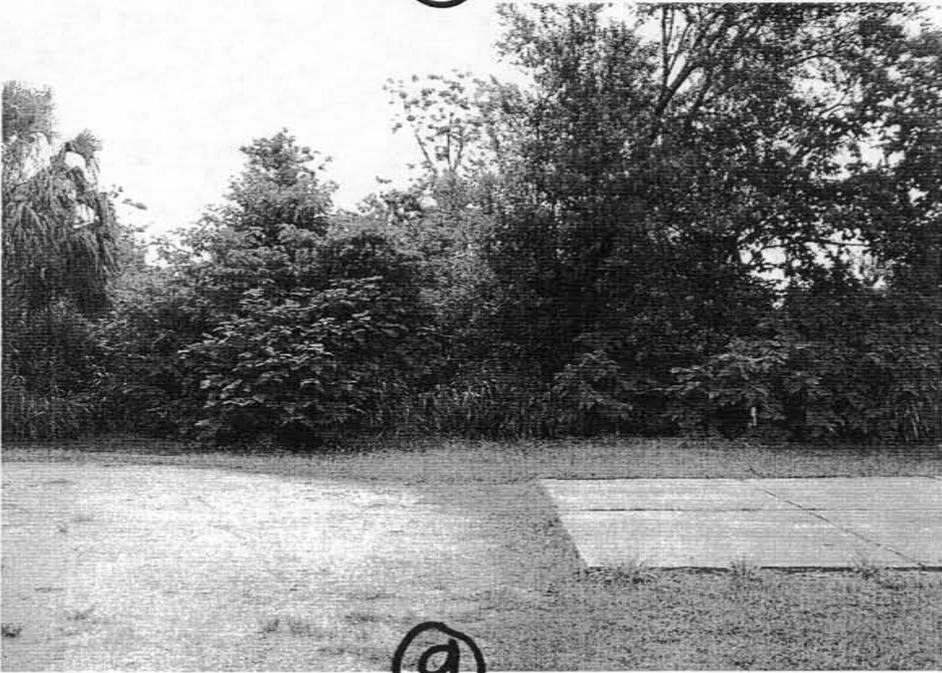




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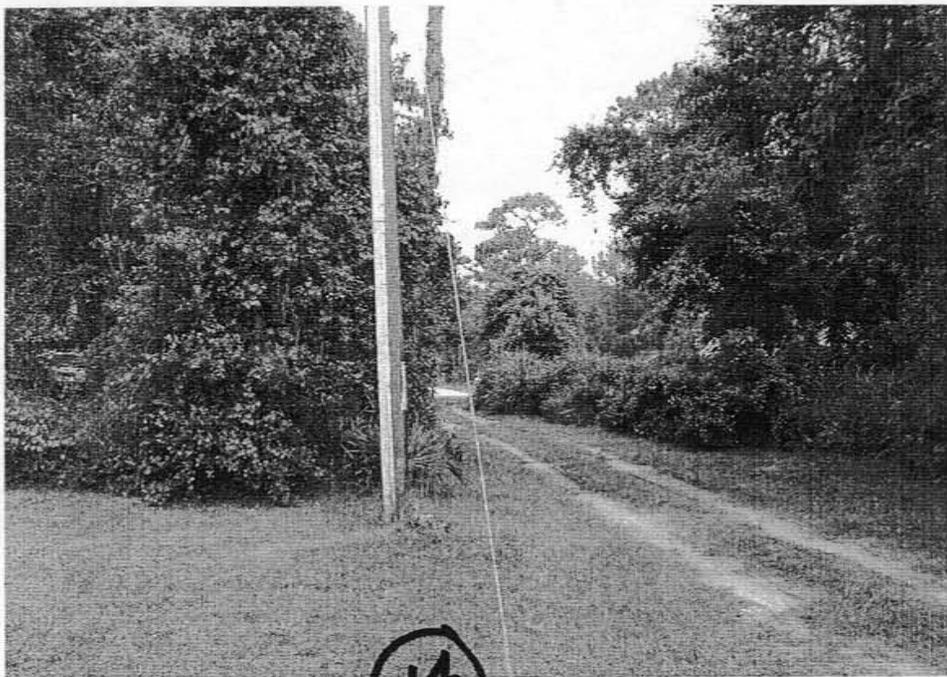
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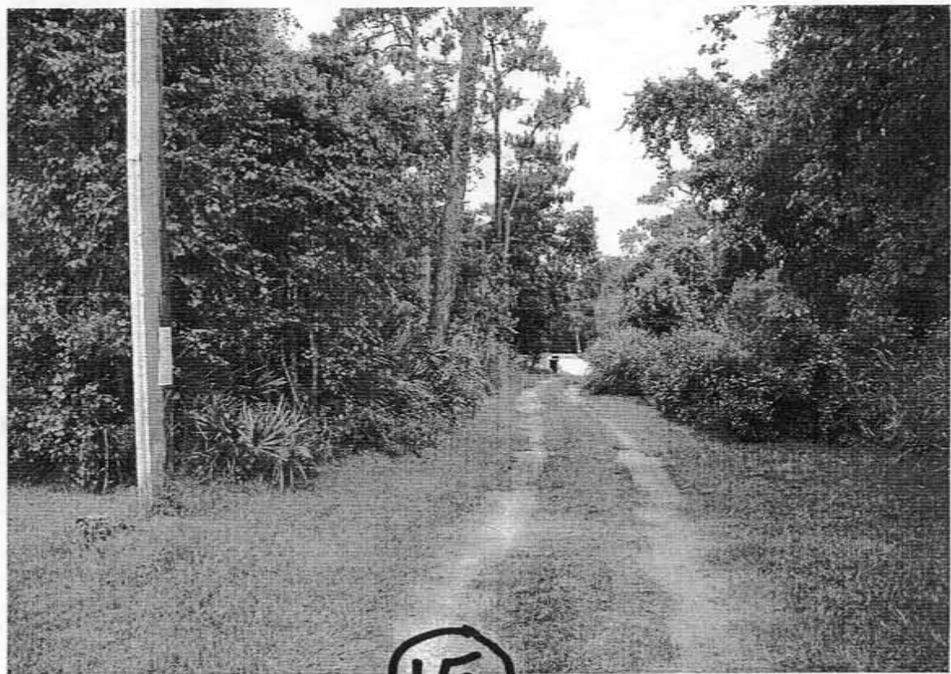
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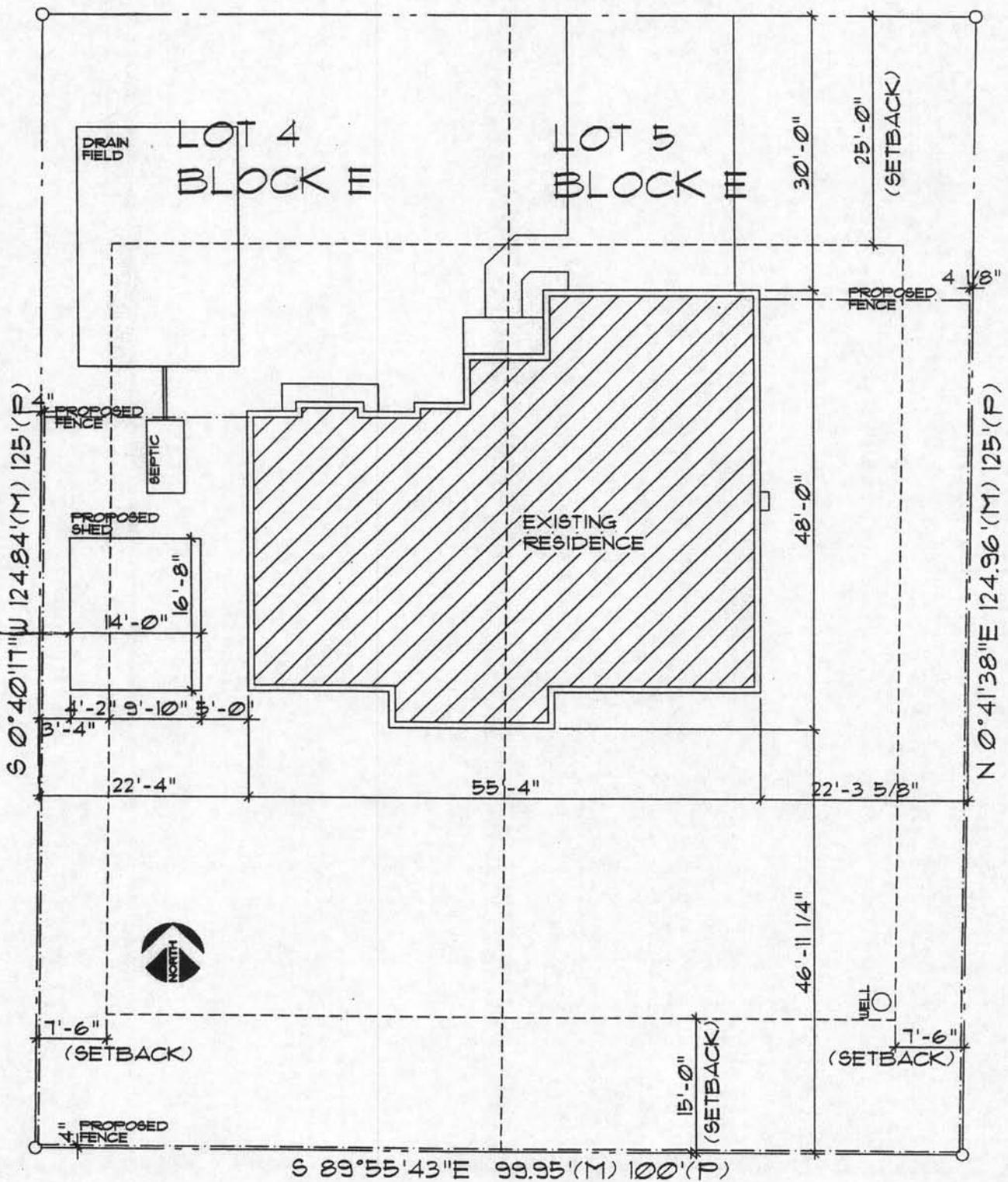
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FRANKLYN STREET (UNIMPROVED) (50' R/W)

SITE PLAN

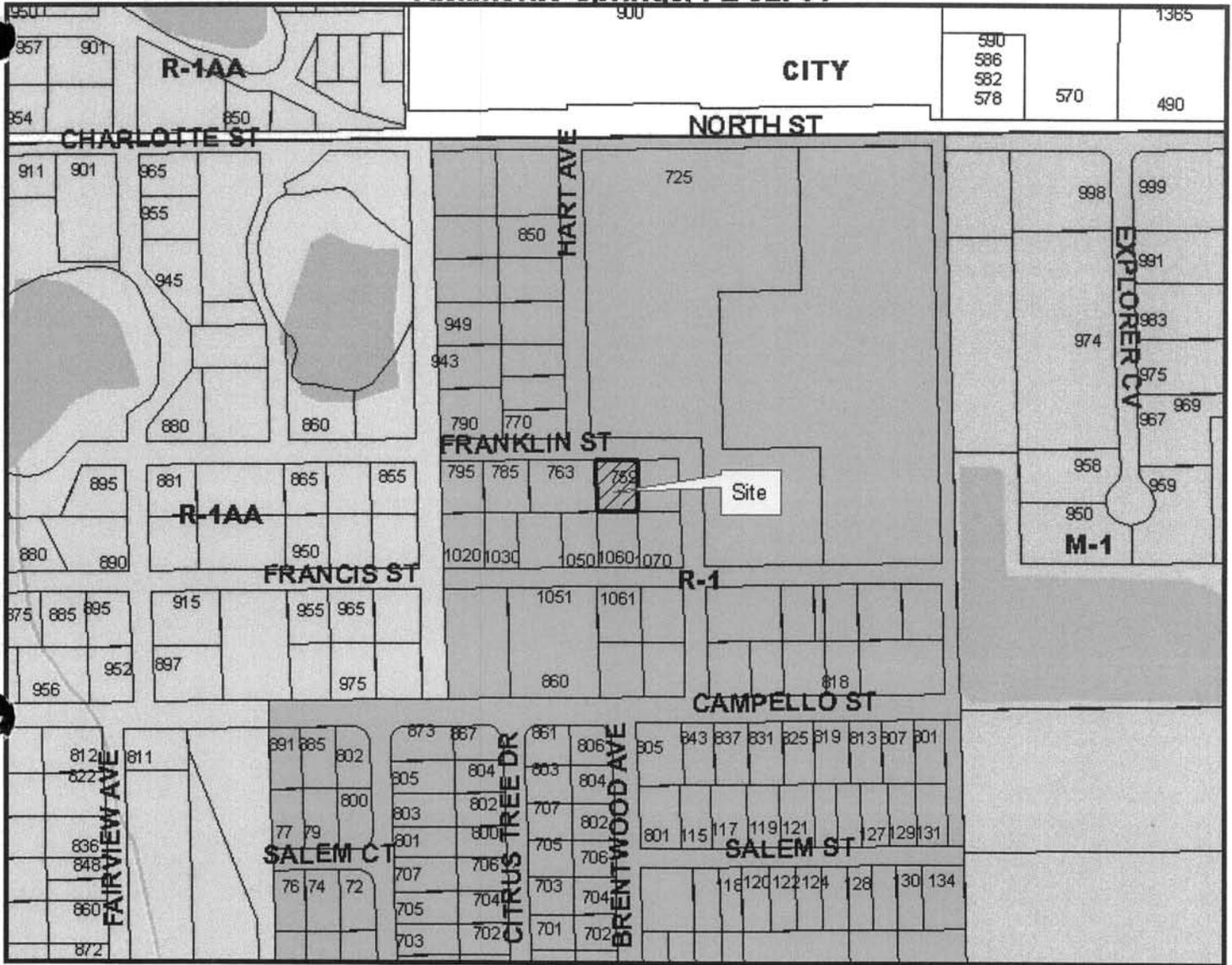
S 90°00'00"W (BB) 100'(P&M)

← 49' to Galtbards House
(NO WDWS OR DOORS ON EAST OF Ldy.)



S 89°55'43"E 99.95'(M) 100'(P)

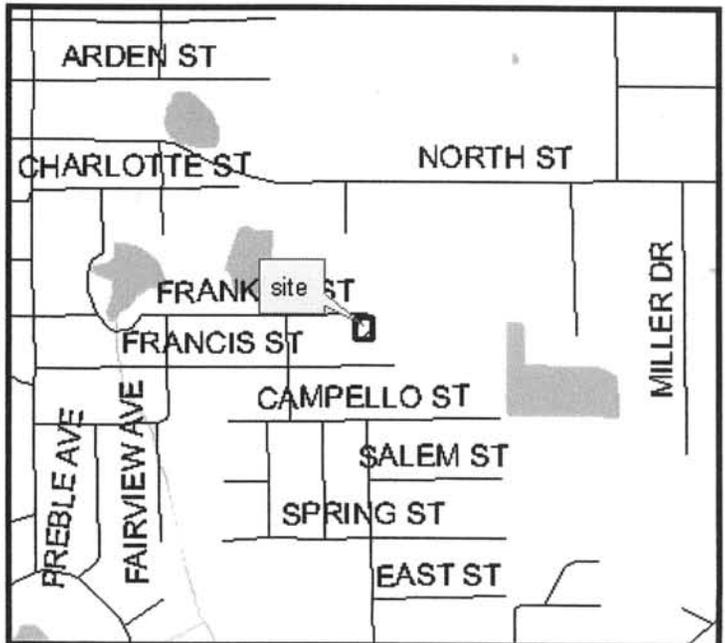
**Daniel Aponte
759 Franklin Street
Altamonte Springs, FL 32701**



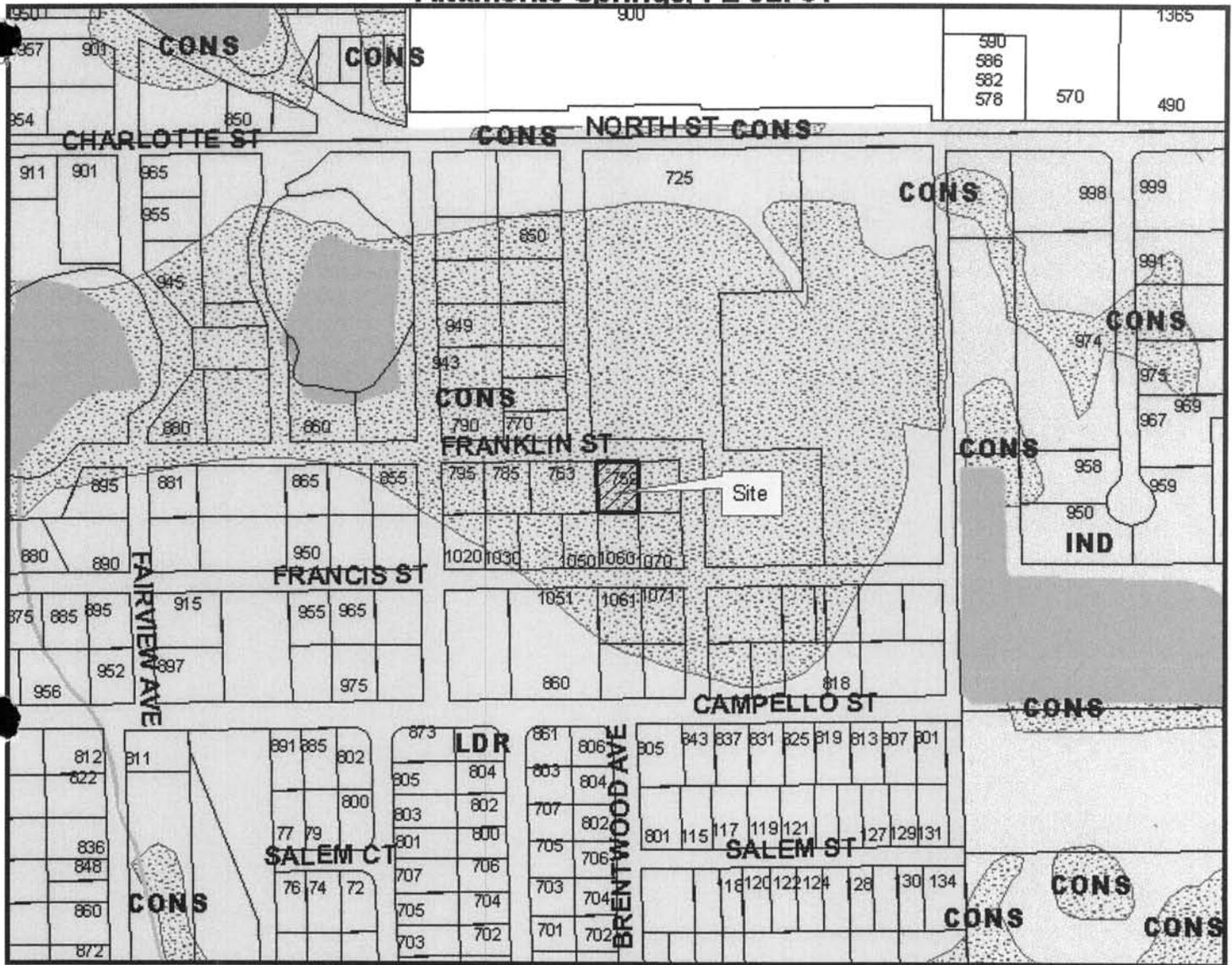
**Seminole County Board of Adjustment
June 27, 2005
Case: BV2005-074
Parcel No: 01-21-29-5ck-770E-0030**

Zoning

-  R-1AA Single Fam-11700
-  R-1 Single Fam-8400
-  M-1 Industrial
-  BV2005-074



Daniel Aponte
 759 Franklin Street
 Altamonte Springs, FL 32701

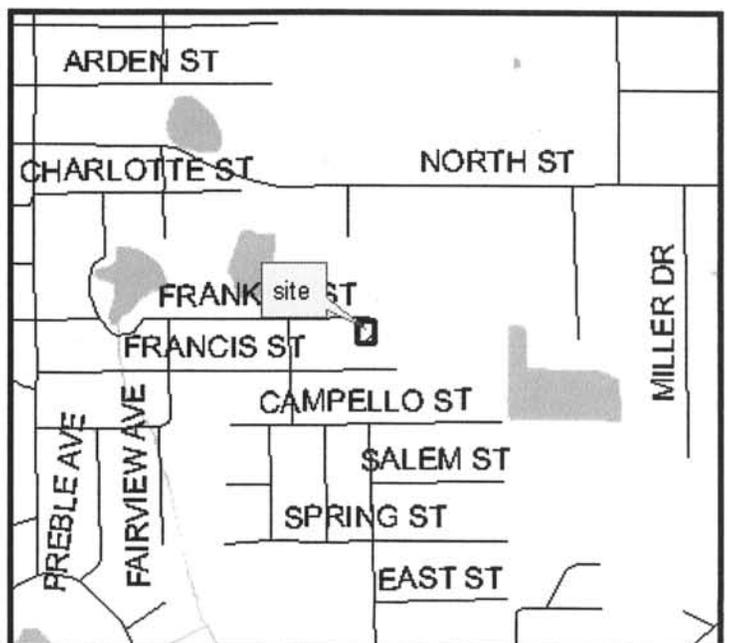


Seminole County Board of Adjustment
 June 27, 2005
 Case: BV2005-074
 Parcel No: 01-21-29-5ck-770E-0030

Future Land Use

- CONS, LDR
- CONS, IND
- LDR, NONE
- IND, NONE
- BV2005-074

0 85 170 340 510 680 Feet



SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER

On June 27, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG LOTS 3 & 4 BLK E TRACT 77 SANLANDO SPRINGS PB 9 PG 86

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

FINDINGS OF FACT

Property Owner: DANIEL APONTE
759 FRANKLIN STREET
ALTAMONTE SPRINGS, FL 32701

Project Name: FRANKLIN STREET (759)

Requested Development Approval:

SIDE YARD SETBACK VARIANCE FROM 7.5 FEET TO 3 FEET 4 INCHES FOR A PROPOSED SHED IN THE R-1 (SINGLE-FAMILY DWELLING DISTRICT)

The Development Approval sought is inconsistent with the Seminole County Comprehensive Plan and would adversely impact neighborhood character by allowing the continuance of an accessory structure that is inconsistent with the applicable standards of the Land Development Code.

The requested development approval is hereby denied.

Prepared by: Michael Rumer, Planner
1101 East First Street
Sanford, Florida 32771

Done and Ordered on the date first written above.

By: _____
Dan Matthys
Planning & Development Director

**STATE OF FLORIDA)
COUNTY OF SEMINOLE)**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____ who is personally known to me or who has produced _____ as identification and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2005.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA</p> <p>PROPERTY APPRAISER</p> <p>SEMINOLE COUNTY FL.</p> <p>1101 E. FIRST ST SANFORD, FL 32771-1468 407-665-7506</p>																																										
<p align="center">GENERAL</p> <p>Parcel Id: 01-21-29-5CK-770E-0030 Tax District: 01-COUNTY-TX DIST 1</p> <p>Owner: APONTE DANIEL Exemptions: 00-HOMESTEAD</p> <p>Address: 759 FRANKLIN ST</p> <p>City,State,ZipCode: ALTAMONTE SPRINGS FL 32701</p> <p>Property Address: 759 FRANKLIN ST ALTAMONTE SPRINGS 32701</p> <p>Subdivision Name: SANLANDO SPRINGS</p> <p>Dor: 01-SINGLE FAMILY</p>		<p align="center">2005 WORKING VALUE SUMMARY</p> <p>Value Method: Market</p> <p>Number of Buildings: 1</p> <p>Depreciated Bldg Value: \$164,717</p> <p>Depreciated EXFT Value: \$0</p> <p>Land Value (Market): \$13,950</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$178,667</p> <p>Assessed Value (SOH): \$136,180</p> <p>Exempt Value: \$25,000</p> <p>Taxable Value: \$111,180</p> <p>Tax Estimator</p>																																								
<p align="center">SALES</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Deed</th> <th>Date</th> <th>Book</th> <th>Page</th> <th>Amount</th> <th>Vac/Imp</th> </tr> </thead> <tbody> <tr> <td>WARRANTY DEED</td> <td>11/1999</td> <td>03755</td> <td>1432</td> <td>\$16,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>04/1984</td> <td>01537</td> <td>1892</td> <td>\$11,700</td> <td>Vacant</td> </tr> <tr> <td>WARRANTY DEED</td> <td>10/1983</td> <td>01494</td> <td>1658</td> <td>\$13,000</td> <td>Vacant</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1983</td> <td>01431</td> <td>1754</td> <td>\$10,500</td> <td>Vacant</td> </tr> <tr> <td>WARRANTY DEED</td> <td>07/1981</td> <td>01347</td> <td>1525</td> <td>\$10,500</td> <td>Vacant</td> </tr> </tbody> </table> <p align="center">Find Comparable Sales within this Subdivision</p>		Deed	Date	Book	Page	Amount	Vac/Imp	WARRANTY DEED	11/1999	03755	1432	\$16,000	Improved	WARRANTY DEED	04/1984	01537	1892	\$11,700	Vacant	WARRANTY DEED	10/1983	01494	1658	\$13,000	Vacant	WARRANTY DEED	01/1983	01431	1754	\$10,500	Vacant	WARRANTY DEED	07/1981	01347	1525	\$10,500	Vacant	<p align="center">2004 VALUE SUMMARY</p> <p>Tax Value(without SOH): \$2,016</p> <p>2004 Tax Bill Amount: \$1,812</p> <p>Save Our Homes (SOH) Savings: \$204</p> <p>2004 Taxable Value: \$107,214</p> <p align="center">DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>				
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<p><small>NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes. *** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.</small></p>																																										

**Minutes for Item #26 for the Seminole County Board of Adjustment
June 27, 2005 Meeting**

26.759 FRANKLIN STREET - Daniel Aponte, applicant; Request for side yard setback variance from 7.5 feet to 3.33 feet (3 feet 4 inches) for a proposed shed in the R-1 (Single-Family Dwelling District); Located on the south side of Franklin Street, approximately 350 feet east of the intersection of Franklin Street and Stelle Avenue; (BV2005-074).
Michael Rumer, Planner

Michael Rumer introduced the location of the property and stated that the applicant had failed to satisfy the criteria for granting a variance. He further stated that staff recommended denial of the request.

Daniel Aponte stated that what they wanted to do was to build a shed on the side of the property for wood working and storage. He also stated that he would like to put a six (6) foot fence around the shed which would enclose it. He further stated that they had plans to put a covered patio in the back and didn't want to put the shed in the back. He lastly stated that his neighbor on the right has given him a letter in support of his request.

Mr. Rozon asked Daniel was he going to match the roof materials.

Daniel stated that it would have some of the same style as the house.

Mrs. Chase asked had he spoken to his neighbors.

Daniel stated that he had a letter of support from his adjacent neighbor.

Mr. O'Daniel made a motion to approve the request.

The motion died for a lack of a second.

Mr. Rozon stated that he had a problem with the request 6 feet fence across the front, and the 10 feet high shed with a metal roof that didn't match the roof of the home. He also stated that it would not be very attractive.

Daniel Aponte stated that he didn't want to go to Sears and buy something and put it on the property. He stated that he didn't think that would be attractive at all. He further stated that the fence would not be at the front of the property. He stated that it would be from the side and go around the back.

Mr. Pennington asked if Daniel could do a hip roof to match the style of his house.

Daniel stated that the similar design was a good solution, but it wasn't what he wanted. He further stated that he didn't want a miniature house next to his.

Mrs. Chase stated that she had a problem with the applicant wedging the shed on the side of the property.

Mrs. Chase made a motion to deny the request.

Mr. Pennington seconded the motion.

The motion passed by unanimous consent (5-0).

Aerial

