

City of Oxford
Community Development Department
STAFF REPORT
Board of Zoning Appeals

Case # BZA-2015-09

Date – May 20, 2015

APPLICATION

Petitioner:	Scott Webb
Location:	102 S. Locust
Owner:	Uptown Investments, Inc.
Action Request:	Variance from Section 1143.12(c)(2)A to allow deck encroachment into the front yard setback for outdoor dining.
Current Use:	Office/commercial building
Zoning:	“GB” General Business
Surrounding Land Uses:	LaRosa’s, RDI, Walgreens, Car Wash & Laundromat

DESCRIPTION

The Applicant is proposing to install a 14’ x 40’ unenclosed deck for outdoor dining which will encroach into the front yard setback. The Applicant is also proposing to install a 5’ high privacy fence around the dining area. There is no variance required for the fencing. The existing building already encroaches by 5’, which was granted in 2003. The proposed outdoor eating area would now encroach an additional 14’ providing only a 16’ front yard setback.

SITE HISTORY

BZA-09-2003

To permit construction of a new restaurant & parking area that does not meet the front yard and parking area setback requirements, and to permit fewer on-site parking spaces than required.

BZA-2010-06

Variance to Section 1143.12(c)(2)A, Front yard setback for an outdoor eating area.

In 2003 the zoning code underwent a re-write. The setback at that time in the GB District increased from 30’ to 35’. Two months after the passage of this change, the subject property applied for the above variances in BZA Case 09-2003, one of which was a front yard variance to allow the building to encroach by 5’.

In 2010, a variance was filed for to reduce the front yard setback to allow an outdoor dining deck of the size of 14’ x 40’ to be constructed with landscaping around the proposed outdoor deck/patio. The variance was denied. The site plan and minutes from that case are provided for your information.

VARIANCES REQUESTED

Section 1143.12(c)(2)A.

The minimum front yard setback in the “GB” General Business District shall be 35 feet.

- The proposed outdoor patio/deck area for the restaurant encroaches into the front yard setback and is approximately 16 feet from the property line, since the right of way line is not completely parallel with the outline of the proposed deck. Therefore, the nearest setback would be 16 feet from the property line.

AGENCY COMMENTS:

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	Returned with no comments
Fire:	Returned with no comments
Engineering:	Returned with no comments
Econ. Dev.:	Returned with comments

ANALYSIS

The El Burrito Loco building and parking is currently setback 30' from the property line. The parking spaces at 110 S. Locust are 5.5' from the front property line, 114 S. Locust is 23' and Walgreens parking is a 0' setback. Walgreens (2004), El Burrito (2003), 110 S. Locust (2009) were granted variances for their setback encroachments and there is no record of a variance being granted for 114 S. Locust or the LaRosa's property. The LaRosa's property may have been approved through the PUD process.

Parking should be discussed. While this proposed outdoor area will only be used seasonally, additional parking should be provided or the existing shared parking easement established in 2003 should be expanded to accommodate additional spaces. In 2003 the property was granted a waiver to the parking, only requiring 15 on-site spaces and 11 shared spaces to the north. The Applicant should provide documentation that they have ample parking available to them to service the additional outdoor eating space. The current code requires additional 4 spaces to accommodate the expansion. The submitted site plan did not indicate how the additional spaces could be accommodated on the site. Given the changes to the parking and site access of the Oxford Zoning Code, the site could conceivably accommodate more off-street parking, but it is unclear how many at this point since the site plan provided was not based on the new changes. This could be an issue for the Board to consider in the future for the same business, should the current request be approved and a building plan get drawn and it is determined that the number of parking spaces are not sufficient for the expanded business. Therefore, the pending request may not be the only variance this application would need to obtain.

The property in question will yield a reasonable return and can be used beneficially without the variance because it will remain as a restaurant. The request is substantial for building/occupied space for business. Other variances in this vicinity have been for parking or access purposes. Staff cannot impetuously think of an outdoor eating area or any business, in this vicinity, or the City, that is directly upon the principal street such as this proposal; it can be argued that the essential character of the neighborhood would be substantially altered by the variance. There are no direct comments received from the various City Departments indicating there would be a detrimental effect on government services. The Applicant states in their letter that this is the only feasible option on the property to locate an outdoor patio; however, no other documentation supporting this statement is provided to illustrate a practical difficulty.

RECOMMENDATION

Not Applicable.

SUBMITTED BY:


Jung-Han Chen
Community Development Director

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/6/15

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2015-09 102 S. Locust Street El Burrito Loco variance to Section 1143.12(c)(2)A front yard setback **Scott Webb, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **5/15/2015** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by:


John Detherage
PRINT NAME

Date: 5-8-15

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/6/15

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2015-09 102 S. Locust Street El Burrito Loco variance to Section 1143.12(c)(2)A front yard setback **Scott Webb, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **5/15/2015** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: _____



VICTOR POPESCU

PRINT NAME

Date: 5-7-15

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 5/6/15

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2015-09 102 S. Locust Street El Burrito Loco variance to Section 1143.12(c)(2)A front yard setback **Scott Webb, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **5/15/2015** Note: If no comments are received, we will assume the project meets your department's standards.

.....

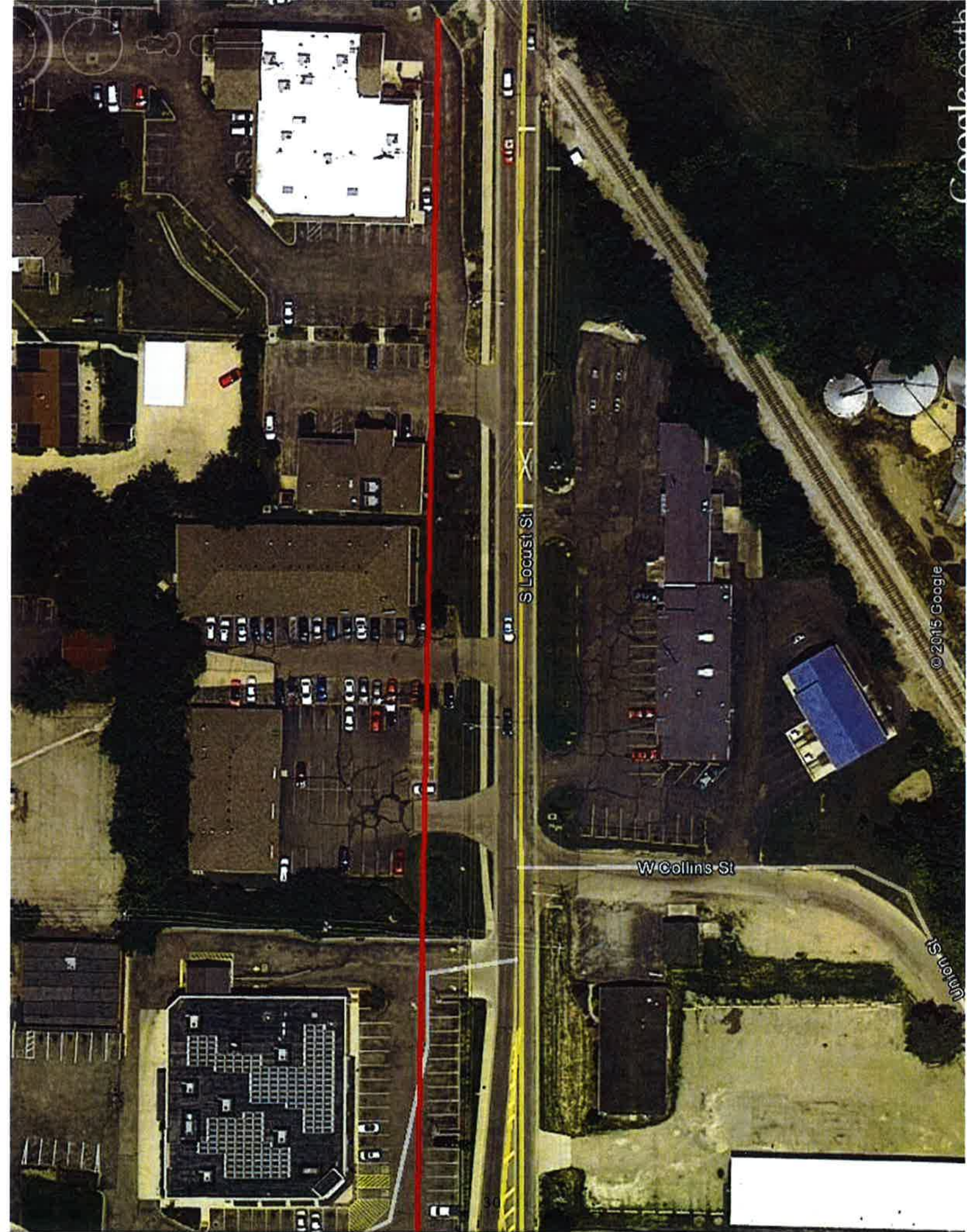
Drawings are returned: w/comments without/comments

Drawings reviewed by:


R. B. HOLZWORTH

PRINT NAME

Date: 5/6/2015





BZA-2015-09 Surrounding Property Owners Map

Legend

- Subject Parcel
- 200 Ft. Buffer
- Oxford Corporation Limit
- Parcel
- Vacated Right-of-Way
- Building Footprint
- Paved Roadway



1 inch = 100 feet

Prepared on Monday, May 04, 2015

The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.



BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, July 21, 2010

Call to Order

Those members present: Gary Meyer, George Prentice, John Barnhart, Todd Hollenbaugh, and Prue Dana.

Those members excused: None.

Staff members present: Lynn Taylor, Kathryn Dale, and Rob Jacques.

Staff members excused: None.

A swearing in ceremony took place with Mr. Rob Jacques, Legal Counsel presiding. Ms. Prue Dana took the Oath of Office.

Mr. Hollenbaugh presided over the Vice Chair open nominations. Mr. Barnhart nominated Mr. Gary Meyer as Vice Chair. Mr. Prentice seconded the motion. All were in favor. Mr. Meyer accepted his nomination.

Executive Session

Ms. Dana made motion to approve the agenda with the deletion of the Executive Session. Mr. Barnhart seconded the motion. The motion passed 5-0-0.

Adjudication Hearing

BZA-06-2010 102 S. Locust Street, Variance to Section 1143.12(c)(2)A, front yard setback, El Burrito Loco Restaurant, David Eaton, Applicant/Agent

Mr. Meyer made motion to adjourn to BZA-06-2010. Mr. Barnhart seconded the motion. All were in favor.

Ms. Dale provided an overview, stating that the Applicant wished to install a 14' x 40' patio for outdoor eating, but that it encroached into the front yard setback. Currently, the El Burrito Loco restaurant and parking has a setback of 30'. Ms. Dale stated that the Applicant wished to install a 5' high privacy fence around the dining area; however, there was no variance required for the fence request. Ms. Dale referred to a variance granted in 2003 allowing the existing building to encroach 5' into the setback. Ms. Dale referred to neighboring properties and their setbacks - and that they varied. Ms. Dale noted that the parking needed discussed as additional parking should be provided or the existing shared parking easement should be expanded. Ms. Dale noted that the additional outdoor eating space would require two more spaces. Ms. Dale referred to staff concerns: there are no other restaurants that have their outdoor eating area on a primary street; wants the fence lowered so that patrons can see out and so that emergency personnel can see in; concern for the railroad tracks being right there, the hill, lose control, the height of the fence blocks view. Ms. Dale stated the Applicant indicated that this was the only feasible option for locating a patio; however, they had not provided any other optional drawings and wanted to

hear this in their testimony. Ms. Dale shared the Engineering report which referred to the line-of-sight visibility and the height of the fence around the eating area.

Mr. David Eaton, Applicant, was sworn in by Mr. Hollenbaugh. Mr. Eaton stated that Mr. Motta was the business owner. Mr. Eaton stated he would address the items brought up by staff. Mr. Eaton stated that the new patio/deck would accommodate an additional 36 patrons. Mr. Eaton stated that the height of the fence was arbitrary and would work with staff. Mr. Eaton stated that the Owners have asked that they use composite woods for the patio/deck. Mr. Eaton stated the lighting would be on the inside of the fencing and would only light the dining area. Mr. Eaton stated the tenant would have no problem with determining additional parking; want to stay on their side of the property and not have to cross the street and would consider ballards to protect diners. Mr. Eaton stated the tenant would take the opportunity to redo landscaping outside the enclosure. Mr. Eaton described why the front yard was the only place to install a patio; to the right is not their property, the back is the dumpster area, and to the left is parking, so are limited to only the grassy area in the front yard.

Mr. Prentice referred to the setbacks of adjacent properties as they didn't really come into play with the decision making, as it is on a case by case basis, but the feel of the neighborhood does come into play. Mr. Prentice referred to the 5' variance previously granted.

Mr. Meyer inquired about there being umbrella tables. Mr. Eaton stated yes there would be. Mr. Meyer inquired if the landlord decided they wanted a canopy would they need an additional variance. Ms. Dale stated she wasn't sure; retractable awning, don't know that they would; a permanent trellis, or awning, no, unless changes footprint; a total enclosure would be beyond this.

No Persons of Standing were present.

Mr. Meyer made motion to reconvene to the regular meeting. Mr. Barnhart seconded the motion. All were in favor.

Mr. Meyer expressed his concern about entering parking. Mr. Hollenbaugh referred to the existing 5' variance, and now coming back and going from a 35' front yard setback to 16'; this is a substantial variance. Mr. Prentice expressed his concern about safety and the railroad tracks. Much discussion by the Board took place regarding other setbacks in the area and variances that had been granted to other properties for parking setbacks, not structural setbacks. Concern was had about allowing the building setback to encroach more. While all of the Board expressed being in favor of outdoor eating, overall they felt the request was too substantial to grant.

Ms. Dana complimented how nice the street looked and this outdoor eating area would take away the strip mall feel, thinks it enhanced the previously industrial looking street; thinks lowering of the fence would help.

Mr. Jacques suggested putting conditions in place now. Mr. Hollenbaugh expressed concern if the property should come back again for another variance.

Ms. Dana stated she was inclined to support this as it added to the neighborhood. Mr. Hollenbaugh stated he was all for outdoor dining; but, just can't put it where you like.

Mr. Barnhart felt this to be overwhelming; the variance size would be reduced by 50% of the original setback. Mr. Jacques corrected that with there being a 5' variance, this particular property would be a 30' setback not 35'. Mr. Barnhart stated it was still very substantial. Mr. Hollenbaugh stated he wished there was more space for the patio.

Discussion took place. Ms. Dana suggested conditions, 4' maximum fence height, additional landscaping around fence area.

After much deliberation regarding the requested variances, the BZA made the following Findings of Fact:

- 1.) The property in question will yield a reasonable return and can be used beneficially without the variance because it will remain as a restaurant.
- 2.) The request is substantial because other variances in this vicinity have been for parking or access purposes. The applicant is requesting that 50% of their required setback be constructed on and this could potentially affect the average setback for the area. The request is also substantial because the request if granted could include additional changes to the eating area that were not presented with this application that would not be appropriate.
- 3.) The essential character of the neighborhood would be substantially altered by the variance; however, it can also be argued that outdoor dining is desirable and could enhance the area.
- 4.) There would be no detrimental effect on government services, but concerns were raised by the Engineering Department regarding line-of-sight visibility.
- 5.) The applicant did purchase the property and was knowledgeable of the zoning restrictions because they had applied for a setback variance in 2003.
- 6.) The property owners predicament cannot feasibly be obviated through some other method other than the variance according to their testimony due to parking and trash dumpster requirements.
- 7.) The spirit and intent of the zoning requirement would not be observed and substantial justice done by granting the variance the desire to be closer to the street is too substantial
- 8.) Other relevant factors that the Board considered were the concerns regarding the line-of-sight visibility, and the height of the fence for patron safety.

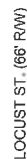
After considering and weighing these facts and circumstances, the Board found that practical difficulty was not shown sufficient to warrant granting the variance to Section 1143.12(c)(2)A.

Prue Dana moved to approve BZA-06-2010 102 S. Locust Street, Variance to Section 1143.12(c)(2)A, front yard setback. Gary Meyer seconded. The motion failed with the following roll call:

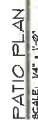
AYE: Prue Dana (1)

NAY: Gary Meyer, George Prentice, John Barnhart, Todd Hollenbaugh (4)

ABS: None (0)

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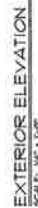
SITE PLAN
SCALE: 1" = 20'-0"



EL BURRITO LOCO
MEXICAN RESTAURANT
& BAR



VICINITY MAP



EXTERIOR ELEVATION



PARTIAL ELEVATION

BZA-06-2010 Site Plan

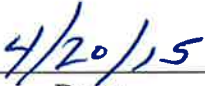
LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Scott Webb, Architect has permission to represent our interest with the City of Oxford and act on our behalf for the Board of Zoning Appeals hearing May 20, 2015 regarding a new Dining Deck at El Burrito Loco.

Thank-you,

Signed: 
(David Wespiser)
(Uptown Investments Ltd.)


Date:



Internal Use Only:

Case No.

BZA-2015-09

Date Filed

4/20/15

Petition for Zoning Variance

Petitioner Information

Attach a Letter of Agency if the Petitioner is not the property owner.

Name * Scott Webb
Mailing Address * 103 West Walnut Street
City, State & Zip Code * Oxford, Ohio 45056
Telephone Number(s) * (513) 523-3838
Email Address scott@scottwebbarchitect.com
Location of Property * 102 South Locust Street
Name of Building * El Burrito Loco

Owner Information

Name * Uptown Investments LTD.
Mailing Address * c/o Kirsch CPA Group, 5020 College Corner Pike, Oxford, Ohio 45056
City, State & Zip Code * Oxford, Ohio 45056
Telephone Number(s) * (513) 524-9500
Email Address dave@hoteldevelopment.net

Variance and Lot Information

Requested Variance. Indicate the nature of variance and applicable section(s) of the Planning and Zoning Code.

1143.03(c)(2)A Front Yard Setback

12

Location of Requested Variance * 102 South Locust Street
Legal Description *
Zoning District * GB Total Acreage * .3409
Existing Use of Site * Restaurant

Proposed Use (if applicable). A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles, and the hours of operation.

New Dining Deck

- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- H. Any other relevant factor.

Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00 plus postage charge.

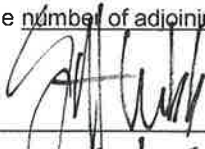
Fees may increase if staff determines that you need more variances.

To calculate postage charges, multiply the number of adjoining properties by current postage rate³.

Sign and Date

Petitioner Signature *

Date *


4/20/15

Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fee(s) and postage charges made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

For Staff Use Only

Fee Paid Date *

4/20/15

Receipt Number *

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

³ The United States Postal Service: <http://www.usps.com/>

Board of Zoning Appeals
City of Oxford
101 East High Street
Oxford, Ohio 45056



**SCOTT
WEBB**

A R C H I T E C T

103 West Walnut Street
Oxford, Ohio 45056
(513) 523-3838

www.scottwebbarchitect.com

Re: Front Yard Setback
Proposed New Dining Deck
El Burrito Loco

April 20, 2015

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to the front yard setback requirement for the construction of a new Dining Deck at Burrito Loco, 102 South Locust Street.

1143.12(c)(2)A Front Yard Setback.

The existing building currently sits along the front yard setback line along Locust Street with parking provided along its entrance façade. The owners would like to provide an exterior Dining Deck for their customers, but the only available location is to the West along Locust Street in the setback area.

The following responses address the decisions standards outlined in the application:

- a) *Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;*

While the building has been yielding a return, the owners would like to offer additional options for their customers.

- b) *Whether the variance is substantial;*

The variance is not substantial, as the building remains behind the setback area.

- c) *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance*

The essential character of the neighborhood would be not be altered, as most all neighboring buildings violate this front yard setback, with parking, vacuums, or buildings.

- d) *Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);*

The requested variance would not affect the delivery of governmental services as all utilities are existing on the site.

- e) *Whether the property owner purchased the property with knowledge of the zoning restriction;*

The property was purchased with limited knowledge of the zoning requirements. The outdoor seating area was not contemplated when the business opened.

- f) *Whether the property owners' predicament feasibly can be obviated through some method other than a variance;*

The existing building is landlocked by parking, retention, and adjacent property lines, leaving no other location to provide outdoor dining for its customers.

- g) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;*

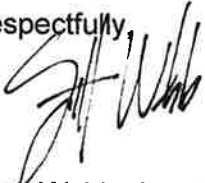
The spirit and intent of the Zoning Code is observed, with the building line remaining consistent in the area. Further, Planning Commission is considering reducing the front yard setback requirement for GB properties in the Locust Street Business District.

- h) *Any other relevant factor;*

This proposed project aligns with the goals of the Comprehensive Plan, encouraging infill and reinvestment within the.

Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,

A handwritten signature in black ink, appearing to read 'Scott Webb', written over the word 'Respectfully,'.

Scott Webb, Architect

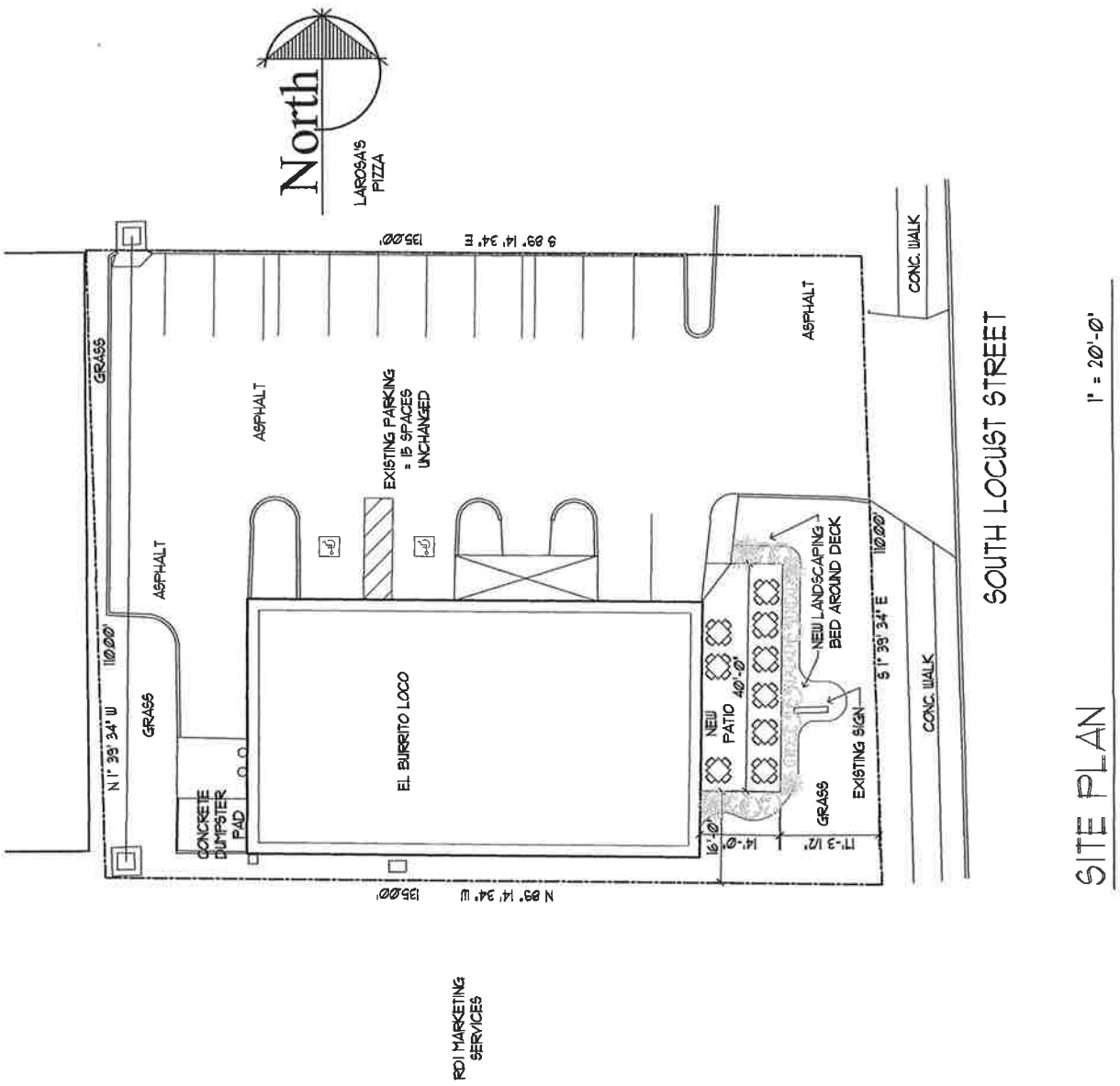


SCOTT WEBB ARCHITECT
103 West Walnut Street
Oxford, Ohio 45058
(513) 522-3538
www.scottwebbarchitect.com

El Burrito Loco
NEW PROPOSED PATIO
102 S. LOCUST STREET
OXFORD, OHIO 45056

DATE	REVISIONS
APRIL 20, 2015	

A-1



SITE PLAN

1" = 20'-0"

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2015-07

May 20, 2015

APPLICATION

Applicant:	Greg Meyer / Bob Treadon, Robert Treadon & Associates, Architects
Location:	28 West Walnut Street
Owner:	Ned Hoelzer
Action Requests:	Approve Appeal of Administrator's Decision Regarding Floor Area Ratio

INTRODUCTION

Typically, the Board of Zoning Appeals considers requests for variances from the Zoning Code requirements. However, occasionally, a decision is made by city staff that is alleged to be made in error. Section 1129.11 contains provisions for a person to appeal such a decision to the BZA. The appeal procedure is different than a variance, in that there are not codified decision criteria. Therefore, the BZA will need to consider all the circumstances as well as understand the zoning codes in question. Excerpted below is the complete code relating to the appeal process.

1129.11 APPEALS OF ADMINISTRATOR'S DECISION.

The aggrieved party may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals.

- (a) The Board of Zoning Appeals shall have the power to hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance. In exercising its powers to review administrative decisions, the Board may, in conforming with the provisions of the statute and of this Zoning Ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as the Board of Zoning Appeals determines, and to that end shall have all powers of the office from whom the appeal is taken. The appeal shall:
- (1) Cite specific provisions of this Zoning Ordinance that are alleged to have been interpreted in error of the specific decisions or action being appealed and the grounds on which the appeal is being made;
 - (2) Include any required application fee in an amount set by the City;
 - (3) Include such other information as the City or the Board may reasonably require; and
 - (4) Include a statement as to why the appellant has standing to pursue the appeal from the administrative action by a statement of the way in which the administrative action adversely affects the appellant

BACKGROUND

This case came about as a result of a proposed new building to be located at 28 West Walnut Street. The property owner's architect submitted a building permit application with plans for the new building. The

application was denied by Community Development Department staff based upon non-compliance with the maximum floor area ratios for the Uptown Zoning District. The applicant then had the options of:

1. Revising plans to be in compliance with code
2. Submitting a variance application
3. Appealing the decision of staff

The applicant chose to appeal the decision of staff, which placed the plan review denial on hold until a decision is made by the Board of Zoning Appeals.

Below is a timeline of events for the particular case at hand:

July 2, 2014 – Historic and Architectural Preservation Commission first review of exterior design – decision tabled

August 6, 2014 – Historic and Architectural Preservation Commission second review of exterior design – revised exterior design approved

February 20, 2015 – Building permit application submitted

March 19, 2015 – Zoning code review – application denied

March 27, 2015 – Applicant re-submitted plans with different stair design

April 10, 2015 – Revised plans of different stair design denied by staff

April 20, 2015 – Appeal of decision submitted

ANALYSIS

As viewed by staff, the original plan submittal contained floor area ratios (FAR) that were 512 square feet over (5% increase) the maximum permitted for the total building gross floor area and 1,679 square feet (25% increase) over the maximum permitted for the residential gross floor area. The minimum commercial gross floor area was compliant.

The applicant agreed that the stairs were included in the FAR and responded by re-designing the stairs with the intention that the stairs would not be included because they did not have exterior walls.

Staff reviewed the revised plans of the different stair design and did not find them in compliance with code. Therefore, staff's calculation of the FAR did not change. See attached spreadsheet dated March 20, 2015. The applicant filed an appeal.

There are two sections of zoning code that need to be reviewed in this decision. The Uptown Zoning Code Site Development Regulations which is Section 1143.10(c). This section contains the minimum and maximum ratios at the crux of this appeal. The other section is the Zoning Code Definitions found Section 1159. The four definitions of “**Building**,” “**Structure**,” “**Floor Area Ratio**” and “**Gross Floor Area**” should be reviewed carefully. The wording and application of these definitions are also at the crux of this appeal.

Staff does not believe that the Ohio Building Code definitions or the Zoning code definition for Gross Leasable Area are applicable to this case because they are not referenced within Site Development Regulations of the Uptown Zoning Code below.

Below is the complete excerpt of the Uptown Zoning Code Site Development Regulations Section 1143.10(c) (bolded sub-sections for emphasis of discussion):

(c) Site Development Regulations. (Unless superseded by Conditional Use Requirements)

(1) Lot requirements.

A. Minimum Lot Area:

1. Lots in the Uptown District shall be a minimum of three thousand (3,000) square feet.

(2) Yard requirements.

Front Yard

16.5 feet minimum except

* On High Street - at least 70 percent of building must meet the right-of-way line

Rear Yard

none except

* Adjacent to a residential district
10 feet minimum

Side Yard

none except

* Adjacent to a residential district
6 feet minimum

(3) Structural requirements.

A. Building height:

Minimum - 23 feet and a minimum of 2 stories above street grade
Maximum - 48 feet and 4 stories maximum above street grade.

B. **Gross Floor Area Ratio:**

1. **The maximum permitted gross floor area ratio of a structure at or above grade in the Uptown District shall be 3. (Lot area x 3 = total bldg. sq. ft.)**

a. Commercial space shall provide a minimum ratio of 0.7:1 of the lot area on the street level subject to the following:

i. The basement of a structure may be used for retail, personal and professional uses but shall not be computed into the minimum 0.7:1 ratio.

ii. Uncovered outdoor areas shall:

- a. Be associated with the first floor commercial occupant,
- b. Be located on the property and/or on the public sidewalk, only with a valid sidewalk permit.
- c. Be computed into the minimum 0.7:1 ratio, but not the overall 3:1 ratio.

b. **Residential space shall provide a maximum ratio of 2:1 of the lot area subject to the following:**

i. **Outdoor patios, decks and balconies for residential use shall be computed into the maximum 2:1 ratio.**

(4) Maximum Residential Density.

A. Occupancy shall be limited to one person per 200 square feet of lot area.

Pertinent Definitions:

1159.03 (5) **BUILDING** - Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

1159.07(6) **FLOOR AREA, GROSS** - The sum of the gross horizontal areas of all floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

1159.07(8) **FLOOR AREA RATIO (FAR)** - The gross floor area of all buildings or structures on a lot divided by the total lot area, excluding any land vacated by Ordinance No. 103 (16 1/2 foot vacated right-of-way).

1159.20(14) **STRUCTURE** - Anything permanently constructed, erected or located on the ground, including, but not limited to, advertising signs and backstops for tennis courts.

After reviewing the additional information submitted within the appeal of April 20, 2015, staff does not find any new relevant information compelling a change in interpretation that would exempt the different stair design from the inclusion within the floor area ratio calculation.

The BZA should also review the information submitted, the zoning code, the plans and ask any questions of staff and appellant/representatives, prior to making a decision. If the decision of staff is upheld, the BZA's decision could be appealed to the Court of Appeals.

SUMMARY

Please note that this is not a public hearing as in a variance hearing; therefore the focus of the BZA should be on the interpretation of the code.



SUBMITTED BY: _____

Sam Perry, AICP, Planner
Community Development Department

DATE: May 15, 2015

28 West Walnut Street Floor Area Calculations

Zoning Review by Community Development Department
March 20, 2015

Platted Lot area (approx 82.3 x 52.2)
Vacated Right of Way (approx 82.3 x 16.5)
Buildable Lot Area

Maximum Total Gross Floor Area (3x)
Maximum Total Residential Gross Floor Area (2x)
Minimum Total Commercial Gross Floor Area (0.7x)

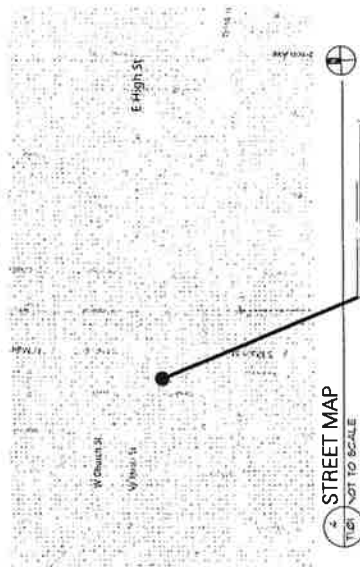
Required sq ft	Proposed sq ft	Overage sq ft	Overage %	
4,290				
858				
3,432				
10,296	10,808	512	4.97%	
6,864	8,543	1,679	24.46%	
2,402	2,864	(including 730 sq ft patio along front sidewalk)		

Other Info:

Total Building footprint - 2,783 sq ft
Required front yard setback - 16.5 ft
17 Residential occupants proposed (5 - 3BR, 1 - 2BR)
2,130 Commercial square feet proposed



PROJECT SITE:
18 WEST WALNUT STREET
OXFORD OHIO 45056

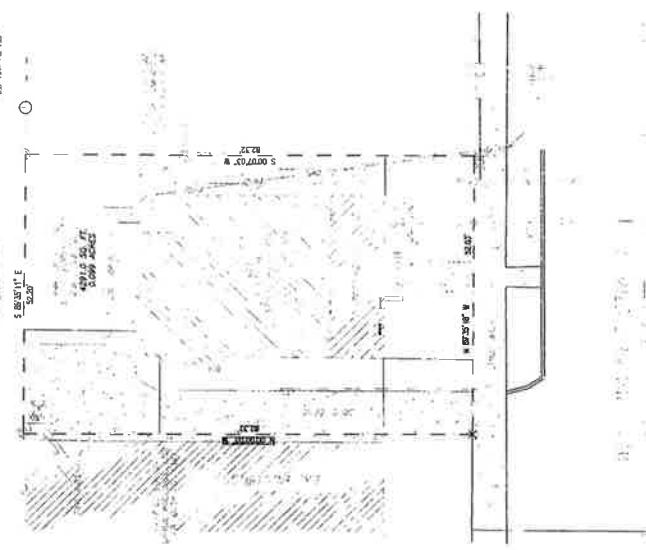


PROJECT SITE:
28 WEST WALNUT STREET
OXFORD, OHIO 45056

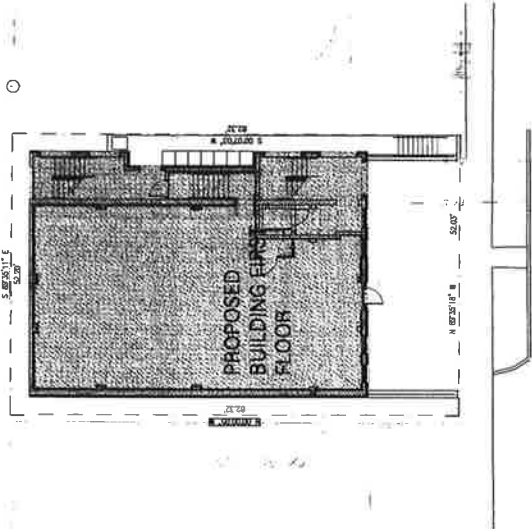
SCOPE OF WORK

THE EXISTING 1921 1 1/2 STORY, 900 S. WOOD FRAME HOUSE WITH STUCCO FINISH AND "ARTIAL BASEMENT SHALL BE ENTIRELY DEMOLISHED IN ORDER TO PREPARE FOR THE NEW 4-STORY MIXED-USE BUILDING AT 78 WEST WALNUT STREET, OXFORD, CHIL 45002. THE ATTACHED CONSTRUCTION DOCUMENTS ARE FOR THE PROPOSED DEMOLITION, SITE IMPROVEMENTS, AND PROPOSED 4-STORY MIXED-USE BUILDING.

STRUCTURAL DESIGN LOADING

[illegible]

EXISTING SITE PLAN



PROPOSED SITE PLAN

MAXIMUM AREA OF WALL OPENINGS ALLOWED PER STORY - SOUTH ELEVATION

[illegible][illegible]

MAXIMUM AREA OF WALL OPENINGS ALLOWED PER STORY - EAST ELEVATION

STORY, 2ND AND 3RD FLOOR BALL AREA PER STORY, 1-8'4" x 62'-0", 600 SQ. FT. PER STORY. 1ST FLOOR BALL AREA PER STORY, 10, 550 SQ. FT. ALLOWABLE UNPROTECTED WALL OPENING AREA FOR A SPACED WALL, 648 SQ. FT. OF WALL AREA PER STORY (45 PERCENT); 308 SQ. FT. OF UNPROTECTED WALL AREA ALLOWABLE UNPROTECTED OPENINGS, 8 SQ. FT. AT 2ND AND 3RD STORIES. 800 SQ. FT. OF UNPROTECTED OPENINGS, 8 SQ. FT. AT EACH STORY. 800 SQ. FT. OF UNPROTECTED OPENINGS, 8 SQ. FT. AT EACH STORY.

STORY, 1ST
EXTERIOR WALL AREA AT 1ST STORY AT 10' TO 20.0' FROM 1ST TO PROPERTY LINE = 0' - 0" - 10' - 10", 372 SQ. FT. AREA, 100%
75% = 279 SQ. FT. TOTAL WALL AREA, 100 SQ. FT.
ALLOWABLE UNRESTRICTED WALL OPENING AREA FOR SPRINKLED BUILDING = 45 PERCENT OF WALL AREA FOR 50%
WALL AREA, 100 SQ. FT. UNRESTRICTED WALL OPENING AREA = 45 SQ. FT.
WALL AREA AT 1ST STORY (45 PERCENT) = 279 SQ. FT. OF UNRESTRICTED WALL AREA IS ALLOWED
PROPOSED UNRESTRICTED OPENING AREA AT 1ST STORY = 279 SQ. FT. OF UNRESTRICTED WALL AREA IS ALLOWED
WALL AREA OF PROPOSED UNRESTRICTED OPENING AREA AT 1ST STORY = 279 SQ. FT. OF UNRESTRICTED WALL AREA IS ALLOWED

EXTERIOR WALL AREA AT 5TH STORY AT 5' 0" TO LESS THAN 6' 0" TO PROPERTY - NE, 1' HIGH x 6' 11" x 79.34 FT. ALLOWABLE UNPROTECTED WALL OPENING AREA FOR A PROPOSED BUILDING, 1% PERCENT OF WALL AREA FOR STORY TO LESS THAN 6' 0" REPAIRATION OPENINGS FROM PROPERTY, ARE 79.34 FT. OF WALL AREA AT 5TH STORY AT 18' 0" TO 19' 0" TO PROPERTY, 4.71 TO 6.21 FT. UNPROTECTED WALL AREA IS ALLOWED. AREA OF PROPOSED WALL AT 5TH STORY AT 18' 0" TO 19' 0" TO PROPERTY, 4.71 TO 6.21 FT. UNPROTECTED WALL AREA IS ALLOWED. AREA OF PROPOSED UNPROTECTED OPENINGS AT 5TH STORY AT EXTERIOR WALLS 5' 0" TO LESS THAN 6' 0" FROM PROPERTY, ARE 1% PERCENT OF WALL AREA AT 5TH STORY AT 18' 0" TO 19' 0" TO PROPERTY, 4.71 TO 6.21 FT. UNPROTECTED WALL AREA IS ALLOWED.

MAXIMUM AREA OF WALL OPENINGS ALLOWED PER STORY - WEST ELEVATION

[illegible]

AREA OF PREPARED UNITS: 12,285 SQ. FT. (10' X 12' X 10')

MAXIMUM AREA OF WALL OPENINGS ALLOWED PER STORY - NORTH ELEVATION

3' O.C.T. 2ND AND 3RD FLS.

ENTRANCE WALL AND PER STORY: 8' 0" X 8' 0" = 64 SQ. FT.

AND MAXIMUM DISTANCE TO ADJACENT UNITS: 1' 0" X 1' 0" = 1 SQ. FT.

1' 0" X 1' 0" = 1 SQ. FT.

PROPOSED UNPROTECTED UNDOUG - 3'-0.14 x 5'-0.14" x 0.5" DO NOT EACH
UNDOUG PER STORY 1.5 DO NOT PER UNDOUG - 33 SQ. FT. OF UNPROTECTED WALL OPENING

[illegible]

CONTINUING INSPECTION SHALL BE VISUAL INSPECTIONS UNLESS NOTED ON DRAWINGS OR SPECIFICATIONS FOR OTHER METHODS, SUCH AS X-RAYS. THE INSPECTOR SHALL PROVIDE A TENSILE MEASURING DEVICE AND BOLT HEAD MEASURING DEVICE TO THE CONTRACTOR. THE INSPECTOR SHALL OBSERVE THE PRELIMINARY TIGHTENING OF THE BOLTS AND THE FINAL TIGHTENING OF THE BOLTS. THE INSPECTOR SHALL OBSERVE THE TIGHTENING OF THE BOLTS AND THE TIGHTENING OF THE BOLTS. THE SPECIAL STEEL INSPECTOR MUST BE AN AASHTO CERTIFIED WELDING INSPECTOR (CWI) OR AASHTO CERTIFIED TENSILE INSPECTOR (CTI).

The steel inspector must utilize a calibrated torque wrench to inspect the following:

- a. The special concrete inspectors must be an ACI Level I Technician.
- b. The special concrete inspectors shall inspect all locations where reinforcement is located.

1. ADDITION OF FILLER—THE SPECIAL CONCRETE INSTITUTE HAS REPORTED ALL VALUES ON GRADE. THIS INDICATION SHALL BE USED TO DETERMINE THE FILLER TO BE USED IN THE MIXTURE. THE FILLER SHALL BE USED TO DETERMINE THE FILLER TO BE USED IN THE MIXTURE.

3

Sheet No. **LS1.00**

Park Place Real Estate
28 WEST WALNUT STREET
OXFORD, OHIO 45056

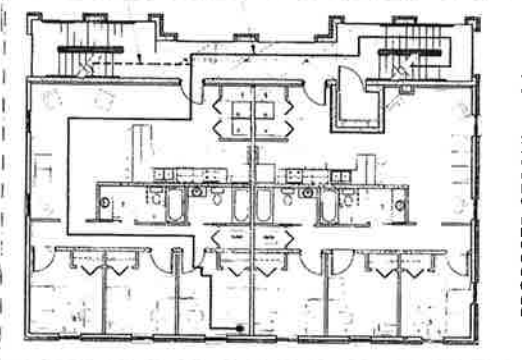
Robert Treadon & Associates Architects
300 High Street, Suite 612
Hamilton, Ohio 45011 (513) 863-7162 Fax 863-1116



THIS SET SHALL BE USED FOR THE PROPOSED SECOND, THIRD, AND FOURTH FLOOR EGRESS PLANS AND MEANS OF EGRESS. NO OTHER USES SHALL BE MADE OF THIS SET.

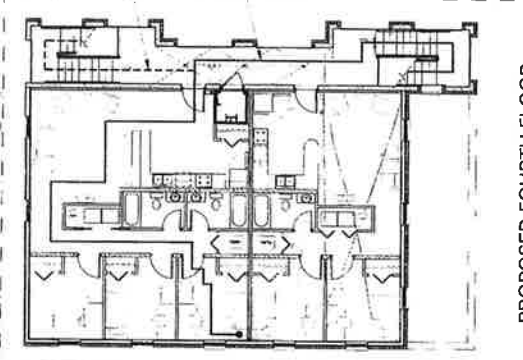
PLAN NOTE:
PARTIAL PATH OF EGRESS FROM FIRST FLOOR TO SECOND FLOOR.
TOTAL LENGTH OF EGRESS TRAVEL TO EXIT: 120'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
DISCHARGE ON FIRST STORY + 80'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
OCCUPANT LOAD ON FIRST STORY: 120.

PLAN NOTE:
PARTIAL PATH OF EGRESS FROM FIRST FLOOR TO SECOND FLOOR.
TOTAL LENGTH OF EGRESS TRAVEL TO EXIT: 120'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
DISCHARGE ON FIRST STORY + 80'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
OCCUPANT LOAD ON FIRST STORY: 120.



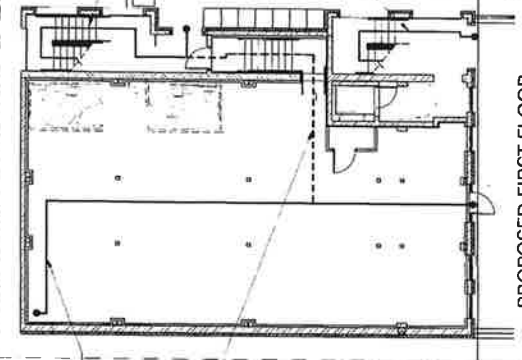
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DISCHARGE ON FIRST STORY + 80'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
OCCUPANT LOAD ON FIRST STORY: 120.



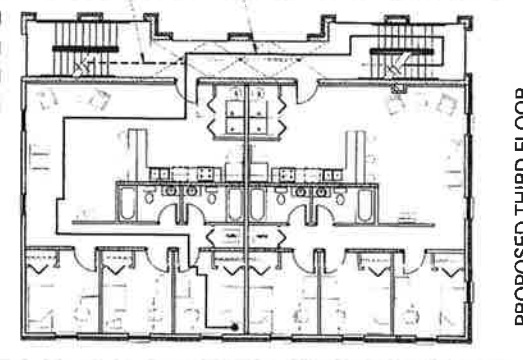
PLAN NOTE:
PARTIAL PATH OF EGRESS FROM FIRST FLOOR TO SECOND, THIRD, AND FOURTH FLOORS.
TOTAL LENGTH OF EGRESS TRAVEL TO EXIT: 120'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
DISCHARGE ON FIRST STORY + 80'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
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PLAN NOTE:
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TOTAL LENGTH OF EGRESS TRAVEL TO EXIT: 120'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
DISCHARGE ON FIRST STORY + 80'-0" (WITH SPRINKLER SYSTEM) + 120'-0" (WITHOUT SPRINKLER SYSTEM).
OCCUPANT LOAD ON FIRST STORY: 120.



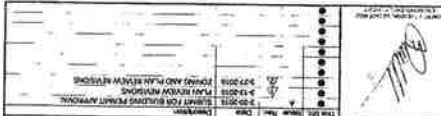
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Sheet No. A1.01

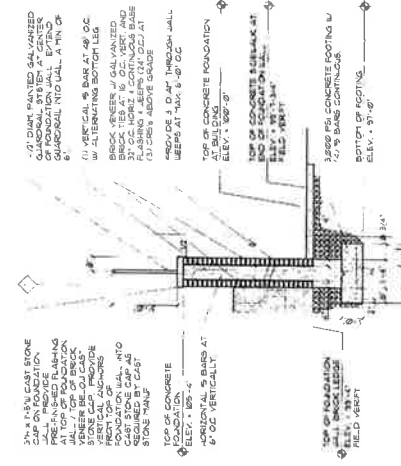
PROJ. NO. 17-00

PROPOSED 4-STORY MIXED-USE BUILDING
28 WEST WALNUT STREET
OXFORD, OHIO 45066
Park Place Real Estate

Robert Treadon & Associates
Architects
300 High Street, Suite 612
Hamilton, Ohio 45011 (513) 863-7162 Fax 863-1116



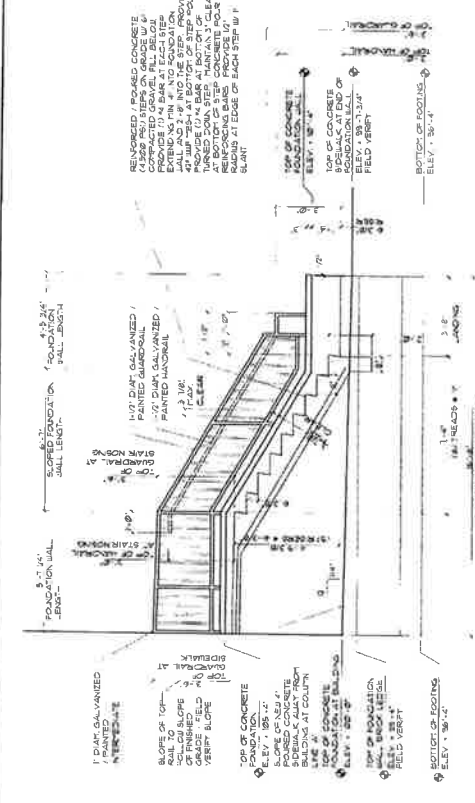
1 RETAINING WALL / STAIR SECTION
SCALE 3/8" = 1'-0"



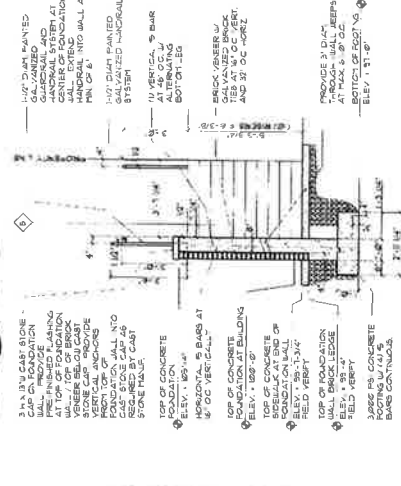
MEANS OF EGRESS FLOOR SURFACE NOTE
ALL CONCRETES SHALL BE FINISHED TO A MAXIMUM OF 1/8" TYPICAL. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE 2015 INTERNATIONAL BUILDING CODE (IBC) AND THE 2015 INTERNATIONAL FIRE AND SMOKE ALARMING CODE (IFSMAC).

GUARDRAIL / HANDRAIL SYSTEM NOTE:
NEW FORMED CONCRETE RETAINING WALLS WITH GUARDRAIL / HANDRAIL SYSTEM SHALL BE CAPABLE OF WITHSTANDING THE FULL WEIGHT OF THE GUARDRAIL / HANDRAIL SYSTEM. THE GUARDRAIL / HANDRAIL SYSTEM SHALL BE INSTALLED IN ACCORDANCE WITH THE 2015 INTERNATIONAL BUILDING CODE (IBC) AND THE 2015 INTERNATIONAL FIRE AND SMOKE ALARMING CODE (IFSMAC).

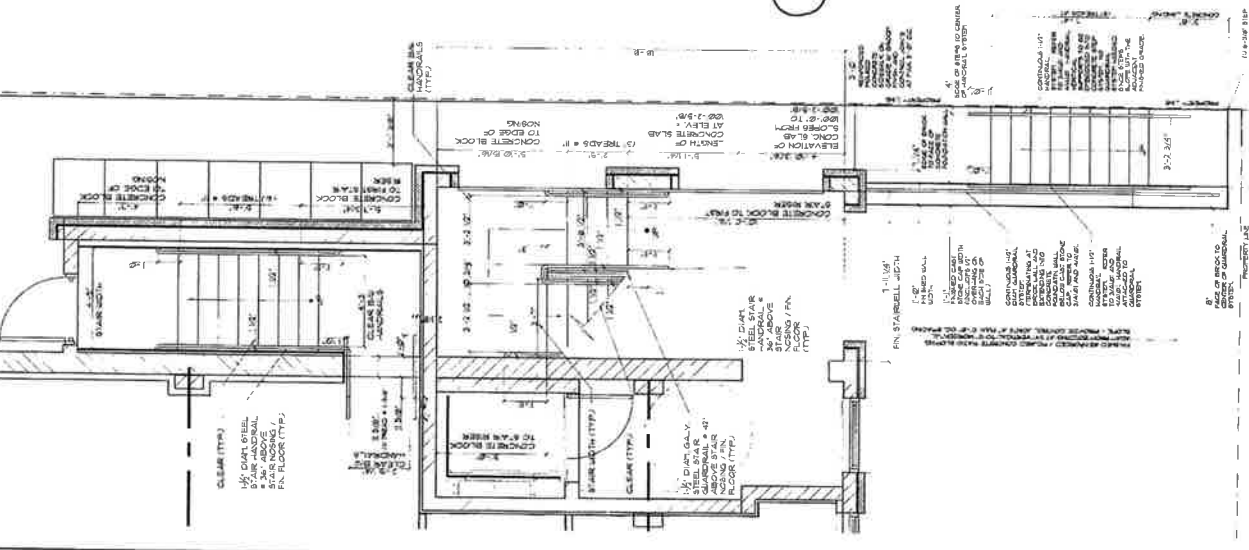
2 RETAINING WALL / STAIR ELEVATION
SCALE 3/8" = 1'-0"

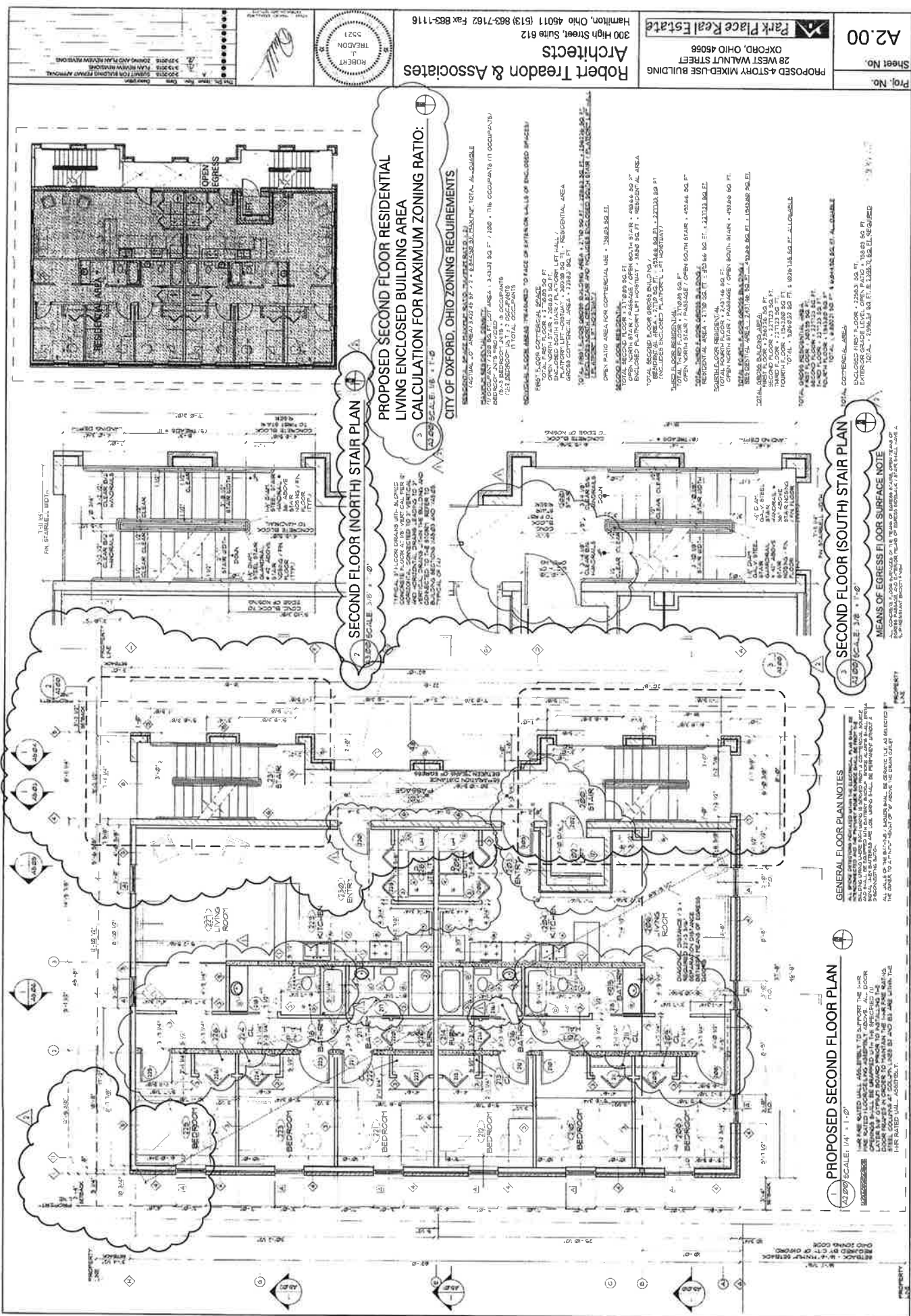


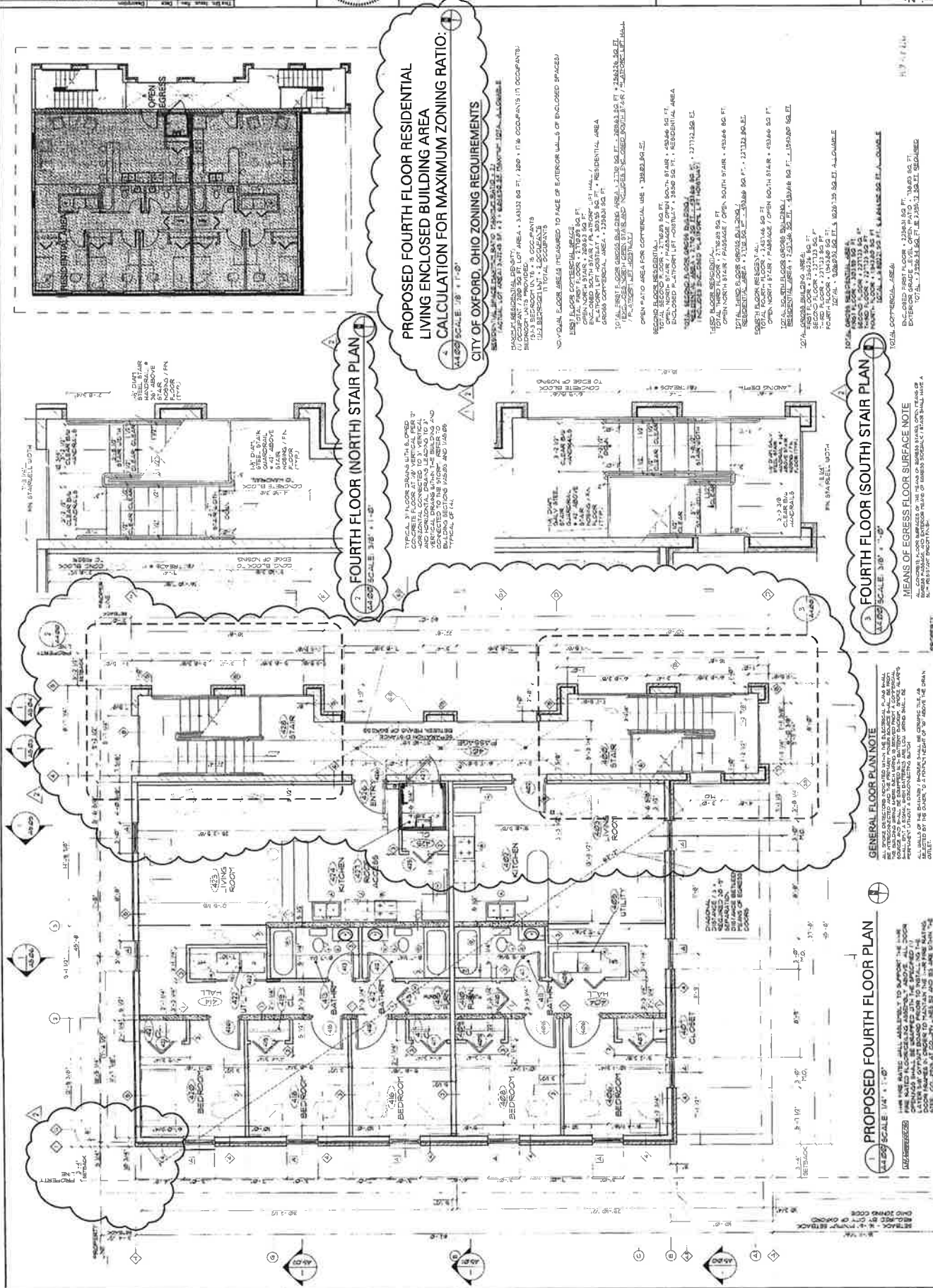
3 FIRST FLOOR (NORTH) STAIR PLAN
SCALE 3/8" = 1'-0"



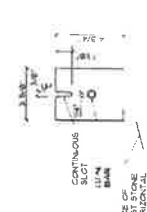
4 FIRST FLOOR (SOUTH) STAIR PLAN
SCALE 3/8" = 1'-0"



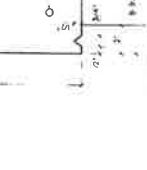




8 BAND



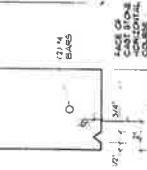
7 BAND



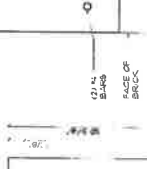
6 SILL



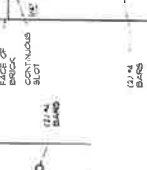
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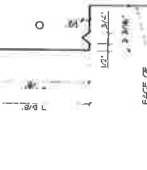
4 BAND



3 BAND



2 BAND



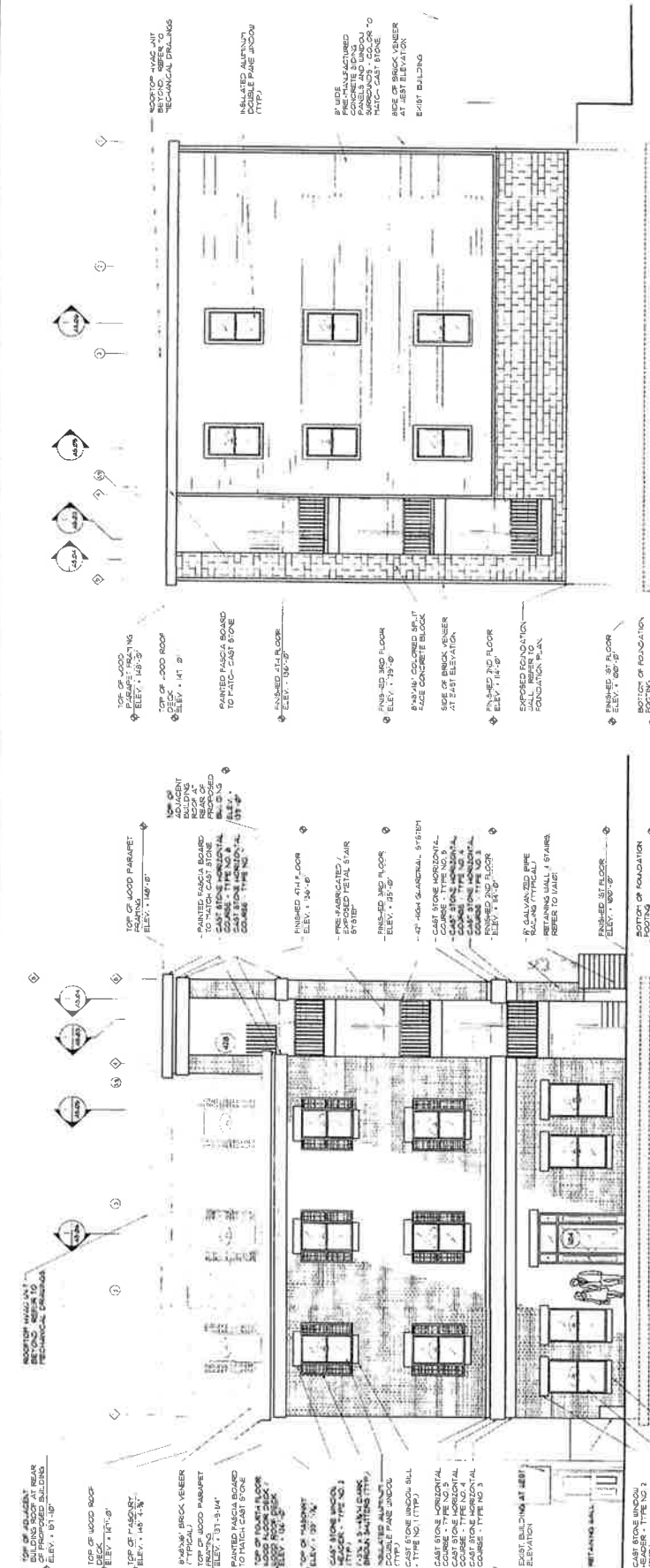
1 BAND



3 CAST STONE HORIZONTAL PROFILES
SCALE: 3/16" = 1'-0"

1 SOUTH BUILDING ELEVATION
SCALE: 3/16" = 1'-0"

2 NORTH BUILDING ELEVATION
SCALE: 3/16" = 1'-0"



**LARGE SETS OF THE MARCH 27, 2015 PLANS ARE AVAILABLE IN THE OFFICE FOR
VIEWING DURING NORMAL BUSINESS HOURS**

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Jack Grove has permission to represent our interest with the City of Oxford and act on our behalf for the BZA hearing May 20, 2015 regarding the Proposed New Construction at our property located at 28 W. Walnut, Oxford, Ohio 45056.

Thank you,

Signed: 
Ned C Hoelzer, Property Owner

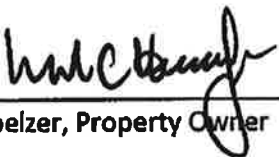
Date: 4/20/15

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Greg Myer + Robert Treadwell has permission to represent our interest with the City of Oxford and act on our behalf for the BZA hearing May 20, 2015 regarding the Proposed New Construction at our property located at 28 W. Walnut, Oxford, Ohio 45056.

Thank you,

Signed: 
Ned C Hoelzer, Property Owner

Date: 4/20/15



Internal Use Only:	
Case No.	BZA-2015-07
Date Filed	4/17/15

Application for Appeal of Administrator's Decision

Appellant Information

Name Robert J. Treadon Gregory S. Meyer

Mailing Address 300 High Street Suite 612

City, State & Zip Code Hamilton, Ohio 45011

Telephone Number(s) (513) 863-7162 ext. 103

Email Address rjt@rtarchitects.com gmeyer@rtarchitects.com

Required Documentation

28 W. Walnut

From Chapter 1129.11(a)¹.

1. Cite specific provisions of this Zoning Ordinance that are alleged to have been interpreted in error of the specific decisions or action being appealed and the grounds on which the appeal is being made;
2. Include any required application fee in an amount set by the City;
3. Include such other information as the City or the Board may reasonably require; and
4. Include a statement as to why the appellant has standing to pursue the appeal from the administrative action by a statement of the way in which the administrative action adversely affects the appellant.

Attach additional pages if needed.

The City Staff has misinterpreted Oxford Zoning Code Section 1143.10 3B; 1143.10 3B 1b; and 1159.07 (6). The City is including exterior ingress and egress stairwells in the calculation for living space (gross floor area). The stairwells are not contained within exterior walls and are located beyond the exterior wall of the defined gross floor area. Per 1159.07 (6), Gross Floor Area is "The sum of the gross horizontal areas of all floors of a building or structure from the exterior face of exterior walls..." The City specifically states in their March 19, 2015 letter "The stairs and halls are required to be included in the calculation as they are within the exterior walls of the definition of Gross Floor Area". The architect has eliminated the referenced exterior walls based upon this but the City maintains the same misinterpretation in their April 10, 2015 letter stating "The revision with open stair systems does not exempt them from inclusion in the calculation as they are within the exterior walls of the definition of Gross Floor Area". Exterior stairways are also specifically excluded from the outdoor areas that are calculated in the residential gross floor area. "Outdoor patios, decks and balconies for residential use shall be computed into the maximum 2:1 ratio" as specified in Section 1143.10 3B 1b.

Ned C. Hoelzer has standing to appeal the decision since he is the property owner. He has hired Robert J. Treadon and Gregory S. Meyer (Robert Treadon & Associates, Architects) and Jack Grove to represent him at the May 20, 2015 BZA meeting. Refer to attached page for statement of how administrative action affects the appellant.

ATTACHMENT TO CITY OF OXFORD, OHIO APPLICATION FOR APPEAL OF ADMINISTRATOR'S DECISION

The administrative action of being required to include the stair systems within the FAR calculations for residential space and the overall building makes the completed architectural and engineering construction plans obsolete. The process of altering the building design, developing new construction documents, obtaining approval from HAPC and Oxford Zoning Dept. and obtaining approval for building permits will add 4 to 6 months of time to the project thus not allowing the proposed apartments to be completed and leasable for the 2016 / 2017 college school year. A new building design would result in 3 to 5 less building tenants.

Fees & Receipt

The fee is \$50.00.

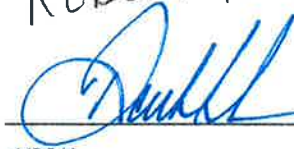
Sign and Date

Appellant Signature

Date

Robert Treadon

Gregory Meyer



4/20/15

Submit Application, Documentation, and Fees***We will not accept incomplete applications and/or plans and documentation.***

Send or drop off this application with required documentation as attachments and a check for the fee made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property.

For Staff Use Only

Fee Paid Date

4/12/15

Receipt Number

40237

¹ City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>



March 19, 2015

Gregory S. Meyer
Robert Treadon & Associates, Architects
300 East High Street
Hamilton, Ohio 45011

RE: Zoning Review for 28 West Walnut New Mixed-Use Building (Permit #15-028)

Dear Mr. Meyer:

We have reviewed your permit application package originally submitted February 20 and revised plans dated March 15, 2015. Below are our comments regarding the zoning review, in accordance with Oxford Zoning Code and HAPC approval of Certificate of Appropriateness on August 6, 2014. Please submit additional information and/or revise the proposal within 30 days. We welcome dialogue with you to resolve these comments appropriately. Please note that these comments do not include comments from other departments and agencies.

1. Total Building Floor Area Ratio and Total Residential Floor Area Ratio are both over the allowable limits. The stairs and halls are required to be included in the calculation as they are within the exterior walls of the definition of Gross Floor Area. A plan revision or BZA variance application will be required. [Section 1143.10(c)(3)B.]
2. No use is identified for the shell commercial space, therefore demonstration of compliance for the waste and recycling storage capacity has not been shown. Uses permitted in the district typically require area for large items such as cardboard, glass and used cooking oil. Data is required supporting the waste and recycling capacity proposed. [Section 1141.04(j)(3)A-B]
3. Screening is required for the waste and recycling storage area as it is in public view. [Section 1141.04(j)(3)D]
4. The grade change between the waste storage area and the street is not feasible for moving totes up and down stairs. A different location without grade changes is suggested.
5. Per August 6, 2014 HAPC approval, the submittal of exterior material details to HAPC for review and approval is required within one year and before project commencement. For example but not limited to the submittal of samples of brick, window, fascia, railing, patio and exposed concrete.
6. The plans include the front patio as a portion of square footage required to meet the commercial area Gross FAR. Therefore the plans shall clearly label the patio for commercial use only.

7. There is on open access window from the stair tower to the lower roof deck. Additional obstruction is recommended to prevent unauthorized access.
8. Does the building and site design include accommodation for future restaurant use on the ground floor, such as ventilation chase and/or grease trap?

Therefore, based on Items 1, 2 and 3 above, this permit application is hereby denied. Under the provisions of Oxford Zoning Code Section 1129.03, the applicant has 30 days to submit revisions or to appeal this decision to the Board of Zoning Appeals. A new application will be required, including payment of a new fee, if the applicant fails to submit adequate revisions within this time period. Revisions that address these deficiencies may result in further comments relative to these or other Zoning Code provisions. This review is only for compliance with the zoning regulations. Other departments may also have comments that will need to be addressed before any permits can be issued.

Please let me know if you would like to meet and discuss any of these items.

Sincerely,



Sam Perry, AICP

Planner

sperry@cityofoxford.org

513-524-5204

CC: Jung-Han Chen, Community Development Director

Mike Dreisbach, Service Director

David Treleaven, Environmental Specialist

Scott Otto, Engineering Division

Victor Popescu, City Engineer

John Detherage, Fire Chief

Bob Holzworth, Police Chief

Scott Young, Building Official



Park Place Real Estate

116 E High Street Oxford, OH 45056 (513) 523-2015 (513) 524-9935 fax

ParkPlaceRealEstate.net PropertyManager@ParkPlaceRealEstate.net

Sam Perry

Planning Department -- City of Oxford

March 23, 2015

Re: 28 West Walnut Oxford Zoning Code

Sam:

I want to thank you and Jung-Han for taking the time to meet with me and Greg Meyer on March 19, 2015 to discuss your March 19, 2015 reply to the 28 W Walnut plans submitted on February 20, 2015. We essentially discussed the total building floor area ratio and the total residential floor area ratio. Per your statement in your letter "The stairs and halls are required to be included in the calculation as they are within the exterior walls of the definition of Gross Floor Area." We are in agreement with this analysis. The exterior stairs were enclosed and can indeed be measured within exterior walls. As a result, your analysis was correct that the total building and residential floor areas were too high.

Per the Oxford Zoning Code the removal of the stairwell and hall exterior walls will resolve the issue. The revised stairwells and halls will be composed of structural masonry pilasters and metal architectural railings. The stairwells will essentially be an open design with no exterior walls. Per the definition of gross floor area (section 1159.07) the revised stairwells and halls will not be part of the gross floor area. In addition, it shall not be included in the residential space, which includes "outdoor patios, decks, and balconies..." (section 1143.10 B.1.b. i.). This is due to the fact that the exterior halls and stairwells are not a "patio, deck, or balcony". These revisions will ensure that the new building will meet the total building floor area and total residential area ratios. I have included the key provisions of the Oxford Zoning Code for review.

Oxford Zoning Code

1143.10 UPTOWN DISTRICT

B. Gross Floor Area Ratio:

1. The maximum permitted gross floor area ratio of a structure at or above grade in the Uptown District shall be 3. (Lot area x 3 = total bldg. sq. ft.)

b. Residential space shall provide a maximum ratio of 2:1 of the lot area subject to the following:

i. Outdoor patios, decks and balconies for residential use shall be computed into the maximum 2:1 ratio.

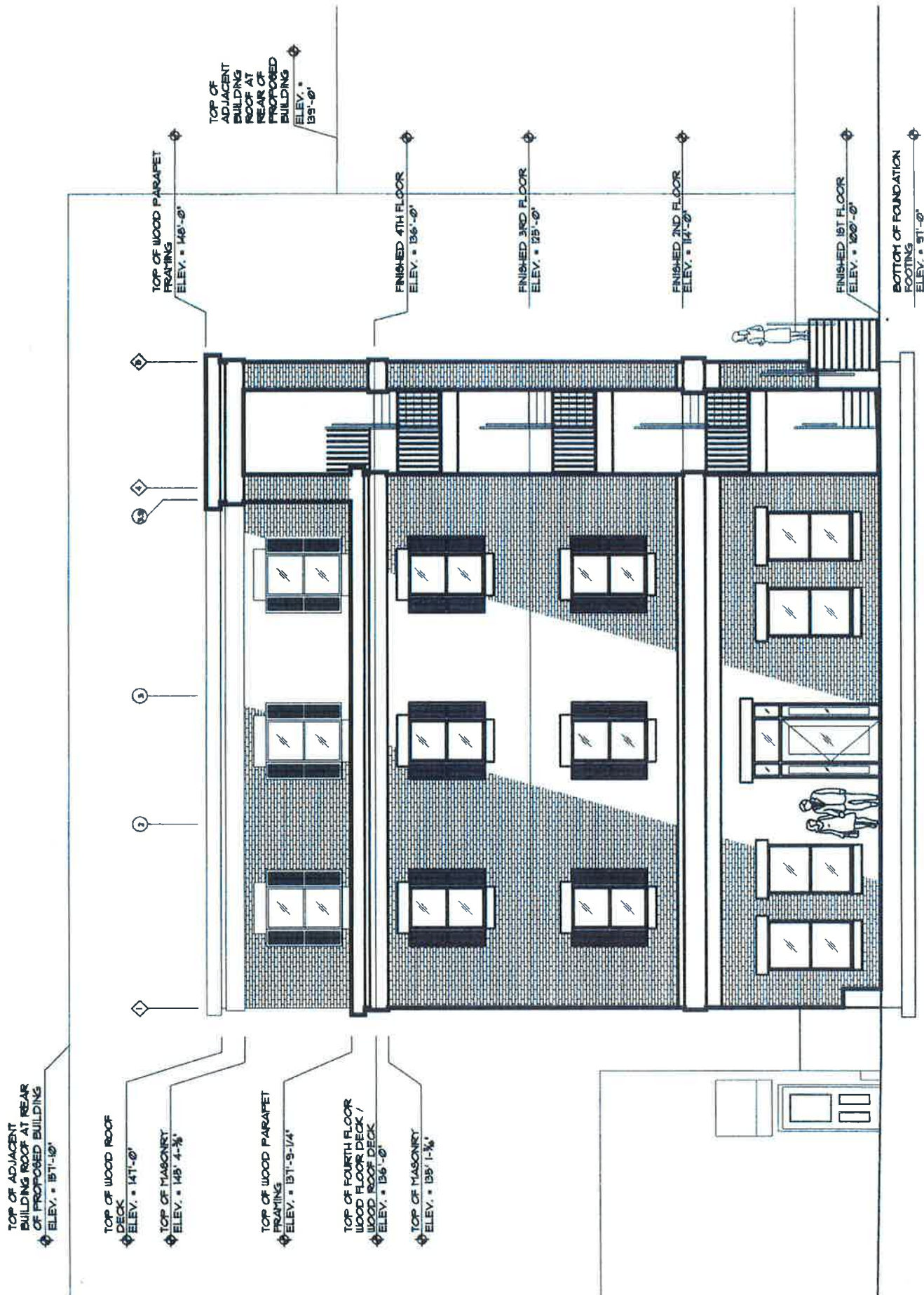
1159.07 Definitions (Beginning with Letter "F")

6 Floor area, gross – The sum of the gross horizontal areas of all floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

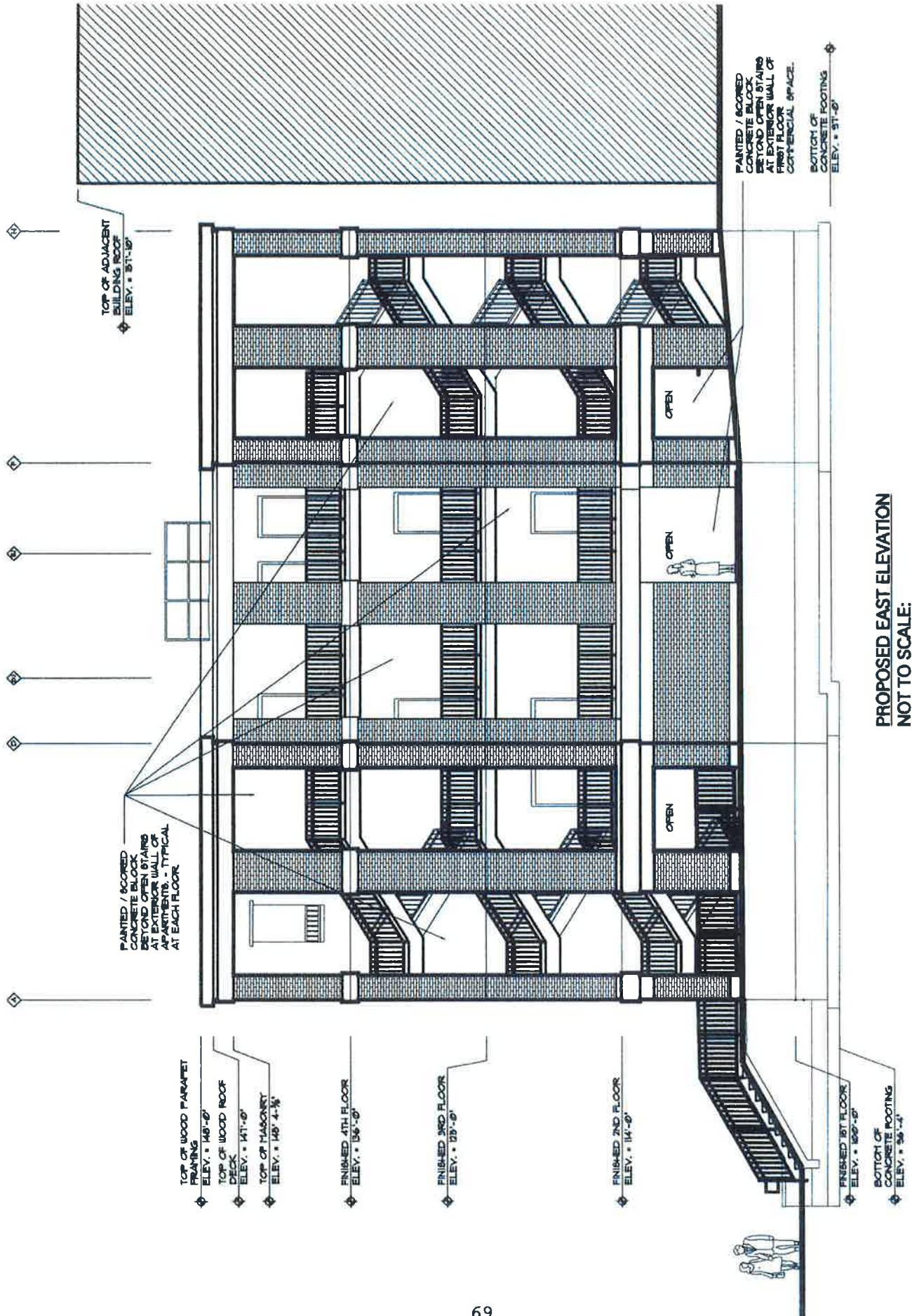
We anticipate having revised plans submitted by Friday March 27, 2015. We realize that HAPC must also review and approve the changes as well as material selections. Please let me know if you have additional questions. An additional letter will also be submitted to address items 2 through 8 from your March 19, 2015 letter.

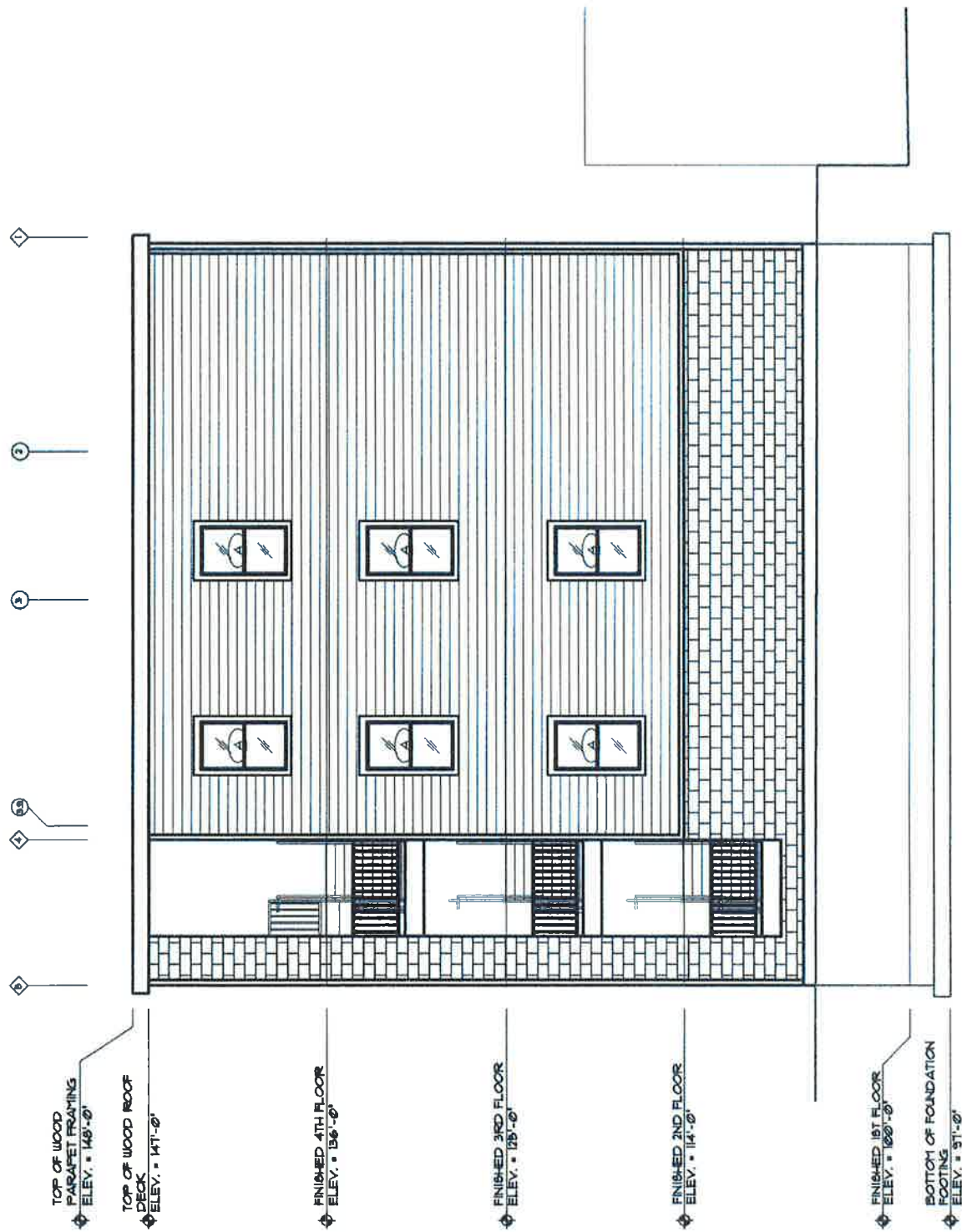
Sincerely,

Tom Kacachos, P.E.



PROPOSED SOUTH ELEVATION
NOT TO SCALE:







April 10, 2015

Gregory S. Meyer
Robert Treadon & Associates, Architects
300 East High Street
Hamilton, Ohio 45011

RE: 2nd Zoning Review for 28 West Walnut New Mixed-Use Building (Permit #15-028)

Dear Mr. Meyer:

We have reviewed your revised plans submitted March 27, 2015. Thank you for identifying the revisions on the plans. Below are our comments regarding the zoning review, in accordance with Oxford Zoning Code and HAPC approval of Certificate of Appropriateness on August 6, 2014. Please submit additional information and/or revise the proposal within 30 days. Please note that these comments do not include comments from other departments and agencies.

1. Total Building Floor Area Ratio and Total Residential Floor Area Ratio are both over the allowable limits. The revision with open stair systems does not exempt them from inclusion in the calculation as they are within the exterior walls of the definition of Gross Floor Area. A plan revision or BZA variance application will be required. [Section 1143.10(c)(3)B.]
2. The revision of the open stair system constitutes a major change from the approved COA which will require HAPC review as a regular agenda item.
3. The approved COA will expire on August 6, 2015. Although the major exterior materials were approved on April 1, 2015, it is suggested to return to HAPC with all the remaining materials as well as a request for extension of the COA for an additional one year – to August 2016.
4. You asked us to analyze your verbal proposal of creating a commercial tenant space on the fourth floor of approximately 200 square feet. We have conducted the analysis and determined that it would allow a small amount of the residential FAR for the stairs to be allotted to the 4th floor commercial unit. Given that 200 square feet would be less than 5% of the upper floor area of 6000 square feet, this would have a negligible benefit. We could assume a higher intensity per square foot than residential use by doubling the square footage allotment. This would still not exceed 15% allotment of the upper floor stair systems from residential to commercial. You may submit revised plans for a formal decision if you prefer.

Therefore, based on item 1 above, this permit application is hereby denied. Under the provisions of Oxford Zoning Code Section 1129.03, the applicant has 30 days to submit revisions or to appeal this decision to the Board of Zoning Appeals. A new application will be required, including payment of a new fee, if the applicant fails to submit adequate revisions within this time period. Revisions that address these deficiencies may result in further comments relative to these or other Zoning Code provisions. This review is only for compliance with the zoning regulations. Other

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Page 1 of 2

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departments may also have comments that will need to be addressed before any permits can be issued.

Please let us know if you would like to meet and discuss any of these items.

Sincerely,

A handwritten signature in black ink that reads "Sam Perry". The signature is fluid and cursive, with the first name "Sam" and last name "Perry" clearly distinguishable.

Sam Perry, Planner, AICP
Community Development
513-524-5204

CC: Jung-Han Chen
Doug Elliott

300 High Street, Suite 612
Hamilton, Ohio 45011
(513) 863-7162 Fax (513) 863-1116
www.rtarchitects.com

Robert Treadon & Associates, Architects

April 16, 2015

Mr. Jung-Han Chen – Community Development Director
Mr. Sam Perry - Planner
Planning Department – City of Oxford, Ohio

Re. Proposed Building for Park Place Real Estate:
28 West Walnut Street, Oxford, Ohio - Four Story Mixed-Use Building

I want to thank you both for the time and consideration spent on helping our design team with the Oxford, Ohio Zoning Code issues that we are faced with for the proposed project at 28 West Walnut Street.

Your letter to our office dated 3-19-2015 indicated that the Total Building Floor Area Ratio and Total Residential Floor Area Ratio of the proposed building within the construction documents dated 2-20-2015 are over the allowable limits established by the Oxford Zoning Code. The floor area ratio calculations within the construction documents dated 2-20-2015 did not include the area of stairways and passages as these areas are not within the Gross Leasable Area (GLA) established by Section 1159.08 Item No. 4 of the Oxford Zoning Code. The definition of Gross Leasable Area is as follows: The total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use. The definition of Floor Area, Gross is as follows per Section 1159.07 Item no. 6 of the Oxford Zoning Code. The sum of the gross horizontal areas of all floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor to ceiling height is less than six feet. The proposed building plan called for the stair and passage at the east side of the building to be 'open air' and not climate controlled with wall openings without glass, thus creating an open stair / open passage design that created the 'exterior' wall as the wall between the stairs/passages and the residential units since this wall separated enclosed interior space from exterior space. The enclosed stair at the northeast corner was included within the Total Building Floor Area Ratio since it had enclosing exterior walls but was not included within the residential floor area ratio since this is not gross leasable floor area and not occupied by the renting tenants.

Your letter of March 3-19-2015 required the stairs and passages to be included within the Total Building Floor Area and Total Residential Floor Area. This requirement thus established the definition of 'exterior wall' as an enclosing wall whether the space is interior or exterior. This definition thus led to the revised construction documents dated 3-27-2015 in which the means of egress stairs and passages at each floor became void of any exterior walls, thus establishing the exterior wall of the proposed building at the east side of the property as the wall separating the interior residential units / first floor commercial space from the open stairs / passages. The vertical sections of concrete block / brick masonry that remain at the stairs/passages are the columns required to support the structure and are not enclosing or exterior walls. Each opening between the columns contains an open guardrail system along the passages and stair flights. No exterior walls are created that enclose building space, thus eliminating the requirement of including the floor area of the open stairs and passages within the Total Building Floor Area and Total Residential Floor Area calculations. Per the Oxford Zoning Code Section 1143.10 Item No. 3.B.1.i, only outdoor patios, decks, or balconies for residential use are required to be included within the calculation of the floor area ratio for residential spaces.

In Conclusion, the revised City of Oxford, Ohio Zoning Requirements listed on Sheet A1.00 of the revised construction documents dated 3-27-2015 meet all maximum and minimum limitations for both Total Building Floor Area and Total Residential Floor Area.

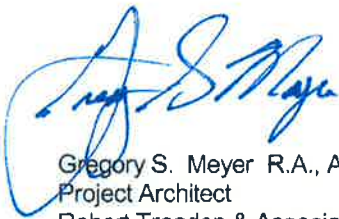
April 16, 2015

If you have any questions regarding this letter please contact Robert Treadon or Gregory S. Meyer at (513) 863-7162. Thank you for the considerations listed above and the assistance given thus far in this construction process.

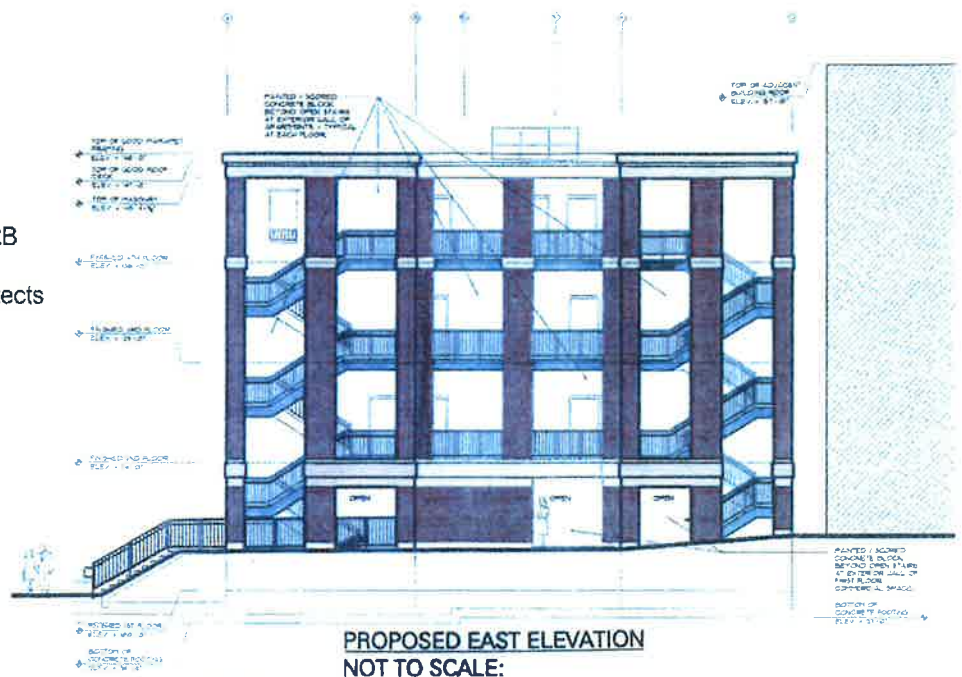
Sincerely,



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Tom Kacachos
Park Place Real Estate
116 East High Street
Oxford, Ohio 45056



SCOTT
WEBB

ARCHITECT

103 West Walnut Street
Oxford, Ohio 45056
(513) 523-3838

www.scottwebbarchitect.com

Re: Floor Area Ratio (F.A.R.)
Proposed new building
28 West Walnut Street

April 16, 2015

Mr Kacachos,

At your request, I am writing you to offer my professional opinion of the Floor Area Ratio (F.A.R.) as it related to your project at 28 West Walnut Street. I have reviewed the drawings you provided, the letters from the City of Oxford Planning staff, and the Zoning Code regarding your appeal to an administrator's decision.

In the past (6) projects I have been involved in, in the Uptown District, I have always provided interior stairs and corridors. As such, these areas clearly fall under the definition of Floor Area, Gross as defined by our Zoning Code.

Smaller lots result in smaller buildings, and as buildings get smaller, it becomes increasingly difficult to accommodate all of the components of the building with the allowable limits. Stairs and exit access corridors are fixed sizes (as are bathrooms, kitchens, etc.). This puts pressure on other room sizes (and potentially, the overall occupancy of the building).

Reviewing your drawings, it would seem that your approach of leaving the stairs and exit corridors "outside" the building may be a viable solution.

1143.10(c)(3)A. describes the Gross Floor Area Ratio restriction as "The maximum permitted **gross floor area** of a structure at or above grade..."

This is reiterated in the definition section 1159.07, where the Floor Area Ratio is defined as being based on "The **gross floor area** of all buildings..."

Each of these sections of the Zoning Code refer to the "Gross Floor Area" which is also defined in 1159.07. The definition of "**Floor Area, Gross**" is described as "the sum of the horizontal areas of all floors of a building or structure from the **exterior face of the exterior walls**..."

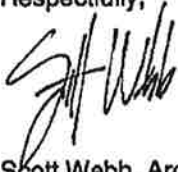
While 1143.10(c)(3)B.b. describes a few exceptions to this with regard to the F.A.R., requiring that outdoor patios, and decks & balconies for the residential use be "computed into the 2:1 ratio". While these residential amenities are addressed directly, no restriction is placed on other functions that happen outside "...the **exterior face of the exterior walls**".

As I understand your architect's building, the stairs and corridors are clearly outside of these exterior walls, and appear to not be limited by the regulations of the zoning district, or by the definitions provided to eliminate ambiguities.

Consulting Code Studies Site Planning Schematic Design Construction Documents Construction Management

If you have any questions, or need any additional information, please call,

Respectfully,

A handwritten signature in black ink, appearing to read 'S Webb', written in a cursive, stylized script.

Scott Webb, Architect

(2) No zoning certificate shall be issued for an "RO" use until the applicant shall have certified to the Zoning Administrator that:

A. The business activity is open to the public only between the hours of 7:00 a.m. and 9:00 p.m.

B. The business activity shall be conducted wholly within a completely enclosed building.

C. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or Portland cement concrete, wood, tile, terrazzo or similar material, and except for parking areas, the grounds shall be planted and landscaped.

(3) Failure to comply with any of the above conditions by property owners or users will be considered a zoning violation appropriate for prosecution under the terms of this Ordinance.

(Ord. 2782. Passed 5-20-03.)

1143.10 UPTOWN DISTRICT.

(a) Purpose. The purpose of this district is to preserve and encourage the continued vitality of the City's historic central business and civic activity area. Selected uses and regulatory standards are provided to guide development so as to achieve a mixture of appropriate uses in a functional, aesthetic and pedestrian compatible manner.

(b) Uses.

(1) Permitted uses.

A. Any combination of residential dwelling types as defined in Section 1159.05(8), A through E., on the second floor or higher.

B. Retail services shall not exceed 10,000 square feet of floor area on any given floor.

1. Apparel and jewelry.

2. Bars and establishments serving alcohol.

3. Books, stationery, newspapers, magazines, office equipment and office supply stores.

4. Drugs and pharmaceuticals.

5. Food products, including groceries, meat, fish, baked goods, confectionary, and beverages.

6. Flowers, potted plants, and garden supplies.

7. Hardware, paint, home furnishings, and other home improvements products.

8. Optical aids.

9. Photography, bicycles, gifts and toys, pets, music, sporting goods, and other hobby and craft supplies.

10. Restaurants, not including drive-in.

11. Other similar establishments engaged in retail trade except those included as Conditional Uses in subsection (b)(2) hereof.

C. Personal and professional services shall not exceed 10,000 square feet of floor area on any given floor.

1. Accounting, advertising, architectural, auditing, bookkeeping, legal, and medical offices, and offices for other similar professional service providers.

2. Banks, credit agencies, investment firms, real estate, insurance offices, and other similar establishments engaged primarily in financial services.

3. Barber and beauty shops.

4. Cleaners, including dry cleaning and laundromats.

5. Home improvement services, including carpentry, electrical, heating, plumbing, and decorating.
6. Offices for nonprofit, charitable, labor, and other service organizations.
7. Repair establishments for bicycles, household appliances, locksmiths, shoes, and motor vehicles (if no gasoline is sold).
8. Theaters, not including drive-ins.
9. Other similar personal and professional services, such as employment agencies, travel bureaus, and ticket offices.
- D. Accessory buildings incidental to the principal use.
- E. Sidewalk uses.

1. This section is intended to provide for active use of private and public property in the Uptown District for outdoor cafes and retail sales. A sidewalk use requires a permit, shall be operated according to the provisions of this section, and is valid for one year and only for the location, design, and use approved.

2. A sidewalk use may include outdoor activity on both private and public property as follows:

a. Private property in the front setback area or any courtyard or other partially enclosed area adjacent to a right-of-way may be utilized only for the same commercial activity as the principal use on the first floor of the principal structure.

b. The public sidewalk and other paved portions of the right-of-way that are designed and constructed to accommodate pedestrians may be utilized only for the same commercial activity as the principal use on the first floor of an immediately adjacent principal structure.

3. A sidewalk use permit application shall include a fee, a scaled site plan, and other information sufficient to determine compliance with all of the following provisions:

a. The use may not extend more than five feet into the right-of-way; and

b. The use may not result in less than five feet of unimpeded sidewalk adjacent to the sidewalk use (street trees, parking meters, street sign poles, and the like are impediments); and

c. The adjacent property owner and the operator of the use have a liability insurance policy that covers accidents and injuries on the public right-of-way for a minimum of one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) per accident, premiums are fully paid for the calendar year of the permit, and the City of Oxford is a named insured upon such liability policy; and

d. The use shall employ only displays, counters, tables, chairs, umbrellas, and planters that are moveable; and

e. Nothing related to the operation of the use shall be permanently installed on public or private property except anchors that do not protrude above the adjacent sidewalk surface and do not otherwise create a trip hazard; and

f. All materials shall be lightweight and easily removable; and

g. All roofs shall be made of a flame-resistant (per Ohio Basic Building Code and Ohio Fire Code), nonstructural material such as treated canvas or vinyl fabric; and

h. All illumination shall be confined within the perimeter of the use; and

i. All partitions shall be transparent 3 feet above the adjacent sidewalk surface.

4. The City Manager or designee shall require removal of anything or correction of any condition associated with a sidewalk use that threatens the public health, safety, or general welfare and shall revoke an approved permit if its holder fails to comply with any such order in a timely manner.

5. The City Manager shall reinstate a revoked permit if the holder removes the immediate threat and provides sufficient proof that the threat will not recur.

6. If a sidewalk use permit is revoked more than once during the year that the permit is valid, the permit shall not be reinstated and a new permit shall not be issued until after the original expiration date of the revoked permit.

(2) Conditional Uses. The following Conditional Uses are subject to review and regulation in accordance with Chapter 1147.

A. Retail services:

1. Any permitted retail use that exceeds 10,000 sq. ft. on any given floor.
2. Banks with drive-through facilities.
3. Building supplies, garden supplies.
4. Temporary or outdoor sales of plants and garden supplies.
5. Retail uses which do not provide a minimum ratio of 0.7:1 of the lot area.
6. Additional retail uses above the street level which would cause the maximum permitted gross floor area ratio to exceed the 3:1 ratio.

B. Personal and public services:

1. Any permitted personal or public service that exceeds 10,000 sq. ft. on any given floor.
2. Cultural institutions, including libraries, art galleries and museums.
3. Hotels and motels.
4. Places of worship.
5. Funeral homes.
6. Night clubs, discotheques, and other entertainment facilities.
7. Personal and Professional Services which do not provide a minimum of 0.7:1 of the lot area.
8. Additional personal and professional services above the street level which would cause the maximum permitted gross floor area ratio to exceed the 3:1 ratio.

C. Other uses.

1. Any combination of dwelling types as defined in Section 1159.05(8), A through E, on the first floor or basement.
2. Community-Oriented Residential Social Service Facilities (CORSSF's).
3. Shared Housing and Congregate Housing for the elderly.
4. Government owned and/or operated parks and recreation facilities.
5. Bed and breakfast homes.
6. Publicly owned and operated neighborhood recreation centers.
7. Day care facilities, including Day Care for child, Day Care Center for child, Day Care Home Type A family, and Day Care Home Type B family.
8. Schools: primary, intermediate, and secondary, both public and private.
9. Hospitals

(c) Site Development Regulations. (Unless superseded by Conditional Use Requirements)

(1) Lot requirements.

A. Minimum Lot Area:

1. Lots in the Uptown District shall be a minimum of three thousand (3,000) square feet.

(2) Yard requirements.

Front Yard 16.5 feet minimum <i>except</i>	* On High Street - at least 70 percent of building must meet the right-of-way line
Rear Yard none <i>except</i>	* Adjacent to a residential district 10 feet minimum
Side Yard none <i>except</i>	* Adjacent to a residential district 6 feet minimum

(3) Structural requirements.

A. Building height:

Minimum -	23 feet and a minimum of 2 stories above street grade
Maximum -	48 feet and 4 stories maximum above street grade.

B. Gross Floor Area Ratio:

1. The maximum permitted gross floor area ratio of a structure at or above grade in the Uptown District shall be 3. (Lot area x 3 = total bldg. sq. ft.)

a. Commercial space shall provide a minimum ratio of 0.7:1 of the lot area on the street level subject to the following:

i. The basement of a structure may be used for retail, personal and professional uses but shall not be computed into the minimum 0.7:1 ratio.

ii. Uncovered outdoor areas shall:

a. Be associated with the first floor commercial occupant,

b. Be located on the property and/or on the public sidewalk, only with a valid sidewalk permit.

c. Be computed into the minimum 0.7:1 ratio, but not the overall 3:1 ratio.

b. Residential space shall provide a maximum ratio of 2:1 of the lot area subject to the following:

i. Outdoor patios, decks and balconies for residential use shall be computed into the maximum 2:1 ratio.

(4) Maximum Residential Density.

A. Occupancy shall be limited to one person per 200 square feet of lot area.
(Ord. 3205. Passed 3-19-13.)

1143.11 MU UNIVERSITY DISTRICT.

(a) Purpose. The purpose of this district is to accommodate the academic, administrative, cultural, recreational, residential and ancillary uses comprising and supportive of the respective requirements of a college or university. Any parcel, property or structure that is within the Historic District Overlay shall also consult the current design guidelines of the Historical Architectural Preservation Commission and Chapter 1331 of the Oxford Codified Ordinance and shall follow the procedures for approval contained therein.

(b) Uses.

(1) Permitted uses.

A. University complex, including all affiliated educational structures and other supporting uses owned, operated, affiliated, leased or licensed by the university, such as dormitories, eating facilities, recreational and athletic facilities, laboratories, retail facilities, library, etc.

B. Single-family dwellings.

(3) **ESSENTIAL SERVICES** – Services created by the erection, construction, alteration, or maintenance by public utilities or governmental agencies, of underground or overhead, gas, electrical, steam or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment for the furnishing or adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings other than accessory buildings. (Ord. 2782. Passed 5-20-03.)

1159.07 DEFINITIONS (BEGINNING WITH LETTER "F").

(1) **FAMILY** - In all districts (zones), a family shall be a person living alone, or two or more persons related by blood, marriage or adoption, including minor children in the lawful custody of an adult member of members of the family, living together as a single housekeeping unit and occupying a single dwelling unit, or a group of not more than four unrelated persons living together as a single housekeeping unit occupying a single dwelling unit and using only common entrances and exits.

(2) **FAMILY COMMUNITY RESIDENCE** - A single dwelling unit occupied on a relatively permanent basis in a family-like environment by a group of no more than four persons (at least three of whom are unrelated persons with handicaps), plus up to one paid professional support staff provided by a sponsoring agency either living with the residents on a 24-hour basis or present on shifts.

(3) **FARM ANIMALS** - Animals other than household pets that shall be kept and maintained for commercial production or sale; or family food production, education, or recreation. Farm animals are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep, goats, pigs; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks, and pigeons.

(4) **FARM IMPLEMENT SALES** - The retail sales and service of mechanical equipment customarily used for agricultural purposes.

(5) **FLOOD PLAIN AREA** - Those lands in the City of Oxford, Ohio, that are subject to flood hazards as determined on the Federal Emergency Management Agency or the Butler County Soil & Water Conservation District or both.

(6) **FLOOR AREA, GROSS** - The sum of the gross horizontal areas of all floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

(7) **FLOOR AREA, NET** - The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public. (Ord. 2782. Passed 5-20-03.)

(8) **FLOOR AREA RATIO (FAR)** - The gross floor area of all buildings or structures on a lot divided by the total lot area, excluding any land vacated by Ordinance No. 103 (16 1/2 foot vacated right-of-way). (Ord. 3018. Passed 10-7-08.)

(9) **FOOTPRINT** – Horizontal area within and including the exterior walls of a structure. (Ord. 2782. Passed 5-20-03.)

Example of 1143.10 Uptown District (c) (5) (B)(b);
"Outdoor patios ..."



City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2015-08

Date – May 20, 2015

APPLICATION

Applicant:	Scott Webb, Architect
Location:	5000 College Corner Pike
Owner:	Oxford Legacy LLC (Matthew Troy, Managing Member)

Action Requests:	• Variance to General Business (GB) District Supplemental Regulations, Section 1143.12(d)(4)A. Requiring 60% glazing on the ground floor between 2.5' and 7' above grade • Variance to Supplemental Regulations Section 1141.03(b) Requiring that the building's principal entrance shall be upon the street
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Current Use:	Vacant Land
Zoning:	General Business (GB)
Surrounding Land Uses:	Professional Office, Cemetery, Auto/Service

DESCRIPTION

Mr. Scott Webb is requesting two variances on behalf of the property owner. One is related to the façade design requirements of the General Business district and one is related to the orientation of the building entrance to the street. The property is currently vacant, being the last lot of a three-lot subdivision originally approved in 1981. The former Fye Avenue right-of-way, adjacent to the property, was vacated when the plat was approved in 1981. Enclosed is a copy of the 1981 subdivision plat for Grandview #2. Also enclosed are copies of the approved site plans for the two previously built buildings.

BACKGROUND

The existing two buildings within this three-lot development were built in the 1990s.

The General Business district requires 60% glazing on the ground floor. This is intended to promote an inviting street presence for customers in this business district. The proposal is 40% glazing, which is 20% less than the required amount.



Therefore a variance for the difference is required.

The Supplemental Regulations of the Zoning Code prescribe many of the general requirements for site developments that are not specified within the zoning district. The orientation of the principal entrance with the street is one of those requirements. The proposed building orientation puts the principal entrance on a side which is internal to the site rather than toward the street. Therefore a variance is required to allow this orientation.

Below is a 2014 Oblique photograph of the subject property in the center.



COMMENT FORMS

No public comments were received from surrounding property owners regarding this request.

AGENCY REVIEW

The variance requests have been reviewed by City departments. However the proposal has not been reviewed for a building permit. The building permit submittal typically generates more comments, some of which could relate to the site layout. All applicants have the option of a variance application either prior to, or after a complete plan review.

Fire	Returned without comments
Police	Returned without comments
Engineering	Returned without comments
Economic Development	Not returned

BZA SITE HISTORY

There are no documented records of prior BZA cases for the subject property.

ANALYSIS

The burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for variance(s) (Section 1139.02(c)(1)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining

whether such difficulties exist which are sufficient to warrant a variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed letter addressing the review criteria from Mr. Webb. The staff's review of the criteria is included below.

Façade Glazing requirements:

Regarding criterion A, Staff believes that the property **cannot yield a reasonable return without the variance**. The two existing buildings within which the subject property is located are designed as professional office buildings. Professional offices do not rely on a storefront presence. The introduction of a design with storefront glazing percentage would therefore be in conflict with adjacent development.

Regarding criterion B, Staff believes that the percent difference between the glazing proposed and the glazing required is **not substantial** given that it appears to be approximately a 20% difference.

Regarding criterion C, Staff believes that there would **not** be any result of the glazing variance that would **negatively alter the essential character of the neighborhood**. The adjacent buildings have similar percentages and the cemetery is open area unlikely to be re-developed.

Regarding criterion D, Staff believes that the delivery of governmental services is **not impacted positively or negatively**, with the glazing variance request.

Regarding **criterion E, property owner awareness of zoning restriction**, see the Applicant's narrative letter. The property was purchased by the current owner in April 2015. The glazing requirements were adopted into the zoning code with other revisions in 2006.

Regarding criterion F, it is not clear based upon the information submitted that the **owners' predicament regarding glazing percentage cannot be obviated** through a method other than a variance. Little discussion or evidence about an attempt to comply with the requirements, has been presented. It is conceivable that additional glazing could be added to the façade design.

Regarding criterion G, staff believes that the **spirit and intent** of the zoning requirement for glazing is related to the retail storefront experience in a commercial district. The intent is to maintain the commercial nature of the district, which this proposal achieves.

Regarding criterion H, staff believes **that a relevant factor** is the existence of the two previously built office buildings within the development.

Principal Entrance Orientation:

Regarding criterion A, Staff believes that the property **cannot yield a reasonable return without the principal entrance orientation variance**. The pre-existing orientation of the three-lot subdivision is internally focused. It is possible to place an entrance on the south façade, facing College Corner Pike. However this area of Oxford is largely accessed by automobiles, for which the site was previously designed.

Regarding criterion B, Staff believes that the lack of a principal entrance oriented toward College Corner Pike setback is **not substantial** as the shape of the lot and residential style of the buildings allow for placement of the entrance on the wider façade.

Regarding criterion C, Staff believes that there would **not** be any result of the principal entrance variance that would **negatively alter the essential character of the neighborhood**. The two abutting sites are developed in the same fashion.

Regarding criterion D, Staff cannot determine at this point if the delivery of governmental services (such as utilities, access, other public services) **is impacted positively or negatively**.

Regarding **criterion E, property owner awareness of zoning restriction**, see the Applicant's narrative letter. The property was purchased by the current owner in April 2015.

Regarding criterion F, the **owners' predicament can be obviated** through a method other than a variance by placement of the principal entrance oriented toward College Corner Pike.

Regarding criterion G, staff believes that the **spirit and intent** of the zoning requirement for principal entrance orientation toward the street is for public safety and welfare. The existing driveway access and parking lot serve this purpose. Additionally, a sidewalk is planned directly to the street, per General Business Supplementary Regulations Section 1143.12(d)(3).

Regarding criterion H, staff believes **that a relevant factor** is the existence of the two previously built office buildings within the development.

RECOMMENDATION

If the BZA determines that difficulties exist which are sufficient to warrant the variances, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance requests. At the time of this report, **staff believes there is substantial evidence that supports the variance requests**. If the BZA does approve the variances it can attach any appropriate conditions necessary.



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

DATE: May 12, 2015

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/28/15

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2015-08 5000 College Corner Pike Variance Request 1141.03(b) principal entrance on a street;
1143.12(d)(4)A glazing requirement **Scott Webb, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **5/11/2015** Note: If no comments are received, we will assume the project meets your department's standards.

Drawings are returned: w/comments without/comments

Drawings reviewed by:


John Detherage
PRINT NAME

Date:

4-30-15

RECEIVED

APR 28 2015

City of Oxford
Service Department

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/28/15

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2015-08 5000 College Corner Pike Variance Request 1141.03(b) principal entrance on a street;
1143.12(d)(4)A glazing requirement **Scott Webb, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **5/11/2015** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: _____



VICTOR POPESCU

PRINT NAME

Date: 4-29-15

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 4/28/15

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2015-08 5000 College Corner Pike Variance Request 1141.03(b) principal entrance on a street;
1143.12(d)(4)A glazing requirement **Scott Webb, Applicant/Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **5/11/2015** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by:

RD ★
ROBERT B. HOLZWORTH

PRINT NAME

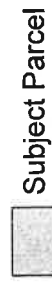
Date: 4/29/2015



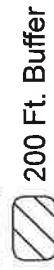
BZA-2015-08

Surrounding Property Owners Map

Legend



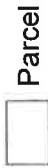
Subject Parcel



200 Ft. Buffer



Oxford Corporation Limit



Parcel

Vacated Right-of-Way



Building Footprint

Paved Roadway



1 inch = 100 feet

Prepared on Monday, May 04, 2015

The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.



909-137.

the City of Oxford Planning Commission on this
 May 13, 1981.

Lee R. Kutz
 zoning Administrator

accepted by the City of Oxford Council by
 1629 passed April 7, 1981.

Caroline H. Hollis
 Mayor

ing plat is hereby consented to and accepted
 versity on 1981.

Trustees, Miami University

ansfer

Auditor of Butler Co.

Zoomed in 1981 plat

at

fee
 Page

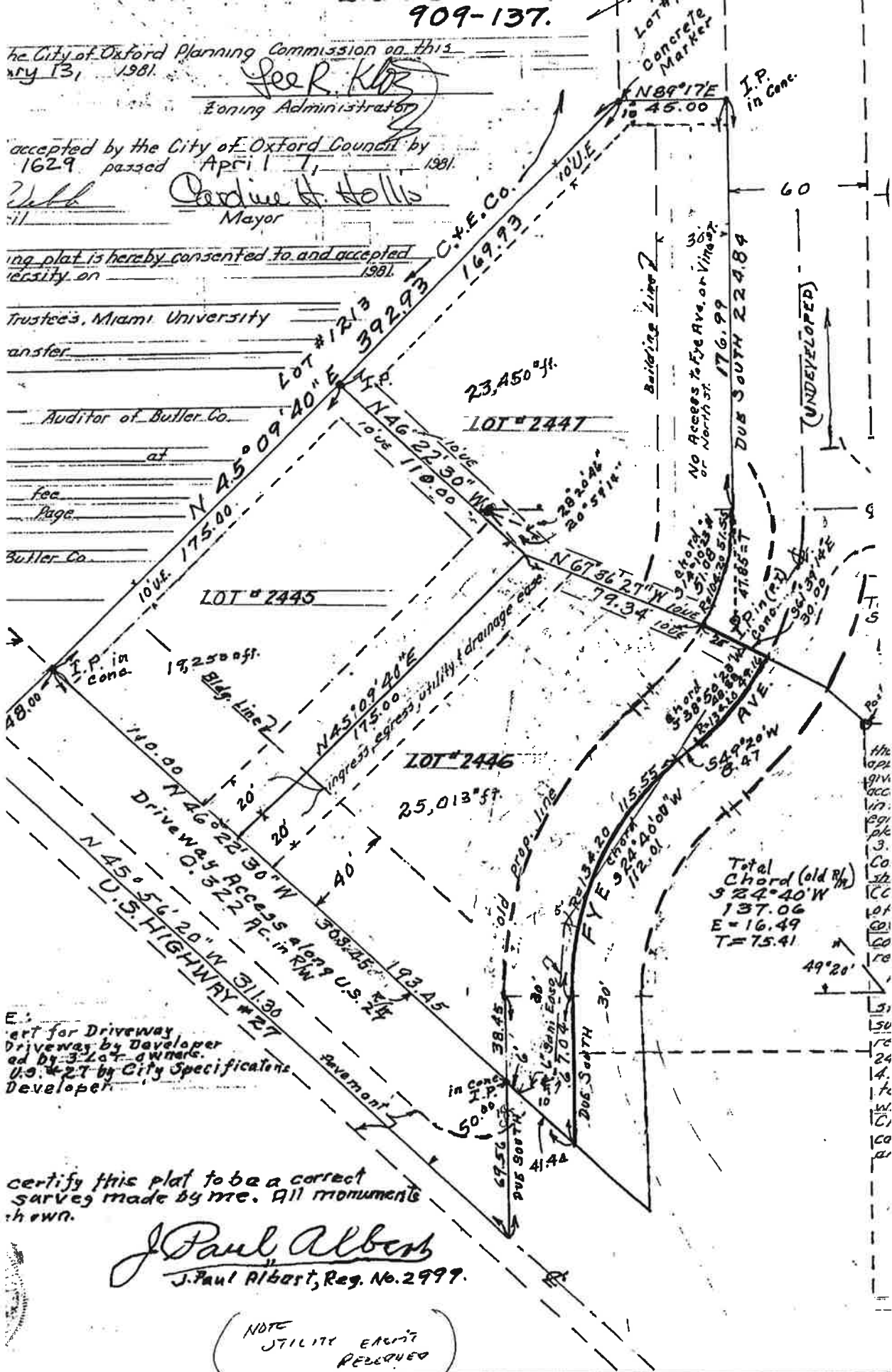
Butler Co.

ert for Driveway
 Driveway by Developer
 ed by 3 Lot owners.
 U.S. #27 by City Specifications
 Developer

certify this plat to be a correct
 survey made by me. All monuments
 shown.

J. Paul Albert
 J. Paul Albert, Reg. No. 2997.

NOTE
 UTILITY EASMENT
 REQUIRED



Zoomed in 1981 plat

City of Oxford 900430-1
Building and Zoning Permit No.

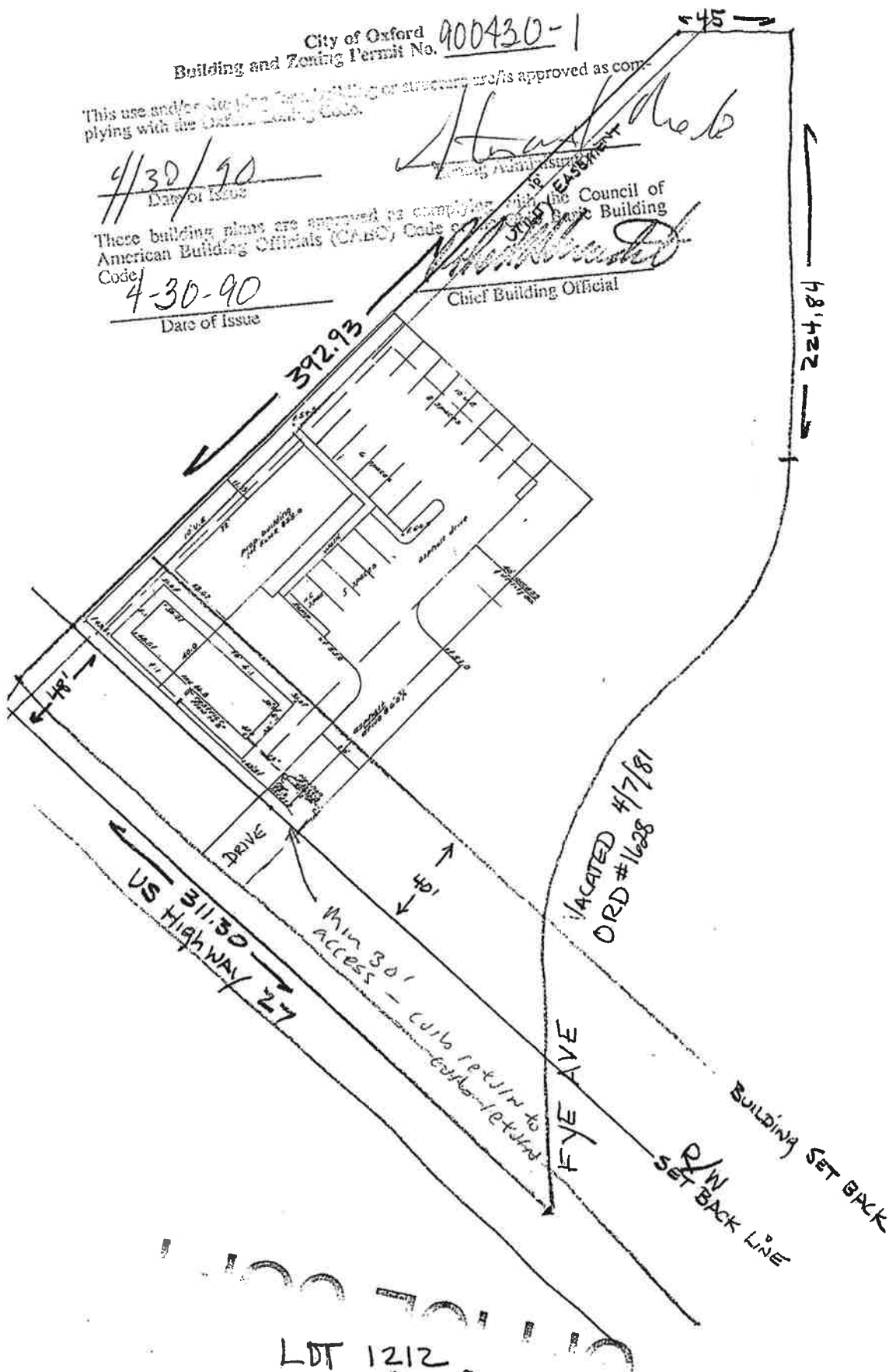
This use and/or structure approved as complying with the Oxford Zoning Code.

4/30/90
Date of Issue

These building plans are approved as complying with the Council of American Building Officials (C.A.B.O.) Code.

4-30-90
Date of Issue

Chief Building Official



Kirsch CPA 1990 site plan

LOT 1212
CITY OF OXFORD



LOT 1213

PART OF LOT 1212

N 89°17'00" E
45.00'

30.00'

EX. TREES
AND
HONEYSUCKLE
BUSHES

176.99'

30.00'

FYE AVE. (UNDEVELOPED)

N 45°09'40" E

169.93'

6" CONC.
SLAB

6" ASPHALT CURB
TYPICAL

BUILDING LINE

LIGHTING TO BE
ATTACHED TO BUILDING

LIGHTS (TYP.)

GRASS

N 46°22'30" W

10' UTILITY EASEMENT
110.00'

LOT 2445

ACER RUBEN

TAXUS X MEDIA 'DENSIFORMIS'

CHAEOMELES SPECIOSA

PRUNUS CISTENA

PICEA ABIES 'NIDIFORMIS'

SPIREA X BUMALDA 'GOLD MOUND'



PLANTED

N 67°36'27" W

79.35'

LOT 2446

EXISTING TREES AND
HONEYSUCKLE BUSHES

Δ = 28°22'05"
R = 104.20'
L = 51.59'
S 14°10'23" W
51.07'

1998 Real Estate Office Plan

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Scott Webb, Architect has permission to represent our interest with the City of Oxford and act on our behalf for the Board of Zoning Appeals hearing May 20, 2015 regarding our proposed new building on College Corner Pike, Oxford, Ohio.

Thank-you,

Signed: Matthew A. Troy
Matthew A. Troy, Managing Member
Oxford Legacy, LLC

4/7/2015
Date:



Internal Use Only:

Case No.

BZA-2015-08

Date Filed

4/20/15

Petition for Zoning Variance

Petitioner Information

Attach a Letter of Agency if the Petitioner is not the property owner.

Name * Scott Webb

Mailing Address * 103 West Walnut Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * (513) 523-3838

Email Address scott@scottwebbarchitect.com

Location of Property * 5000 College Corner Pike

Name of Building * Vacant Lot

Owner Information

Name * Oxford Legacy LLC

Mailing Address * c/o Bolin & Troy, 29 North Beech Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * (513) 523-6369

Email Address rob@bolintroylaw.com, matt@bolintroylaw.com

Variance and Lot Information

Requested Variance. Indicate the nature of variance and applicable section(s) of the Planning and Zoning Code.

1141.03(b) Entrance on a Street

1143.12(d)(4)(A) Glazing Requirement

Location of Requested Variance * 5000 College Corner Pike

Legal Description *

Zoning District * GB Total Acreage * .57

Existing Use of Site * Vacant Land

Proposed Use (if applicable). A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles, and the hours of operation.

New Professional Office Building

- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- H. Any other relevant factor.

Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00 plus postage charge.

Fees may increase if staff determines that you need more variances.

To calculate postage charges, multiply the number of adjoining properties by current postage rate³.

Sign and Date

Petitioner Signature *

Date *

[Handwritten Signature]
4/20/15

Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fee(s) and postage charges made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

For Staff Use Only

Fee Paid Date *

4/20/15

Receipt Number *

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

³ The United States Postal Service: <http://www.usps.com/>

Board of Zoning Appeals
City of Oxford
101 East High Street
Oxford, Ohio 45056



**SCOTT
WEBB**

A R C H I T E C T

103 West Walnut Street
Oxford, Ohio 45056
(513) 523-3838

www.scottwebbarchitect.com

Re: Multiple Variances
Proposed New Professional Office Building
~~5020~~ College Corner Pike
5000

April 20, 2015

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for variances to the Oxford Zoning Code sections listed below.

- 1141.03(b) Requires every building to have its principal entrance upon a street.
The proposed new building is the third and final building in a professional office complex of buildings that share a common vehicular entrance from the street. This building will face the Kirsch Accountants building and will be similarly designed to face the common entrance drive.
- 1143.12(d)(4)(A) Requires 60% glazing on the ground floor between 2.5 and 7' above grade.
While 60% glazing may be appropriate for retail uses, is not appropriate or necessary for a professional office building. Moreover, the building is designed to complement the other buildings in the complex, which are residential in scale and materials.

The following responses address the decisions standards outlined in the application:

- a) *Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;*

While the building could possibly yield a return with its entrance facing US27, it would be difficult based on the grade of the site, the location of the parking, and would not complement the other buildings in the complex.

The building could possibly yield a reasonable return with additional glazing, the cost of the glazing is burdensome, and not appropriate for the use as a professional office.

- b) *Whether the variance is substantial;*

The variance to the entrance requirement is not substantial, as the building is designed to complement the other buildings on the site and address the shared entrance drive.

The variance to the glazing requirement is affected by the existing grade of the site. The façade facing US27 is not at grade level as the site slopes significantly towards the highway. Approximately 40% glazing however is provided on the ground floor through

residential scale windows that are appropriate for the professional office use and complement the other buildings in the development.

- c) *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance*

The essential character of the neighborhood would be maintained by the variance. The three-lot development was designed to share an entrance with each building facing the center of the group.

The essential character of the neighborhood would be maintained by the glazing variance, allowing the building to reflect the design of the other two existing buildings.

- d) *Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);*

Neither of the requested variances would affect the delivery of governmental services as all utilities are existing on the site.

- e) *Whether the property owner purchased the property with knowledge of the zoning restriction;*

The property was purchased with limited knowledge of the zoning requirements, but with the clear intention to continue the original design of the development and to complement the other buildings.

- f) *Whether the property owners' predicament feasibly can be obviated through some method other than a variance;*

The front entrance requirement would be extremely difficult to address based on the grade, the shape of the lot, and the existing shared entrance drive.

The glazing requirement could be met with additional windows, but this would not be appropriate for the use, nor complement the adjacent existing buildings..

- g) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;*

The spirit and intent of the Zoning Code regarding the entrance requirement is respected by the design of the building, presenting an attractive façade to the street, and not an unfinished "side" of the building. The location of the entrance reflects the grade of the site and the shared entrance drive.

The Glazing requirement of the code is similarly respected, presenting a finished façade to the street, but reflects the use of the building as a professional office rather than a retail glazing arrangement.

- h) *Any other relevant factor;*

This proposed project aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City and completes a project started many years ago.

Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,



Scott Webb, Architect

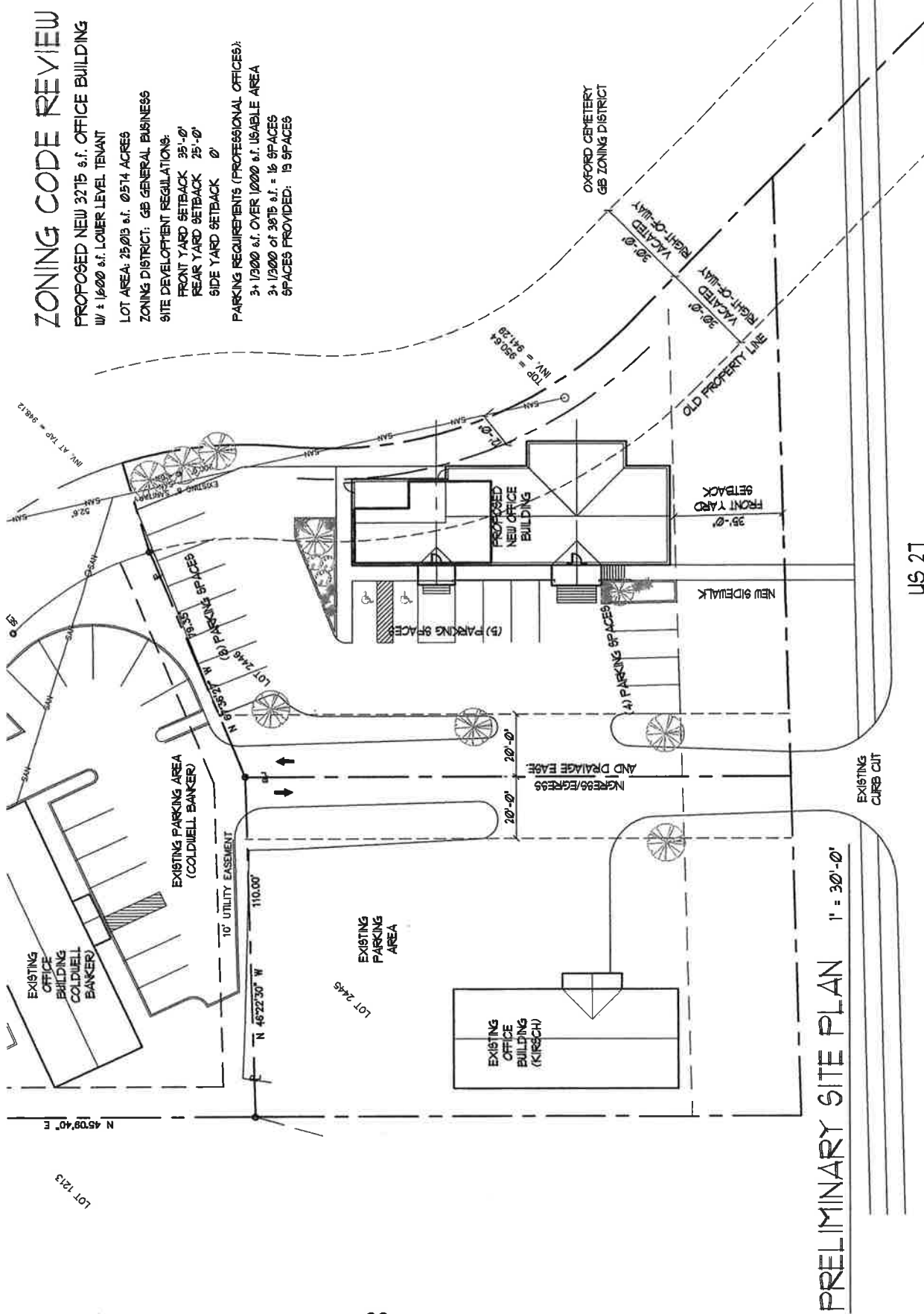


SCOTT WEBB ARCHITECT
108 West Walnut Street
Oxford, Ohio 45056
(613) 623-8838
www.scottwebbarchitect.com

Bolin & Troy, LLC
PROPOSED NEW OFFICE BUILDING
5000 5020 COLLEGE CORNER PIKE
OXFORD, OHIO 45056

DATE	February 6, 2015
REVISIONS	

A-1



ZONING CODE REVIEW
PROPOSED NEW 3215 s.f. OFFICE BUILDING
w/ ± 1600 s.f. LOWER LEVEL TENANT

LOT AREA: 25013 s.f. 0.574 ACRES
ZONING DISTRICT: GB GENERAL BUSINESS
SITE DEVELOPMENT REGULATIONS:
FRONT YARD SETBACK 35'-0"
REAR YARD SETBACK 25'-0"
SIDE YARD SETBACK 0'

PARKING REQUIREMENTS (PROFESSIONAL OFFICES):
3+ 1/200 s.f. OVER 1000 s.f. USABLE AREA
3+ 1/200 of 3215 s.f. = 16 SPACES
SPACES PROVIDED: 15 SPACES

PRELIMINARY SITE PLAN 1" = 30'-0"



SCOTT WEBB ARCHITECT
103 West Walnut Street
Oxford, Ohio 45056
(513) 822-3838
www.scottwebbarchitect.com

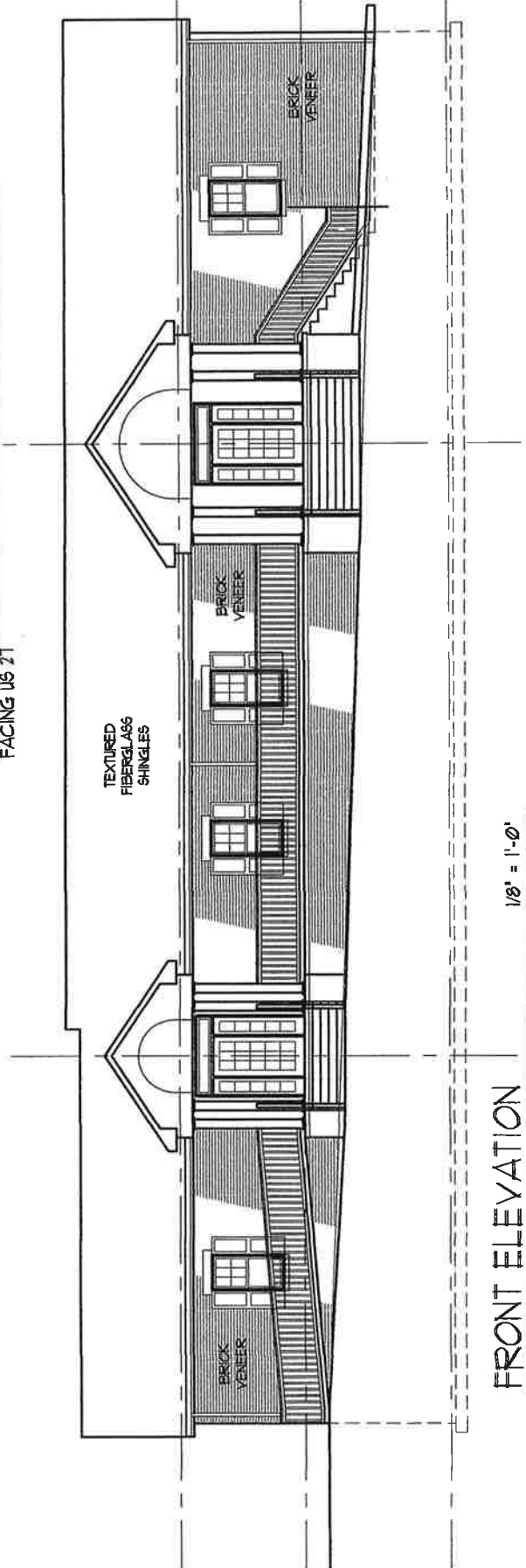
Bolin & Troy, LLC
PROPOSED NEW OFFICE BUILDING
5500 ~~6000~~ COLLEGE CORNER PIKE
OXFORD, OHIO 45056

DATE	February 6, 2016
REVISIONS	

A-2



RIGHT SIDE ELEVATION
FACING US 21
1/8" = 1'-0"



FRONT ELEVATION
FACING SHARED ENTRANCE DRIVE
1/8" = 1'-0"