

**Board of Adjustment  
City Commission Chambers  
Kissimmee, Florida  
Thursday, March 13, 2014  
5:30 P.M.**

I APPROVAL OF MINUTES

II OLD BUSINESS

A. Bilyk Professional Office, BOA #13-004 (DRC #13-239): Variance to Volume II Section D(6)(c&d) of the City of Kissimmee's Community Redevelopment Area Overlay District Design Manual

III NEW BUSINESS

IV ANNOUNCEMENTS/ DISCUSSION

V STAFF REPORT

VI HEARING CHAIRMAN AND BOARD MEMBERS

VII ADJOURN

In accordance with Florida Statute 286.0105, any person wishing to appeal any decision made by the Board of Adjustment with respect to any matter considered at such meeting or hearing will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is made.

In accordance with Florida Statute 286.26, persons needing assistance to participate in any of these proceedings should contact the office of the City Clerk at (407) 847-2821, ext. 2309 prior to the meeting.

**Board of Adjustment  
February 13, 2014  
City Commission Chambers  
101 N. Church Street  
Kissimmee, Florida 34741  
5:30 p.m.**

**Members**

Mary Carr, Chairman  
Bill Harbal, Vice-Chairman  
John Wilder  
George Byrne, absent  
Ricardo C. Oliver  
Tom Cowart, absent  
James Fisher, absent

**Staff Members**

Douglas Etheredge, Asst. Director  
Jennifer Cockcroft, Asst. City Attorney  
John Hambley, Planner II  
Catherine Finneran, Admin. Secretary

Chairman Carr called the meeting to order at 5:47 P.M.

**I APPROVAL OF MINUTES**

**Member Wilder made a motion to approve the minutes from the Board of Adjustment meeting of January 9, 2014. Seconded by Vice-Chairman Harbal.**

<b>Carr</b>	<b>Aye</b>	<b>Wilder</b>	<b>Aye</b>
<b>Harbal</b>	<b>Aye</b>	<b>Oliver</b>	<b>Aye</b>

**Motion carried 4-0**

**II OLD BUSINESS**

**A. Bilyk Professional Office, BOA #13-004 (DRC # 13-239): Variance to Volume II Section D (6) (c&d) of the City of Kissimmee's Community Redevelopment Area Overlay District Design Manual.**

Assistant Director Etheredge explained that this request was continued from the Board of Adjustment meeting on January 9, 2014 in order for the applicant to meet with Staff.

The applicant is requesting to reduce the minimum separation between the driveway and adjacent property line from 5.0 to 3.5 feet, as well as to reduce the required minimum 20-foot wide two-way driveway width to a minimum of 12 feet in order to provide access to a proposed on-site parking lot located at the rear of the site. The subject property is located at 117 S Clyde Avenue.

Some options, which were discussed at the last meeting, included a cross access agreement with the property to the south and possibly to the east. However, the owner of

the property to the south rejected the proposal due to maintenance and liability concerns and the property to the east, which is owned by the Community Redevelopment Agency (CRA) wasn't feasible because of retention pond to the east.

Another concern discussed was the entrance/exit into the property and the clearance. The applicant will address this with the Board.

Assistant Director Etheredge mentioned that there would be reduced traffic than even a normal residence would have. This type of commercial use requires less than a residence.

It is found that the applicant has met 4 additional criteria for compliance than the original application that had 8 non-compliance concerns. However, because the applicant has not met all 9 criteria for approval, Staff cannot formally recommend approval of the request. Options available would be to approve the variances as they are submitted, eliminate the garage in its entirety and have the remaining portion of the single family structure into an office, or leave the property as is.

At the last meeting, the Board talked about making the driveway one-way in, tearing down and having a one way out keeping the garage for a conference room and keeping the breezeway. Staff did look at that option. It is feasible for a driveway to be provided but one of the concerns is the elimination of parking because the driveway would go there; and handicapped accessibility is necessary to be in the front or at least to the side of the structure.

Hardship to site constraints is an important aspect for the Board to address. The Code does not address the historic significance of a structure. From Staff's prospective, even though we cannot recommend approval, Staff feels that they would rather see the reduction of the driveway and the buffer in order to keep the integrity of the residential structure. Staff feels that the elimination of the driveway and breezeway would have more impact to the site than the driveway being reduced. It should also be noted that the property to the south is already commercial. Staff would not object to this request being approved if the Board deems so necessary.

Member Wilder questioned the need for a garage to be used as a conference room when it is only the applicant along with two sons that work there and there are not a lot of clients on site. It appears to be a marketing tool.

Chairman Carr expressed her concern of keeping a conference room with only three employees. Seems like it is for a resale value and how much bigger of a company could go in there and possible increased traffic. Once the request is approved, the Board is opening the door for future developments.

Assistant Director Etheredge stated that Staff would rather see the garage stay because it has historic significance to the structure. Staff will allow the applicant to address the actual need of the garage. The trip counts are from the trip manual which is State regulated to calculate peak hour trips. The exhibit is based on single tenant occupancy.

Member Wilder questioned the possibility of the applicant adding another tenant into the office which may need a conference room. The garage doesn't have a significant impact of the character of the site; most people wouldn't realize it was removed. Chairman Carr agreed with Member Wilder.

Member Oliver disagreed and stated that Mr. Bilyk has been at the site for over 10 years and Member Oliver is aware of the residence and the garage.

Member Wilder was called out of the meeting. However, that would leave the Board without a quorum.

Jim Urick, Hanson Walter & Associates, 400 W Emmett Street, Kissimmee, Florida, addressed the Board. Due to the importance of Member Wilder needing the leave, the applicant wishes to continue this item.

Mr. Urick mentioned that it is a single tenant office. The average daily trips on that property are less than a single family home, which is important to note. The chances of two cars crossing are pretty slim. The applicant is trying to maintain the integrity of the structure.

In response to Attorney Cockcroft, Mr. Urick asked for a continuance to a date specific.

**Vice-Chairman Harbal made a motion for a continuance to the March 13, 2014 Board of Adjustment meeting. Seconded by Chairman Carr.**

<b>Carr</b>	<b>Aye</b>	<b>Wilder</b>	<b>Aye</b>
<b>Harbal</b>	<b>Aye</b>	<b>Oliver</b>	<b>Aye</b>

**Motion carried 4-0**

### **III NEW BUSINESS**

No items scheduled

### **IV STAFF REPORT**

No discussion

### **V HEARING CHAIRMAN AND BOARD MEMBERS**

No discussion

### **VI ADJOURN**

**Member Wilder made a motion to adjourn at 6:04 p.m. Seconded by Vice-Chairman Harbal.**

**Carr  
Harbal**

**Aye  
Aye**

**Wilder  
Oliver**

**Aye  
Aye**

**Motion carried 4-0**

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Mary Carr, Chairman  
Board of Adjustment

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Douglas Etheredge, Assistant Director  
Development Services Department

In accordance with Florida Statute 286.0105, any person wishing to appeal any decision made by the Board of Adjustment with respect to any matter considered at such meeting or hearing will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is made.

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## II OLD BUSINESS

### **Bilyk Professional Office, BOA #13-004 (DRC #13-239): Variance to Volume II Section D(6)(c&d) of the City of Kissimmee's Community Redevelopment Area Overlay District Design Manual**

**Request:** The applicant is requesting a variance to Volume II Section D(6)(c&d) of the City of Kissimmee's Community Redevelopment Area Overlay District Design Manual (also reflected in Section 14-2-81(E) of the Land Development Code) in order to reduce the minimum separation between the driveway and adjacent property line from 5.0 to 3.5 feet, as well as to reduce the required minimum 20-foot wide two-way driveway width to a minimum of 12 feet in order to provide access to a proposed on-site parking lot located at the rear of the site.

**Location:** 117 S Clyde Avenue

**Site Zoning:** RPB (Residential Professional Business)

**Explanation:** The applicant requests to convert the existing single family home to a non-medical office. Per the requirements of the Downtown CRAO Design Manual, parking cannot be located between the structure and adjacent right of way. Due to the location of the existing single family structure, this parking must be located behind the building. As such, the applicant requests to install a two-way drive to the south side of the structure to access the rear yard of the property. Due to the applicant's desire to preserve the existing garage for conversion to a conference room, and to maintain the residential character of the building, there is insufficient space to accommodate the 20-foot, two-way drive required by the Design Manual, Volume II Section D(6)(d), nor the 5-foot driveway separation from the south property line required in Section D(6)(c). The applicant requests approval to reduce the driveway width to 12-feet adjacent to the garage, before which, it will widen back out to the required 20-feet in order to allow vehicles entering and exiting the site room to stack and maneuver.

The reduction in separation between the access point and the adjacent property is requested in order to be consistent with the necessary alignment of the drive further inward on the property. While the CRAO Design Manual allows for the southern buffer to be reduced to 3.5-feet, it requires a minimum 5-foot separation for the access point, largely to allow for all necessary drive access improvements to remain on the property and to ensure some separation between drives on adjacent properties. The latter, however, is not a consideration on site, as the property immediately south has its sole access from Patrick Street, not Clyde, eliminating any potential access conflicts.

The applicant asserts that the property's use as a residence is no longer a desirable circumstance, as the surrounding area has largely converted to office use, due in part to the proximity of the Courthouse complex. All but two properties on the block have since converted to office and several on the block immediately west have also converted. The

03/13/14 BOA

conversion to professional office would be more productive use of the property and be more consistent with the surrounding areas. As the CRAO Design Manual, particularly in the Neighborhood District, emphasizes preserving the residential and historic nature of the existing structures, the applicant maintains that the preservation of the garage is necessary. The applicant proposes to mitigate the impacts of such a reduction with the use of mirrors at either end of the drive to improve visibility and a two-lane access to allow for internal stacking of vehicles entering the site, should someone be simultaneously exiting.

**Update:** At the January 9, 2014 Board of Adjustment Hearing the Board voted to continue the item for 90 days in order to allow the applicant to explore shared access with the properties to the east and south. As noted in the letter and supporting documentation provided by the applicant, neither property owner wishes to pursue a shared access at this time. Though scheduled for review at the February 13, 2014 meeting, the item had to be continued due to lack of quorum.

The applicant has also provided additional documentation, prepared by a Professional Engineer, in the attempt to address additional concerns from the Board and Staff that the access and reduced driveway width may force people to stack into Clyde Avenue should vehicles attempt to enter and exit the site at the same time.

- Exhibit D provides vehicle trip generation calculations based on the Institute of Traffic Engineers (ITE) Trip Generation Manual to show that the proposed office would generate less traffic than a single family structure would, due to the small size of the structure and proposed non-medical office use.
- Exhibit E shows site visibility angles for vehicles entering and exiting the property to show that there is adequate visibility for cars entering the site to see if a vehicle is exiting before turning into the access point.

**Hardship Determination:** It is required that the Board of Adjustment (BOA) shall approve a variance only after the applicant has demonstrated justification for the granting of a variance in conformance with all of the following criteria as outlined in Section 14-2-207(G)(1)-(9):

Criteria	YES or NO	Explanation of Criteria	Does Request Meet Criteria ?
Is there Reasonable Use of Land?	YES	There are no special conditions or circumstances which would prevent reasonable use of the land, structure, or reasonable placement of site improvements. The applicant is able to utilize the property for a single family dwelling or potential	NO

		<p>duplex/triplex use.</p> <p>As the applicant has noted, however, the majority of properties in the immediate vicinity have converted to professional office, largely due to their proximity to the County offices and Courthouse (see aerial included in backup). The justification included by the applicant in their request notes that the conversion of the property to professional office would be more consistent with the surrounding professional office uses on the block.</p>	
<p>Are there Special Conditions or Circumstances on this property?</p>	<p>NO</p>	<p>The lot size is well above the minimum 7,500 square foot lot area and 60-foot lot width required for non-residential uses in the CRAO Design Manual, possessing just over 13,900 sqft in lot area and 93-feet in width. The location of the existing structure, particularly the detached garage and connecting breezeway, creates a bottleneck that prevents a full-sized two-way access to the rear of the property. The main structure is set back 39.5-feet from the south property, offering more than enough space for the full 20-foot drive and adequate side yard buffer, though the garage is only 18-feet from the side yard. Despite the narrow access, there is ample space on the property to accommodate any other necessary site improvements.</p> <p>The applicant wishes to retain the garage, both for use as conference space and to preserve the historic integrity of the building. Though acknowledging that there are no other special circumstances unique to this property, the applicant notes that requiring removal of the garage in order to provide the full-width access would cause an undue hardship.</p> <p>Though shared access was discussed as a potential option in the previous report, the City cannot force the adjacent property owners to provide access through their properties. As they have both indicated, in writing, that they have no interest in shared access, this appears to no</p>	<p>NO</p>

		longer be an option.	
Do the Regulations Constitute a Deprivation of Rights?	NO	<p>As outlined in the application, the applicant notes that the request is being made in order to utilize the property to its highest and best use, as well as to be more consistent with the surrounding uses in this area, while maintaining the residential character and historic integrity of the home.</p> <p>Per Section 14-2-207(G)(3) of the Land Development Code, pertaining to this hardship criteria, these provisions “do not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would not cause unnecessary or undue hardship for the applicant. It is of no importance whatsoever that the denial of the variance might deny the property owner some opportunity to use the property in a more profitable manner or to sell its products at a greater profit than is possible under the terms of this chapter.”</p>	NO
Would Special Privileges Conferred by Granting this Variance?	NO	<p>While approved hardship variances cannot be used to create precedence, it should be noted that a similar variance request to reduce a two-way drive to 12-feet was previously approved at 916 Bryan Street, one block to the west, in 2011 (BOA#11-02). This property also made use of mirrors and a two-lane access for vehicular stacking.</p> <p>As the proposed use is low intensity in nature and consistent with the surrounding office character, and the preservation of the garage onsite would further a key goal of the downtown CRA in preserving the residential character of the area, Staff feels that granting a variance that would further these goals would not confer special privileges</p>	YES
Is the request a Self-created Hardship?	YES	No hardship has been created at this time as the existing structure meets the requirements of the LDC and the CRA Design Manual for a single family structure. However, it would be a self created hardship if the site is developed for office as the site cannot accommodate all required	NO

		improvements for such development. In addition, the applicant's desire to retain the creates the need to request a reduction.	
Is the Request for the Minimum Possible Variance?	YES	The requested reduction to a 12-foot drive is the minimum variance requested, particularly as any increase in this width would not necessarily increase visibility on the site, as it would still not be sufficient to accommodate two-way vehicular traffic. The requested reduction in drive separation to 3.5-feet is also to ensure a consistent line of visibility into the site.	YES
Is the Request a Use Variance?	NO	Granting of the variance will not allow a use that is not permitted by the zoning district as the proposed professional office use is permitted by the RPB zoning district.	YES
Does the Request Pose a Detriment to Public Welfare?	NO	The additional information provided by the applicant, which shows that the proposed office use would actually generate LESS traffic than a single family residence, and establishes a decent line-of-site for vehicles entering the property, shows that, though the reduced drive width may result in rare conflicts between vehicles entering and exiting the property, it most likely will not result in vehicles being forced to back into the street.	YES
Consistent with the Intent and Purpose of the City's LDC and Comprehensive Plan?	YES	The intent of the City's land development regulations is to preserve public health, safety, comfort and welfare, as well as to promote the aesthetically pleasing development of the City.  A primary intent of the design standards in the CRAO Neighborhood District is to preserve the residential and historic character of the area. This is encouraged through the use of reduced drive widths, pavement material requirements and relegation of parking and retention to the rear of the property. While it also strongly encourages the use of shared accesses between adjacent non-residential uses in order to minimize the visual impact of non-residential improvements in the area, it appears that this is not a viable option for this property.	YES

**Recommendation:** Staff has examined this request in depth and has determined that

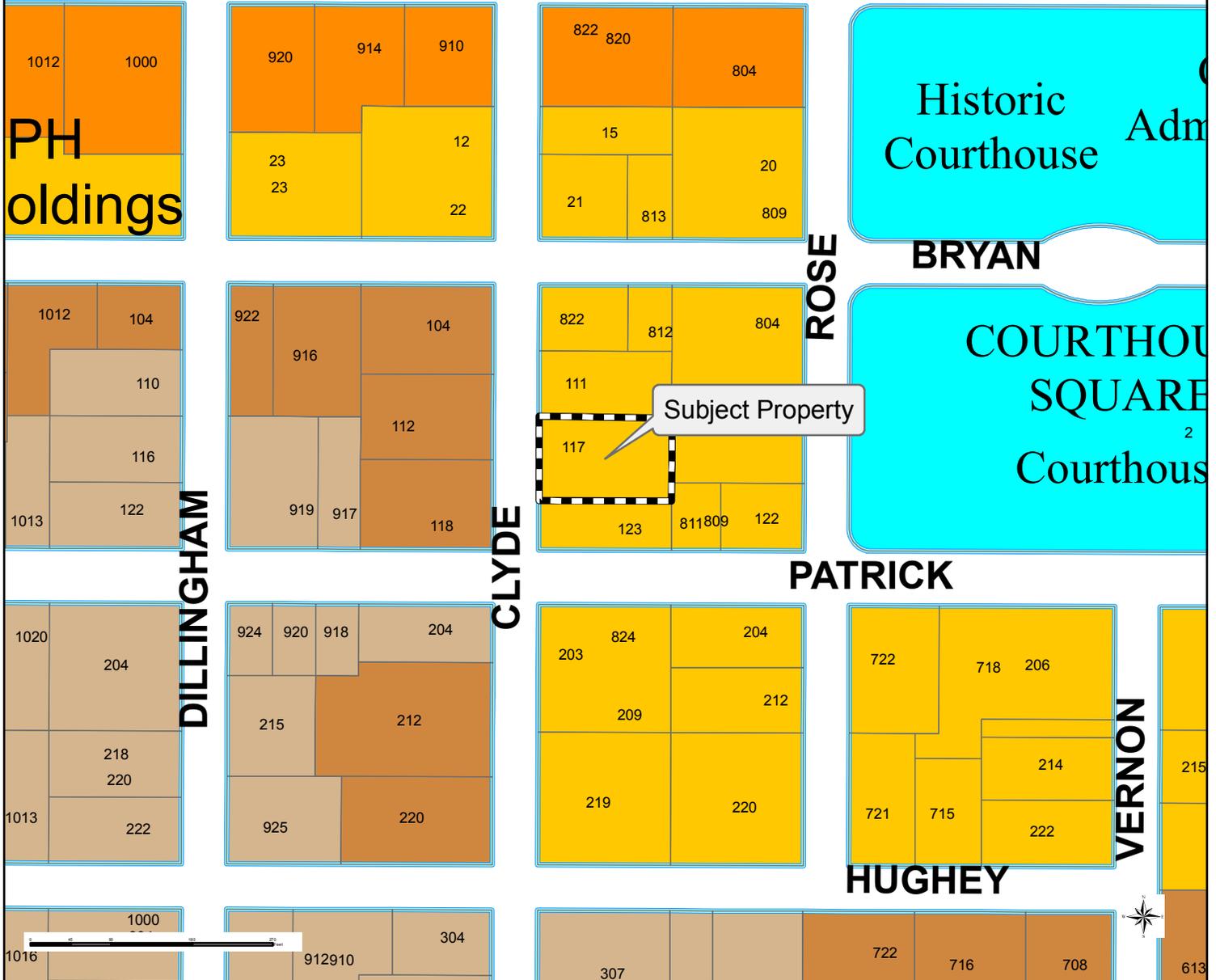
03/13/14 BOA

the applicant has not met all nine of the required criteria for a BOA variance, and, therefore, has not demonstrated justification for the granting of a variance to Volume II Section D(6)(c & d) of the City of Kissimmee's Community Redevelopment Area Overlay District Design Manual. Therefore, Staff must recommend denial of this request.

However, Staff feels that, while the removal of the original garage and breezeway would allow for this conversion without any variances, to do so would alter both the historic integrity of the building and the residential character of the property. As two primary goals of the Downtown CRA are for the preservation of historic structures and residential character in this area of the CRA, Staff feels that the approval of both variances, while not meeting the necessary hardship, would further this intent, particularly as other options for accessing the property are not available at this time.

Furthermore, the applicant has demonstrated that the combination of the existing building configuration, the low traffic generation of the site, and installation of additional design measures onsite would minimize any safety concerns for vehicles entering and exiting the property.

# EMMETT



- |                                              |                                                   |                                                    |
|----------------------------------------------|---------------------------------------------------|----------------------------------------------------|
| Subject Property                             | RA-4 (Single Family Residential 6,000 sqft)       | B-5 (Office Commercial)                            |
| City Limit Boundary                          | RB-1 (Medium Density Residential)                 | BP (Business Park)                                 |
| County Boundary                              | RB-2 (Medium Density Residential - Office)        | IB (Industrial Business)                           |
| CRA District Boundary                        | RC-1 (Multiple Family Medium Density Residential) | AO (Airport Operations)                            |
| Kissimmee Gateway Airport                    | RC-2 (Multiple Family High Density Residential)   | AI (Airport Industrial)                            |
| Railroad                                     | MH-1 (Mobile Home 9,000 sqft)                     | CF (Community Facility)                            |
| Lake Surfaces                                | MH-2 (Mobile Home 6,000 sqft)                     | HF (Hospital Facility)                             |
| <b>Zoning District Designations</b>          | MHP (Mobile Home Park)                            | UT (Utilities)                                     |
| AC (Agricultural Conservation)               | RPB (Residential Professional Business)           | OS (Open Space)                                    |
| RE (Residential Estate)                      | B-1 (Downtown Commercial)                         | RPUD (Residential Planned Unit Development)        |
| RA-1 (Single Family Residential 12,000 sqft) | B-2 (Neighborhood Commercial)                     | SRPUD (Short Term Rental Planned Unit Development) |
| RA-2 (Single Family Residential 9,000 sqft)  | B-3 (General Commercial)                          | MUPUD (Mixed Use Planned Unit Development)         |
| RA-3 (Single Family Residential 7,000 sqft)  | HC (Highway Commercial)                           |                                                    |



COURTHOUSE SQ

BRYAN ST

S ROSE AVE

S CLYDE AVE

S DILLINGHAM AVE

PATRICK ST





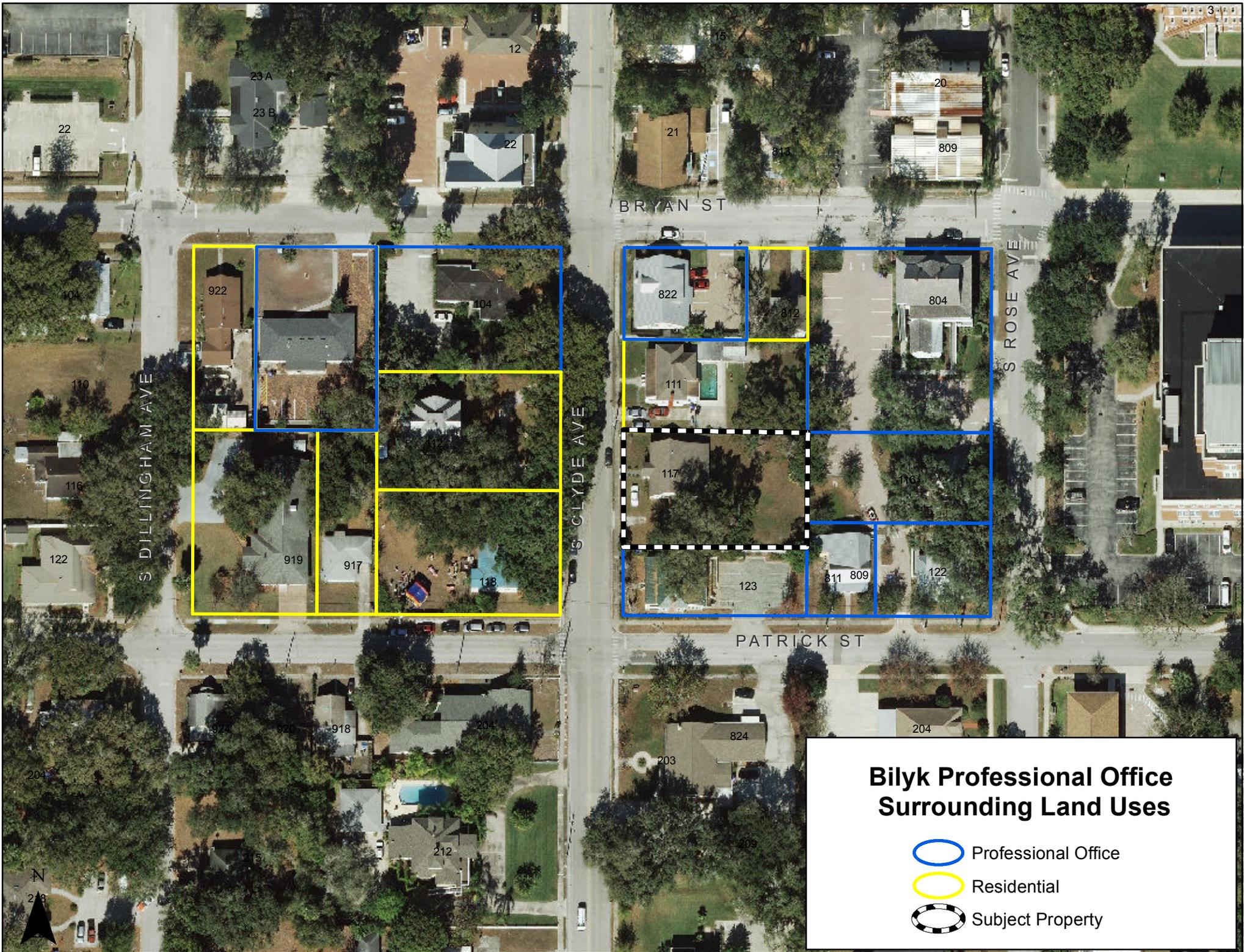
117 South Clyde Avenue



Existing garage and breezeway to be restored/reopened



Proposed Access Location



### Bilyk Professional Office Surrounding Land Uses

-  Professional Office
-  Residential
-  Subject Property

January 30, 2014

Board of Adjustment

REF : BOA #13-004 / DRC #13-239  
Subject : Continuance - Response Letter  
Address : 117 S. Clyde Avenue

Dear BOA Members:

I appreciated the opportunity the board provided in granting my continuance at the last hearing. I used this time to conduct several meetings and address the concerns raised by the board.

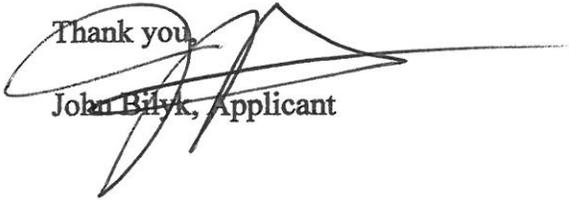
I have met with Ms. Lucie Ghioto on site on Friday, January 17, 2014, and discovered that linking with the CRA property to the east would perhaps be an impossible challenge. We however pushed forward and met with her entire staff including the Director on January 23, 2014. We also still met with the property owner to the east so that the board would have documentation showing that we pursued this option. Neither the property to the south or east are interested in sharing access under any condition (Exhibits A & B).

You also raised some concerns about the configuration of the entranceway presented in the last hearing, enclosed Exhibit C. This driveway configuration, which was the third design, was originally suggested by Ms. Ghioto and investigated by Mr. Jim Urick of the Civil Engineering firm of Hansen, Walters and Associates, Inc. Mr. Urick wanted to better explain why this configuration was thought to be a viable safe option. He will be speaking at the hearing and available to answer any questions and concerns you may have. He has also offered two exhibits, D (2 pages) and E both of which I have enclosed and he will address before you.

As a lay person in this matter, I have tried to rely on the experts in the industry to guide me. I have been working on this parking lot for several years now and sought after numerous people's advice. I was advised by the Architect John Link to try and save the garage and attached breezeway. My neighbors prefer maintaining the original appearance of the façade as does the CRA and Ms. Ghioto who wearing another hat as an historic preservationist preferred maintaining the integrity of the original architecture.

Having taken the time to investigate the shared access options as requested by the board, I am now hoping Mr. Urick can address any other concerns you may have in granting this variance.

Thank you,

  
John Bilyk, Applicant

December 30, 2013

Board of Adjustment

RE: Variance Hearing  
117 S. Clyde Avenue

Dear BOA members:

My name is Thomas Johnsen and I own the property located at 123 S. Clyde Avenue, which is leased to Forbes Hamilton Management Co. This property borders Mr. Bilyk's property to the south. The requested variance will occur between my property and Mr. Bilyk's. This area is the service entrance side and does not, at this time, have any finished landscaping. With the improvement proposed, making this entrance to Mr. Bilyk's rear office parking, he has assured me that the improvement will enhance the property. Mr. Bilyk and I have discussed linking our two parking lots and I have no interest in having shared access to the parking. I have no objections to his original requested variance.

Thank you,

A handwritten signature in black ink, appearing to read 'T. Johnsen', with a long horizontal flourish extending to the right.

Thomas Johnsen

Exhibit A

**Subject:** Fw: 117 S. Clyde parking  
**From:** "John Bilyk" <jcb@claimsresource.cc>  
**Date:** 1/23/2014 9:34 AM  
**To:** "John Bilyk" <cases@claimsresource.cc>

Sent via BlackBerry by AT&T

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**From:** "Olde Kissimmee Realty" <okrealty@juno.com>  
**Date:** Wed, 22 Jan 2014 21:26:32 GMT  
**To:** <jcb@claimsresource.cc>  
**Cc:** <cases@claimsresources.cc>  
**Subject:** 117 S. Clyde parking

As President of Olde Kissimmee Investments, Inc. and having an interest of the cross parking and retention agreement for the properties that back up to 117 S. Clyde Avenue, our investment company has no interest in allowing an access to our properties. This access would reduce our current parking, add wear and tear to the parking area, and increase liability.

Cheryl L. Grieb, President

Olde Kissimmee Investments, Inc.  
11 N. Vernon Avenue, Kissimmee, FL 34741  
407-944-4822 office  
407-944-3722 fax  
407-922-2000 cell

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**Do THIS before eating carbs (every time)**

1 EASY tip to increase fat-burning, lower blood sugar & decrease fat storage  
[info.fixyourbloodsugar.com](http://info.fixyourbloodsugar.com)

*Exhibit B*

ALL OTHER CONTENTS ARE THE PROPERTY OF HANSON, WALTER & ASSOCIATES, INC. AND ARE ISSUED ONLY FOR THE SPECIFIC PROJECT NOTED ON THESE DRAWINGS. ANY REPRODUCTIONS, MODIFICATIONS OR USES OF THESE DOCUMENTS WITHOUT THE EXPRESSED WRITTEN CONSENT OF HANSON, WALTER & ASSOCIATES, INC. IS PROHIBITED BY LAW.

LOT 2 - BLOCK FF

PARCEL ID: 2125291200FF0027  
OWNER: CLAY WANDA L  
LAND USE: RFB  
ZONING: MU-D

PARCEL ID: 2125291200FF0030  
OWNER: BILYK JOHN C JR  
LAND USE: RFB  
ZONING: MU-D

EXIST. 1-STORY STRUCTURE  
F.F. EL.=71.95  
1,760 SQ./FT.



INSTALL 12' OF 24" WHITE THERMOPLASTIC STOP BAR  
A HIGH DENSITY R1-1 STOP SIGN

INSTALL HANDICAP SIGN FTP-25

CONST. DETECTABLE WARNING RAMP PER FDOT #834

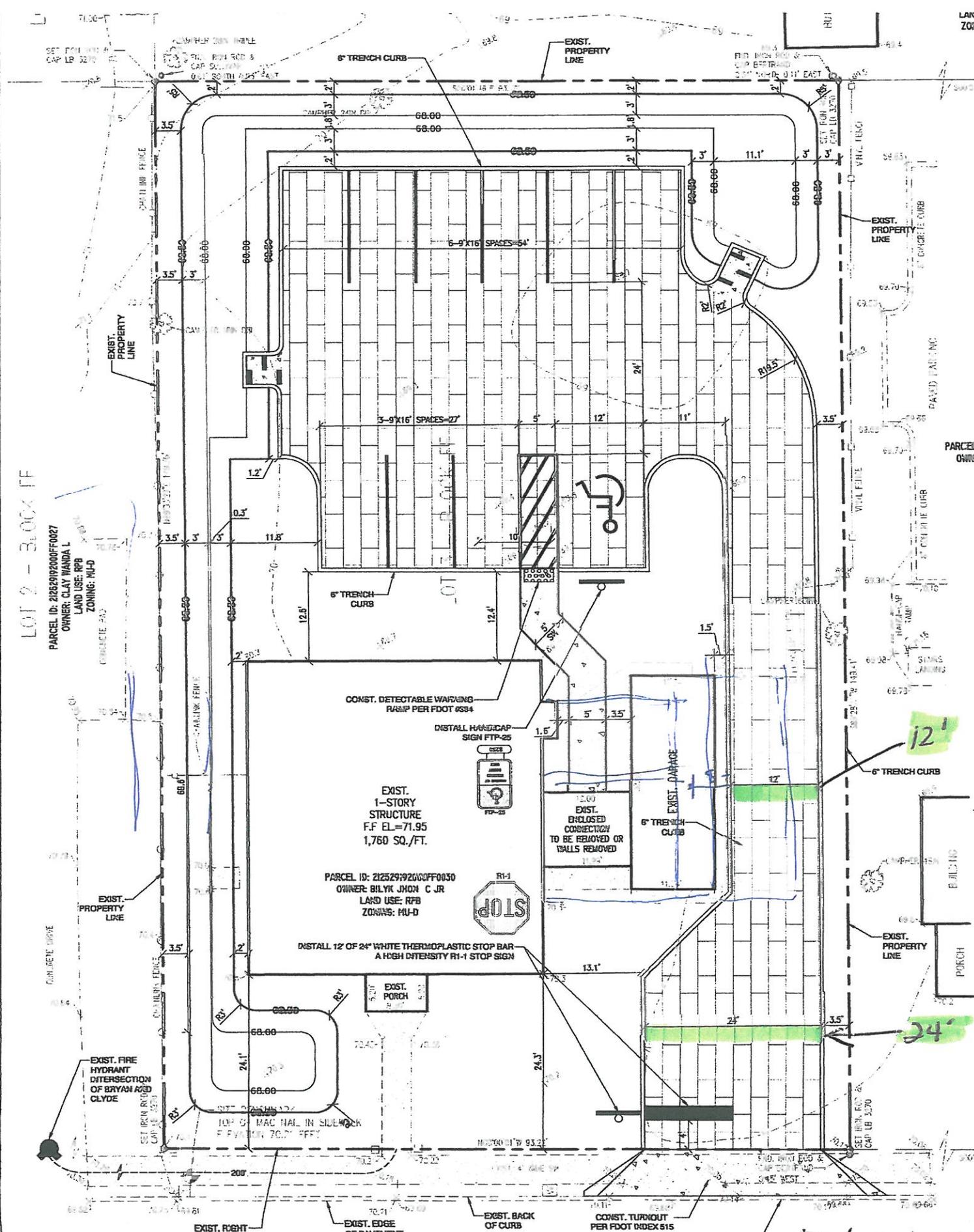
EXIST. ENCLOSED CONNECTION TO BE REMOVED OR WALLS REMOVED

EXIST. DAMAGE

12'

24'

Exhibit C



### Single Tenant Office Building (715)

Week day: 1.74 trips per 1000 S.f..

$$1,700 \text{ sq. ft} / 1000 = 1.7$$

$1.7 \times 11.65 = 19.80$  trips per day. (50% entering and 50% exiting)

Based on a 7 am to 5pm work day (10 Hr. day) = 1.16 trips per hour.

Based on a 9 am to 5pm work day (8 Hr. day) = 1.45 trips per hour.

Please note a single tenant office building has less impact than a single family detached home comparing week day trips.

### **A.M. Peak Hour (one hour between 7 and 9 a.m).**

A.M peak hour : 1.80 trips per hour

$$1,700 \text{ S.F.} / 1000 = 1.7$$

$1.7 \times 1.80 = 3.06$  (89% entering and 11% exiting)

Based on a 7 am to 9 am peak hour = 3.06 trips per hour.

Please note that most professional offices begin work at 9:00 a.m. This type use will not have any impact on the A.M. peak hour traffic due to the hours of operation.

### **P.M. Peak hour ( one hour between 4 and 6 p.m).**

P.M peak hour : 1.74 trips per hour

$$1,700 \text{ S.F.} / 1000 = 1.7$$

$1.7 \times 1.74 = 2.95$  (15% entering and 85% exiting)

Based on a 4 p/m/to 6 p.m. peak hour = 2.95 trips per hour.

**Based on the 9<sup>th</sup> edition of the Institute of Transportation Engineers, Trip generation Manual, (industry standard) Please consider the following:**

**Single Family Detached Housing (210)**

**Week day: 9.52 trip per day. 50% enter and 50% exit.**

**In a 8 hour time frame: 1.19 trip per hour 50% enter and 50% exit.**

**A.M. Peak Hour ( one hour between 7 and 9 a.m).**

**0.75 trips per hour (total 1.5 trips between 7 and 9 am)  
25% entering and 75% exiting.**

**P.M. Peak hour (one hour between 4 and 6 p.m).**

**1.0 trips per hour (total of 2 trips between 4 and 6 pm)  
63% entering and 37% exiting.**





APPLICATION FOR BOARD OF ADJUSTMENT

PROPERTY ADDRESS: 117 S. Clyde Avenue

PARCEL ID #: 212529192000FF0030

APPLICANT

NAME: John Bilyk

FIRM: CLAIMS RESOURCE INCORPORATED

ADDRESS: 117 S. CLYDE AVENUE, KISSIMMEE, FL 34741

PHONE: (407) 709 - 2067

FAX: ( ) - N/A

Is Applicant current property owner? YES

If yes, what date was property purchased? 02/18/2003

If no, give name and address of current property owner:

AGENT (Applicant's Representative. If Applicable)

NAME: N/A

FIRM:

ADDRESS:

PHONE: ( ) -

FAX: ( ) -

\*\*\*\*\*

FOR OFFICE USE ONLY

REQUEST BOA

FEE COLLECTED

DATE 12/13/13

REC'D BY: BW

MEETING DATE 1/9/14

BOA# 13-004

**CITY OF KISSIMMEE  
BOARD OF ADJUSTMENT VARIANCE REQUEST**

PROPERTY:

Legal description: Provide a complete and accurate legal description below including section, township, range and plat book or attach a copy of a survey of the property:

PATRICKS ADDN PB A PG 1 BLK FF N 92.58 FT OF LOT 3

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ADDRESS: 117 S. CLYDE AVENUE, KISSIMMEE, FL 34741

---

PARCEL ID: 212529192000FF0030

---

What is the current zoning of the property? RPB

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What is the current use of the property? PRIVATE HOME OFFICE

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Describe variance(s) requested: TO REDUCE MINIMUM DRIVEWAY WIDTH FROM  
20 FEET TO 12 FEET ALONG THE ISOLATED PORTION OF THE GARAGE.

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TO REDUCE THE MINIMUM SEPARATION BETWEEN THE DRIVEWAY AND THE  
ADJACENT LOT FROM 5 FEET TO 3.5 FEET. (SEE EXHIBIT A)

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List Sections of Land Development Code from which variances(s) is (are) requested:

LDC 14-2-81 (E); CRA SECTION II-D.6.c (MINIMUM SEPARATION)

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CRA SECTION II-D.6.d (DRIVEWAY WIDTH)

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State reason(s) for the variance request(s). Explain your hardship: WE BELIEVE THAT  
RELIEF IS NEEDED TO ALLOW THE 12 FOOT WIDTH AND 3.5 FEET SEPARATION  
OF THE DRIVEWAY ALONG THE GARAGE STRUCTURE TO FACILITATE REAR  
PARKING. WE BELIEVE OUR DESIGN SOLUTION IS SAFE, COMMONLY USED IN  
HISTORIC AREAS AS NEEDED AND PRESERVES THE ARCHITECTURE, ORIGINAL  
FUNCTIONALITY AND PERIOD LOOK OF THE ENTIRE BUILDING STRUCTURE.

Submittal of a plan which shows the variance request and the unique building or site characteristics is required for Board review.

I certify that to the best of my knowledge and belief, all information supplied with this application is true and accurate, and that I am

- Owner of the property described herein  
 Party to an agreement for purchase of this property  
 An agent for the owner or purchase of this property  
 Other \_\_\_\_\_

Authorization from the property owner, suitable to the City Attorney, is required for applications submitted by an applicant other than the property owner.

Date 12/12/2013

Signature 

**Note:** Deadline submittal is the second Friday of every month and the meetings are on the second Thursday of each month at 6:00 p.m. **No late or incomplete submittals will be accepted.**

**Applicant will need to attend all city meeting or the request may not be considered.**

**CITY OF KISSIMMEE BOARD OF ADJUSTMENT  
Variance Review (Hardship) Criteria Checklist**

The Board of Adjustment shall approve a variance only after the applicant has demonstrated justification for the granting of a variance in conformance with all of the following criteria. Indicate justification for each in space provided. If additional space is required, please use a separate sheet.

**Reasonable Use of Land: Conditions and circumstances exist affecting the land structure of site improvements involved which prevent the reasonable use of said land or structure, or reasonable placement of site improvements.**

The current building location has been a single story private residence, listed as improved commercial on the tax roles and used by the current owner and applicant as a home office since purchased in 2003. Prior to that, it was used as a rooming house and thrift shop. It is our position that the structure is no longer attractive as a residential dwelling of any sort as the area is in transition from residential to low intensity commercial. Currently, seven of the eight houses on our block are commercial properties. Only one property, 111 S. Clyde Avenue, remains a non-converted property, but is currently vacant and the family's plans for the house have yet to be decided. With such close proximity to the courthouse and the business traffic it attracts, the majority of properties within the one block radius in which our property is located has already transitioned to professional offices, which continues to add value and conformity to the neighborhood.

We will demonstrate that granting us relief from the minimum widths of the driveway and between the property lines is in everyone's best interest. That granting relief in cases like this should be appropriate on a case by case basis. The requested variance to reduce the minimum drive width from 20ft to 12 and reduce the minimum separation between the driveway and the adjacent lot from 5 feet to 3.5 will allow the property to be used for a more productive use in this case a low intensity non-medical professional office and conform to the transition of the area. This conversion will enable the owner to further enhance and improve the property, create more ad valorem taxes for the community and will continue the fabric of low intensity non-residential use that will serve the Downtown Kissimmee Core.

**Special Conditions and Circumstances:** The conditions and circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to the conditions and circumstances affecting other properties in the zoning district.

The special condition or circumstance in this case is the position and orientation of the garage structure and the attempt to maintain the garage and overhead breezeway to maintain the overall architectural and originality of the period and property. One would argue why not tear down the garage or have two lanes, one on each side of the garage; an "in" and "out" lane. The period of the house, circa 1948-50, incorporated breezeways to carry your groceries from the garage to the kitchen. We plan to remove the walls of the enclosed breezeway to return it to its original look to keep the historic integrity of the Kissimmee Downtown courthouse neighborhood. This is a goal that we agree with and was a value that attracted us to the property. Communities that value historic resources will allow driveways to be reduced to accommodate lot configuration or tree preservation. It would be our position that even if we could accommodate a 20 foot driveway, a driver will use extreme care when passing another car. Our driveway will not accommodate a vehicle in both directions at the same time but when two drivers approach, one driver will yield to the other and that the use of durable mirrors mounted and orientated to alert a driver of an oncoming vehicle in this narrower drive area will keep this a safe condition. Currently our neighbor to the south has minimal landscaping and this side of their structure is a service entrance area. There is little to no landscaping in this area other than the two large trees on our property, however we intend to plant a low hedge to improve the look of this area as well as maintain the large oak trees.

**Deprivation of Rights:** The provisions contained in this chapter would deprive the applicant of right commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would cause unnecessary and undue hardship for the applicant. It is of no importance whatever that the denial of the variance might deny to the property owner some opportunity of use the property in a more profitable manner or to sell it at a greater profit than is possible under the terms of this chapter.

We are not deprived of our rights by the requirement to provide a 20 foot wide drive aisle and 5 foot property line buffer. However, we are deprived of the right to improve the property while maintaining the integrity of the architecture and to improve the property to higher and better use because of the requirements. We do not object to the guidelines, but do need relief so that we may improve and redevelop our property.

The land area the CRA encompasses is an area where relief may be needed because of zoning issues and/or the presence of large historic/specimen trees. However not every case/situation has been addressed.

It is our position that without the variance, demolition of a building from the late 40's - 50's removing the structural design element such as a freestanding garage and breezeway may be an option of last resort in order to obtain the higher and better use of the land, but one we feel is an undue hardship.

**No Special Privilege Conferred: Approval of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other property in the same zoning district.**

We are not asking for a special privilege, we are requesting relief so that we may redevelop the property to a use desirable for this part of Kissimmee's Downtown. In the CRA or a Historic District relief is often needed and often granted where the final product is a win/win. If historic preservation is a goal of the community then flexibility to accommodate these unique situations is needed. Our request is not unique and similar requests have been made and granted by the board. Our situation is very similar to the board's evaluation of the variance sought by the owner of 916 Bryan Street in BOA #11-002. This property is very close to our property and the remedy sought was resourceful and esthetically appealing. I have attached a picture of the property depicting the stacking driveway and reduced minimum separation which was the motivation for our variance appeal. (EXHIBIT B)

Is it possible that another interior lot may have a similar situation where relief is needed? Yes, but these incidences need to be addressed on a case by case basis with a BOA variance hearing as we have done.

**No Self-Created Hardship:** The conditions and circumstances do not result from the actions of the applicant and are not due to the mere disregard for or ignorance of the provisions of the Chapter.

We were aware of the minimum requirements for driveway widths and the requirements of the CRA and our options of removing the garage and breezeway. As stated above it is our sincere hope that the BOA will grant us relief from the requirements that limit the redevelopment of the property to maintain the architectural integrity of the property. Our solution is safe and practicable and is a minimum variance to meet the City's requirements. We have met with the Fire Department Chief, David Kilbury, who came to our property and did a fire and rescue assessment to address any possible life or safety issues the board may have. (Exhibit C)

**Minimum Possible Variance:** The variance is the minimum variance that will make possible the reasonable use of the land or structure, or reasonable placement of the site improvements.

We are asking for relief from LDC Section 14-2-80(E) and 14-2-81(E) so that we may meet the guidelines. If granted we will be able redevelop the property into higher and better use. The new commercial use will generate greater ad valorem taxes which will directly benefit the CRA as their funding comes directly from the increase in property value. The City will gain the benefit of having a commercial property that is routinely maintained and kept in proper condition.

**No Use Variance:** The variance shall not allow the establishment or expansion of a use of property prohibited in the district involved.

This criterion is not applicable. Professional office is a permitted conditional use in the RPB zone. We understand that after receiving BOA approval we must obtain other approvals required in the development process.

**No Detriment to Public Welfare:** The variance will not be injurious to the area involved or otherwise detrimental to the public welfare. No nonconforming use of neighboring lands or structures in the same district and no use of lands or structures in other districts shall be considered grounds for the authorization of a variance. In addition, no zoning violations involving the property or nearby properties shall constitute grounds for variance approval.

It is our position that the requested variance is not injurious to the area or detrimental to the public welfare. In fact, our use of the existing building for commercial office is in keeping with the surrounding neighborhood structures and uses.

**Consistent with Intent and Purpose: The variance shall be in harmony with the general intent and purpose of the Land Development Code and the Comprehensive Plan.**

It is our position that the requested variance is in harmony with the general intent and purpose of the LDC and the Plan. The requirement for a 24 foot driveway on commercial property is to allow for two way traffic to move much like it does on a standard roadway. It is our interpretation that the authors of the LDC wanted vehicles to travel on non-residential properties safely with minimum conflicts. The CRA will allow a driveway at 20 feet. It is our observation that this distance causes a driver to use caution especially with a vehicle coming from the opposite direction and is safe. We acknowledge that our proposal of 12 will allow one vehicle at a time. We are accommodating two-way traffic with the use of mirrors. The mirrors will enable drivers to see one another. The smaller driveway widths subconsciously make a driver more aware to see that it is clear prior to proceeding. The two lanes entering the property sometimes referred to as stacking lanes, enables a car to enter while one is preparing to leave. The two lanes eliminate any back-up on Clyde Avenue, that just one lane would cause.

Reducing the minimum separation from 5 feet to 3.5 will afford us the opportunity to keep the garage intact and preserve the integrity of the architectural design and keep the appeal and appearance of a structure from this period. Our adjoining property owner, on the side where the variance is being requested, is also a commercial property has no objection to the reduced separation and has joined us in support of our appeal.

**The above list does not override the special list of variance criteria contained in 14-2-118(0) for variances to the City's Floodplain Management regulations.**



916 Bryan Street

Exhibit B

**City of Kissimmee Fire Department**  
**Office of the Fire Chief**  
101 N Church Street  
Kissimmee, Florida 34741-5054  
(407) 518-2202 • FAX (407) 518-2320



November 13, 2013

BOA Members

Dear Sir or Madam:

REF: Emergency Access Assessment - 117 S. Clyde Avenue, Kissimmee

On Tuesday, November 12, 2013, I met with Mr. John Bilyk, the owner of 117 S. Clyde Avenue, Kissimmee, FL 34741. At his request we met on his property site to review and discuss potential fire department related concerns for a planned future parking lot project. We toured the grounds and while I understand that parking is planned for the rear of the building, from a Fire Department tactical standpoint, I see no reason that we would need to drive or park a fire apparatus behind the building at this address. In the case of a building fire or a medical emergency we would park in front of the building along Clyde Avenue to conduct operations.

Mr. Bilyk also pointed out that the closest fire hydrant is two doors to the north of his building at the SW intersection of Bryan Street and Clyde Avenue so in the case of a fire a water supply is readily available. Though Mr. Bilyk may be required to comply with other regulatory requirements from the City of Kissimmee related to the planned future project with this property, the Fire Department has no concern related to the verbal discussion surrounding the planned parking lot or rear access he described when we met today.

Thank you,

David G. Kilbury  
Fire Chief

*Exhibit C*

Additional Exhibits- CRI Parking Lot BOA -DRC 13-00225

Exhibit D – Supplemental map of area

Exhibit E – Color photograph of subject property 117 S. Clyde Avenue

# BILYK PROFESSIONAL OFFICE

DRC#13-00225

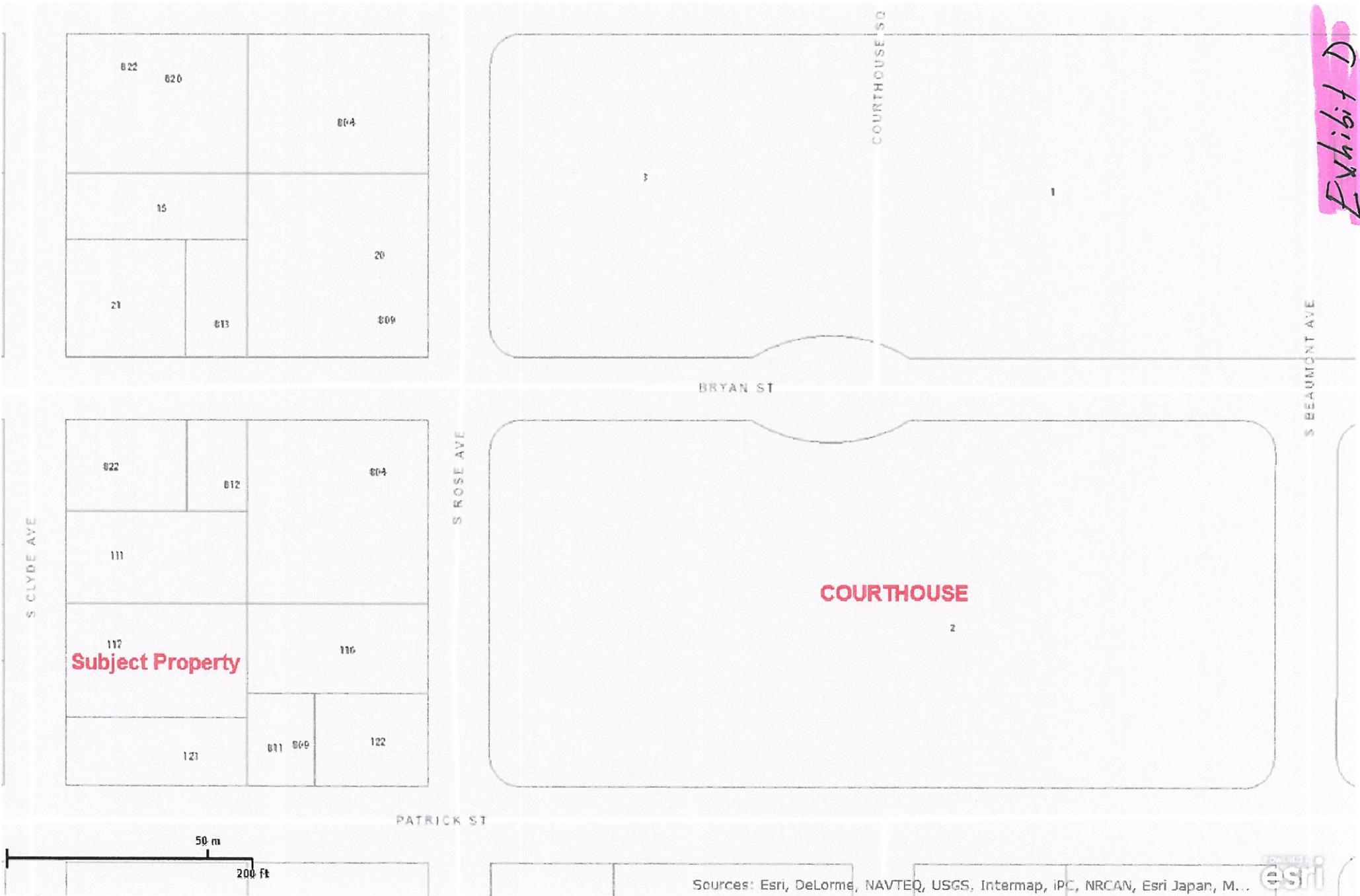




Exhibit E