



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | Community Development 541-917-7550

Staff Report

Minor Variance to Front Setback

VR-07-24

July 8, 2024

Summary

The request is for a Minor Variance to reduce the front yard setback from 15 feet to 13 feet 6 inches to allow for construction of a second dwelling on the property. Minor Variance applications are a Type I-L procedure reviewed at the staff level. This report evaluates the proposal for conformance with the applicable Minor Variance criteria in Section 2.696 in the ADC. The analysis finds all applicable standards and criteria are met.

Application Information

Proposal:	Reduction of a 15-foot front yard setback to 13 feet 6 inches
Review Body:	Staff (Type I-L review)
Applicant/Property Owner:	Michael Quinn; 4455 Sunset Ridge Drive NW; Albany, OR 97321
Address/Location:	970 Jessica Court SE, Albany, OR 97322
Map/Tax Lot:	Linn County Assessor: 11S-03W-18AA Tax Lot 8600
Zoning:	Residential Medium Density Attached (RM)
Overlay Districts:	Airport Approach Overlay
Total Land Area:	6,278 square feet (0.14 acre)
Existing Land Use:	Single Dwelling Unit

Notice Information

A notice of filing was mailed to property owners located within 100 feet of the subject property on June 11, 2024. At the time of drafting this report, the Albany Planning Division received no written comments from the public.

Appeals

A Minor Variance decision is a limited land use decision and may be appealed in accordance with Albany Development Code Sections 1.220 and 1.410.

Analysis of Development Code Criteria – Minor Variance

Albany Development Code (ADC or Development Code) includes the following approval review criteria in Section 2.450 (identified below). Development Code criteria are shown in ***bold italic*** followed by findings and conclusions. Certain findings explain how the proposed development can meet review criteria through conditions of approval, where determined feasible.

Criterion 1

The Minor Variance is not requested to avoid a land use review process or increase density; AND

Findings of Fact

- 1.1 The applicant is requesting a minor variance to the front setback from 15 feet to 13 feet 6 inches.
- 1.2 The requested minor variances are not requested to avoid a land use review process or increase density.

Conclusion

- 1.1 The minor variance is not being requested to avoid a land use review or increase density.

Criterion 2

The need for the Minor Variance is created by the unusual configuration of the property, to protect natural features, due to the location of an existing structure on the site, or the site is an infill or redevelopment site less than one acre with development on both sides; AND

Findings of Fact

- 2.1 The radius of the cul-de-sac bulb has an unusual curve that took developable areas of property away from current Lot 3, which has made it hard to fit a residential addition on the property.
- 2.2 The applicant moved the proposed addition as far back as setback standards allows, but still needs to reduce the front setback by 1½ feet, or ten percent of the numeric front setback standard.

Conclusion

- 2.1 The need for the minor variance is created by the unusual configuration of the property.

Criterion 3

The Minor Variance is the minimum necessary to address the unusual circumstance, generally no more than 10 percent from a numeric standard, and the request is still consistent with the purpose of the zoning district and any applicable overlay district.

Findings of Fact

- 3.1 The applicant states that the minor variance is the minimum necessary to address the unusual circumstances and is not greater than a 10 percent deviation from a numeric standard.

Conclusion

- 3.1 The applicant has demonstrated that the minor variance is the minimum necessary to address the circumstances on the subject property, and the request is still consistent with the zoning district.

Overall Conclusion

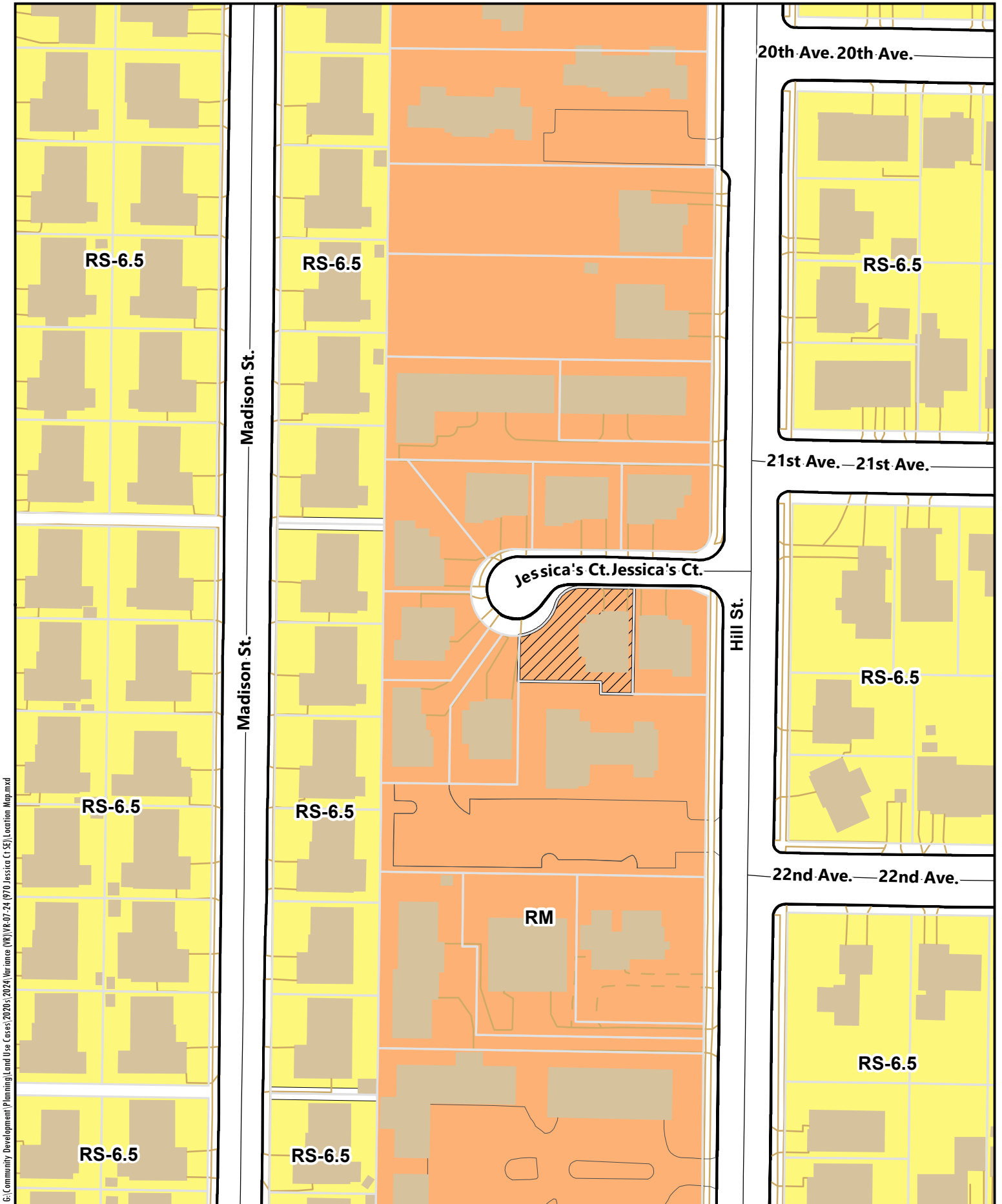
As proposed, the application for a minor variance satisfies all applicable review criteria as outlined in this report.

Attachments

- A. Location Map
- B. Minor Variance Checklist
- C. Site Plan

Acronyms

- | | |
|-----|----------------------------------|
| ADC | Albany Development Code |
| VR | Variance Review File Designation |



G:\Community Development\Planning\Land Use Cases\2020s\2024\Variances (VR)\VR-07-24 (970 Jessica Ct SE)\Location Map.mxd



970 Jessica Ct. SE

Date: 6/5/2024 Map Source: City of Albany

Location / Zoning Map



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING & PLANNING 541-917-7550

Minor Variance

Checklist & Review Criteria

INFORMATION AND INSTRUCTIONS:

- See fee schedule for filing fees (*subject to change every July 1*): staff will contact you for payment after submittal.
- All plans and drawings must be to scale, and review criteria responses shall be provided as specified in this checklist.
- Email all materials to cd.customerservice@cityofalbany.net. Please call 541-917-7550 if you need assistance.
- Depending on the complexity of the project, paper copies of the application may be required.
- Before submitting your application, please check the following list to verify all essential information is included. An incomplete application will delay the review process.

MINOR VARIANCE SUBMITTAL CHECKLIST

PLANNING APPLICATION FORM WITH AUTHORIZING SIGNATURES

REVIEW CRITERIA AND DEVELOPMENT STANDARDS RESPONSES

On a separate sheet of paper, prepare detailed written responses, using factual statements (called findings of fact), to explain how the Minor Variance complies with the following review criteria from Albany Development Code (ADC) Section 2.696. Each criterion must have at least one finding of fact and conclusion statement.

- (1) The Minor Variance is not requested to avoid a land use review process or increase density; AND
- (2) The need for the Minor Variance is created by the unusual configuration of the property, to protect natural features, due to the location of an existing structure on the site, or the site is an infill or redevelopment site less than one acre with development on both sides; AND
- (3) The Minor Variance is the minimum necessary to address the unusual circumstance, generally no more than 10 percent from a numeric standard, and the request is still consistent with the purpose of the zoning district and any applicable overlay districts.

The city may grant a Minor Variance to the standards in the Significant Natural Resource Overlay Districts using the criteria in ADC Section 6.450(2).

- (a) It is an existing legal lot and there is insufficient space outside the resource area to construct a use permitted in the underlying zoning district.
- (b) The development site area, including all structures and impervious surfaces, encroaches on the resource area a total of 3,000 square feet or less.
- (c) The Minor Variance is the minimum necessary to allow a permitted use or achieve the minimum buildable area outlined above, while at the same time minimizing disturbance to the significant natural resources. The Director may require modifications to site development standards to enable avoidance of the resource.
- (d) The encroachment does not result in a new structure or impervious surface being located closer than 25 feet from the Ordinary High-Water mark. Bridges are an exception to this requirement.

- SITE PLAN.** To determine if the proposed Minor Variance complies with ADC standards, staff will need an accurate site plan, drawn to scale. NOTE: If the Minor Variance is being requested in conjunction with another land use application that requires a site plan, ensure that the required information is included on the site plan.

The Site Plan must be labeled as such and include the following information. If any listed item below is not provided, please include a written explanation why it should not be applicable to this development.

- Address of the property.
- Assessor's map and tax lot number.
- Scale of drawing, north arrow, and name of drafter of the map. (Typical scale is 1 inch = 20 feet.) The plan must be clear, measurable, and fully dimensioned.
- Property dimensions including the total square footage of the site.
- Location of all existing and proposed structures, including minimum distances to property lines.
- Location of all existing or proposed improvements on the site, including driveways, sidewalks, and patios.
- If applicable, location of any Significant Natural Resource Overlay Districts (/SW, /RC, /HA per Article 6).
- If applicable, location of the 100-year Floodplain.
- If applicable, location of any natural features or unique features of the property, including any native vegetation (species, size).
- If applicable, location and species of trees larger than 25 inches in circumference measured 4½ feet above mean ground level from the base of the trunk.
- Contour lines at two-foot intervals.
- Natural drainage patterns.
- Label and name all abutting streets, both public and private.
- Locations, dimensions, and nature of all easements.

Note: Some properties may have covenants or restrictions, which are private contracts between neighboring landowners. These frequently relate to density, minimum setbacks, or size and heights of structures. While these covenants and restrictions do not constitute a criterion for a City land use decision, they may raise a significant issue with regard to the City's land use criteria. It is the responsibility of the applicant to investigate private covenants or restrictions.

OTHER PLANS, PERMITS, APPLICATIONS, OR INFO THAT MAY BE REQUIRED

- Floor Plans.** Submit one full-size set (18 x 24-inch or larger) and one reduced set (8½ x 11 or 11 x 17 inches) of each. Floor plans shall include dimensions and square footages.
- Hillside Development Overlay (/HD).** If any of the property is within this Hillside Development (/HD) overlay, refer to ADC Sections 6.170-6.235 to determine if the /HD standards apply. If applicable, attach written findings of fact that demonstrate how this project meets these standards and provide a geotechnical report or engineer's certification on the site.
- Floodplain Overlay (/FP).** If any of the property is within the Floodplain Development (/FP) overlay, refer to ADC Sections 6.070-6.125 to determine if the Floodplain Development standards apply and if a Floodplain Development Permit is required.
- Natural Resource Overlay.** If any of the property is within one of Albany's Significant Natural Resource (/SW, /RC, /HA) overlay districts, refer to ADC Sections 6.260-6.470 to determine if a Natural Resource Impact Review may be required.
- Mitigation Plan.** If the project is proposed within any of Albany's Significant Natural Resources overlay districts (/SW, /RC, /HA), a mitigation plan may be required. See ADC Sections 6.400 and 6.410 or Mitigation Supplement.
- Historic Review.** If any property is within a Historic Overlay District or contains a Local Historic Inventory Resource, please refer to Article 7 to determine if historic review is required.
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SUPPLEMENTAL APPLICATION INFORMATION

Submit answers to the following proposal questions (separately or submit this sheet):

List the Article of the Development Code from which you are requesting the Minor Variance, (Note: a separate application is needed for each additional request to vary from a Development Code Article.)

[Example: ADC Table 3.190-1].

Briefly explain the requested Minor Variance request. (Example: To allow a 14-foot front yard setback when 15 feet is the standard.)

we need to get 10% so I can go from 15' setback in front to 13'6"
There is a substantial amount of property left in curve,

Will any existing structures be removed or affected by the Minor Variance? NO

(NOTE: Before demolition or removal of any structure, please obtain a demolition/moving permit from the City of Albany Building Division.)

Does the site contain any historic structures or historically significant features as identified on the City's Historic Inventory? Yes ___ No X

If yes, historic review may be required per Article 7. Please describe any impact or alterations to any historic structures or features.

N/A

Existing uses and zoning of properties adjacent to the site (including across the street, if applicable):

	Current Uses	Zoning
North	<u>residential</u>	<u>RM</u>
South	<u>church</u>	<u>RM</u>
East	<u>residential</u>	<u>RM</u>
West	<u>residential</u>	<u>RM</u>

Note: Some properties may have covenants or restrictions, which are private contracts between neighboring landowners. These frequently relate to density, minimum setbacks, or size and heights of structures. While these covenants and restrictions do not constitute a criterion for a City land use decision, they may raise a significant issue with regard to the City's land use criteria. It is the responsibility of the applicant to investigate private covenants or restrictions.

MINOR VARIANCE – PURPOSE AND PROCEDURE

Purpose (ADC 2.692). The Minor Variance review allows the Director to approve limited modifications to the application of numeric standards for unusual situations specific to the site. Minor Variances will not be considered to avoid a review process or standard in this Code. Minor Variances are typically for requests that are 10 percent or less of a numeric standard.

Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130 and may not require a Minor Variance.

Procedures (ADC 2.694). Minor Variance applications are processed through a Type I-L procedure. Requests not meeting the purpose of Minor Variances may be processed as Major Variances. The Director will determine whether an application is processed as a Minor Variance or a Major Variance.

Minor Variance requests within one any of Albany's Significant Natural Resources overlay districts (/SW, /RC, /HA), may require mitigation per ADC Sections 6.400 and 6.410.

EXAMPLE OF FINDINGS OF FACT

CRITERIA FOR FINDINGS OF FACT:

Minor Variance approval will be granted if the approval authority finds the application conforms with the criteria found in Article 2.696 of the ADC, and to applicable development standards. Before the reviewing authority can approve an application, the applicant must submit information that adequately supports the application. If the applicant submits insufficient or unclear information, the application will be denied or delayed.

FORMAT FOR FINDINGS OF FACT:

Statements addressing individual criteria must be in a “finding of fact” format. A finding of fact consists of two parts:

1. Factual information such as the distance between buildings, the width and type of streets, the particular operating characteristics of a proposed use, etc. Facts should reference their source: on-site inspection, a plot plan, City plans, etc.
2. An explanation of how those facts result in a conclusion supporting the criterion.

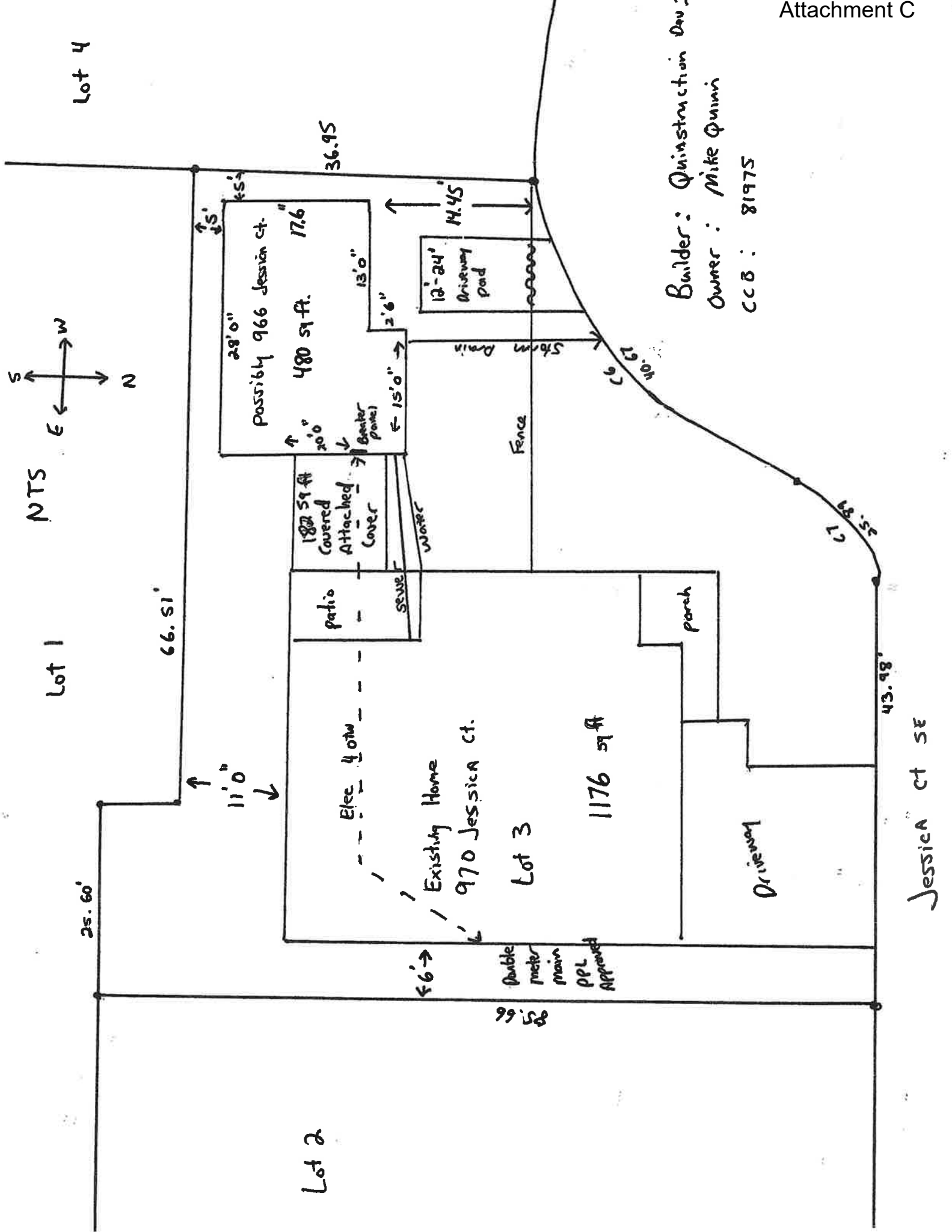
EXAMPLE:

Criterion: The need for the Minor Variance is created by the unusual configuration of the property, to protect natural features, due to the location of an existing structure on the site, or the site is an infill or redevelopment site less than one acre with development on both sides.

Facts: The Minor Variance request is to allow a 9-foot Special Noise Corridor Setback instead of a 10-foot setback in order to construct an enclosed porch for an existing single-unit residence on site. The subject property has an irregular rear property line shaped like a triangle that renders strict compliance with the Special Noise Corridor standards infeasible.

Conclusion: The subject property is triangular. A one-foot reduction to the special noise setback will allow the applicant to construct an enclosed porch like surrounding properties.

The radius of culdesac has an unusual curve that took property away from current lot 3, and has made it hard to fit addition on property, moving addition as far back as setbacks allows, and asking for a minor variance will make this project successful.



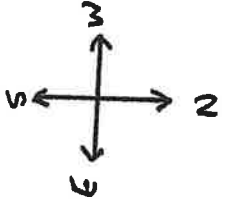
Builder: Quinstruction Dev I
 Owner: Mike Quinn
 CCB: 81975

Lot 2

Lot 1

Lot 4

NTS



Jessica Ct SE

Double
meter
main
PPL
Approved

6' →

29.56

Existing Home
970 Jessica Ct.

Elec 40w

patio

182 sq ft
Covered
Attached
Cover

possibly 966 Jessica Ct.
480 sq ft.
28'0" x 17.6'

sewer

water

Storm Drain

Fence

14.45'

36.95

11'0"

66.51'

15'0"

13'0"

13'0"

2'6"

12'-24'

10.57'

10.57'

12.55'

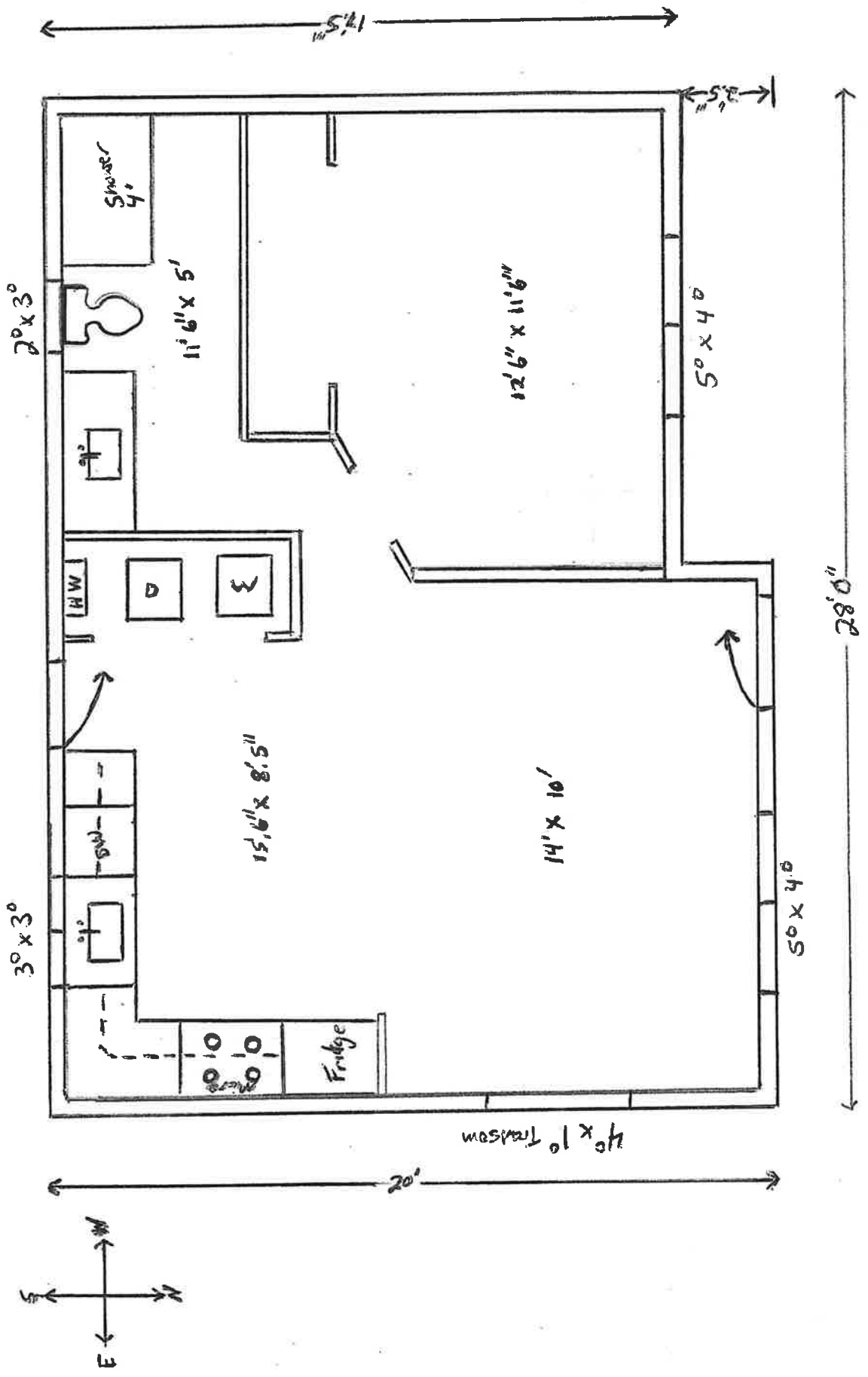
43.98'

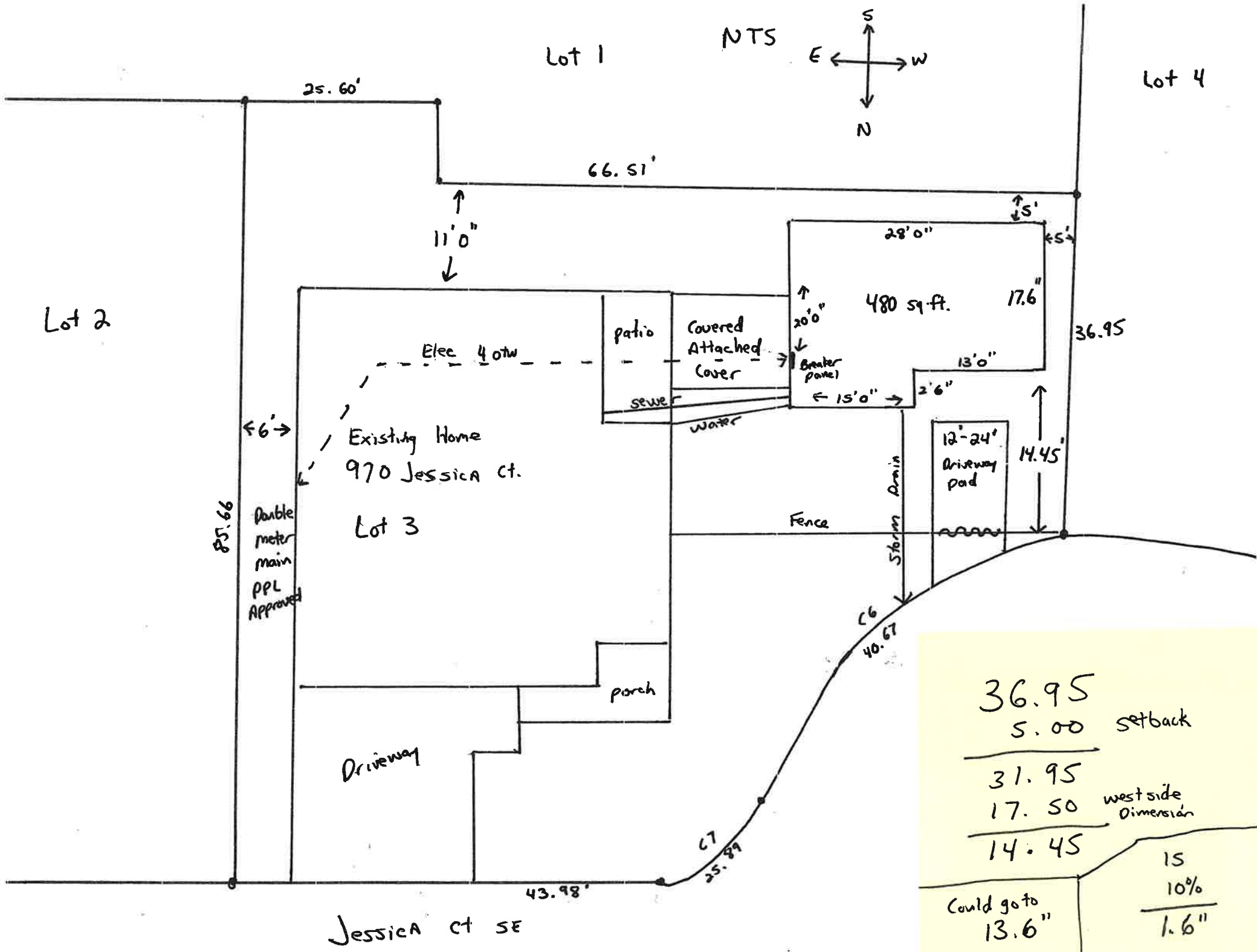
11'0"

11'0"

66.51'

25.60'





36.95
 5.00 setback

 31.95
 17.50 west side dimension

 14.45

15
 10%

 1.6"

Could go to 13.6"