

**FILE**  
15-163947

**ATTN: Summit Hill Zoning and Land Use Committee**

CC: Tom Beach, Jamie Radel and Yaya Diatta (City of St. Paul)

**RE: OPPOSITION TO SCALE OF DEVELOPMENT AT 1174 GRAND AVENUE**

**FROM: Below-signed residents**

**DATE: October 6, 2015**

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In the words of the late great Yogi Berra – “it’s déjà vu all again.”

This most recent proposal is almost exactly the same size as the previous submission that was made this summer. That proposal was denied by this committee, the SHA board, the City Zoning Committee, and eventually the City Planning Commission. In fact, the only real difference is that developers now seek to take advantage of some changes to city ordinances and are now proposing an even taller building.

However, as set forth below, the developers ignore separate standards for the East Grand Avenue Overlay District which provides a clear basis upon which to vote against height and other dimensions when they negatively impact neighborhood density and solar exposure.

The developers also ignore that, even setting aside height and side setbacks (for which they still need a variance), the building they propose grossly exceeds the permitted 35% lot coverage standard. The proposed building would in fact take up approximately 52.4% of the lot. City staff cites this as a 17.4% variance. However, this is a basic math error that even the Saint Paul Zoning Committee has noted. To determine the increase of one percentage over another, one does not simply subtract. In fact 52.4% ((4,995 sq feet) coverage is almost 50% more coverage than 35% (3, 330 sq feet).<sup>1</sup>

To add insult to injury, the developers’ most recent submission comes even after you and the committee invited yet another public comment (the third total) to try and reach common ground on this proposal. Not surprisingly, the concerns of the neighborhood are the same as when we met with these developers in February.

### Side-by-Side Comparison

First Submission – July 2015	Second Submission – October 2015	Difference
Footprint: 52.4% or 4995	SAME	NO CHANGE. Still requesting a 50% variance increase in the existing footprint requirement.
West Setback – 7.5 (17.5 total)	SAME	NO CHANGE. Only difference is

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<sup>1</sup> 52.4/35=1.497, therefore 52.4% is 49.7% more lot coverage than 35%

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between buildings)		that now, the general ordinance no longer requires ½ the height of the building. In comparison to the other four adjacent buildings, this will be the widest with a width of 45 feet as opposed to 40 and 42 feet.
East setback –7.5 (16.5 total between buildings)	SAME	
Height: roof line of 36 feet plus structure above it	37.4 feet plus structure	TALLER STRUCTURE being requested. There is now no variance needed from the general ordinance for the initial roof line, but as you can see from the scale drawing (street scape #1) this will be a full story taller than the other adjacent buildings. Additionally, there are elements of the building that extend beyond the initial roof line, and above the limit permitted by the general ordinance. Moreover, because the building is in the East Grand Ave Overlay District, there is grounds to refuse the scale of the project based on height because it adversely effects density.
Alley setback – 19 feet	SAME	Only change appears to be that the units contained in the building will be 25 feet back. Nevertheless, it still will be closer to homes on Lincoln than the other buildings and will further narrow a challenging 1-way alley.
Front setback – 20 feet	SAME	

**THE DEVELOPERS' REQUESTS FOR SIDE SETBACK VARIANCES, A REAR SETBACK VARIANCE AND AN EXTREME LOT COVERAGE VARIANCE SHOULD BE DENIED.**

The variances the developers are seeking are as follows:

- 1) A Front yard setback variance of 3.4 feet
- 2) A rear yard setback variance of 6 feet

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- 3) A side yard set back variance of 1.5 feet
- 4) A lot coverage variance of nearly 50%

Minnesota Statute Sec. 462.357, subd. 6 establishes the legal standard for when variances to local zoning ordinances may be granted:

Variances may be granted when the applicant for the variance establishes that there are ***practical difficulties in complying with the zoning ordinance***. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is ***due to circumstances unique to the property not created by the landowner***; and the variance, if granted, ***will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties***. (emphasis supplied).

As was mentioned both in this committee's past vote and that of the City Zoning Committee, these developers have failed to demonstrate why a smaller sized buildings with fewer units is not practical (they are currently proposing eight). Of course, it would be feasible to build a four or six unit building that has the same dimensions as the other four adjacent apartment buildings. However the developers are driven by profit and that in and of itself is not enough to satisfy this element. Do not be misled by their argument that the size of the building is being driven by the number of necessary parking spaces. In fact, assuming the requested variances are granted, the number of parking spaces increases the number of units they can build under the code.<sup>2</sup>

The inappropriateness of their request is underscored by the fact that the setbacks and coverage variances the applicants are seeking will result in a footprint that is almost a 50% increase over what is allowed by ordinance for this size lot. To say the scale of this building won't change the essential characteristics of the block is a fraud. With the exception of the front set-back variance, which is in keeping with the façade line of adjacent buildings, there is no legal basis to grant any of the variances the developers are seeking. Thus, all of the variances requested by the developers should be denied.

**THE DEVELOPERS MUST PROVIDE THIS BODY AND THE CITY WITH A CLEAR CALCULATION OF THE SQUARE FOOTAGE.**

Moreover, Note (c) to Sec. 66.231 of the City Code indicates clearly that "[n]o multiple-family dwelling shall be built, nor shall additional dwelling units be added to an existing building to create three (3) or more dwelling units, on a lot that is less than nine thousand (9,000) square feet in area." According to a May 27, 2015 Neighborhood Planning Committee report, this sentence was recently moved to the beginning of that note in a separate first paragraph "so it doesn't get missed." It is suspect whether the

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<sup>2</sup> See Sec. 66.231 of City Code requiring 1500 square feet per unit, but allowing the square footage to be increased by 300 feet for underground and certain other parking spaces. So on an approximately 9000 square foot lot, to build 8 units, the developer needs 10 qualifying parking spaces.

lot actually meets the minimum requirement of 9,000 sq feet required for any multi-family building with more than three dwelling units.<sup>3</sup> Here, the developers' own survey indicates the lot dimensions are 149.88 ft x 60.08 ft x 150.01 ft x 59.95. Depending on the angles of the slightly irregular quadrilateral lot, the lot is probably around 8,998 square feet. Of course this is close to 9,000 square feet, but considering the developers want to build eight units where not even three may be allowed, this point should not be overlooked. In fact, you should insist that the developers provide this body with a clear calculation of the square footage.

### **THE DEVELOPERS' HEIGHT PROPOSAL MUST BE REJECTED**

With respect to height, at first blush it may appear that the developers no longer need a variance. The new ordinance generally allows RM2 buildings to be built as tall as 40 feet, and the developers are proposing an initial roof line that is just under 40 feet. (See City Code Sec. 67.602(3).) However, there are extending portions of the building that are well above this height. For purposes of review, the roof line must be considered to be the highest roof line on the building—which here appears to be the roof of the stairwell.<sup>4</sup> To the extent the building actually exceeds 40 feet, as set forth above, you should consider that the developers actually need a variance for height, which should in turn be denied.

### **THE STANDARDS OF THE EAST GRAND AVENUE DISTRICT OVERLAY SHOULD BE ENFORCED**

In addition, because 1174 Grand Avenue is located within the East Grand Avenue Overlay District, the TN2 design standards in section 66.343 of the City Code apply. (See City Code Sec. 67.602.) Those standards clearly establish a basis to limit building scale to manage over-sized development:

Transitions in density or intensity shall be managed through careful attention to building height, scale, massing and solar exposure. City Code Sec. 66.343 (b)(2)

Because the proposed building is on a dead-end alley, the increased density and intensity that would be created by an eight unit condo building where a small house now exists must be curbed. To do so, we urge that you seek to enforce the standards of the East Grand Avenue District Overlay and recommend the City's Board of Zoning Appeals deny any project that is larger in scale than the adjacent properties next to it. This would also help to ensure that solar exposure is not negatively impacted.

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<sup>3</sup> This provision is in addition to the minimum lot ratio of 1500 square feet per unit required for RM2 buildings. A careful reading of Sec. 66.231 indicates that the only "minimum lot area per unit" calculation is increased by underground parking spaces and that the threshold minimum of 9,000 square feet for any building with three or more dwelling units is not adjusted for parking spaces..

<sup>4</sup> For purposes of determining height limits, Sec. 63.102 of the City Code provides that "[t]he height limitations of this code shall not apply to mechanical service stacks, tanks, ventilation equipment, chimneys, church spires, flag poles, public monuments, and similar equipment; provided..." The proposed large obtrusive stairwell and other elements that jut above the initial roof line are not within the spirit of the exceptions allowed. Moreover, to the extent those elements exceed 50 feet, an additional setback variance of half of the height exceeding 50 feet, plus the initially required nine feet, is required by ordinance.

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**Summary:** The developers continue to want to build a building that is wider, longer, taller, and denser than any of the four adjacent buildings that they continue to claim they are try to match. For all of the reasons you indicated in your submission to the City Planning Commission and more, this committee should continue to reject the developers' proposal. It is, as best—as indicated by the developers on a number of occasions—simply an attempt to test the boundaries to see how much they can get in terms of a variance before finalizing the project. That type of behavior simply is not in harmony with the needs and demands of our community at large.

In the end, nothing has changed. These developers indicated they may consult with a new architect; would consider a different design; would look at options for fewer units. Yet, here we again and nothing is actually different. If the previous denial was appropriate – surely another denial too is necessary for the sake of consistency and preserving our neighborhood. Please vote to deny approval of this project.

Proposed resolutions:

- 1) Recommend that the Board of Zoning Appeals deny all of the developers' requested variances, with the exception of the front setback variance.**
- 2) Recommend that Board of Zoning Appeal require the developers to demonstrate that the lot meets the minimum standard of 9,000 square feet for multi-family dwellings with three or more units.**
- 3) Recommend that the Board of Zoning Appeals require the developers to indicate the actual height of all elements of the structure and urge that they require a variance for any element over 40 feet that does not meet the exceptions set forth in City Code Section 63.102**
- 4) Recommend that Board of Zoning Appeals deny the project on the basis that the project is in the East Grand Avenue Overlay District and that the scale of the proposed project will adversely increase density and intensity on the dead-end alley and will negatively impact solar exposure.**

Sincerely:

- Amanda Karls & Andrew Rorvig (1171 Lincoln Avenue)
- Lyndon & Christy Shirley (1187 Lincoln Avenue)
- Winnie Moy (1185 Lincoln Avenue)
- Margaret Keefe (1195 Lincoln Avenue)
- Josh Peltier (1167 Lincoln Avenue)
- Steve Hancock & Jill Stedman (1200 Lincoln Avenue)
- Mark King & Jonathan Lubin (1177 Lincoln Avenue)
- Mark & Bonnie Genereux (1165 Lincoln Avenue)

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- Andy & Gina McCabe (1186 Lincoln Avenue)
- Karyn Wrenshall (1201 Lincoln Avenue)
- Carol & Joe Bell (1196 Lincoln Avenue)
- Tom & Kristi Kuder (1176 Lincoln Avenue)
- Laura & Ryan Willemsen (1180 Lincoln Avenue)

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**Diatta, YaYa (CI-StPaul)**

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**From:** Lori Brostrom <lbrostrom@comcast.net>  
**Sent:** Monday, October 12, 2015 10:07 AM  
**To:** Diatta, YaYa (CI-StPaul)  
**Subject:** Comment: 1174 Grand Avenue Variance

Dear Yaya;

I'm writing in reference to the major variance requests for 1174 Grand Avenue, which I am not in favor of. There is no reason that the proposed building cannot be designed to meet the zoning requirements. It's a substantial variance, in total, and the lot coverage creates a building with a massiveness that is out of place on Grand Avenue. Furthermore, it sets a precedent that I find unwise and unwarranted as concerned residents work to keep Grand Avenue at a scale that is congruent with its residential surroundings. I understand that the immediate neighbors are opposed to these variances and that the Summit Hill Association/District 16 Planning Council has also rejected them. I ask that BZA respect that input and reject the variances.

Thank you for this opportunity to comment.

Lori Brostrom  
710 Summit Avenue Apt. 1  
St. Paul MN 55105

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# Summit Hill Association

District 16 Planning Council  
860 Saint Clair Avenue  
Saint Paul, Minnesota 55105  
Telephone 651-222-1222  
[www.summithillassociation.org](http://www.summithillassociation.org)  
[info@summithillassociation.org](mailto:info@summithillassociation.org)

October 9, 2015

City of St. Paul  
Department of Safety and Inspections  
Board of Zoning Appeals  
375 Jackson Street  
St. Paul, MN 55101-1806

Attn: Yaya Diatta

## Re: 1174 Grand Avenue Development Proposal

On October 7, 2015 The Summit Hill Association / District 16 Planning Council met regarding the proposal on 1174 Grand Avenue brought forward by BleuAnt Design, LLC. The proposal for the project is for multi-family housing, and the developer is requesting a number of variances, including a front yard setback of 22 feet (25 feet required), a side yard setback of 7.5 feet on each side (9 feet required), a rear yard setback of 19 feet (25 feet required), and a coverage variance for 51.4% allowable coverage (35% required).

We have had a number of meetings on this in the past, both formally to act on previously requested variances there were denied by the Planning Commission and informally to bring the neighbors and the developer together to discuss concerns of the neighborhood as well as plans for adjustments and mitigation by the developer. There were a number of neighbors at the most recent meeting speaking against the project. The key issues that they spoke about were.

- The overall scale of the building in comparison to the existing apartment buildings, and how this would be the largest of the group. There was a feeling that there has been little change from the previously submitted, unsuccessful proposal.
- The additional traffic in the dead end alley that the proposed underground parking would present.
- The height of the building in comparison to the adjacent buildings, and how this height has gotten higher than previously proposed. There is also concern that there are elements of the building that are undefined, and are extending beyond the stated building height, and possibly beyond the allowable height per code.
- The overall request for variances from the previously denied planning commission submittal has changed very little from what is being proposed to the BZA now.
- There has been additional information brought forward to our zoning and land use committee from a number of residents that is provided in a separate attachment.

We have had a number of meetings regarding this matter with several ZLU Committee Meetings as well as Full District Council Boards Meeting to try and flush out some of the main concerns of the neighborhood. Our recommendations are as follows.

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- The front yard setback variance request is such that it would align with the existing buildings on either side. **This variance request was recommended to be approved**, as holding the front edge of the buildings to the same dimension feels appropriate along the street frontage.
- The side yard setback variance request for 7.5 feet from the required 9 feet was felt to be too great of a variance. **It is recommended that this variance request be denied.** By allowing the variance at each side, as well as the additional height that this building will have over its shorter neighbors, the natural light and views for the neighboring properties will be diminished. This variance request, when added to the other requests for coverage and a rear yard variance, coupled with the overall proposed height helps to create a structure out of scale with its neighbors.
- The rear yard setback variance request for 19' from the required 25' **was also recommended for denial by our Board.**
- The lot coverage request from 35% to allow the requested 52.4% was thought to be too great a variance allowing a 20% increase in the allowable lot coverage more than allowed. **It is recommended that this variance request be denied**, as the project is far from fitting into the allowable parameters of the ordinance.

The overall feeling of our ZLU committee was that, though the use of the lot as multi-family may be the most appropriate use for the site, the number and size of the variance requests were too great for the development as proposed. The applicant is not requesting a variance on just one side or even two, but the request is to push the property beyond the limits on all four sides, as well as the overall allowable coverage requirements for the zoning districts.

We also feel that the findings have not been sufficiently met in regards to the variance requests. To assume that this project will fit into the regularity, pattern and spacing as the adjoining buildings as the findings of city staff has suggested is grossly misguided, when the facts of the proposed development being between 7%-15% larger than the adjacent multi-family buildings in footprint, and 17-20% higher than the adjacent buildings, which are only 2 1/2 stories tall, is taken into account. Staff suggests that there are practical difficulties in complying with the provisions of the code, but just because the site is zoned RM2 doesn't preclude the developer from creating a building that is within the zoning parameters, or at the very least similar in scale to the existing buildings. Staff erroneously states in the findings that it is challenging to build a multi-family building comparable in scale, spacing and bulk to the existing adjacent apartment buildings, yet the building that is proposed is much larger in scale and bulk than those existing buildings. The purpose of building the building to the scale that is proposed is driven by profit, and not just by the difficulties of the site. A building that is 1 story less in height than what is proposed would have better potential to fit in with the scale and bulk of the existing adjacent buildings. ***It is our opinion that this finding is not met.***

Although our District 16 Plan does put an emphasis on parking, and encourages off-street and underground parking, it does not support variances where parking and traffic problems create undue hardship for neighboring businesses, residents, and visitors, and with the nature of the dead end alley, the parking overflow from SPA, the existing rentals and businesses on that block there is a lot of parking demand in that immediate area. We also place significance on increased density, and ensuring that developments conform to zoning and building requirements, and that the City considers the development's adverse impacts. This development is stretching the zoning and building requirements on all sides, and needs to take into account adverse impacts on neighboring properties.

In regards to ***altering the character of the surrounding area***, it needs to be restated, that this is a new development that is proposed to be the largest building on the block, and is to be up to 15-20% larger and taller than neighboring properties. Staff's findings are that this building will not alter the essential character of the

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area, as it is similar in scale and massing to the buildings immediately to the East and the West. This building will be a full story taller than either of those buildings, as well as being larger in footprint than either of those buildings. We argue that it is not physically possible for this building to be that much taller, be larger in footprint and still be similar in scale and mass. It should also be noted that this will be the only building on the East end of Grand Avenue where underground parking pushes the building out of the ground a half story in order to achieve the “underground parking”. It is the neighborhoods feeling that this building *will alter the character of the surrounding area.*

It should also be noted that although the city feels that the applicant has met the finding that the plight of the landowner is due to circumstances unique to the property not created by the landowner, we feel that this is incorrect. The Owner requested that this parcel be rezoned to RM2, so the fact that lot is not large enough to support multi-family housing is not unique to the property. This property would support multi-family housing, and it would be possible to build a multi-family building within the required parameters. There are many properties that are not large enough to support this scale of multi-family housing, and a developer’s desire alone does not make this a unique situation. *We feel that this finding is not met.*

The Summit Hill Association/District 16 Council does not feel that the required conditions have been sufficiently met in order to allow for the numerous requested variances for this proposal, other than the front yard variance, and we would ask that the Board of Zoning Appeals deny those requests for this development.

Sincerely,

Philip Wahlberg  
SHA Vice President  
ZLU Committee Chair

cc: Ward 2 council member, Dave Thune

**FILE**  
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2555 Oak Court  
White Bear, MN 55110  
October 2, 2015

City of St Paul  
c/o Yaya Diatta  
Dept of Safety & Inspections  
375 Jackson Street, Suite 220  
St. Paul, MN 55101

Re: Board of Zoning Appeals  
1174 Grand Avenue  
Variance Issues

The City of St Paul recently rezoned 1174 Grand Avenue to a multiple family zoning district for an 8 unit apartment building. That development is requesting variances of 3.4 ft in front closer to the street, 6 ft closer to the back in the alley, and 1.5 ft closer to the east and west lot lines.

The city must not change variances which allow a larger building footprint. The city must not enlargen any limited lot space for the actual building construction itself, but instead, the city should be planning and thinking of how to require lot space be used to address any parking opportunity for that building's occupants/visitors (even if it is for bicycles), or the city should focus on that building's services demand like use any possible space for trash collection or snow-piling opportunity or emergency created by that building and its occupants.


Snow removal from the alley already is frustrating in normal snow years. The alley just plain does not have adequate open land to accommodate the piling of snow onto the sides of the alley. The side streets have curbs onto which some limited amounts of snow can be piled up over the curbs. The alley does not have this open space.

Parking in the entire neighborhood is already at a premium. There already exists significant competition between shoppers, visitors, and workers of Grand Avenue businesses for the adjacent residential neighborhood sidestreets. This 8 unit apartment building will only increase that competition.

If the city allows an 8 unit apartment building in a tight neighborhood, that neighborhood should expect the city to dimension that lot to minimize the impact on the neighborhood's existing residents and visitors already in that neighborhood.

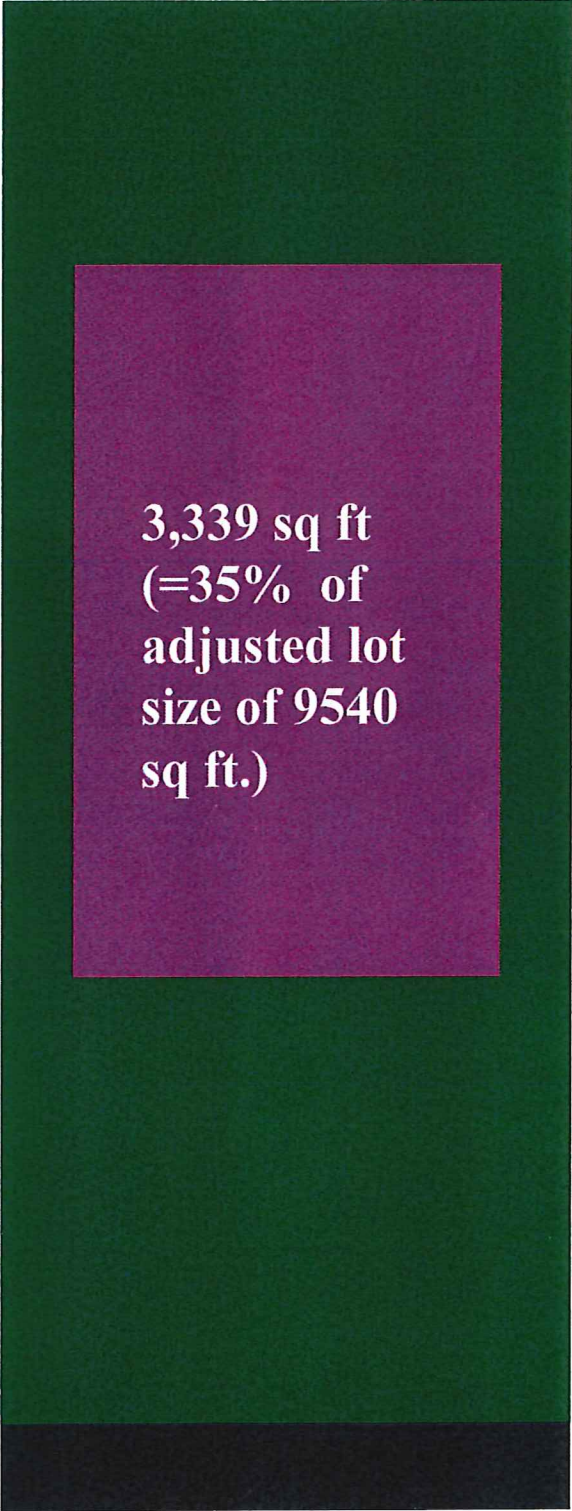
City of St Paul: please do not allow more space to be used to make a larger building footprint. Instead, use the property's space to take care of that building's occupants needs and demands for space-taking services such as trash and parking and snow piling and safety/emergency needs.

Respectfully,

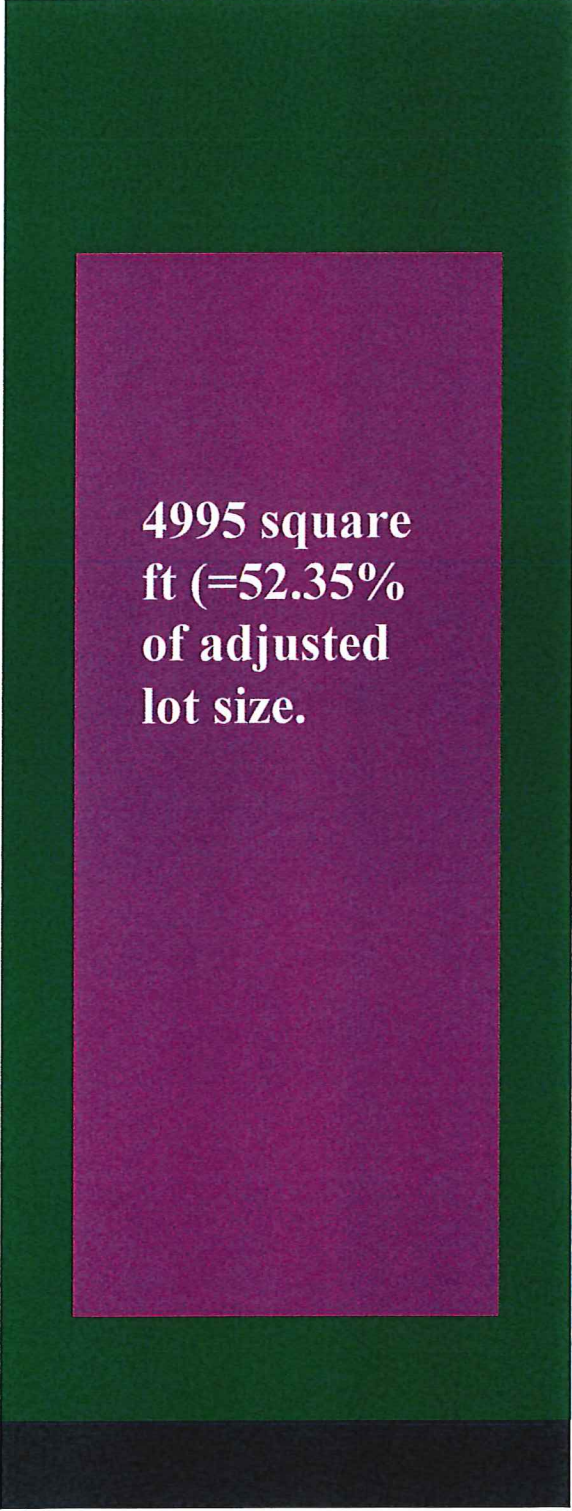
  
Ronald Lux

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Lot size = approx. 9,000 sq ft/ 9540 sq ft  
w/ alley allowance



3,339 sq ft  
(=35% of  
adjusted lot  
size of 9540  
sq ft.)



4995 square  
ft (=52.35%  
of adjusted  
lot size.