

FILE
12-101884

BOARD OF ZONING APPEALS STAFF REPORT

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TYPE OF APPLICATION: Minor Variance **FILE #**12-071778

APPLICANT: Alan C. Young

HEARING DATE: July 23, 2012

LOCATION: 654 CALIFORNIA AVENUE EAST

LEGAL DESCRIPTION: Ufton Grove Plat 1 Vac Alley Accruing & Lot 23 Blk 6

PLANNING DISTRICT: 5

PRESENT ZONING: R3 **ZONING CODE REFERENCE:** 63.105(a) & 63.316

REPORT DATE: June 26, 2012 **BY:** Yaya Diatta

DEADLINE FOR ACTION: October 17, 2012 **DATE RECEIVED:** June 19, 2012

A. **PURPOSE:** The applicant is requesting a variance in order to legalize the enlarged deck in the front yard and the new larger driveway. This requires two zoning variances. 1) The new deck has a front yard setback of 36 feet measured from the street; a 44 foot front setback (measured from the street) is required for a variance request of 8 feet. 2) For one-family through four-family dwellings, driveways in front yards shall be no more than 12 feet in width; the applicant constructed an 18 foot wide driveway for a variance of 6 feet.

B. **SITE AND AREA CONDITIONS:** This is a 50 by 125-foot lot with alley access and a newly constructed driveway without a garage. There is a shed at the end of the driveway.

Surrounding Land Use: Mainly single-family dwellings.

C. **BACKGROUND:** Sometime in May of 2012, a Building Inspector from the Department of Safety and Inspections (DSI) was informed about a new deck being constructed on this property. The inspector informed the applicant that a building permit is required and issued a stop work order.

When applying for the building permit, the applicant was informed that a variance is required because the structure extends two feet further into the front yard than the previous deck and does not meet the front yard setback requirement. Somehow, the construction of the structure was finished even though the completion of the work was not authorized.

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While conducting the site inspection for the purpose of variance, staff noticed that a new 18 foot wide driveway was constructed on the west side of the property. Staff informed the applicant that an additional variance is required because the maximum width allowed for a driveway in the front yard is 12 feet. The applicant wants the deck and the driveway to remain as currently existing which cannot be accomplished without variances.

D. CODE CITATION:

Sec.63.105. Porches and decks

(a) An open, uncovered porch or deck serving the principal structure shall be subject to setback and lot coverage requirements for the principal structure with the following exceptions:

(1) The porch or deck may project into a required front or rear yard for a distance not exceeding ten (10) feet, providing the walking surface of the porch or deck is not higher than thirty (30) inches above the adjacent grade in the front yard.

Sec.63.316 includes: "For one-family through four-family dwellings, driveways in front yards shall be no more than twelve (12) feet in width."

D. FINDINGS:

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

This finding is met for the deck. The applicant states that the original deck was such in bad shape that it became a safety concern for the family. He states that he was unaware that a building permit is required to replace an existing deck and proceeded with the rebuilding of the new deck in order to provide peace of mind for his family.

The new deck is 7 feet-5 inches from grade to the top of the railing, which according to the applicant, is the same height as the original deck. Just like the original deck, the new deck wraps around the north and west sides of the building. The new deck has two staircases on the west side.

The applicant has already applied for the required building permit. Provided that the deck is approved by the Building Inspector, it would provide a sense of security for the family consistent with the purpose of the code to promote and protect the public health and safety.

This finding is not met for the driveway width. The applicant states that the request for a larger driveway is due to the parking needs for his family since there is currently no garage or an off-street parking space on the property. Front yard parking is not consistent with the purposes and intent of the zoning code to maintain a uniform

streetscape and to promote and protect the aesthetics, economic viability and general welfare of the community.

2. *The variance is consistent with the comprehensive plan.*

This finding is met for the deck. Although slightly larger than the original dilapidated deck, the new deck is an improvement of the property and a positive addition to the neighborhood. The Housing Chapter of the Comprehensive Plan encourages the renovation and rehabilitation of existing housing stock.

This finding is not met for the driveway width. The request for such a wide driveway for the purpose of parking as stated by the applicant counteracts the goal of the Comprehensive Plan to promote the aesthetics of the community.

3. *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

This finding is met for the deck. The applicant states that the expansion of the deck is needed in order to cover the existing retaining wall which prevents rain water from getting into the basement. The newly constructed deck is a replacement of the original deck that was too old to be functional. This is a practical difficulty in complying with the provision which prevents the applicant from constructing the deck to protect the patio built for his family's enjoyment of the home. The applicant's request is reasonable and not driven solely by financial reasons.

This finding is not met for the driveway width. The applicant states that he has a large cargo van that he is required to have for work at Roto Rooter which takes up nearly half of the driveway, leaving little space for his wife's car. While this may be an inconvenience, it is not a practical difficulty to justify the request for such a large driveway.

4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This finding is met for the deck. This home was built in 1969 and the applicant has only owned it for the last four years. The expansion of the deck to cover the existing retaining wall which prevents water from getting in the basement is a circumstance unique to the property not created by the current landowner.

This finding is not met for the driveway width. The applicant has not demonstrated that there are unique circumstances that would make compliance with the driveway width requirement impractical or unreasonable.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

This finding is met for both the deck and the driveway width. The requested variances, if granted, would not change or alter the zoning classification of the property.

6. *The variance will not alter the essential character of the surrounding area.*

This finding is met for both variance requests. Although slightly larger, the newly constructed deck does not appear out of character in the neighborhood since it is a replacement of the original deck. This request will not alter the essential character of the area. Property owners three houses to the east at 670 California Avenue East and owners of the adjacent parcel at 1650 Payne Avenue are comfortable with the applicant's request and have expressed their support by signing the applicant's petition recommending approval of the variance request for the deck. The applicant's variance application also includes two additional letters signed without a property address recommending approval of the variance.

There are a number of larger driveways in the immediate area which, unlike the applicant's driveway, lead to a garage. Nevertheless, those driveways are used for parking as intended by the applicant. Provided that the driveway work in the right-of-way is approved by the Department of Public Works, this request would not change the character of the area.

- E. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received any recommendation from District 5.
- F. **CORRESPONDENCE:** Staff has received additional letters from property owners at 647, 655, 659, 665, 671, 676, 677 California Avenue East and 1650 Payne Avenue stating that they have no objection to the requested variances.
- G. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends approval of the variance for the deck, subject to the condition that the construction is approved by the Building Inspector. Staff further recommends denial of the variance for the driveway width based on findings 1 through 4.

Diatta, YaYa (CI-StPaul)

FILE
12-101884

From: Czaia, Al (CI-StPaul)
Sent: Friday, June 29, 2012 1:23 PM
To: Diatta, YaYa (CI-StPaul)
Cc: Higbee, Thomas (CI-StPaul)
Subject: RE: 654 California Avenue

We did not issue any permit for driveway work for this address in the Right-of-Way. We would never approved a driveway of this width without the approval of DSI.

I have no idea if it meets any standards at all.

Al

-----Original Message-----

From: Diatta, YaYa (CI-StPaul)
Sent: Friday, June 29, 2012 1:11 PM
To: Czaia, Al (CI-StPaul)
Subject: 654 California Avenue

Greetings Al. I am working a variance application for the above referenced property. Attached are pictures of the original and new driveway. Could you tell me if the new curb cut as constructed meets city standards.

Thanks

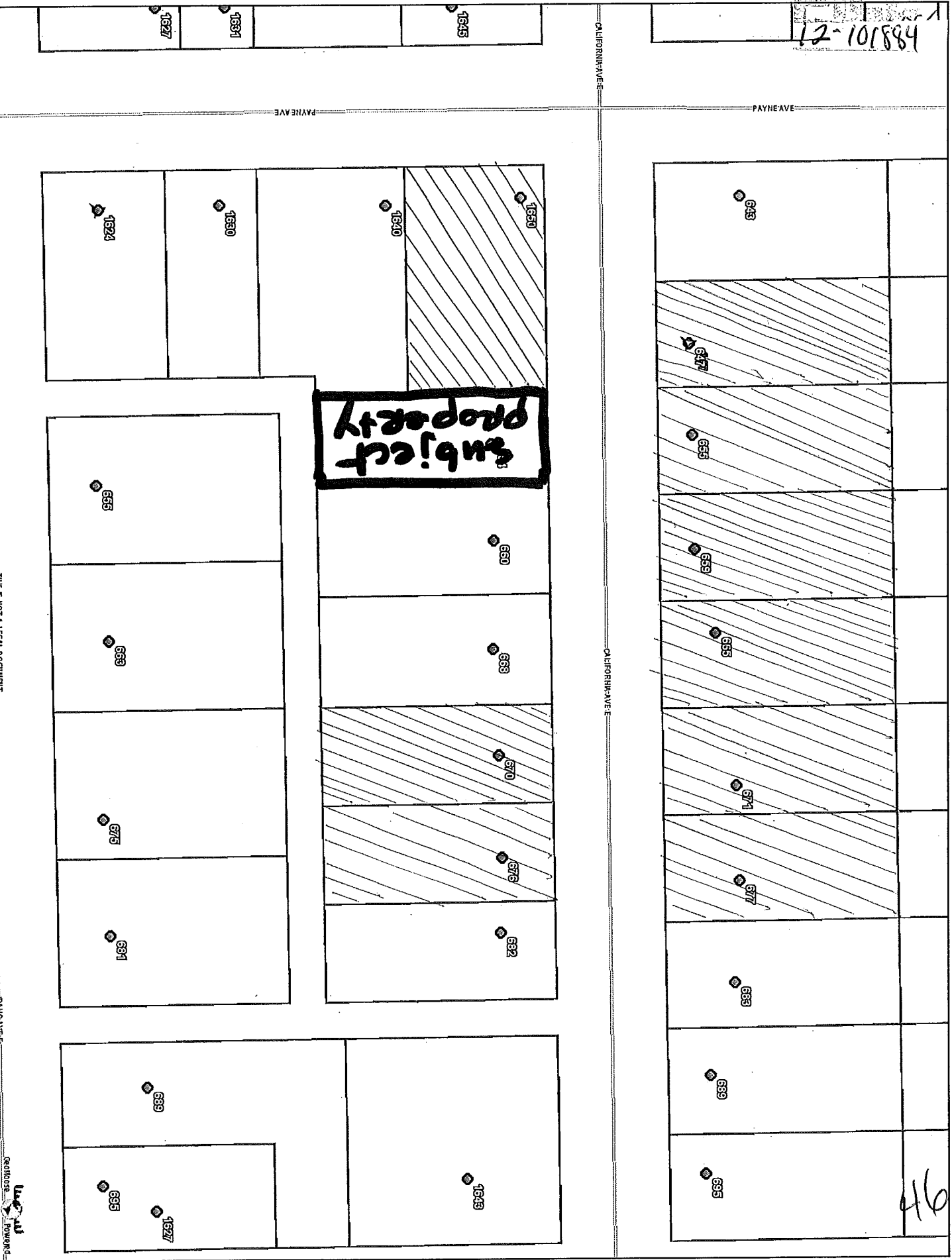
-----Original Message-----

From: Diatta, YaYa (CI-StPaul)
Sent: Friday, June 29, 2012 1:02 PM
To: Diatta, YaYa (CI-StPaul)
Subject: Message from "RNP00267336C100"

This E-mail was sent from "RNP00267336C100" (Aficio MP C3001).

Scan Date: 06.29.2012 13:02:16 (-0500)
Queries to: cece.hauge@ci.stpaul.mn.us

12-101584



Subject Property

State owned land in various parcels

CITY OF SAN PABLO PUBLIC WORKS TECHNICAL SERVICES

THIS IS NOT A LEGAL DOCUMENT

DATE: 08/20/12

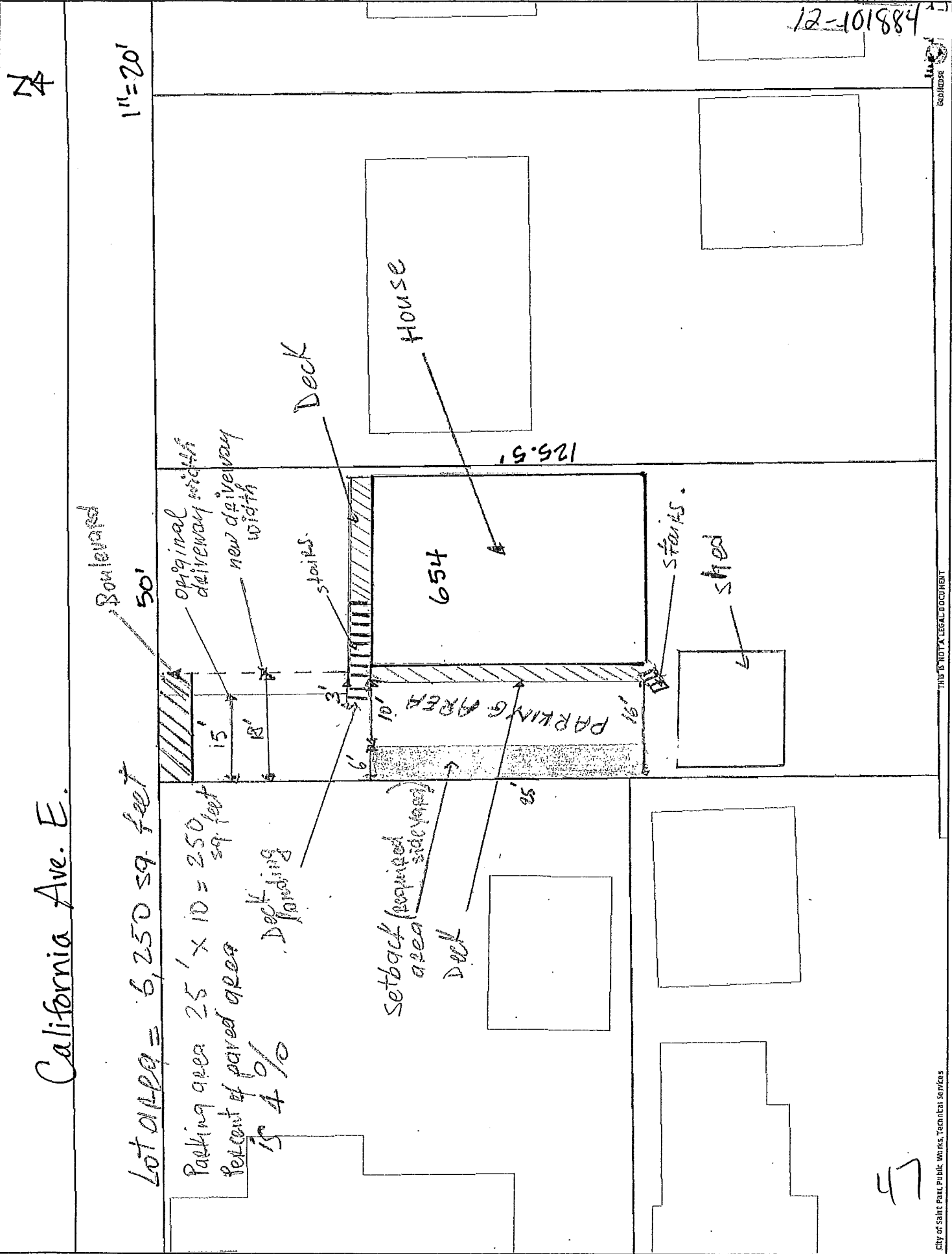


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1-1
GADHOUSE



NA

1" = 20'

Boulevard
50'

original driveway width
new driveway width

Deck

stairs

HOUSE

125.5'

65.4

stairs

shed

Lot area = 6,250 sq. feet

Parking area 25' x 10' = 250 sq. feet

Percent of paved area

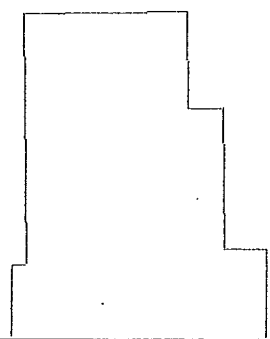
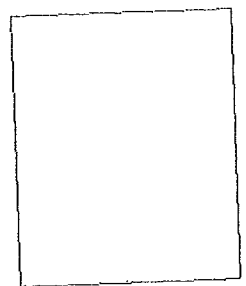
is 4%

Deck landing

Setback (equipped side yard)

Deck

10'

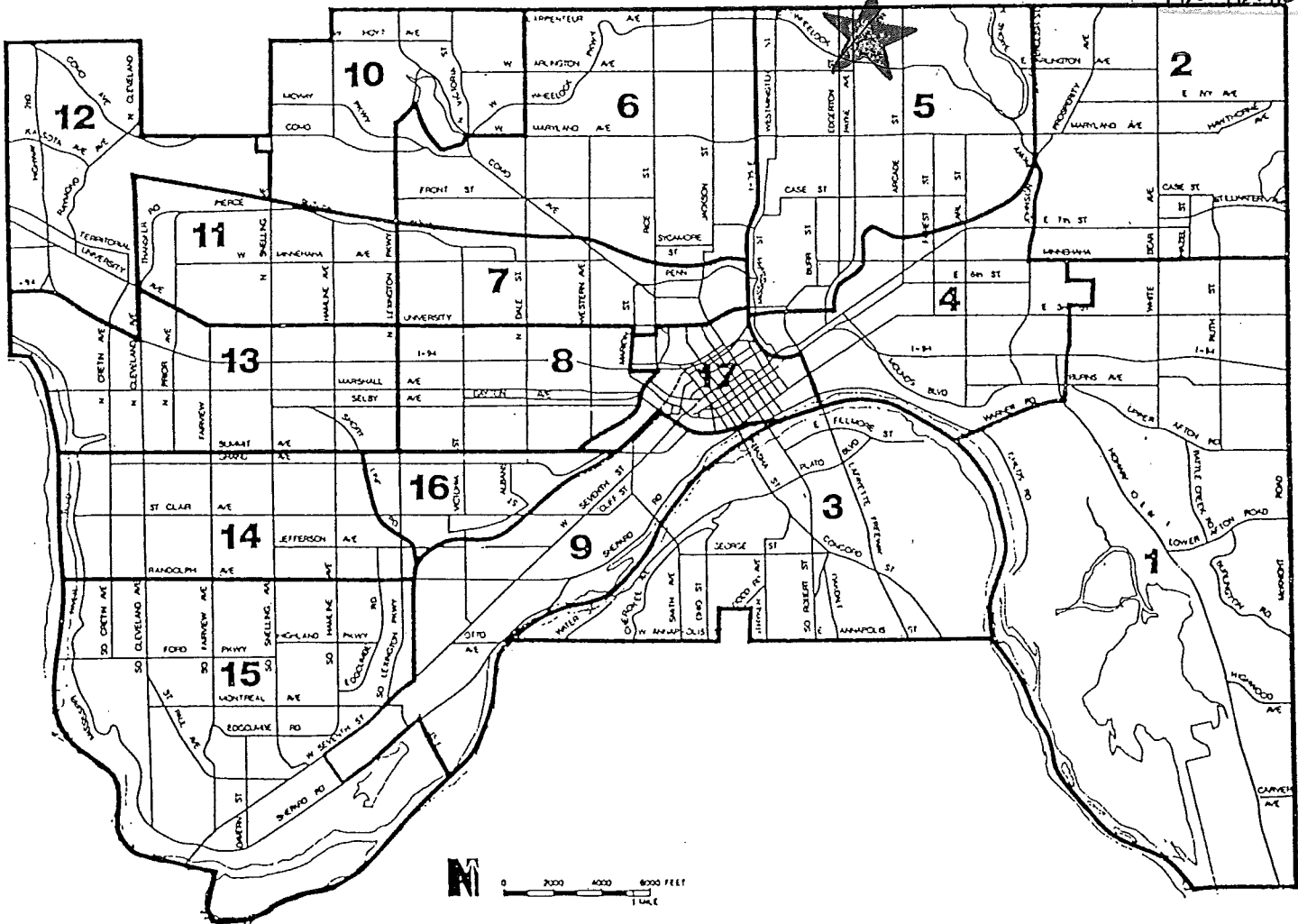


THIS IS NOT A LEGAL DOCUMENT

City of Saint Paul, Public Works, Technical Services

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CITIZEN PARTICIPATION PLANNING DISTRICTS

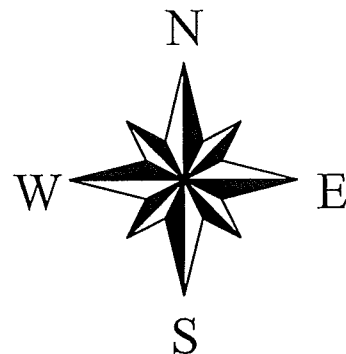
- 1. SUNRAY-BATTLECREEK-HIGHWOOD
- 2. HAZEL PARK HADEN-PROSPERITY HILLCREST
- 3. WEST SIDE
- 4. DAYTON'S BLUFF
- 5. PAYNE-PHALEN
- 6. NORTH END
- 7. THOMAS-DALE
- 8. SUMMIT-UNIVERSITY
- 9. WEST SEVENTH
- 10. COMO
- 11. HAMLINE-MIDWAY
- 12. ST. ANTHONY PARK
- 13. MERRIAM PARK-LEXINGTON HAMLINE-SNELLING HAMLINE
- 14. MACALESTER GROVELAND
- 15. HIGHLAND
- 16. SUMMIT HILL
- 17. DOWNTOWN

ZONING FILE 12-071778

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PROPERTY WITHIN 100 FEET OF PARCEL: 654 CALIFORNIA AVENUE EAST



CREATED BY: DSI

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