



Los Alamos County
Community Development Department
BOARD OF ADJUSTMENT STAFF REPORT

Public Hearing Date: March 20, 2017
Subject: Case No. WVR-2016-0021
Owners/Applicants: Danielle D. Bridge & Ross E. Bridge, Owners; Marcus Leibrecht, Applicant
Property Address: 2217 – 38th Street, Los Alamos
Case Manager: Anders Millmann, Senior Planner
Through: Tamara Baer, Principal Planner

Case No. WVR-2016-0021: Marcus Leibrecht, the agent for the property owners and petitioner, is requesting a Waiver to the Los Alamos County Code of Ordinances, Development Code, Article XIII, Site Development Requirements, from a minimum front yard setback requirement of twenty (20') feet, to nine (9') feet; and to Article VII, §16-272 (d), Projection into required yards; (7), which permits a carport, consisting of a roof that has no walls, or wholly or partially enclosed walls, except those that are part of the main structure, to project no more than 40 percent of the distance into the required front yard setback. The property is located at 2217 – 38th Street, Los Alamos, New Mexico, Subdivision: North Community 3, Lot 020, and is zoned R-M (Residential Mixed District).

Board Action Options

Motion Option 1:

I move that the Board of Adjustment **approve** Case No. WVR-2016-0021, a request for approval of a waiver from a required front yard setback requirement for the construction/placement of a proposed carport, for the reasons stated in the staff report, reasons determined during the public hearing, and adoption of findings of fact, subject to the following conditions:

1. If the waiver is approved, the applicant shall apply for and receive a Building Permit prior to construction/placement of the carport.
2. If the waiver is approved, the carport structure to be constructed/placed must be compliant with the IRC 2009 or the IBC 2015 Code, as specified by the Senior Building Inspector.
3. If the waiver is approved, the carport structure shall meet the Los Alamos County fire code (LAC Municipal code), section 22-131 through 22-133, and table R302.1 of the 2009 or 2015 IRC. The exterior material of the carport structure must meet the flame spread index of 75 or less, as specified by the Fire Marshal.
4. If the waiver is approved, any carport structure placed or constructed per the waived setbacks shall be further subject to review by the Traffic Engineer/Public Works Department to ensure that no sight obstruction is created [See §16-271(c) of the Los Alamos County Development Code].

Motion Option 2:

I move that the Board of Adjustment **deny** Case No. WVR-2016-0021 with the finding that it does not meet the Criteria of Section 16-157 for the following reason(s):

1. ...

I. Summary

The applicant is requesting a waiver to allow for the construction/placement of a carport in a required front yard. The Los Alamos County Code of Ordinances, Chapter 16 (Development Code), Site Development Requirements (table), R-M (Mixed Residential District), establishes a minimum front yard setback of twenty (20') feet, as measured from the property line.

In addition, the Los Alamos County Code of Ordinances, Chapter 16 (Development Code), Section 16-272 (Yards), (d) "Projections into required yards; (7), permits a:

"carport, consisting of a roof that has no walls, or wholly or partially enclosed walls, except those that are part of the main structure, shall project no more than 40 percent of the distance into the required front yard setback."

According to this requirement, the applicant would be able to construct a structure encroaching up to eight (8') feet into the required front yard, thereby allowing a twelve (12') foot setback from the front property line.

The encroachment requested would place the proposed carport nine (9') feet from the front property line, thereby creating a waiver request of three (3') feet.

Section 16-533 (4) of the Los Alamos Development Code, states that the Residential Mixed District (R-M) is intended to accommodate single-family and two-family dwellings and accessory structures and accessory structures and uses, and is further intended to maintain and protect a residential character of development.

The subject property is irregularly shaped, and is located mid-block on the western side of the street. The parcel is occupied by a single family residence. The subject property has a 2-car driveway, but no carport or garage. The property slopes gradually downward from the northeast property corner towards the location of where the existing driveway meets the two-story portion of the residential structure.

Other than the residence located directly across 38th Street from the subject property, the vast majority of properties in the vicinity do not contain garages or carports. Off-street parking is provided by multiple-car drive pads that require vehicles to back out directly into the right-of-way. Thirty-Eighth Street connects with Diamond Drive at a traffic light-controlled intersection.

The carport proposed to be constructed on the subject property measures approximately twenty-two (22') feet in width by twenty-two (22') feet in length, containing 440 Ft², and will stand approximately twelve (12') feet tall at its highest point. The carport will not be permanently attached to the existing residence, as it will be a freestanding carport with all sides open (preliminary drawings submitted by the applicant illustrate that it will not have any side enclosed or partially enclosed).

This waiver application is only for consideration of setback requirements. The carport constructed shall be compliant with all Building and Fire regulations, and be subject to review by Traffic Engineering for sight visibility conditions. If approved, all permits shall be obtained by the applicant prior to construction.

The request of waiver was properly and sufficiently noticed, and no comments or objections were received as of March 15, 2017.

II. Waiver Review Criteria

Sec. 16-157: During the course of review of any waiver request, the board of adjustment shall base its decision on all the following criteria. The board of adjustment shall approve, approve with conditions and limitations, or deny the request depending on the extent to which the request meets or fails to meet these criteria:

(a) Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement, and

Applicant Response:

TRUE, No known easements are present in area of proposed project. The support columns are set back 12' from sidewalk so no interference with county snow removal.

Staff Response: Staff concurs with the applicant's response.

(b) The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed, and

Applicant Response:

TRUE, First cond. Due to the slope and aspect NW of the property, design of the house, water/ice accumulates on walkways going from street to front door and front door to car parked on driveway, making for extremely slick/slippy dangerous walking conditions. Second cond. Almost the entire neighborhood uses 38th st to get onto Diamond Drive causes serious traffic back up. Especially during morning and evening commute hours. This makes it very difficult to back out onto 38th safely (see photos). There is no other access possibility at any other aspect of the property.

We feel that a new proposed carport with a new proposed pull through driveway will make it much safer to walk during icy conditions because of the protection the carport will provide from the elements, and a re-worked grade and drainage system the pull through driveway will provide. The positioning of the vehicles makes for a much safer pull out onto 38th st facing forward.

Staff Response: Staff concurs with the applicant's response.

(c) Granting of the waiver will not create a health or safety hazard or violate building code requirements, and

Applicant Response:

TRUE, This waiver will not create a health/safety hazard. Any construction will be inspected and approved by Los Alamos County building inspectors. All of the snow sliding directly off of carport will be retained on my property. The support columns are 12' back from sidewalk not interfering in sight lines.

Staff Response: Staff concurs with the applicant's response.

(d) Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.

Applicant Response:

TRUE, The granting of this waiver will not create any negative impact on any property within 100yds. It will not be intrusive to any sight line for drivers. The carport will not be an occupied residence. Therefore no loss of privacy. The proposed carport will not increase noise in the neighborhood. The proposed carport will not negatively impact security concerns for any residence in vicinity. The carport will be designed with down turned lighting, therefore no objectionable glare or shadows on adjacent properties.

Staff Response: Staff concurs with the applicant's response.

III. Findings of Fact

1. This public hearing was announced by publication in the Los Alamos Daily Post, the Newspaper of Record for Los Alamos County, on Thursday 02 March 2017; and property owner notices were mailed via first class mail to all owners of real property located within 100 yards of the subject property.
2. This and adjacent properties are residential and are Zoned R-M (Mixed Residential District).
3. The subject property is located in the NORTH COMMUNITY 3 Subdivision, Lot: 020, which contains 0.223± acres, or 9,707 square feet of area. The existing residential structure and garage contain approximately 2,526 Ft² of footprint area, yielding a lot coverage factor of 26.0%. The maximum lot coverage percentage permitted by Section 16-537, Site Development Requirements, of the Los Alamos County Development Code, is 40%.
4. The proposed carport that will encroach within a required front yard setback area, will measure 22 feet in width by 22 feet in length, thereby adding 440 Ft² of additional lot coverage to the subject property, will increase the lot coverage factor up to 30.6%. This is compliant with §16-537, Site Development Requirements, of the Los Alamos County Development Code.
5. The existing residence on the subject property is set back approximately thirty (30') feet from the front property line; thereby meeting the minimum required 20-foot front yard setback requirement for this zoning district.
6. Section 16-537, Site Development Requirements, of the Los Alamos County Development Code, requires a minimum front yard setback of twenty (20') feet, a minimum rear yard setback of twenty (20') feet, and a minimum side yard setbacks of five (5') feet and ten (10') feet. The existing single family residence occupying the subject property is compliant with this requirement.
7. Per §16-537, the minimum required front yard setback for structures in an R-M (Mixed Residential District) zone is twenty (20') feet. Additionally, per §16-272 (d) (7), a carport, consisting of a roof that has no walls, or wholly or partially enclosed walls, except those that are part of the main structure, shall project no more than 40 percent of the distance into the required front yard setback. Approval of this waiver will allow the petitioner to place a carport that will encroach 25%, into a required front yard setback area.
8. The petitioner shall provide sufficient evidence at the public hearing to satisfy the requirements contained within §16-157 of the Los Alamos County Development Code to warrant issuance of the waiver requested.

IV. Exhibits

- Exhibit 1 Vicinity map/Aerial photo of the subject property
- Exhibit 2 List of property owners of record within 100 yards of subject property
- Exhibit 3 Application and Site Plan
- Exhibit 4 Interdepartmental Review Committee (IDRC) Report
- Exhibit 5 Photographs of subject property impacted by traffic, Applicant (4)
- Exhibit 6 Photographs of the subject property, Staff (4)

[illegible]

1:2,257

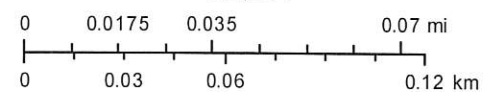


EXHIBIT 1: Vicinity Map/Aerial Photo

Created by: Los Alamos County
Copyright Los Alamos County 2016, all rights reserved

2217 38th St.



**All mapping information is for reference only.
Users are solely responsible to confirm data accuracy.
Los Alamos County assumes no liability for errors
associated with these data.**

A horizontal number line with tick marks at 0, 100, 200, and 400. The label "Feet" is at the right end.

1 inch = 200 feet

LOS ALAMOS SCHOOL BOARD
2075 TRINITY DR
LOS ALAMOS NM 87544

BENNETT MORRISON
P O BOX 160
LOS ALAMOS NM 87544

BENNETT GEMMA MAZELLE MORRISON
PO BOX 160
LOS ALAMOS NM 87544

O'DONNELL JAMES P & KATE L
2610 TRINITY DR SUITE 4
LOS ALAMOS NM 87544

SCARBERRY CATHERINE
3820 VILLA ST
LOS ALAMOS NM 87544

ORCHARD HOUSE CONDOMINIUM, A CONDOMINIUM
3823 VILLA ST
LOS ALAMOS NM 87544

PETERSON PAMELA S
2233 37TH ST
LOS ALAMOS NM 87544

KING NATHAN
2249 38TH ST A
LOS ALAMOS NM 87544

WERMER JOSEPH R & PENNY L REVOC TRUST
3841 VILLA ST A
LOS ALAMOS NM 87544-2065

FISHER KARL L & SARAH B
2235 38TH ST B
LOS ALAMOS NM 87544

DERRIG ANTHONY JOHN & MORTON SARAH
2249 38TH ST B
LOS ALAMOS NM 87544

2276 38TH STREET CONDOMINIUM
2276 38TH ST
LOS ALAMOS NM 87544

ALEXANDER SAMUEL T
3868 VILLA ST
LOS ALAMOS NM 87544

RAMSEY HERMAN D
2265 38TH ST A
LOS ALAMOS NM 87544

3803 VILLA STREET CONDOMINIUM
3803 VILLA ST
LOS ALAMOS NM 87544

COUPLAND DANIEL & LAUREN
2222 38TH ST
LOS ALAMOS NM 87544

TALLEY BRENT M & NANCY A
823 47TH ST
LOS ALAMOS NM 87544

HUANG JOHN YUN- & SHU-JUNG
3803 VILLA ST B
LOS ALAMOS NM 87544

GORMAN FREDERICK W & JANICE E
2219 37TH ST
LOS ALAMOS NM 87544

GRIFFIN JENNIFER
3765 VILLA ST B
LOS ALAMOS NM 87544

ECHAVE MANUEL A REV TRUST
3803 VILLA ST A
LOS ALAMOS NM 87544

LUJAN SEVEDEO
3840 VILLA ST
LOS ALAMOS NM 87544

HEWITT CLIFFORD J & PAULA M
2189 37TH ST B
LOS ALAMOS NM 87544

2262 38TH STREET CONDOMINIUM
2262 38TH ST
LOS ALAMOS NM 87544

KOH AIK-SIONG & TRACY K REVOC TRUST
3765 VILLA ST APT A
LOS ALAMOS NM 87544

SHELTON PHILO S III & DEBORAH K
2263 37TH ST
LOS ALAMOS NM 87544

MONTOYA MEGAN E
2262 A 38TH ST
LOS ALAMOS NM 87544

LOPEZ JOSEPH A & BERNADETTE M
3736 VILLA ST
LOS ALAMOS NM 87544

ZICKERT DONALD L
2251 37TH ST
LOS ALAMOS NM 87544

LE LOAN A
2262 38TH ST
LOS ALAMOS NM 87544

EXHIBIT 2: List of Property Owners of Record Within 100 Yards of Subject Property

2250 38TH ST, A CONDOMINIUM
2250 38TH ST
LOS ALAMOS NM 87544

ZUFELT DAVID P & JANICE P
9547 OLSON RD NW
BREMERTON WA 98311

ESCH ERNST I & JENNY M
25969 HIGHWAY 4
JEMEZ SPRINGS NM 87025-9412



20 RM Zone

WAIVER APPLICATION

Los Alamos County Community Development Department
1000 Central Ave, Suite 150, Los Alamos NM 87544
(505) 662-8120

Note: The Board of Adjustment considers Applications for Waivers at a public hearing. Waiver means an adjustment of dimensional requirements, parking regulations, or design standards contained in the Land Development Code. Waivers shall not apply to regulations controlling density or land use.

Describe the Waiver request: requesting to Move setback 12 ft into front setback to build new carport.

Address of Property to which the Waiver Request applies:

2217 38th St. Los Alamos NM 87544.

Zoning District: R-M Acreage: 23 Lot Coverage: 20% Related Applications (if any):

APPLICANT (Unless otherwise specified, all communication regarding this application shall be to Applicant):

Name: Marcus Leibrecht Phone: 412-2118 Cell #: 412-2118
Please Print

Address: 4531 Yucca St Los Alamos Email: bendem99@msn.com

SIGNATURE

DATE

PROPERTY OWNER (If different from Applicant)

Name: Danielle Duquette Bridge (505) 695 5065 Check here if same as above
Ross E Bridge (505) 695 5075 Same
Please Print

Address: 2217 38th St, Los Alamos, NM Email: duquettebridge@yahoo.com
87544 ross.bridge2016@gmail.com
Owner's Address

My signature below indicates that I authorize the Applicant to make this Waiver application on my behalf.

SIGNATURE

DATE

THIS SECTION TO BE COMPLETED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

For County Use:

Date of Submittal: _____

Staff Initial: AB

CDD Application Number: _____

Fees Paid: 250.00

WAIVER REVIEW CRITERIA:

The Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-157 establishes four (4) criteria upon which the Board of Adjustment shall base its decision to approve, approve with conditions and limitations, or deny the waiver request. The Board's decision shall depend upon the extent to which the request meets or fails to meet these criteria. Please review each of the criteria listed and provide short comments on how your application meets the criteria in the space provided. (Attach additional sheets if needed.)

- (a) *Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement; and*
- (b) *The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed; and*
- (c) *Granting of the waiver will not create a health or safety hazard or violate building code requirements; and*
- (d) *Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.*

SUBMITTALS:

Provide all information necessary for a complete review of the Waiver request. Check each of the boxes to indicate which information you have provided, and, if possible, also provide one complete copy of all materials on disk:

- ☐ Proof of property ownership.
- ☐ A scaleable drawing including all information pertinent to the waiver request:
 - ☐ Existing and proposed lot coverage.
 - ☐ Show and label the footprint of all existing buildings and structures on the site.
 - ☐ Show, dimension and label all existing and proposed easements.
 - ☐ Show, dimension and label all existing and proposed setbacks.
 - ☐ Show, dimension and label building/structure elevations.
- ☐ Other. Describe: _____

See Attachment →

Waiver Review Criteria:

(A)

TRUE, No known easements are present in area of proposed project.

The support columns are set back 12' from sidewalk so no interference with county snow removal.

(B)

TRUE,

First cond.

Due to the slope and aspect NW of the property, design of the house, water/ice accumulate on walkways going from street to front door and front door to car parked on driveway, making for extremely slick/slippy dangerous walking conditions.

Second cond.

Almost the entire neighborhood uses 38th st to get onto Diamond drive causes serious traffic back up. Especially during morning and evening commuting hours. This makes it very difficult to back out onto 38th safely (see Photos)

There is no other access possibility at any other aspect of the property.

**We feel that a new proposed carport with a new proposed pull through driveway will make it much safer to walk during icy conditions because of the protection the carport will provide from the elements, and a reworked grade and drainage system the pull through driveway will provide. The positioning of the vehicles makes for a much safer pull out on to 38th st. facing forward.
Thank you.

(C)

TRUE, This waiver will not create a health/safety hazard.

Any construction will be inspected and approved by Los Alamos county building inspectors.

All off the snow sliding directly off of carport will be retained on my property.

The support columns are 12' back from sidewalk not interfering in sight lines.

(D)

TRUE, The Granting of this waiver will not create any negative impact on any property within 100yds. It will not be intrusive to any sight line for drivers.

The carport will not be a occupied residence. Therefore no loss of privacy.

The proposed carport will not increase noise in the neighborhood.

The proposed carport will not negatively impact security concerns for any residence in vicinity.

The carport will be designed with down turned lighting, therefore no objectionable glare or shadows on adjacent properties.

Existing House

Front Entry

step

Proposed Carport

22'

22'

new slab
Driveway

Existing Driveway

Existing Setback
20'

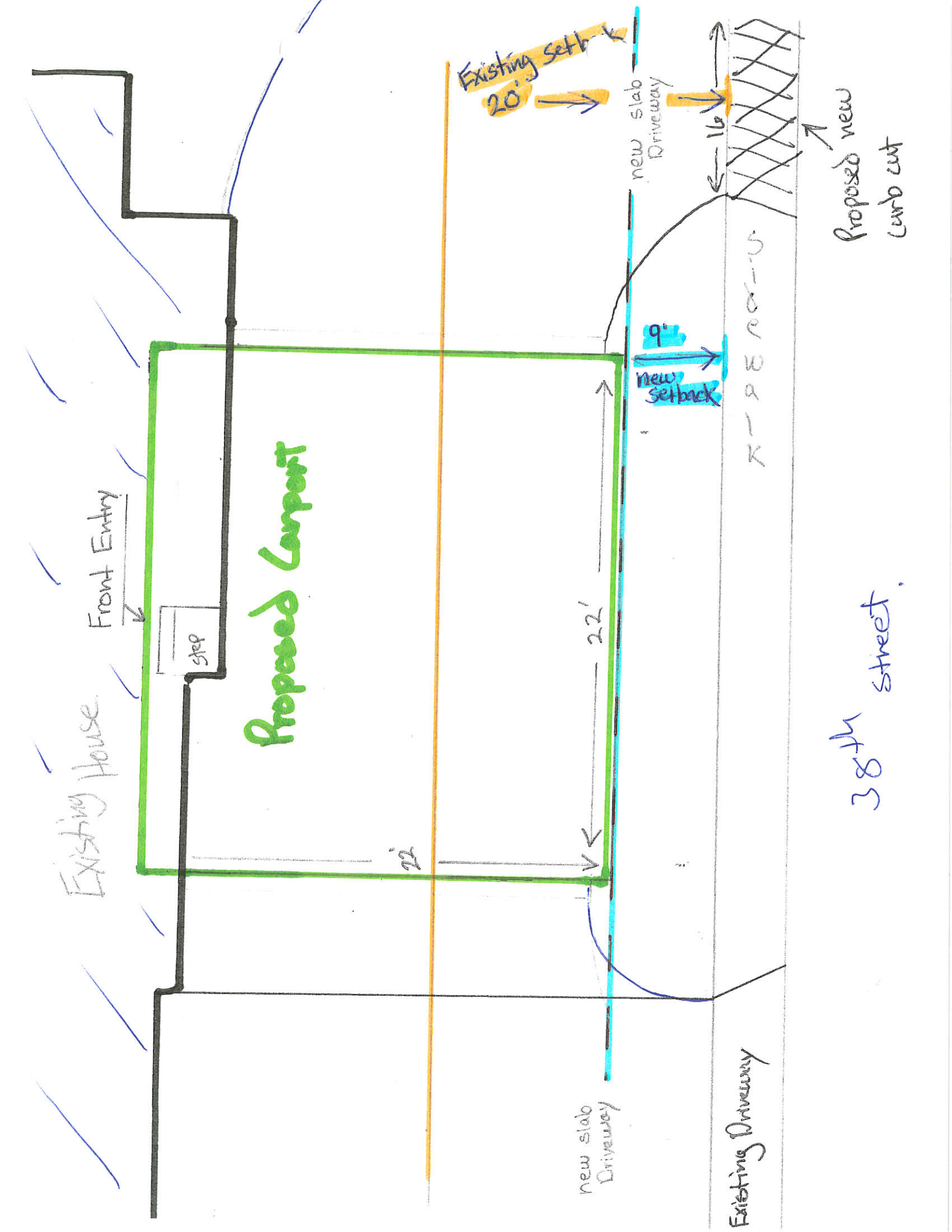
new slab
Driveway

9'
new
Setback


K-9000-15

38th street.

Proposed new
curb cut



 = New Proposed Structure

 = Overhead electric
to be raised.

 = New Proposed Driveway



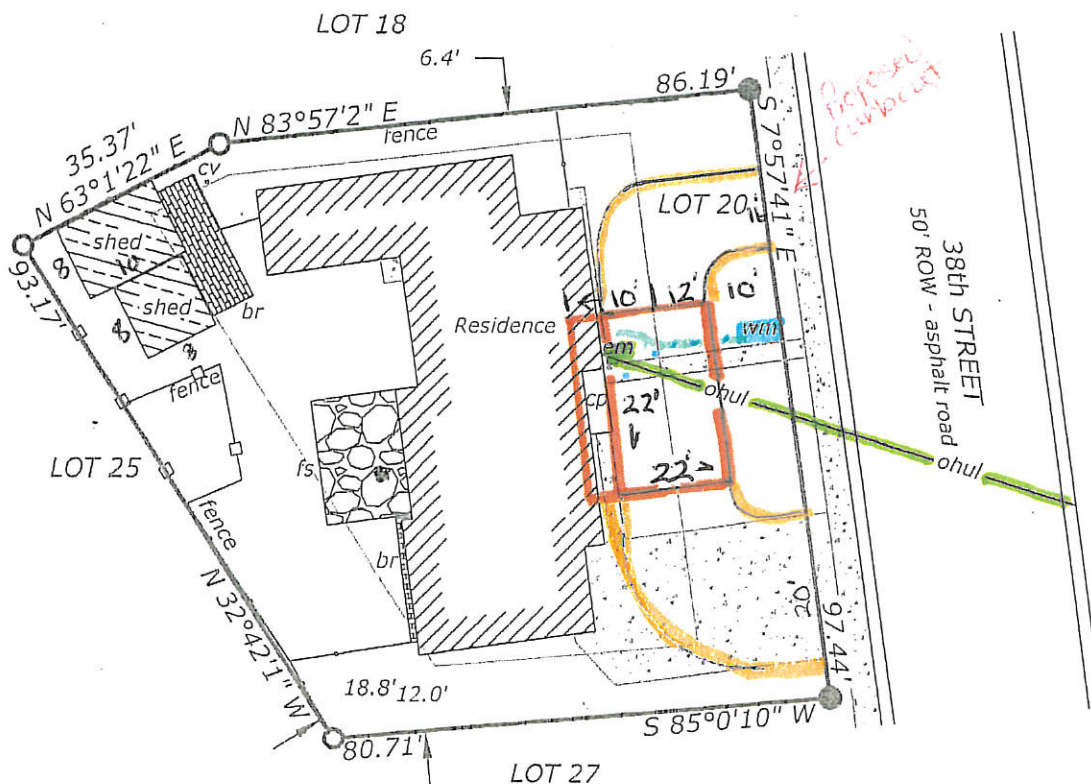
1st Locate #16AG260219

IMPROVEMENT LOCATION REPORT

EXHIBIT "A"

SITUATE AT 2217 38TH STREET, LOT 20, NORTH COMMUNITY NO. 3,
COUNTY OF LOS ALAMOS, STATE OF NEW MEXICO

THIS REPORT IS NOT FOR USE BY A PROPERTY OWNER FOR ANY PURPOSE. THIS IS NOT A BOUNDARY SURVEY AND MAY NOT BE SUFFICIENT FOR THE REMOVAL OF THE SURVEY EXCEPTION FROM AN OWNER'S TITLE POLICY. IT MAY OR MAY NOT REVEAL ENCROACHMENTS, OVERLAPS, CONFLICTS IN BOUNDARY LINES, SHORTAGES IN AREA, OR OTHER MATTERS WHICH WOULD BE DISCLOSED BY AN ACCURATE BOUNDARY SURVEY.



LEGEND

- Monument found
- Calculated point, no monument found



Utility Easement

none

Building Setbacks

br Brick

cp Covered Porch, Portal or as noted



Electric Meter

fs Flagstone



Water Meter



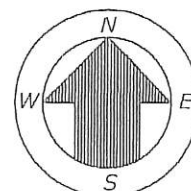
= New Driveway



= new Carport



= overhead electrical to be raised.



NORTH



IDRC REPORT

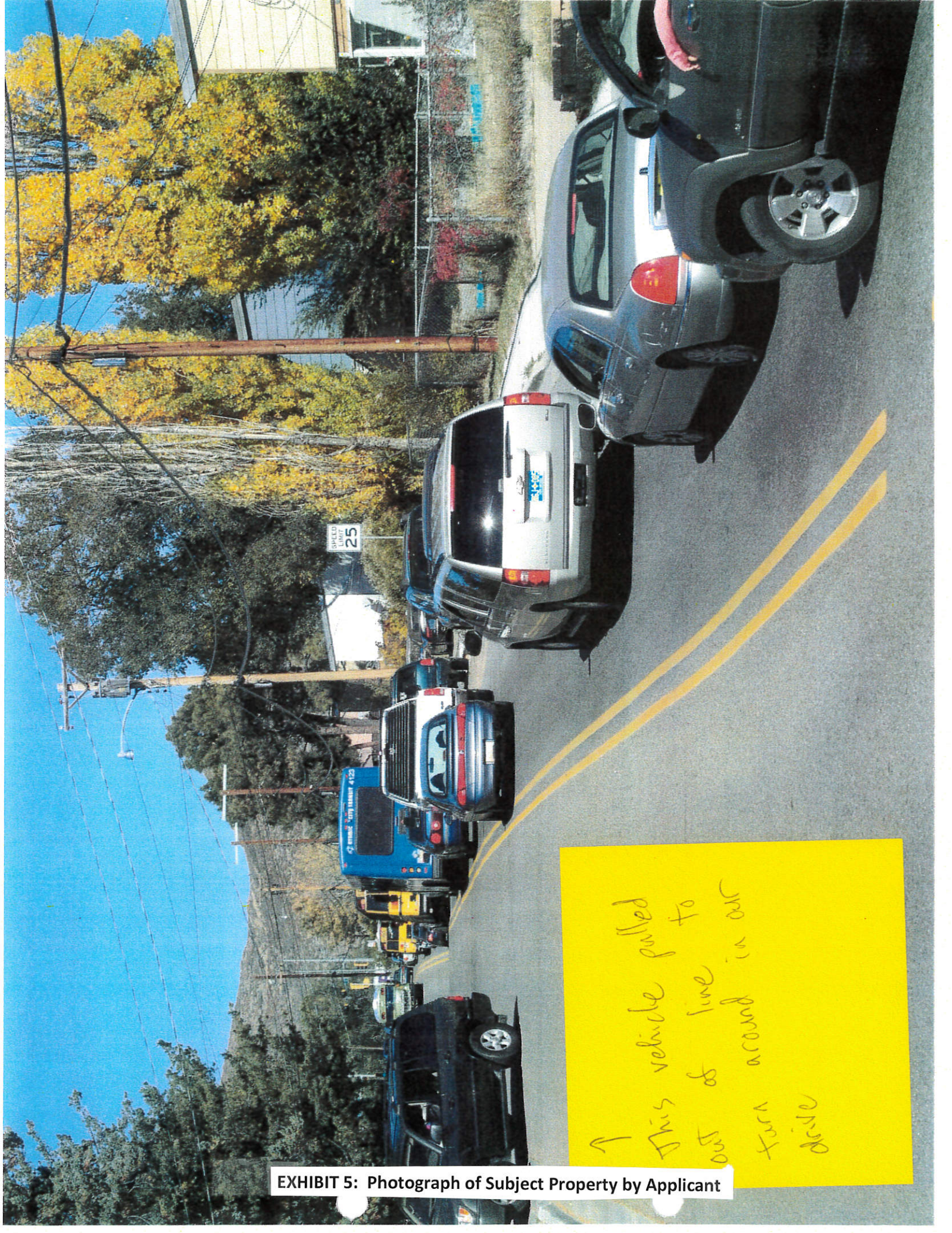
WVR-2016-0021: 2138 – 38th Street: Carport Encroachment into front yard

Date of Meeting: 02-24-2017

Member/ Alternate	Dept.	Attended	Recommended Conditions/Comments	Approved	Approved condition	Denied
M. Arellano / J. Dudziak	Building	X			X	
T. Baer /	Planning	X			X	
D. Erickson	Traffic					
P. Guerrerortiz/G. Moseley	Utilities					
A. Gurule / L. Martinez	Env. Serv.	X			X	
E. Martinez/ B. Aragon	PW	X	Mr. Martinez said the drainage report would be required at the time of permitting.		X	
A. Millmann / J. Naranjo	Planning	X			X	
J. Wetteland / S. Rinaldi	Fire	X	Mr. Rinaldi suggested that instead of raising the electric line up to 7 feet above the constructed roof of the carport, that they move the line to the other side of the carport.		X	
OTHERS:						
Anita Barela	Planning	X				
Eric Peterson	Parks	X				
Jason Romero	PW	X				

MOTION: Mr. Rinaldi moved and Mr. Eric Martinez seconded that the case be forwarded to P&Z. Motion passed 6-0.

* Strikethrough indicates not present at meeting.



↑ This vehicle pulled to
out of line & turned
around in one
drive

EXHIBIT 5: Photograph of Subject Property by Applicant









1-Residence Illustrating Existing Driveway, from the SE



2-Location of Proposed Carport in Front Yard



3-Existing Residence from the NE



4-Existing Residence, 2217 – 38th Street