CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT

(Special-Called)

Tuesday, April 12, 2016 at 4:00 p.m.
City Administration Building
400 N. Broadway

AGENDA

I. Board of Adjustment

A. Call to Order
B. Roll Call
C. Approval of Minutes of the regular Meeting on March 22, 2016
D. Variance Permit Approval

1. Variance Development Permit, BOA16-02
   5010, 3902, 3892, 3893 and 5000 Thomas St.
   Owner: BEB Properties, LLC
   Agent: City of Siloam Springs

E. Adjourn the Board of Adjustment

MINUTES OF THE REGULAR MEETING
OF THE BOARD OF ADJUSTMENT OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY,
ARKANSAS, HELD MARCH 22, 2016

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building, March 22, 2016.

The meeting was called to order by Chairman Mounger.

Roll Call:
Colvin, Engle, Blakely, Nation, Mounger, Williams – Present.
Smith – Absent.

City Clerk, Renea Ellis; Jay Williams, City Attorney; and Senior Planner, Ben Rhoads.

A copy of the regular meeting of January 26, 2016 minutes had previously been given to each Commissioner. A motion was made by Williams and seconded by Colvin that the minutes of the January 26, 2016, regular meeting be approved as presented. Chairman Mounger called for a voice vote on the motion, all ayes. Motion passed.

Chairman Mounger announced Williams completed a training session.

The first agenda item was a Variance Development Permit, BOA16-01, 205 W. Alpine St., Mike Rediske. Ben Rhoads, Senior Planner, briefed the item. Williams asked if it would need to be moved to meet the 20-foot front setback. Rhoads answered yes. Engle asked about the side set back and can it go anywhere. Rhoads answered 5 feet, and that it would go back to current location. Blakely asked placement questions on the property. Rhoads addressed. Tom Shoup, 110 North Maple, stated it's not a typical shed, and compliments the neighborhood very well. Mike Rediske, 205 W. Alpine, stated he would ideally like to keep it placed where it's at, but understands if it needs to be moved. He stated he will need time to get it moved. Mounger asked if it can be moved without tearing up playgrounds, or can it be placed by gazebo otherwise. Rediske stated not easily, but he would try.
A motion was made by Nation and seconded by Williams to approve the Variance Development Permit, BOA16-01, 205 W. Alpine St., Mike Rediske.
Roll Call:
Engle, Blakely, Nation, Mounger, Williams, Colvin – Aye.
6 Ayes. No Nays. Motion Approved.

There being no further business, a Motion was made by Colvin and seconded by Nation to adjourn. A voice vote was taken. All ayes. Meeting Adjourned.

ATTEST: APPROVED:

_____ _____
Renea Ellis, City Clerk Karl B. Mounger, Chairman

(SEAL)

STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner
Cc: Don Clark, Community Services Director
DATE: March 17, 2016
RE: Variance Development Permit, BOA16-02

Recommendation: City staff does not provide recommendations for variances. City staff concurs that there is a legitimate hardship in this case.

Background:

APPLICATION REVIEW DATES
Special-Called Board of Adjustment Review: April 12, 2016

APPLICANT AND AGENT
Applicant/Owner: BEB Properties, LLC
Agent: City of Siloam Springs – Planning Division

SUBJECT PROPERTY ADDRESSES
5010, 3902, 3893, 3892, and 5000 Thomas Street

PROJECT INTENT
The applicant desires DECREASE THE SIDE ON CORNER SETBACK BY 5 FEET FROM 25 FEET TO 20 FEET on property located in the R-4 (Residential, multi-family) zone. This is a direct code violation of Section 102-47(e)(1)(c) of the Siloam Springs Municipal Code.

INTERNET MAP INFORMATION
Planning staff has created a map made with Google My Maps.
Attribution: Map data ©2016 Google Imagery ©2016, Arkansas GIS, DigitalGlobe, Landsat, State of Arkansas, USDA Farm Service Agency Washington County.

Please click on the following link to access. This link will only operate if reading this report digitally.

https://www.google.com/maps/d/edit?mid=zHgGzzL4Wl4o.kEOzCvr1OveM&usp=sharing

EXISTING LAND USE	EXISTING ZONING
Vacant	R-4 District (Residential, multi-family)
SURROUNDING LAND USE	**SURROUNDING ZONING**
North: Vacant /Commercial	North: R-4 District (Residential, multi-family)/ C-2 District (Roadway Commercial)
South: Vacant	South: R-4 District (Residential, multi-family)/ Benton County – No Zoning
East: Vacant / Two-Family Residential	East: R-4 District (Residential, multi-family)/
West: Vacant/ Industrial - Agricultural	West: R-4 District (Residential, multi-family)/ Benton County – No Zoning

APPLICABLE CODE REQUIREMENTS

Sec. 102-47(e)(1)(c) of the Siloam Springs Municipal Code.

Excerpt from Section 102-47(e) Residential, multifamily; Building limits:

" * * * *

(1) Setback required:

c. Side on corner: 25 feet.

* * * *"

STAFF DISCUSSION

Unlike traditional permit applications that are reviewed by the Planning Commission, variances do not receive a staff recommendation. Approval of variances are based on the Board of Adjustment's determination as to if there is a hardship. All variances must have a legitimate hardship associated with the property that is not caused by the applicant and is not financial in nature. The hardship must be unique to the property, must not be caused by the applicant, or must have existed for a minimum of 15 years.

The applicant and land owner are requesting to reduce the side on corner setback from 25 feet to 20 feet on five corner lots in the Eastern Hills Addition. The City of Siloam Springs is acting as applicant and agent on the request on behalf of the land owner due to a scrivener's error involving the original subdivision plat. The error involved not identifying an incorrect side on corner setback platted and recorded on the original plat in 2007. The correct side on corner setback in the R-4 zone in 2007 was 25 feet, however the plat was reviewed, approved, and recorded with an incorrect 20 foot side on corner setback, consistent with the R-2 zone. It was not until the applicant sought building permits on the effected lots, nearly 9 years later, that the side setback encroachments were discovered. Staff researched if the plat holds precedence over the zoning ordinance, and it was determined through attorney review, that the ordinance holds precedence over the plat, even if the plat is recorded. So the simplest remedy to the plat and zoning inconsistency is a setback variance. Staff originally requested that the applicant redesign the buildings to fit the more restrictive setbacks, however he has elected to apply for a variance. The plat error was discovered upon the initial review of this variance case. It was at that time that the City elected to become the applicant since the error was not caught by the City's technical review staff.

Staff believes that had this error been identified at the time of the final plat review, the lots in question would have been re-platted in order to better fit for a two-family dwelling. As seen on the attached plat survey, the lots allow for a total of 50.85 feet of building area lot width after discounting the non-buildable portions outside of the building footprint/setback limits. When looking at the interior lots (those that do not have a side on a corner) the total building area width is 55.75 feet, or 5 feet wider. This 5 foot divergence greatly impacts the land owner's ability to fit the same unit models currently under construction in the interior lots. The model is a 53 foot wide 2-family structure, so it cannot fit on a corner lot with the Code prescribed 25 foot side on corner setback. It appears likely that the original developer of the addition wanted all the lots to have identical building footprints. This is evidenced in that the corner lots were platted wider in order to account for an assumed 20 foot

side on corner setback. Had the subdivision developer been made aware, through technical review commentary, of the larger 25 foot side on corner setback, the lots may have been redesigned to have identical buildable frontages. This is important as often builders will purchase multiple lots to construct the same unit or tract home design, as seen in the Autumn Glen and Copper Leaf Additions. Furthermore, staff was informed that the applicant desires to fence in the side yards; therefore a redesign of the units with a side loading garage is not feasible.

In terms of hardships, staff believes the hardship is that the plat does not match the zoning, so the applicant was unaware of the zoning discrepancy. Furthermore, there is hardship in that the buildable area of the side on corner lot is less than what would be reasonable for a two-family structure common in the R-4 zone. Due to these limitations, the faulty plat and the narrower than normal lot widths, staff concurs that there are legitimate hardships in this case.

LEGAL NOTICE

Staff received no information that:

- the proposal interferes with the reasonable peace or enjoyment of the neighboring properties;
- the property values will be substantially damaged;
- the proposal is not adequately supported by infrastructure.

- Site posted: March 17, 2016.
- Newspaper legal notification: March 20, 2016 (Herald-Leader).
- Letter legal notification: March 18-20, 2016.
- Staff received no phone calls or correspondence on the request.

Fiscal Impact

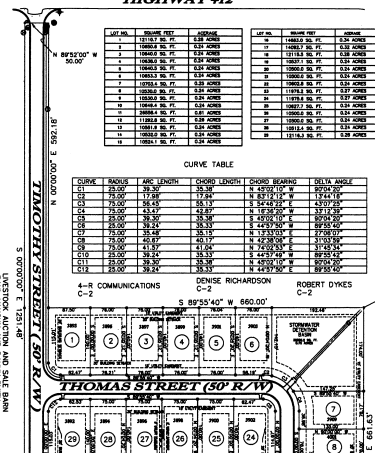
None

Attachments

Original Eastern Hills Subdivision Plat
Applicant's Building Permit Plat Map
Plot Plan for Subject Properties
Statement of Hardship
General Area Map

KENNETH AND ROSEMARY ROGEN
AGRICULTURE

HIGHWAY 412

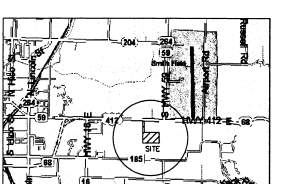


LOT NO.	SQUARE FEET	ACREAGE
1	13115.7 SQ. FT.	0.30 ACRES
2	10836.9 SQ. FT.	0.25 ACRES
3	10840.0 SQ. FT.	0.24 ACRES
4	10838.2 SQ. FT.	0.24 ACRES
5	10840.5 SQ. FT.	0.24 ACRES
6	10853.3 SQ. FT.	0.24 ACRES
7	10750.1 SQ. FT.	0.24 ACRES
8	10350.0 SQ. FT.	0.24 ACRES
9	10350.0 SQ. FT.	0.24 ACRES
10	10494.4 SQ. FT.	0.24 ACRES
11	26858.5 SQ. FT.	0.61 ACRES
12	11282.8 SQ. FT.	0.26 ACRES
13	10843.4 SQ. FT.	0.24 ACRES
14	10350.0 SQ. FT.	0.24 ACRES
15	10534.1 SQ. FT.	0.24 ACRES

LOT NO.	SQUARE FEET	ACREAGE
16	14483.0 SQ. FT.	0.34 ACRES
17	14483.0 SQ. FT.	0.34 ACRES
18	13118.0 SQ. FT.	0.30 ACRES
19	10527.1 SQ. FT.	0.24 ACRES
20	10350.0 SQ. FT.	0.24 ACRES
21	10350.0 SQ. FT.	0.24 ACRES
22	10350.0 SQ. FT.	0.24 ACRES
23	11979.2 SQ. FT.	0.27 ACRES
24	11979.2 SQ. FT.	0.27 ACRES
25	10927.7 SQ. FT.	0.24 ACRES
26	10350.0 SQ. FT.	0.24 ACRES
27	10350.0 SQ. FT.	0.24 ACRES
28	10811.4 SQ. FT.	0.24 ACRES
29	12116.2 SQ. FT.	0.28 ACRES

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	39.30'	35.38'	N 45°00'10" W	90°04'20"
C2	75.00'	17.08'	17.04'	N 82°12'12" W	12°44'18"
C3	75.00'	56.45'	55.13'	S 54°48'22" E	43°07'25"
C4	75.00'	43.47'	42.87'	N 18°36'20" W	33°12'38"
C5	25.00'	39.30'	35.38'	S 45°00'10" E	90°04'20"
C6	25.00'	39.30'	35.38'	S 44°57'50" W	89°55'40"
C7	75.00'	35.48'	35.15'	N 12°33'03" E	27°08'07"
C8	75.00'	40.87'	40.17'	N 42°38'08" E	31°03'56"
C9	75.00'	41.57'	41.04'	N 74°09'53" E	31°45'34"
C10	25.00'	39.30'	35.38'	S 44°57'49" W	89°55'42"
C11	25.00'	39.30'	35.38'	N 45°02'10" W	90°04'20"
C12	25.00'	39.24'	35.33'	N 45°57'50" E	89°95'00"


204
264
59
Smith Place
Russell Rd
Kenwood Dr
Hickory Ln
Hickory Ln
Hickory Ln

= Affected Areas for Variance Request

1 SITE LAYOUT

GENERAL NOTES:
1. PROPERTY DOES NOT OCCUR WITHIN A FLOOD PLAIN.
2. FINISH FLOOR @ +6" ABOVE GRADE.

Stone Ridge Duplexes
Thomas Street
Siloam Springs, Arkansas 72761

THE HILL FIRM Architect

ARCHITECTURAL SITE PLAN	DATE: 02/02/15	JOB NO.: 2015-07
	SHEET: SP1.1	

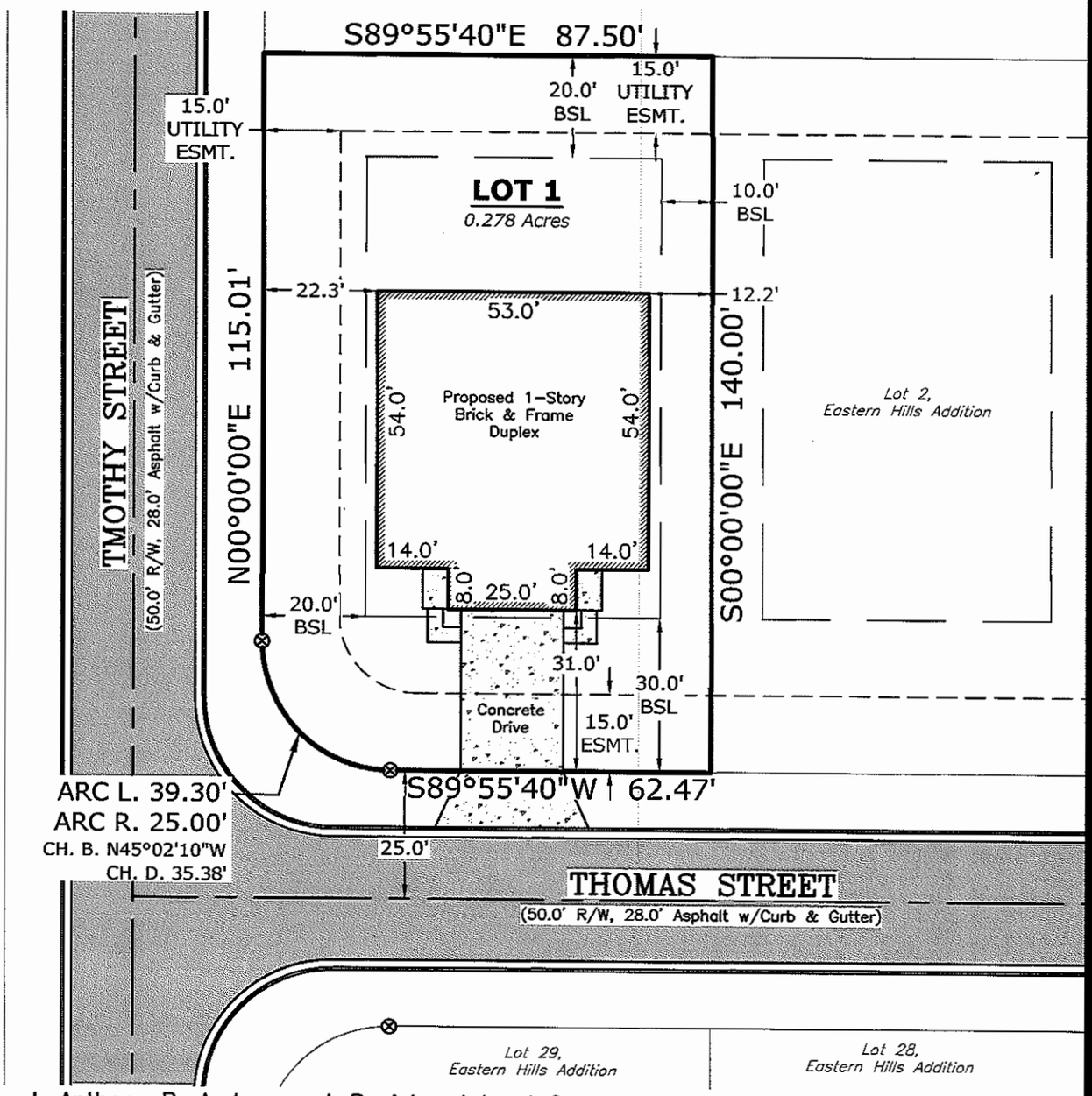
ANDERSON SURVEYING INC.

Arkansas -- Oklahoma
P.O. Box 129
Van Buren, Arkansas 72957
(479)-474-4247 Fax (479)-410-5333
E-MAIL: andersonsurveying@cox.net

CERTIFICATE OF AUTHORIZATION
ANDERSON SURVEYING INC.
No. 1691
ARKANSAS

REGISTERED LAND SURVEYOR'S PLOT PLAN

For Use By: Strategic Realty



I, Anthony P. Anderson, A Registered Land Surveyor In and For the State of Arkansas, Do Hereby Certify to the Title Attorney or Underwriter That This is a True and Correct Plat to the Best of My Knowledge of a Survey of: Lot 1, Eastern Hills Addition

Also Described As (Street) 3893 Thomas Street, (City) Siloam Springs

(County) Benton, (State) Arkansas, That Said Plat Correctly Shows the Location of All Buildings, Structures and Improvements on said Described Property, That There Are No Party Walls, Visible Right of Ways and Easements, or Visible Encroachments Except as Shown on said Plat of Survey.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS NO. 1272
SIGNATURE
ANTHONY P. ANDERSON

30 0 30
SCALE IN FEET

Witness My Hand and Stamp
This 27th Day Of January 2016,
Anthony P. Anderson P.L.S.

Legend

- ● Existing Iron Pin/Pipe
- ⊗ Calculated Point
- Existing Fence
- Tele/Elec. Pedestal
- Water Meter
- Gas Meter
- PP Power Pole
- WV Water Valve

Job No. 16-01-22-1

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ANDERSON SURVEYING INC.

Arkansas -- Oklahoma
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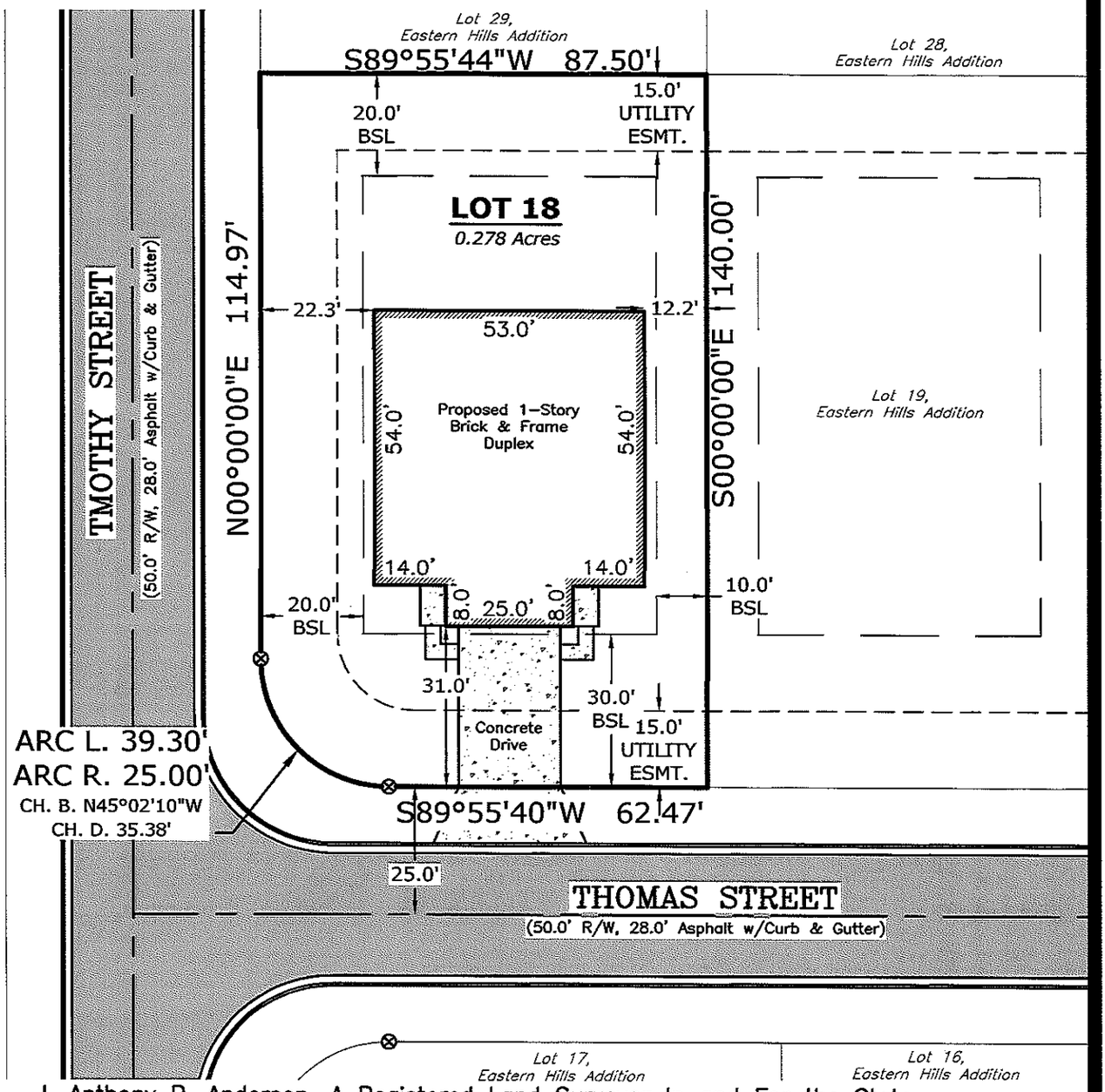

I, Anthony P. Anderson, A Registered Land Surveyor In and For the State of Arkansas, Do Hereby Certify to the Title Attorney or Underwriter That This is a True and Correct Plat to the Best of My Knowledge of a Survey of: Lot 18, Eastern Hills Addition

Also Described As (Street) 5010 Thomas Street, (City) Siloam Springs

(County) Benton, (State) Arkansas, That Said Plat Correctly Shows the Location of All Buildings, Structures and Improvements on said Described Property, That There Are No Party Walls, Visible Right of Ways and Easements, or Visible Encroachments Except as Shown on said Plat of Survey.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS NO. 1272
SIGNATURE
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Anthony P. Anderson P.L.S.

Legend

- ● Existing Iron Pin/Pipe
- ⊗ Calculated Point
- Existing Fence
- Tele/Elec. Pedestal
- Water Meter
- Gas Meter
- PP Power Pole
- WV Water Valve

Job No. 16-01-22-18

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P.O. Box 129
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(479)-474-4247 Fax (479)-410-5333
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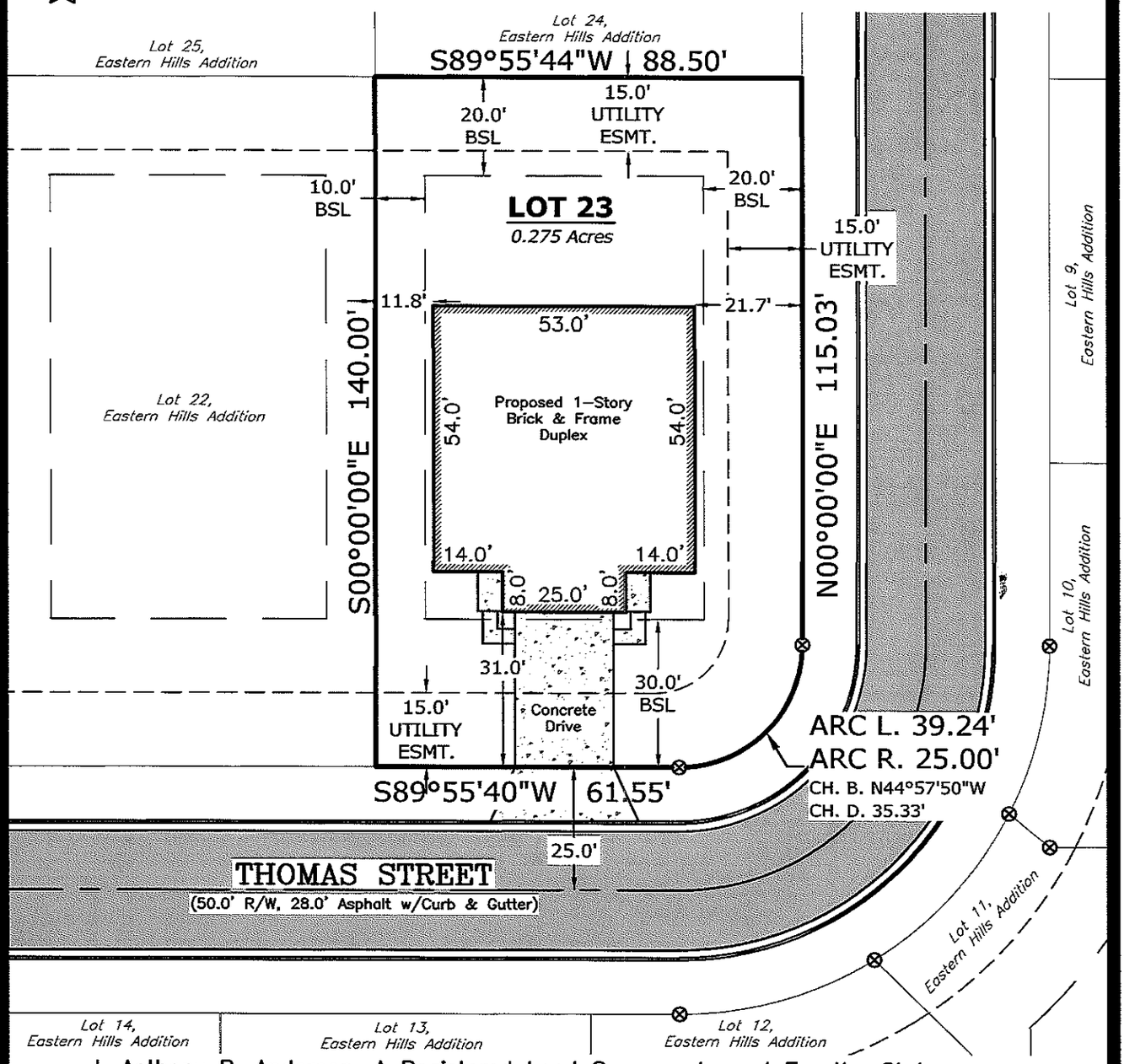
REGISTERED LAND SURVEYOR'S PLOT PLAN

For Use By: Strategic Realty



I, Anthony P. Anderson, A Registered Land Surveyor In and For the State of Arkansas, Do Hereby Certify to the Title Attorney or Underwriter That This is a True and Correct Plat to the Best of My Knowledge of a Survey of: Lot 23, Eastern Hills Addition

Also Described As (Street) 5000 Thomas Street, (City) Siloam Springs

(County) Benton, (State) Arkansas, That Said Plat Correctly Shows the Location of All Buildings, Structures and Improvements on said Described Property, That There Are No Party Walls, Visible Right of Ways and Easements, or Visible Encroachments Except as Shown on said Plat of Survey.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS NO. 1272
SIGNATURE
ANTHONY P. ANDERSON

30 0 30
SCALE IN FEET

Witness My Hand and Stamp
This 21st Day Of January 2016,
Anthony P. Anderson P.L.S.

Legend

- ● Existing Iron Pin/Pipe
- ⊗ Calculated Point
- Existing Fence
- Tele/Elec. Pedestal
- Water Meter
- Gas Meter
- PP Power Pole
- WV Water Valve

Job No. 16-01-22-23

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Arkansas -- Oklahoma
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REGISTERED LAND SURVEYOR'S PLOT PLAN

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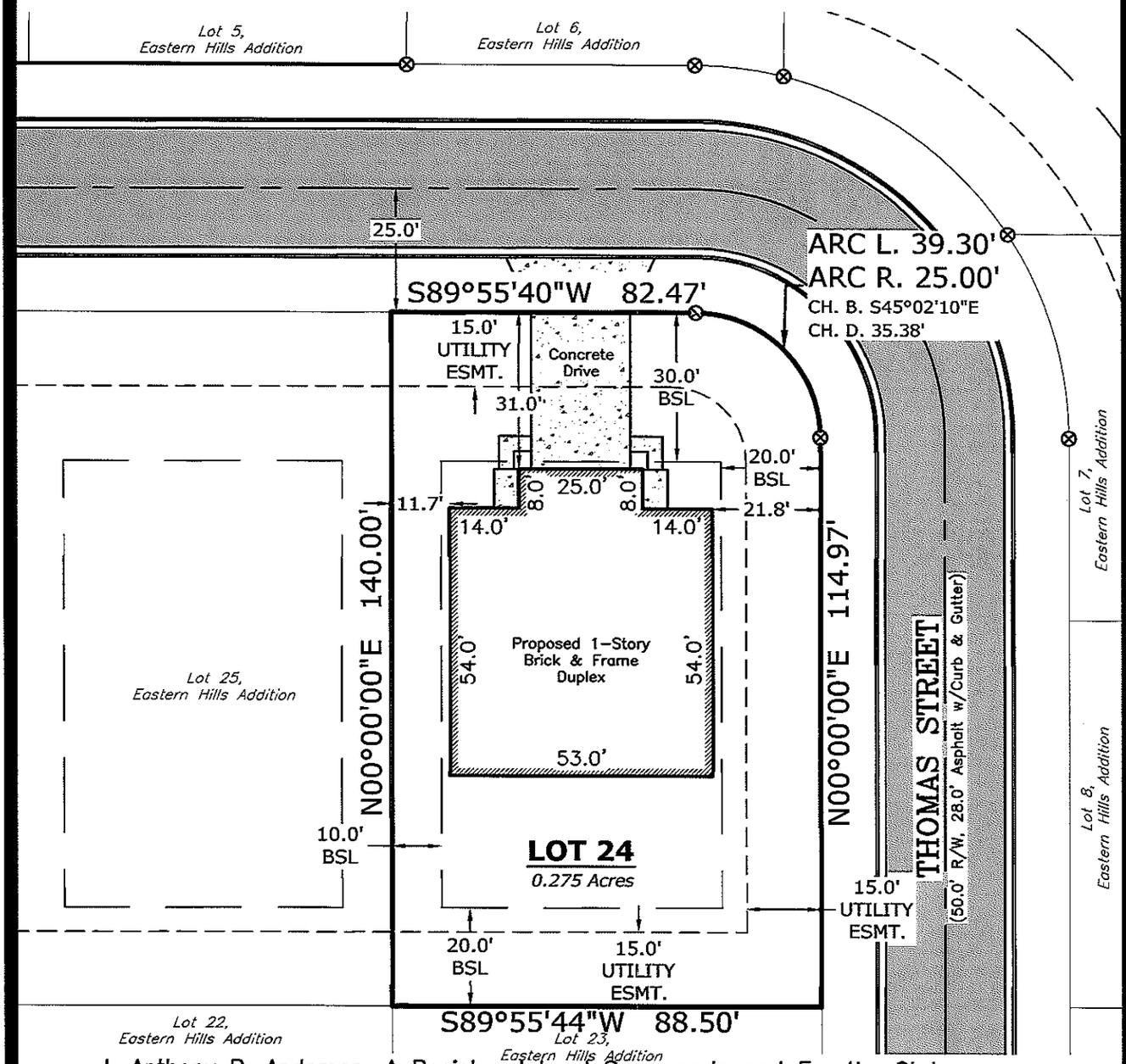
ARKANSAS



I, Anthony P. Anderson, A Registered Land Surveyor In and For the State of Arkansas, Do Hereby Certify to the Title Attorney or Underwriter That This is a True and Correct Plat to the Best of My Knowledge of a Survey of: Lot 24, Eastern Hills Addition

Also Described As (Street) 3902 Thomas Street, (City) Siloam Springs

(County) Benton, (State) Arkansas, That Said Plat Correctly Shows the Location of All Buildings, Structures and Improvements on said Described Property, That There Are No Party Walls, Visible Right of Ways and Easements, or Visible Encroachments Except as Shown on said Plat of Survey.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS NO. 1272
SIGNATURE
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SCALE IN FEET

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- Gas Meter
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- WV Water Valve

Job No. 16-01-22-24

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Arkansas -- Oklahoma
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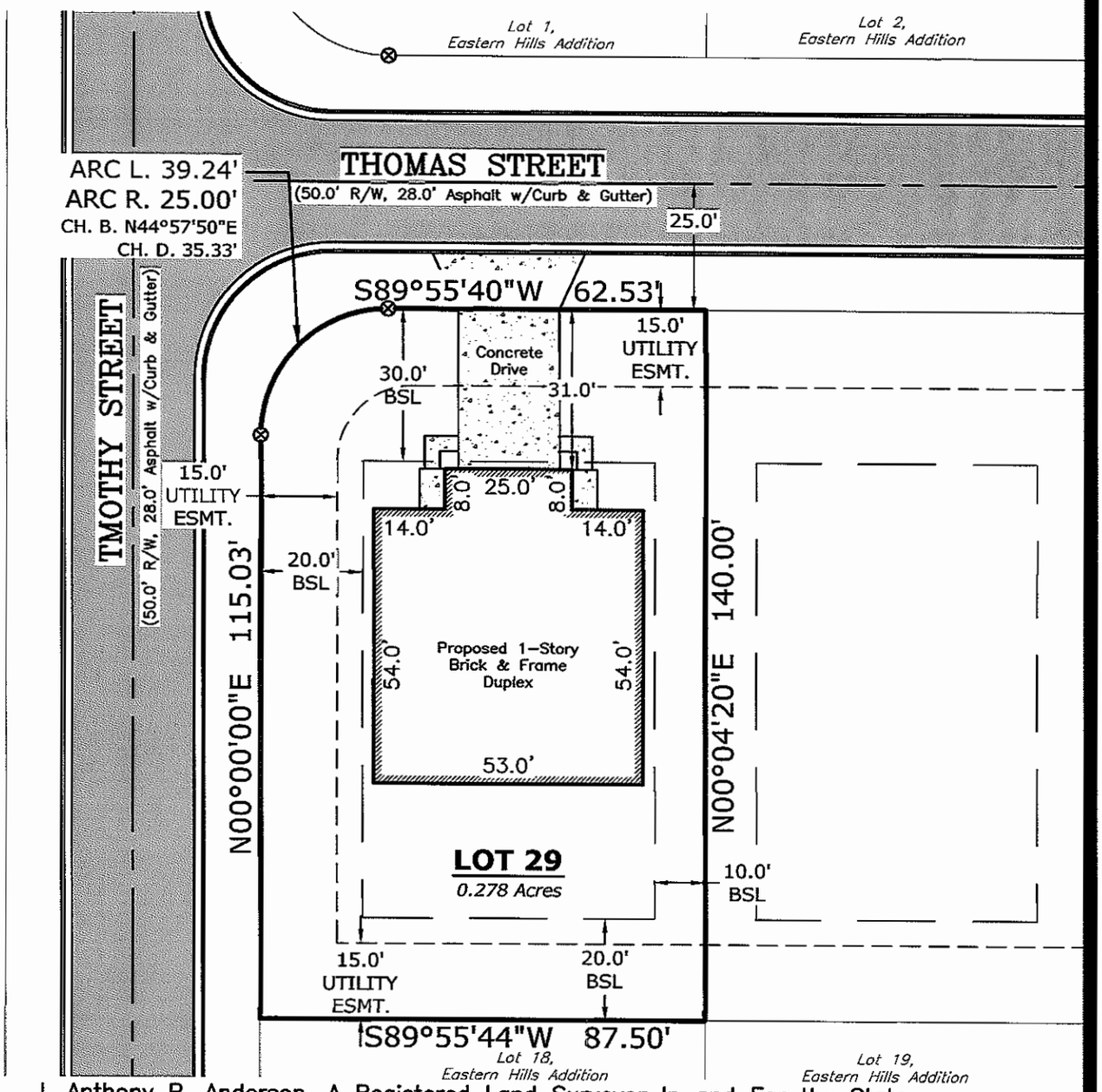

I, Anthony P. Anderson, A Registered Land Surveyor In and For the State of Arkansas, Do Hereby Certify to the Title Attorney or Underwriter That This is a True and Correct Plat to the Best of My Knowledge of a Survey of: Lot 29, Eastern Hills Addition

Also Described As (Street) 3892 Thomas Street, (City) Siloam Springs

(County) Benton, (State) Arkansas, That Said Plat Correctly Shows the Location of All Buildings, Structures and Improvements on said Described Property, That There Are No Party Walls, Visible Right of Ways and Easements, or Visible Encroachments Except as Shown on said Plat of Survey.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS NO. 1272
SIGNATURE
ANTHONY P. ANDERSON

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SCALE IN FEET

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Legend

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- Tele/Elec. Pedestal
- Water Meter
- Gas Meter
- PP Power Pole
- WV Water Valve

Job No. 16-01-22-29

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STATEMENT OF HARDSHIP

Name: City of Siloam Springs Circle one: **Agent for Owner** / Owner

Address or description of property: 5010, 3902, 3893, 3892, and 5000 Thomas St.

The Board of Adjustment and/or Board of Directors may approve a variance development permit ***only*** after determining from the evidence and arguments presented that the conditions listed below do exist. Please describe how your request satisfies each of these conditions.

1. The need for this variance arises from a uniqueness of the property not frequently occurring in the zoning district:

   The hardship is that the lots in question were platted by the original subdivision developer with the assumption of a 20 ft. side on corner building setback, when--in fact--the zoning Code at the time indicated that the side on corner setback was 25 ft. The unintended discrepancy between the plat and the zoning regulations represents a uniqueness of the property; in that the lots were platted narrower than standard. This uniqueness does not frequently occur in the R-4 zone, where corner lots are typically wider.

2. This uniqueness of the property was not caused, allowed, or known prior to purchase by the owner or has existed for a minimum of fifteen (15) years:

   This unique discrepancy was not caused or known by the applicant prior to purchase of the property. It was discovered in February, 2016 when City staff reviewed the first building permits requested on the lots in question.

(Continued on next page)

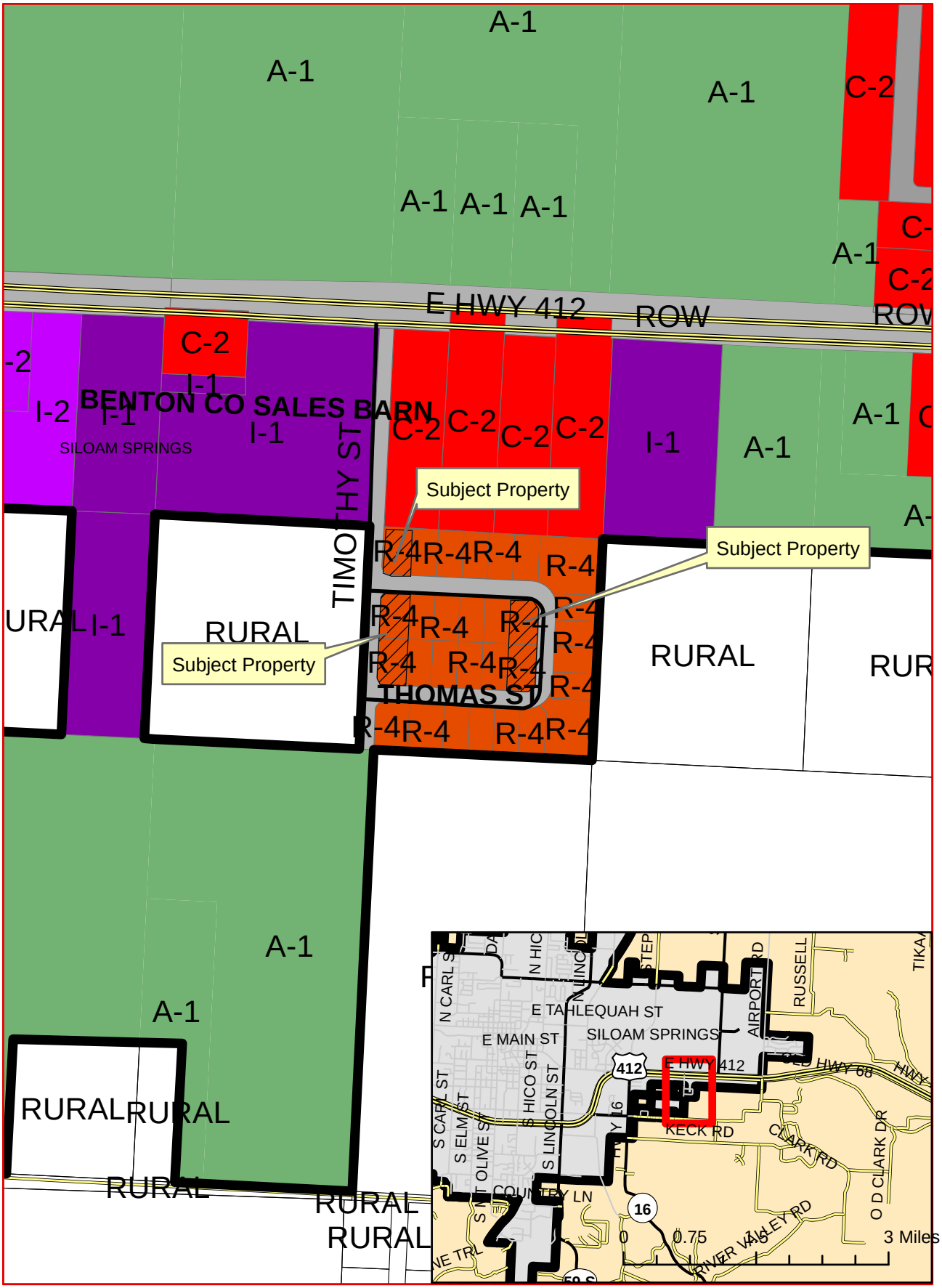
3. If approved, this variance will not burden the present or future use of neighboring properties and will not damage any property value or quality of life in the neighborhood:

The additional 5 feet on the side corner will not pose any traffic or safety concerns, the distance between the structure and right-of-way is 20 feet, which is sufficient for side yard enclosures and is also identical to the R-2 zone standards. Nor is there any evidence that the additional 5 feet of building space will impact property values or quality of life issues in the neighborhood.

GENERAL AREA MAP

VariancePermit
BOA 16-02

N



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