

BOARD OF ZONING APPEALS DIVISION II

April 8th, 2025

Case Number: 2025-UV2-004
Property Address: 3321 South Tibbs Avenue (Approximate Address)
Location: Decatur Township, Council District #21
Petitioner: PDJS Lake LLC, by James Lewis Hillery, Esq.
Current Zoning: D-5 (FF)
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the parking of a recreational vehicle as a primary use (not permitted).
Current Land Use: Residential
Staff Recommendations: Staff is recommending **denial** of this variance petition.
Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

This is the first public hearing of this variance petition.

STAFF RECOMMENDATION

Staff is recommending **denial** of this variance petition.

PETITION OVERVIEW

- The petitioner is requesting a variance to allow the parking of a recreational vehicle (RV) on a vacant lot.
- This 0.66-acre property is within The Metro Context area and zoned D-5.
- The Ordinance states that Recreational Vehicle Parking is a permitted accessory use in a D-5 zoning district. It does not permit recreational vehicles to be occupied or used for living, sleeping, or housekeeping purposes for more than one instance, not to exceed 15 days per calendar year. The findings of fact submitted state that the RV will be used for weekend use, but this still exceeds the 15 days per calendar year ordinance requirement.
- Recreational vehicles are also not permitted to be parked outside in a side yard other than on a durable and dust-free surface area improved with bricks, concrete, asphaltic pavement, or gravel. This RV is parked on grassy land without a driveway leading to its parking place. According to the submitted site plan, no hard surfaced area for the RV is proposed.
- The findings of fact submitted by the petitioner stated the need for the recreational vehicle as the primary dwelling arise because this location is not a desirable building site with the gravel mine

and lake to the east and the South Side Landfill to the west. However, this area has been developing since 1962, according to aerial imagery. Staff believes this long-term development pattern and associated residential use refutes this finding.

- The findings of fact also state that the recreational vehicle is comparable, if not more expensive, than many houses in the neighborhood. However, if this location is not a desirable building site for a home of less cost, then the same reasoning should be applied to the RV, meaning this would not be a desirable location for it either, especially considering its cost.
- The submitted site plan appears to show the placement of ornamental grasses in front of the RV to obscure the view of the vehicle, though we support the planting of vegetation on the site, this still does not develop a vacant lot in an area planned for Rural or Estate Neighborhoods or Suburban Neighborhoods, as the Land Use Plan recommends. It also does not obstruct the view from the two neighbors on either side of this subject site.
- The D-5 zoning district is meant for walkable, compact neighborhoods within a well-connected street network and block structure, using slow neighborhood streets, walkable connectors, and multi-mode thoroughfares. However, in a location without sidewalks, and in the case of the subject site, vehicles (RVs, personal, or other recreational vehicles) driving from the road and parking on an undeveloped site could be potentially dangerous.
- Staff is recommending **denial** of this variance petition. There is no practical difficulty that presents valid reasoning for having a recreational vehicle as the primary dwelling in this location. The site has ample space in a well-developed suburban neighborhood that has both public parks and a private lake that is used for recreation. The vacant lot with an RV will be a potential hazard more than a beneficial addition.
- In addition, it is Staff's opinion that approving the use of a viable residential lot for an exclusively accessory use is wholly inappropriate. Furthermore, approval of the request would represent an extreme deviation from the Infill Housing Guidelines, a core component of the Comprehensive Plan for residential development, which represents a clear failure to meet the burden required to satisfy finding of fact number five.

GENERAL INFORMATION

Existing Zoning	D-5 (FF)	
Existing Land Use	Vacant	
Comprehensive Plan	Rural or Estate Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
	North:	D-5
	South:	D-5 (GSB)
	East:	I-2 (GSB)
	West:	D-5
Thoroughfare Plan		
Tibbs Avenue	Local Street	90 feet of right-of-way existing and 50 feet proposed.
Winings Avenue	Local Street	50 feet of right-of-way existing and 50 feet proposed.

Context Area	Metro
Floodway / Floodway Fringe	Yes
Overlay	No
Wellfield Protection Area	No
Site Plan	2/12/2025
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	2/12/2025
Findings of Fact	2/12/2025
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space (pg. 17).
- The Suburban Neighborhood typology is predominantly made up of single-family housing, but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park (pg 17).

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Front entry features create “human-scale” massing elements that relate buildings to the frontages and streetscape and social spaces that activate the streetscape. They provide endless opportunities for unique design with subtle variations to building patterns but create a consistent form and scale along streets. This helps reinforces a neighborhood character by creating distinctions between the same or similar building type and creating compatible relationships between buildings of different size or type (pg 24).

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

- 59-Z-18: 3343 West Troy Avenue
 - Rezoning of 25.36 acres, being in I-1 and I-2 districts to R-3 classification to provide minimum requirements for residential use. Located on the east side of Tibbs Avenue approximately 1300 feet south of Road No. 67 in Decatur Township.
 - AP

ZONING HISTORY – SURROUNDING AREA

- 2005-HOV-004: 3317 Lockburn Street
 - Reduction of flood venting to one square foot of venting per 81.61 square feet of wall subject to flooding for a detached accessory structure.
 - AP
- 2006-DV2-013: 3343 West Troy Avenue
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a 27-foot diameter above ground swimming pool in front of the established building line (not permitted), with a twelve-foot front setback (minimum 25-foot front setback required), resulting in 1,7789 square feet of accessory use area or 118 percent of the total living area of the primary dwelling (maximum 1,499 square feet or 99.99 percent of the primary dwelling permitted).
 - AP
- 2006-UV1-028: 3333 West Troy Avenue
 - Variance of Use of the Industrial Zoning Ordinance and to legally establish a 400-square foot boat house, a 640-square foot detached structure, and a 3,136-square foot barn accessory to a single-family dwelling (not permitted), and to provide for the construction of a 1,200 square foot addition to the barn, and a Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a lot without street frontage or access to a public street (25 feet of street frontage required, direct access required).
 - AP
- 2008-DV1-038: 3409 East 6th Avenue
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish the outdoor storage and parking of a commercial box truck (not permitted).
 - D
- 2008-UV1-028: 3027 Hoyt Road
 - Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance and the Commercial Zoning Ordinance to provide for: a) outside storage associated with automobile repair (not permitted in the D-5), b) parking and storage of vehicles with a seven-foot rear setback along the alley on the northern three lots zoned C-5 (minimum 10 feet required), c) parking and storage of vehicles with a seven-foot rear setback along the alley on the southern three lots zoned D-5 (minimum 20 feet required), d) parking and storage of vehicles without landscaping in the east, rear yard along the alley (landscaping

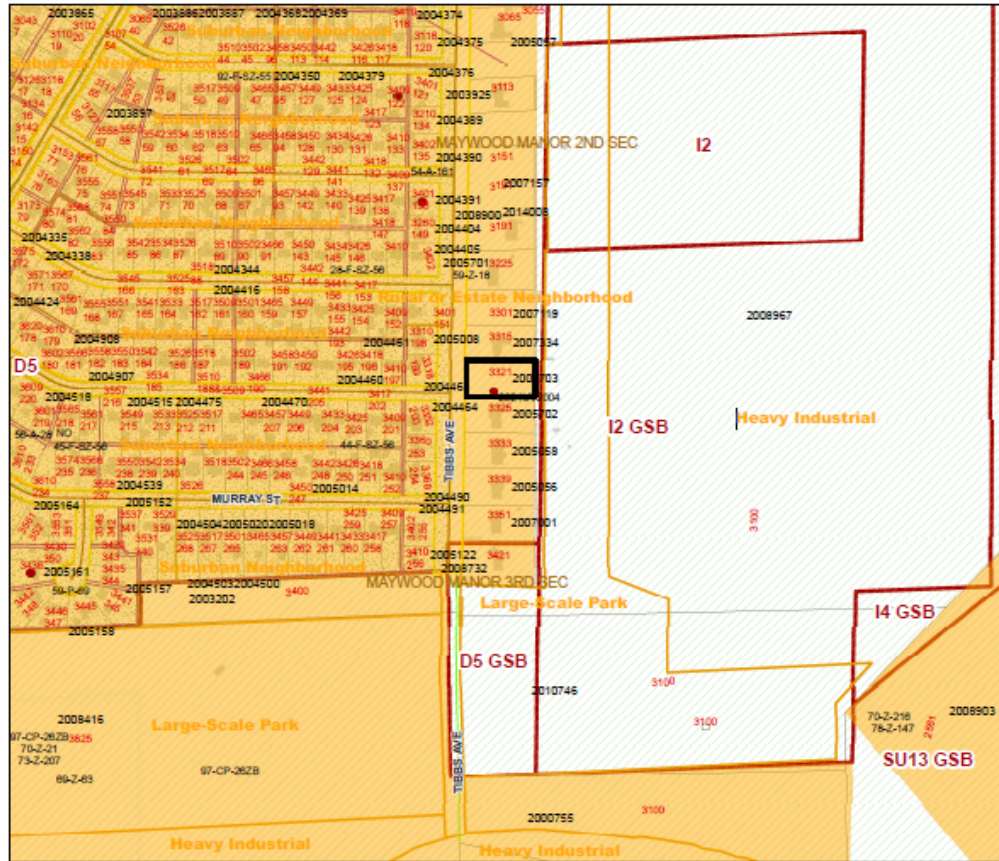
- required), e) parking and storage of vehicles without landscaping in the west, front yard along Holt Road (landscaping required), f) parking and storage of vehicles with a zero-foot side transitional yard along the south lot line (minimum 10 feet required), and g) without sidewalks along Holt Road (sidewalks required).
- AP
 - 2009-HOV-011: 3302 S McClure Street
 - Provide for a 13' front setback for a porch.
 - AP
 - 2011-UV2-009: 3099 Mars Hill Street
 - Variance of Use of the Commercial and Dwelling Districts Ordinances to legally establish a single-family dwelling in a C-5 district (not permitted) and to provide for and automobile sales office and/or barber / beauty salon in an existing building in the D-5 district (not permitted)
 - Approved
 - 2011-UV2-014: 3812 West Troy Avenue
 - Variance of Use of the Commercial Zoning Ordinance to provide for an automobile repair facility (not permitted).
 - Approved
 - 2012-UV1-034: 3006 South Mooresville Road
 - Variance of Use of the Dwelling Districts Zoning Ordinance to provide for the conversion of 2nd story office space for a contractor (approved by 99-UV3-38) into three multifamily dwelling units (not permitted).
 - Approved
 - 2013-ZON-049: 2901 South Mooresville Road
 - Rezoning of 14.65 acres from the C-7 and I-2-S districts to the PK-1 classification to provide for park uses.
 - Approved
 - 2013-ZON-054: 2605 Kentucky Avenue
 - Rezoning of 14.7 acres from the PK-1 (FF) district to the I-4-S (FF) classification to provide for heavy industrial uses.
 - Approved
 - 2014-DV3-038: 3217 South McClure Street
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally a single-family dwelling, with a nine-foot rear setback and two sheds, with 1.5-foot rear setbacks (five-foot rear setback required) and a detached garage, with a two-foot north side setback, located in front of the established front building line of the primary dwelling (four-foot side setback, accessory structures not permitted in front of the established building line).
 - Approved
 - 2021-UV2-005: 3827 West Troy Avenue
 - Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for a contractor's office with display area and indoor storage and vehicle parking (not permitted).
 - Approved



**Department of Metropolitan Development
Division of Planning
Current Planning**

- 2022-DV2-027: 3048 South McClure Street
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling with a 4.167-foot north side setback and a five-foot south side setback (seven feet side setbacks required).
 - Approved
- 2024-UV2-004: 4117 East New York Street
 - Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to legally establish an existing duplex (not permitted) with a zero-foot front yard setback from New York Street (10-feet required).
 - Approved

EXHIBITS



0 0.025 0.045 0.09 0.135 0.18 Miles

Legend

- ZoningApprovals
- ZoningLncu
- ZoningVariances
- Rezoning
- Zoning/Vacations
- ZoningPlats
- CCGIS.ThoroughfarePlan
- CCGIS.EASEMENT
- CCGIS.RIGHTOFWAY
- CCGIS.STREETS
- Built/Platted
- OPER_STATUS
- REMOVED
- VACATED
- VACATED/BUILT
- VACATED/LOCATOR
- CCGIS.DMDLandUsePlanBase
- CCGIS.lhpc
- CCGIS.ZONING
- PARCELSTATEPIN
- PARCELS
- PLATTEDSUBDIVISION
- CCGIS.Buildings



Exhibit 1: ArcGIS map of the subject site and surrounding area,

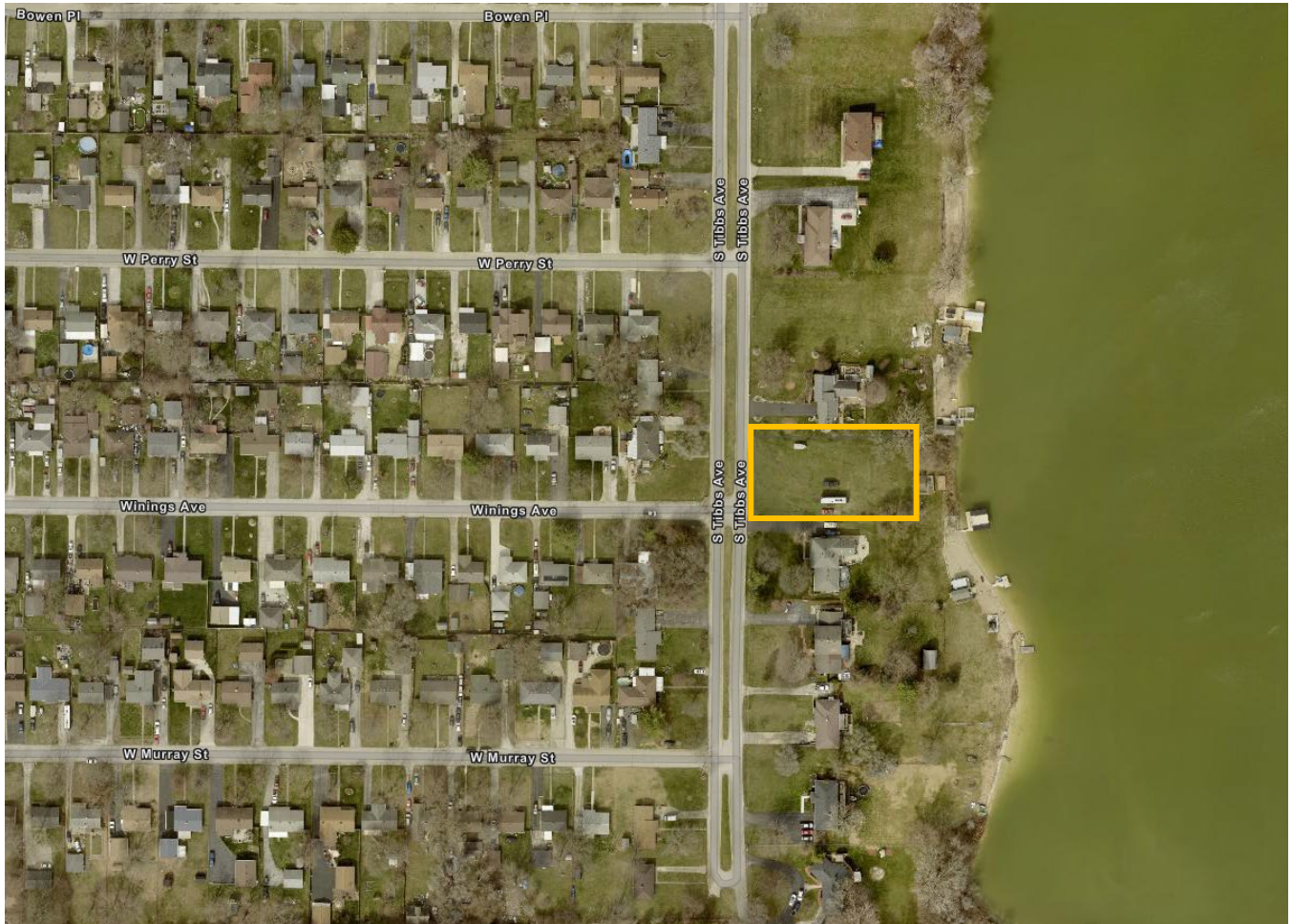


Exhibit 2: Aerial of the subject site.



Department of Metropolitan Development
Division of Planning
Current Planning

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

Parking a very nice recent model, well maintained recreational vehicle at the property is not injurious to the public health, safety, morals or general welfare. The property is a lake lot next to a small private lake, known as Strakis Lake, and in an area zoned I-2 owned entirely by the Mary Strakis Trust from 1954 to 2020 and before that by Mary Strakis. Since 2020, the lake has been owned by an LLC known as Strakis Mine, LLC, which is owned entirely by Strakis family members and descendants. Most of the lake lots on Strakis Lake remain owned by Strakis descendants. Petitioner is an LLC owned by immediate Strakis descendants only. A recreational vehicle is permitted to be parked at and on occupied residential real estate in the community.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE

The use and value of the area adjacent to the property will not be affected in a substantially adverse manner. Strakis Lake is a private lake, owned by Strakis Mine, LLC, and used exclusively by permission, and almost exclusively by Strakis descendants. A recreational vehicle has been parked on this lot regularly from time to time by the same family for the last 60 years, without objection. The lot is substantial in size, containing .66 acres, and has sufficient space to park the recreational vehicle well off the street, and behind some trees and landscaping so that its presence is not obtrusive in any way. The RV has been set back further from the road than the houses next door. A large gravel mine operation is to the immediate east of the lake. The recreational vehicle has never been used as residence, but only for recreational use at the lake, and generally on weekends. Many other Strakis family members reside nearby on the lake, on the same street and keep an eye on the property and the recreational vehicle, and all next-door neighbors have all consented to this Petition.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The property is on the immediate western edge of an area zoned I-2, containing a very large gravel mine operated by Martin Marietta and located just west of the South Side Landfill, which does not make it a desirable building site for a home. The lot is not bordered by Strakis Lake as there is a buffer of land around the lake owned by Strakis Mine, LLC. Generally, no non-Strakis descendants are allowed to use the Strakis lake. Without access to the lake, the lot has a reduced value to any non-Strakis family members, and the parking and use of a license plated and insured recreational vehicle that is comparable, if not more expensive than many houses in the neighborhood, is a reasonable way for the Strakis descendants to utilize the property. As a unique use on an existing property, a variance of use would legally allow the Petitioner to utilize the property.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The price of homes in the immediate neighborhood is relatively modest, and building a new home on the lot would be cost prohibitive for this property. The property is on the immediate western edge of a very large I-2 zoned gravel mine operated by Martin Marietta and located just west of the South Side Landfill, which does not make it a desirable building site for a home. Parking a recreational vehicle on one's property is a substantial right enjoyed by other property owners with homes on their lots, but which is not allowed to Petitioner as there is no home on their lot. With so many City residents already owning and parking a recreational vehicle on their lots, this variance would not stand out or interfere with the Comprehensive Plan.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

It is a temporary use for the current owner, which brings people to the neighborhood for family, fellowship and recreation on Strakis Lake, provides the essential support for weekend getaways, like a bathroom, shower, kitchen and bedrooms, and is a reasonable and continued use of the property.

Exhibit 3: Findings of Fact submitted by the petitioner.

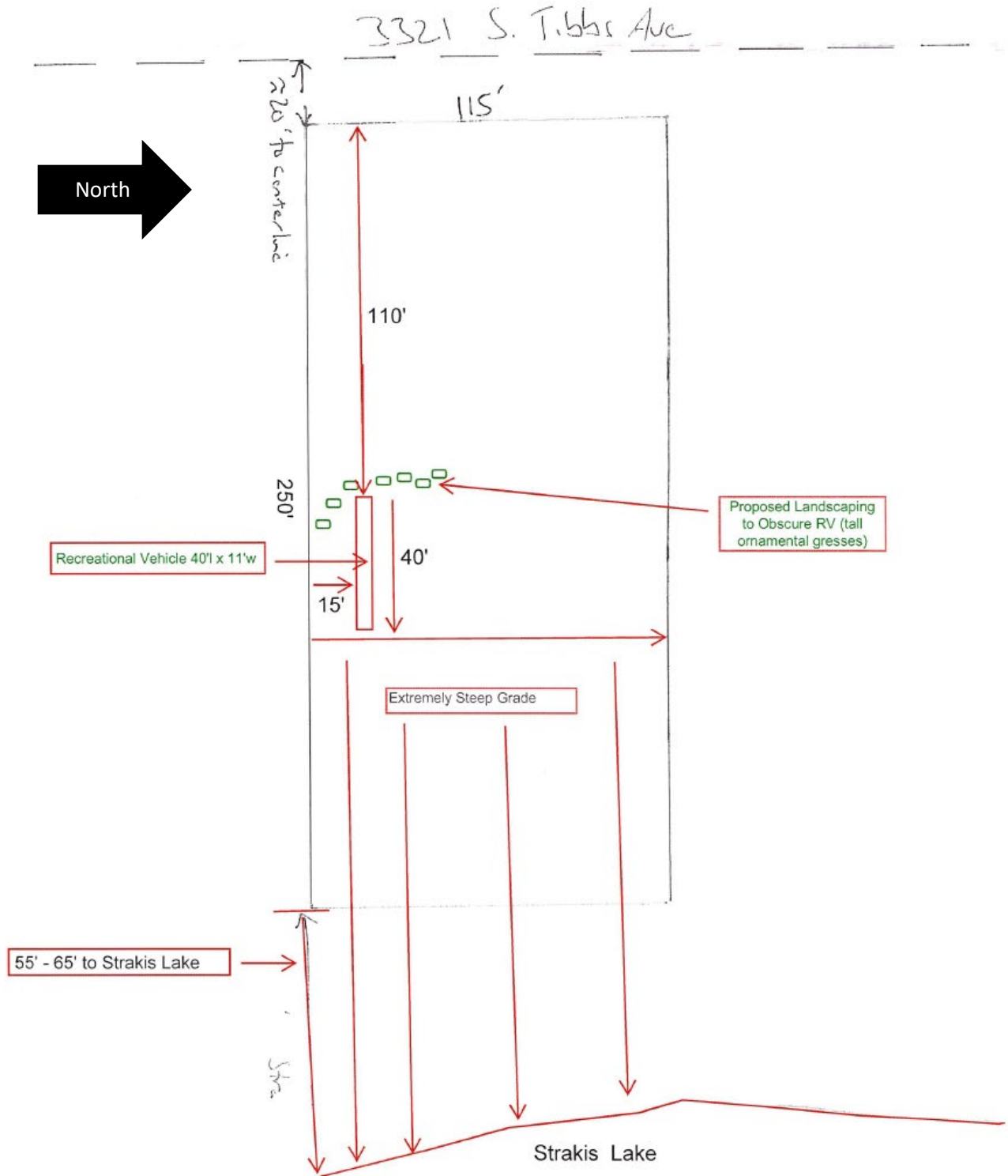


Exhibit 4: The submitted site plan.



Exhibit 5: The subject site and its recreational vehicle (looking east).



Exhibit 6: Looking west from the subject site.



Exhibit 7: Lake behind the subject site.



Exhibit 8: RV on the subject site.



Exhibit 9: RV connected to the electric on the subject site.



Exhibit 10: Home to the north of the subject site.



Exhibit 11: Home to the south of the subject site.



Exhibit 12: 1962 Historical Aerial of the subject site and surrounding area.