

STAFF REPORT



SUBJECT: Case No.: SV2022-004

Applicant Dee Stephens, representing Erath County, is requesting a Subdivision Waiver from Section 155.06.05.G. to reduce the distance between driveways along city-maintained streets from 100' to 50' for property located at 222 E College, Parcel R29239, being Lot 1,2,3, & 4 of Block 14 of City Addition to the City of Stephenville, Erath County, Texas.

DEPARTMENT: Development Services

STAFF CONTACT: Steve Killen, Director of Development Services

RECOMMENDATION:

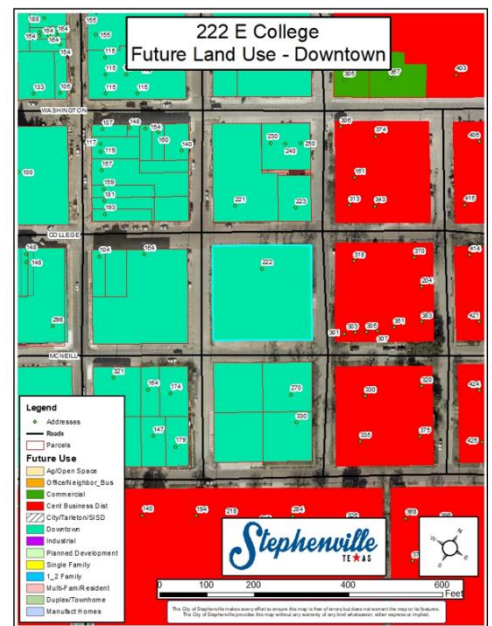
The Planning and Zoning Commission convened on April 20, 2022, and by a vote of 7/0, recommended the City Council approve the waiver request.

BACKGROUND:

APPLICANT REQUEST:

Applicant is requesting a waiver from distance between driveways requirements because entire block is being constructed for one use and because of existing conditions on College Street.

PROPERTY PROFILE:



Located on E College Street between Virginia and Floral

DESCRIPTION OF REQUESTED ZONING:

Sec. 155.6.05. Access management.

- A. *Intent of Access Management.* It is the intent of this section to:
1. Prohibit the indiscriminate location and spacing of driveways while maintaining reasonable vehicular access to and from the public street system;
 2. Reduce conflicting turning movements and congestion and thereby reducing vehicular accidents; and
 3. Maintain and enhance a positive image for the attraction of new, high-quality developments in the City.
- B. *Applicability.*
1. A person commits an offense if the person constructs, reconstructs, relocates or in any way alters the design or operation of any driveway without first obtaining a building permit issued by the Building Official.
 2. No driveway shall be allowed or permitted if, in the determination of the City Administrator, it is detrimental to the public health, safety and welfare.
- C. *Street Section Classifications.* Street section classifications shall be defined in accordance with the Transportation element of the City's Comprehensive Plan.
- D. *Traffic Impact Analysis.*
1. A Traffic Impact Analysis (TIA) may be required at the time of Preliminary Plat submittal for all site developments. For phased developments, the TIA shall include an analysis for each phase of the development and the threshold for the TIA shall be for the entire development.
 - a. Threshold for a Traffic Impact Analysis:
 - i. Residentially zoned Subdivisions that are projected to generate more than 1,000 new average daily trips (ADT) shall require a TIA.
 - ii. Office zoned Subdivisions that are projected to generate more than 500 new average daily trips (ADT) shall require a TIA.
 - iii. Nonresidential zoned Subdivisions that are projected to generate more than 2,500 new average daily trips (ADT) shall require a TIA.
 - iv. Industrial zoned Subdivisions that are projected to generate more than 500 new average daily trips (ADT) shall require a TIA.
 - b. Calculation of the ADT for Subdivisions:
 - i. For calculating the ADT for residential zoned Subdivisions, a housing unit shall be considered to generate 10 vehicle trips a day.
 - ii. For calculating the ADT for office zoned Subdivisions, a 50,000 square foot building shall be considered to generate 500 ADT. In order to anticipated if a 50,000 square foot building can be built on a lot, the lot size with all setbacks and other related area zoning standards should be applied.
 - iii. For calculating the ADT for retail zoned Subdivisions, a 60,000 square foot building shall be considered to generate 2,500 ADT. In order to anticipated if a 60,000 square foot building can be built on a lot, the lot size with all setbacks and other related area zoning standards should be applied.

- iv. For calculating the ADT for industrial zoned Subdivisions, a 75,000 square foot building shall be considered to generate 500 ADT. In order to anticipated if a 75,000 square foot building can be built on a lot, the lot size with all setbacks and other related area zoning standards should be applied.
 - c. The TIA impact study area shall include the site and area within one-half (½) mile from the boundary of the site.
 - d. A capacity analysis shall be conducted for all public street intersections and junctions of major driveways with public streets which are significantly impacted within the TIA impact study area. The capacity analysis will follow the principles established in the Transportation Research Board's (TRB) Highway Capacity Manual (HCM).
2. A Minor Subdivision Waiver may be granted by the City Administrator if the roadway is fully built.

E. *Common Access.*

- 1. Lots with sufficient frontage to safely meet the design requirements below may be permitted their own driveways.
- 2. A Common Access Easement may be required between adjacent lots fronting on any street section in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.
- 3. Common Access Easement.

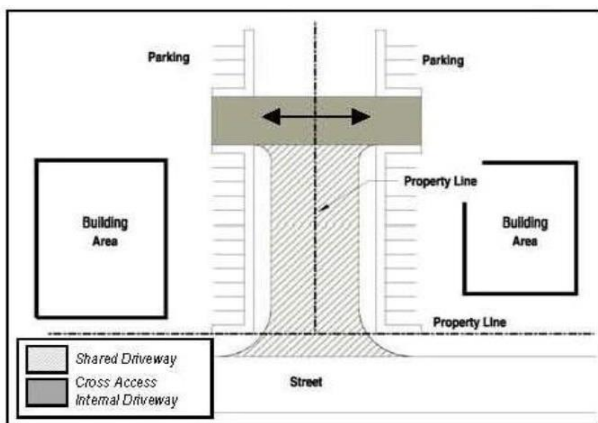


Figure 8: Example of Common Driveway (for illustrative purposes only)

- a. The use of common driveways shall require the dedication of a joint-use private access easement on each affected property.
- b. Said dedication shall be provided on the Final Plat of the subject properties, or be filed by separate instrument approved by the City Attorney with the County with a copy forwarded to the City.
- c. The Plat shall state that the easement shall be maintained by the property owner.
- d. The Common Access Easement shall encompass the entire width of the planned driveway plus an additional width of one foot on both sides of the drive.

F. *Driveway Design for State Maintained Roadways Criteria.* The following standards shall be followed in the design and construction of driveways. The values in the following tables represent minimum standards to be applied in designing and locating driveways on State maintained roadways.

1. *Driveway Dimensions and Spacing.* The following Table 5: Dimensions for Driveways along State Maintained Roadways indicates the minimum dimensional values required for driveways along State-maintained roadways.

Table 5: Dimensions for Driveways along State Maintained Roadways		
Criteria	Commercial & Multi-Family Driveway	Service Driveway
Driveway Throat Width	24-40 Feet	30-48 Feet
Driveway Curb Radius	20-30 Feet	25-40 Feet
Minimum Distance to Intersection Along Roadway	300 Feet	300 Feet
Minimum Driveway Spacing Along Roadway	300 Feet	300 Feet
Notes:		
1. The requirements for <i>Driveway Throat Width</i> and <i>Driveway Curb Radius</i> are for standard undivided two-way operation and may be varied by the City Administrator if traffic volumes, truck usage, common driveways, and other factors warrant such. 2. Distance measured from the proposed driveway face of curb to the face of the nearest curb of the nearest driveway. Minimum spacing does not implicitly determine the number of driveways allowed. See 6.05.F.2 (below) for additional restrictions on driveway locations along State-maintained roadways. 3. Distance measured from the intersection street nearest face of curb to the face of the curb of the proposed driveway. See 6.05.F.2 (below) for additional restrictions on driveway locations along State-maintained roadways. 4. Service driveway spacing may be reduced to 150 feet if the ingress/egress volume is less than 50 vehicles per day and if the service driveway is a secondary driveway ancillary to a commercial driveway within the same development. See 6.05.F.2 (below) below for additional restrictions on driveway locations along State-maintained roadways. 5. Driveway spacing may be reduced to 250 feet if the driveway is right-in/right-out only. Appropriate signage, pavement markings, and traffic control devices must be provided to limit turning movements to right-in/right-out.		

2. *Additional Design Requirements.*

- a. Plans for all work within State Right-of-Way shall be submitted to the City Administrator.
- b. A driveway permit from TXDOT shall be acquired prior to Preliminary Plat approval. Driveways shall be in accordance with TXDOT standards.
- c. Deceleration Lane.
 - i. When the turning volume for a driveway exceeds 60 vehicles per hour during the peak hour, a deceleration lane shall be provided on highways with a posted speed of 40 mph or less.
 - ii. When the turning volume for a driveway exceeds 50 vehicles per hour during the peak hour, a deceleration lane shall be provided on highways with a posted speed of 45 mph or greater.

G. *Driveway Design for City Maintained Roadways.* The following standards shall be followed in the design and construction of driveways. The values in the following tables represent minimum standards to be applied in designing and locating driveways on City streets.

1. *Driveway Dimensions and Spacing (City Maintained Roadways).* The following Table 6: Dimensions for Driveways along City Maintained Roadways indicates the minimum dimensional values required for driveways along City maintained roadways (local streets, collectors, Major Arterial/Thoroughfare Streets).

Table 6: Dimensions for Driveways along City Maintained Roadways			
Criteria	Street Classification	Commercial & Multi-Family Driveway	Service Driveway
Driveway Throat Width	Major Arterial/Thoroughfare Street	24-60 Feet	30-48 Feet
	Collectors	24-40 Feet	30-48 Feet
	Minor/Local Streets	24-40 Feet	24-36 Feet

Driveway Curb Radius	Major Arterial/Thoroughfare Street	30-35 Feet	25-30 Feet
	Collectors	25 Feet	10-20 Feet
	Minor/Local Streets	25 Feet	10-20 Feet
Minimum Distance to Intersection Along Roadway	Major Arterial/Thoroughfare Street	150 Feet	200 Feet
	Collectors	120 Feet	150 Feet
	Minor/Local Streets	100 Feet	100 Feet
Minimum Centerline Driveway Spacing Along Roadway	Major Arterial/Thoroughfare Street	230 Feet	250 Feet
	Collectors	120 Feet	150 Feet
	Minor/Local Streets	70 Feet	100 Feet
<p>Notes:</p> <ol style="list-style-type: none"> 1. The requirements for <i>Driveway Throat Width</i> and <i>Driveway Curb Radius</i> are for standard undivided two-way operation and may be varied by the City Administrator if traffic volumes, truck usage, common driveways, and other factors warrant such. 2. Minimum centerline spacing does not implicitly determine the number of driveways allowed. Driveways served by deceleration lanes may be spaced at closer intervals if approved by the City Administrator. 3. Distance measured from the intersection Right-of-Way line to the centerline of the proposed driveway. 4. Refer to 6.05.G.2 (below). Commercial, multi-family and service driveways may not be permitted on local streets. 			

2. Additional Design Requirements (City Maintained Roadways).

a. Driveways Prohibited.

- i. Nonresidential, multi-family and service driveways shall not be permitted on local streets unless the tract or lot has no other public access.
- ii. In the event there is no other access to a public street, commercial, multi-family and service driveways shall be permitted on local streets provided that they meet the design standards in Table 5: Dimensions for Driveways along State Maintained Roadways.

b. Deceleration Lanes for Driveways on Major Arterial/Thoroughfare Streets Required

c. The driveway dimensions and spacing for residential driveways are provided in the Engineering Standards Manual.

- i. When the turning volume for a driveway exceeds 60 vehicles per hour during the peak hour, a deceleration lane shall be provided on Major Arterial/Thoroughfare Streets with a posted speed of 40 mph to 45 mph.
- ii. When the turning volume for a driveway exceeds 50 vehicles per hour during the peak hour, a deceleration lane shall be provided on Major Arterial/Thoroughfare Streets with a posted speed greater than 45 mph.

H. Required Internal Storage (Minimum throat Length/Stacking).

1. *Minimum Throat Length.* The driveway for any multi-family or nonresidential property that connects to a highway, Major Arterial/Thoroughfare Street, or collector or local street shall extend onto private property a minimum distance of 15 feet, but not less than the required front landscape edge width, from the Right-of-Way line before intersecting any internal circulation drive.
2. *Internal Storage (Stacking).* Internal storage (stacking) shall be provided on multi-family, commercial or industrial properties for corresponding driveways in accordance with Table 7: Required Internal Storage for driveways that provide ingress/egress to parking areas of 20 or greater spaces.

Table 7: Required Internal Storage		
Average Number of Parking Spaces per Driveway*	Total Number of Parking Spaces**	Minimum Storage length
20-49	20-49	Landscape edge width +20'
	50-199	50'
	200+	75'
50-199	50-199	75'
	200+	100'
200+	200+	100'
Notes:		
1. The average number of parking spaces per driveway is calculated by dividing the total number of parking spaces by the number of commercial and multi-family driveways. (Service driveways are not included in the calculation.)		

I. *Adequate Sight Distance.*

1. Driveways shall be prohibited where adequate sight distance is not available for the established speed limit.
2. Sight distances shall be calculated in accordance with the latest edition of the AASHTO "A Policy on Geometric Design of Highways and Streets."
3. If a field inspection indicates that driveway sight distance may be insufficient, the Applicant will be required to submit vertical and horizontal information prepared by a registered professional engineer to the City Administrator that verifies adequate sight distance is available for the proposed driveway location.
4. For sight triangle requirements, (i.e., visibility triangles), please refer to 6.08.C. Triangular Sight Visibility Easements (see also Figure 9: Visibility Triangles).

Sec. 155.7.01. Petition for subdivision waiver.

- A. *Purpose.* The purpose of a petition for a Subdivision Waiver to a particular standard or requirement with these Subdivision Regulations, as such are applicable to Plats or Construction Plans, is to determine whether such particular standard or requirement should be applied to an Application.
- B. *Definitions.* Subdivision Waivers shall be classified as a Minor Subdivision Waiver or Major Subdivision Waiver.
- C. *Decision-Maker.*
 1. *Minor Subdivision Waiver.*
 - a. *Decision-Maker Authority.*
 - i. The City Administrator or Assistant City Manager shall act upon a Minor Subdivision Waiver listed in Table 8.
 - b. *Appeal of a Minor Subdivision Waiver Decision.*
 - i. *Appeal Review and Recommendation.* An appeal of the Minor Subdivision Waiver decision may be considered by the Commission.
 - ii. *Appeal Decision.* If further appeal is made, the City Council shall then act on such an appeal. (See 7.01.J Minor Subdivision Waiver Appeal)

Table 8: Minor Subdivision Waiver		
Section	Standard	City Administrator/ Assistant City Manager
1.06.A.8	Thoroughfare Plan	Approve
3.01.B	Waiver of Application Information	Approve

6.06.N	Dead-End Alleys	Approve
6.10.D	Right Angles for Side Lot Lines	Approve
6.05.D	Traffic Impact Analysis	Approve
6.13.A.5	Water Lines Extended to Subdivision Borders	Approve
6.14.A.5	Wastewater Lines Extended to Subdivision Borders	Approve

2. *Major Subdivision Waiver.*

a. *Decision Maker Authority.* After review and recommendation from the Commission, the City Council shall decide a Major Subdivision Waiver.

3. *Waiver from the Requirements for Sidewalks, Curbs, and/or Gutters.*

a. The City Manager, Assistant City Manager, and the Director of Development Services are authorized to grant waivers for Sidewalks, Curbs, and/or Gutters under the following conditions:

i. The property was platted prior to March 1, 2021; and

ii. The property is located outside of the City of Stephenville's Sidewalk Improvement Area as defined in Resolution No. 2019-R-05.

b. Waivers requested that do not qualify under the conditions outlined in Section 3.a. above must follow the procedure for a Major Subdivision Waiver.

c. Applicants whose request for waiver is denied by the City Manager, Assistant City Manager, or the Director of Development Services may appeal this decision. Appeals under Section 3 will follow the procedures for appealing a Minor Subdivision Waiver as set forth in Section J.

d. All approved waivers require the payment of a fee equal to 25% of the total improvement cost as determined by the city's current bid contract for such improvements. Fees collected will be dedicated to the City's Sidewalk Cost Share Program.

D. *Subdivision Waiver Applicability.*

1. *Waiver of Standard or Requirement.*

a. An Applicant may request a Subdivision Waiver of a particular standard or requirement applicable to a Preliminary Plat, to Construction Plans, or where no Preliminary Plat Application has been submitted for approval, to a Final Plat or a Replat.

b. A Subdivision Waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement.

c. An Applicant may, if desired, submit more than one Subdivision Waiver petition if there are several standards or requirements at issue.

d. For processing a Subdivision Waiver in relationship with a Plat Application, an Applicant shall submit a Waiver of Right to 30-Day Action in accordance with 3.03.D Waiver of Right to 30-Day Action.

2. *Waiver Petition Acceptance.*

a. A petition for a Subdivision Waiver shall not be accepted in lieu of:

i. A Subdivision Proportionality Appeal (7.02); or

ii. A Subdivision Vested Rights Petition (7.03).

b. If there is a question as to whether a Subdivision Proportionality Appeal or Subdivision Vested Rights Petition is required instead of a Subdivision Waiver petition, such determination shall be made by the City Administrator.

E. *Subdivision Waiver Submission Procedures.*

1. *Written Waiver Request with Application.*
 - a. A request for a Subdivision Waiver shall be submitted in writing by the Applicant with the filing of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.
 - b. No Subdivision Waiver may be considered or granted unless the Applicant has made such written request.
2. *Grounds for Waiver.*
 - a. The Applicant's request shall state the grounds for the Subdivision Waiver request and all of the facts relied upon by the Applicant.
 - b. Failure to do so, will result in denial of the Application unless the Applicant submits a Waiver of Right to 30-Day Action in accordance with 3.03.D Waiver of Right to 30-Day Action.

F. *Subdivision Waiver Criteria.*

1. *Undue Hardship Present.* A Subdivision Waiver to regulations within this Subdivision Ordinance may be approved only when, in the Decision-Maker's opinion, undue hardship will result from strict compliance to the regulations.
2. *Consideration Factors.* The Decision-Maker shall take into account the following factors:
 - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
 - b. The number of persons who will reside or work in the proposed development; and
 - c. The effect such Subdivision Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
3. *Findings.* No Subdivision Waiver shall be granted unless the Decision-Maker finds:
 - a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this Subdivision Ordinance would deprive the Applicant of the reasonable use of his or her land; and
 - b. That the Subdivision Waiver is necessary for the preservation and enjoyment of a substantial property right of the Applicant, and that the granting of the Subdivision Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
 - c. That the granting of the Subdivision Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Subdivision Ordinance.
4. *Intent of Subdivision Regulations.*
 - a. A Subdivision Waiver may be granted only when in harmony with the general purpose and intent of the Subdivision Ordinance so that the public health, safety and welfare may be secured and substantial justice done.
 - b. Financial hardship to the Applicant shall not be deemed to constitute undue hardship.
5. *Minimum Degree of Variation.* No Subdivision Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the Applicant.
6. *Violations and Conflicts.* The Decision-Maker shall not authorize a Subdivision Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.
7. *Falsification of Information.*

- a. Any falsification of information by the Applicant shall be cause for the Subdivision Waiver request to be denied.
 - b. If the Subdivision Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Subdivision Waiver, and shall be grounds for reconsideration of the Subdivision Waiver request.
- G. *Burden of Proof.* The Applicant bears the burden of proof to demonstrate that the requirement for which a Subdivision Waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the Applicant. The Applicant shall submit the burden of proof with the original submittal.
- H. *Subdivision Waiver Decision.*
 - 1. The Decision-Maker shall consider the Subdivision Waiver petition and, based upon the criteria set forth in 7.01.F Subdivision Waiver Criteria, shall take one of the following actions:
 - a. Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
 - b. Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Subdivision Ordinance.
 - 2. Decision Process for a Minor Subdivision Waiver. The Decision-Maker shall deny or grant a request for a Minor Subdivision Waiver concurrently with the decision of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.
 - 3. Decision Process for a Major Subdivision Waiver.
 - a. Recommendation of the Planning and Zoning Commission.
 - i. The Commission shall consider the Major Subdivision Waiver request at a public meeting no later than thirty (30) calendar days after the date on which the notice of Major Subdivision Waiver is submitted to the City Administrator.
 - ii. The Commission shall recommend to the City Council to approve or deny a request for a Major Subdivision Waiver by majority vote.
 - b. Decision by City Council.
 - i. After the recommendation from the Commission has been made, the City Council shall consider the Major Subdivision Waiver request at a public meeting no later than thirty (30) calendar days after the date on which the Commission's recommendation was made.
 - ii. The City Council may or shall approve or deny a request for a Major Subdivision Waiver by a vote of all members.
 - iii. The decision of the City Council is final.
- I. *Notification of Decision on Petition—14 Days.* The Applicant shall be notified of the decision on the Subdivision Waiver by the applicable Decision-Maker (e.g., the City Administrator, Commission or City Council, as applicable), within fourteen (14) calendar days following the decision.
- J. *Minor Subdivision Waiver Appeal.*
 - 1. *Initiation of an Appeal.*
 - a. The Applicant may appeal a Minor Subdivision Waiver decision of the City Administrator, as allowed within the Subdivision Ordinance.
 - b. The written request to appeal shall be submitted to the City Administrator within thirty (30) calendar days following the denial decision.
 - 2. *Recommendation of the Planning and Zoning Commission.*

- a. The Commission shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the City Administrator.
- b. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the Minor Subdivision Waiver.
- c. The Commission shall recommend to the City Council to affirm, modify or reverse the previous decision by simple majority vote.

3. *Appeal to City Council.*

- a. The Applicant may appeal the Commission's decision by submitting a written notice of appeal to the City Administrator within thirty (30) calendar days following the Commission's decision.
- b. After the recommendation from the Commission has been made, the City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the Commission's recommendation was made.
- c. The City Council may affirm, modify or reverse the decision by simple majority vote.
- d. The decision of the City Council is final.

K. *Effect of Approval.*

1. *Submission and Processing.* Following the granting of a Subdivision Waiver, the Applicant may submit or continue the processing of a Plat or Construction Plans, as applicable.
2. *Expirations.* The Subdivision Waiver granted shall remain in effect for the period the Plat or Construction Plans are in effect, and shall expire upon expiration of either or both of those Applications.
3. *Extensions.* Extension of those Applications shall also result in extension of the Subdivision Waiver.

(Ord. No. 2020-O-38 , §§ 2, 3, 11-16-2020; Ord. No. 2021-O-06 , § 1, passed 2-2-2021)

FACTORS TO CONSIDER:

- Compliance with Comprehensive Plan?
- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel – is land large enough and in property location for proposed use?
- Reasonable Use of Property – does proposed change provide reasonable use of property?
- Zoning has great discretion – deny if applicant has not proven it is in the best interest of City to approve

ALTERNATIVES:

- 1) Recommend the City Council approve the waiver request.
- 2) Recommend the City Council deny the waiver request.

Exhibit – Aerial of property

