

Board of Adjustments (BOA) Staff Report

Board of Adjustments Hearing Date: November 9, 2023

Case BA23-02: Request by 722 Carrell LLC., represented by Jason & Jamiee Olson for variances from Section 50-73 (subsection (d)(2) f.1 & f.2) to reduce the minimum building separation requirement ordinarily required within Multi-Family (MF) zoning. As well as a variance from Section 50-73 (subsection (d)(2)(e)) to allow windows on the second floor of buildings located within a multi-family development complex.

Property Owner(s): 722 Carrell LLC.
Applicant(s): Jason & Jamiee Olson
Legal Description: 2.78 acres, being a portion of Lots 83, 85, & 96 of Tomball Outlots
Location: 722 Carrell Street
Lot Area: Approximately 2.78 acres
Present Zoning & Use: Multi-Family (MF) (Exhibit “B”) / Single Family Residence (Exhibit “D”)
Comp Plan Designation: Neighborhood Residential (Exhibit “C”)

Adjacent Zoning & Land Uses:

North: Single Family Residential - 6 (SF-6)/Residential Neighborhood
South: Single Family Residential - 9 (SF-9)/Church
West: Planned Development District (PD#11)/Residential Neighborhood
East: Multi-Family Residential (MF)/Multi-Family Apartment Complex

BACKGROUND

City staff met with the applicant(s) earlier this year to discuss the establishment of a “pocket neighborhood” on the subject property. This community would be comprised of multiple detached single family dwelling units all located on a single lot. Such an arrangement is considered a multi-family development due to the nature of having multiple families (3 or more) all living on the same parcel of land. This style of development is permissible within the Multi-Family Residential (MF) zoning district that the property falls within. Because this development is considered a “multi-family” development, and the subject property is located within MF zoning all standards outlined within Section 50-73 are applicable. These standards include Section 50-73(d)(2)(f.1) and (d)(2)(f.2) which define minimum building separation requirements. Specifically, d.f.1 states, one story buildings must be 15-feet apart if the building is without openings and 20-feet apart if the building is with openings. While d.f.2 states, two story buildings (or two-story buildings adjacent to one story buildings) must be a minimum of 20-feet apart if the building is without openings and 35-feet apart if the building is with openings. The applicants are requesting variances from each of these standards to permit buildings as close as 6-feet apart regardless of height and/or openings.

The variance from Section 50-73 (d)(2)(f.1) would be a 9-foot variance from the ordinarily required 15-foot separation for one story buildings without openings and a 14-foot variance from the ordinarily required 20-foot separation for one story buildings with openings. The variance from Section 50-73 (d)(2)(f.2) would be a 14-foot variance from the ordinarily required 20-foot separation for two story buildings without openings and a 29-foot variance from the ordinarily required 35-foot separation for two story buildings with openings. Lastly, the applicants are seeking a third variance from Section 50-73 (d)(2)(e) to allow multiple-story buildings within the multifamily development complex to be constructed with windows above the first floor on any sides regardless of whether or not the building(s) are within 100-feet of property zoned for single-family uses, existing residential platted lots or existing single-family residences. According to the concept plan provided by the applicant this variance would apply to ONE of the proposed FOUR two-story structures within this multi-family complex. The specific variance would be a 10-foot variance from the required 100-foot setback, which would allow ONE of the two-story structures as close as 90-feet to the existing single-family residential zoning district west of the subject property.

ANALYSIS

Section 50-33 (f.4) defines certain criteria for the Board of Adjustment to consider when making decisions to grant a variance request. City staff has reviewed the requests as well as the criteria for approval and have determined the following:

1. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property.
 - a. **BUILDING SEPARATION VARIANCES:**
 - i. The literal enforcement of the building separation standards does not create an unnecessary hardship or practical difficulty in the development of the property.
 - b. **WINDOWS ABOVE THE FIRST FLOOR VARIANCE**
 - i. The applicants intend on developing a multi-family complex comprised of single-family detached dwelling units, which function much like traditional single-family homes. These dwelling styles are similar to what currently exists north and west of the site within the existing traditional single family residential neighborhoods. In typical single family residential neighborhoods, it is not uncommon to find two-story single-family residential dwellings (with windows above the first floor) neighboring other single-family residential dwellings. It could be viewed that there is no difference between these existing arrangements and the intended development of the subject property with two story single-family detached dwelling units adjacent to the homes found within these existing neighborhoods. The enforcement of this standard could be viewed as depriving the applicants reasonable use of their property which is presently zoned for Multi-Family residential. Further, it is worth noting that the requested variance would apply to only ONE of the FOUR planned two-story structures. This variance would allow this one structure as close as 90-feet to the existing single-family residential zoning district. City staff believes that this 10-foot reduction in setback to allow windows above the first floor on this single structure is negligible and will meet the intent of the Code of Ordinance.
2. That the granting of a variance will be in harmony with the spirit and purpose of this chapter (Chapter 50).
 - a. **BUILDING SEPARATION VARIANCES:**

single dwelling unit. The arrangement of two-story single-family dwellings with windows located on the second floor is routinely permitted within traditional single family neighborhoods.

RECOMMENDATION

City Staff has reviewed the request and recommends approval of **Case BA23-02** with the following conditions:

- Development of the site must be in strict compliance with the concept plan provided by the applicant, which illustrates no more than FOUR two-story structures centrally located within the multi-family complex.
- No more than one dwelling unit is permitted per structure.
- No structure may exceed two (2) stories in height.

PUBLIC COMMENTS

Property owners within 300 feet of the project site were mailed notification of this proposal and a notice of public hearing was published in the Potpourri on October 26, 2023. Public responses will be provided in the Board packets or at the meeting.

EXHIBITS

- A. Aerial Location Map
- B. Current Zoning Map
- C. Future Land Use Map
- D. Site Photo(s)
- E. Application

Exhibit "A"
Aerial Location Map

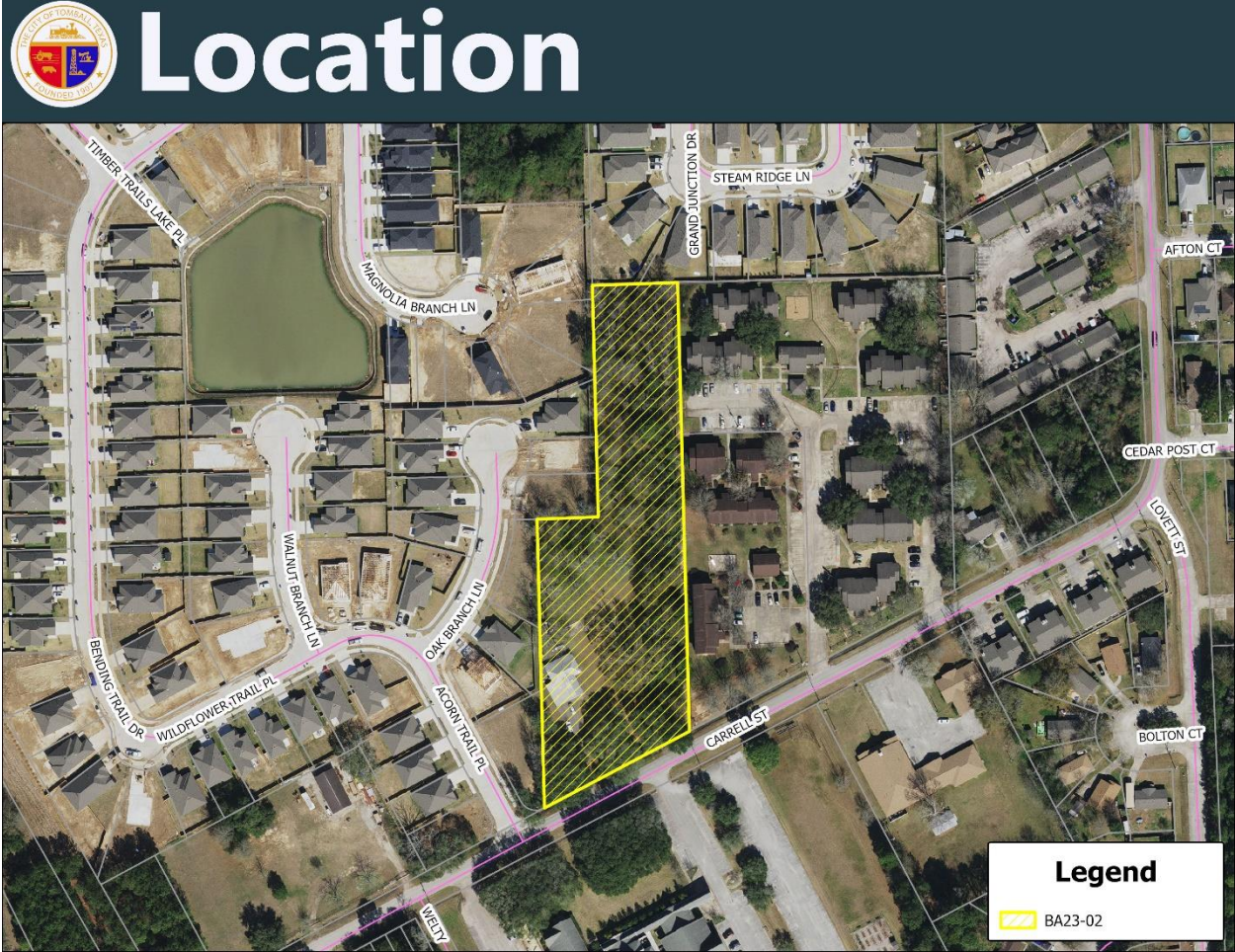


Exhibit "B" Zoning Map

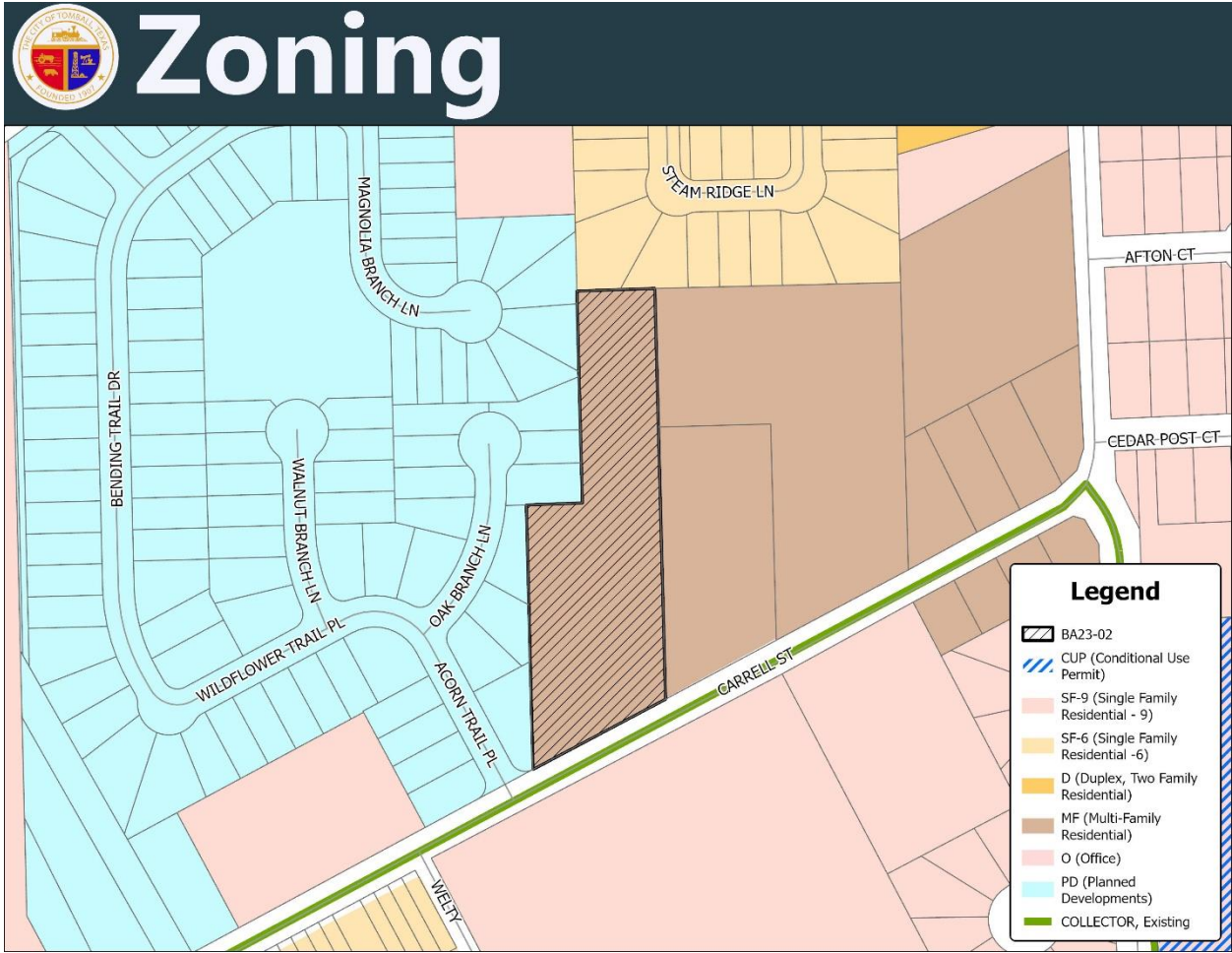


Exhibit "C"
Future Land Use Map

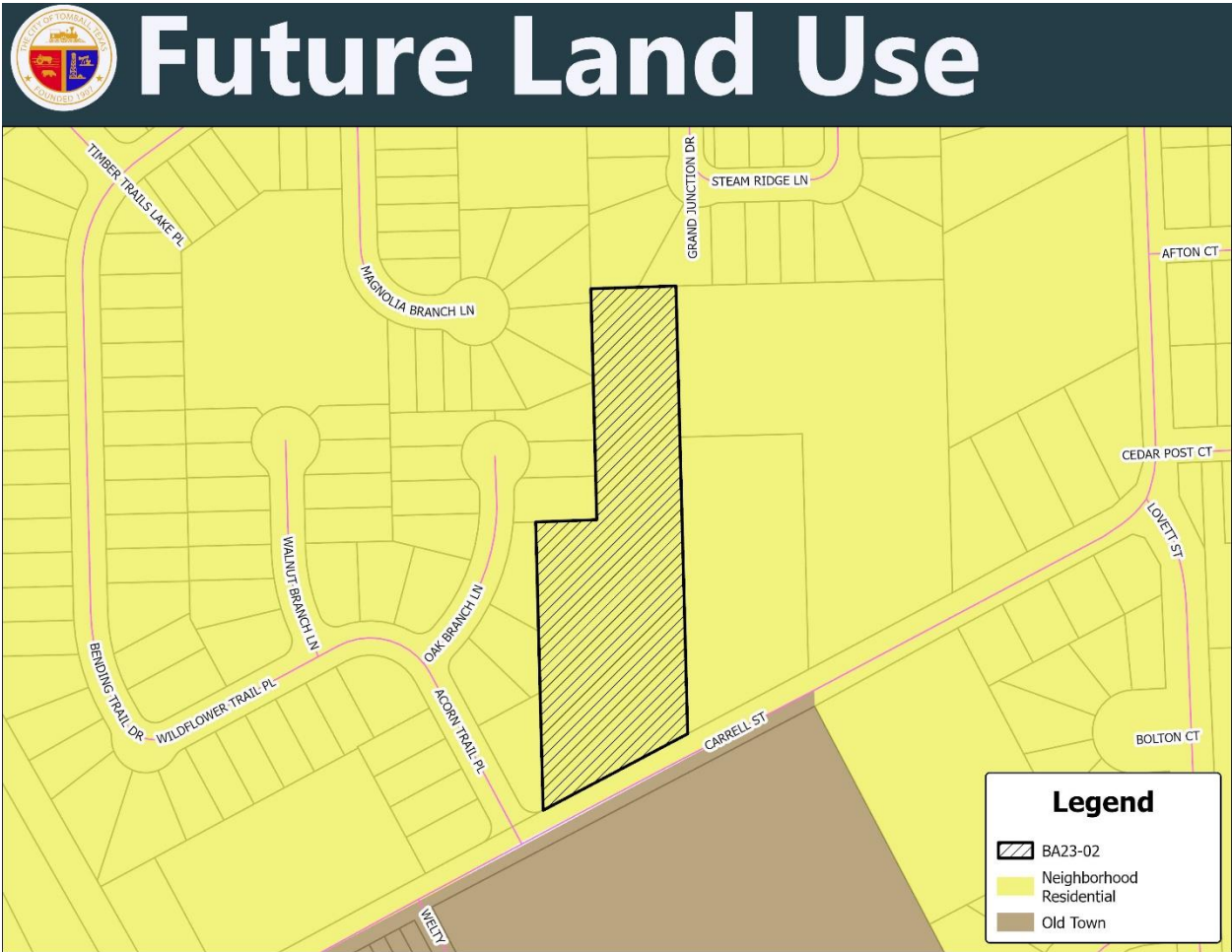


Exhibit "D"
Site Photo(s)

Subject Property



Neighboring Property (East)



Neighboring Property (West)



Neighboring Property (West)



Neighboring Property (North)



Neighboring Property (South)



Exhibit "E"
Application

Revised: 10/1/2022



ZONING BOARD OF ADJUSTMENTS (BOA)
VARIANCE APPLICATION
Planning Division

Variance(s) Defined: A variance is the authority to depart from the application of areas, side yards, setback, height, and similar regulations to prevent unnecessary hardships.

APPLICATION REQUIREMENTS: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

There is a \$500.00 application fee that must be paid at time of submission or the application will not be processed.

DIGITAL PLAN SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY IN A SINGLE PDF BY FOLLOWING THE WEBSITE BELOW:

WEBSITE: tomballtx.gov/secure/send
USERNAME: tomballdd
PASSWORD: Tomball

Applicant

Name: Jason and Jaimee Olson Title: 722 Carrell LLC
Mailing Address: 8515 Haven Trail City: Tomball State: TX
Zip: 77375 Contact: Jaimee Olson
Phone: (713) 542-9179 Email: jecodd@gmail.com

Owner

Name: Jason and Jaimee Olson Title: 722 Carrell LLC
Mailing Address: 8515 Haven Trail City: Tomball State: TX
Zip: 77375 Contact: Jaimee Olson
Phone: (713) 542-9179 Email: jecodd@gmail.com

Description of Proposed Project: Small Pocket Neighborhood

Physical Location of Property: 722 Carrell - vacant lot across from Good Shepherd
[General Location – approximate distance to nearest existing street corner] Episcopal Church

Legal Description of Property: TRS 83E, 85B & 96C Tomball outlots
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 0352830000096 **Acres:** 2.775 acres

Current Use of Property: vacant lot zoned multifamily

Description of Hardship

Please provide a letter explaining the hardship, demonstrating the following (address each variance requested):

1. That literal enforcement of the provisions of the Zoning Ordinance will create an unnecessary hardship or practical difficulty in the development of the affected property.
2. That there are special circumstances or conditions affecting the land involved such that the application of the provisions of the Zoning Ordinance would deprive the owner/applicant of the reasonable use of his/her land.
3. That the variance is necessary for the preservation and enjoyment of a substantial property right of the owner/applicant.
4. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance.
5. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.
6. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area.
7. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.
8. That the granting of an individual variance will not set a precedent.

*Financial hardship shall not be considered grounds for the issuance of a variance.

September 27, 2023

Dear Sir or Madam,

When we initially met with the Tomball planning committee last Spring, we proposed our idea of creating an inviting “pocket-style” community on 722 Carrell Street instead of building the typical concrete-centered street of houses or institutional-looking small apartments. Since the committee was receptive to our idea, we have been hard at work designing our small pocket neighborhood, a concept which uses purposeful design to maximize common areas and encourage interaction between neighbors. The homes will be arranged around a large rectangular courtyard area with community gardens, a shared gathering space, landscaped walkways, and a playground area. We want the neighborhood to have a vibrant feel with welcoming spaces and thoughtfully-designed gathering areas that will complement Tomball’s small town, intimate charm. (Please see the attached images of existing pocket communities as examples of the style of neighborhood we plan to emulate.)

722 Carrell is one of the few remaining vacant lots in Tomball zoned for multifamily use. It is sandwiched in between a traditional single-family neighborhood and an aging apartment complex. We believe that our community will provide the perfect transition between these existing developments, while adding to the beauty of the area by preserving the property’s old trees and creating a peaceful central green area for residents. Our key priorities in developing the site plan are protection of the trees, privacy of the residents, maximizing shared green space for families, and providing a safe, inviting community.

Since our neighborhood has a unique style, it does not align well with the current multifamily building codes. With its 14 small bungalows, it is more similar to a single-family neighborhood than the standard apartment or four-plex designs. Because a pocket-style development is not contemplated in the current commercial building codes, compliance with a select few multi-family setback rules, when interpreted strictly, significantly impairs our ability to create the welcoming community we envision for the space.

In order for our pocket community design to be successful, we respectfully request the following variances:

1. We request that a variance be provided so that the homes can be built with only six feet of space between them instead of the twenty feet required for multi-family construction (i.e. apartment complexes). First, we want to emphasize that this change is not requested so we can squeeze more homes onto the lot. In a pocket neighborhood, homes are purposefully clumped together to maximize shared outdoor spaces instead of segregating the green spaces into fenced yards.

(Please see the attached site plans showing how the central green space is greatly expanded when the homes are spaced 6 feet apart instead of according to multi-family codes.) Following the 6-foot spacing would also make it possible to allow more root space around the property's large oaks, helping preserve the health of the trees. In other words, the tighter spacing between homes allows for flexibility to adjust and rotate the structures to maximize protection of the existing trees and give ample space for the root structures to thrive.

We strongly prefer a 6-foot spacing between homes as described above. However, if the committee is unable to grant this request, we respectfully ask for a variance to allow for a ten-foot spacing between homes instead of the 20 prescribed for standard multi-family projects. Compliance with a 10-foot spacing would infringe upon the central courtyard more than is ideal, but it would not be as significant a hardship as the 20-foot distance requirement.

2. Similar to our spacing request, we are also seeking a variance so the two-story homes in the neighborhood (we are currently targeting 4 two-story homes to vary the rooflines and make the neighborhood less "cookie-cutter") have the same setback requirements as a residential community instead of the multi-family 100-foot setback utilized for multi-story apartment complex buildings. The 100-foot requirement does make sense if the goal is to prevent large, densely populated apartment buildings from encroaching on the privacy space of single-family homes. However, our small community of single-family homes facing inwards toward a community green will not have any impact on the privacy of homeowners in neighboring communities. There is currently only one area where our site plan shows two-story homes within 100 feet of residentially zoned land, and this is near the front of the property bordering Carrell Street. The residentially zoned land impacted is vacant space that was set aside by the single-family neighborhood to meet their green space requirements. It is our understanding that because of this designation, these strips of land cannot be built upon in the future, so a 100-foot setback makes no practical sense in our unique situation.

Because of our distinct site plan, two of the multi-family setback rules constitute significant hardships and practical difficulties as we work to maximize the beauty and community green spaces of our small pocket community. We believe that not only is a pocket community a reasonable use of the land, but it is a use that will better serve our community than the multi-family structures envisioned by the building codes.

If our variances are granted, we do not believe that the city will be setting a negative precedent for future developments. A pocket community, although wonderful for the town at large, is not a direction that most developers would choose, since it does not maximize potential profit. The variances we are seeking are in harmony with the spirit and purpose of the regulations, as we are not imposing any burdens or harming neighboring developments in any way. In fact, the property values of surrounding lots

should increase once our pocket neighborhood is complete. If instead a multi-family development was built on 722 Carrell that sought to squeeze as many doors as possible on the land, the neighbors would face significantly more negative effects than they would with our pocket community. (Please see attached site plan showing what a development on the lot could look like if a multi-family developer sought to maximize occupancy by building 3 three-story buildings for a total of 36 units.) We are confident that once surrounding property owners understand our vision for the space, they will see the benefits and welcome our new community.

We love Tomball and want our property to add to the vibrancy and charm of the town. We appreciate your time and consideration.

Sincerely,

 27 Sept. 2023

Jason Olson

Manager, 722 Carrell LLC

(713) 542-9179

POCKET
NEIGHBORHOOD
EXAMPLE
PHOTOS

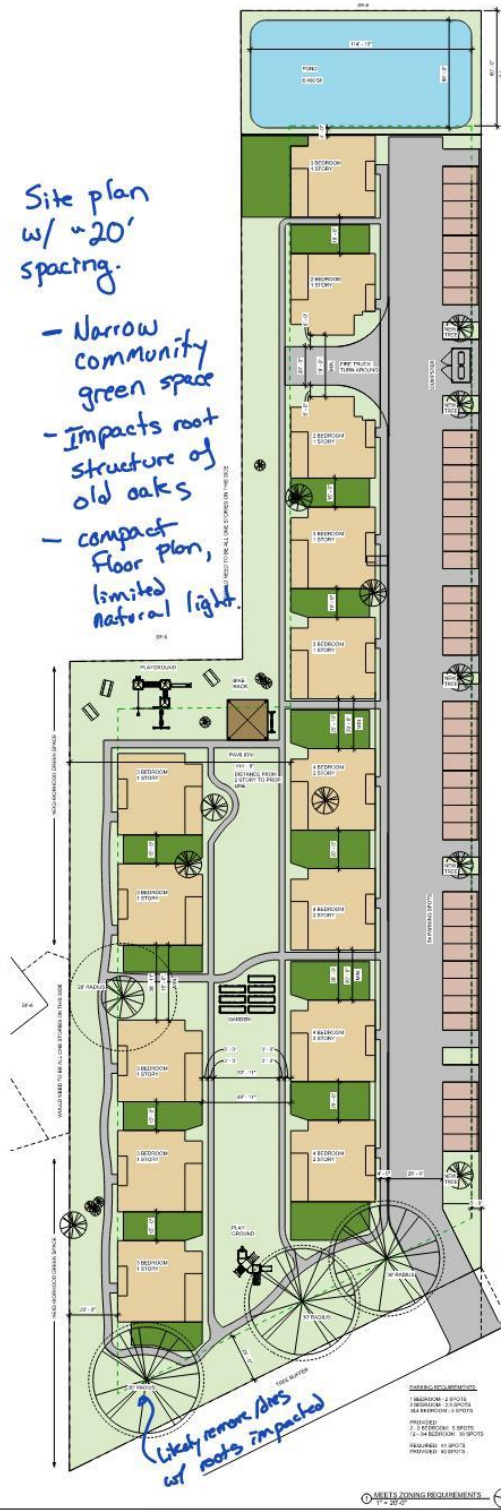


Homes arranged around
a community green
space.



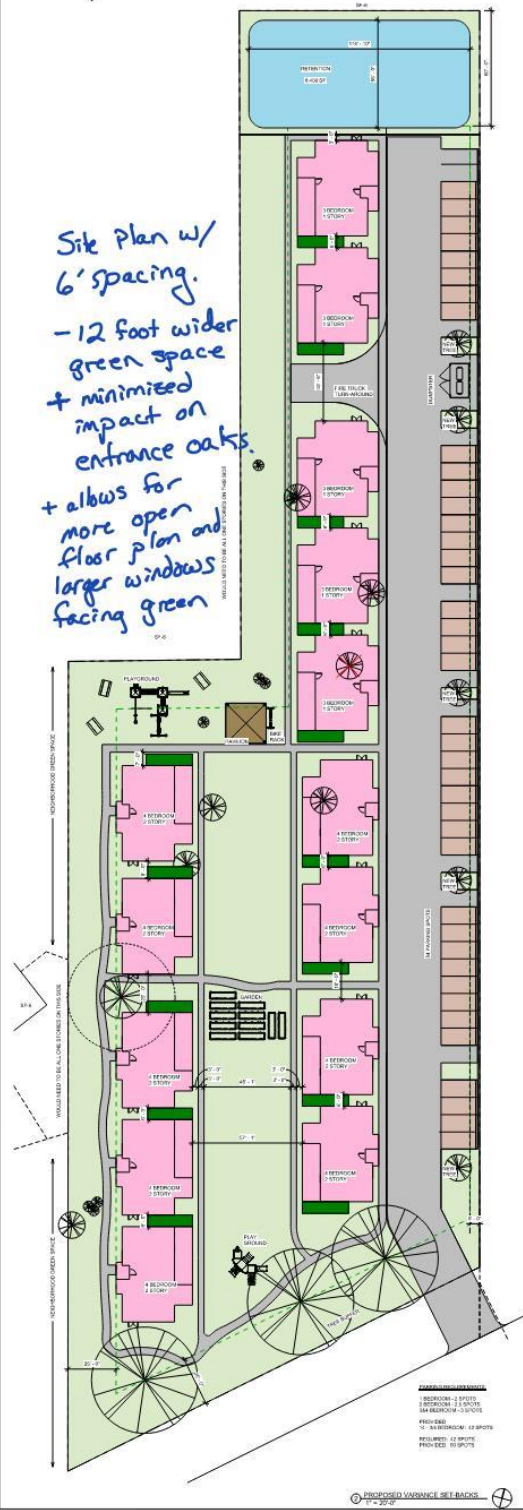
Site plan w/ ~20' spacing.

- Narrow community green space
- Impacts root structure of old oaks
- compact floor plan, limited natural light.



Site Plan w/ 6' spacing.

- 12 foot wider green space + minimized impact on entrance oaks.
- + allows for more open floor plan and larger windows facing green



Appartment Complex site Plan

- 36 units
- more concrete
- mostly clear cut
-



Example of 3 large oaks at front of neighborhood.

