



TO: Knoxville-Knox County Planning Commission
FROM: Samiul Haque, Planner
DATE: August 6, 2026
SUBJECT: Appeal of an administrative determination for a Middle Housing application
FILE #: 8-I-26-0B; Agenda Item #50

SUMMARY OF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 1409 W Fifth Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

APPEAL AND REQUEST SUMMARY

The applicant is appealing Planning staff's comments on a pending Middle Housing application for a proposed 3-unit structure at 1409 W Fifth Avenue (KnoxPlans project # IRC-NEW-25-0549).

The applicable review comments on the project are as follows:

- 10/23/25 - Each review is specific to the case and site. The project, as presented, does not meet the intent of Middle Housing Standards and contradicts Article 4.6, 4.6.E.1, 4.6.E.4, and Article 4.6.G of the Zoning Ordinance. Staff's interpretation can be appealed in accordance with Article 4.6.G.3.
- 8/28/25 - The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line, where the front porches, doors, and windows open into the sides of

neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot.

- 7/29/25 - Article 4.6.A: The applicant describes the building as a triplex. The application does not propose units that are stacked on top of each other and does not meet the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a Dwelling Townhouse per Article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A.
- 7/29/25 - Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.

The full record of staff review comments and applicant responses is provided in Exhibit B.

STANDARD OF REVIEW

The application was submitted prior to the recent amendments to the City of Knoxville Zoning Code, Article 4.6, Middle Housing, which amended the appeal body to the Design Review Board, and is therefore subject to the previous zoning ordinance requirements, in which Middle Housing appeals were heard by the Knoxville-Knox County Planning Commission.

In accordance with Article 16.12.A.4.b under the applicable code, the Planning Commission must evaluate the application based upon the evidence presented at the public hearing. The Commission may affirm, modify, impose restrictions, or overrule the Planning staff determination.

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

☐ Street Name Change ☒ Other: MH Denial

Decision By: ☒ Planning Staff ☐ Planning Commission ☐ Other: _____ ☐ Date of Decision: _____

Jurisdiction: ☐ City 6 Council District ☐ County _____ Commission District _____

IRC-NEW-25-0543

R. Bentley Marlow

Original File Number Being Appealed

Original Applicant Name

Marlow Properties, LLC

094CK018

Name of Owner of Subject Property

Parcel Number of Subject Property

MH Denial

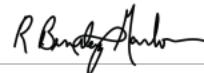
Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Staff arbitrarily and capriciously ignores Planning Commission's prior holdings interpreting "intent" and the definition of "triplex." See 8C25OB (vote 8-3) & 3A26OB (Vote 11-1).

PETITIONER INFORMATION

R. Bentley Marlow



Name of Petitioner

Signature of Petitioner

Petitioner's Interest in the Matter (Include a description of affected property owned by Petitioner):

Property Owner, General Contractor of Record

All correspondence
should be sent to:

R. Bentley Marlow

865-607-4357

Name (Print)

Phone

Email

322 Douglas Avenue

Knoxville

Tennessee 37921-4813

Address

City

State

ZIP

STAFF USE ONLY



250.00

7/3/2026

Application Accepted by Planning Staff Member

Appeal Fee Amount

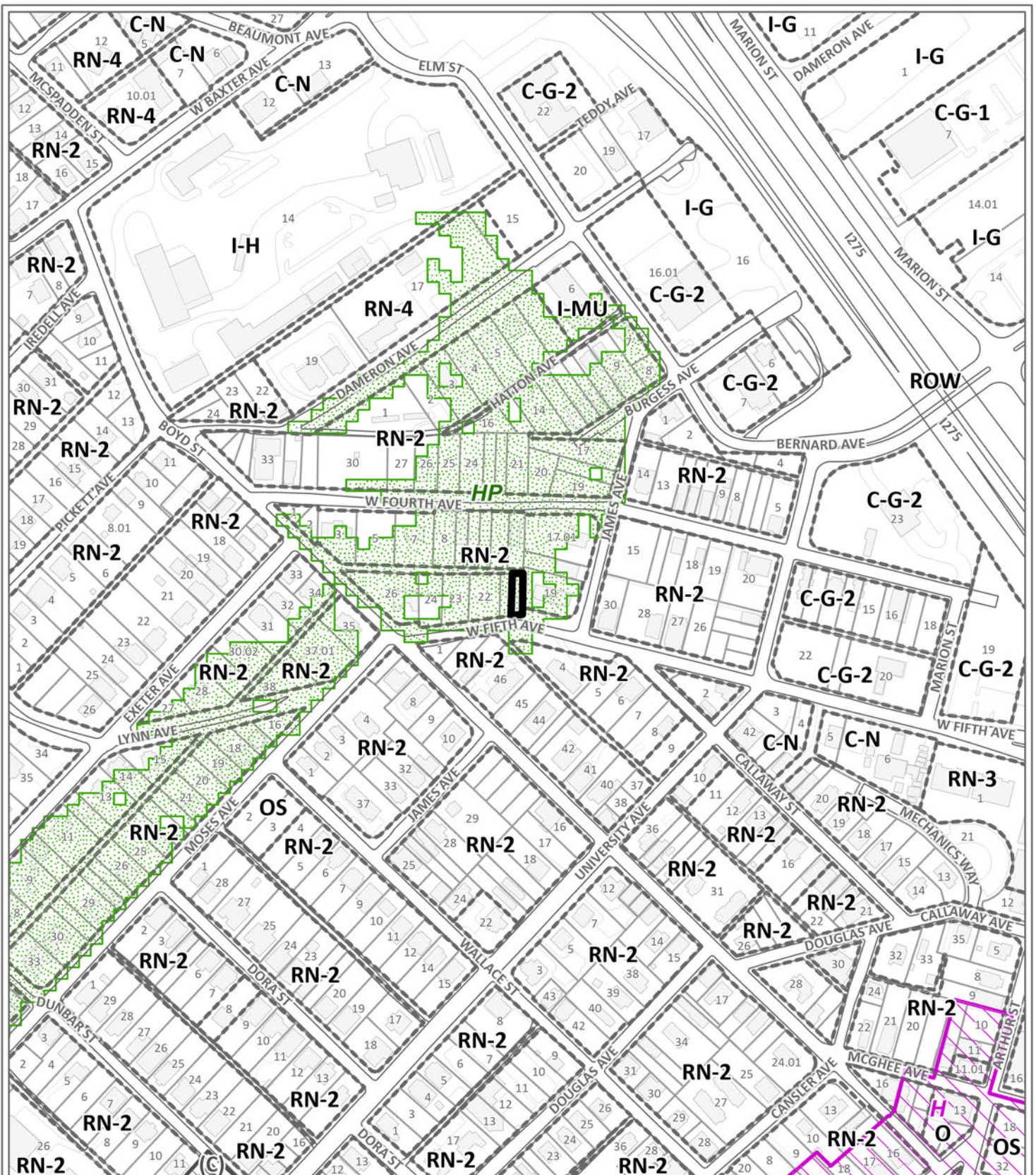
Date Appeal Received

APPEAL MEETING INFORMATION

City
Council - 6 p.m. _____
Month | Date | Year

County
Commission - 5 p.m. _____
Month | Date | Year

Knoxville-Knox
County Planning
Commission - 1:30 p.m. **8/13/2026**
Month | Date | Year



OTHER BUSINESS

8-I-26-OB

Petitioner: R. Bentley Marlow



Purpose of Request: Appeal of an administrative determination for a Middle Housing application. (1409 W Fifth Ave / Parcel 094FC020)

Original Print Date: 7/31/2026

Knoxville - Knox County Planning Commission * City / County Building * Knoxville, TN 37902

Map No: 94

Jurisdiction: City

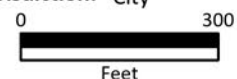
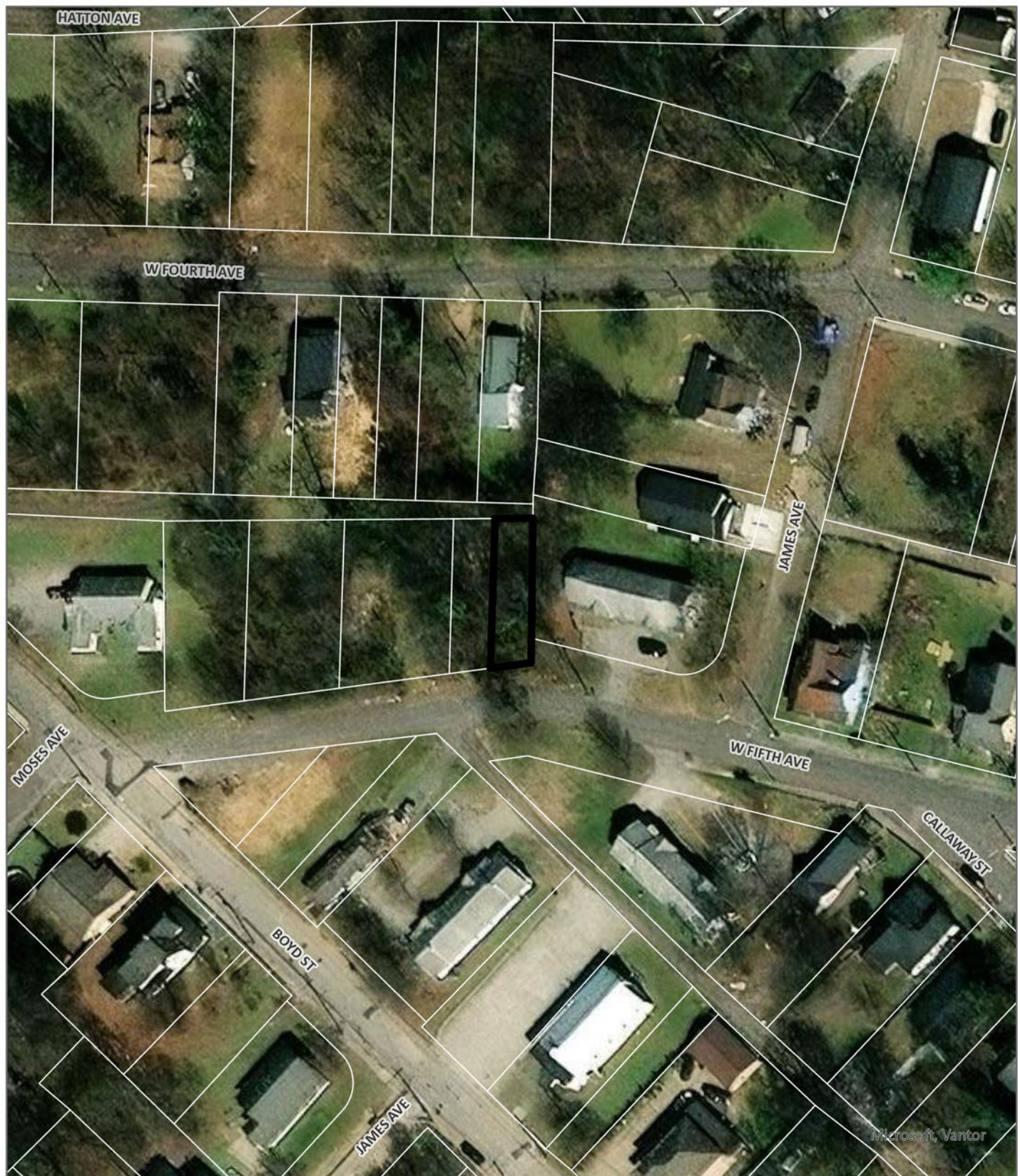


Exhibit A. Contextual Images



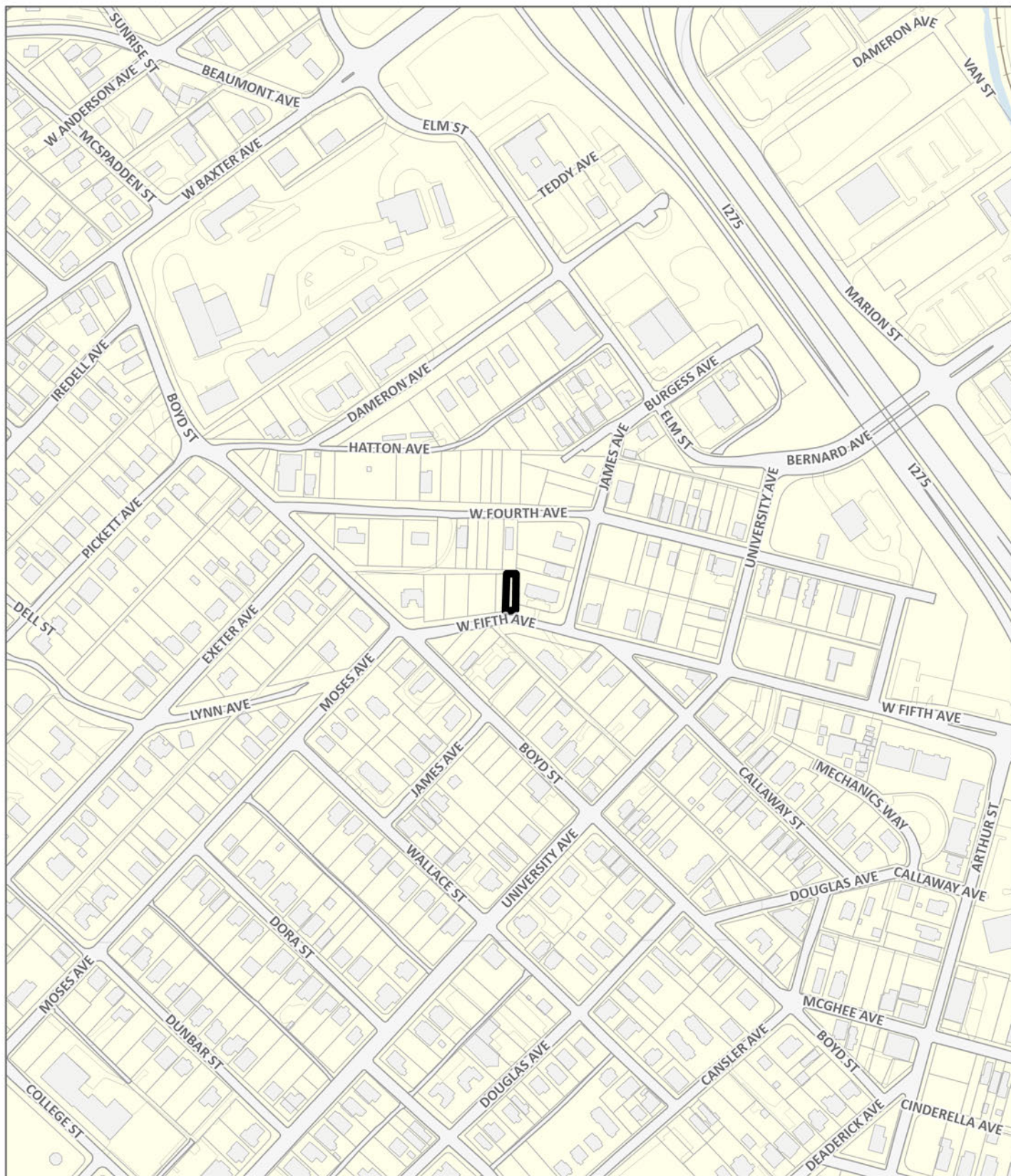
AERIAL MAP



Case boundary



Exhibit A. Contextual Images

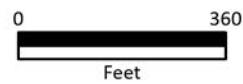


LOCATION MAP

8-I-26-OB



Case boundary

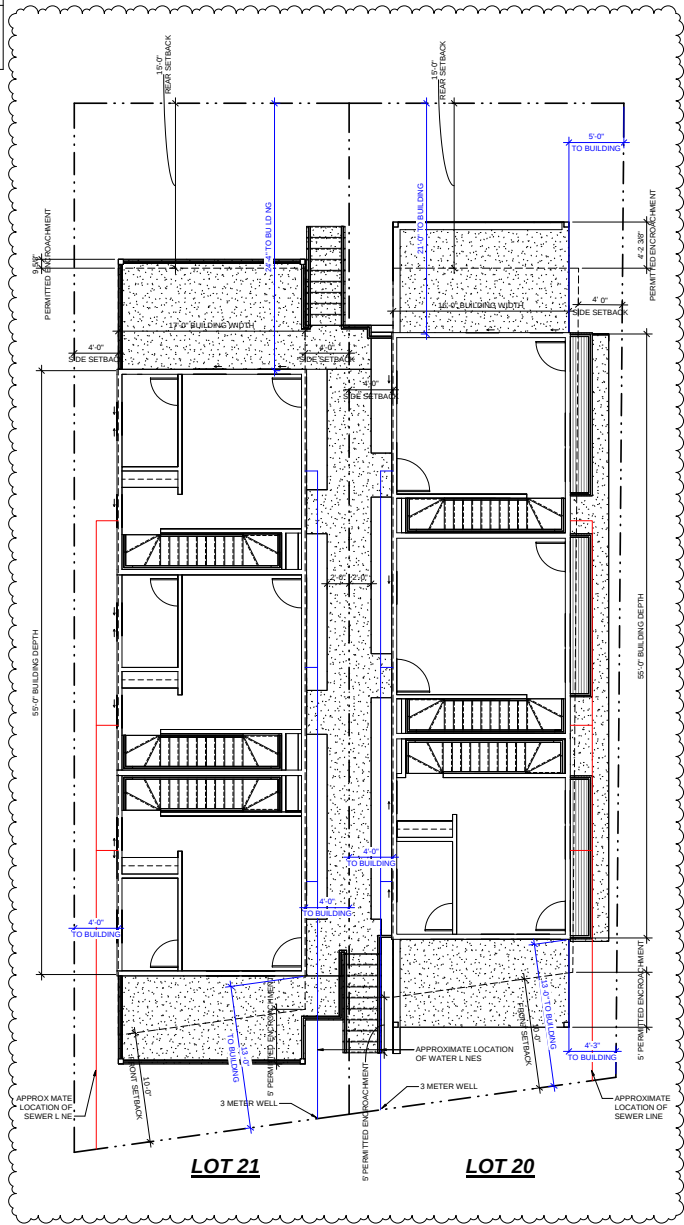


NOTE:
GENERAL CONTRACTOR TO DETERMINE THE FINAL LOCATION OF THE STRUCTURE ON THE SITE BASED ON SETBACK REQUIREMENTS OF THE LOCAL JURISDICTION.

NOTE:
SURFACE DRAINAGE SHALL BE DIVERTED TO A STORM SEWER CONVEYANCE OR OTHER APPROVED POINT OF COLLECTION THAT DOES NOT CREATE A HAZARD. LOTS SHALL BE GRADED TO DRAIN SURFACE WATER AWAY FROM THE FOUNDATION WALLS. THE GRADE SHALL FALL NOT FEWER THAN 6 INCHES WITHIN THE FIRST 10 FEET.

UTILITY NOTES:
ELECTRICAL WILL BE OVERHEAD TO MASTS ALONG THE OUTER ELEVATIONS. EACH UNIT WILL RECEIVE ITS POWER VIA A FEEDER FROM ITS MASTMETER ON THE OUTER ELEVATION, THEN BURIED UNDER THE SLAB IN 2" SCHEDULE 40 PVC CONDUIT. NOT SHOWN.

APPROXIMATE LOCATIONS OF SEWER & WATER LINES SHOWN ON SITE PLAN.
FINAL LOCATIONS TO BE DETERMINED BY UTILITY COMPANY.

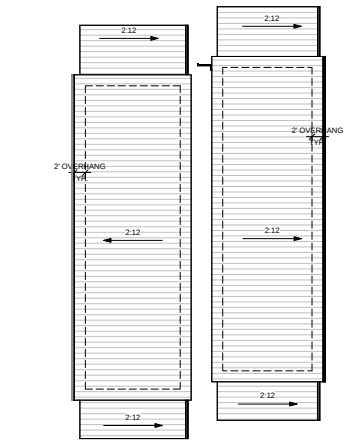


1 ARCHITECTURAL SITE PLAN
3/16" = 1'-0"

**FIFTH AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION**
Lot 20 + 21 Fifth Ave, Knoxville, Tennessee 37921

DATE	11/23/2023	PROJECT	11/23/2023
REVISION	11/23/2023	REVISION	11/23/2023
DATE	11/23/2023	PROJECT	11/23/2023
REVISION	11/23/2023	REVISION	11/23/2023

DRAWN BY: MB
ARCHITECTURAL SITE PLAN



WINDOW LEGEND:	WALL LEGEND
F FIXED	2x4 WOOD STUDS @16" O.C. WITH R-20 BATT INSULATION
SH SINGLE HUNG	1/2" GYP BOARD INTERIOR SIDE
DH DOUBLE HUNG	1/2" PLYWOOD SHEATHING, TYVEK WEATHER BARRIER & 3/4" NG EXTERIOR SIDE (SEE EXTERIOR ELEVATIONS)
C CASEMENT	2x4 WOOD STUDS @16" O.C.
T TRANSOM	1/2" GYP BOARD BOTH SIDES
EG EGRESS	8" CMU FOUNDATION WALL
	2 HR. SEPARATION 2x4 WALL - UL U30S
	1 HR. EXTERIOR 2x4 WALL - GP-EFWF-02

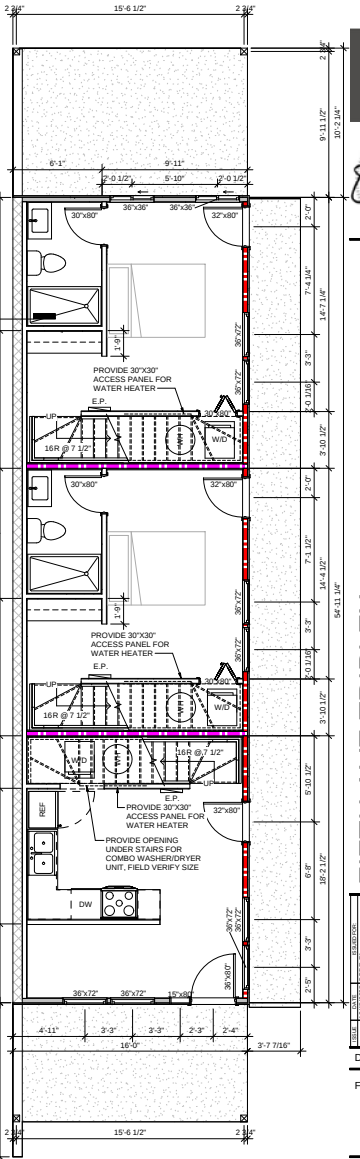
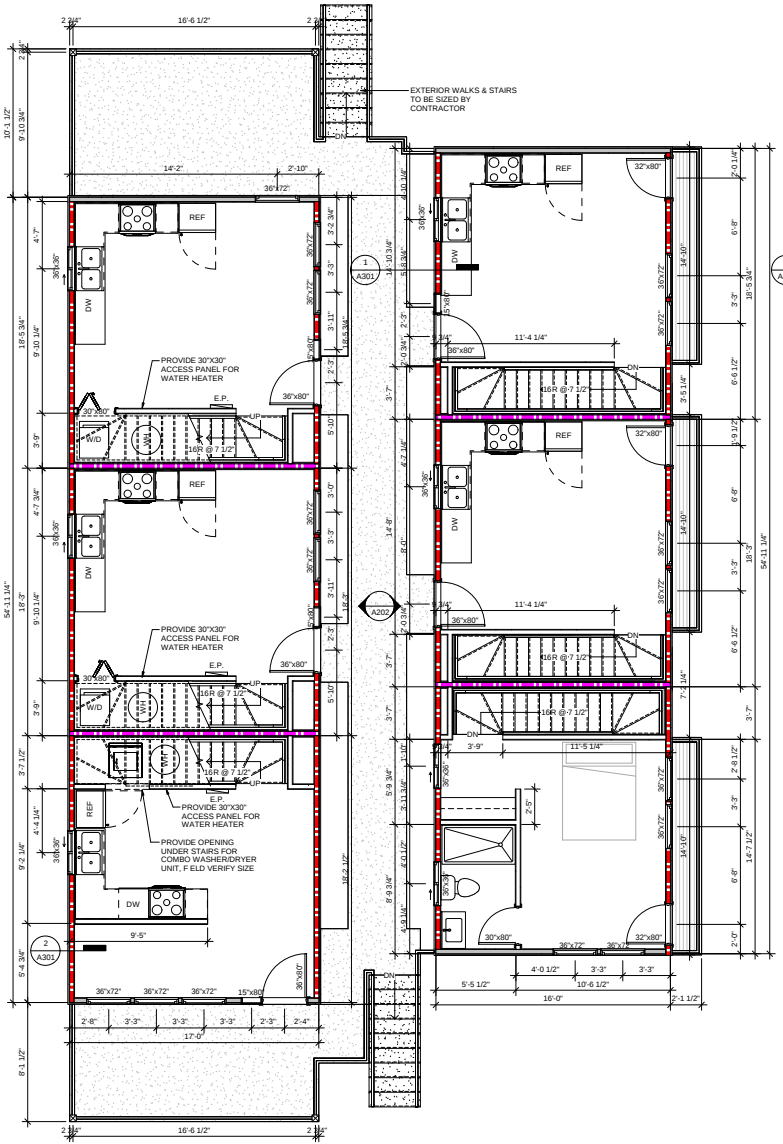
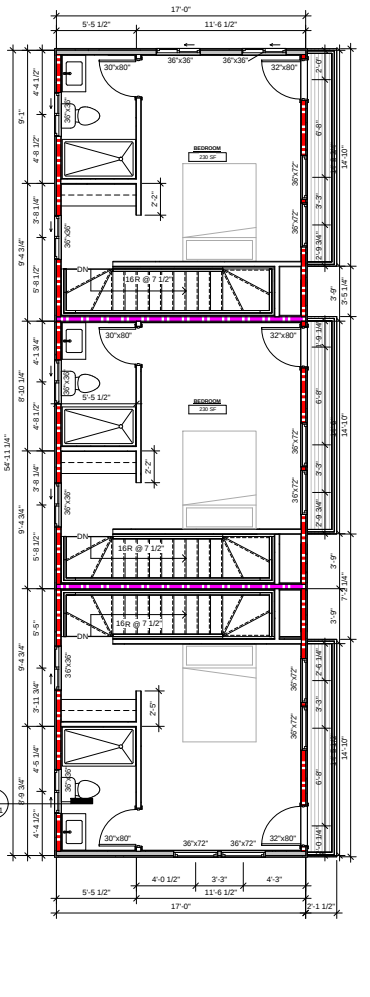
FLOOR PLAN NOTES:

TYPICAL BLOCKING NOTE:
PROVIDE WOOD BLOCKING IN THE WALLS AS REQUIRED TO SUPPORT & ATTACH ALL WALL HUNG ITEMS SUCH AS CABINETS, BRACKETS, HAND RAILS, GRAB BARS, ETC. THE BLOCKING & ITS ATTACHMENTS SHALL CARRY THE MINIMUM WEIGHT, VERIFY WITH MANUFACTURER.

TYPICAL WINDOW NOTE:
GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL THAT MEETS ALL OF THE FOLLOWING CONDITIONS SHALL BE CONSIDERED TO BE A HAZARDOUS LOCATION:
• THE EXPOSED AREA OF AN INDIVIDUAL PANE IS LARGER THAN 9 SQUARE FEET
• THE BOTTOM EDGE OF THE GLAZING IS LESS THAN 18 INCHES ABOVE THE FLOOR
• THE TOP EDGE OF THE GLAZING IS MORE THAN 36 INCHES ABOVE THE FLOOR
• ONE OR MORE WALKING SURFACES ARE WITHIN 36 INCHES, MEASURED HORIZONTALLY AND IN A STRAIGHT LINE, OF THE GLAZING
SEE R308.4.3 GLAZING IN WINDOWS FOR EXCEPTIONS (E.G. DECORATIVE GLAZING)

PLAN NOTE:
CABINETS AND FURNITURE IS SHOWN FOR PLANNING PURPOSES ONLY. CONTRACTOR TO COORDINATE WITH OWNER.
ALL EXTERIOR DOORS TO BE INSULATED, AND HAVE WEATHER STRIPPING (AND APPROPRIATE THRESHOLD)
IF THE FINISHED FLOOR HEIGHT OF THE DECK IS 30" ABOVE GRADE, STAIRS AND RAILINGS TO GRADE MUST BE ADDED. RAILINGS TO BE 36" TALL WITH A MINIMUM OF 4" TOP AND BOTTOM RAILS WITH 2 PICKETS SPACED AT NO MORE THAN 3 7/8".
IMPERVIOUS SURFACES TO BE SLOPED AWAY FROM STRUCTURE @ 1/8" PER FOOT

NOTE:
ALL WATER HEATERS TO BE 28 GALLON ELECTRIC. DIMENSIONS: H 30", W 19.75", D 19.75"
FLOOR PLAN INDICATES GENERAL REPRESENTATION OF WINDER TREADS FOR REFERENCE ONLY. FOR SPECIFIC DIMENSIONS, CONFIGURATION, AND CONSTRUCTION REQUIREMENTS, REFER TO WINDER TREAD DETAIL ON SHEET 41A301.



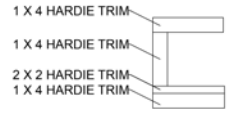
EXTERIOR ELEVATION KEYNOTES

- ① HARDIE SIDING
- ② CMU W/ PARGE COAT
- ③ METAL ROOF TBS BY OWNER

TRANSPARENCY CALCULATIONS:

LOT 20
FRONT FACADE: 350 SQFT
TRANSPARENCY: 108 SQFT
30% TRANSPARENCY PROVIDED

LOT 21
FRONT FACADE: 316 SQFT
TRANSPARENCY: 88 SQFT
28% TRANSPARENCY PROVIDED

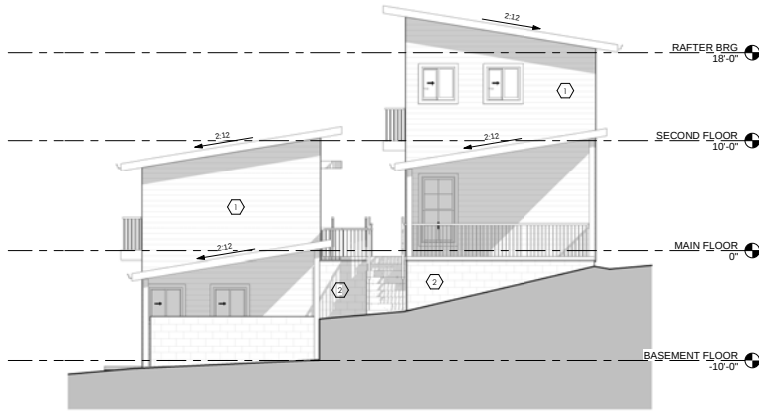


EXTERIOR ELEVATION NOTES

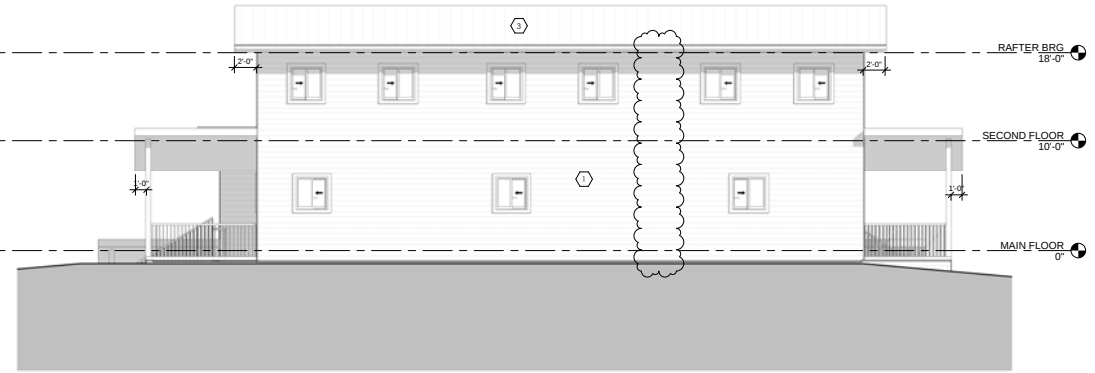
APPROXIMATE SITE LOCATION AND TOPOGRAPHY. GENERAL CONTRACTOR TO WORK WITH CIVIL AND STRUCTURAL TEAM TO CLARIFY HOME LOCATION ON PROPOSED SITE AND ANY RETAINING REQUIREMENTS. CONFIRM ANY BUILDING ADJUSTMENTS WITH ARCHITECT BASED ON LOCATION WITH IN SETBACK REQUIREMENTS AND ANY CITY, CODE OR SEPTIC REQUIREMENTS PRIOR TO SUBMISSION.

DESIGN ELEMENTS:
4.6.E.4.B. ROOF: ARTICULATED; 2 PITCHES WITH 2 RIDGEL LINE DIRECTIONS VIS SILE FROM THE FRONT;
4.6.E.4.B. (MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; CANTILEVERED OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE)
4.6.E.4.C. 8' DEEP PORCH SPANNING THE ENTIRE WIDTH OF BUILDING; 8' EAVE OVERHANGS 12" V. PROJECT NG ENTRY FEATURE 8' COVERED PORCH; VIL ARTICULATED WINDOW AND DOOR TRIM.
4.6.E.5 ONE UNIT FACES THE STREET;

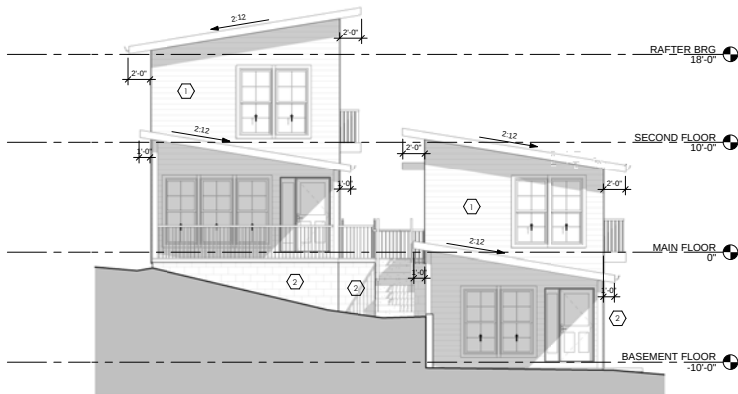
⑤ ARTICULATED WINDOW & DOOR TRIM DETAIL
NTS



③ REAR ELEVATION
A201 3/16" = 1'-0"



② LEFT ELEVATION
A201 3/16" = 1'-0"



④ FRONT ELEVATION
A201 3/16" = 1'-0"



① RIGHT ELEVATION
A201 3/16" = 1'-0"

	HARDIE SIDING
	CMU W/ PARGE COAT
	METAL ROOF TBS BY OWNER



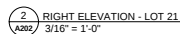
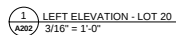
A. C. GARDNER

LOT 21
FRONT FACADE: 316 SQFT
TRANSPARENCY: 88 SQFT
28% TRANSPARENCY PROVIDED

[illegible]

DESIGN ELEMENTS:
4.6.E.4.A.II. ROOF: ARTICULATED; 2 PITCHES WITH 2 RIDGEL LINE DIRECTIONS
VIS. BLE FROM THE FRONT;
4.6.E.4.B. (MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; CANTILEVERED
OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE)
4.6.E.4.C. 8' DEEP PORCH SPANNING THE ENTIRE WIDTH OF BUILDING; 11' EAVE
OVERHANGS 12" V. PROJECT NG ENTRY FEATURE 8' COVERED PORCH; VII.
ARTICULATED WINDOW AND DOOR TRIM;
4.6.E.5 ONE UNIT FACES THE STREET;

DESIGN ELEMENTS:
 4.6.E.4.A.II ROOF: ARTICULATED; 2 PITCHES WITH 2 RIDGE LINE DIRECTIONS
 VIS BLE FROM THE FRONT;
 4.6.E.4.B. (MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; CANTILEVERED
 OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE)
 4.6.E.4.C. 8' DEEP PORCH SPANNING THE ENT RE WIDTH OF BUILDING; II EAVE
 OVERHANGS 12" V. PROJECT NG ENTRY FEATURE 8' COVERED PORCH; VII
 ARTICULATED WINDOW AND DOOR TRIM.
 4.6.E.5 ONE UNIT FACES THE STREET;





CITY OF KNOXVILLE ELECTRONIC DOCUMENT REVIEW

Home

All Tasks

Advanced Search

Log Out

Tasks Files Status Info Reports Discuss **Reviews**

IRC-NEW-25-0549: Dwelling - Townhouse, \$200000 , 1409 Triplex

Dept: ▼

Status: ▼

Response: ▼

Search:

Type: ▼

Cycle: ▼

Time: ▼

[Refresh](#)

	Ref.# 26	Planning Review Jake Beaumier 7/25/25 11:00 AM	Cycle 1	No response required.
	Info Only	This property is exempt from HP Overlay regulations per article 8.9.B.4 of the City of Knoxville zoning ordinance. "Lots that have been previously legally disturbed or developed would also be excepted provided that any new/additional disturbance does not exceed the previously-disturbed area."		
	Comment			
		Site Disturbance is documented in the 1959 historic aerial. If you have any questions, please contact Jake Beaumier with Knoxville-Knox County Planning. (865)215-3085 or jake.beaumier@knoxplanning.org		
	Ref.# 27	Planning Review Lindsay Lanois 7/29/25 1:17 PM	Cycle 1	No response required.
	Internal Only	Hi Engineering and/or Zoning, can you please confirm Lots 20 and 21 meet non-conforming lot of record requirements?		
	Comment			
	Ref.# 28	Planning Review Lindsay Lanois 7/29/25 1:27 PM	Cycle 1	Type your response here.
	Unresolved	Article 4.6.A: The building is described as a triplex. The application does not propose units that are stacked on top of each other and does not meet the intent of the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a DwellingTownhouse per article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A (definitions below for comparison).		
	Comment			
		<i>Responded by: MARLOW BUILDERS - 10/23/25 11:41 AM</i> TBD <i>Reviewer Response: Samiul Haque - 10/23/25 9:17 AM</i> Each review is specific to the case and site. The project, as presented, does not meet the intent of Middle Housing Standards and contradicts Article 4.6, 4.6.E.1, 4.6.E.4, and Article 4.6.G of the Zoning Ordinance. Staff's interpretation can be appealed in accordance with Article 4.6.G.3. <i>Responded by: MARLOW BUILDERS - 10/15/25 10:59 AM</i> OBJECTION. This plan is compliant with Art. 4.6 Middle Housing by determination of Knoxville-Knox County Planning Commission, 14 August 2025; 8-C-25-OB. <i>Responded by: MARLOW BUILDERS - 9/3/25 9:47 PM</i> This building does not meet the definition of a slot house. It features one unit (33% of the total) that fronts the street; the structure has a street facing porch, meets street facing transparency requirements; and it does not extend the full depth of the lot. The structure complies with all dimensional standards of a triplex (building depth, building height, and front/rear setbacks.). Moreover, Art. 4.6 definition of triplex does not require units to be stacked on top of each other. Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc <i>Reviewer Response: Samiul Haque - 8/28/25 9:52 AM</i> The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot. <i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.		
	Ref.# 29	Planning Review Lindsay Lanois 7/29/25 1:27 PM	Cycle 1	
	Resolved	Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.		
	Comment			
		<i>Reviewer Response: Samiul Haque - 8/28/25 9:53 AM</i> See Ref. # 28		

		<i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.			
	Ref.# 30	Planning Review	Lindsay Lanois	7/29/25 1:27 PM	Cycle 1
	Resolved	Article 4.6.C: Provide an actual front setback measurement, measuring from the front property line to the front building line.			
	Comment				
		<i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> See revised A101.			
	Ref.# 31	Planning Review	Lindsay Lanois	7/29/25 1:27 PM	Cycle 1
	Resolved	Article 4.6.E.4.b: recesses or projections in the building wall of any front or side elevation that exceeds a length of 50, which shall be at least 2 wide. Side elevations do not meet this requirement.			
	Comment				
		<i>Reviewer Response: Samiul Haque - 10/23/25 9:10 AM</i> An administrative variation has been approved in accordance with Article 4.6.G.1.iii. The removal of the faux chimney will contribute to a cohesive architectural design, while a reduction in setback encroachment will better align with the setbacks of neighboring buildings on the subject block face and the opposite block face across the street. <i>Responded by: MARLOW BUILDERS - 10/13/25 9:10 PM</i> Planning staff can approve a variation to eliminate the requirement in Section 4.6.E.4.b. based on the criteria in Article 4.6.G.1.iii. Section 4.6.E.4.b. Recesses or projections in the building wall are required in the horizontal plane of any front or side elevation that exceeds a length of 50 feet. Each recess or projection shall be at least two feet. Article 4.6.G.1.iii. Design standards: a variation on the design standards in Section 4.6.E may be permitted, provided the project meets all applicable dimensional standards of Section 4.6, and variation from the design standards is necessary to achieve a creative architectural design which is similar in scale with the buildings on the subject block face and the block face directly across the street. <i>Reviewer Response: Samiul Haque - 9/11/25 5:02 PM</i> This review comment will be resolved upon the Zoning and Building department's approval of the item. <i>Responded by: MARLOW BUILDERS - 9/3/25 5:05 PM</i> Gas appliances are venting out the chimney. Thus, the chimney meets the Art. 2 definition of a chimney and is therefore a permitted encroachment. See Revised A103. <i>Reviewer Response: Samiul Haque - 8/28/25 10:07 AM</i> The proposed wall projection encroaches into the minimum required side setback, which is not permitted. <i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> See revised A201 & revised A202.			
	Ref.# 32	Planning Review	Lindsay Lanois	7/29/25 1:27 PM	Cycle 1
	Resolved	Article 4.6.G: The application requests an administrative variation, reducing the required 5 interior side setback to 4. Administrative variations on side setbacks may only be granted if approved by Engineering.			
	Comment				
		<i>Responded by: MARLOW BUILDERS - 10/15/25 11:00 AM</i> This lot has no utility and drainage easements. Accordingly Engineering cannot object to reducing the U/D easements. Planning Staff therefore has no basis to deny the side setback reduction to 4'. <i>Reviewer Response: Samiul Haque - 9/11/25 5:05 PM</i> This review comment will be resolved upon the Engineering department's approval of the item. <i>Responded by: MARLOW BUILDERS - 9/3/25 4:54 PM</i> Approved by email from Chris Howley. See file 'Gmail - U&D Easement.pdf' in the document folder. <i>Responded by: MARLOW BUILDERS - 8/19/25 3:22 PM</i> Approved by email from Chris Howley. See Doc 'Gmail - U&D Easement.pdf' See also Doc 'Gmail - Platting - Fifth.pdf'			

	Ref.# 37	Planning Review Samiul Haque 8/28/25 10:10 AM	Cycle 2	No response required.
	Internal Only	Article 4.6.D (Parking Standards): The application includes no parking spaces. No spaces are required as the property is within a quarter mile of a transit route.		
	Comment			