

VARIANCE OR APPEAL APPLICATION



TOWN OF CHAPEL HILL
Planning & Development Services
405 Martin Luther King Jr. Blvd.
phone (919) 969-5066 fax (919) 969-2014
www.townofchapelhill.org

Parcel Identifier Number (PIN): 9798187419

Date: 3/31/2021

Section A: Project Information

Project Name: Tall Fence @ 758 Old Mill Rd
Property Address: 758 Old Mill Rd, Chapel Hill NC Zip Code: 27514
Existing Zoning District: R-LD1 -Greenwood Neighborhood Conservation District
Description of Request: Build a 8'-8'-6" tall wood fence with no gaps on our NE property line in order to buffer traffic sounds and block the sight of traffic and headlights from nearby 15/501 (Fordham Blvd)

Section B: Applicant, Owner, and/or Contract Purchaser Information

Applicant Information (to whom correspondence will be mailed):

Name: Traci D'Alessio
Address: 758 Old Mill Rd
City: Chapel Hill State: NC Zip Code: 27514
Phone: 513.543.5631 Email: tdalessio@mac.com

The undersigned applicant hereby certifies that, to the best of their knowledge and belief, all information supplied with this application is true and accurate.

Signature: [Signature] Date: 4.27.21

Owner/Contract Purchaser Information:

☒ Owner

☐ Contract Purchaser

Name: Traci D'Alessio
Address: 758 Old Mill Rd
City: Chapel Hill State: NC Zip Code: 27514
Phone: 513-543-5631 Email: tdalessio@mac.com

The undersigned applicant hereby certifies that, to the best of their knowledge and belief, all information supplied with this application is true and accurate.

Signature: [Signature] Date: 4.27.21



VARIANCE OR APPEAL APPLICATION SUBMITTAL REQUIREMENTS

TOWN OF CHAPEL HILL
Planning & Development Services

Variances and Appeals may be granted by the Board of Adjustment for dimensional regulations, water and sewer regulations, steep slope regulations, house size limitations, Resource Conservation District regulations, Jordan Buffer regulations, and Watershed Protection District regulations. The following must accompany your application. Failure to do so will result in your application being considered incomplete.

<input checked="" type="checkbox"/>	Application fee (refer to fee schedule)	Amount Paid \$	\$630
<input checked="" type="checkbox"/>	Digital Files – provide digital files of all plans and documents		
<input checked="" type="checkbox"/>	Mailing list of owners of property within 1,000 foot perimeter of subject property (see GIS notification tool)		
<input checked="" type="checkbox"/>	Mailing fee for above mailing list	Amount Paid \$	\$88.00
<input checked="" type="checkbox"/>	Written Narrative describing the proposal		
<input checked="" type="checkbox"/>	Statement of Justification – Respond to subsection 4.12.2(a)(1-4) of the Land Use Management Ordinance.		
<input checked="" type="checkbox"/>	Recorded Plat or Deed of Property (A request was made. See attached email from Allison Weakly)		
<input checked="" type="checkbox"/>	Stream Determination – necessary for all submittals		
N/A	Jurisdictional Wetland Determination – if applicable		
<input checked="" type="checkbox"/>	Reduced Site Plan Set (reduced to 8.5" x 11")		

Type of Variance or Appeal (Choose one of the following):

- ☒ Dimensional Variance ☐ Water and Sewer Variance ☐ Steep Slope Variance
- ☐ House Size Variance
- ☐ Resource Conservation District Variance
- ☐ Jordan Watershed Riparian Buffer Variance
- ☐ Watershed Protection District Variance
- ☐ Appeal

Standing: Explain to the Board how the applicant is an aggrieved party (NC General Statute Sec. 160A-388(b1)(1))

Statement of Justification: Provide justification for decision that is being appealed.



**VARIANCE OR APPEAL APPLICATION
SUBMITTAL REQUIREMENTS**
TOWN OF CHAPEL HILL
Planning & Development Services

Plan Sets (2 copies to be submitted no larger than 24" x 36")

Plans should be legible and clearly drawn. All plan set sheets should include the following:

- ✓ • Project Name
- ✓ • Legend
- ✓ • Labels
- ✓ • North Arrow (North oriented toward top of page)
- ✓ • Property Boundaries with bearing and distances
- ✓ • Scale (Engineering), denoted graphically and numerically
- ✓ • Setbacks
- N/A • Streams, RCD Boundary, Jordan Riparian Buffer Boundary, Floodplain, and Wetlands Boundary, where applicable

☒ X

Area Map

- a) Overlay Districts
- b) 1,000 foot notification boundary

☒ X

Detailed Site Plan

-Description of the Proposal
-Statement of Justification
responding to *subsection 4.12.2(a)(1-4)
Of the Land Use management Ordinance

April 27, 2021
Variance Request for a tall fence
@ 758 Old Mill Rd,
Chapel Hill NC. 27514

Dear Members of the Chapel Hill Board of Adjustments,

Description of the Proposal:

This variance request is for approval to build an 8'-8 ½' wooden fence, with no gaps on our NE property line in order to buffer traffic noise, block the sight of traffic, block the sight of the new traffic light and block the view of headlights from nearby 15/501 (Fordham Blvd). The variation in height is due to an effort to keep the top of the fence level which will better shield the headlights at night.

(1) What unnecessary hardship will result for us from carrying out the strict letter of the zoning ordinance:

The zoning ordinance does not allow a fence taller than 6' tall on the property line. The hardship would manifest in three ways:

- A 6' tall fence on the property line would not be tall enough to shield the view of traffic and headlights as they race along 15/501 from our kitchen, family room and courtyard nor be as effective at buffering the increasing road noises.
- Our "backyard" (the side yard) is open and accessible from our main living areas, the courtyard, kitchen and family room. The option that is allowed by ordinance is placing a taller than 6' fence on the side yard setback line, which in the Greenwood Neighborhood is at 20' from the property line. This would make our primary "backyard" yard, unusable and the fence extremely close to the house, restricting light and views of trees due to the unique design, siting, orientation and topography of our house and lot.
- The inability to buffer the sound and sight of the highway without negatively impacting essential characteristics of our house will ultimately affect our resale value and thus damaging home values of our neighbors.

(2) The unnecessary hardships result from the very unique design, location and topography of our home and property.

Our home is a mid-century modern house built in 1960 on the outer curve of Old Mill Road located in the eclectic Greenwood neighborhood. (Please refer to the neighborhood maps on pages E and F) Greenwood is characterized by a variety of large, wooded lots full of well-developed and lovely yards and an interesting mix of architectural styles. Most of the homes are located away from 15/501, protected by the topography, expanses of land and the layers of mature trees and vegetation. As noise and activity on 15/501 has increased in recent years, proximity to the throughfare has challenged the tranquility and character of the neighborhood.

Several factors work together to uniquely expose our house and living space to this noise and activity. The shape of our lot is an unusual, truncated pie shape and the house hugs the NE side of the property. The steeper grade on the NW side is the likely explanation for the tight spacing between the house and the property line on the NE side. (Please refer to the site plan on page C)

A major appeal of the home is the modern design that emphasizes incorporating outdoor spaces into indoor spaces. (Please refer to the floor plan on page D) It has an ambiguous front that is not parallel to Old Mill Road, but rather sits at a more solar friendly angle so that an interior courtyard

gets plenty of morning light and gradually gets shadier in the afternoon. The south and north elevations are mostly solid walls with tall narrow windows protecting these private bedroom spaces. The front door is tucked into the west side off of an entry patio and does not front Old Mill Road. The hillside on the west and north sides of the property have been terraced with retaining walls. The living room looks out to the face of a 4' retaining wall with another higher terrace beyond that.

This leaves the kitchen and family rooms wonderfully open to a lovely courtyard with floor to ceiling windows and sliding glass doors, integrating the indoor and outdoor spaces. The NE end of the courtyard is enclosed by a short (18") retaining wall and then one steps down into the "backyard" (side yard). Therefore, when there is a lot of noise and light from the highway, there is noise and light in the living space. In an ordinary house, this courtyard and yard would be a typical "backyard" living space.

Because of the downhill dip and rise of the hillside, the most public family living area of the home (illustrated on page F) is brought level with 15/501, which is easily visible and only about 380' away. An 8'-8 1/2' fence on the property line would shield this area. Moving the tall fence to the setback line would eliminate the views of trees, crowd the courtyard and generally make the "backyard" unusable.

The unusual design of the house, its' atypical siting on the property and the hillside topography all establishes conditions where strict application of the zoning ordinance would result in needless hardship damaging to the rare character of the home. An 8'-8 1/2' fence on our property line would still fulfill the intent of the zoning ordinances that ensure that neighborhoods and homes have room for trees, light, sunshine and space for recreation for us and our neighbors.

(3) These hardships are not the result from any actions that we have taken as property owners. They exist because of the unique nature of this property and the unusual proximity and exposure that this property has to 15/501.

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

By granting this variance, the resulting tall fence would not infringe on the right of our neighbors in any way. It provides protection from the noise and lights from 15/501 for us without crowding or towering over our neighbor's property. Due to the topography, trees, vegetation and location of the tall fence, it is invisible from Christopher Road and Old Mill Road.

The spirit, purpose, and intent of the ordinance to allow for trees, light and sunshine and provide space for outdoor recreation outside homes is improved by allowing the fence on the property line instead of forcing it to be on the setback line that would crowd the house.

The proposed fence is very far from any roads so that it will not be a hazard to car traffic or pedestrians.

Lastly, our house is the only house not located on Christopher Road that is so exposed to 15/501. (Please refer to Greenwood Neighborhood Plan, page E) There are no houses shielding our courtyard from the highway. The backyards of all the houses on Christopher Road face away from the highway providing protection for their backyards and family spaces. All the houses on Old Mill Road and Greenwood Road, have houses, land, topography, trees or distance to buffer and insulate them from the highway. Our home and property are closer than any other house not fronting Christopher Road and the unique design and orientation of our home leave us unprotected from traffic noise, the sight of the highway and especially the sight of headlights at night.

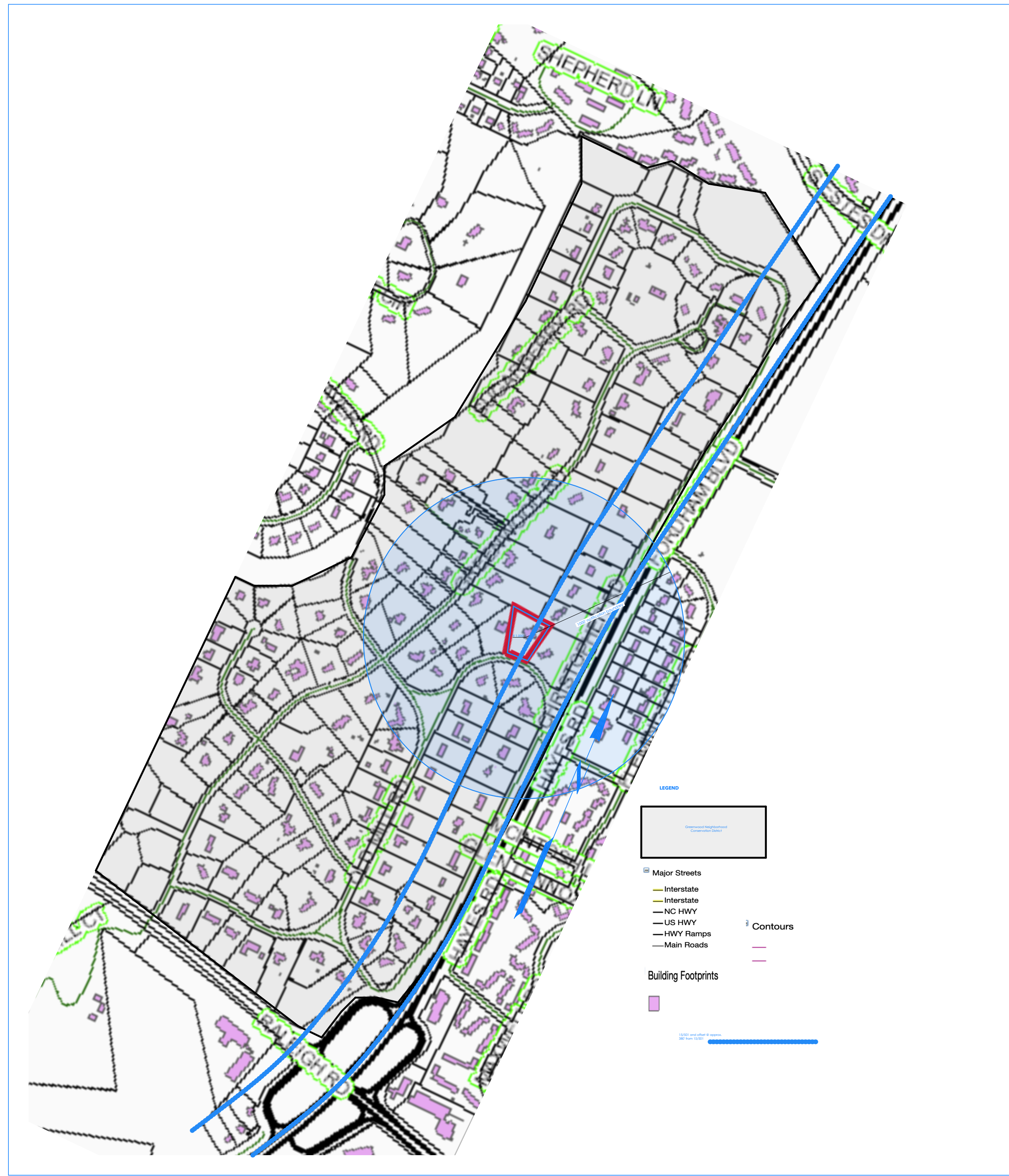
In closing, we hope that you will agree that granting this variance will not be contrary to the public interest, that the unusual design, siting and location of our property and house create special conditions that literal enforcement of the ordinance will result in unnecessary hardship. Also, that you'll recognize that granting the variance is consistent with the spirit of the ordinance that protects the wonderful character of Chapel Hill and our Greenwood neighborhood. Finally, that granting the variance provides for substantial justice, secures public safety by taking into account the unusual nature and position of our home.

Many Thanks,
Traci D'Alessio
Owner | 758 Old Mill Rd
Chapel Hill, NC. 27514
513.543.5631

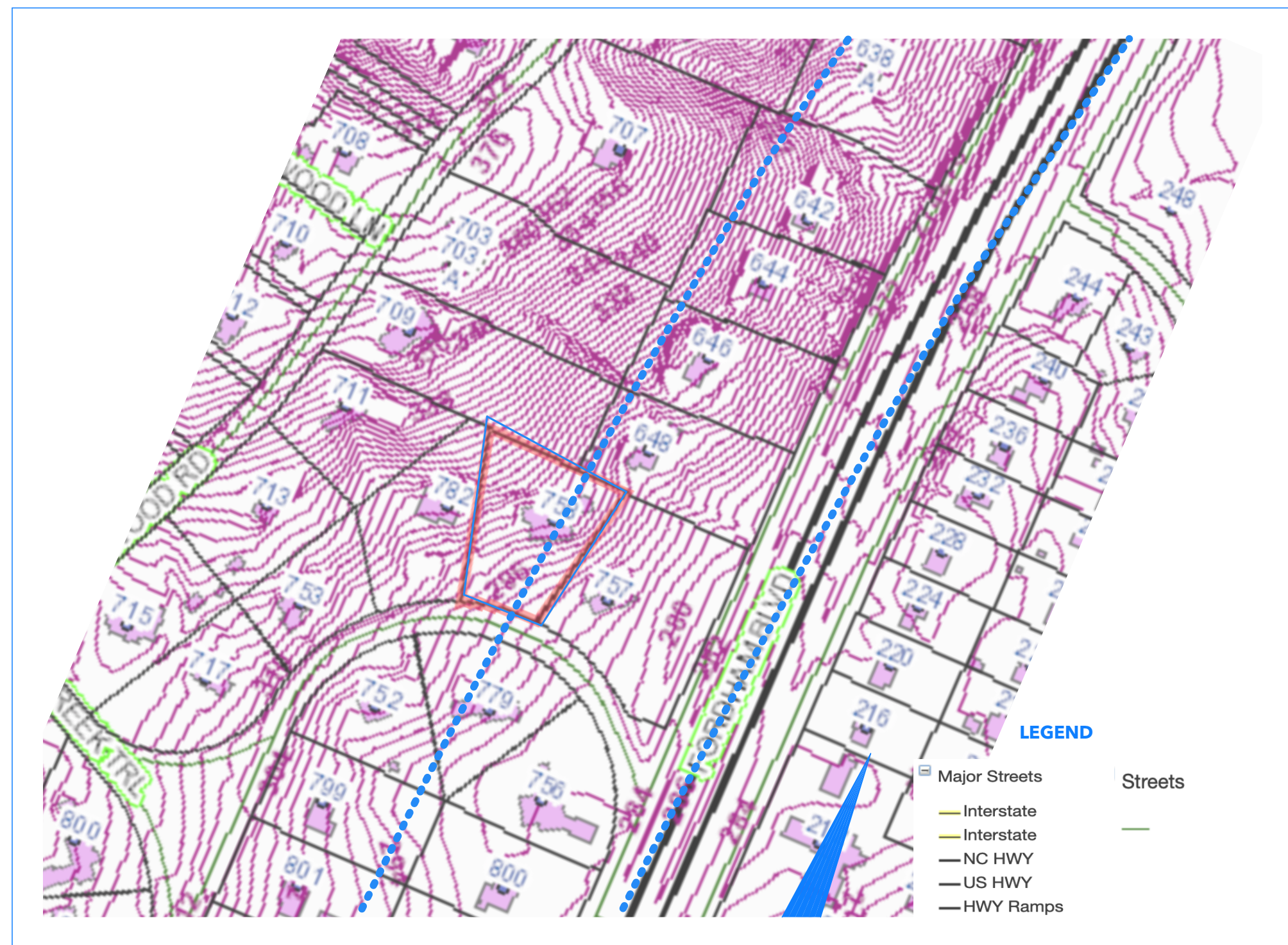
* Land Use Management Ordinance,
subsection 4.12.2(a)(1-4)

4.12.2 Variances.

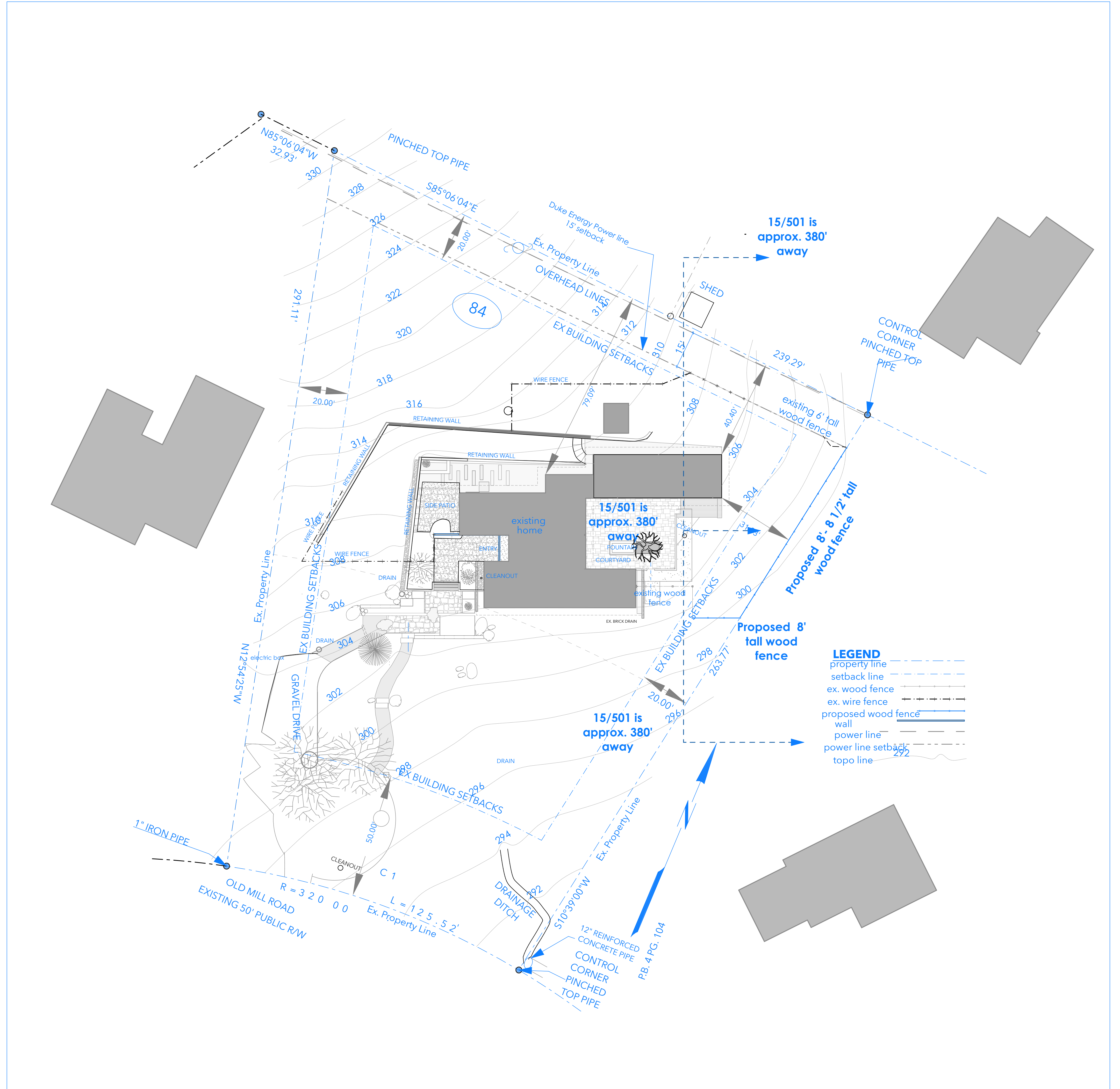
- (a) When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance so that provisions of the ordinance upon a showing of all of the following:
- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.



1 A Greenwood Neighborhood Map
SCALE: 1" = 500'



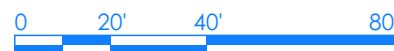
2 A Neighborhood Topography Map
SCALE: 1" = 200'

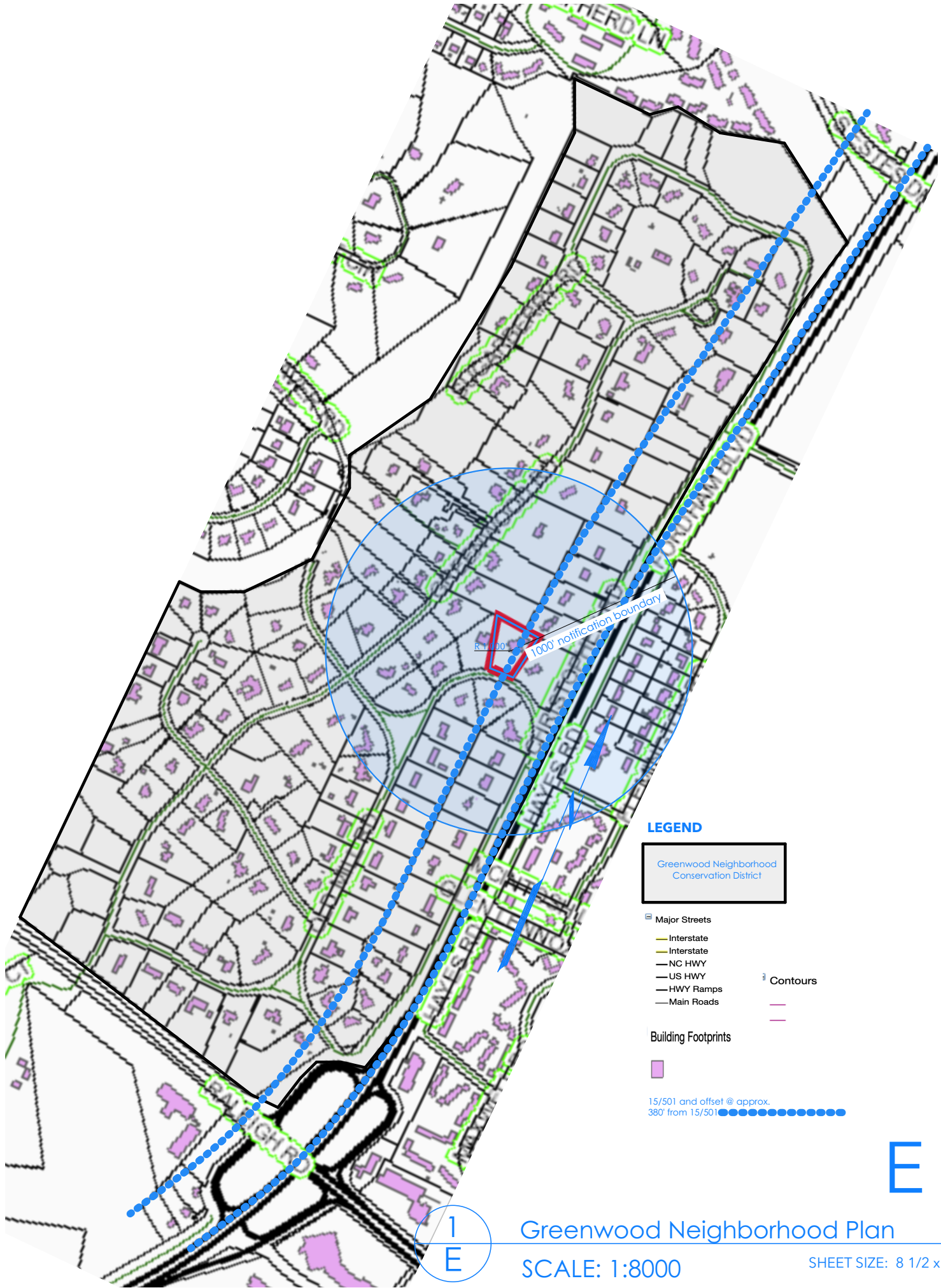


3 A Site Plan @ 758 Old Mill Rd
SCALE: 1" = 20'

Tall Fence @ 758 Old Mill Road, Chapel Hill NC 27514

A





LEGEND



Major Streets

- Interstate
- Interstate
- NC HWY
- US HWY
- HWY Ramps
- Main Roads

Contours

Building Footprints



15/501 and offset @ approx.
380' from 15/501

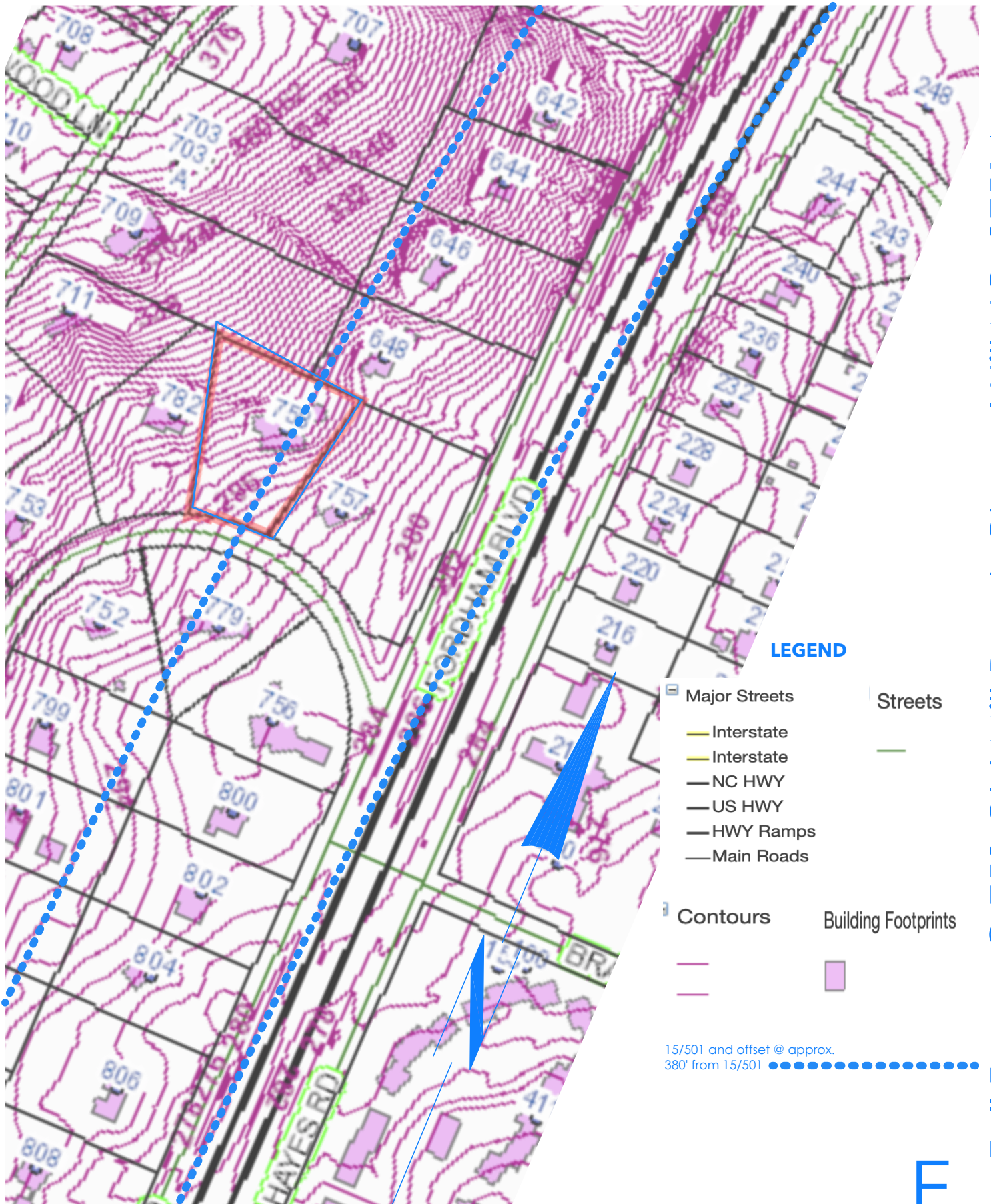
Tall Fence @ 758 Old Mill Road, Chapel Hill NC 27514

E

Greenwood Neighborhood Plan

SCALE: 1:8000

SHEET SIZE: 8 1/2 x 11



Tall Fence @ 758 Old Mill Road, Chapel Hill NC 27514

F

1
F

Greenwood Topography

SCALE: 1" = 200'

SHEET SIZE: 8 1/2 x 11





Front Elevation of 758 Old Mill Road-
Proposed fence would be invisible from the
road behind trees and vegetation



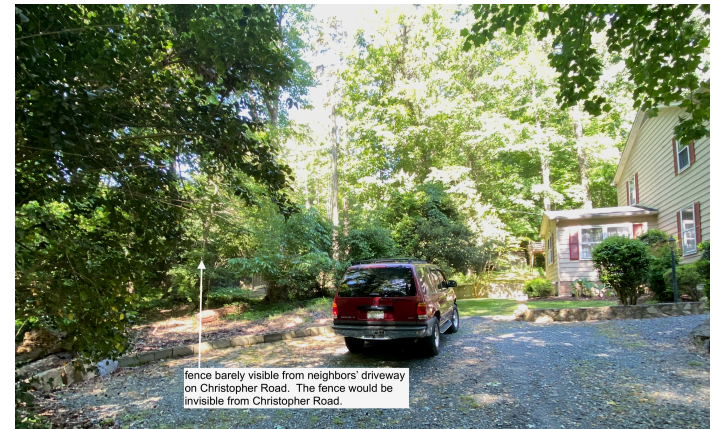
Elevation of neighbors house on Old
Mill Road-Proposed fence would be
invisible from the road behind trees
and vegetation



Fence barely visible from neighbors
patio behind trees and vegetation



8' wood fence constructed of 4x6 posts
with 1x6 fencing capped with 2x4,
stained



fence barely visible from neighbors' driveway
on Christopher Road. The fence would be
invisible from Christopher Road.

Tall Fence @ 758 Old Mill Rd,

34
ML



20140430000070750 DEED
Bk:RB5783 Pg:101
04/30/2014 03:09:03 PM 1/2

ML

FILED Deborah B. Brooks
Register of Deeds, Orange Co., NC
Recording Fee: \$26.00
NC Real Estate TX: \$800.00

DB

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$800.00

Parcel Identifier No. 9798-18-7419 Verified by fvb County on the ____ day of ____, 20__
By: _____

This instrument was prepared by: **BAGWELL HOLT SMITH P.A.**

Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

Grantee's address (return to): **758 Old Mill Road, Chapel Hill, NC 27514**

THIS DEED is made this 18th day of April, 2014, by and between

GRANTOR	GRANTEE
KARIN C. MILLETT and husband, GENE ELLIS	DAVID D'ALESSIO and wife, TRACI D'ALESSIO 758 Old Mill Road Chapel Hill, NC 27514

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the **Orange County**, North Carolina and more particularly described as follows:


BEING all of Lot 84, GREENWOOD DEVELOPMENT Subdivision, as shown on the plat recorded at Plat Book 4, Page 104, Orange County Registry, to which plat reference is hereby made for a more particular description.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

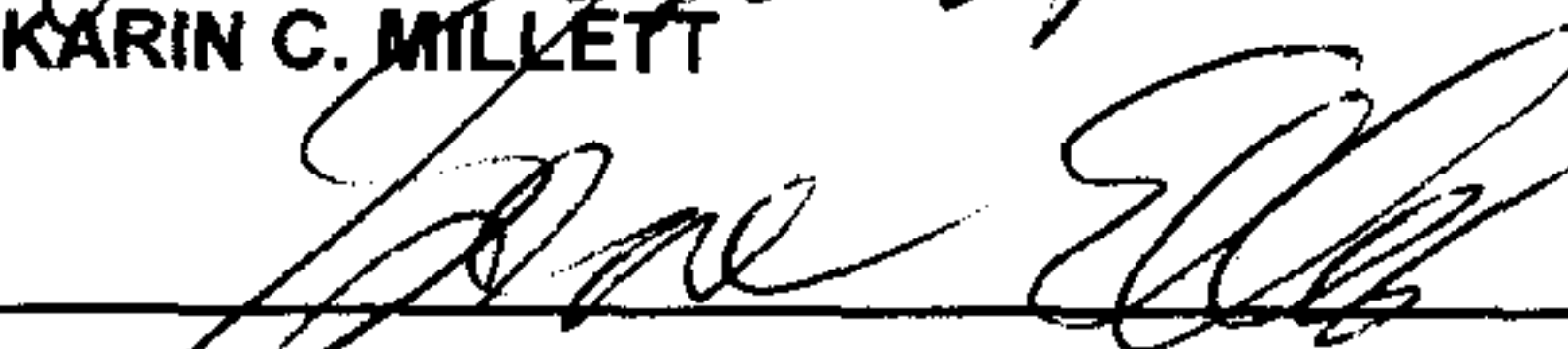


And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims, excepting ad valorem taxes for the current year, restrictive covenants of record affecting the property, utility easements and rights of way of record, of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.


_____(SEAL)
KARIN C. MILLETT

Address: 3571 HAMLET PLACE
CHEVY CHASE, MD 20815



_____(SEAL)
GENE ELLIS

Address: 3571 Hamlet Place
Chevy Chase MD 20815

_____(SEAL)

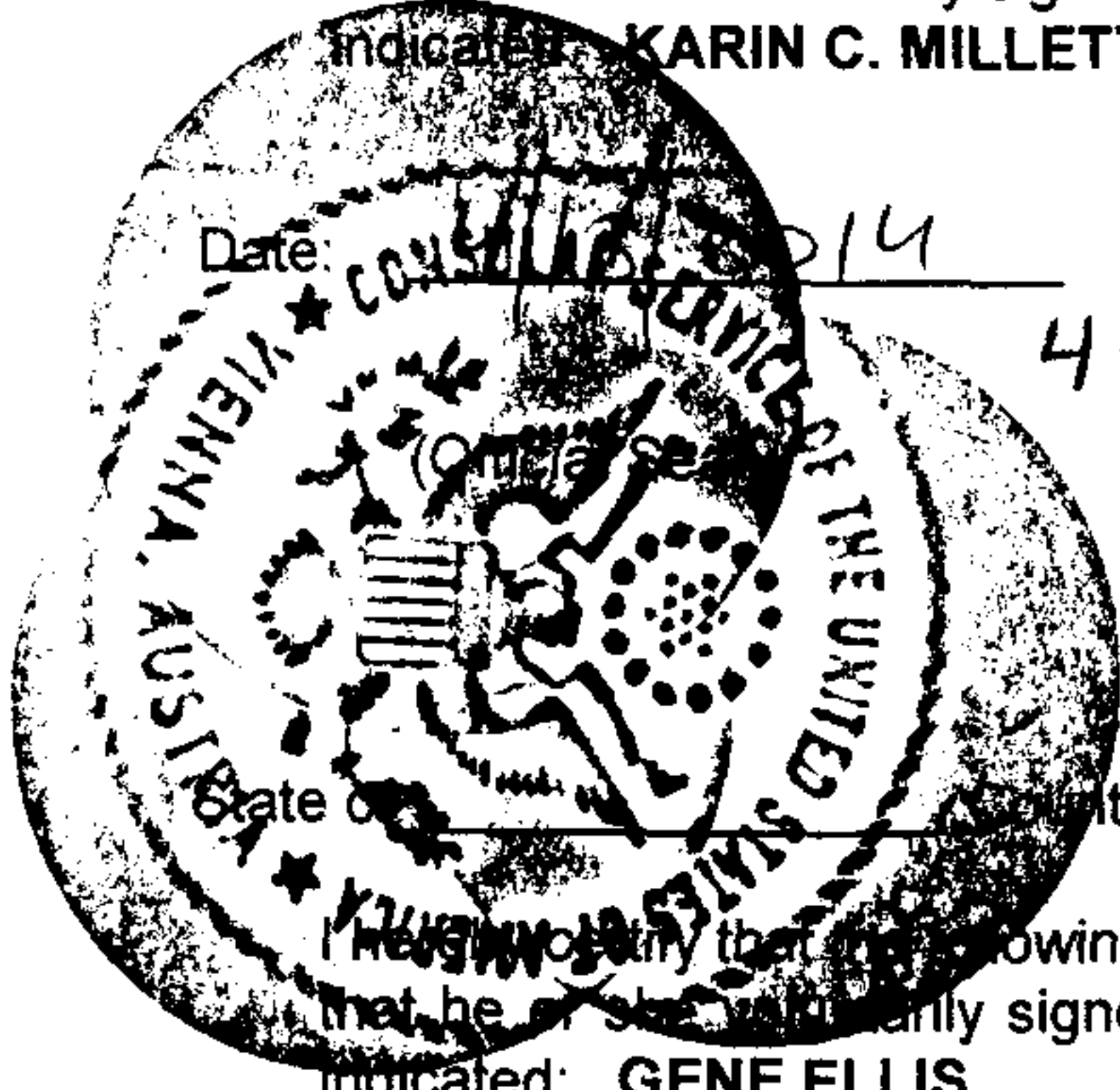
Address: _____

Pursuant to N.C.G.S. §105-317.2, the Seller/Grantor states as follows:

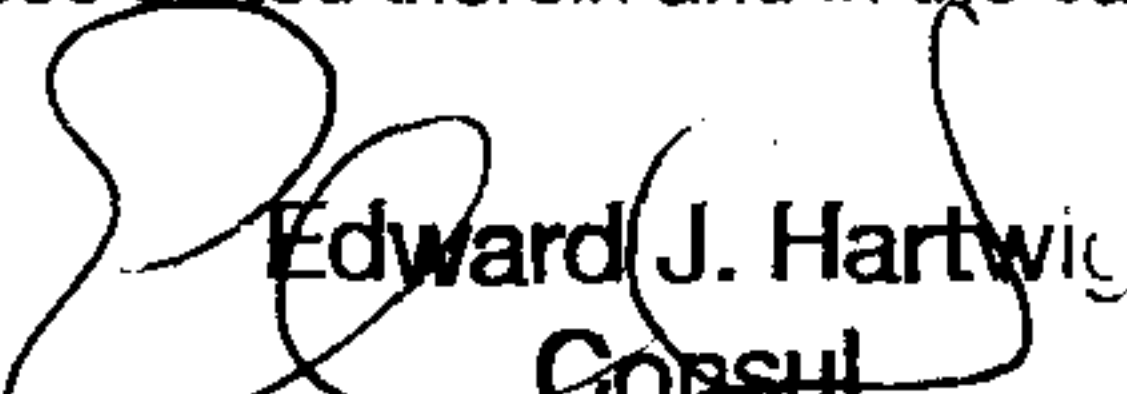
The property conveyed herein _____ includes ✓  does not include (initial one) the primary residence of one or more of the Grantors. Each Grantor's address is provided above.

State of _____, County of _____ }
REPUBLIC OF AUSTRIA
CITY OF VIENNA
EMBASSY OF THE
UNITED STATES OF AMERICA } SS

I hereby certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: KARIN C. MILLETT



Date: 4-18-14

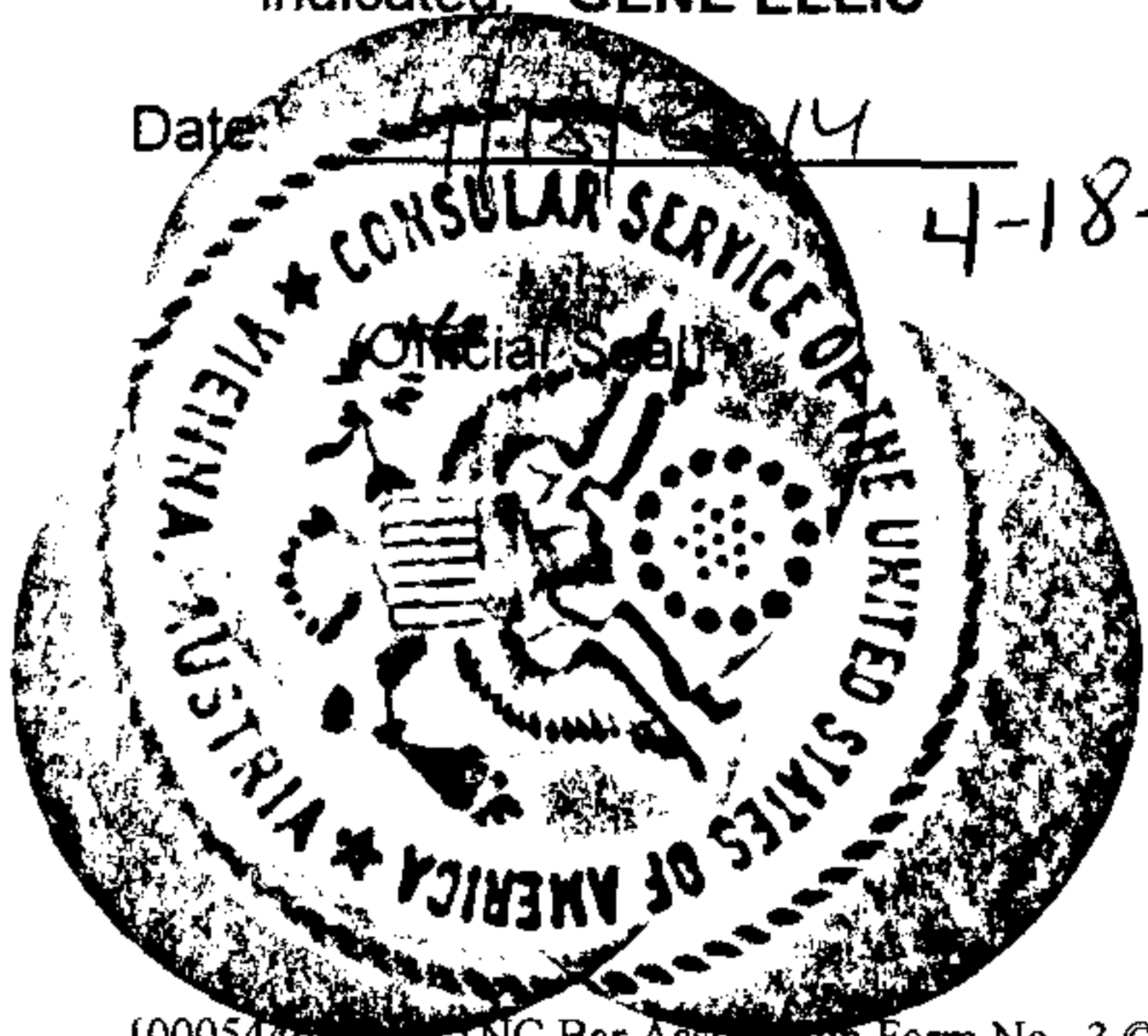


Notary Public

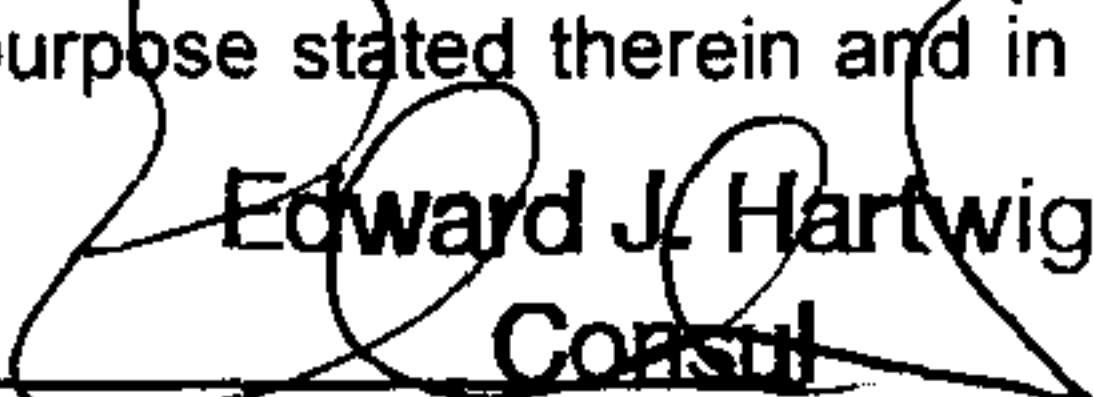
Printed Name of Notary Public: indefinite
My commission expires: _____

State of _____, County of _____ }
REPUBLIC OF AUSTRIA
CITY OF VIENNA
EMBASSY OF THE
UNITED STATES OF AMERICA } SS

I hereby certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: GENE ELLIS



Date: 4-18-14



Notary Public

Printed Name of Notary Public: indefinite
My commission expires: _____