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October 23, 2019

Hand delivered to Jon Barrett City of Ann Arbor Zoning Coordinator this date:

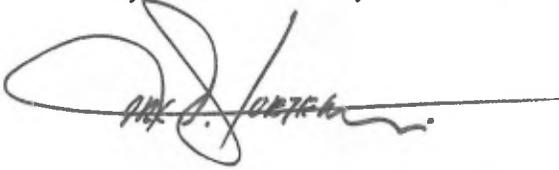
To City of Ann Arbor Zoning Board of Appeals

Dear Zoning Board of Appeals Members:

Having only received this petition when it was issued last Friday (10/18) afternoon I looked into this request and have attached my comments and some sketches to this letter for your careful review and consideration at the hearing this evening. I have been the owner of the adjacent property for the past 28 years and have observed this property and the surrounding street frontage of Franklin Blvd. from my desk every day in that time period.

This request for variance and the subsequent change of use need to be carefully look at as to their impact beyond the current petitioner's appeal. A ZBA variance is about the property and not the petitioner and its impact on the surrounding neighborhood, as well as, the members of the community at large. So please look at my comments in that light.

I thank you in advance for your kind and careful attention to this matter before you tonight.

A handwritten signature in black ink, appearing to read 'Carl O. Hueter', with a long horizontal line extending to the right.

Carl O. Hueter AIA

Architect

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## ZBA variance petition ZBA19-030: Ann Arbor Zoning Board of Appeals meeting: October 23, 2019

This is a variance of **92%** of the legally required onsite parking required to **allow this change in use** on this property as governed by the Ann Arbor Unified Development Code (AA UDC).

This issue is not about this variance petitioner, the variance requested is going to the property. It is about how this significant reduction in the legally required onsite parking will affect the public safety and the surrounding residential neighborhood while increasing the allowable use to the most intense development of this site.

There are a number of these small office zoned parcels in or immediately adjacent to residential neighborhoods in the city, so this condition is not unique.

**Request for denial arguments:** To the documents submitted by the petitioner:

A)

1<sup>st</sup> P: Incorrectly states **beauty salons** are the only permitted **personal services** allowed in an Office zoning district. Under definitions in the AA UDC there are 11 other allowed personal services listed, some generic in nature to incorporate many more specific uses.

2<sup>nd</sup> P: The existing driveway parking area can only legally accommodate the one required barrier free parking space as shown on the attached site plan. At best only three complaint parking spaces can be placed on this site. (See other attached sketch.)

3<sup>rd</sup> P: In the Office zoning district **personal services** uses are recognized as generating the highest office use volumes and so have a greater number of parking spaces associated with their use type, per respected nationally recognized land planning professionals and research, and as such, accepted and incorporated into the AA UDC.

The use does not fit this small site. There seems to be some thought that since a **beauty salon** use is an allowable use in an Office zoned parcel then **"by right"** that use must be accepted if proposed. **"By right"** is only if the parcel satisfies all of the legally mandated requirements of the zoning district under the AA UDC, and parking is one of those requirements. There is no compelling reason to allow this variance to open this site up to the maximum intensity of uses.

B)

False: There is an existing hair salon / barber shop on the market in a soft sell in the West Stadium Plaza six blocks from this property. Financial hardship is not a recognized practical difficulty used for a defense in variance proceedings.

Falsely claimed, as the AA UDC recognizes that **personal services** is a higher intensity use than the previous medical use. I have not found the noted existing variance in the city records. Does this variance exist or is this statement untrue?

C)

1<sup>st</sup> P: This is not about the petitioner and their good reputation. The variance being requested "runs with the land" in perpetuity. Protections for this residential neighborhood and public safety provided in the AA UDC are meant to extend into the future ownerships of this parcel. Subsequently the issue is not about the existing petitioner and their use, but what can happen to the uses of this property and the detrimental affect it could have on the residential neighborhood if one of the other 47 allowed uses should move onto this site without having to provide adequate required parking. The existing building can accommodate up to 10 persons by code on site, and for example, an accounting firm of this size can generate up to 16-20 vehicle trips per hour, and could be in business days, nights and weekends during tax season thereby have 16+ vehicles parked along Franklin Blvd. at all hours of the day.

2<sup>nd</sup> P: See above. The Ann Arbor parking code and national planning experts recognize a **beauty salon** use as having the potential of generating three times the need for parking as the previous medical uses. The previous use was not non-conforming, but allowable under the office zoning.

3<sup>rd</sup> P: There is no development agreement to assure that the hours will not change or fix the number of clients being served after this variance is granted.

4<sup>th</sup> P: See above

D)

False, the petitioner (a real estate attorney) failed to do their due diligence in purchasing the property. The AA UDC is very clearly written. If they had spoken to AA Planning staff or hired a professional expert in these matters they would have walked them through the issues associated with this particular property prior to purchase. They mentioned they contacted the city, what staff person did they talk to? Was their question generic or specific to all the issues with this site? Relying on a seller for information should fall under any prudent purchasers "buyer beware" radar. Failing to do due diligence is not a practical difficulty and hardship, because it is unfortunately self-imposed. Lack of knowledge of the law does not relieve one of the responsibility to obey the law.

Most commercial real estate transactions I deal with have contingencies attached to the purchase to satisfy prior to purchase, one of those priority contingencies is, receiving site plan approval or zoning compliance from the local municipality before the sale can be completed. This is a standard of practice for most commercial real estate dealings.

E)

1<sup>st</sup> P: False; there are not 4 compliant parking spaces on this site, only one, and that one needs to be reserved for barrier free parking only. So the 95% non-disabled clientele will need to utilize on street parking to serve this business. In inclement weather and a host of other scenarios, how are the owner and staff not going to be driving to the site and parking on the street?

**Public Safety issues:**

- 1) Although called out as a 25 MPH speed limit zone, Franklin Blvd. has excessive traffic speed from persons coming east off of Stadium at the convenient easy angled exit route at speed in excess of 40+ MPH. To such an extent the AA Police Department does two to three speed enforcement events along this frontage each year.
- 2) In the morning and evening rush hours up to 10 vehicles can be stacked along Franklin Blvd, trying to exit out on to westbound West Stadium to avoid the Seventh and Stadium traffic signal.
- 3) During the winter the slight incline up to the West Stadium intersection in front of this property becomes iced at least four or five times such that no vehicles can get up this hill until street maintenance crews come out to deal with the problem. This takes 2 to 8 hours once a call is placed into them for corrective action.
- 4) There is an AATA bus stop at this property which compounds the traffic problems, blocking views and constricting traffic flow.
- 5) Vehicles exiting the property of 1323-25 and 1319-21 need to back out onto Franklin against the above noted traffic issues. Someone unfamiliar with these conditions is being placed in harm's way with this unfamiliarity as demonstrated by the number of accidents seen over the past 28 years by this citizen.
- 6) If vehicles are parked either side of this shared drive vision to the rear is seriously hampered as one has to drive further into the path of the street traffic to see clearly to exit the drive.
- 7) Four times I have seen distracted drivers back up from this drive and while intent on watching the cross traffic back into the side of a vehicle parked across the street from the drive.

I hereby urge the Ann Arbor Zoning Board of Appeals deny this application for variance requesting a 92% relief in the legally required onsite parking requirement for this property at 1323-1325 Franklin Blvd., as the petitioner has failed to show hardship and practical difficulty not self-imposed and the change in use allowed will open the opportunity for the increase in the intensity for future uses incompatible with this location having a detrimental impact on the character of this residential neighborhood as it will allow higher traffic usage to occur with future owners and impose a public safety issue along this highly trafficked section of Franklin Blvd.

Respectfully submitted by,

Carl O. Hueter, AIA, 1321 Franklin Blvd., Ann Arbor, Michigan 48103

1410 FRANKLIN BLVD.  
ZONED: R2D

SITE PLAN @ 1" = 20'-0"  
ZBA19-030  
EXHIBIT PREPARED  
FOR PUBLIC HEARING  
10.13.2019

R2D ZONED NEIGHBORHOOD

PARKING (80' R.O.W.)

PARKING

PARKING

PARKING

1321 FRANKLIN BLVD  
ZONED: O

OVERHD PTE SERVICE  
TO 1321-1319

ONE LEGAL PARKING SPACE  
MUST COMPLY W/ MICHIGAN  
BARRIER FREE

910 WEST STADIUM  
ZONED: R2A

OVERHD. PTE SERVICE

15' LANDSCAPE BUFFER

UTILITY POLE

UTILITY POLE

PAVER

PAVER

1325-1326 FRANKLIN BLVD.  
ZONED: O

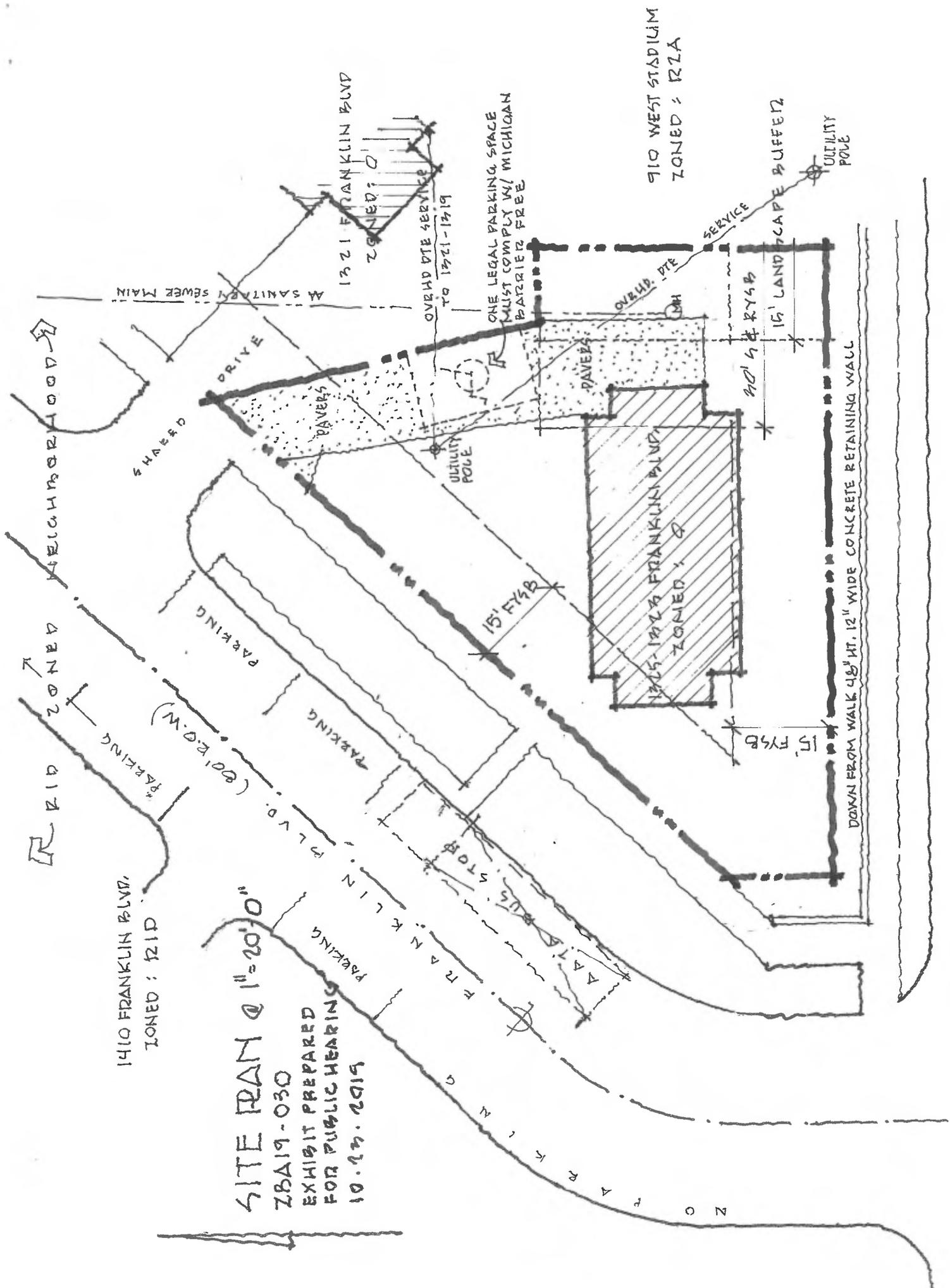
15' FYSB

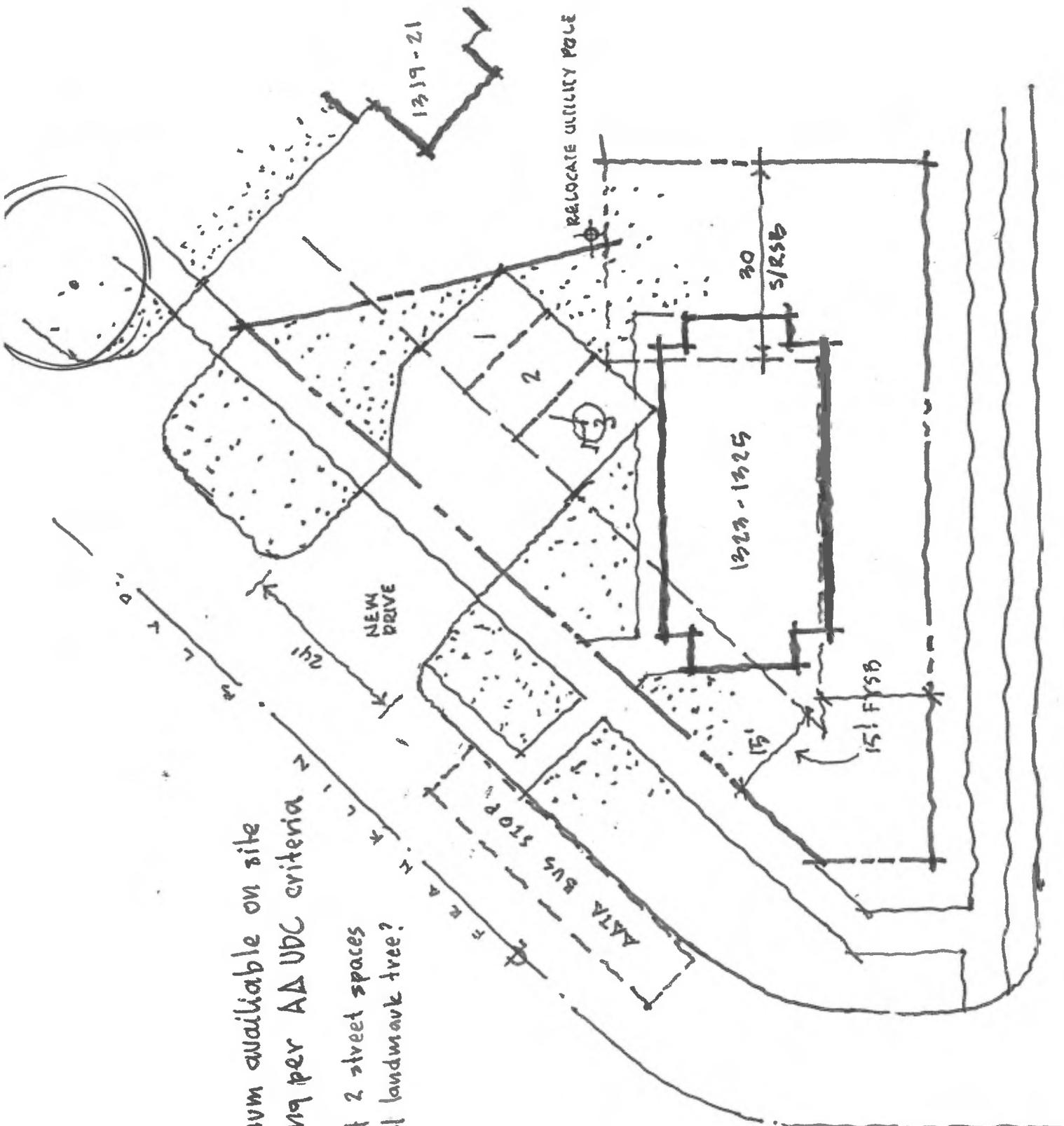
15' FYSB

20' 4" FYSB

DOWN FROM WALK 48" HT. 12" WIDE CONCRETE RETAINING WALL

STADIUM AS L.Y.D. (80' R.O.W.)





maximum available on site  
 parking per AA UDC criteria

- loss of 2 street spaces
- loss of landmark tree?