

**Zoning Board of Appeals  
September 28, 2011 Regular Meeting**

**STAFF REPORT**

**Subject:** ZBA11-015, 703-705 N. Fifth

**Summary:** Tom Fitzsimmons is requesting one variance from Chapter 47 (Streets), Section 4:20(2):

1. A variance to allow a total of two curb cuts, 1 curb cut is permitted.

**Standards for Approval - Chapter 47 (Streets) Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power, from the City of Ann Arbor Zoning Ordinance and Chapter 47(Streets), Section 4:20(9). The following criteria shall apply:

***The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter***

**Description and Discussion:**

The parcel is located on N. Fifth Avenue between Summit and Beakes. A residential duplex is currently under construction on the site. The petitioner is requesting two 10 foot wide curb cuts in order to allow each unit to have a separate driveway accessed directly to North Fifth Avenue. According to Chapter 47, a maximum of one curb cut is allowed for parcels with less than 100 feet of street frontage. The subject parcel has 66 feet of frontage. The petitioner is approved for one curb cut 24 feet wide that would separate (see plan drawings) on private property to two separate driveways. The curb cut as approved requires turning movements once the drive is on private property. Allowing two parallel curb cuts will permit straight access from the street to drive. If the variance is approved, the total width of the curb cut onto a public street will be reduced from 24 feet to a total 20 feet for two curb cuts. While the two separate curb cuts may increase the safety of residents backing out of the drives, Engineering staff has examined the variance application and expressed some concern regarding adding another potential conflict point given the number of drives in the vicinity.

Respectfully submitted,





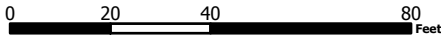
**Matthew J. Kowalski, AICP  
City Planner**

**703-705 N Fifth Ave  
-Aerial Map-**



**Map Legend**

-  Railroads
-  Parcel Property



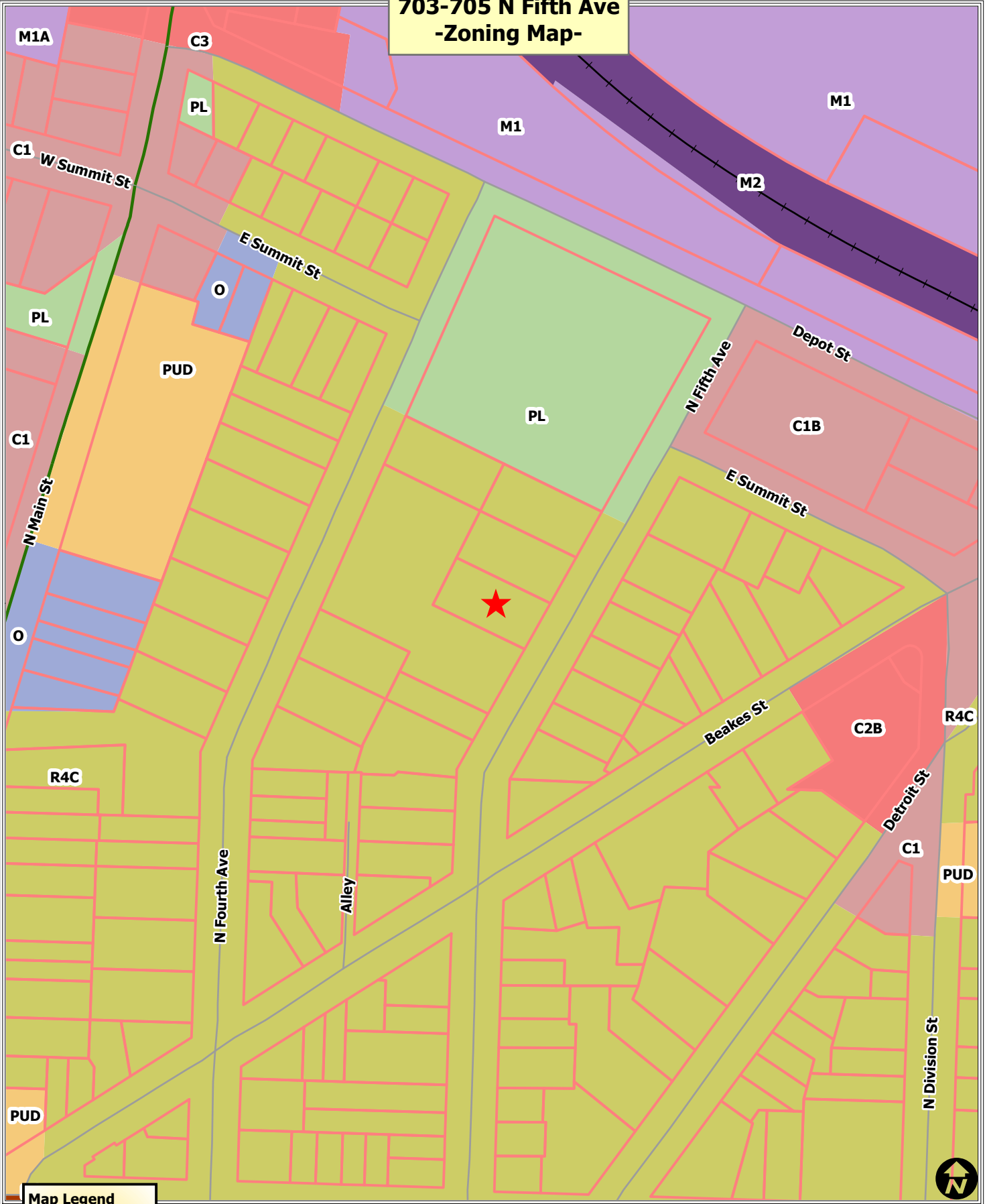
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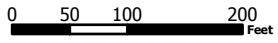
Map Created: 9/20/2011

# 703-705 N Fifth Ave -Zoning Map-



**Map Legend**

- Railroads
- Parcel Property



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Map Created: 9/20/2011



**APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE**  
**ZONING BOARD OF APPEALS**

**Section 1: Applicant Information**

Name of Applicant: TOM FITZSIMMONS  
Address of Applicant: 608 N. MAIN, ANN ARBOR  
Daytime Phone: 734-320-9680  
Fax: \_\_\_\_\_  
Email: THOMASR.FITZSIMMONS@COMCAST.NET  
Applicant's Relationship to Property: BUILDER

**Section 2: Property Information**

Address of Property: 703-705 N. FIFTH AVE  
Zoning Classification: RAC  
Tax ID# (if known): \_\_\_\_\_  
\*Name of Property Owner: CHEYL + ROBERT CATON / DEBORAH + MARC KENNER  
\*If different than applicant, a letter of authorization from the property owner must be provided.

**Section 3: Request Information**

Variance

Chapter(s) and Section(s) from which a variance is requested:	Required dimension:	PROPOSED dimension:
<u>CHAPTER 47 SECTION 4:20</u>	<u>ALLOWED</u>	<u>REQUESTED</u>
<u>CURB CUTS</u>	<u>ONE (1)</u>	<u>TWO (2)</u>
<small>Example: Chapter 55, Section 5:26</small>	<small>Example: 40' front setback</small>	<small>Example: 32'</small>

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)  
SEE ATTACHED

**Section 4: VARIANCE REQUEST (if not applying for a variance, skip to section 5)**

- SEE ATTACHED FOR CHAPTER 47 VARIANCE -

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when ALL of the following is found TRUE. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)

Variance Request under Chapter 47, 4:20 (9),  
Curb Cuts and Driveway Approaches:

***Variance and exceptions.* The Zoning Board of Appeals shall have the authority to interpret this chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this chapter providing such variance or exception is in harmony with the general purpose and intent of this chapter.**

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Whereas the project for a newly constructed duplex at 703-705 N. Fifth Avenue, Ann Arbor, MI has received approval for construction of a single 24' wide curb cut, the petitioner requests permission to construct two (2) 10' wide curb cuts as an alternative to serve this property. The reasons are as follows:

1. Two curb cuts will allow us to align the curb cuts, drive approach, and driveway in such a way as to :
  - a. Reduce the total amount of curb cut being requested (20' total) instead of 24'
  - b. Reduce the amount of impervious surface (driveway) needed for turning and maneuvering on site
  - c. Increase safety both for the property owners backing cars out onto North Fifth Ave as well as pedestrians and vehicles using North Fifth, due to reducing the angle of maneuvering necessary when backing out onto North Fifth Ave.
2. We will be able to re-use an existing curb cut, instead of removing and hauling away as waste
3. We will not have to re-cast the storm grate in the curb to work with the new curb cut
4. The two (2) curb cuts will be able to meet the City engineering standard of having to be at least nine (9) feet apart

**1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?**

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**2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)** \_\_\_\_\_

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**3. What effect will granting the variance have on the neighboring properties?** \_\_\_\_\_

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**4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?**

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**5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?**

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### **Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE**

Current use of the property \_\_\_\_\_

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

- (1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:
  - a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
  - b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3, or R4 district.
  - c. The structure is considered non-conforming due to the following reasons

(continued . . . . .)

Existing Condition

Code Requirement

Lot area \_\_\_\_\_  
Lot width \_\_\_\_\_  
Floor area ratio \_\_\_\_\_  
Open space ratio \_\_\_\_\_  
Setbacks \_\_\_\_\_  
Parking \_\_\_\_\_  
Landscaping \_\_\_\_\_  
Other \_\_\_\_\_

Describe the proposed alterations and state why you are requesting this approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section 6: Required Materials**

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on **8 ½" by 11" sheets.** (Continued.....)


- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

**Section 7: Acknowledgement**

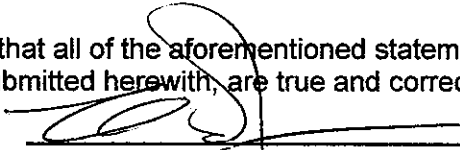
**SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC**

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

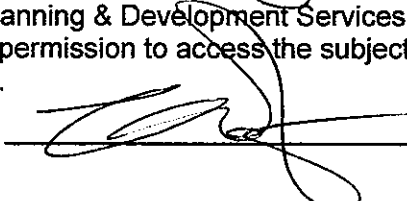
734-320-9680  
 Phone Number  
THOMAS R FITZSIMMONS  
 Email Address CONCAST.HER

  
 Signature  
TOM FITZSIMMONS  
 Print Name

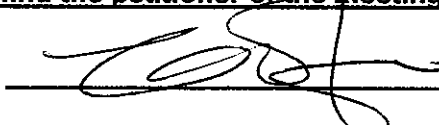
I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

  
 Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

  
 Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**

  
 Signature

On this 23 day of August, 2011, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

JOAN C. HENDRICKS  
 Notary Public, State of Michigan  
 County of Washtenaw

  
 Notary Public Signature

Feb 5, 2013 My Commission Expires Feb. 5, 2013  
 Notary Commission Expiration Date Acting in the County of Washtenaw

Joan C. Hendricks  
 Print Name

**Staff Use Only**

Date Submitted: \_\_\_\_\_

Fee Paid: \_\_\_\_\_

File No.: \_\_\_\_\_

Date of Public Hearing \_\_\_\_\_

Pre-filing Staff Reviewer & Date \_\_\_\_\_

ZBA Action: \_\_\_\_\_

Pre-Filing Review: \_\_\_\_\_

Staff Reviewer & Date: \_\_\_\_\_



**Letter of Authorization to submit Application for Variance-Zoning Board of Appeals  
and/or appear before board**

By signing below I/We, as owner(s) of 703 N. FIFTH AVE  
Ann Arbor, MI do hereby allow Thomas R. Fitzsimmons to submit an application for a variance -Zoning  
Board of Appeals and/or appear before the board on our behalf.

Cheryl L. Cotton  
Cheryl L. Cotton

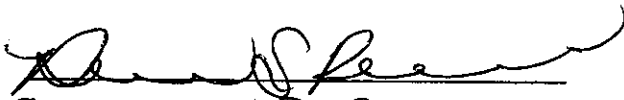
8/18/11  
Date

Robert A. Cotton  
Robert A. Cotton

8/18/11  
Date


**Letter of Authorization to submit Application for Variance-Zoning Board of Appeals  
and/or appear before board**

By signing below I/We, as owner(s) of 705 N. FIFTH AVE,  
Ann Arbor, MI do hereby allow Thomas R. Fitzsimmons to submit an application for a variance -Zoning  
Board of Appeals and/or appear before the board on our behalf.

  
Deborah S. Renner

8/17/11

Date

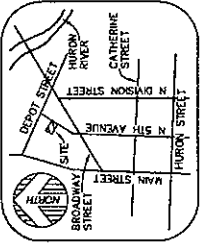
  
Marc B. Renner

8-17-11

Date

# TOPOGRAPHIC SURVEY

- PRIOR TO CONSTRUCTION -



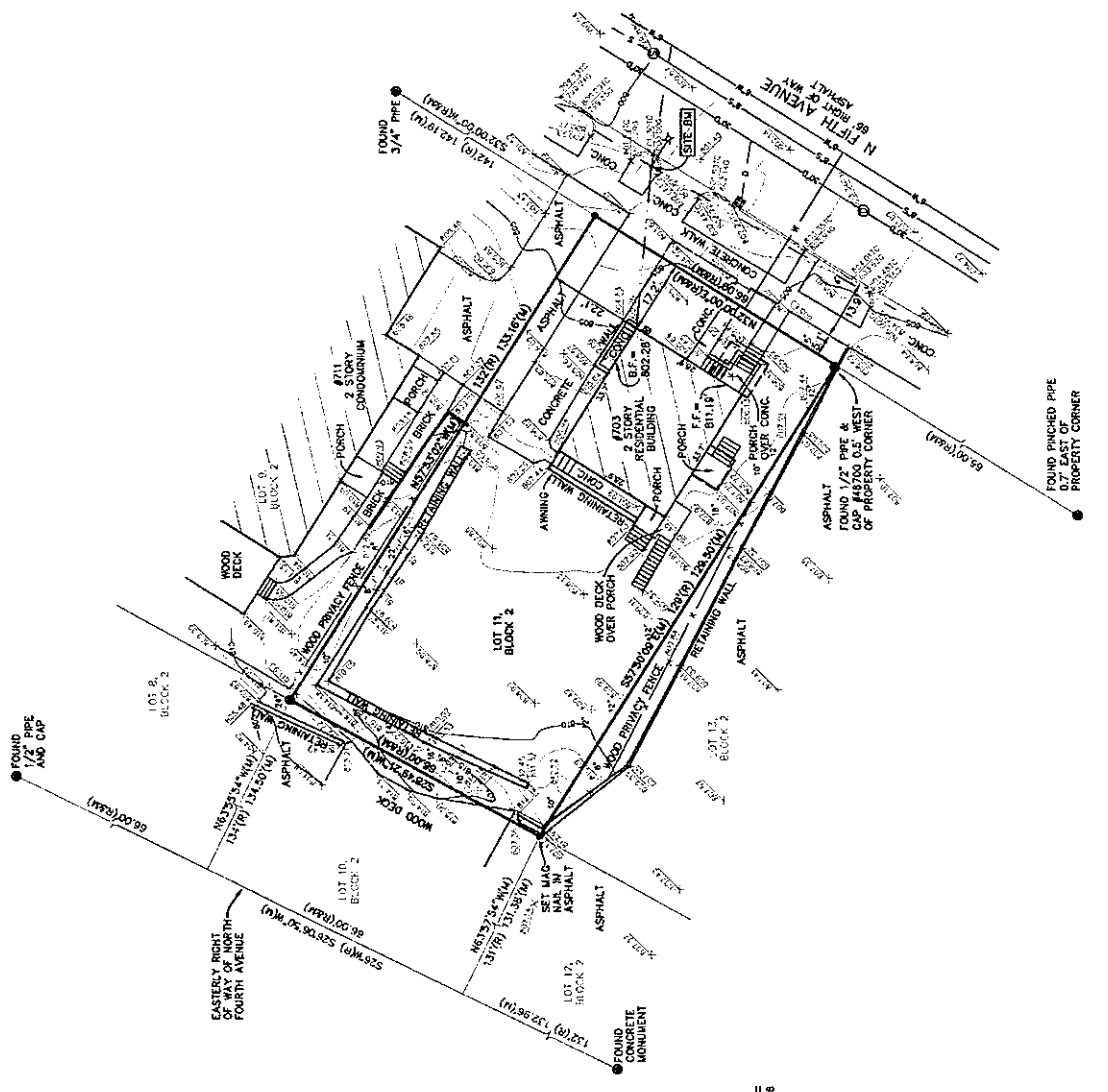
**PARCEL AREA**  
6,880.2 SQUARE FEET = 0.15943 ACRES

**BASIS OF BEARING**  
NORTH 37°00' EAST BEING THE WESTERY BERTH OF THE EAST MAIN STREET RIGHT OF WAY OF DEEDS, PAGES 181 AND 192, WASHTENAW COUNTY RECORDS.

**BENCHMARK**  
MASTER BENCHMARK: CITY OF ANN ARBOR, VERTICAL CONTROL POINT ALONG NO. 0101, TOP OF HYDRANT LOCATED AT THE NORTHWEST CORNER OF EAST HURON AND 804.54 NAVD 88 DATUM.  
SITE BENCHMARK: SET 1/2" REBAR IN THE WESTERY SIDE OF STREET. ELEVATION = 803.01 NAVD 88 DATUM.

**FLOOD NOTE**  
SUBJECT PARCEL LIES WITHIN OTHER AREA (ZONE X) AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHARGE FLOODPLAIN, AS SHOWN ON THE FLOOD INSURANCE RATE MAP, COMMUNITY NUMBER 26083A, MAINTAINED AND PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

- LEGEND**
- SET 1/2" REBAR WITH CAP P.S. 47978
  - FOUND MONUMENT (AS NOTED)
  - RECORD AND MEASURED DIMENSION
  - MEASURED DIMENSION
  - GROUND POINT
  - ELECTRIC METER
  - LIGHT POLE WITH STREET LAMP
  - SANITARY MANHOLE
  - SQUARE CATCH BASIN
  - STORM DRAIN MANHOLE
  - TREE WITH DIAMETER IN INCHES
  - PARCEL BOUNDARY LINE
  - PLATTED LOT LINE
  - BUILDING
  - BUILDING OVERHANG
  - CONCRETE CURB
  - EDGE OF CONCRETE (CONC.)
  - EDGE OF ASPHALT (ASPH.)
  - EDGE OF BRICK
  - FENCE (AS NOTED)
  - WALL (AS NOTED)
  - OVERHEAD UTILITY LINE
  - SANITARY LINE
  - STORM LINE
  - WATER LINE



**PROPERTY DESCRIPTION**  
LAND SITUATED IN THE CITY OF ANN ARBOR, WASHTENAW COUNTY, AND DEEDS, PAGES 181 AND 192, WASHTENAW COUNTY RECORDS. ADDITION TO THE VILLAGE (NOW CITY) OF ANN ARBOR, AS RECORDED IN LIBER M. OF DEEDS, PAGES 181 AND 192, WASHTENAW COUNTY RECORDS.

**TITLE REPORT NOTE**  
ONLY THOSE EXCEPTIONS CONTAINED WITHIN THE ABSOLUTE TITLE DOC. WERE CONSIDERED FOR THIS SURVEY. NO OTHER RECORDS RESEARCH WAS PERFORMED BY THE CERTIFYING SURVEYOR.  
(NO SPECIFIC ENCUMBRANCES LISTED)

**SURVEYOR'S NOTE**  
THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL UTILITIES IN THE AREA. THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES BELIEVE THAT THEY WERE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. OTHER THAN THE STRUCTURE INVENTORY SHOWN HEREON.

**SURVEYOR'S CERTIFICATION**  
I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY HEREIN DESCRIBED AND THE ELEVATIONS SHOWN HEREON ARE BASED ON A FIELD REPRESENTATION OF THE SAME.

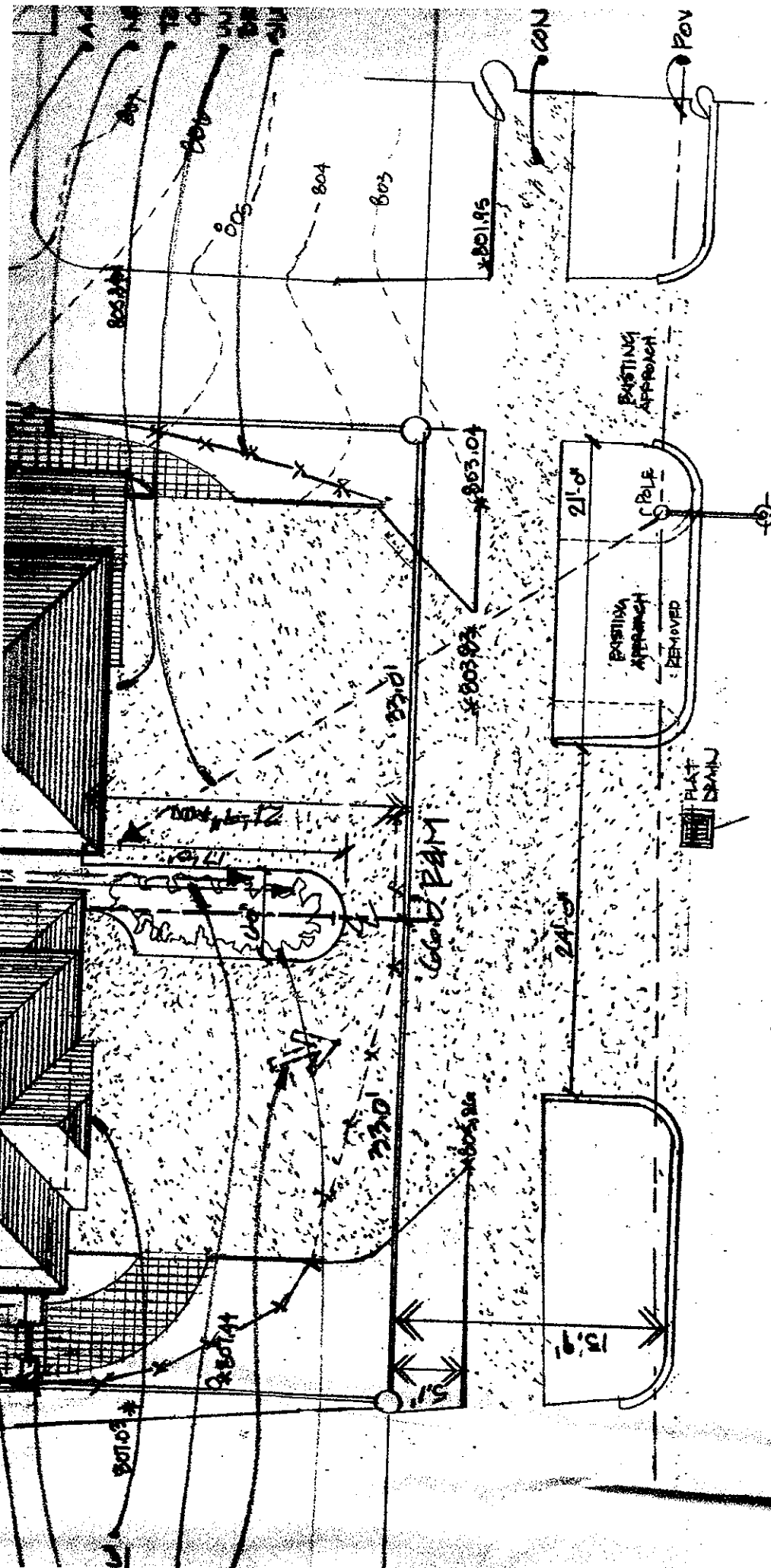
ANTHONY T. STOKO, JR., P.S.  
PROFESSIONAL SURVEYOR  
MICHIGAN LICENSE NO. 47978



**KEM-TEC & ASSOCIATES**  
PROFESSIONAL SURVEYORS - PROFESSIONAL ENGINEERS  
100 EAST WASHINGTON STREET, SUITE 400  
ANN ARBOR, MICHIGAN 48101  
(800)772-2222 • (800)985-7222 • FAX (800)772-4048

CERTIFIED TO: HURON CONTRACTING

DATE:	JANUARY 31, 2011	JOB #:	11-00163
SCALE:	1" = 20'	SHEET:	1 OF 1
DRW. BY:	NEM	REV.:	



**NORTH FIFTH AVE**  
 60'-0" RIGHT OFWAY - PAVED STREET

- CURB CUT AS APPROVED FOR CONSTRUCTION -

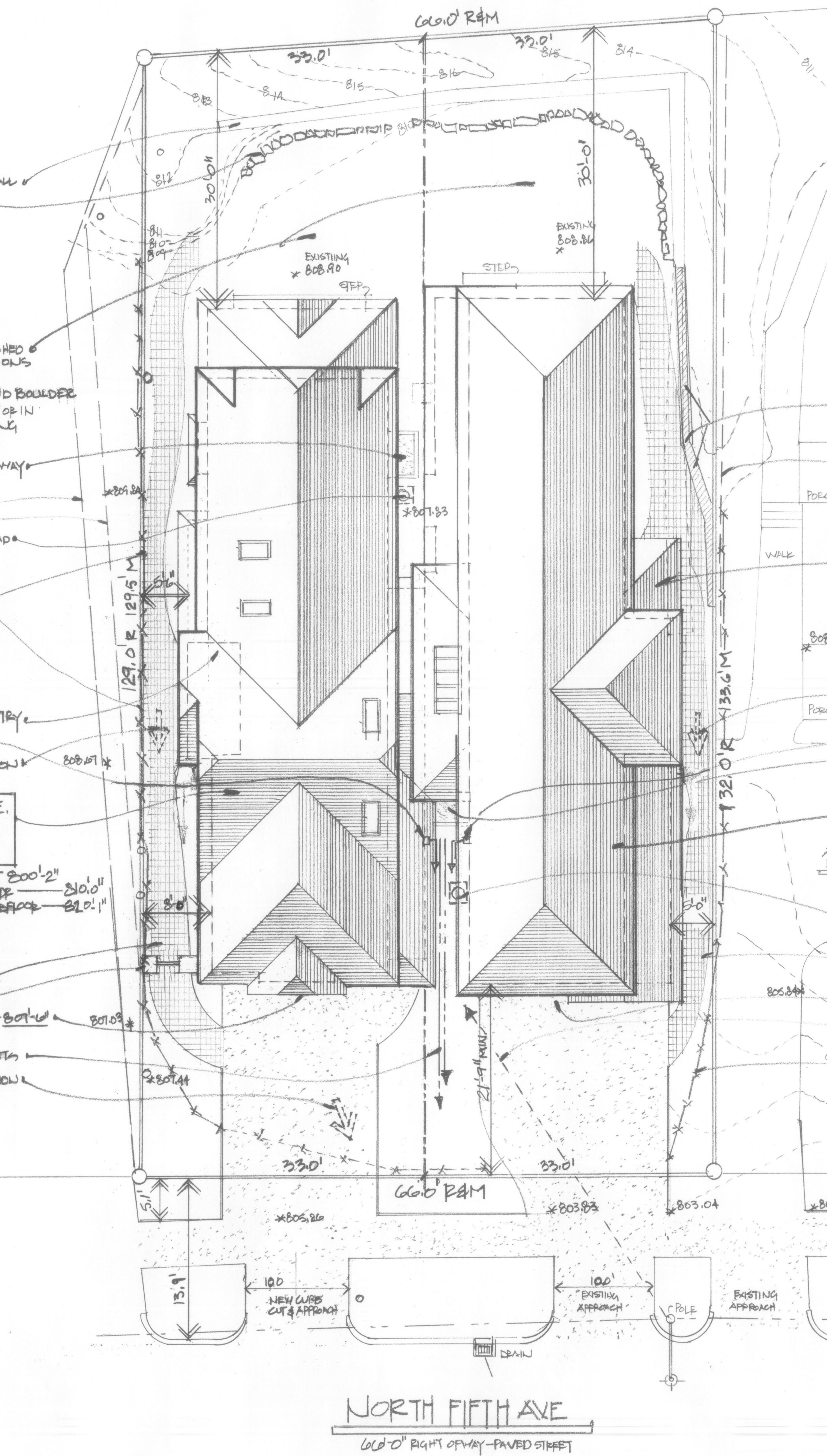
PLANS ARE FOR THE SOLE USE OF HURON CONTRACTING, LLC AND ARE FOR PERMITTING PURPOSES ONLY. HURON CONTRACTING RESERVES THE RIGHT TO ALTER PLANS AS IT DEEMS NECESSARY. IN THE EVENT OF A DISCREPANCY BETWEEN PLANS AND SPECIFICATIONS, HURON CONTRACTING SHALL FOLLOW SPECIFICATIONS.

**NORTH**

SCALE 1/4"

REVISED  
 MAY 24,  
 APRIL 1





# NORTH FIFTH AVE

66.0' RIGHT OF WAY - PAVED STREET