

CITY OF ALBUQUERQUE

Albuquerque, New Mexico Office of the Mayor

INTER-OFFICE MEMORANDUM

April 15, 2021

TO:

Cynthia Borrego President, City Council

FROM:

Tim Keller, Mayor

Subject:

Freeman Avenue Right of Way Vacation

Project# PR-2020-004812, SD-2020-00220, VACATION OF PUBLIC RIGHT-OF-WAY

TIM NISLY agent(s) for TIM NISLY requests the aforementioned actions for all or a portion of Vacation of Public Right-of-Way for all or a portion of the alley adjacent to Lot 12, Block 6 Belmont Place Lot 12 & 13 &14, located south of Freeman Avenue between 5TH ST and 6TH ST, containing approximately .03 acre(s). (G-14)

Request: This is a request for vacation of an alleyway 74.1 feet in length, 15 feet in width, and 1,122.5 square feet in size between 5th and 6th Streets south of Freeman Street.

Per Section 14-16-6-6(M)(3) of the IDO, the Development Review Board (DRB) shall make a recommendation and forward the application to City Council for inclusion on the consent agenda for approval without first going to any Council committee if the vacation involves: 1) More than 500 square feet or the entire width of a platted alley; 2) More than 5000 square feet or the entire street width of a street, including any or all of the public right-of-way. This vacation is the entire width of the street; therefore, it is a DRB recommendation to City Council.

At the FEBRUARY 10th, 2021 public meeting, the DRB had a consensus to recommend approval of the request to the City Council of the proposed vacation as shown on Exhibit "A" (attached) in the Planning file under Project# PR- 2020-004812, based on the recommended Findings per Section 14-16-6-6(M) of the IDO.

Title/Subject of Legislation: FREEMAN AVENUE <u>Vacation</u>: Project# 2020-004812 SD-2020-000220, , VACATION OF PUBLIC RIGHT-OF-WAY, DRB RECOMMENDATION FOR APPROVAL.

Chief Administrative Officer

Approved:

Sarita Nair

Approved as to Legal Form:

-DocuSigned by:

Esteban Aguilar, Jr.

Date

City Attorney

Recommended:

-DocuSigned by:

Brennon Williams 4/19/2021 | 9:49 AM MDT

6/23/21

Brennon Williams

Date

Planning Director

PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
600 2nd Street NW, Ground Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3946

OFFICIAL NOTIFICATION OF DECISION

Tim Nisly 4400 6th Street #4 NW Albuquerque, NM 87107

Project# PR-2020-004812
Application#
SD-2020-00220 VACATION OF RIGHT OF WAY

LEGAL DESCRIPTION:

For all or a portion of: ALLEY ADJACENT TO LOT 12, BLOCK 6 BELMONT PLACE LOT 12 & LOT 13 & 14 zoned R-1B, located SOUTH OF FREEMAN between 5TH ST and 6TH ST, containing approximately .03 acre(s). (G-14)

On February 10, 2021, the Development Review Board (DRB) held a public meeting concerning the above referenced application and recommended approval of the request to the City Council based on the following Findings:

- 1. This is a request to vacate the Right-of-Way of an alleyway 74.1 feet in length, 15 feet in width, and 1,122.5 square feet in size between 5th and 6th Streets south of Freeman Street.
- 2. The applicant provided notice as required in table 6-1-1 of the IDO.
- 3. The applicant justified the vacation request for the easement pursuant to 14-16-6-6-(M)(3) of the IDO. The Right-of-Way (to be vacated) dead-ends at a ditch and concrete wall, with no reasonable options for walking, and is unreachable by vehicles due to trees. Therefore, there is no benefit to the public welfare through keeping the the Right-of-Way (to be vacated).
- 4. Pursuant to section 14-16-6-6(M)(1)(b), the DRB will be the recommending body on the request because the vacation is more than 500 square feet and the entire width of a platted alley. City Council will make the final decision on the request.
- 5. The vacation must be must be platted within one year of final City Council approval or it will be void (see Table 6-4-3 of the IDO).

Official Notice of Decision
Project # PR-2020-004812 Application# SD-2020-00220
Page 2 of 2

<u>APPEAL:</u> If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by **FEBRUARY 25, 2021.** The date of the DRB's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

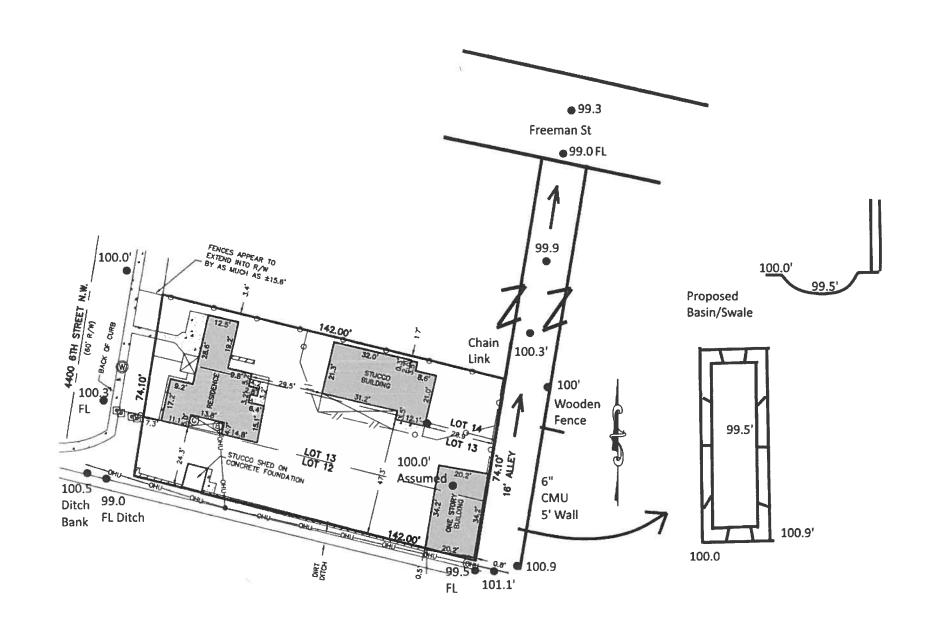
For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the Integrated Development Ordinance (IDO). Appeals should be submitted via email to PLNDRS@CABQ.GOV (if files are less than 9MB in size). Files larger than 9MB can be sent to PLNDRS@CABQ.GOV using https://wetransfer.com. A Non-Refundable filing fee will be calculated and you will receive instructions about paying the fee online.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely.

Jolene Wolfley DRB Chair

JW/jr





DEVELOPMENT REVIEW BOARD

Planning Dept. - Major Case Comments

HEARING DATE/AGENDA ITEM 2

Project Number: PR-2020-004812

Application Number: SD-2020-004812

Project Name:

Request: Alley Vacation

COMMENTS:

Please provide proof that the adjacent property owners were notified about the opportunity to purchase the adjacent ROW and that they are in favor of the vacation

Because the vacation is the entire width of the alley and more than 500 square feet, the DRB is a recommending body and City Council will be the decision maker see section 14-16-6-6(M)(1)(b) Vacation of Public Right-of-way— Council Any public right-of-way that meets any of the following thresholds:

1. More than 500 square feet or the entire width of a platted alley. Comments may continue onto the next page)

<u>Disclaimer</u>: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM:

Maggie Gould

Planning Department

DATE: 2-3-21

Drawing of Easement Vacation

Cricket Wire Authorized Ret Cell phone

Freeman Ave NW

В

Freeman Ave NW

th St NW

~15' wide

74'10" long

1122.50sq/ft

Moka Joe's



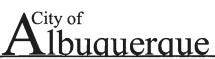
Kingdom Hall of Jehovah's Witnesses





San Clemente Ave NW







DEVELOPMENT REVIEW BOARD APPLICATION

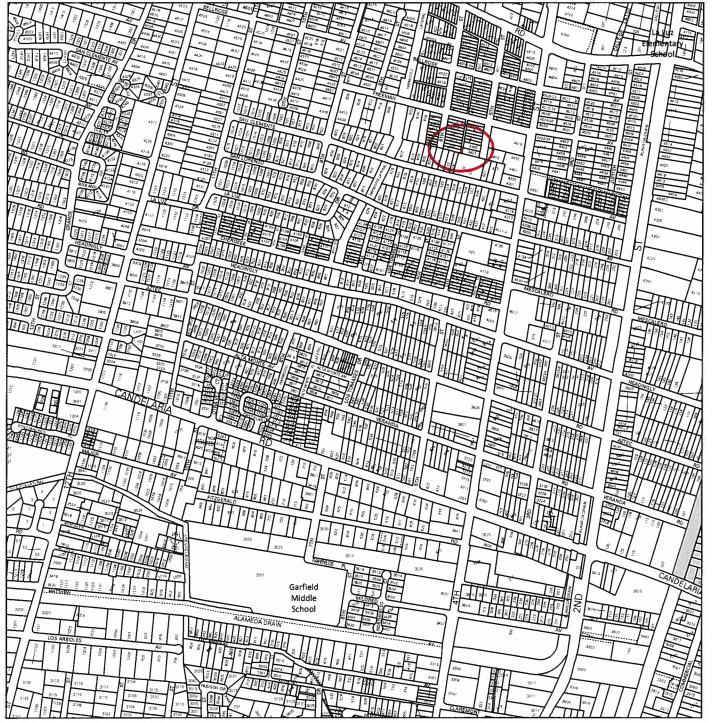
Please check the appropriate box(es) an of application.		al forms for submittal requ	irements. All fees must be paid at the time			
SUBDIVISIONS	☐ Final Sign off of EP0	C Site Plan(s) (Form P2)				
☐ Major – Preliminary Plat (Form S1)	☐ Major Amendment t	to Site Plan (Form P2)	☑ Vacation of Public Right-of-way (Form V)			
☐ Minor – Preliminary/Final Plat (Form S2)	MISCELLANEOUS AP	PLICATIONS	☐ Vacation of Public Easement(s) DRB (Form V)			
☐ Major - Final Plat (Form S2)	☐ Extension of Infrastr	ructure List or IIA (Form S1)	☐ Vacation of Private Easement(s) (Form V)			
☐ Minor Amendment to Preliminary Plat (Form S2)	☐ Minor Amendment to	o Infrastructure List (Form S2)	PRE-APPLICATIONS			
☐ Extension of Preliminary Plat (Form S1)	☐ Temporary Deferral	of S/W (Form V2)	☐ Sketch Plat Review and Comment (Form S2)			
	☐ Sidewalk Waiver (Fo	orm V2)				
SITE PLANS	☐ Waiver to IDO (Form	m V2)	APPEAL			
□ DRB Site Plan (Form P2)	☐ Waiver to DPM (For	m V2)	☐ Decision of DRB (Form A)			
BRIEF DESCRIPTION OF REQUEST						
Request to vacate unused access easem	ent					
APPLICATION INFORMATION						
Applicant: Tim Nisly			Phone: 505.328.8848			
Address: 4400 6th St #4 NW		1	Email: tnisly@gmail.com			
City: Albuquerque		State: NM	Zip: 87107			
Professional/Agent (if any):			Phone:			
Address:			Email:			
City:		State:	Zip:			
Proprietary Interest in Site:		List all owners:				
SITE INFORMATION (Accuracy of the existing	g legal description is cruc					
Lot or Tract No.: City right of way		Block:	Unit:			
Subdivision/Addition:	Fulation Zonian	MRGCD Map No.:	UPC Code: Proposed Zoning			
Zone Atlas Page(s): G14	# of Proposed Lots:		Total Area of Site (Acres):			
# of Existing Lots: LOCATION OF PROPERTY BY STREETS	# Of Proposed Lots.		Total Area of Site (Acres).			
Site Address/Street: ROW South of Freeman	Between: 5th		and: 6th			
CASE HISTORY (List any current or prior pro		that may be relevant to your re	PLANTAGE AND A STATE OF THE STA			
CASE INSTORT (List any current of prior pro	ject and case number(s) (mat may be relevant to your n				
Simulation			Peter 11/7/2020			
Signature:			Date: 11/7/2020			
Printed Name: Tim Nisly			☑ Applicant or ☐ Agent			
FOR OFFICIAL USE ONLY	tion Food	Casa Numbers	Action			
Case Numbers Acc SD-2020-00220 V-ROW	tion Fees \$425	Case Numbers	Action Fees			
3D-2020-00220 V-NOW	ψ+25					
Meeting Date: January 6, 2021			Fee Total: \$425			
Staff Signature: Vanessa A Se	aus a.	Date: 12/10/2020	Project # PR-2020-004812			
V unicacu XY O	yeuce		,, , , ==========================			

FORM V: Vacations of Easements or Right-of-way- DRB

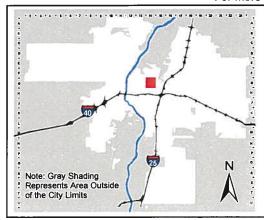
Please refer to the DRB meeting schedules for dates and deadlines. Your attendance is required.

<u>>></u>	<u>INFC</u>	DRMATION REQUIRED FOR ALL VACATION APPLICATIONS
		Interpreter Needed for Meeting? if yes, indicate language:
	X	A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov
		prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be
		provided on a CD. PDF shall be organized with the Development Review Application and this Form V at the front followed by
		the remaining documents in the order provided on this form.
	Y	Zone Atlas map with the entire site clearly outlined and labeled
		Letter of authorization from the property owner if application is submitted by an agent
	_	
	VA	CATION OF PRIVATE EASEMENT
	VA	CATION OF PUBLIC EASEMENT
Q	VAC	CATION OF RIGHT-OF-WAY – DRB
	VAC	CATION OF RIGHT-OF-WAY - COUNCIL
	v	Justification letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-6(K)(3)
		Copy of the complete document which created the easement(s) (7 copies, folded)
	—	Not required for City owned public right-of-way.
	•	Drawing showing the easement or right-of-way to be vacated (7 copies, not to exceed 8.5" by 11")
	X	
	_	If easements, list number to be vacated 1
	<u>X</u>	If right-of-way, square footage to be vacated (see IDO Section 14-16-6-6(K) <u>1122sq/ft</u>
	_X	Proof of Neighborhood Meeting per IDO Section 14-16-6-4(C)
		👱 Office of Neighborhood Coordination neighborhood meeting inquiry response
		Proof of email with read receipt OR Certified Letter offering meeting to applicable associations
		If a meeting was requested/held, copy of sign-in sheet and meeting notes
	X	
		▼ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing
		X Proof of emailed notice to affected Neighborhood Association representatives
		X Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first
		class mailing
	X	Sign Posting Agreement (not required for easements if IDO Section 14-16-6-6(K)(2)(a) is satisfied)
	The	vacation must be shown on a DRB approved plat recorded by the County Clerk within one year, or it will expire.

scheduled for a public meeting, if required, or		with this application, the application will not be
Signature:		Date:
Printed Name:		☐ Applicant or ☐ Agent
FOR OFFICIAL USE ONLY		
Case Numbers:	Project Number:	
SD-2020-00220	PR-2020-004812	
Staff Signature: Vanessa A Segui Date: 12/10/2020	ira	WEILER



For more current information and details visit: www.cabq.gov/gis



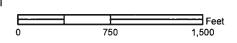
Address Map Page:

G-14-Z

Map Amended through: 3/17/2017



These addresses are for informational purposes only and are not intended for address verification.



	Tim Nisly			
,	4400 6 th St #4 NW			
,	Albuquerque, NM 87107			
ı	Right of Way vacancy request			
	July 23, 2020			
•	MIY 23, 2020			
	This is a request to vacate 74.1' of an easement located between 5 th and 6 th , south of Freeman St, in zone G14.			
7	The relevant IDO requirements are here:			
	 6-6(K)(3)(a) The public welfare does not require that the public right-of-way or easement be retained. 			
	 6-6(K)(3)(b) There is a net benefit to the public welfare because the development made possible by the vacation is clearly more beneficial to the public welfare than the minor detriment resulting from the vacation, and there is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right. 			
١	This right of way is overrun by weeds and small nuisance trees. It dead-ends at a ditch and concrete wall, with no reasonable options for walking and unreachable by vehicle due to trees. There is no benefit to the public welfare to keeping this right-of-way.			
	The right-of-way is an eyesore. Allowing the right-of-way to be vacated will allow it to be incorporated into surrounding lots as a benefit to surrounding neighbors like myself.			
٦	Fhank you,			
-	Tim			
1	im Nisly			

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the Integrated Development Ordinance are responsible for the posting and maintaining of one or more signs on the property which is subject to the application, as shown in Table 6-1-1. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application for a \$10 fee per sign. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign(s).

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to any public meeting or hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

Revised 2/6/19

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

		easily.			
4.	TIME				
Signs must	be post	ed from	To		
5.	REMO	VAL			
	A. B.		emoved before the initial hearing moved within five (5) days after		
			n the Development Services Fro d (B) where the sign(s) are to be		
•	0 ()	Tall m	7	12/2/2020	.,
	_		(Applicant or Agent)	(Date)	
I issued	sign	s for this application,	, (Date)	(Staff Member)	
			(23.5)	(0.5)	

PROJECT NUMBER: ____



Tim Nisly <tnisly@gmail.com>

4400 6th St NW Public Notice Inquiry

Carmona, Dalaina L. <dlcarmona@cabq.gov>
To: "tim@101prop.com" <tim@101prop.com>

Tue, Nov 10, 2020 at 12:01 PM

Dear Applicant,

Please find the neighborhood contact information listed below.

Association Name	First Name	Last Name	Email	Address Line 1	City	State	Zip	Mobile Phone	Phone
Greater Gardner & Monkbridge NA	David	Wood	wood_cpa@msn.com	158 Pleasant Avenue NW	Albuquerque	NM	87107	5052212626	5053444674
Greater Gardner & Monkbridge NA	Chris	Sylvan	sylvan.cs@gmail.com	226 Natalie Avenue NW	Albuquerque	NM	87107	5059678767	
North Valley Coalition	Peggy	Norton	peggynorton@yahoo.com	P.O. Box 70232	Albuquerque	NM	87197	5058509293	5053459567
North Valley Coalition	Doyle	Kimbrough	newmexmba@aol.com	2327 Campbell Road NW	Albuquerque	NM	87104	5052490938	5053441364

You will need to e-mail each of the listed contacts and let them know that you are applying for a permit for your project. You can use this online link to find template language if you're not sure what information you need to include in your e-mail. https://www.cabq.gov/planning/urban-design-development/public-notice

If your permit application or project requires a neighborhood meeting, you can click on this link to find template language to use in your e-mail notification: http://www.cabq.gov/planning/urban-design-development/neighborhood-meeting-requirement-in-the-integrated-development-ordinance

Neighborhood Meeting Request for a Proposed Project in the City of Albuquerque

Date of Request*:
This request for a Neighborhood Meeting for a proposed project is provided as required by Integrated
Development Ordinance (IDO) <u>Subsection 14-16-6-4(K) Public Notice</u> to:
Neighborhood Association (NA)*: North Valley Coalition
Name of NA Representative*: Peggy Norton, Doyle Kimbrough
Email Address* or Mailing Address* of NA Representative1: peggynorton@yahoo.com, newmexmba@aol.com
The application is not yet submitted. If you would like to have a Neighborhood Meeting about this
proposed project, please respond to this request within 15 days. ²
Email address to respond yes or no:tnisly@gmail.com
The applicant may specify a Neighborhood Meeting date that must be at least 15 days from the Date of
Request above, unless you agree to an earlier date.
Meeting Date / Time / Location:
Project Information Required by <u>IDO Subsection 14-16-6-4(K)(1)(a)</u>
1. Subject Property Address* 4400 6th St #4 NW
Location Description Private residence
2. Property Owner*Tim Nisly
3. Agent/Applicant* [if applicable] N/A
4. Application(s) Type* per IDO Table 6-1-1 [mark all that apply]
□ Conditional Use Approval
□ Permit (Carport or Wall/Fence − Major)
□ Site Plan
□ Subdivision (Minor or Major)

¹ Pursuant to <u>IDO Subsection 14-16-6-4(K)(5)(a)</u>, email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

² If no one replies to this request, the applicant may be submitted to the City to begin the review/decision process.

	▼ Vacation Public Right of way	(Easement/Private Way or Public Right-of-way)				
	□ Variance	,				
	□ Waiver					
	□ Zoning Map Amendment					
	□ Other:					
	Summary of project/request ^{3*} :					
	Request to vacate an usused, dead-end easemen	nt behind the property.				
5.	,, ,,	□ City Staff				
	OR at a public meeting or hearing by:					
	☐ Zoning Hearing Examiner (ZHE)	☐ Development Review Board (DRB)				
	☐ Landmarks Commission (LC)	☐ Environmental Planning Commission (EPC)				
	☑ City Council					
6.	Where more information about the project can be found*4: Please request any additional information via email at thisly@gmail.com					
Proje	ect Information Required for Mail/Email No	tice by <u>IDO Subsection 6-4(K)(1)(b)</u> :				
1.	. Zone Atlas Page(s)*5 G14					
2.	. Architectural drawings, elevations of the prop	posed building(s) or other illustrations of the				
	proposed application, as relevant*: Attached	to notice or provided via website noted above				
3.	. The following exceptions to IDO standards wi	Il be requested for this project*:				
	Dovintion(s) Unionco(s)	[] Maissay(a)				

³ Attach additional information, as needed to explain the project/request. Note that information provided in this meeting request is conceptual and constitutes a draft intended to provide sufficient information for discussion of concerns and opportunities.

⁴ Address (mailing or email), phone number, or website to be provided by the applicant

⁵ Available online here: <u>http://data.cabq.gov/business/zoneatlas/</u>

[Note:	Items with an asterisk (*) are required.]
5.	For Site Plan Applications only*, attach site plan showing, at a minimum:
	☐ a. Location of proposed buildings and landscape areas.*
	□ b. Access and circulation for vehicles and pedestrians.*
	☐ c. Maximum height of any proposed structures, with building elevations.*
	□ d. For residential development*: Maximum number of proposed dwelling units.
	□ e. For non-residential development*:
	☐ Total gross floor area of proposed project.
	☐ Gross floor area for each proposed use.
Ac	ditional Information:
1.	From the IDO Zoning Map ⁶ :
	a. Area of Property [typically in acres]025 acres
	b. IDO Zone District
	c. Overlay Zone(s) [if applicable] N/A
	d. Center or Corridor Area [if applicable] N/A
2.	Current Land Use(s) [vacant, if none] Dead end alley
Useful	Links
	Integrated Development Ordinance (IDO):
	https://ido.abc-zone.com/
	IDO Interactive Map
	https://tinyurl.com/IDOzoningmap
Cc:	Greater Gardner & Monkbridge NA [Other Neighborhood Associations, if any

⁶ Available here: https://tinurl.com/idozoningmap