

**STATEMENT OF HARDSHIP
3541 Alkire Road
Council Variance No.: CV02-044**

This Statement of Hardship is submitted in connection with the Council Variance Application filed by property owners, John & Dina Bocook, for property situated at 3541 Alkire Road ("Site").

The requested council variance is necessary to legitimize the existing non-conforming use and development standards of the Site. Set forth below is a history discussing the establishment of the non-confirming use, and the property owners circumstances relating thereto.

BACKGROUND

The Site which is the subject of this council variance consists of two individual parcels of land, for a total of 1.3169 +/- acres. The property was formerly a part of an 84 acre tract. The 84 acre "Montoney tract," was annexed from Franklin and Jackson Townships to the City of Columbus in 1996. Prior to annexation and re-zoning in the City of Columbus, a large portion of the Montoney's 84 acres was utilized as an airfield for the take-off, landing and storage of airplanes. These uses occurred on and around this Site. In addition, other commercial and/or manufacturing uses were also established over the years. Such uses include pipe fitting, and heating and cooling business.

When the Montoney tract was re-zoned in 1997, the Site was not included in the application for re-zoning. The Site's north parcel was listed as a reserve to the re-zoned subdivision, but maintained its R, rural zoning. The Site's south parcel was entirely omitted from the application and also retained R, rural zoning. By virtue of the 1997 zoning, the site is completely surrounded by residentially zoned and used property, in both the city and county.

During the course of this council variance process, various neighbors to the Site offered testimony and recollection that the Site was in fact used for the commercial/manufacturing purposes of an airfield (airplane storage), a heating and cooling business, and most recently a pipe fitting business. In fact, some neighbors speculate the existence of the pipe fitting business was one reason the Site was not included in the 1997 re-zoning. Nonetheless, on or about October 4, 2000, John and Dina Bocook purchased the Site. At that time, the Franklin County Auditor listed the site as commercial.

Since their purchase of the Site, the Bocook's have spent more than \$30,000 in improvements to the existing building, including structural reinforcement, aluminum siding, and roofing. The Bocooks also paid for asphalt resurfacing of the existing parking lot and for the installation of a perimeter yard fence.

Shortly after their purchase of the property, the Bocooks were approached by neighborhood residents, who requested to store their boats and RV's on the Site. With the understanding that this property was "commercial," the Bocooks allowed the storage. Ultimately they started a boat and RV storage business, which was utilized by additional members of the neighborhood and surrounding area.

In 2002, the Bocooks received a code enforcement citation for the non-permitted manufacturing use (boat, and RV storage), within the R rural district.

APPROVALS

Since that time, the applicant has gone through the council variance process, met on numerous occasions with the Greater Hilltop Area Commission, and surrounding neighbors. Ultimately, the Bocooks received an recommendation of APPROVAL by the Greater Hilltop Area Commission. That approval was conditioned on several site improvements including:

- * Limiting the storage to boat and RV's only (already in place)
- * Limiting the number of boats or RV's to 30 at a time (already in place)
- * Limiting the hours of operation for the business from 8:00 a.m. to 10:00 p.m. (already in place)
- * Installation of reasonably mature arbor vitae hedges, approximately 5 feet in height at the time of installation, installed as to form a continuous buffer along the east, south and west property lines
- * Limiting the duration of the variance to the ownership of John and/or Dina Bocook.¹

In addition to the above considerations the city staff has requested additional commitments of:

- * Lights on light poles not to exceed 18 feet in height, with cut-off down light fixtures (already done by the Bocooks);
- * Combination of lots upon successful passage by Columbus City Council;
- * Establish and stripe 4 spaces within the lot for the pre-existing on site building with two residential units;
- * Limiting the on site storage area to that which is currently in place (no expansion east or west);
- * All landscaping shall be maintained and any dead landscaping shall be replaced within 6 months or the next planting season, which ever occurs first;
- * All surfaces for parking or storage shall be maintained in accordance with §3342.24.

The Bocooks have agreed to all conditions requested.

In addition, at the request of Council Activities Staff, the Bocooks have agreed to provide a good neighbor letter which outlines their commitments to their neighbors and the Hilltop Area commission as relates to the agreed upon screening (as to planting and maintenance). That Good Neighbor Letter is attached hereto.

¹It should be noted that the City of Columbus Council Activities staff has consulted with City Attorney's office. The City has reaffirmed its policy, and will not permit variances to be conditioned upon owners.

Variances are intended to run with the land and be tied to use, not user. Because of the City's position on this issue, the Applicants are unable to comply with that condition of the Hilltop. Further, the Council Activities Staff has asserted its own policy, which requires the Hilltop recommendation to be a "disapproval" based on this single non-compliance item. The Hilltop representatives have expressed support for this project otherwise.

VARIANCES REQUESTED

Based on the above conditions and uses, the Bocooks request the following use and development standard variances:

- (1) Variance to §3332.289 to permit the manufacturing use of boat and RV storage within the arbor rural district;
- (2) Variance to §3332.033 to permit a two family dwelling in the R, rural district (a pre-existing building sits on site and contains two "apartments");
- (3) Variance to §3332.02 to permit commercial vehicular access on a private driveway located in the R, Rural District;
- (4) Variance to §3332.28 to permit a paved lot for boat and RV storage in required rear yard;
- (5) Variance to §3332.34 to permit a manufacturing use on lots zoned R and R2 that is bordered on all sides by residential side and rear yards.
- (6) Variance to §3332.08 to reduce driveway width from 20 feet to 14 feet; and
- (7) Variance to §3332.22 to permit boat and RV storage / parking in required rear yard.

As discussed above, these variances are necessary to legitimize the non-confirming uses for the site.

The Site has a significant history of manufacturing uses (air strip, HVAC business, pipe fitting business). The proposed use will not adversely effect surrounding property owners. On the contrary the Bocooks have received a number of letters in support as well as approval from the Greater Hilltop Area Commission (see letters attached hereto). The requested variances will not alter the essential character of the neighborhood. On the contrary the manufacturing uses have been established prior to the construction and build out of the surrounding sub-division. In addition, the building and asphalt paving on site were existing prior to annexation to City of Columbus.

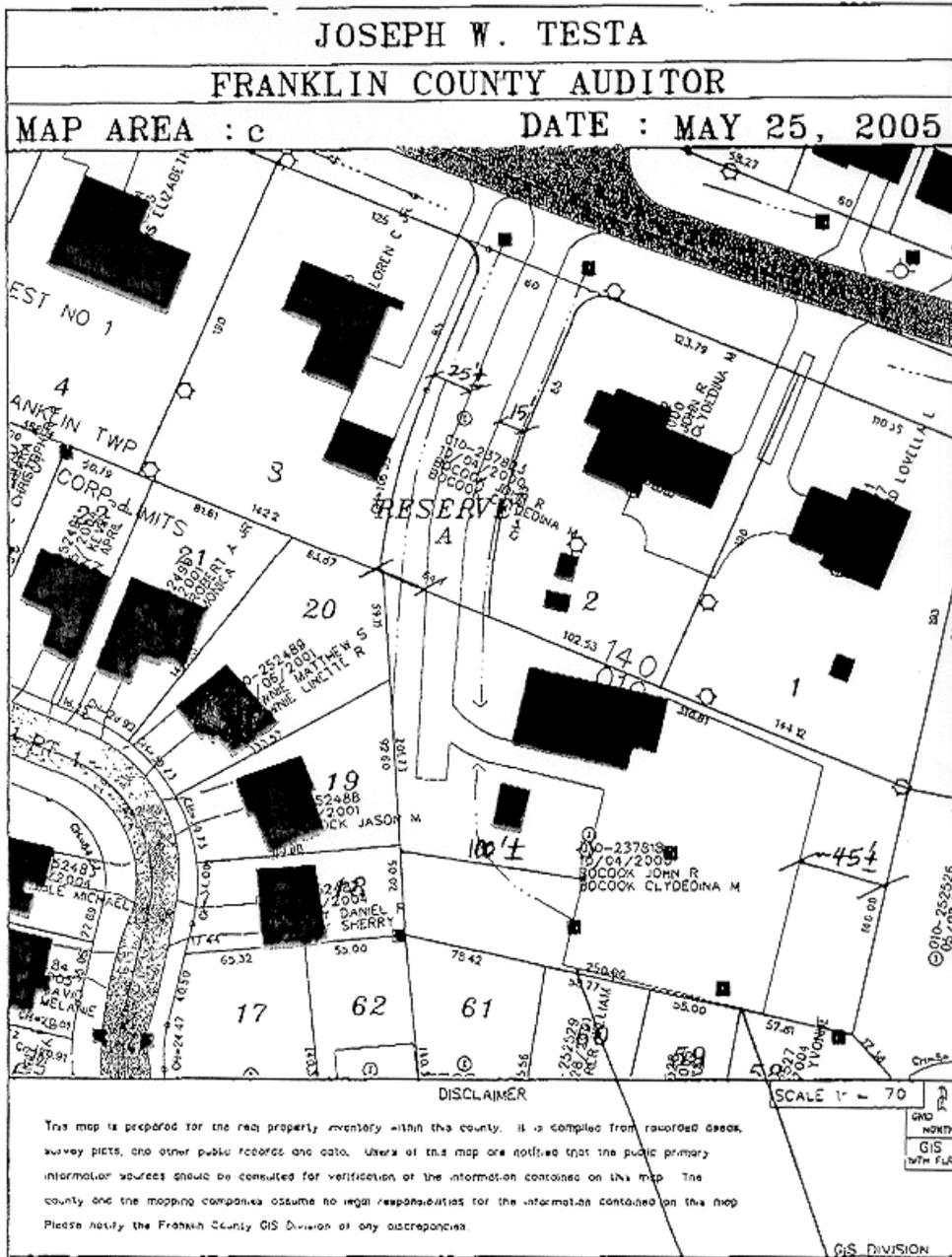
The entire property at issue is non-confirming both as to size/shape/uniformity with the surrounding sub-division. The size and shape of the property pre-date the ultimate plat for the sub-division.

The requested variances have no effect on the delivery of governmental services. And, as mentioned above the small business on site services a number of residents in and around this community.

For these reasons, and in light of the significant development standards committed to herein, the applicant respectfully requests City Council approve these use and development standard variances to legitimize the existing nonconforming condition.

Respectfully Submitted,
CRABBE, BROWN & JAMES, LLP

Laura MacGregor Comek



*Final copy
Don Beer
7-25-05*

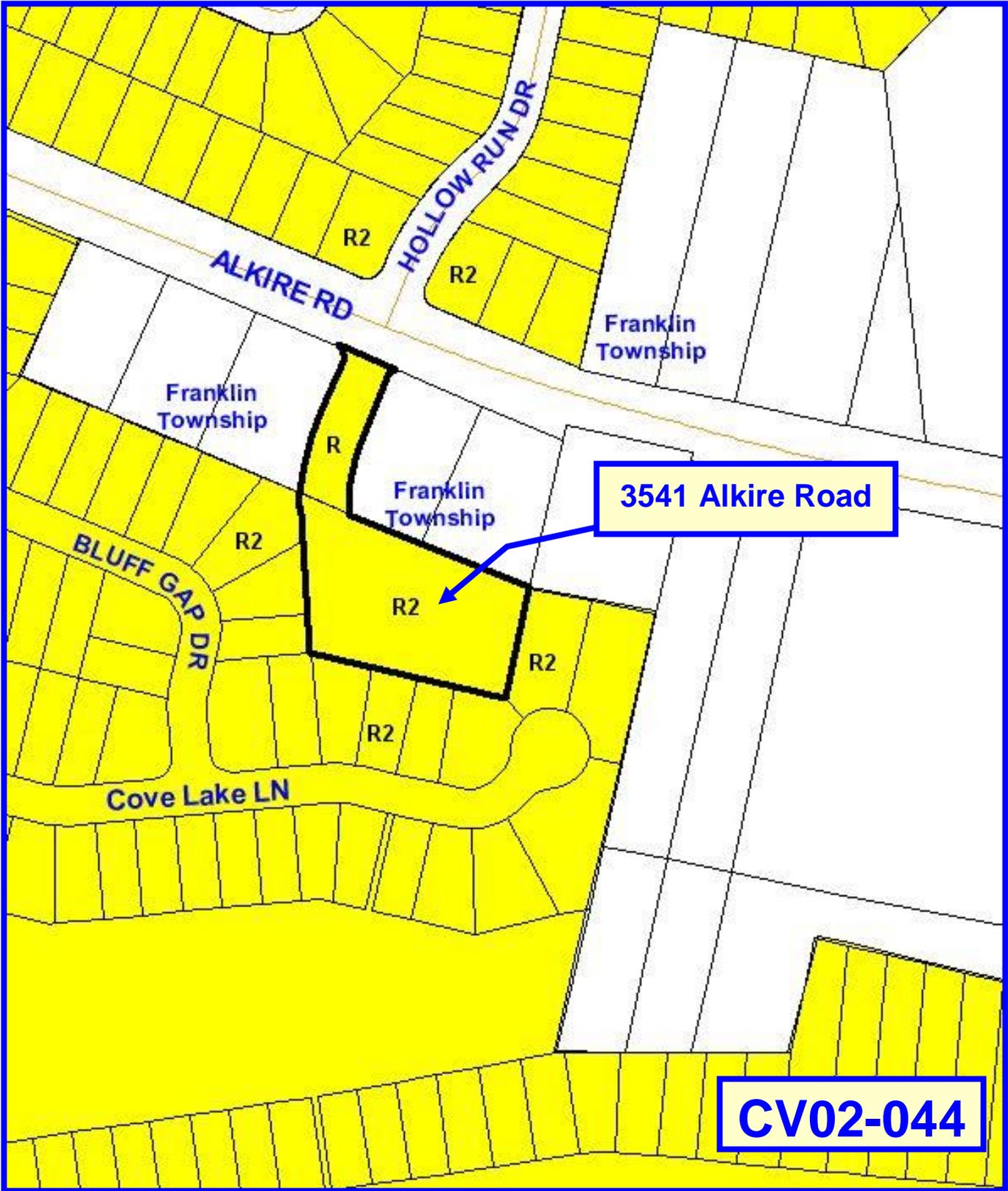
"CV Plan: Storage Setbacks"

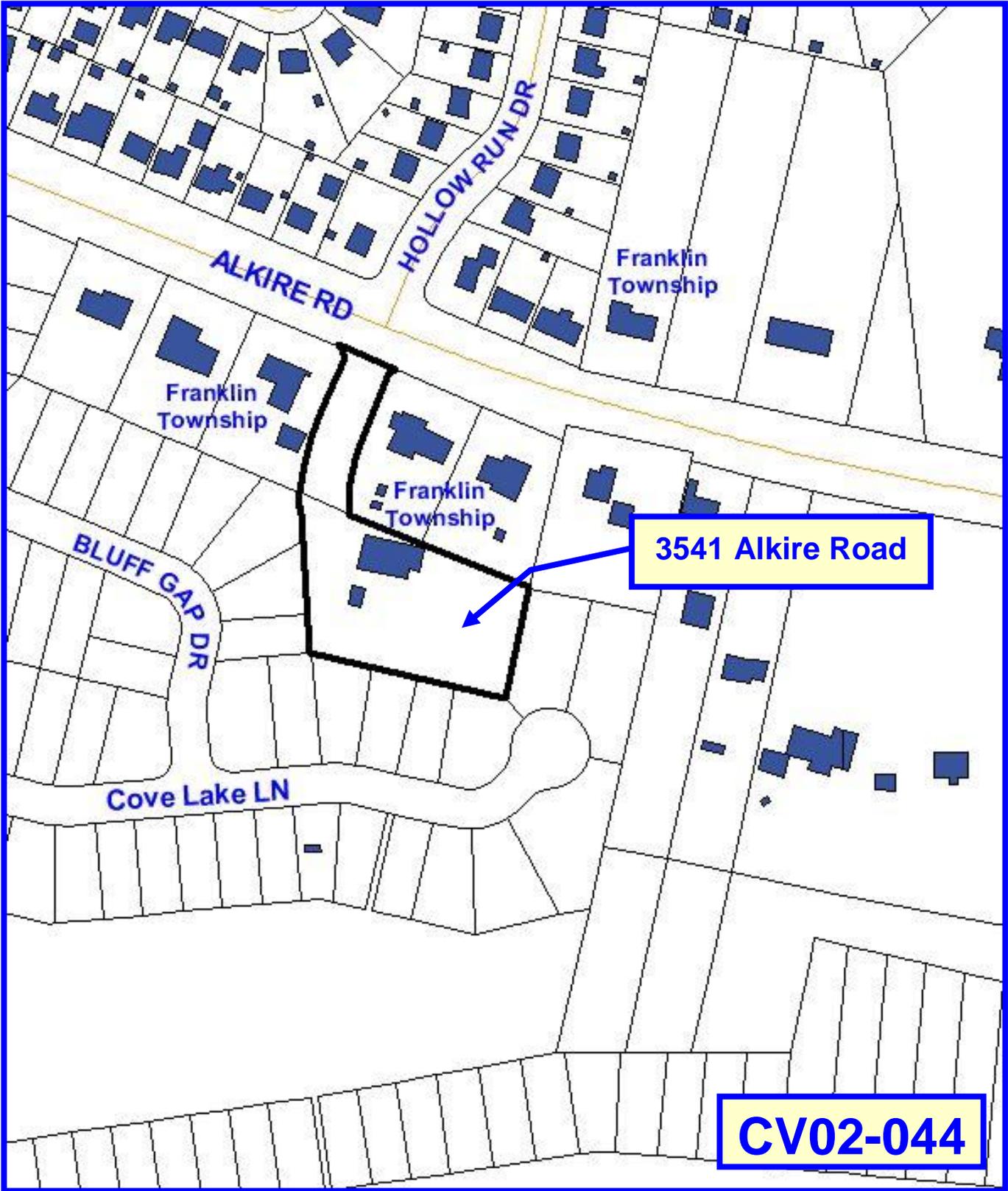
1 1/2 feet setback

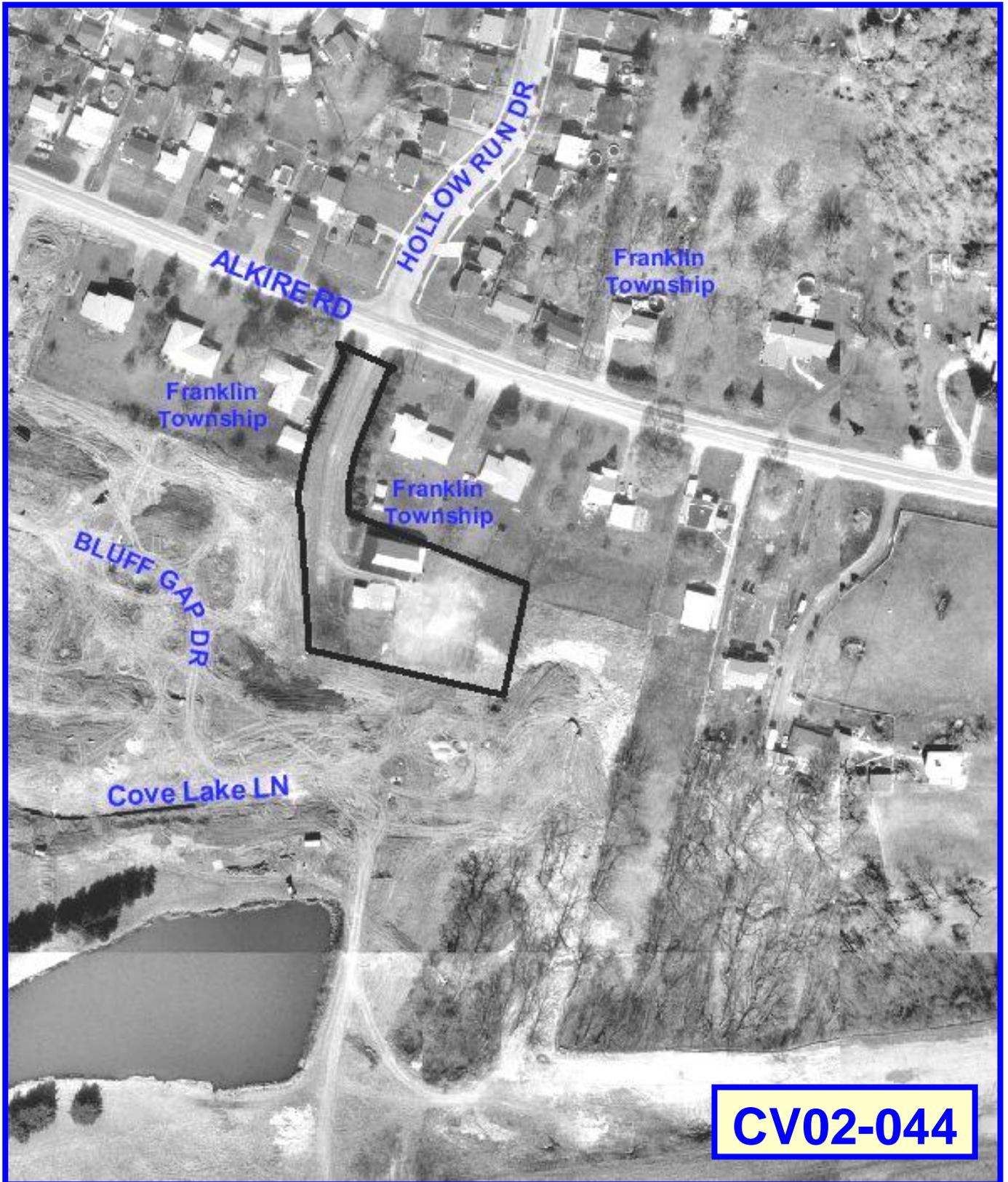
3 feet setback

dimensions are approximated as plus or minus.

[Signature]
Laura M. MacGregor-Comek 6.15.05









Department of Trade and Development
Development Regulation Division

1250 Fairwood Avenue
Columbus, Ohio 43206-3372
(614) 845-7314

AREA COMMISSION / COMMUNITY GROUP / HISTORIC ARCHITECTURAL REVIEW
STANDARDIZED RECOMMENDATION FORM

GROUP NAME: GREATFUL HULLTOP AREA COMMISSION

MEETING DATE: APRIL 1, 2003

SPECIFY CASE TYPE:
(check only one)

- BZA Variance (Begins with "V")
- BZA Special Permit (Begins with "SP")
- Council Variance (Begins with "CV")
- Rezoning (Begins with "Z")
- Graphics Variance (Begins with "VG")
- Graphics Special Permit (Begins with "SPG")

CASE NUMBER: CV 02-044 (REVISED)

RECOMMENDATION:
(check only one)

- Approval
- Disapproval
- Conditional Approval: (please list conditions below)
(Area Commissions see note below*)

5' CONTINUOUS BUFFER ON EAST, SOUTH, AND WEST
SIDING;

VARIANCE APPLIES ONLY TO WAREHOUSE

HOURS OF OPERATION LIMITED TO 8:00AM TO 10:00PM,

* Ordinances sent to council will contain only a recommendation for "approval" or "disapproval". If a recommendation for "conditional approval" is sent, the conditions should be concise and specific. Staff will determine whether conditions are met when the final ordinance is prepared unless a revised response indicating "approval" has been received. If staff determines that conditions have not been met, your group's recommendation will be listed as "disapproval".

VOTE: 9-4

SIGNATURE OF AUTHORIZED REPRESENTATIVE: [Signature]

GNAAC BOARD CHAIR
(Recommending Group Title)

645-3802
(Daytime Phone Number)

Please fax this form to Zoning at 645-2463 within 48 hours of your meeting day;
or mail to: Zoning - Regulations Division, 1250 Fairwood Avenue, Columbus, Ohio 43206.

Greater Hilltop Area Commission

Post Office Box 44435 • Columbus, Ohio 43204 • Hilltop, USA

June 14, 2006

Michael Mentel
Columbus City Council
90 West Broad Street, Second Floor
Columbus, Ohio 43215

Dear Councilman Mentel:

This letter is submitted on behalf of the Greater Hilltop Area Commission (GHAC), as requested by Laura MacGregor Comek (attorney for the applicant of Council Variance No. 2604-2003).

In March of 2003, the GHAC voted to recommend approval the applicant's request for variance associated with the previously established boat and RV storage business on site. We have a number of conditions, all but one of which were met in full by the applicants.

In particular, the GHAC requested that the Council Variance be limited to the applicants themselves. Subsequently, we have learned that the City Attorney's Office (and City Council) will not permit the limitation of such variances to users.

Due to factors within the city zoning process, this item has been pending for more than two years.

On May 10, 2006 I spoke to Ms. Comek. She informed me that the City zoning staff has a policy which immediately categorizes the GHAC's recommendation as a DISAPPROVAL, if any condition is unenforceable or not fully performed (even if illegal).

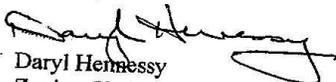
This letter will serve to confirm the GHAC's substantive approval of the applicant's request regardless of the final condition of ownership. We find ourselves between a request (which cannot be accomplished legally) and an unfortunate result (the staff "interpretation" of the GHAC vote as disapproval).

Please accept this letter on behalf of the GHAC to help move this project forward. If you have any questions I am available at 614-275-2993.

As I mentioned above, this letter has been submitted at the request of Laura MacGregor Comek, in furtherance of the matter being placed upon the City's agenda for hearing. I would request that this matter be heard at Council's earliest convenience. Either myself or another GHAC representative will be in attendance to discuss or explain this position, as needed.

Thank you for your attention to this matter.

Sincerely,


Daryl Hennessy
Zoning Chair
Greater Hilltop Area Commission

c: Laura MacGregor Comek

(614) 870-8388 P. 1

Joan Hennessy

Jun 19 06 07:19a



PROJECT DISCLOSURE STATEMENT

Parties having a 5% or more interest in the project that is the subject of this application.
THIS PAGE MUST BE FILLED OUT COMPLETELY AND NOTARIZED. Do not indicate 'NONE' in the space provided.

STATE OF OHIO
COUNTY OF FRANKLIN

APPLICATION # CV02-044

Being first duly cautioned and sworn (NAME) Laura MacGregor Comek, Esq.
of (COMPLETE ADDRESS) 500 S. Front St., Suite 1200, Columbus, Ohio 43215
deposes and states that (he/she) is the APPLICANT, AGENT or DULY AUTHORIZED ATTORNEY FOR SAME and the following is a list of all persons, other partnerships, corporations or entities having a 5% or more interest in the project which is the subject of this application in the following format:

- Name of business or individual
- Business or individual's address
- Address of corporate headquarters
- City, State, Zip
- Number of Columbus based employees
- Contact name and number

If applicable, check here if listing additional parties on a separate page (REQUIRED)

1. John & Clydedina Bocook 3539 Alkire Road Grove City, Ohio 43123 Contact: Laura Comek, Esq. (614-228-5511) Columbus-Based Employees: -0-	2.
3.	4.

SIGNATURE OF AFFIANT

Subscribed to me in my presence and before me this 8th day of August, in the year 2006

SIGNATURE OF NOTARY PUBLIC

My Commission Expires:

[Handwritten signature of Rita J. Martin]

This Project Disclosure Statement expires six months after date of notarization.

Notary Seal Here



RITA J. MARTIN
Notary Public, State of Ohio
My Commission Expires 11-02-10