

1-12-12

Sondra Smith  
City Clerk/Treasurer Office  
Fayetteville, AR 72701

RE: Block and East Project – City Council Appeal

Dear Sondra,

As the property owners we wish to appeal the Planning Commission decision to deny our variance of (*ADM 11-4019: Administrative Item - NORTH SIDE OF MLK BETWEEN BLOCK AND EAST AVENUES/JACOBS, 523*) to City Council.

Thanks

Todd Jacobs, LEED AP  
Jacobs + Newell Company  
Principal  
1 East Center Street, Suite 330  
Fayetteville, Arkansas 72701  
Mobile 479-466-1717  
tjacobs@jacobsnewellcompany.com  
jacobsnewellcompany.com

## CITY COUNCIL AGENDA MEMO

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**To:** Mayor Jordan, City Council

**Thru:** Don Marr, Chief of Staff  
Jeremy Pate, Development Services Director

**From:** Andrew Garner, Senior Planner

**Date:** January 12, 2012

**Subject:** ADM 11-4019 (NORTH SIDE OF MLK BETWEEN BLOCK AND EAST AVE/JACOBS)

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### RECOMMENDATION

On January 9, 2012 The Planning Commission denied a request for a shared curb cut onto Martin Luther King Boulevard (MLK) for access to six new lots. Four of these lots are proposed to be developed with single family homes and two of the lots are proposed to be developed with duplexes (a total of 10 residences). A motion to approve failed with a vote of 3-5-0 (Commissioners Cabe, Bunch, Cook, Hoskins, and Earnest voted "no", Commissioner Honchell was absent). The applicant has appealed the Planning Commission's decision to the City Council.

Staff recommends approval of an variance of the Access Management Ordinance to permit a shared curb cut onto Martin Luther King Boulevard (MLK), a Collector, when the property has access to two lesser classification streets (Block and East Avenues). Staff finds that the request to permit a shared curb cut for four new single family homes and two duplexes as proposed onto MLK, a Collector Street, meets the intent of the ordinance. The curb cut would be shared between six lots and would function more like a private mid-block alley than a standard curb cut. Staff recommends the variance be permitted, submitted to two conditions:

1. The subject property is limited to one curb cut as indicated on the submitted site plan; and
2. Prior to issuance of building permits on the subject property a shared access easement shall be dedicated providing access rights for all six lots.

### BACKGROUND

This property is located on the north side of Martin Luther King (MLK) Boulevard between Block Avenue and East Avenue, in a residential neighborhood. The property is zoned NC, Neighborhood Conservation and contains approximately one acre. The original two parent tracts were recently subdivided into six lots to allow for the infill development of four single family and two duplex homes. The site is bounded by MLK to the south, Block Avenue to the west and East Avenue to the east. MLK is a Collector Street and Block and East Avenues are Local Streets on the Master Street Plan.

The applicant is in the process of designing homes for the six recently created lots. The applicant proposes rear-loaded garages and homes that face onto Block Avenue and East Avenue. The applicant proposes one shared

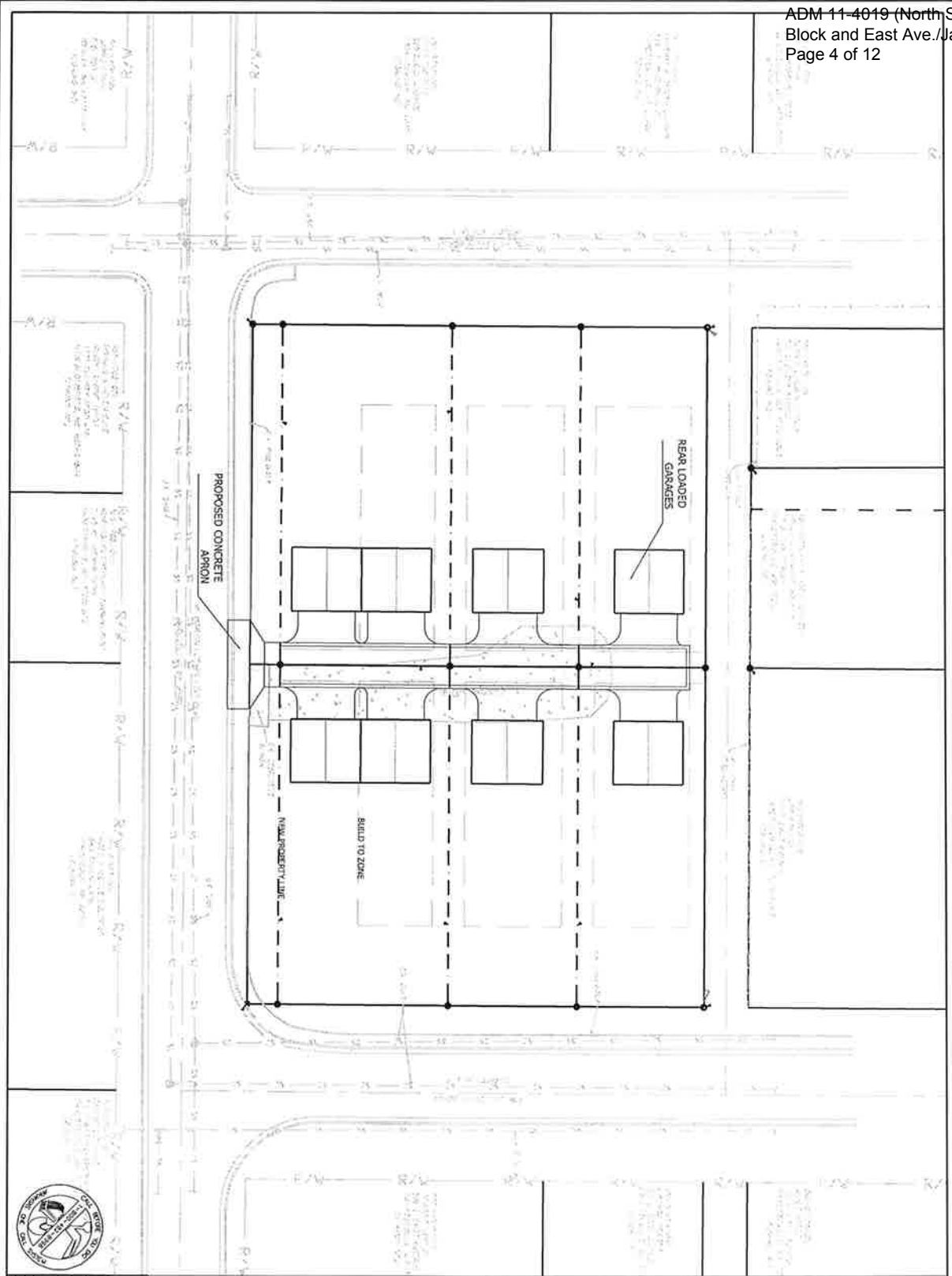
curb cut onto MLK for the six lots. This proposal would require a variance of the City's Street Design and Access Management Standards, Fayetteville Unified Development Code 166.08 (F) and 166.08(F)(1)(d). The ordinance requires this property to access the lower classification streets, Block and East Avenues, with no access to MLK (a Collector) unless a variance is granted. It is staff's finding that one shared access point at this location is both safer and more desirable six individual curb cuts accessing the new lots. The curb cut is at the safest functional location and is shared, both of which meet the intent of the Access Management Ordinance.

### **DISCUSSION**

The unofficial draft meeting minutes from the January 9, 2012 Planning Commission meeting are included in this staff report.

### **BUDGET IMPACT**

None.

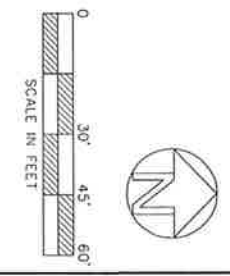


**APPRIAD**

300 W. STATE ST., SUITE 201, COLUMBIA, MO 65201, PH: 620.425.1234  
 200 W. STATE ST., SUITE 201, COLUMBIA, MO 65201, PH: 620.425.1234

ENGINEER  
 JACOBSON  
 10/12/11

BLOCK AVE. AND EAST ST.  
 FAYETTEVILLE AR





PC Meeting of January 9, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.  
Fayetteville, AR 72701  
Telephone: (479) 575-8267

**PLANNING DIVISION CORRESPONDENCE**

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TO: Fayetteville Planning Commission  
FROM: Andrew Garner, Senior Planner  
THRU: Jeremy Pate, Development Services Director  
DATE: January 3, 2012 Updated January 12, 2012

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**ADM 11-4019: Administrative Item (NORTH SIDE OF MLK BETWEEN BLOCK AND EAST AVENUES/JACOBS, 523):** Submitted by APPIAN, INC. for property located ON THE NORTH SIDE OF MARTIN LUTHER KING BOULEVARD BETWEEN BLOCK AVENUE AND EAST AVENUE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.00 acre. The request is for a variance of the Access Management Ordinance to allow for a curb cut onto Martin Luther King Boulevard, a Collector Street, when the property also has frontage onto lower classification streets. Planner: Andrew Garner

**Findings:**

*Background:* This property is located on the north side of Martin Luther King (MLK) Boulevard between Block Avenue and East Avenue. The property is zoned NC, Neighborhood Conservation and contains approximately one acre. The original two parent tracts were recently subdivided into six lots through an administrative lot split process. The site is bounded by MLK Boulevard to the south, Block Avenue to the west and East Avenue to the east. MLK Boulevard is a Collector Street and Block and East Avenues are Local Streets on the Master Street Plan.

*Proposal:* The applicant is in the process of designing homes for the six recently created lots. The applicant proposes rear-loaded garages and homes that face onto Block Avenue and East Avenue. The four lots in the rear are currently proposed for single family residences and the two lots on MLK Boulevard are proposed to be developed for duplexes. The applicant proposes one shared curb cut onto MLK Boulevard for all six lots (a total of 10 residences). This proposal would require a variance of the City's Street Design and Access Management Standards, Fayetteville Unified Development Code 166.08 (F) and 166.08(F)(1)(d). The ordinance requires this property to access the lower classification streets, Block and East Avenues, with no access to MLK Boulevard (a Collector) unless a variance is granted.

**Fayetteville Unified Development Code  
166.08 Street Design And Access Management Standards**

- (F) Access Management. Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto two public streets shall place a higher priority on accessing the street with the lower functional classification, ex. Local and Collector.

- (d) Residential Subdivisions. In the case of residential subdivisions, curb cuts shall be discouraged along arterial and collector streets. When necessary, curb cuts along arterial and collector streets shall be shared between two or more lots. Curb cuts along all streets shall be located a minimum of five feet (5') from the adjoining property line, unless shared.

*Discussion:* Staff finds that the request to permit a shared curb cut as proposed onto MLK Boulevard, a Collector Street, meets the intent of the City's Access Management Ordinance. The curb cut would be shared between six homes and would function more like a private mid-block alley than a standard curb cut. The applicant could access these lots through a platted alley to the north but this is an undeveloped alley and would require clearing of mature tree canopy and construction of a new alley at a substantial expense compared with the construction of the proposed shared driveway. This stretch of MLK is a relatively narrow two-lane section. There are several curb cuts on MLK Boulevard in this vicinity, homes and structures close to the street, and traffic speeds are slow. Staff does not find that that one curb cut on this block for six lots (10 residences) would create or exacerbate a dangerous traffic situation. Further, the development pattern proposed with rear-loaded garages is consistent with the NC zoning district that has a build-to zone and allows narrow lots.

Staff finds that the variance is warranted and that the location of the curb cut in the middle of the block is at the safest functional location.

**RECOMMENDED MOTION: Staff recommends approval of ADM 11-4019 based on the findings herein, subject to the following conditions of approval:**

**Conditions of Approval:**

- 1. The subject property shall be limited to one curb cut onto Martin Luther King Boulevard as indicated on the submitted site plan.**
- 2. Prior to issuance of any building permits on the subject property a shared access easement shall be dedicated providing access rights for all six lots to Martin Luther King Boulevard in the location indicated on the submitted site plan.**

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**PLANNING COMMISSION ACTION:** yes Required

       Approved X Denied        Tabled

**Motion:** Winston

**Second:** Chesser

**Vote:** 3-5-0 (Commissioners Cabe, Bunch, Cook, Hoskins, Earnest voting 'no')

**Date:** January 9, 2012

**Note:** Motion to approve failed.

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***New Business:***

**ADM 11-4019: Administrative Item (NORTH SIDE OF MLK BETWEEN BLOCK AND EAST AVENUES/JACOBS, 523):** Submitted by APPIAN, INC. for property located ON THE NORTH SIDE OF MARTIN LUTHER KING BOULEVARD BETWEEN BLOCK AVENUE AND EAST AVENUE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.00 acre. The request is for a variance of the Access Management Ordinance to allow for a curb cut onto Martin Luther King Boulevard, a Collector Street, when the property also has frontage onto lower classification streets.

**Andrew Garner, Senior Planner,** presented the staff report.

**Evan Neihues,** applicant, discussed the request.

**No public comment was presented.**

**Commissioner Earnest** asked for clarification on the variance process and access management.

**Kit Williams,** City Attorney, described the variance procedures listed in both chapters 166 and 156 of the Fayetteville Unified Development Code.

**Garner** discussed the variance process and staff's recommendation for this request.

**Commissioner Earnest** discussed reasons why he did not agree with the variance request.

**Commissioner Hoskins** asked about the design of the homes addressing the side streets instead of MLK.

**Evan Neihues,** applicant, discussed that what they are proposing will be a good situation and that the shared drive will function like a center alley.

**Commissioner Hoskins** asked about property values being diminished by not addressing MLK and discussed safety issues with accessing MLK.

**Evan Neihues,** applicant, discussed the proposed efficiency and design of the six lots and preservation of trees within the platted alley adjacent to the north.

**Garner** discussed that there is a platted undeveloped alley along the north property line, however it was somewhat of an economic hardship for the applicant to construct a public alley along the north property line and then construct the rear shared driveway for these lots as proposed.

**Commissioner Hoskins** stated that they have made a good case.

**Commissioner Cabe** discussed that MLK carries a lot of traffic and disagrees with staff and is not in support of the variance.

**Commissioner Earnest** discussed mature trees along the north property line, and concerns with this not meeting the access management ordinance.

**Commissioner Cabe** discussed that the developer created the hardship and that there are other options to access

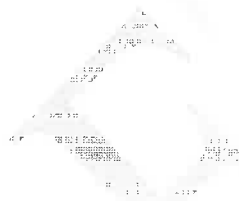
this site.

**Commissioner Chesser** gave reasons for the variance including that this was one curb cut for six units. It is somewhat unreasonable to eliminate every single curb cut for this block onto MLK.

**Motion:**

**Commissioner Winston** made a motion to approve ADM 11-4019. **Commissioner Chesser** seconded the motion.

**Upon roll call the motion failed with a vote of 3-5-0 (Commissioners Cabe, Bunch, Cook, Hoskins, Earnest voting 'No').**







December 19, 2011

Planning Commission  
City of Fayetteville  
113 West Mountain Street  
Fayetteville, AR 72701

**Re: Variance for Driveway Access onto Martin Luther King Blvd.**

Dear Commissioners,

Thank for you time reviewing our request. On behalf of Jacobs+Newell Co, we are requesting a variance for driveway access onto Martin Luther King Blvd. Here, MLK functions quite a lot like a local street. Though an Arkansas State Highway, homes face onto MLK through this portion of the Street, and drives are regularly accessed directly off MLK. This could be partially design and partially an accident, as MLK passes through a residential part of South Fayetteville, and this condition partially serves to slow traffic as it enters Fayetteville's more urban districts.

This driveway access also allows these lots to be rear loaded more easily, overall reducing the number of curb cuts necessary on Fayetteville streets. The owner has looked at accessing the drive off of the access easement to the north of the properties, however the number of utilities and significant trees and canopy, make creating a driveway not only difficult, but potentially detrimental to the existing canopy within this older neighborhood of South Fayetteville.

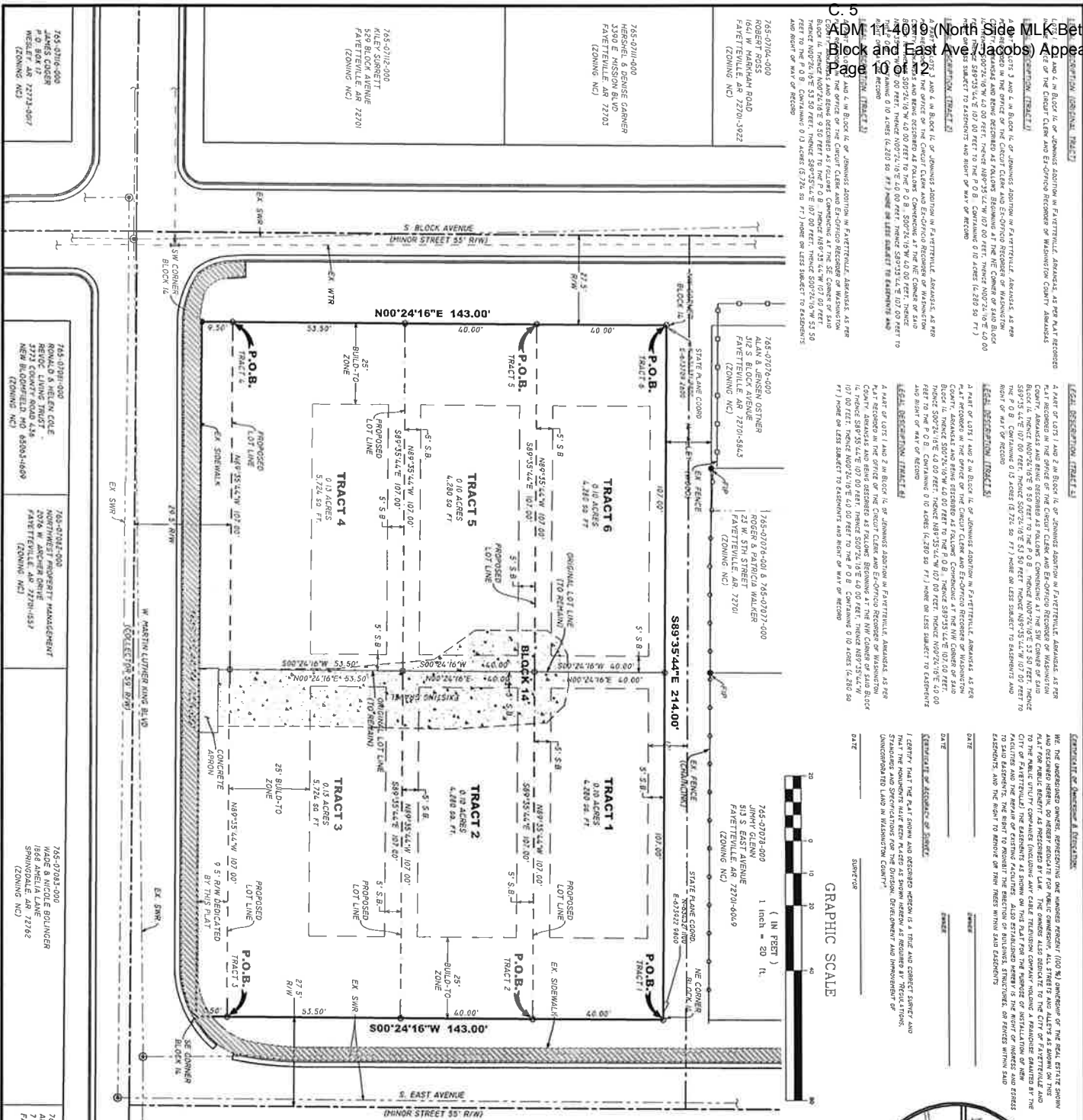
This would not greatly change the nature of this property's access significantly and would fall under the general neighborhood's aesthetics. Currently, the property has a curb cut and existing concrete apron in this general location for the previous home on the property. As the owner, Jacobs+Newell would shift the apron slightly and improve it for City of Fayetteville and Arkansas Highway standards. As previously mentioned, there are several homes that directly access, and in turn this would not be a diversion from the neighborhood's character.

Commissioners, thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Evan Niehues'.

Evan Niehues, RLA  
Appian, Inc.  
eniehues@appianonline.com  
479.200.7057



**LEGEND**

- FOUND IRON PIN
- SET IRON PIN & CAP
- ✕ FOUND CHIEFLY "X"
- EXISTING HANDBOOK
- EXISTING SETBACK
- CENTER LINE RIGHT OF WAY
- EXISTING LOT LINE
- PROPOSED LOT LINE
- EXISTING WETLINE
- EXISTING STORM LINE
- EXISTING EASEMENT
- EXISTING WOOD FENCE
- EXISTING CHAINLINK FENCE
- EXISTING SIGN

**NOTES:**

- 1) PLAT PAGE #523
- 2) 765-07019-000 & 765-07060-000
- 3) CURRENT ZONING: NC (NEIGHBORHOOD CONSERVATION)
- 4) THIS PROPERTY IS NOT AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER THE 2013 FLOOD MAP DATED MAY 16, 2008
- 5) BASIS OF ROTATION - MARGARYT DEED OF SAME ADDITION AND THE FINAL PLAN OF JENNINGS
- 6) IN ACCORDANCE WITH THE CITY'S ACCESS MANAGEMENT ORDINANCE TRACT 3 AND 4 ARE NOT PERMITTED TO HAVE A CURB CUT ON MARTIN LUTHER KING

**BUILDING SETBACK TABLE**

TYPE	FRONT	REAR	REAR FROM CENTERLINE OF ALLEY
RESIDENTIAL	25'	5'	12'

THE PRINCIPAL FACADE OF A BUILDING SHALL BE BUILT WITHIN A SETBACK FROM THE FRONT PROPERTY LINE AND A LINE 25' FROM THE FRONT PROPERTY LINE.

**DATE** 11/20/2023  
**SCALE** 1"=20'  
**CHECKED BY** DLJ  
**DRAWN BY** BLP  
**DATE** 11/02/2023

**JORGENSEN & ASSOCIATES**  
 CIVIL ENGINEERS • SURVEYORS

**LOT SPLIT FOR**  
**JACOBS / NEWELL COMPANY**

**765-07019-000**  
 AMANDA STROOP  
 515 S EAST AVENUE  
 FAYETTEVILLE AR 72701  
 (ZONING NC)

**765-07060-000**  
 JIMMY GLENN  
 1000 W MARKET STREET  
 FAYETTEVILLE AR 72701-6048  
 (ZONING NC)

**765-07060-000**  
 ALICE BRETT  
 515 S EAST AVENUE  
 FAYETTEVILLE AR 72701-6048  
 (ZONING NC)

**765-07060-000**  
 JIMMY GLENN  
 1000 W MARKET STREET  
 FAYETTEVILLE AR 72701-6048  
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 1000 W MARKET STREET  
 FAYETTEVILLE AR 72701-6048  
 (ZONING NC)



EAST AVE

Subject Property

BLOCK AVE

MARTIN LUTHER KING BLVD



1 inch = 75 feet  
0 10 20 40 60 80 Feet

