#### HISTORIC AND DESIGN REVIEW COMMISSION

May 03, 2023

**HDRC CASE NO: 2023-113** 

**ADDRESS:** 119 W ROSEWOOD AVE

**LEGAL DESCRIPTION:** NCB 6534 BLK 14 LOT 10, E 17.5 FT OF 9 & W 7.5 FT OF 11

**ZONING:** R-5, H CITY COUNCIL DIST.:

**DISTRICT:** Monte Vista Historic District

**APPLICANT:** Edward Marvin/MARVIN EDWARD B & SALLY U

OWNER: MARVIN EDWARD B & SALLY U

TYPE OF WORK: Demolition of rear accessory structures

**APPLICATION RECEIVED:** February 25, 2023

**60-DAY REVIEW:** Not applicable due to City Council Emergency Orders

CASE MANAGER: Rachel Rettaliata

**REQUEST:** 

The applicant is requesting a Certificate of Appropriateness for approval to demolish the rear accessory structure.

#### **APPLICABLE CITATIONS:**

Unified Development Code Sec. 35-614. - Demolition.

Demolition of a historic landmark constitutes an irreplaceable loss to the quality and character of the City of San Antonio. Accordingly, these procedures provide criteria to prevent unnecessary damage to the quality and character of the city's historic districts and character while, at the same time, balancing these interests against the property rights of landowners.

- (a) Applicability. The provisions of this section apply to any application for demolition of a historic landmark (including those previously designated as historic exceptional or historic significant) or a historic district.
- (1) Historic Landmark. No certificate shall be issued for demolition of a historic landmark unless the applicant provides sufficient evidence to support a finding by the commission of unreasonable economic hardship on the applicant. In the case of a historic landmark, if an applicant fails to prove unreasonable economic hardship, the applicant may provide to the historic and design review commission additional information regarding loss of significance as provided is subsection (c) in order to receive a historic and design review commission recommendation for a certificate for demolition.
- (2) Entire Historic District. If the applicant wishes to demolish an entire designated historic district, the applicant must provide sufficient evidence to support a finding by the commission of economic hardship on the applicant if the application for a certificate is to be approved.
- (3) Property Located in Historic District and Contributing to District Although Not Designated a Landmark. No certificate shall be issued for property located in a historic district and contributing to the district although not designated a landmark unless the applicant provides sufficient evidence to support a finding by the commission unreasonable economic hardship on the applicant if the application for a certificate is disapproved. When an applicant fails to prove unreasonable economic hardship in such cases, the applicant may provide additional information regarding loss of significance as provided is subsection (c) in order to receive a certificate for demolition of the property.
- (b) Unreasonable Economic Hardship.
- (1) Generally. The historic and design review commission shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular landmark or eligible landmark against the special merit of the proposed replacement project. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate).
- (2) Burden of Proof. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question

- (i.e., the current economic climate). When a claim of unreasonable economic hardship is made, the owner must provide sufficient evidence to support a finding by the commission that:
- A. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;
- B. The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and
- C. The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property. (3) Criteria. The public benefits obtained from retaining the cultural resource must be analyzed and duly considered by the historic and design review commission.

As evidence that an unreasonable economic hardship exists, the owner may submit the following information to the historic and design review commission by affidavit:

#### A. For all structures and property:

- i. The past and current use of the structures and property;
- ii. The name and legal status (e.g., partnership, corporation) of the owners;
- iii. The original purchase price of the structures and property;
- iv. The assessed value of the structures and property according to the two (2) most recent tax assessments;
- v. The amount of real estate taxes on the structures and property for the previous two (2) years;
- vi. The date of purchase or other acquisition of the structures and property;
- vii. Principal balance and interest rate on current mortgage and the annual debt service on the structures and property, if any, for the previous two (2) years;
- viii. All appraisals obtained by the owner or applicant within the previous two (2) years in connection with the owner's purchase, financing or ownership of the structures and property;
- ix. Any listing of the structures and property for sale or rent, price asked and offers received;
- x. Any consideration given by the owner to profitable adaptive uses for the structures and property;
- xi. Any replacement construction plans for proposed improvements on the site;
- xii. Financial proof of the owner's ability to complete any replacement project on the site, which may include but not be limited to a performance bond, a letter of credit, an irrevocable trust for completion of improvements, or a letter of commitment from a financial institution; and
- xiii. The current fair market value of the structure and property as determined by a qualified appraiser.
- xiv. Any property tax exemptions claimed in the past five (5) years.
- B. For income producing structures and property:
- i. Annual gross income from the structure and property for the previous two (2) years;
- ii. Itemized operating and maintenance expenses for the previous two (2) years; and
- iii. Annual cash flow, if any, for the previous two (2) years.
- C. In the event that the historic and design review commission determines that any additional information described above is necessary in order to evaluate whether an unreasonable economic hardship exists, the historic and design review commission shall notify the owner. Failure by the owner to submit such information to the historic and design review commission within fifteen (15) days after receipt of such notice, which time may be extended by the historic and design review commission, may be grounds for denial of the owner's claim of unreasonable economic hardship.
- D. Construction cost estimates for rehabilitation, restoration, or repair, which shall be broken out by design discipline and construction trade, and shall provide approximate quantities and prices for labor and materials. OHP shall review such estimates for completeness and accuracy, and shall retain outside consultants as needed to provide expert analysis to the HDRC.

When a low-income resident homeowner is unable to meet the requirements set forth in this section, then the historic and design review commission, at its own discretion, may waive some or all of the requested information and/or request substitute information that an indigent resident homeowner may obtain without incurring any costs. If the historic and design review commission cannot make a determination based on information submitted and an appraisal has not been provided, then the historic and design review commission may request that an appraisal be made by the city.

When an applicant fails to prove unreasonable economic hardship the applicant may provide to the historic and design review commission additional information which may show a loss of significance in regards to the subject of the application in order to receive historic and design review commission recommendation of approval of the demolition. If, based on the evidence presented, the historic and design review commission finds that the structure or property is no longer historically, culturally, architecturally or archeologically significant, it may make a recommendation for approval of the demolition. In making this determination, the historic and design review commission must find that the owner has provided sufficient evidence to support a finding by the commission that the structure or property has undergone significant and irreversible changes which have caused it to lose the historic, cultural, architectural or archeological significance, qualities or features which qualified the structure or property for such designation. Additionally, the historic and design review commission must find that such changes were not caused either directly or indirectly by the owner, and were not due to intentional or negligent destruction or a lack of maintenance rising to the level of a demolition by neglect.

The historic and design review commission shall not consider or be persuaded to find loss of significance based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate).

For property located within a historic district, the historic and design review commission shall be guided in its decision by balancing the contribution of the property to the character of the historic district with the special merit of the proposed replacement project.

- (d) Documentation and Strategy.
- (1) Applicants that have received a recommendation for a certificate shall document buildings, objects, sites or structures which are intended to be demolished with 35mm slides or prints, preferably in black and white, and supply a set of slides or prints or provide a set of digital photographs in RGB color to the historic preservation officer. Digital photographs must have a minimum dimension of 3000 x 2000 pixels and resolution of 300 dpi.
- (2) Applicants shall also prepare for the historic preservation officer a salvage strategy for reuse of building materials deemed valuable by the historic preservation officer for other preservation and restoration activities.
- (3) Applicants that have received an approval of a certificate regarding demolition shall be permitted to receive a demolition permit without additional commission action on demolition, following the commission's recommendation of a certificate for new construction. Permits for demolition and construction shall be issued simultaneously if requirements of section 35-609, new construction, are met, and the property owner provides financial proof of his ability to complete the project.
- (4) When the commission recommends approval of a certificate for buildings, objects, sites, structures designated as landmarks, or structures in historic districts, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Permits for parking lots shall not be issued, nor shall an applicant be allowed to operate a parking lot on such property, unless such parking lot plan was approved as a replacement element for the demolished object or structure.
- (e) Issuance of Permit. When the commission recommends approval of a certificate regarding demolition of buildings, objects, sites, or structures in historic districts or historic landmarks, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Once the replacement plans are approved a fee shall be assessed for the demolition based on the approved replacement plan square footage. The fee must be paid in full prior to issuance of any permits and shall be deposited into an account as directed by the historic preservation officer for the benefit, rehabilitation or acquisition of local historic resources. Fees shall be as follows and are in addition to any fees charged by planning and development services:

NOTE: Refer to City Code Chapter 10, Subsection 10-119(o) regarding issuance of a permit.

(f) The historic preservation officer may approve applications for demolition permits for non-contributing minor outbuildings within a historic district such as carports, detached garages, sheds, and greenhouses determined by the historic preservation officer to not possess historical or architectural significance either as a stand-alone building or structure, or as part of a complex of buildings or structures on the site.

(Ord. No. 98697 § 6) (Ord. No. 2010-06-24-0616, § 2, 6-24-10) (Ord. No. 2014-04-10-0229, § 4, 4-10-14)(Ord. No. 2015-10-29-0921, § 2, 10-29-15)(Ord. No. 2015-12-17-1077, § 2, 12-17-15)

*Unified Development Code Sec. 12-20 – 12-26 – Deconstruction* 

#### Sec. 12-22. - Applicability and administration.

This article applies to any request for demolition of residential and accessory structures within the territorial limits of the City of San Antonio that meets the criteria for deconstruction as established in this article.

- (1) Criteria. Any application for demolition of a structure that is determined by the director to meet the criteria for deconstruction shall consider the construction date and original use of the structure. The director, at his or her discretion, may refer the applicability of criteria to a property to the historic and design review commission (HDRC) for a recommendation before a determination is made.
- a. *Construction date*. The construction date of a structure shall be informed by available primary sources including, but not limited to Sanborn Maps, deed records, appraisal district data, and/or other applicable research methods.
- b. *Original use*. The original use of the property shall be determined by the director after a visual assessment of construction type and reference to the 1968 city plan. The current zoning or use of the property does not determine whether the requirements of this section apply.
- (2) Phasing. This article shall take effect in phases as set forth below.
- a. Phase i shall take effect on October 1, 2022. Deconstruction requirements shall apply to demolition permit applications for city-executed demolitions for:
- 1. Residential single-family structures, multi-unit structures with four (4) units or less, and accessory structures that were constructed on or before December 31, 1920, regardless of zoning overlay; and
- 2. Residential single-family structures, multi-unit structures with four (4) units or less, and accessory structures that were constructed on or before December 31, 1945, and that have either: been locally designated as historic and carry a historic zoning overlay (H, HL, HS, or HE); or, are located within a Neighborhood Conservation District (NCD) and carry a NCD zoning overlay.
- b. Phase II shall take effect on January 1, 2023. Deconstruction requirements shall apply to demolition permit applications for:
- 1. Residential single-family structures, multi-unit structures four (4) units or less, and accessory structures that were constructed on or before December 31, 1920, regardless of zoning overlay; and
- 2. Residential single-family structures, multi-unit structures four (4) units or less, and accessory structures that were constructed on or before December 31, 1945, and that have either: been locally designated as historic and carry a historic zoning overlay (H, HL, HS, or HE); or, are located within a Neighborhood Conservation District (NCD) and carry a NCD zoning overlay.
- c. Phase III shall take effect on January 1, 2025. Deconstruction requirements shall apply to demolition permit applications for:
- 1. Residential single-family structures, multi-unit structures eight (8) units or less, and accessory structures that were constructed on or before December 31, 1945, regardless of zoning overlay; and
- 2. Residential single-family structures, multi-unit structures eight (8) units or less, and accessory structures that were constructed on or before December 31, 1960, and that have either: been locally designated as historic and carry a historic zoning overlay (H, HL, HS, or HE); or, that are located within a neighborhood conservation district (NCD) and carry a NCD zoning overlay.
- (3) The director is authorized to administer and enforce the provisions of this article and adopt rules, procedures, and forms to implement the provisions of this article.
- (4) The director may temporarily suspend or modify the requirements of this article based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The director shall temporarily suspend the requirements of this article if, at any time, there are less than three (3) certified deconstruction contractors registered with the city.

(Ord. No. 2022-09-08-0668, § 1, 9-8-22)

- (a) *Permit required*. No person shall demolish a residential or accessory structure that is eligible for deconstruction under this article without first obtaining a demolition permit from the city.
- (1) *Pre-application conference*. An applicant requesting to demolish a structure that meets the criteria for deconstruction, may meet with the office of historic preservation to discuss the procedures and requirements pursuant to this Code. The required forms may be obtained from the office of historic preservation prior to or at the time of application.
- (2) Applications. All applications for demolition of a residential structure shall be referred to the office of historic preservation for a determination of applicability for deconstruction. The director shall determine, in writing, the construction date, original use, and applicability for deconstruction. If the provisions of this article apply, the city shall notify the applicant of the director's decision and of the deconstruction requirements of the demolition permit within ten (10) business days after an application for demolition permit is filed with the city's development services department. The director, at his or her discretion, may refer the applicability of criteria to a property to the historic and design review commission (HDRC) for a recommendation before a determination is made. An appeal of the director's decision may be made as set forth in section 12-25 of this article.
- (3) *Issuance of a permit.* A demolition permit for deconstruction shall only be issued to a certified deconstruction contractor who shall be responsible for the deconstruction activities of the subject application throughout the period of deconstruction.
- (b) Deconstruction *requirements*. Upon issuance of a permit, a certified deconstruction contractor shall adhere to the applicable deconstruction requirements and submit to the office of historic preservation the following forms and documentation for review and approval before the post-work evaluation is performed.
- (1) *Pre*-deconstruction *form*. The certified deconstruction contractor of a structure subject to deconstruction under this article shall complete and submit a pre-deconstruction form to the office of historic preservation.
- (2) *Post*-deconstruction *form*. The certified deconstruction contractor of a structure subject to deconstruction under this article shall complete and submit a post-deconstruction form to the office of historic preservation within ten (10) calendar days after completion of the deconstruction work.
- (3) *Documentation*. The certified deconstruction contractor of a structure subject to deconstruction under this article shall submit documentation identifying the destination for all materials removed to the office of historic preservation no more than ten (10) calendar days after completion of the deconstruction work as part of a complete post-deconstruction form. The office of historic preservation shall review and approve the documentation before conducting the post-work evaluation. The certified deconstruction contractor shall be responsible for providing the office of historic preservation office copies of documentation requirements as provided by staff:
- a. Photographs of deconstruction in progress, to be taken weekly at a minimum;
- b. Itemized receipt of materials and quantities donated to a nonprofit or community organization;
- c. Itemized receipt of materials and quantities sold;
- d. Itemized list and photographs of salvaged material that will be re-used on site or at another site;
- e. Transaction receipt or weight tickets for the disposal of hazardous material abated during the course of deconstruction; and
- f. Transaction receipts or weight tickets for all materials taken to a transfer facility, material recovery facility, and/or landfill.
- (4) *Site posting*. The office of historic preservation shall provide the certified deconstruction contractor a sign(s) when the deconstruction permit is issued. The certified deconstruction contractor shall post the sign(s) on site before the first day of deconstruction activity and it shall remain on site until the deconstruction is complete. The sign(s) shall indicate that the structure is being deconstructed and must provide city contact information for questions or concerns.
- a. The sign(s) must remain in place throughout the period of deconstruction;
- b. The sign(s) must be placed on each street frontage of the site; and
- c. The sign(s) must be posted within five (5) feet of a street lot line and must remain visible to pedestrians and motorists. Signs are not required along street frontages that are not improved or not named, and/or do not allow motor vehicle access.
- (5) Building removal. Building removal shall be performed by a certified deconstruction contractor as follows:
- a. Building removal shall be completed within the period of deconstruction;
- b. Materials shall be removed by hand to the fullest extent possible while maintaining original sizes and dimensions;
- c. Nails, screws, or items used to secure materials in place shall be removed and prepared for re-use where feasible; and
- d. Removal and disposal of hazardous materials shall be in accordance with this article, and any other local, state, or federal laws, rules, or regulations.
- (6) Salvageable materials. The property owner may re-use, sell, or donate salvage materials from a deconstruction site before the materials leave the site, provided that the distribution of the materials meets the documentation requirements

under <u>section 12-23(b)</u> of this article. The rules and procedures outlined in <u>chapter 16</u>, article XIII—Garage sales do not apply to active deconstruction sites.

- (7) Site storage. Materials shall be stored and covered to protect them from exposure to rain and permeable ground contact during the period of deconstruction. Materials from the deconstructed building may only be safely stored on site during the period of deconstruction, provided that they are safely stacked and secured. The property owner shall remove all materials not sold, donated, or re-used from the deconstruction site by the deconstruction completion date and within the period of deconstruction.
- (8) Deconstruction *review*. Before post-deconstruction review is approved by the director, the certified deconstruction contractor of a structure shall submit a post-deconstruction form and all required documentation to the office of historic preservation.
- (c) *Site inspections*. Upon the written consent of the property owner of the subject application, the director is authorized to conduct site inspections throughout the period of deconstruction to assure compliance with this article.
- (d) *Compliance*. Any demolition work that exceeds or violates the provisions of this article shall be subject to penalties set forth in <u>section 12-26</u> of this article. Compliance with the provisions of this article does not exempt the demolition of buildings or structures from any other requirement.
- (1) Certified deconstruction contractors shall follow all deconstruction, building related and licensing requirements, regulations, and laws.
- (2) Failure to complete deconstruction, remove materials, and obtain approval of the post-deconstruction form within the period of deconstruction shall result in the city completing the abatement of the property at cost of the property owner.
- (e) Suspension or revocation of deconstruction certification. In the event a certified deconstruction contractor fails or refuses to comply with requirements of this article, performs demolition work that exceeds or violates the deconstruction requirements of the demolition permit issued, or does not complete the deconstruction activities and documentation of a permit issued under this article, then the director may suspend or revoke the deconstruction certification of such contractor, cancel all unexecuted permits issued to such contractor, and stop all work being done by such contractor, and withhold approval of further permits for deconstruction work until any or all incomplete or defective work of such contractor is fully completed by such contractor. Suspension or revocation of deconstruction contractor certification is accomplished by mailing to the holder of such certification a written notice by certified mail stating the permit or certification is suspended or revoked or by personally delivering to the holder thereof a written notice stating the permit or certification is suspended or revoked. An appeal of the director's decision may be made as set forth in section 12-25 of this article.

### (Ord. No. 2022-09-08-0668, § 1, 9-8-22)

#### **FINDINGS:**

- a. The structure located at 119 W Rosewood is a 1-story, single-family structure constructed circa 1930. The structure features a side gable and hip composition shingle roof with a projecting front catslide gable roof, a front dormer, stone cladding, three decorative front-facing arches, and one-over-one windows. The property features a 1-story rear accessory structure with a side gable composition shingle roof, exposed rafter tails, wood cladding, wood garage doors, and a shed roof addition. The original footprint of the original rear accessory structure is extant in its original location; however, an addition was constructed on the west side of the structure. The property is contributing to the Monte Vista Historic District.
- b. DEMOLITION OF REAR ACCESSORY STRUCTURE The applicant is requesting approval for the demolition of the rear accessory structure only. In general, accessory structures contribute to the character of historic properties and the historical development pattern within a historic district.
- c. CONTRIBUTING STATUS The structure is a 1-story structure constructed in approximately the same period as the primary structure. The structure appears on the 1931 Sanborn Map in the same location and configuration, although the footprint has been modified. The existing west addition is not original to the structure. A site visit to assess the condition of the property was not conducted prior to the HDRC hearing at the applicant's request; however, the photos provided show that the existing structure features significant deterioration, including a sinking foundation on the east side of the structure, wood rot, and failing structural elements. While staff finds that the structure has significantly deteriorated, the structure is contributing to the district
- d. UNREASONABLE ECONOMIC HARDSHIP In accordance with UDC Section 35-616, no certificate shall be issued for demolition of a historic landmark unless the applicant provides sufficient evidence to support a finding by the commission of unreasonable economic hardship on the applicant. In the case of a historic

landmark, if an applicant fails to prove unreasonable economic hardship, the applicant may provide to the Historic and Design Review Commission additional information regarding loss of significance. In order for unreasonable economic hardship to be met, the owner must provide sufficient evidence for the HDRC to support a finding in favor of demolition. In the submitted application, the applicant has not provided a cost estimate for the cost of rehabilitation versus the cost of demolition; however, the applicant has expressed that the cost of demolition will be minimal as they intend to demolish the existing structure themselves. The applicant has indicated that in its current condition, the existing rear accessory structure is not structurally sound due to a cracked foundation, the lack of rebar in the foundation, water damage, walls of uneven height, and wood rot in the studs, supports, and the interior ceiling. Staff finds that evidence for UDC Section 35-614(b) has not been met based on the documentation provided.

- e. LOSS OF SIGNIFICANCE In accordance with UDC Section 35-614(c), demolition may be recommended if the owner has provided sufficient evidence to support a finding that the structure has undergone significant and irreversible changes which have caused it to lose historic, cultural, architectural or archaeological significance, qualities or features which qualified the structure or property for such designation. The 1-story rear accessory structure features wood construction with a side gable composition shingle roof and a side addition. Although the footprint has been modified, the original accessory structure appears to be intact. Staff finds that a loss of significance has occurred due to the modifications and substantial deterioration of original materials.
- f. MATERIAL SALVAGE & DECONSTRUCTION In September 2022, San Antonio City Council adopted a deconstruction ordinance that requires certain projects seeking a demolition permit to be fully deconstructed as opposed to mechanically demolished. Currently, residential structures up to four units and rear accessory structures built on or prior to December 31, 1945, are required to be deconstructed if designed historic. This property is subject to the City's deconstruction ordinance and the accessory structure must be fully deconstructed by a Certified Deconstruction Contractor (UDC Chapter 12, Article II). Per the ordinance, the assigned Certified Deconstruction Contractor must complete a Pre-Deconstruction and Post-Deconstruction Form, which require a pre-deconstruction salvage inventory; a final itemized list, with quantities and photos of materials salvaged and their destination (for reuse on site, moved to be sold, donated, etc); documented diversion rate of the overall project; and transaction receipts or weight tickets for all materials taken to a transfer facility, material recovery facility, and/or landfill. Materials should be reused on site, when possible.
- g. REPLACEMENT PLANS The applicant is not requesting to construct a replacement structure at this time. Any future requests for replacement of the rear accessory structure will require an additional application for review and approval.

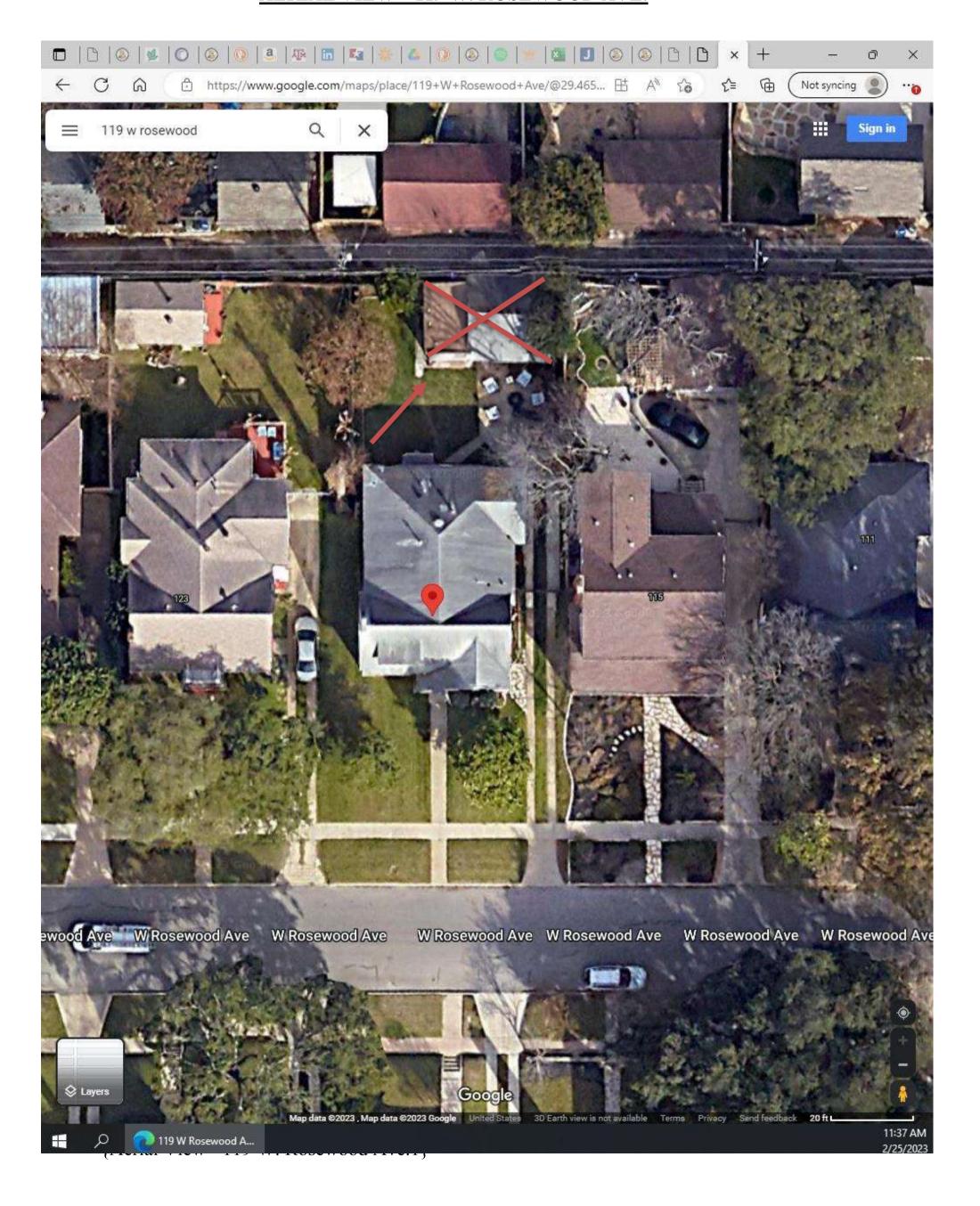
#### **RECOMMENDATION:**

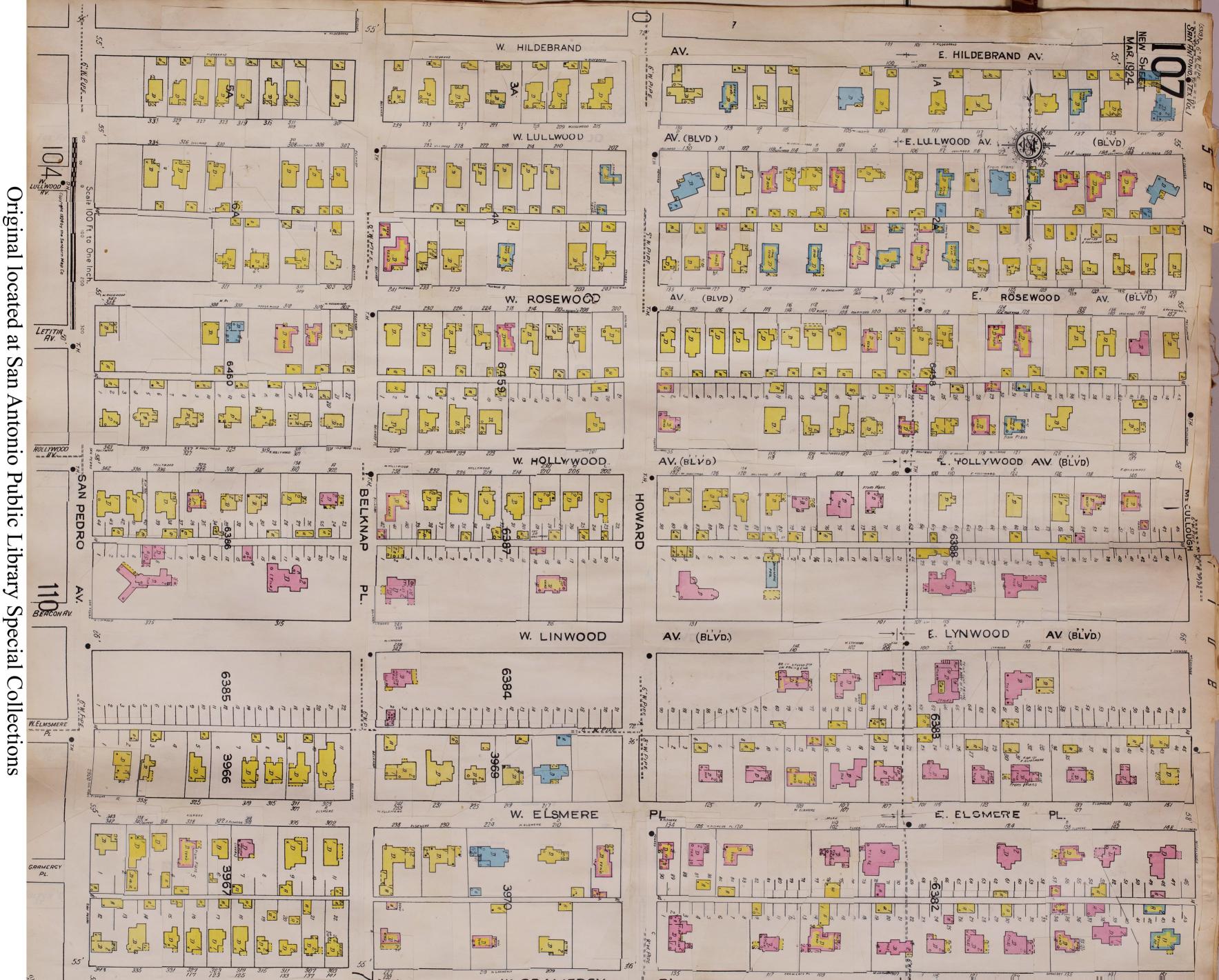
Staff does not recommend approval based on findings a through g. The applicant has not satisfied the documentation requirements for demolition of a landmark and the application is incomplete.

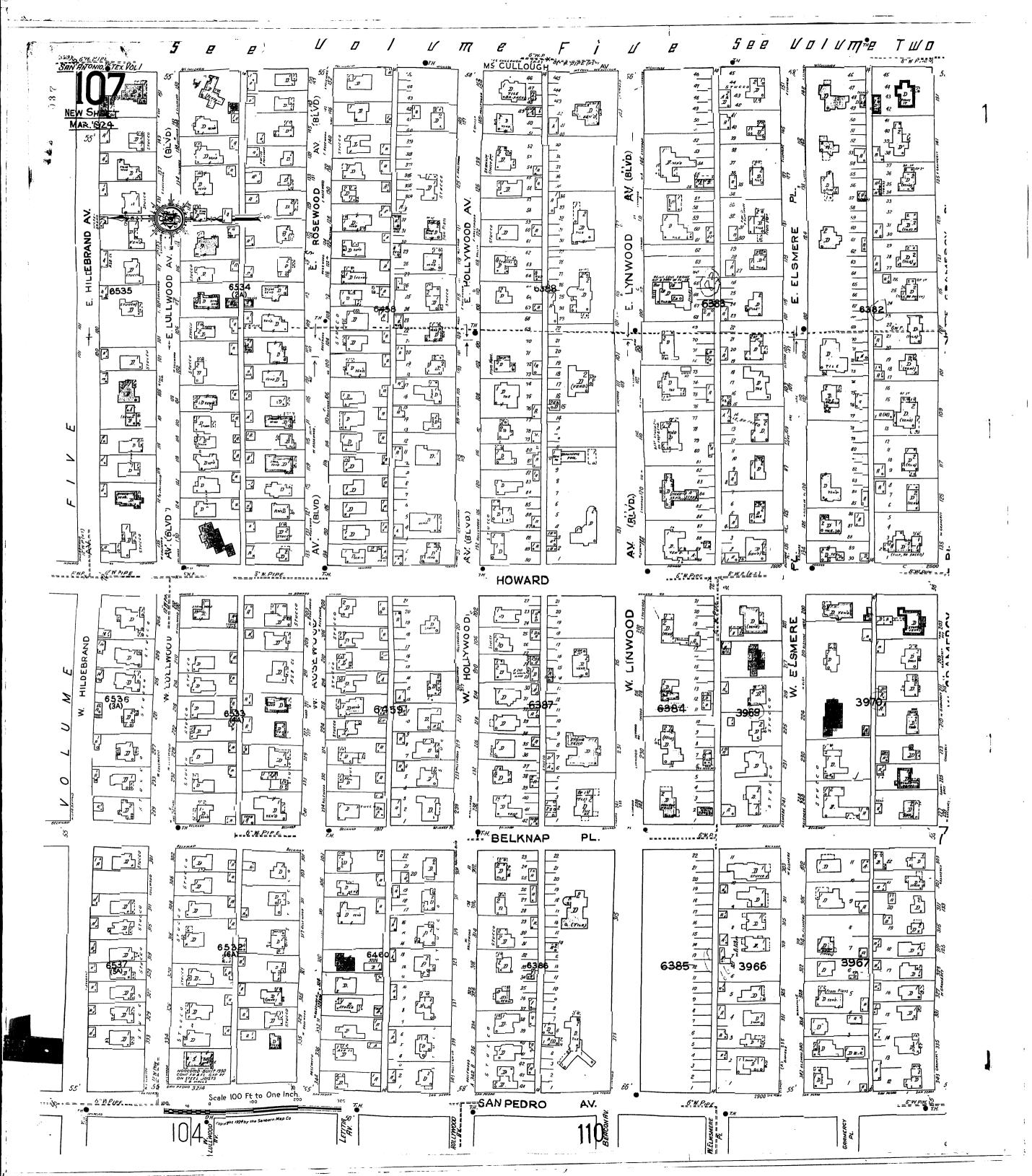
If the HDRC finds the application to be complete and finds demolition appropriate, staff recommends the following stipulations:

- i. That the applicant comply with the City's deconstruction ordinance and selects a Certified Deconstruction Contractor to complete deconstruction, form submission, and permitting in accordance with UDC Chapter 12, Article II, as noted in finding f.
- ii. Any future requests for replacement of the rear accessory structure will require an additional application for review and approval.

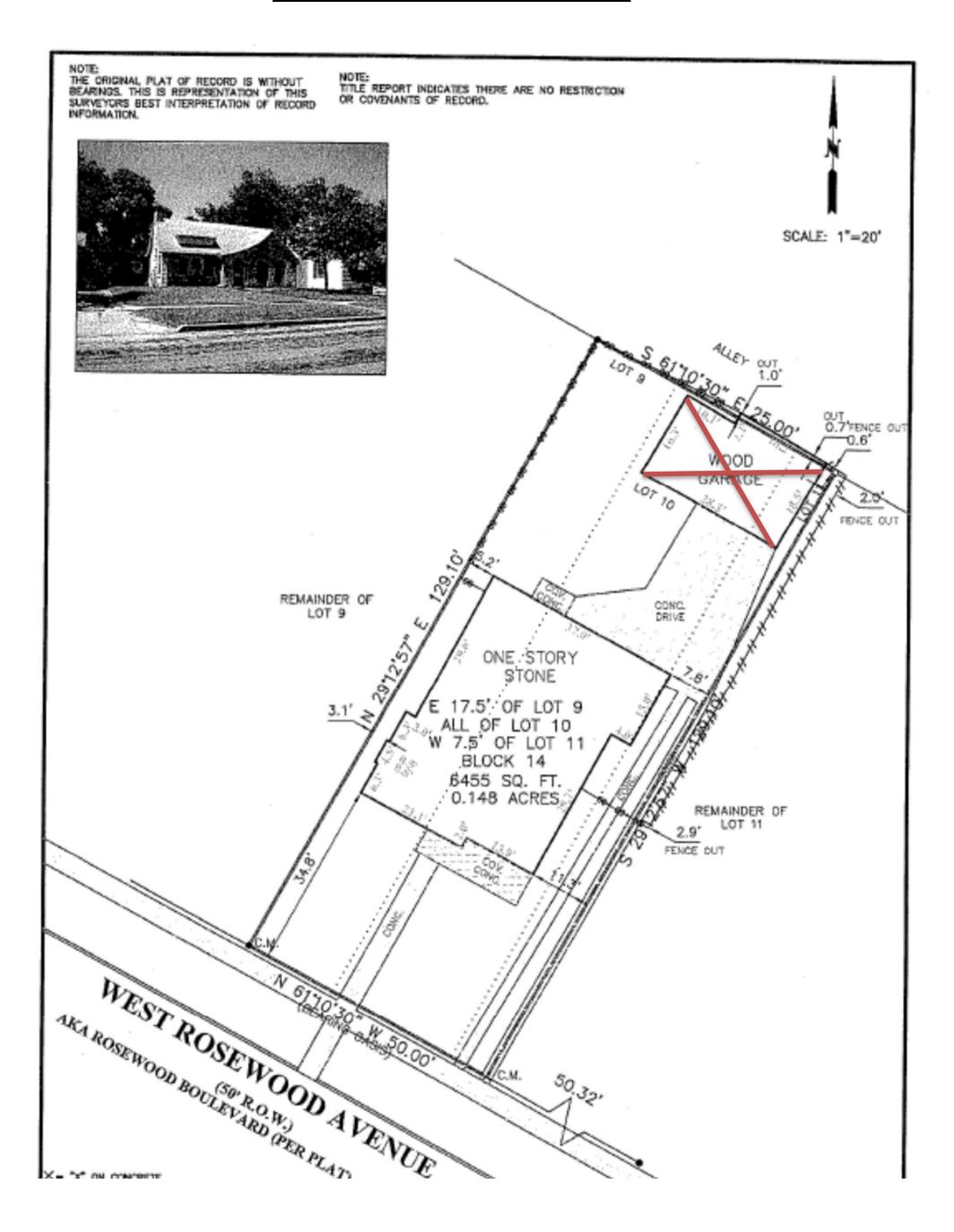
## <u>AERIAL VIEW – 119 W. ROSEWOOD AVE.</u>







## SITE PLAN – 119 W. ROSEWOOD AVE.







### Additional Photographs – 119 W. ROSEWOOD AVE.











