

A | R | B | H  
ABERNATHY ROEDER  
BOYD HULLETT  
EST. 1876

Robert H. Roeder  
[roeder@abernathy-law.com](mailto:roeder@abernathy-law.com)

1700 Redbud Boulevard, Suite 300 | McKinney, Texas 75069  
Main: 214.544.4000 | Fax: 214.544.4044

June 7, 2024

Ms. Jennifer Arnold, Director of Planning  
City of McKinney  
221 N. Tennessee Street  
McKinney, Texas 75069

Re: Supplement to Appeal of Denial of Certificate of Appropriateness by Historic Preservation Advisory Board to relocate Improvements and Remove a Non-Historic Patio Addition on 312 S. Tennessee Street (aka The Surrey House); COA Case #HP2024-0025

Dear Ms. Arnold:

This letter shall serve as a supplement to my letter of May 22, 2024, appealing the denial of a Certificate of Appropriateness (“CoA”) by the Historic Preservation Advisory Board (“HPAB”) for the relocation of improvements on 312 S. Tennessee Street (aka The Surrey House) to the northwest corner of Tennessee and Standifer, and the removal of a non-historic patio addition. This supplement and the accompanying materials are filed more than seven days prior to the scheduled appeal before the City Council on June 18, 2024.

In addition to the grounds of appeal set forth in my May 22 letter, I submit the following as additional grounds for consideration:

- 2023 CoA Approval by the Historic Preservation Officer (“HPO”) Created a Vested Right and Should Be Reinstated and Extended. On May 17, 2023, the HPO issued a CoA for the relocation of improvements on the Property to the northwest corner of Tennessee and Standifer and the removal of a non-historic patio addition with two conditions set forth therein (the “2023 CoA”), a copy of which is attached hereto as Exhibit A. Pursuant to Section 203E of the Uniform Development Code of the City of McKinney (“UDC”), *Certificates of Appropriateness for Residential Areas with the Historic Overlay District* are permits. Section 203E6 sets out the applicability, submittal requirements, approval procedure, approval criteria and appeal procedure for obtaining a CoA, and upon approval of the same, the CoA creates a vested right in the applicant. Unlike the other permits created by Section 203E, a Certificate of Appropriateness is the only permit for which no expiration period is provided (site plans – 2 years; landscape plans - 2 years; tree preservation permit – expiration of building plans; tree permit – 2 years; façade plan – 2 years). Given the fact that expiration periods are expressly provided for all other permits,

the absence of a provision for an expiration period for a CoA should be interpreted that expiration periods for CoAs are not appropriate or authorized. The acceptance page of the 2023 CoA that sets out an expiration if authorized construction is not commenced within one year is contrary to the authority of Section 203E of the UDC and is an invalid exercise or extension of authority by the HPO. Accordingly, the 2023 CoA should be determined to be in full force and effect without any expiration condition. In the instant case and upon inquiry by the applicant, the applicant was advised by the HPO that the 2023 CoA would expire on the first anniversary date and that it must reapply for a new CoA. Based upon that direction from the HPO, the applicant resubmitted the application that was then forwarded to the HPAB for review and was denied. The fact that the applicant submitted a reapplication at the direction of the HPO should not create a subsequent overriding application or decision that would invalidate the 2023 CoA.

- The One Year Expiration Period Imposes a Condition that is Impossible to Satisfy. From a purely administrative standpoint, it is virtually impossible to obtain a building permit for a complex project within the McKinney Town Center within one year from the issuance of a CoA. Obtaining a building permit for a project of this magnitude requires (1) the creation of an initial conceptual architectural design that addresses the general site and pedestrian requirements of the McKinney Town Center zoning district (“MTC”), (2) an investigation of the site and surrounding conditions, (3) the preparation of a detailed site plan that conforms to the requirements of the MTC, (4) submittal of the site plan for staff review and comment, (5) the preparation of complete building plans by the architect and engineer to demonstrate, among other matters, that the elevations conform to the requirements of the MTC, (6) staff review and approval of the complete building and site construction plans and (7) the negotiation with, and engagement of, a contractor which would then apply for a building permit for construction. In the best of circumstances, the combined time required to get from CoA approval to a building permit is well in excess of 18-24 months. Therefore, any provision for the expiration of a CoA at the end of a 12 month period for a major project such as the applicant’s creates a condition that is impossible to satisfy and should be considered void.
- Denial Intentionally Prevented Multi-Family Use of Property. The predominant subject of discussion among the members of the HPAB during the hearing on this matter on May 2 centered around the fact that approving the CoA would allow the owner to relocate the Surrey House improvements to the northwest corner of Tennessee and Standifer, with the resulting vacant property being incorporated into a planned urban-style multi-family development that would extend from Henry Street to Standifer Street. The Property is located within the Town Center area as defined in the McKinney Town Center Ordinance No. 2013-04-045. The McKinney Town Center Ordinance was enacted by the City Council in 2013 for the express purpose of creating a framework within which properties within the Town Center area, including the subject property, could be redeveloped using time-tested principals of urban design that encouraged compact, efficient and walkable developments, more pedestrian activity and enhanced shopping, employment, housing and business activities within the historic downtown area, in large part to insure the viability and economic success of the Town Center area. The Property lies within the Downtown Edge as defined in the MTC and multi-family development is a **permitted use**. Absent a denial of the CoA, the applicant had the authority to proceed with the construction of the



Ms. Jennifer Arnold, Director of Planning

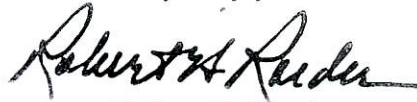
June 7, 2024

Page 3

development subject only to the conditions of the McKinney Town Center Ordinance. The fact that the HPAB made no determination that the Property had any significant historical value leads invariably to the conclusion that its refusal to approve the CoA was an attempt to override the redevelopment policies of the City Council and as such the HPAB's action overstepped the intended and express authority granted to it.

I have included herewith the complete application for the CoA submitted for this Property on which the HPO granted the CoA for relocation of improvements to the northwest corner of Tennessee and Standifer and removal of the non-historic patio addition.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert H. Roeder". The signature is fluid and cursive, with a prominent initial "R".

Robert H. Roeder

cc: Mr. Jeremy Jones

EXHIBIT A



May 17, 2023

Jeremy Jones  
312 S. Tennessee Street  
McKinney, Texas 75069

HP2023-0048                      Request for Certificate of Appropriateness for relocating historic Thomas Johnson House/Surrey House; removal of non-historic patio addition.

Dear Jeremy Jones:

This letter shall serve as approval with conditions of a Certificate of Appropriateness (COA) for the relocation of the historic Thomas Johnson House (also known as Surrey House) from its current location to the northwest corner of Tennessee and Standifer. In addition to the relocation, this approval includes the proposal to remove a non-historic patio addition in the rear of the residence.

After review of Sanborn maps, the current configuration of the rear deck does not appear historic and could be removed during relocation without impacting the integrity of the home. This partial demolition includes only the deck and furthest rear roof structure; these non-enclosed spaces are the only pieces eligible for demolition under this COA.

This COA evaluates the proposal's character, style, and materials and its appropriateness in the Historic Overlay district. This approval does not guarantee approval from any other departments or boards.

The approval is conditioned as follows:

1. The applicant does no further work than that which was received by the Historic Preservation Office on May 8, 2023 and approved on May 17, 2023.
2. The applicant will be responsible for meeting all applicable City ordinances and obtaining all necessary building permits. Please contact Building Inspections and Permits to obtain your building permit at 972-547-7400.

If compliance with applicable codes and building permits necessitates changes to this plan, or you elect to make other changes to the property beyond the scope of this approval, you must submit for a new Certificate of Appropriateness.

*"The Planning Department consistently strives to provide quality, professional customer service to our applicants. In an effort to evaluate and improve the service we provide, we ask that you complete this brief customer service survey. We sincerely appreciate your responses and opinions!"* <https://www.surveymonkey.com/r/McKinneyPlanningFeedback>



If you have any questions about the approval of this item, please contact me at 972-547-7376.

Sincerely,

*Cassandra Bumgarner*

Cassie Bumgarner  
Planner, Historic Preservation

*"The Planning Department consistently strives to provide quality, professional customer service to our applicants. In an effort to evaluate and improve the service we provide, we ask that you complete this brief customer service survey. We sincerely appreciate your responses and opinions!"* <https://www.surveymonkey.com/r/McKinneyPlanningFeedback>

312 S Tennessee St  
HP2023-0048

Priority Rating	○ High	
Evaluation	Standard	Comments
<input checked="" type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input type="checkbox"/> N/A	<p>A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.</p>	<p>Although the use will change, the use change does not require any exterior changes to the architectural characteristics of the building.</p>
<input checked="" type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input type="checkbox"/> N/A	<p>The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.</p>	<p>While the altering of space on the property will change with the moving of the property, it is not significant enough to not meet this standard.</p>
<input checked="" type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input type="checkbox"/> N/A	<p>Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.</p>	<p>Letter of intent indicates no additions to residence.</p>
<input checked="" type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input type="checkbox"/> N/A	<p>Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.</p>	<p>The non-historic, rear patio with cover will be removed as part of the relocation. The Sanborn Maps do not show evidence of the rear patio in its current configuration.</p>
<input checked="" type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input type="checkbox"/> N/A	<p>Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.</p>	<p>Letter of intent indicates no changes to residence other than relocation and removal of rear patio, which is non-historic and does not show evidence of particular craftsmanship.</p>
<input type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input checked="" type="checkbox"/> N/A	<p>Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of</p>	



312 S Tennessee St  
HP2023-0048

	missing features shall be substantiated by documentary, physical, or pictorial evidence.	
<input type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input checked="" type="checkbox"/> N/A	Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.	
<input type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input checked="" type="checkbox"/> N/A	Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.	
<input type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input checked="" type="checkbox"/> N/A	New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.	
<input type="checkbox"/> Meets Standard <input type="checkbox"/> Does not meet Standard <input checked="" type="checkbox"/> N/A	New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.	

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.  
REFER TO THE "LIST OF REQUIRED SUBMITTALS"**



Certificate of Appropriateness Application, p1

By signing this Certificate of Appropriateness (COA) application, the applicant affirms:

- All submitted information for this application represents an accurate description of the proposed work.
- The applicant certifies that the project described in this application will be constructed in exact accordance with aforesaid plans and specifications.
  - The applicant agrees to conform to all conditions of approval.
- It is understood that approval of this application by the Historic Preservation Officer or the Historic Preservation Advisory Board in no way constitutes approval of a building permit or other required City permit approvals.
- Filing an application does not guarantee approval.
- The COA becomes null and void if authorized construction is not commenced within one year. This will require receiving a new CoA approval.
  - Work completed in deviation from this Certificate of Appropriateness or without a Certificate of Appropriateness may result in fines and/or misdemeanor charges.
  - Work proposed in this application may also be eligible for the City's tax exemption program or impact fee waiver program. To see if you qualify, please contact the Historic Preservation office.

ADDRESS OF SUBJECT PROPERTY: 312 S Tennessee St., McKinney, Texas 75069

**APPLICANT/CONTACT PERSON:**

NAME (Print): Jeremy Jones

ADDRESS (line 1): 2150 S. Central Expwy, Ste. 360

ADDRESS (line 2): \_\_\_\_\_

City, ST, ZIP: McKinney, Texas 75070

Phone: 972-422-2000

E-mail: jeremyjones@americanequity.net

Signature: *Jeremy Jones*  
DocuSigned by: 5/3/2023

Date: 5/3/2023

**OWNER:** Attach additional sheets for Multiple owners and/or addresses.

NAME (Print): Barratt Properties, LLC

ADDRESS (line 1): P.O. Box 913

ADDRESS (line 2): \_\_\_\_\_

City, ST, ZIP: McKinney, Texas 75070

Phone: \_\_\_\_\_

E-mail: carol@surreyhs.com / mark@surreyhs.com

Signature: *Mark Barratt*  
DocuSigned by: 5/3/2023

Date: 5/3/2023

<b>For Office Use Only</b>		Date Received:	<u>5/8/2023</u>
COA Case #:	<u>HP2023-0048</u>	Type of Project:	<u>Relocation</u>
Preservation Priority:	<u>High</u>	Built Circa:	<u>1910</u>
<input type="checkbox"/> Approved. Please release the building permit.	<b>Certificate of Appropriateness</b> <b>Approved with Conditions</b> <i>Cassandra Bangarner</i> 05/16/2023		<input type="checkbox"/> Denied. Do Not release the building permit.
		<input type="checkbox"/> Forwarded to <b>HPAB</b> for review. Do Not release building permit.	





All applications must provide justification for the requested Certificate of Appropriateness based on the criteria set forth in the City Code of Ordinances. These criteria are based upon the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties (available on-line at [http://www.nps.gov/history/hps/tps/standards\\_guidelines.htm](http://www.nps.gov/history/hps/tps/standards_guidelines.htm)). Please type or print clearly. Illegible responses will not be accepted. Please use additional sheets if necessary.

**GENERAL INFORMATION**

**Property Address:** 312 S. Tennessee St., McKinney, Texas 75069

Type of Request:

Proposed Use:

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

- Alteration of building/structure
- New Construction
- Demolition
- Fencing
- Signage
- Other: Moving to NW corner  
of Tennessee and Standifer

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

- Single-Family Use
- Multi-Family Use
- Commercial
- Office
- Restaurant
- Other: Leasing office for multi-  
family project

**Written Description of Proposed Work:**

Explain what changes will be made to the following architectural elements and how the changes will be accomplished. *Please provide a detailed brochure or samples of new materials.*

1. Structural Work \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Roof and Roofing Systems \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Windows \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Doors \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Exterior siding \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Case # HP2023-0048

Date Received: 5/8/2023

Certificate of Appropriateness Application, p2



**Written Description of Proposed Work (continued):**

Explain what changes will be made to the following architectural elements and how the changes will be accomplished. *Please provide a detailed brochure or samples of new materials.*

- 6. Decorative elements (window and door trims, ornamental trims, brackets, lighting): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 7. Porches, Carriage Houses, Patio, Carport, and Steps: \_\_\_\_\_  
 The back deck, which was added and is not a historical component of The Surrey House will be removed as part of relocation.  
 \_\_\_\_\_
- 8. Outbuildings: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 9. Fencing: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 10. Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 11. Painting (Commercial Historic District Only)  
 \_\_\_\_\_  
 \_\_\_\_\_

**Written Description of Proposed Work for which applicant is requesting advice but CoA approval is not required:**

- 12. Landscape, parking, sidewalks, garden features  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 13. Painting (Historic Overlay District only)  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_





AMERICAN EQUITY

Wednesday, May 5<sup>th</sup>, 2023

Historic Preservation Office  
Attn: Paula Nasta, Planning Manager  
221 N. Tennessee Street  
McKinney, Texas 75069  
E: [pnasta@mckinneytexas.org](mailto:pnasta@mckinneytexas.org)  
P: (972) 547-7416

RE: Letter of Intent for Certificate of Appropriateness Application – 312 S. Tennessee Street,  
McKinney, Texas 75069

Ms. Nasta,

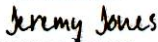
As a follow-up to our in-person meeting held on Tuesday, April 12, 2022, please see enclosed the Certificate of Appropriateness (“COA”) application pertaining to 312 S. Tennessee Street, McKinney, TX 75069 (“Residence”), commonly known as The Surrey House, on behalf of Barratt Properties, LLC, the current legal owner. The Residence is located on the west side of Tennessee St. approximately 450 ft. north of the intersection of E. Standifer St. and Tennessee Street (see COA application for maps showing exact location).

The COA requests approval to relocate the Residence approximately 450 feet due south to the northwest corner of E. Standifer St. and Tennessee St. as part of a greater redevelopment effort. It would still be located within the same city block. The redevelopment of this lot (and various surrounding lots) will provide additional multifamily housing within walking distance of the Downtown Square and allow more people to enjoy and support the rich nature of the downtown area. The Surrey House will be the namesake and historical focal point of the future multifamily community and now be located on a hard corner with increased visibility.

The current condition of the Residence is good (exterior photos included in COA application). We are not requesting any changes to the architectural features of the Residence as part of the COA.

We appreciate your consideration and kindly request your approval of the COA application as part of a continued effort to revitalize and celebrate Downtown McKinney.

Regards,

DocuSigned by:  
  
Jeremy Jones

Manager of JBJ Equity Surrey House Apts, LLC

Manager of Surrey House Apts, LLC

E: [JeremyJones@americanequity.net](mailto:JeremyJones@americanequity.net)

P: (972) 422-2000

cc: [rroeder@abernathy-law.com](mailto:rroeder@abernathy-law.com); [contact-historicpreservation@mckinneytexas.org](mailto:contact-historicpreservation@mckinneytexas.org)

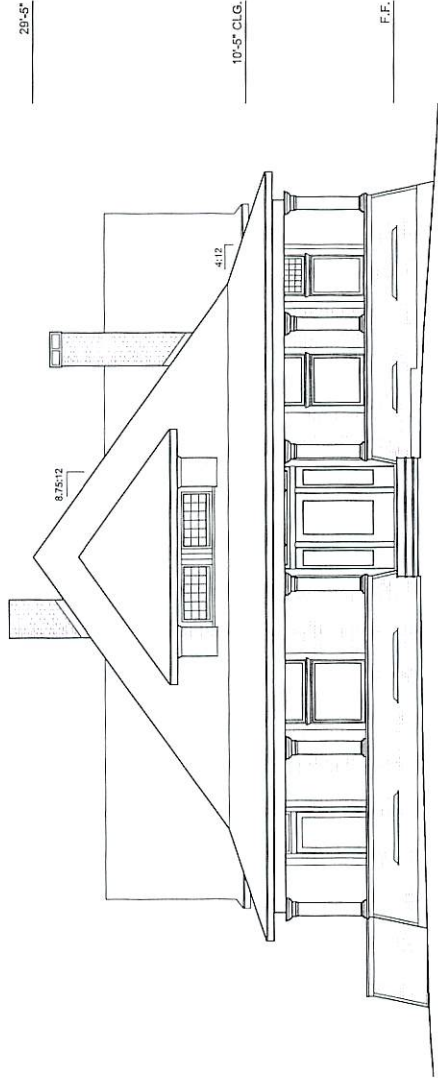




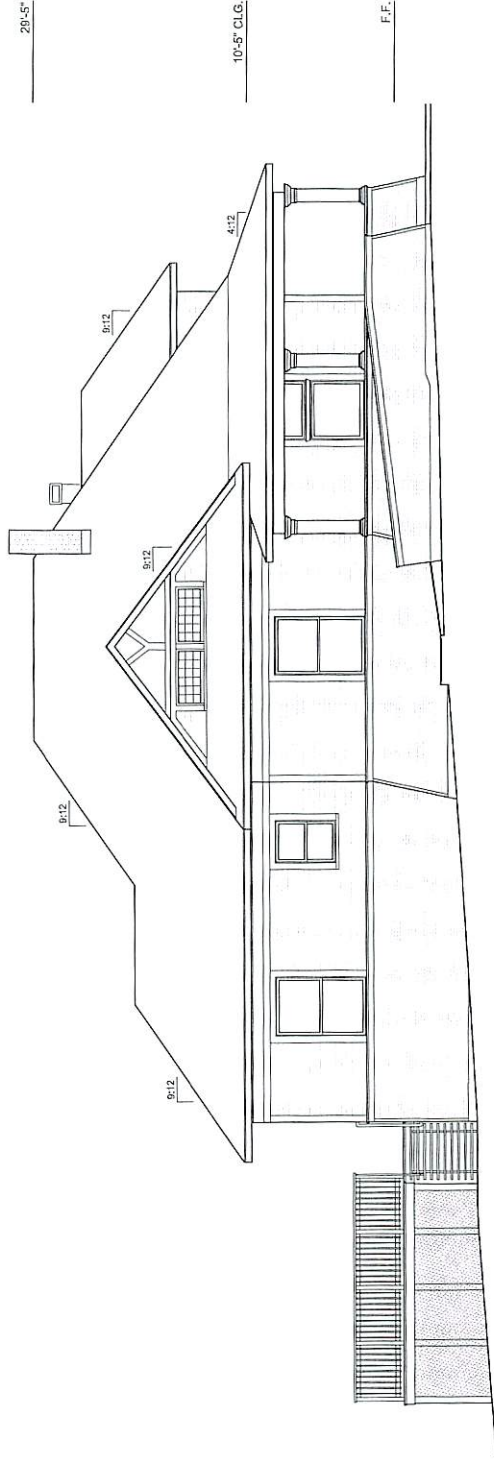
DESIGN PROFESSIONAL:  
 CHRIS BALESER  
 214.457.5690

The Surrey House  
 312 S. Tennessee St.  
 McKinney, TX

PROJECT NO:  
 DATE: 04-27-2023  
 SHEET: ELEVATIONS  
 A2



1 EXISTING EAST ELEVATION



2 EXISTING SOUTH ELEVATION

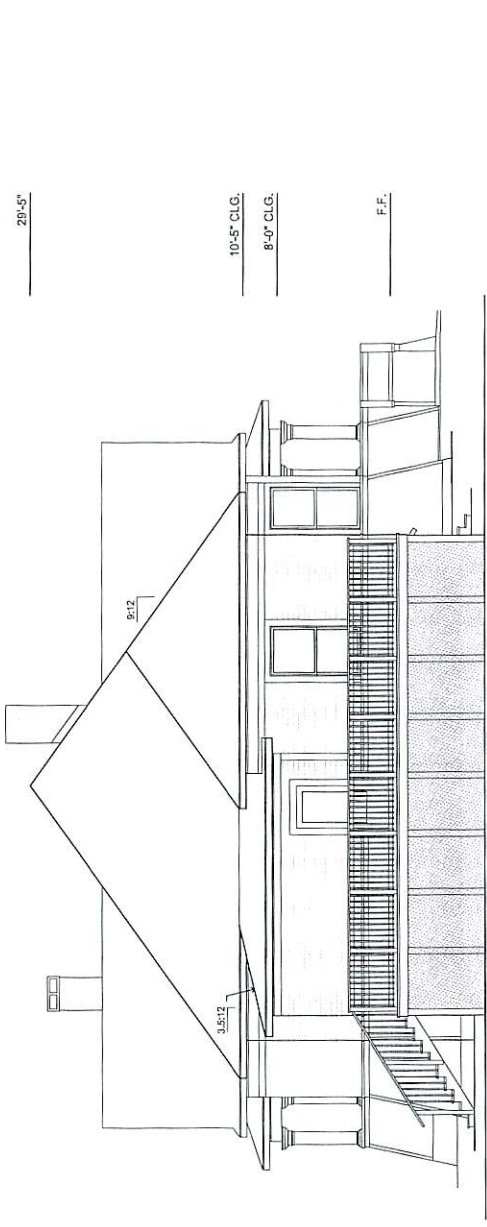




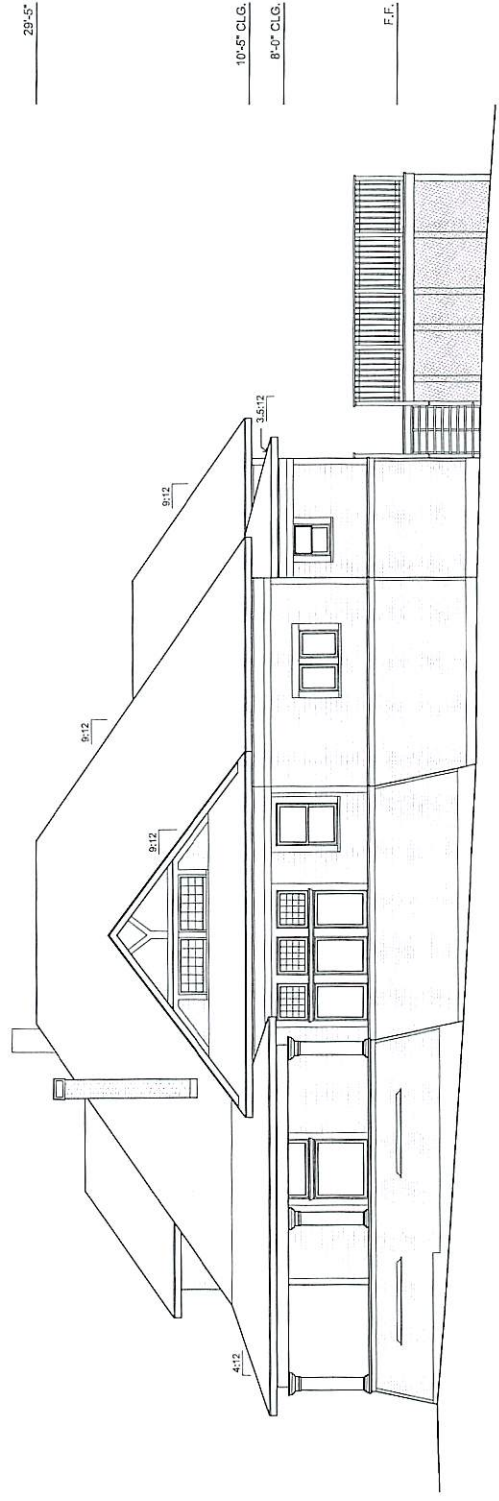
DESIGN PROFESSIONAL:  
 DERRIC SALSBER  
 714-451-2603

The Surrey House  
 312 S. Tennessee St.  
 McKinney, TX

PROJECT NO.:  
 DATE: 06/17/2023  
 SHEET: EXISTING ELEVATIONS  
 A3

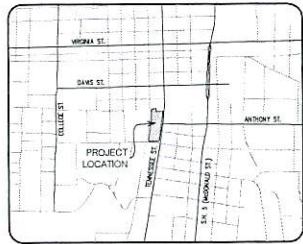
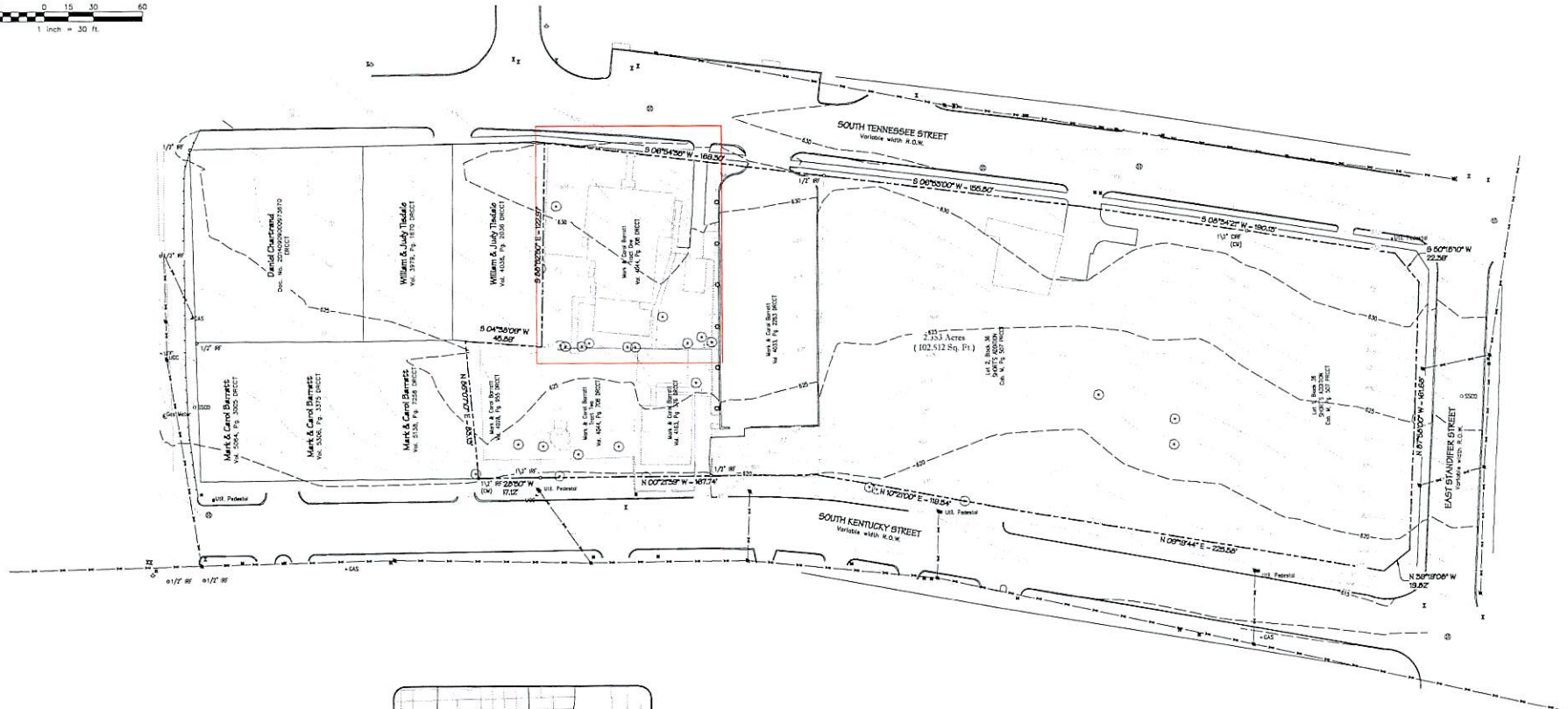
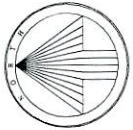


1 EXISTING WEST ELEVATION



2 EXISTING NORTH ELEVATION





LOCATION MAP  
1" = 100'

**SPIARS**  
ENGINEERING  
765 Guster Road, Suite 100 • Plano, TX 75075 • (972) 422-0077  
TBP# No. F-2121 • TBPL# No. F-10043100

BOUNDARY & TOPOGRAPHIC EXHIBIT  
**BARRATT TRACTS**  
IN THE CITY OF MCKINNEY, COLLIN COUNTY, TEXAS

Drawing: E:\2018\2018-005\18-005.dwg, Date: 12/17/2018, 2:24:18 PM, Plotter: HP DesignPlotter, Plot Scale: 1/2"=30', Plot Date: 12/17/2018, 2:24:18 PM



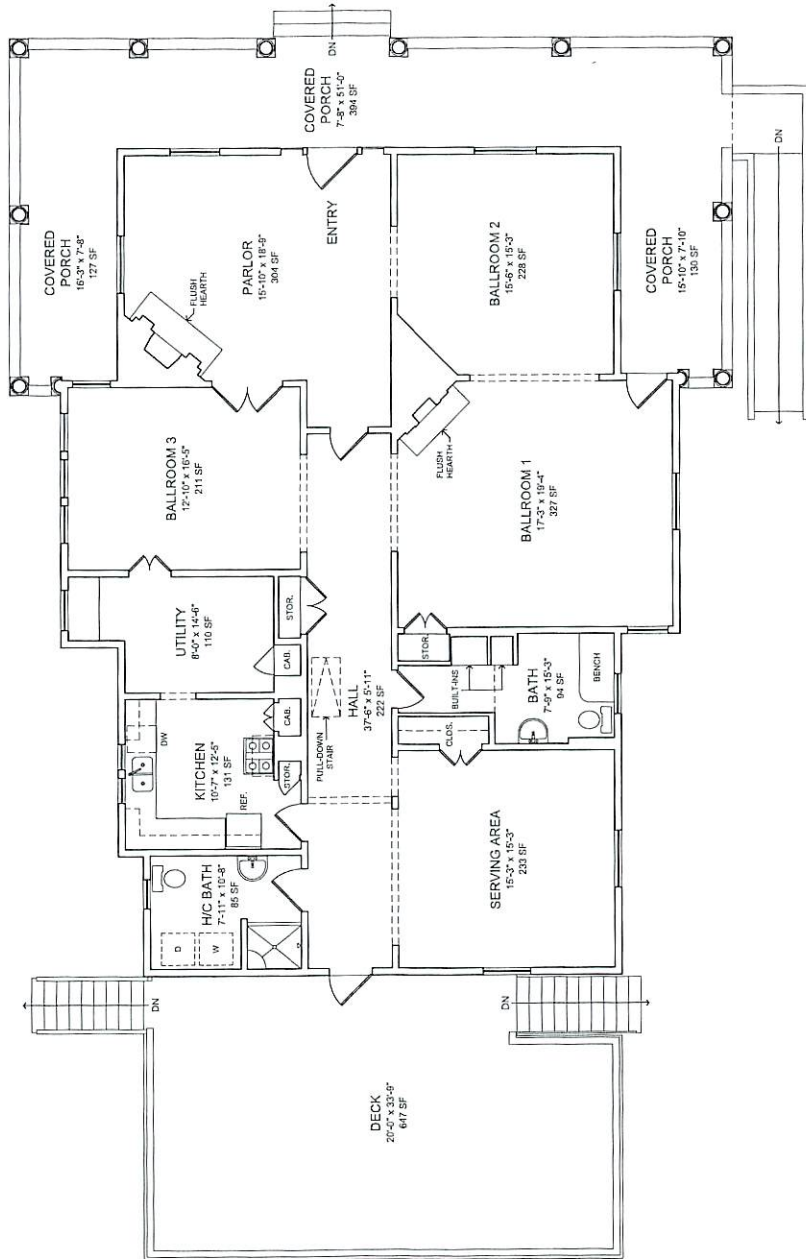


DESIGN PROFESSIONAL:  
 DEBRYC SALLER  
 2/4/2023/ABD

The Surrey House  
 312 S. Tennessee St  
 McKinney, TX

PROJECT NO.:  
 DATE: 04-27-2023  
 SHEET: EXISTING FLOOR PLAN  
 A1

AREA CALCULATIONS:  
 TOTAL CONDITIONED SPACE 2,202 SF  
 TOTAL PORCH AREA 1,288 SF



1 EXISTING FLOOR PLAN



ADJACENT PROPERTIES

306 Tennessee



311 Kentucky













HISTORIC PHOTOS

