

# Office of the Commissioner of Economic Development

## Planning & Development Services

## **Committee of Adjustment**

## **MISSION STATEMENT:**

"Our City is built on relationships - between citizens and their government, businesses and public institutions, city, and region - all interconnected, mutually supportive, and focused on the brightest future we can create together."

Author's Name: Brian Nagata	Committee Meeting Date: April 24, 2025
<b>Author's Phone:</b> (519) 255-6543 ext. 6181	Report Date: March 19, 2025
Author's E-mail: bnagata@citywindsor.ca	File No.: A-029/25

**To:** Committee of Adjustment

**Subject Application:** Relief from the provisions of Zoning By-law 8600

**Applicant/Owner:** Marcel & Jody Huot

**Agent:** David Rodriguez

**Location:** 2793 Pillette Road

**Legal Description:** Lots 46 & 47 and Part of Closed Alley, Plan 1160; Part 1, Reference

Plan 12R-29200

#### 1. **RECOMMENDATION:**

I. That the application of Marcel & Jody Huot for Minor Variance for the purpose of accommodating an increase in the maximum encroachment of an architectural feature into a required side yard of less than 1.20 metres in width (retained parcel), and a reduction in minimum required lot width (severed parcel) and north side yard width (retained parcel) **BE GRANTED** with no conditions.

## 2. REQUESTED VARIANCE:

Proposed Consent to create two new residential lots, thereby requesting the following relief:

Section .1 of Table 5.30.10 - Encroachment of an Architectural Feature into a Required Yard of less than 1.20 metres in width - maximum of Zoning By-law 8600 (Retained Parcel):

By Law Requirements	Proposed		
0.30 metres (north required side yard)	0.62 metres (north required side yard)		

Section 10.2.5.1 - Lot Width - minimum of Zoning By-law 8600 (Severed Parcel):

By Law Requirements	Proposed
12.0 metres	11.2 metres

Section 10.2.5.7 - Side Yard Width - minimum of Zoning By-law 8600 (Retained Parcel):

By Law Requirements	Proposed
1.20 metres	0.64 metres

**Note:** An approved variance is valid and must be acted upon before the expiration date set forth in the Decision of the Committee of Adjustment. If a granted variance is not used within the required timeline, the application is deemed to be **null and void**. A new Committee of Adjustment application will be required for any expired application.

## 3. PLANNING ANALYSIS:

The subject property is located within the Residential land use designation on *Schedule D-Land Use Plan* to the *City of Windsor Official Plan* (the Official Plan) and Residential District 1.2 (RD1.2) zoning district per the *City of Windsor Zoning By-law 8600* (Zoning By-law 8600).

The subject property is legally described as Lots 46 & 47 and Part of Closed Alley, Plan 1160; Part 1, Reference Plan 12R-29200, and known municipally as 2793 Pillette Road. The subject property contains a one storey single unit dwelling.

The applicant through the concurrently submitted Consent application (File No. B-023/25) is proposing the conveyance of part of the subject lands, said lands having a frontage of 11.2 metres on Pillette Road with an overall depth of 33.5 metres and being shown as Parts 1 and 3 on the Draft Reference Plan submitted with this application, for the purpose of creating a new lot.

The applicant intends to develop the severed parcel with a single unit dwelling and maintain the existing single unit dwelling on the retained parcel.

The severed and retained parcels do not comply with Zoning By-law 8600, hence the submission of this Minor Variance application to request an increase in the maximum encroachment of an architectural feature [eaves (fascia, gutters, soffit)] into a required side yard of less than 1.20 metres in width (retained parcel), and a reduction in minimum required lot width (severed parcel) and north side yard width (retained parcel).

Residential properties on the west side of the 2700 Block of Pillette Road were analyzed to determine this Minor Variance's compatibility with the neighbourhood. Residential properties on the east side of the 2700 Block of Pillette Road were excluded from this exercise due to the significant contrast in lot area, lot width and use from the single unit dwelling lots on the west side. Inclusion of these properties would have skewed the findings, making the analysis ineffective for determining this Minor Variance's compatibility with the neighbourhood. The data collected through this analysis is included in the table attached hereto as Appendix D.

The granting of this Minor Variance application is a condition of the granting of the Consent application.

## **PLANNING ACT**

Subsection 45(1) of the Planning Act states that the Committee of Adjustment "may, despite any other Act, authorize minor variance from the provisions of the by-law, in respect of the land building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained."

# **OFFICIAL PLAN**

The Minor Variance Policies of the Official Plan are included under Section 11.6.6 attached hereto as Appendix "A".

Subsection 11.6.6.2 of the Official Plan lists the following Evaluation Criteria that must be satisfied when reviewing an application for a Minor Variance:

- The general intent and purpose of the Official Plan, including the Strategic Directions, Goals and Objectives of the land use designation in which the property is located, is maintained;
  - The subject property is designated Residential in the Official Plan, and the proposed development maintains the same use and conforms to the associated objectives and policies.
- b) The general intent and purpose of the By-law being varied is maintained;
  - The subject property is zoned RD1.2 by Zoning By-law 8600 and the proposed development maintains the same permitted use and complies with the applicable provisions with the exception of that for which relief is being requested.
    - Relevant excerpts from Zoning By-law 8600 are attached hereto as Appendix "B".
  - The essential aim of this Minor Variance application is to allow for an increase in the maximum encroachment of an architectural feature into a required side yard of less than 1.20 metres in width (retained parcel), and a reduction in minimum required lot width (severed parcel) and north side yard width (retained parcel) to accommodate the creation of a new lot through the

- aforementioned Consent application that allows for the existing single unit dwelling on the subject property to remain.
- The general intent and purpose of the maximum encroachment of an architectural feature into a required side yard of less than 1.20 metres in width and minimum lot width and side yard width provisions (in part with the other applicable provisions of Zoning By-law 8600) is to maintain a consistent built form and character within the neighbourhood and provide sufficient space and adequate separation for the permitted uses.

#### o Encroachment of an Architectural Feature - maximum

- The increased encroachment of an architectural feature [eaves (fascia, gutters, soffit)] into a required side yard of less than 1.20 metres in width correlates directly with the reduction in minimum north side yard width for the retained parcel.
- Refer to the responses to the Side Yard Width minimum heading below.

### o Lot Width - minimum

- The reduced lot width is sufficient to accommodate a single unit dwelling on the severed parcel.
- The reduced lot width is complimentary to those which exist within the neighbourhood.
  - The lot widths of properties within the neighbourhood range from approximately 10.7 metres to 57.9 metres, with an average of 21.3 metres.
- The provisions of the RD1.2 zoning will ensure that a single unit dwelling constructed on the severed parcel is consistent with the established built form and character of the neighbourhood.

## O Side Yard Width - minimum

- The reduction in north side yard width is necessary to accommodate the existing single unit dwelling on the retained parcel.
- The existing single unit dwelling has a south side yard width of 5.82 metres, which 4.62 metres greater than the minimum 1.20 metres required under the RD1.2 zoning.
  - This translates to the existing single unit dwelling being located more centrally on the subject property.
- Compliance with this provision would result in the severed parcel having a greater reduction in lot width and a non compliance with the minimum lot area provision.
- The construction of a single unit dwelling on the severed parcel must comply with the minimum side yard width

provision of the RD1.2 zoning and any applicable provisions under the *Ontario Building Code*.

- Compliance with the minimum side yard width and applicable provisions under the *Ontario Building Code* on the severed parcel in conjunction with the reduced north side yard width on the retained parcel will provide adequate space for air flows, privacy and sunlight between the existing single unit dwelling and a proposed single unit dwelling.
- c) The variance or the number of variances to the By-law are minor in nature, would not more appropriately be considered through an application to amend the Zoning By-law due to the cumulative impacts of the variances, preserves the pattern, scale and character of the blockface;
  - The variance will not result in any adverse effects, undue hardship or negative impact on the owner, adjoining properties or the public realm.
- d) The variance(s) are generally not more than 20 percent above the By-law regulation being varied where the variances would increase the building envelope of a main building or accessory building containing a dwelling unit. For clarity this includes variances related to lot width; lot area; lot coverage; front, rear, and side yard depth; building height; and maximum gross floor area; and
  - The variance from minimum lot width does not increase the building envelope of a main building or an accessory building containing a dwelling unit on the severed parcel.
    - o Notwithstanding, the requested variance is equal to a 6.7% decrease.
  - The variance from the minimum north side yard width and maximum encroachment of an architectural feature into a required side yard of less than 1.20 metres in width increases the building envelope of a main building on the retained parcel.
    - The requested variance from minimum north side yard width is equal to a 46.7% decrease.
      - Notwithstanding the magnitude of the decrease, the resulting increase in building envelope of a main building on the retained parcel is only 7.4 m<sup>2</sup>.
    - The requested variance from maximum encroachment of an architectural feature into a required side yard of less than 1.20 metres in width is equal to a 106.7% increase.
      - As noted previously, the increased encroachment of an architectural feature [eaves (fascia, gutters, soffit)] into a required side yard of less than 1.20 metres in width correlates directly with the reduction in minimum north side yard width for the retained parcel.

- The width of the eaves on the north side of the existing single unit dwelling is consistent with the width of eaves typically found on similar single unit dwellings.
- e) The variance is desirable for the appropriate use of the land, building or structure and would not hinder the reasonable development and/or use of properties in the neighbourhood, would not cause a detriment, safety concerns, or would not detract from the character or amenity of nearby properties or the neighbourhood. The area of influence or the neighbourhood will vary with the scale of development and associated areas of potential impact.
  - The variance is in line with the permitted use as it maintains the built form and character of the surrounding neighbourhood.

#### 4. COMMENTS RECEIVED

Comments received from City Departments, external agencies and/or members of the public on this application were taken into consideration when preparing this report. A record of the comments is included as Appendix "C" herein.

## 5. PLANNER'S OPINION:

The requested Minor Variance deviates from the provisions of Zoning By-law 8600, however, maintains the general intent and purpose of the Official Plan and Zoning By-law 8600, is minor in nature, and is desirable for the appropriate development or use of the subject property.

These factors prescribed by Subsection 45(1) of the *Planning Act*, are known as the four tests that are applied to determine if a Minor Variance should be approved. As the requested Minor Variance meets the four tests, the Planning & Development Services Department is recommending that it be approved with no conditions.

Brian Nagata, MCIP, RPP, B.A.A., Dipl.URPl Planner II - Development Review

I concur with the above comments and opinion of the Planner II.

Greg Atkinson, MCIP, RPP Deputy City Planner

JA H

Brian Magata

# **CONTACT:**

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# **APPENDICES:**

Appendix "A" - Excerpts from the Official Plan - Volume I
Appendix "B" - Excerpts from the Zoning By-law 8600

Appendix "C" - Comments received by the Secretary Treasurer of the Committee of

Adjustment

Appendix "D" - Neighbourhood Analysis of west side of 2700 Block of Pillette Road

# **APPENDIX A**

Excerpts from the Official Plan - Volume I

# 11 Tools

This chapter was amended as part of Official Plan Amendments #84 as part of a 5 - year review of the Official Plan. Official Plan Amendment #84 was approved by the Ministry of Municipal Affairs and Housing on 07/09/2012.

## 11.6 Zoning

A municipality can regulate the use and development of lands, buildings and other structures under the zoning provisions of the Planning Act.

#### 11.6.6 Minor Variance Policies

(Added by OPA #179 - September 09, 2024 - By law 138-2024)

# COMMITTEE OF ADJUSTMENT

11.6.6.1 Council has appointed a Committee of Adjustment pursuant to the Planning Act to consider applications for minor variance from the Zoning By-law(s) and/or any other By-laws that implements the Official Plan.

# EVALUATION CRITERIA

11.6.6.2 When reviewing an application for minor variance the Committee of Adjustment shall be satisfied that:

- a) The general intent and purpose of the Official Plan, including the Strategic Directions, Goals and Objectives of the land use designation in which the property is located, is maintained;
- b) The general intent and purpose of the By-law being varied is maintained;
- c) The variance or the number of variances to the By-law are minor in nature, would not more appropriately be considered through an application to amend the Zoning By-law due to the cumulative impacts of the variances, preserves the pattern, scale and character of the blockface;
- d) The variance(s) are generally not more than 20 percent above the By-law regulation being varied where the variances would increase the building envelope of a main building or accessory building containing a dwelling unit. For clarity this includes variances related to lot width; lot area; lot coverage; front, rear, and side yard depth; building height; and maximum gross floor area; and

e) The variance is desirable for the appropriate use of the land, building or structure and would not hinder the reasonable development and/or use of properties in the neighbourhood, would not cause a detriment, safety concerns, or would not detract from the character or amenity of nearby properties or the neighbourhood. The area of influence or the neighbourhood will vary with the scale of development and associated areas of potential impact.

# EXISTING UNDERSIZED LOTS

11.6.6.3 Notwithstanding the provisions of sub-section (d) above, the Committee may give further consideration to variances required to enable appropriate development for existing undersized lots, where existing non-complying structures are being altered or where infilling and intensification is occurring provided that the Committee is satisfied that the provisions of 11.6.6.2 subsections (c) and (e) have been fully addressed.

# TERMS & CONDITIONS

11.6.6.4 The Committee of Adjustment may attach such terms and conditions as it deems reasonable and appropriate to the approval of the application for a minor variance. The conditions shall relate directly to the impact of the variance and may include measures required to mitigate the impact of altering the zoning regulations on the resulting built form or property development, including but not limited to:

- Specifying architectural elements such as window location, outdoor amenity space, fencing or other screening and door location;
- b) Requiring additional landscaping including low impact design elements;
- c) Providing additional bicycle facilities in lieu of motor vehicle parking; and
- d) Improvement to grading and stormwater management.

# **APPENDIX B**

Excerpts from the Zoning By-law 8600

# **SECTION 10 - RESIDENTIAL DISTRICTS 1. (RD1.)**

(B/L 10358 Jul 16/1990; B/L 11093 Jul 20/1992; B/L 33-2001 Oct 23/2001, OMB Decision/Order No. 1716 Case No. PL010233; B/L 370-2001 Nov 15/2001; B/L 363-2002 Dec 31/2002; B/L 220-2002, Feb 24/2003; B/L 10-2004 OMB Order PL040143, File No. R040023, Decision/Order No. 0055, Issued Jan 12/2005 B/L 114-2016 Sep 19/2016); B/L 164-2017, Dec. 7/2017 [ZNG/5270]; B/L 95-2019, Sept. 27/2019; B/L 101-2022 Jul 11/2022; B/L 52-2024 Apr 22/2024)

# 10.2 RESIDENTIAL DISTRICT 1.2 (RD1.2)

## 10.2.1 PERMITTED USES

Existing Duplex Dwelling
Existing Semi-Detached Dwelling
One Single Unit Dwelling
Any use accessory to the preceding uses

## 10.2.5 Provisions

		Duplex Dwelling	Semi-Detached Dwelling	Single Unit Dwelling
.1	Lot Width – minimum	9.0 m	15.0 m	12.0 m
.2	Lot Area – minimum	$360.0 \text{ m}^2$	$450.0 \text{ m}^2$	$360.0 \text{ m}^2$
.3	Lot Coverage – maximum	45.0%	45.0%	45.0%
.4	Main Building Height – maximum	9.0 m	9.0 m	9.0 m
.5	Front Yard Depth – minimum	6.0 m	6.0 m	6.0 m
.6	Rear Yard Depth – minimum	7.50 m	7.50 m	7.50 m
.7	Side Yard Width – minimum	1.20 m	1.20 m	1.20 m
.8	Gross Floor Area – main building – maximum	$400 \text{ m}^2$	$400 \text{ m}^2$	$400 \text{ m}^2$

(B/L 101-2022 Jul 11/2022; B/L 52-2024 Apr 22/2024)

# **SECTION 5 - GENERAL PROVISIONS**

(B/L 274-1998 Oct 2/1998; B/L 31-2013 Mar 28/2013; B/L 117-2016 Dec 28/2016; B/L 177-2016 Dec 28/2016; B/L 95-2019 Sep 27/2019; B/L 52-2024 Apr 22/2024)

## 5.30 ENCROACHMENT INTO A YARD

5.30.1 Unless otherwise specified in Table 5.30.10, an encroachment is permitted into any *yard* not *required* by this By-law subject to the minimum separation provisions in Table 5.30.10 and any other applicable provisions in this By-law for that encroachment.

Example: A homeowner wants to build a *deck* with a height of 1.30 metres in their *rear yard*. The *dwelling* is zoned RD1.1, which requires a minimum *rear yard* depth of 7.50 metres. Therefore, the *required rear yard* is 7.50 metres measured from the *rear lot line*.

The nearest wall of the *dwelling* is located 11.0 metres from the *rear lot line*. A *deck* is permitted within this 3.50 metre deep *rear yard* area subject to the minimum separation provisions for that encroachment and any applicable provisions such as *lot coverage*.

Per Table 5.30.10.37, that *deck* may extend a further 2.50 metres into the *required rear yard* subject to the minimum separation provisions and any other applicable provisions, creating a *deck* with a maximum depth of 6.0 metres in the *rear yard*.

#### 5.30.5 Notwithstanding the provisions of Section 5.30:

- .1 An encroachment, except for a *building* projection located a minimum of 3.0 metres above the *ground*, is prohibited into a *access area*, driveway, *parking area* or *parking space*.
- .3 If a *required yard* is not specified in Table 5.30.10, the encroachment is prohibited within that unspecified *required yard*.
- .5 If a *lot line* is not specified in Table 5.30.10, no separation is required from that unspecified *lot line*.
- .7 If an existing *yard* depth or existing *yard* width is less than that required by this by-law, the maximum encroachment into that *yard* shall be measured from the closest wall of the *main building* facing that *yard*. [ZNG/5389]

(ADDED by B/L 95-2018, Aug. 21/2018)

.9 For a *dwelling unit* in a *townhome dwelling* where an encroachment identified in clauses .25, .36 and .90 in Table 5.30.10 is located within a *rear yard* or a *side yard*, a minimum separation from an interior *side lot line* is not required. [ZNG/5389]

(ADDED by B/L 95-2018, Aug. 21/2018)

5.30.10 The permitted encroachments are listed in Table 5.30.10:

TABLE 5.30.10 – ENCROACHMENT INTO A YARD					
Type of Encroachment	Maximum Encroachment Into		Minimum Separation From		
	Yard	Metres	Lot Line	Metres	
.1 Architectural Feature .1 into a required yard of less than 1.20 metres in width or depth	Any required yard	0.30 m	n/a	n/a	

TABLE 5.30.10 – ENCROACHMENT INTO A YARD					
Type of Encroachment	Maximum Encroachment Into		Minimum Separation From		
	Yard	Metres	Lot Line	Metres	
.2 Architectural Feature into a required yard of 1.20 metres or more in width or depth	Any required yard	0.60 m	n/a	n/a	

# APPENDIX C

Comments received by the Secretary Treasurer of the Committee of Adjustment

## **ENGINEERING - R.O.W.**

This department has no objection to the proposed application. Right-of-Way permits are required for any work within the Right-of-Way.

[Thomas Huynh - Technologist I]

# ESSEX REGION CONSERVATION AREA (ERCA)

No comments provided

## **FORESTRY**

There are 2 City owned trees on the property.

There are Private trees on the property.

[Marc Edwards - Forestry Supervisor]

## NATURAL AREAS

No concerns with Relief

[Karen Alexander - Naturalist & Outreach Coord.]

## PARKS DEVELOPMENT

No Comments

[Hoda Kameli - Landscape Architect]

### PLANNING DEPARTMENT - HERITAGE

The subject property is located within the Archaeological Potential Zone (as per the recently adopted Windsor Archaeological Management Plan, 2024; OPA 181; and updated 2024 archaeological potential model OP Volume I Schedule C-1). However, the subject property is not within an Archaeologically Sensitive Area (ASA). Thus, an archaeological assessment is not requested at this time. Nevertheless, the Applicant should be notified of the following archaeological precaution.

- 1. Should archaeological resources be found during grading, construction or soil removal activities, all work in the area must stop immediately and the City's Planning & Building Department, the City's Manager of Culture and Events, and the Ontario Ministry of Citizenship and Multiculturalism must be notified and confirm satisfaction of any archaeological requirements before work can recommence.
- 2. In the event that human remains are encountered during grading, construction or soil removal activities, all work in that area must be stopped immediately and the site secured. The local police or coroner must be contacted to determine whether or not the skeletal remains are human, and whether the remains constitute a part of a crime scene. The

Local police or coroner will then notify the Ontario Ministry of Citizenship and Multiculturalism and the Registrar at the Ministry of Government and Consumer Services if needed, and notification and satisfactory confirmation be given by the Ministry of Citizenship and Multiculturalism.

### Contacts:

Windsor Planning & Building Department:

519-255-6543 x6179, ttang@citywindsor.ca, planningdept@citywindsor.ca

Windsor Manager of Culture and Events (A):

Michelle Staadegaard, (O) 519-253-2300x2726, (C) 519-816-0711, <u>mstaadegaard@citywindsor.ca</u> Ontario Ministry of Citizenship and Multiculturalism

Archaeology Programs Unit, 1-416-212-8886, Archaeology@ontario.ca

Windsor Police: 911

Ontario Ministry of Government & Consumer Services

A/Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures, 1-416-212-7499, Crystal.Forrest@ontario.ca

# [Sophia Di Blasi - Planner II - Research & Policy Support]

## PLANNING DEPARTMENT - ZONING COORDINATOR

# Required Minor Variances:

- 1. Maximum Encroachment of an Architectural Feature into a Required Yard of less than 1.20 metres in width (Section .1 of Table 5.30.10) (Retained Parcel):
  - a. 0.30 metres north required side yard (Required)
  - b. 0.62 metres north required side yard (Provided)
- 2. Minimum Lot Width (Section 10.2.5.1) (Severed Parcel):
  - a. 12.0 metres (Required)
  - b. 11.2 metres (Provided)
- 3. Minimum Side Yard Width (Section 10.2.5.7) (Retained Parcel):
  - a. 1.20 metres (Required)
  - b. 0.64 metres (Provided)

## [Brian Nagata - Planner II - Development Review]\*

\*Zoning Coordinator who completed the initial zoning review is no longer employed with the City of Windsor.

### TRANSIT WINDSOR

The bus would be 40 feet from the actual bus stop sign. The bigger issue would be the front to rear doors which is 30 feet. We have bus stops that are in front of residential driveways across the City where we can't avoid it. If this driveway could be at the far north of the property that would be beneficial.

### [Jason Scott - Manager of Transit Planning]

# **TRANSPORTATION PLANNING**

6.1 m x 6.1 m corner cut off is required at Pillette Rd and Plymouth Dr.

Pillette Rd driveway off the retained lot is subjected to closure in appropriate time.

The distance of the driveway of the severed lot to Pillette Rd and Plymouth Dr must be maximized.

# [Elara Mehrilou - Transportation Planner I]

## **WINDSOR POLICE SERVICES**

The Windsor Police Service has no concerns or objections with any of the applications listed in this agenda. In reviewing them, all are relatively minor in terms of their potential impact to public safety and security. None of the applications to be considered are therefore anticipated to create outcomes that will negatively impact the ability of the Windsor Police Service to provide proper and adequate response to incidents and other service delivery requirements.

[Barry Horrobin - Director of Planning & Physical Resources]

APPENDIX D

Neighbourhood Analysis of west side of 2700 Block of Pillette Road

Address	Use	Main Building Construction Date	Lot Width (m) (Approximate)	Lot Area (m2) (Approximate)	Density (uph)
2703 Pillette Road	Single Unit Dwelling	1945	12.2	388.2	25.8
2707 Pillette Road	Single Unit Dwelling	1953	57.9	3,704.6	2.7
2719 Pillette Road	Single Unit Dwelling	1991	16.8	532.2	18.8
2721 Pillette Road	Single Unit Dwelling	1955	24.4	720.8	13.9
2731 Pillette Road	Single Unit Dwelling	1948	12.2	359.8	27.8
2737 Pillette Road	Single Unit Dwelling	1973	24.4	770.4	13.0
2747 Pillette Road	Single Unit Dwelling	1935	24.4	768.8	13.0
2759 Pillette Road	Single Unit Dwelling	1935	12.2	383.8	26.1
2765 Pillette Road	Single Unit Dwelling	1935	10.7	383.4	26.1
2777 Pillette Road	Single Unit Dwelling	1950	24.1	802.9	12.5
2785 Pillette Road	Single Unit Dwelling	1952	12.2	355.7	28.1
2793 Pillette Road	Single Unit Dwelling	1930	24.1	806.8	12.4
Average			21.3	831.5	18.3
Legend					
High					
Low					
Subject Property					