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June 26, 2006

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VIA ELECTRONIC FILING

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

**Re: STB Docket No. AB-33 (Sub-No. 93X)
Union Pacific Railroad Company – Abandonment Exemption –
Whittier Junction-Colima Junction Line – In Los Angeles County, CA**

Dear Secretary Williams:

This letter is filed on behalf of the City of Whittier, California (hereinafter referred to as the “City”), which seeks to vacate, in part, the Notice of Interim Trail Use (“NITU”) served in this Docket No. AB-33 (Sub-No. 93X) on December 14, 2001 and amended on September 10, 2002. The City would like to terminate interim trail use/rail banking on certain portions of the right-of-way subject to the NITU as further described herein.

By notice of exemption served and published in the Federal Register on August 12, 1996, the Surface Transportation Board (“STB” or “Board”) granted Union Pacific Railroad Company (“UP”) authority to abandon approximately 5.18 miles of its Whittier Junction-Colima Junction line (a portion of the Anaheim Branch) between approximately MP 0.0 near Whittier Junction and approximately MP 5.18 near Colima Junction in Los Angeles County, California. The exemption became effective on September 11, 1996.

On November 30, 2001, the City late-filed a request for issuance of a NITU for a portion of the right-of-way between approximately milepost 0.43 near the grade crossing at Pioneer Boulevard and approximately milepost 5.11 near Colima Junction (hereinafter referred to as the “Subject Line”), a distance of approximately 4.68 miles. By decision served December 14, 2001, the STB modified the notice exempting UP’s abandonment of the Subject Line to the extent necessary to implement interim trail use by the City. On December 17, 2001, the City acquired the Subject Line from UP subject to UP’s right to restart freight service under the NITU.

By decision served September 10, 2002, the Board vacated the NITU in this proceeding over a 15,000 sq. ft.-parcel located on the eastern boundary of the Subject Line between approximately MP 2.70 near Mar Vista Street and approximately MP 2.78 near Pickering Avenue. On August 13, 2002, the effective date of the Board’s

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September 2002 decision partially vacating the NITU, the City sold this parcel to an adjacent landowner as part of a property exchange. By letter filed August 2, 2002, UP informed the Board that it did not need to file a notice of consummation of its abandonment authority with respect to the property removed from the NITU because the extra-width parcel was not needed for resuming service over the Subject Line if that became necessary.

The City now intends to sell certain additional strips of extra-width property to adjacent landowners or occupants that already hold leases or licenses thereon predating the City's acquisition of the Subject Line. In connection with these sales of extra-width property, the City has decided to terminate interim trail use on those extra-width parcels. The sale transactions will involve the transfer of small strips of land along the edge of the Subject Line right-of-way and will not disrupt the continuity of the Subject Line for rail restart purposes. The City plans to terminate trails use over an aggregate of approximately 17,000 square feet of property located at various points along the edge of the Subject Line right-of-way through the sale of the following extra-width parcels:

- 1) 1,550 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 1.65 near Broadway and approximately MP 1.70 between Broadway and Magnolia Avenue ("Parcel 1").
- 2) 306 square foot parcel located on the Western boundary of the Subject Line between approximately MP 0.70 near Redman Avenue and approximately MP 0.80 near South Norwalk Boulevard ("Parcel 2").
- 3) 630 square foot parcel located on the Western boundary of the Subject Line between approximately MP 1.37 and approximately MP 1.40 near Howard Street ("Parcel 3").
- 4) 2,782 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 1.66 near Broadway and approximately MP 1.71 between Broadway and Magnolia Avenue ("Parcel 4").
- 5) 2,722 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 1.68 near Broadway and approximately MP 1.73 near Magnolia Avenue ("Parcel 5").



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- 6) 1,020 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 1.70, between Broadway and Magnolia Avenue, and approximately MP 1.75 near Magnolia Avenue ("Parcel 6").
- 7) 1,510 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 1.72, between Broadway and Magnolia Avenue, and approximately MP 1.77 near Magnolia Avenue ("Parcel 7").
- 8) 432 square foot parcel located on the Western boundary of the Subject Line between approximately MP 1.78 and approximately MP 1.80 near Camilla Street ("Parcel 8").
- 9) 284 square foot parcel located on the Western boundary of the Subject Line at approximately MP 1.70, between Broadway and Magnolia Avenue ("Parcel 9").
- 10) 1,262 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 1.34 near Orange Drive and approximately MP 1.37 near Howard Street ("Parcel 10").
- 11) 703 square foot parcel located on the Western boundary of the Subject Line between approximately MP 1.40 and approximately MP 1.44 near Howard Street ("Parcel 11").
- 12) 324 square foot parcel located on the Western boundary of the Subject Line between approximately MP 1.42 and approximately MP 1.46 near Howard Street ("Parcel 12").
- 13) 1,467 square foot parcel located on the Eastern boundary of the Subject Line at approximately MP 0.43 near Pioneer Boulevard ("Parcel 13").
- 14) 290 square foot parcel located on the Western boundary of the Subject Line at approximately MP 0.43 near Pioneer Boulevard ("Parcel 14").
- 15) 1,200 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 3.42 near Greenleaf Avenue and approximately MP 3.44, between Greenleaf Avenue and Washington Avenue ("Parcel 15").
- 16) 492 square foot parcel located on the Eastern boundary of the Subject Line between approximately MP 3.44 and approximately MP 3.46, between



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Greenleaf Avenue and Washington Avenue ("Parcel 16")(all of the above
Parcels collectively referred to herein as the "Sale Parcels").

Therefore, the City respectfully requests that the STB vacate the NITU, to the extent necessary to terminate interim trail use over the Sale Parcels, effective on or before July 31, 2006. The NITU will remain effective for, and the City will continue interim trail use over, the remaining portion of the Subject Line. A copy of the STB's Decision and Notice of Interim Trail Use or Abandonment in Docket No. AB-33 (Sub-No. 93X) served December 14, 2002 and subsequent amendments to that NITU are attached hereto as Exhibit A. Maps of the Sale Parcels are attached hereto as Exhibit B.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Fishman', with a long horizontal flourish extending to the right.

Edward J. Fishman
Counsel for City of Whittier

Enclosures

cc: Mack Shumate, Union Pacific Railroad

Exhibit

A

32360
DO

SERVICE DATE - DECEMBER 14, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: December 12, 2001

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.²

By petition filed November 30, 2001, the City late-filed a request for a NITU for a portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles.³ The City states that, intermittently over the period of time since the effective date of the exemption, the City and UP have negotiated for transfer of the line, but the parties had a material disagreement regarding

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP, Decision No. 44 (STB served Aug. 12, 1996), was consummated on September 11, 1996.

² The negotiating period under the NITU was extended by decisions served February 10, 1997, January 26, 1998, August 5, 1998, July 30, 1999 (affirmed by decision served August 4, 1999), January 26, 2000, and August 7, 2000.

³ The August 12, 1996 decision also provided that requests for trail use/rail banking had to be filed by August 22, 1996. The decision stated, however, that the Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

the value of the line, and the City's environmental assessment took longer to commence and to complete than the City had planned. The City further states that the parties have reached an agreement and completed all steps necessary for the planned transfer of the line. The City submitted a statement indicating its willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to possible future reconstruction and reactivation of the right-of-way for rail service. On December 5, 2001, UP advised the Board that it has not consummated the abandonment of the 4.68-mile portion of the line and that it is willing to negotiate with the City for interim trail use.

Trail use requests are accepted as long as the Board retains jurisdiction over the involved railroad right-of-way⁴ and the carrier is willing to enter into negotiations. Inasmuch as UP has not consummated the abandonment and is willing to negotiate with the City for the right-of-way, a NITU will be issued for that portion, with the trail use negotiation period running for 180 days from the service date of this decision or until June 12, 2002. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, UP may fully abandon the line, provided that the environmental conditions imposed in the August 12, 1996 decision are met. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice of exemption published in the Federal Register on August 12, 1996, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for the portion of the line extending between milepost 0.43 and milepost 5.11 until June 12, 2002, subject to the environmental conditions imposed in the August 12, 1996 decision.

⁴ See Rail Abandonments-Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company-Exemption-Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company-Abandonment-In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

5. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. If an agreement for interim trail use/rail banking is reached by June 12, 2002, interim trail use may be implemented. If no agreement is reached by that time, UP may fully abandon the line.

7. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

32881
DO

SERVICE DATE - JULY 18, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF NOTICE OF INTERIM TRAIL USE OR
ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: July 12, 2002

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.²

By petition filed November 30, 2001, the City late-filed a request for issuance of a NITU pursuant to the National Trails System Act, 16 U.S.C. 1247(d), for the portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company. The common control authority sought in that proceeding was granted by the Board in Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996), and was consummated on September 11, 1996.

² The negotiating period under the NITU was extended by decisions served February 10, 1997, January 26, 1998, August 5, 1998, July 30, 1999 (affirmed by decision served August 4, 1999), January 26, 2000, and August 7, 2000.

Junction, a distance of approximately 4.68 miles. On December 14, 2001, a decision was served authorizing the City to negotiate with UP for that portion of the right-of-way.

On June 25, 2002, the City filed a request to terminate trail use over a 15,000 square foot-parcel located between approximately milepost 2.70 near Mar Vista Street and approximately milepost 2.78 near Pickering Avenue, on what the City describes as the eastern boundary of the line). The City states that, in connection with a transaction involving the sale of real property, it has decided to terminate trail use over that portion of the right-of-way. The City requests that the partial vacation of the NITU be made effective on July 23, 2002.³ The City further states that the transaction will involve the sale of only a small parcel and will not disrupt the continuity of the line.⁴

The City has complied with the requirements of 49 CFR 1152.29(d)(2) regarding a request to vacate a NITU. Whenever a trail manager intends to terminate trail use over a portion of the right-of-way and sends the Board a request that a NITU be vacated, the Board will reopen the proceeding, vacate the NITU, and issue a decision reinstating the abandonment authorization for that portion of the right-of-way. Therefore, the City's request to vacate the NITU will be granted with respect to a 15,000 sq. ft. parcel along the right-of-way between milepost 2.70 and milepost 2.78, and UP will be permitted to fully abandon that portion of the right-of-way, effective July 23, 2002, as requested.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served December 14, 2001, is vacated with respect to a 15,000 sq. ft. parcel along the right-of-way between milepost 2.70 and milepost 2.78 and UP may fully abandon that portion of the right-of-way for which the NITU has been vacated. The City will remain the trail user for the remainder of the right-of-way.

³ The City states that, if the transaction is not completed by July 23, 2002, it will advise the Board and amend its request to reflect the new effective date.

⁴ The City indicates that it will continue to be the interim trail user over the remainder of the right-of-way.

STB Docket No. AB-33 (Sub-No. 93X)

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

32992
DO

SERVICE DATE - SEPTEMBER 10, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF NOTICE OF INTERIM TRAIL USE OR
ABANDONMENT

STB Docket No. AB-33 (Sub-No. 93X)¹

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN WHITTIER JUNCTION-COLIMA JUNCTION LINE
IN LOS ANGELES COUNTY, CA

Decided: September 5, 2002

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 to abandon approximately 5.18 miles of the Whittier Junction-Colima Junction line (portion of the Anaheim Branch) from milepost 0.0 near Whittier Junction to milepost 5.18 near Colima Junction, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on August 12, 1996 (61 FR 41823). On December 13, 1996, a notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of Whittier (City) to negotiate an interim trail use/rail banking agreement with UP for the 5.18-mile line of railroad. The negotiation period under the NITU was extended several times at the request of UP and expired on December 31, 2000.

By petition filed November 30, 2001, the City late-filed a request for issuance of a NITU pursuant to the National Trails System Act, 16 U.S.C. 1247(d), for the portion of the right-of-way between milepost 0.43 near the grade crossing at Pioneer Boulevard and milepost 5.11 near Colima Junction, a distance of approximately 4.68 miles. On December 14, 2001, a decision was served authorizing the City to negotiate with UP for that portion of the right-of-way.

On June 25, 2002, the City filed a request to terminate trail use over a 15,000 square foot-parcel located between approximately milepost 2.70 near Mar Vista Street and approximately milepost

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company. The common control authority sought in that proceeding was granted by the Board in Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996), and was consummated on September 11, 1996.

2.78 near Pickering Avenue, on what the City describes as the eastern boundary of the line. The City states that, in connection with a transaction involving the sale of real property, it has decided to terminate trail use over that portion of the right-of-way. The City requested that the partial vacation of the NITU be made effective on July 23, 2002. By decision served July 18, 2002, the proceeding was reopened and the NITU served December 14, 2001, was vacated with respect to the 15,000 square foot-parcel along the right-of-way between milepost 2.70 and milepost 2.78 and UP was permitted to fully abandon that portion of the right-of-way for which the NITU had been vacated, effective July 23, 2002, as requested.²

The July 18 decision included reference to the City's statement that, if the transaction was not completed by July 23, 2002, the City would advise the Board and amend its request to reflect a new effective date for vacating the NITU. On August 19, 2002, the City filed a letter stating that the real property transaction did not close on July 23, 2002, but instead closed on August 13, 2002. The City therefore requested that the effective date for the partial vacation of the NITU be changed to August 13, 2002. The City's request will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The City's request to amend the effective date of its June 25, 2002 request for partial vacation of the NITU is granted.
2. The vacation of the NITU as to the 15,000 square foot-parcel along the right-of-way between 2.70 and milepost 2.78 is effective as of August 13, 2002.

² On August 2, 2002, UP notified the Board that, on July 23, 2002, it had closed the transaction covering the 15,000 square foot-parcel, which UP indicates covers only a small extra width parcel on the line. UP also stated that, in its view, no notice of consummation of abandonment is necessary because the sale of the extra width parcel will not disrupt the continuity of the line and the property sold would not be necessary for future reestablishment of rail service over the right-of-way.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

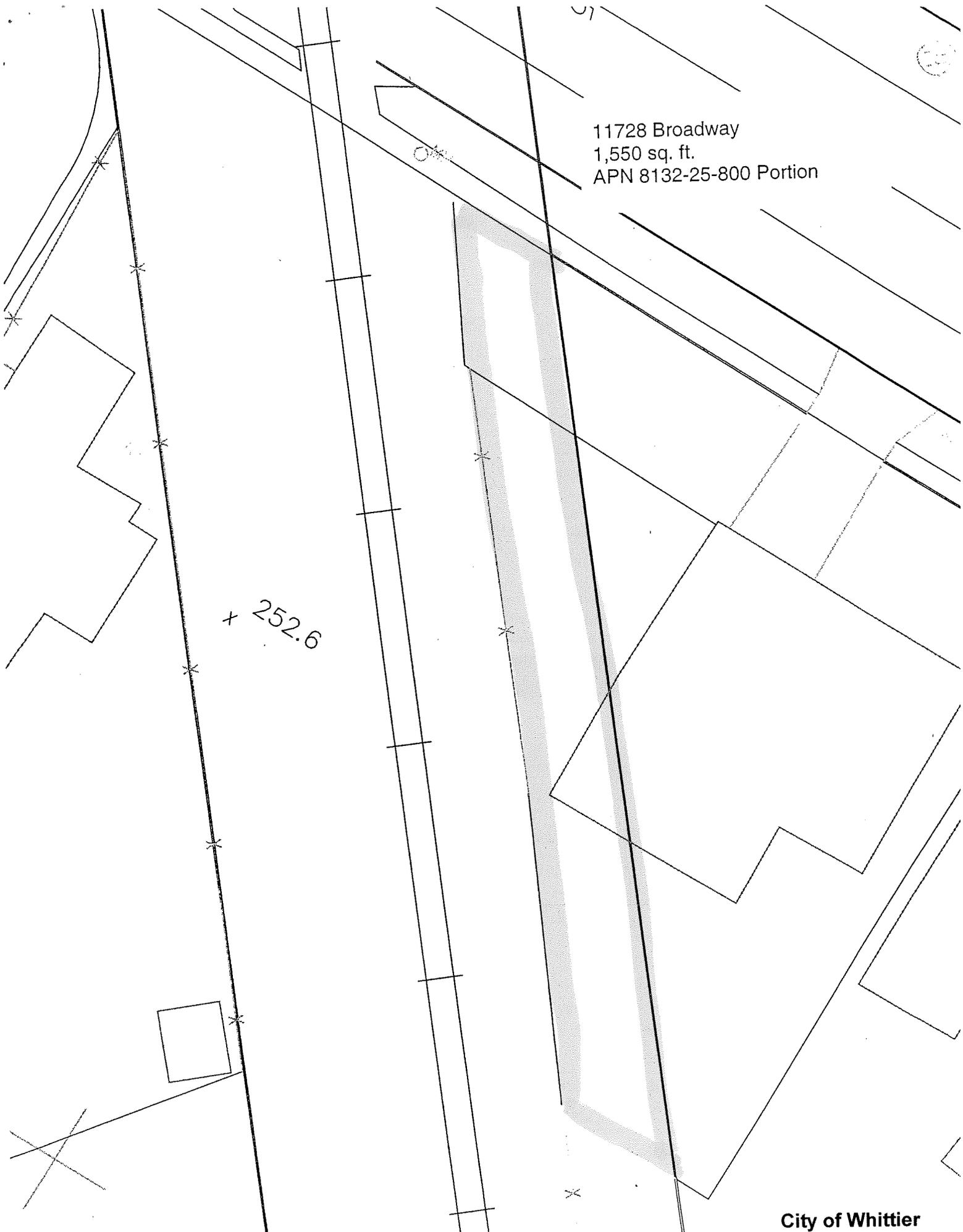
Vernon A. Williams
Secretary

Exhibit

B

11728 Broadway
1,550 sq. ft.
APN 8132-25-800 Portion

+ 252.6



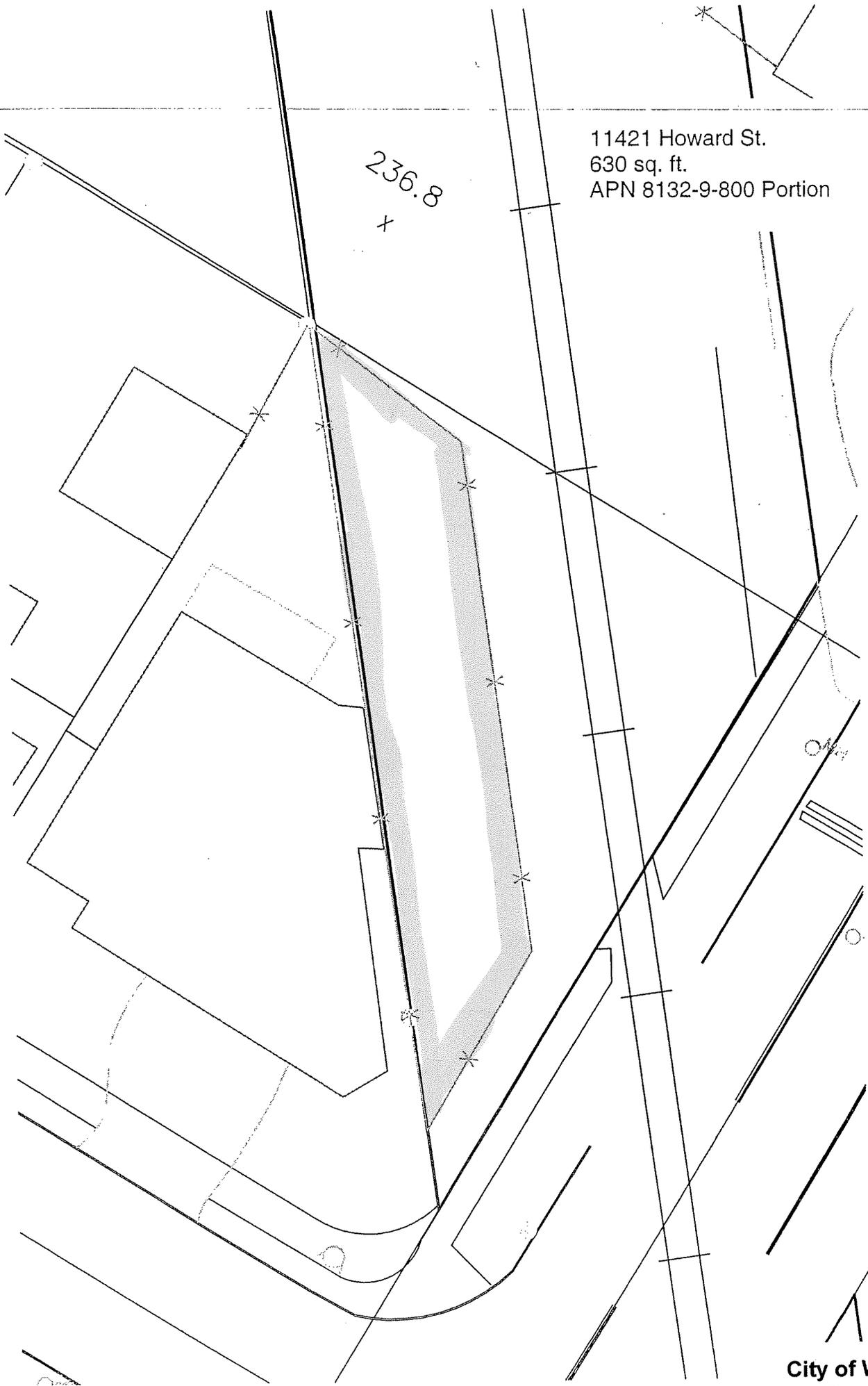
-14.0

10611 El Rancho Dr.
306 sq. ft.
APN 8130-21-803 Portion

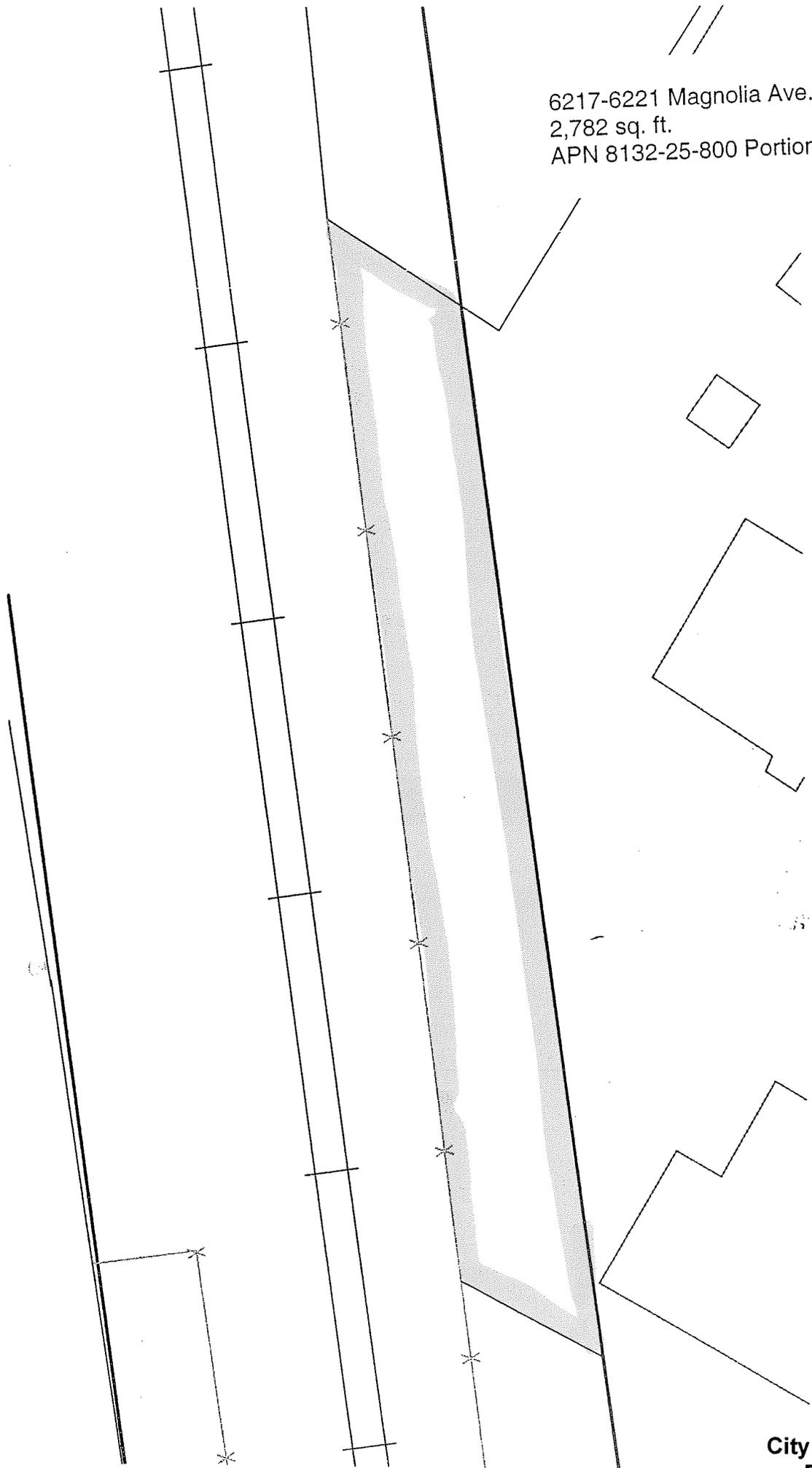


11421 Howard St.
630 sq. ft.
APN 8132-9-800 Portion

236.8
+



6217-6221 Magnolia Ave.
2,782 sq. ft.
APN 8132-25-800 Portion





6227 Magnolia Ave.
2,722 sq. ft.
APN 8132-25-800 Portion

← 19.2' →

6237 Magnolia Ave.
1,020 sq. ft.
APN 8132-26-800 Portion

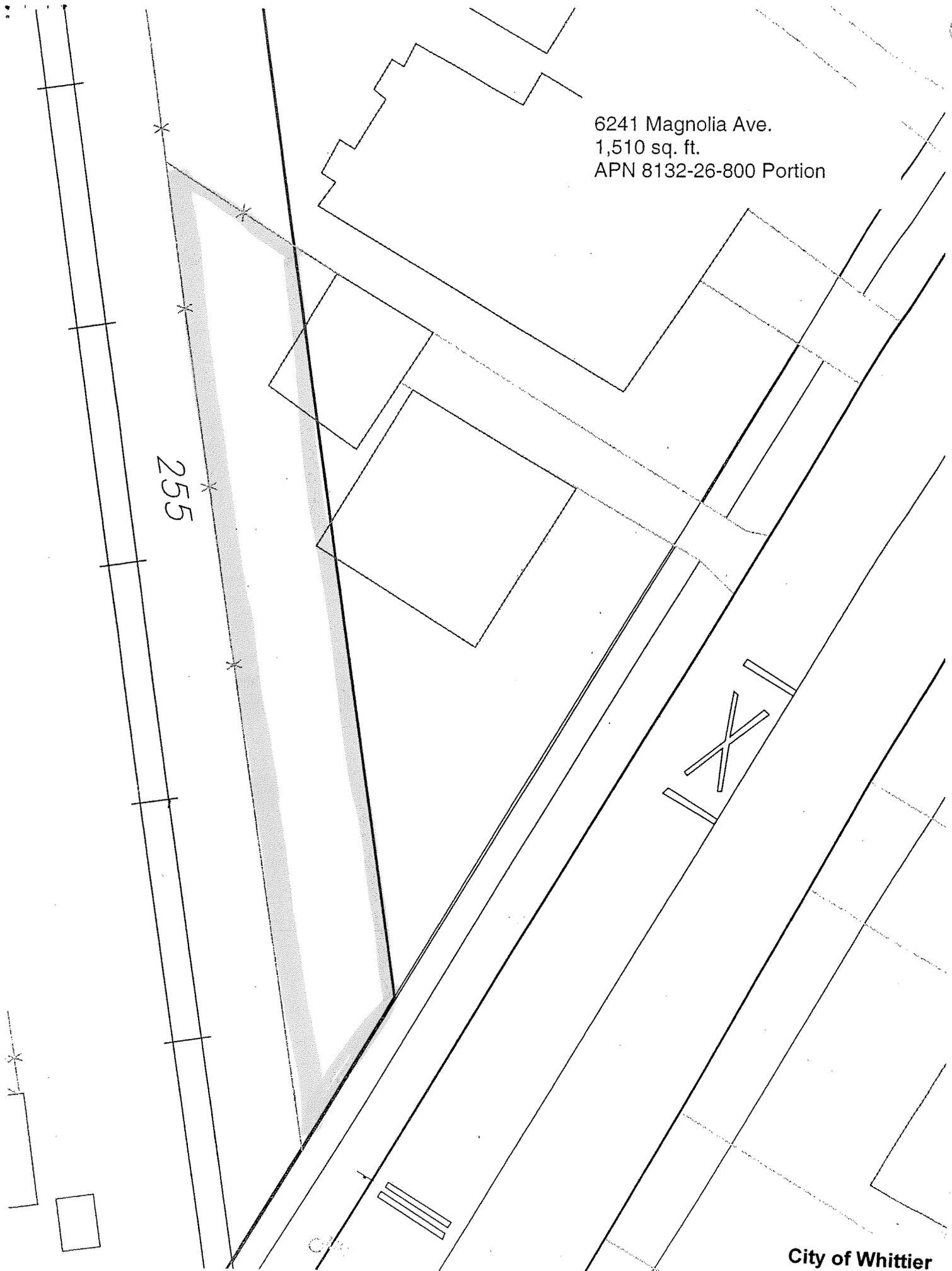


255

6241 Magnolia Ave.
1,510 sq. ft.
APN 8132-26-800 Portion

255

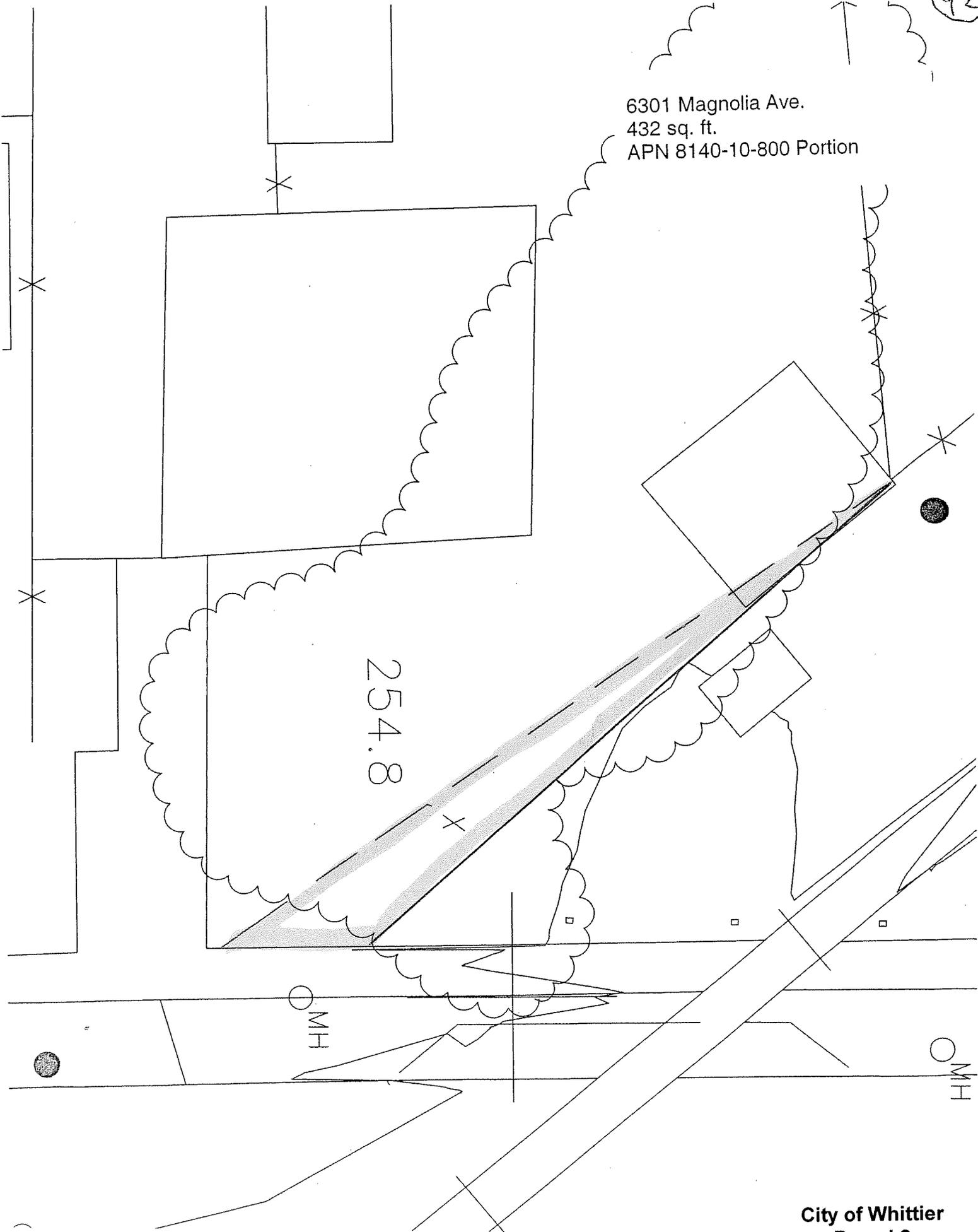
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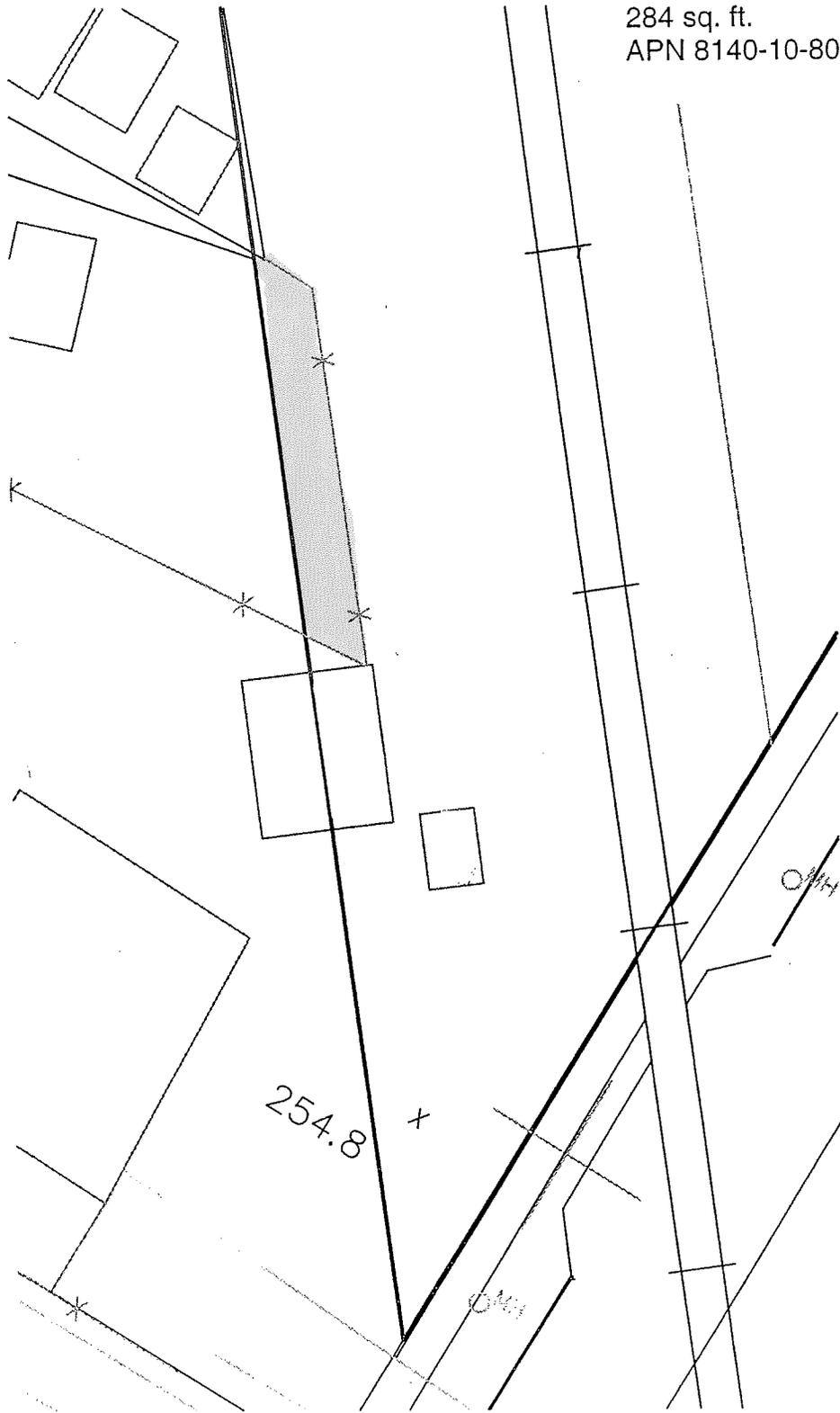
92

6301 Magnolia Ave.
432 sq. ft.
APN 8140-10-800 Portion

254.8



11756 Merit Ln.
284 sq. ft.
APN 8140-10-800 Portion

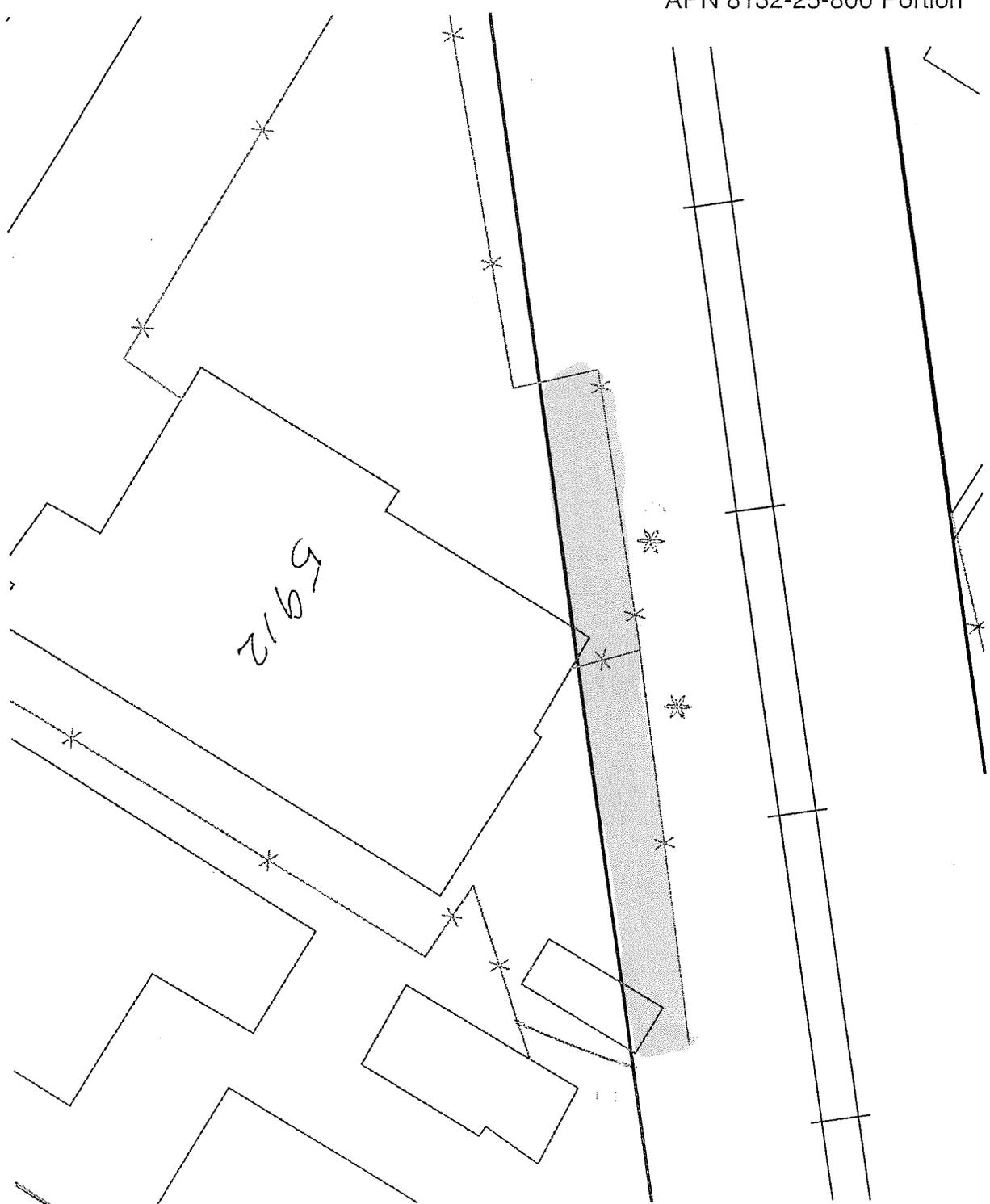


5811 Palm Ave.
1,262 sq. ft.
APN 8132-9-800 Portion





5912 Palm Ave.
703 sq. ft.
APN 8132-25-800 Portion

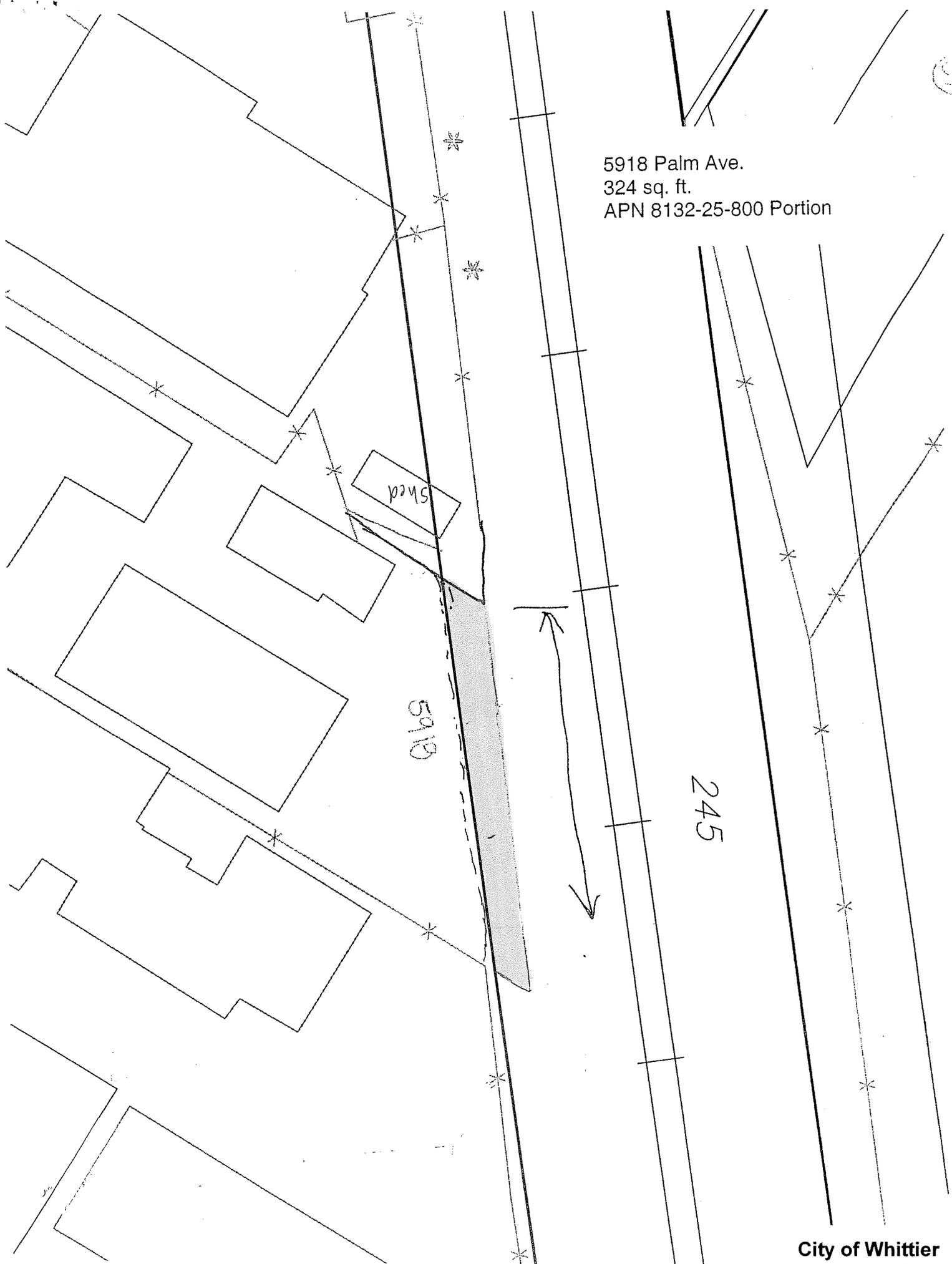


5918 Palm Ave.
324 sq. ft.
APN 8132-25-800 Portion

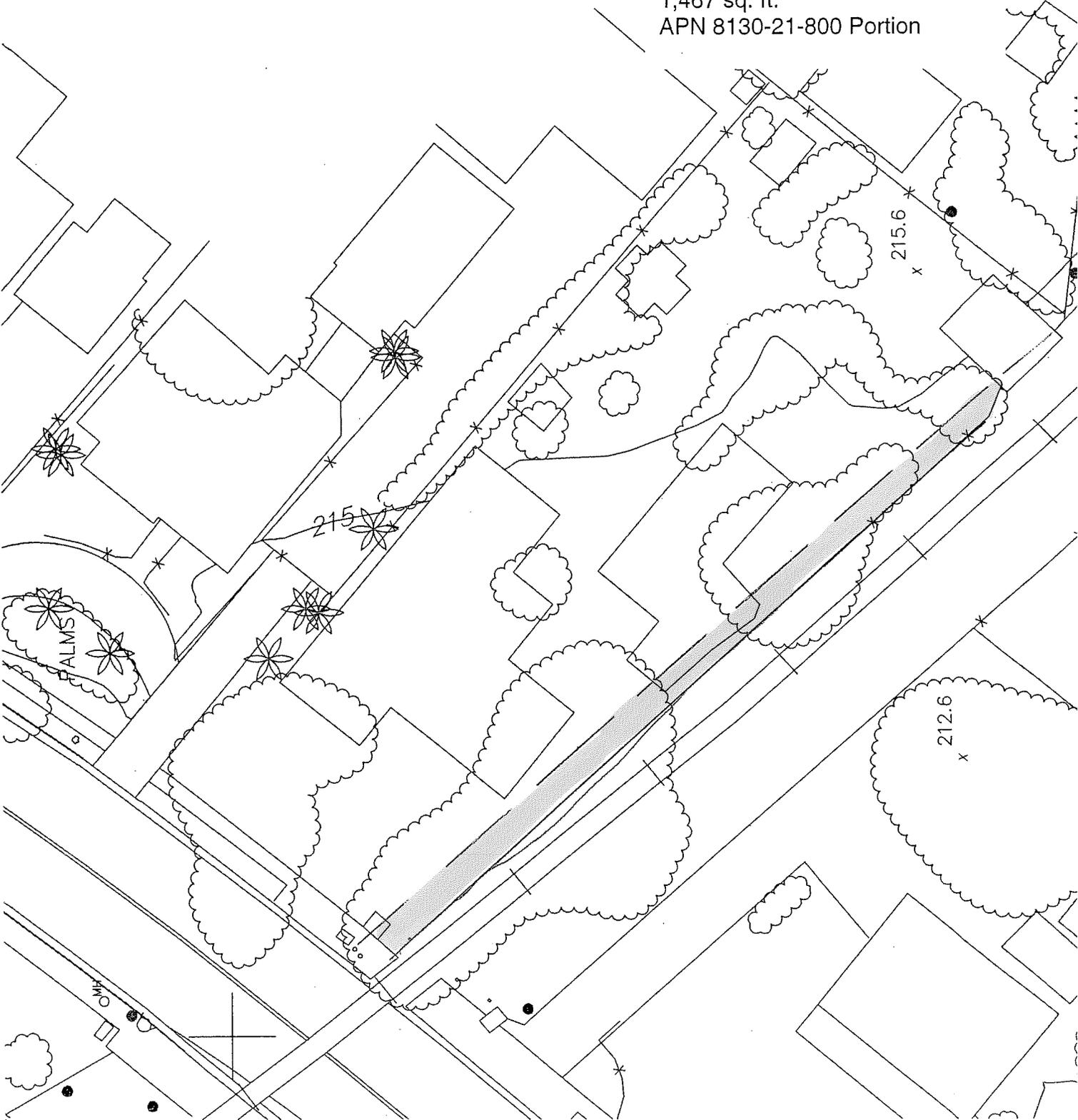
Shed

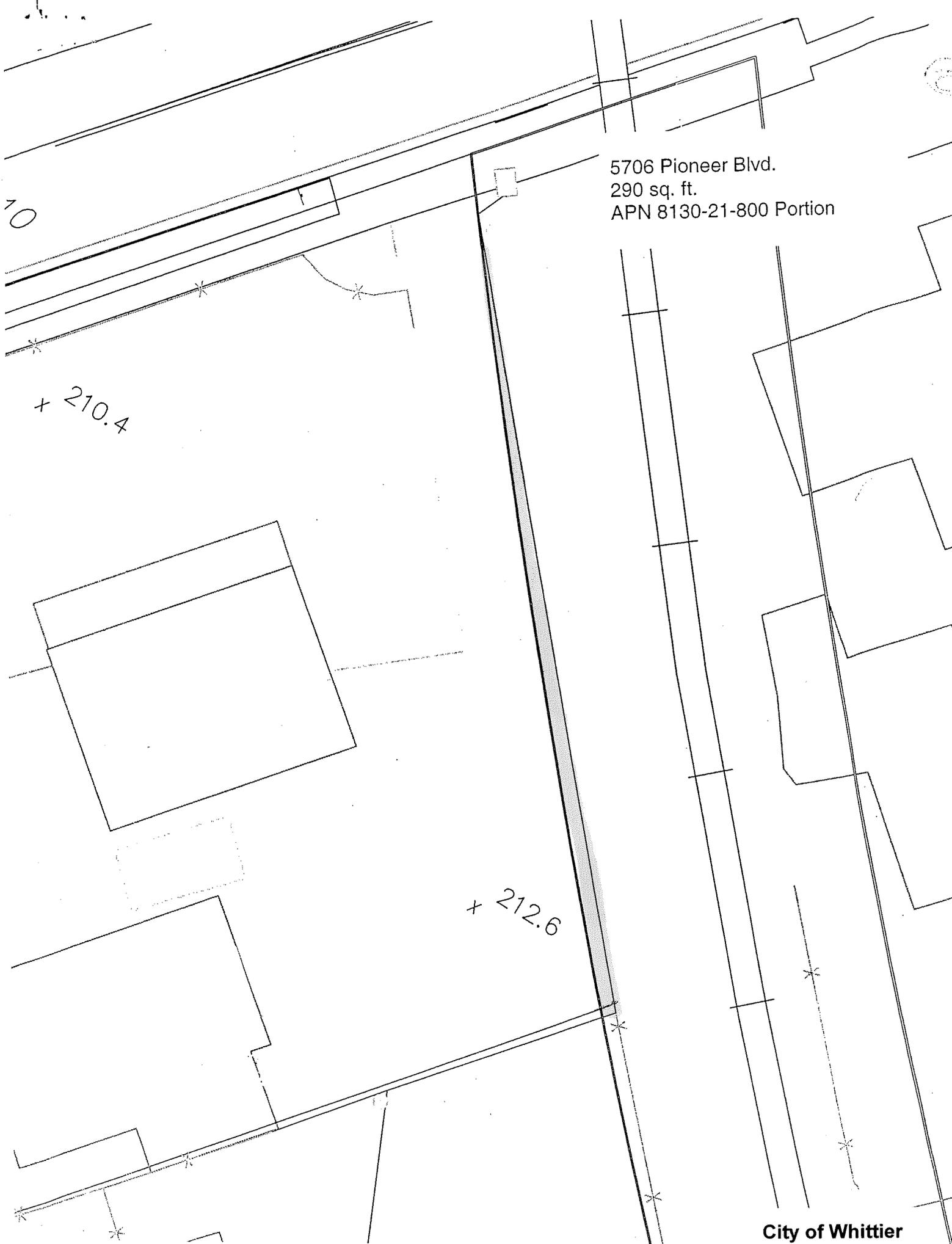
5918

245



5660 Pioneer Blvd.
1,467 sq. ft.
APN 8130-21-800 Portion



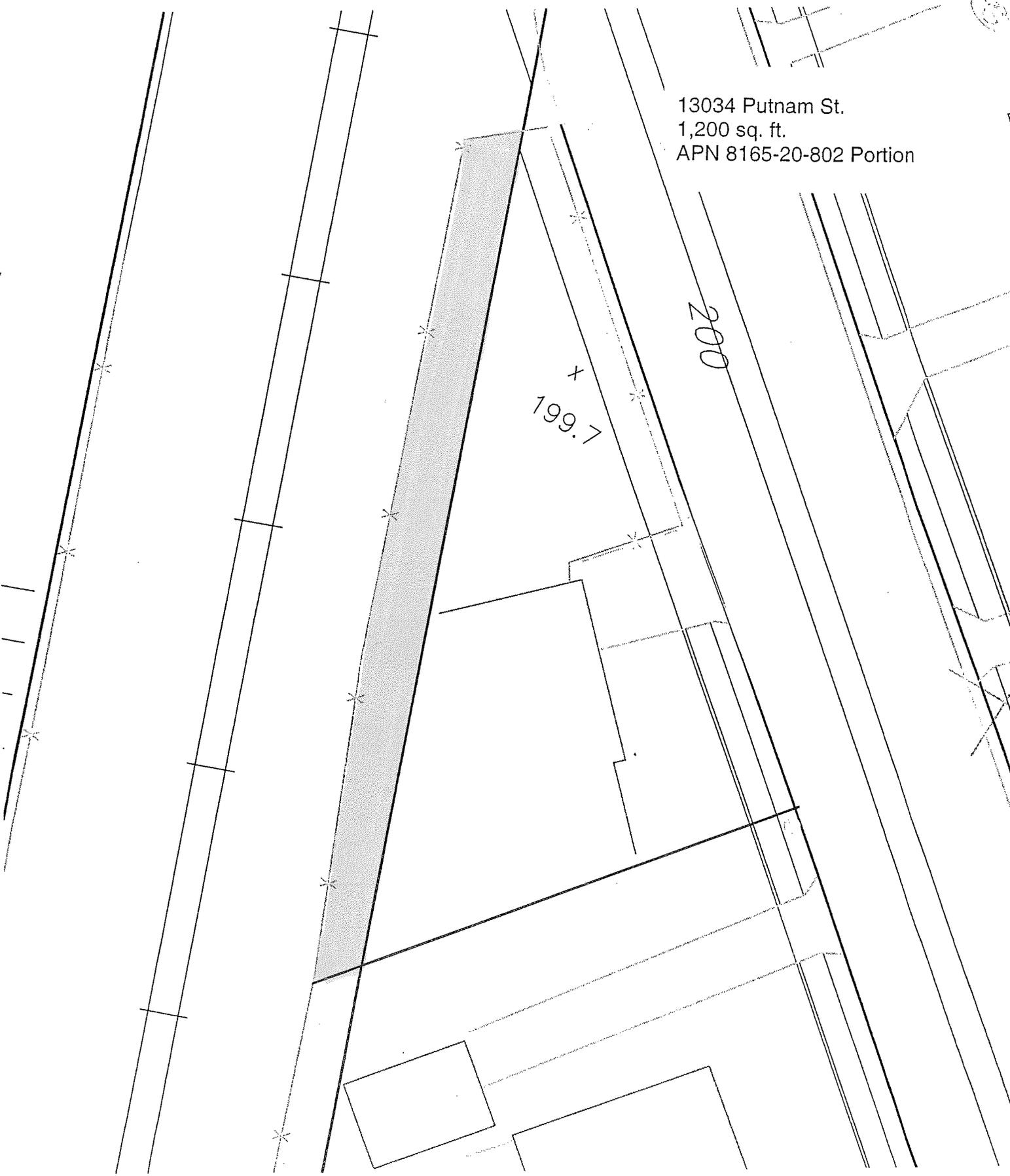


5706 Pioneer Blvd.
290 sq. ft.
APN 8130-21-800 Portion

+ 210.4

+ 212.6

13034 Putnam St.
1,200 sq. ft.
APN 8165-20-802 Portion



13104 Putnam St.
492 sq. ft.
APN 8165-20-802 Portion

