

# CITY OF BLOOMINGTON



August 25, 2011 @ 5:30 p.m.  
COUNCIL CHAMBERS #115  
CITY HALL

ROLL CALL

**MINUTES TO BE APPROVED:** June 30, 2011

**PETITIONS CONTINUED TO:** September 22, 2011

- V-10-11 **Anita Sciscoe** (Bread of Life Soup for the Soul)  
1300 S. Walnut St.  
Request: Variance from sign standards to allow a projecting sign.  
*Case Manager: Eric Greulich*
- V-17-11 **Debby Herbenick**  
528 S. Highland Ave.  
Request: Variance from maximum fence height standards.  
*Case Manager: Jim Roach*
- UV/V-28-11 **CFC Properties, Inc.**  
315, 317 and 319 N. Grant St.  
Request: Use variance to allow a hotel/motel use within a Residential Multi-family (RM) zoning district. Also requested are a package of variances from front, side and rear parking setbacks, side and rear building setbacks, and maximum impervious surface coverage.  
*Case Manager: Patrick Shay*

**REPORTS, RESOLUTIONS, AND COMMUNICATIONS:**

- Barbara McKinney—City Legal – Conflicts of Interest and Ethical Conduct
- 

**PETITIONS:**

- V-26-11 **Dan Hendricks**  
2442 S. Maston Ct.  
Request: Variance from maximum driveway width standards.  
*Case Manager: Jim Roach*
- V-29-11 **CVS 8665**  
3910 W. 3<sup>rd</sup> St.  
Request: Variances from front parking setback, front building setbacks and architectural standards to construct a CVS pharmacy.  
*Case Manager: Jim Roach*
- V-31-11 **Carole Danner-Johns** (Rockport Road Trust)  
3020 & 3040 S. Rockport Rd.  
Request: Variance from minimum lot size to allow a lot line adjustment between two parcels.  
*Case Manager: Jim Roach*

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**PETITIONER: Dan Hendricks  
2442 S. Maston Ct., Bloomington**

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**REQUEST:** The petitioner is requesting a variance to allow a driveway in excess of the UDO maximum width standards.

	Previous width	Current Requirement	Proposed
Driveway width	18 feet	No wider than the garage door (≈16 feet)	27 feet

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**REPORT SUMMARY:** The subject property is located on the west side of S. Maston Ct., northwest of its intersection with W. Adams Hill Circle. Maston Ct. is a cul-de-sac. The property is within the Woolery Planned Unit Development. The lot has been developed with a 2-story single family house with a 2-car attached garage. Until recently the house included a driveway that was the same width as the garage. This was permitted when the house was constructed.

This petition came to the Planning Department as a result of a complaint about a zoning violation. This spring, the petitioner widened his driveway to include a third parking space. This widened driveway is a violation of BMC 20.05.036(e) which limits driveways to the width of an attached garage door.

The petitioner is requesting a variance to allow the wider driveway to remain rather than bringing the drive into compliance with the UDO. Compliance would require the new section of driveway to be removed. The petitioner contends that the reason a widened driveway is needed includes the facts that they have 4 licensed drivers in the house, they own a 15 passenger van that isn't driven, that they have a history of vehicle damage parking cars on the street and that there is considerable pedestrian traffic on their street and that street parking would block sight lines of the sidewalk.

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## **CRITERIA AND FINDINGS**

### **20.09.130 (e) Standards for Granting Variances from Development Standards:**

A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

**Staff's Finding:** The most closely impacted neighbor to the north has issued a letter of remonstrance stating that they believe this petition would adversely impact the use and value of their house. In addition, approval of this variance would create unrealistic expectations for other homeowners in the area as to their ability to widen their driveway.

2. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

**Staff's Finding:** Staff finds no injury.

3. *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the variance will relieve practical difficulties.*

**Staff's Finding:** Staff finds no peculiar conditions. The property is very similar in size, shape and driveway width to other homes on the block and in the area. The peculiar conditions listed by the petitioner (number and style of cars, previous auto accident on the street) are not peculiar to the property. Staff finds no practical difficulty in meeting the standards of the UDO. The driveway that existed on the property until June, 2011 met the requirements of the zoning ordinance. While there may be increased pedestrian activity in front of this house due to the pedestrian path to Summit Elementary, traffic is only increased a few hours a day while school is in session. There are several areas of the City that have higher levels of pedestrian traffic with adjacent on-street parking. Pedestrian safety is better than some streets in the City because Maston Ct. is a one-block long, slow speed, low traffic cul-de-sac.

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**CONCLUSION:** As previously stated, there is nothing peculiar about this property that requires it to be regulated differently than other properties. There are currently four parking spaces on the lot (two in the garage and 2 on the drive) as well as available on-street parking. Staff finds that the variance criteria for this petition have not been met.

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**RECOMMENDATION:** Based on the written findings, staff recommends denial of the variance.



June 28, 2011

Dear Board of Zoning Appeals:

On June 5, 2011 my wife and I hired Kevin West Concrete to pour concrete to widen our driveway at 2442 S. Maston Court. Six days later my wife and I received a letter from J. Lynne Darland indicating that we were in violation of having a driveway wider than 22 feet. The original driveway width was 18 feet, and the current width of our driveway now measures 27 feet (*see Figure 1*). The purpose of this letter is for the board to hear our story, our rational, and our request.

We would like to ask that a variance be granted to our property for the widening of our driveway. It is our belief that our property and situation provide unique circumstances to warrant such a request.

First, there is a safety issue. One of the main pathways for children walking to and from Summit Elementary school is directly in front of our home (*see Figure 2*). Children living in Woolery Mill Townhomes, Adam's Hill subdivision, and Southern Pines subdivision use this path each school day. While this is personally convenient for our youngest daughter, the sidewalk becomes very busy each morning and afternoon with children and parents (*see Figure 3*). Parking on the street makes it extremely difficult for a driver to see the children who are walking in front of our house when pulling into the driveway (*see Figure 4*). With a large vehicle parked in the driveway, it also becomes difficult for another vehicle to back out because of the obstruction as children walk on the sidewalk. There have been several close calls due to this issue.

Another safety concern is the damage to personal property when parking on the street. In August a family member's car was hit and in December our daughter's car sustained \$1500 damage while it was parked on the street. Parking in front our home, while leaving enough room for mail delivery, places a vehicle in a spot that makes it difficult for our neighbors to pull in and back out of their driveway (*see Figure 5*).

Secondly, we seek a variance based on our unique family situation. We have been blessed with four children (*see Figure 6*). Two of our children have their drivers' license. A widened driveway makes it much easier for our family to park all of our vehicles on our property and avoid parking on the street.

As a fifth vehicle, we own a full-size 2002 Chevrolet Express 15-passenger Van (*see Figure 7*). We use this van for vacations with our extended family, transporting our children's sports teams to tournaments, and taking young people from our church to events and conferences. Parking this large vehicle has lead to the safety concerns that were previously mentioned. A 2-car driveway makes it difficult for other vehicles to get around the van, and the height of this vehicle prohibits it from being parked in the garage. The additional width of the driveway makes a wonderful solution for our family and the neighborhood (*see Figure 8*).

Thirdly, there is a financial issue. \$2348.00 has been paid out to Kevin West Concrete for this work on the driveway (*see Figure 9*). Before the project began, we asked our contractor if a

permit was needed. His answer was that a permit or permission from the city was not needed for pouring concrete in this manner.

After receiving the letter from the Bloomington Planning Department indicating a code violation, I called Mr. West and informed him of the issue. He told me that in over 12 years of pouring concrete and numerous driveway extensions he was unaware of this code. Whether he should have known or not, we are left, as homeowners, with the real possibility of having to pay additional money to have the concrete removed. We feel bad and apologize that this concrete widening has violated a code. We respect the time and matters of importance of this board and feel bad that this issue is now taking up your time.

In retrospect, we're not clear what else we could have done to keep this from happening. Without needing a permit and entrusting a licensed contractor, we thought we were taking all the necessary steps. We had saved up money from our tax return to pay for the driveway widening and believe it is beneficial to us and those in neighborhood. We are sickened to think that we may lose this investment and be forced to pay out additional money to remove this driveway. Living on a pastor's salary and trying to raise a large family already stretches our financial resources.

Fourthly, there is an existing neighborhood issue. There are 8 properties within our subdivision area that also have driveways wider than 22 feet (*see Figure 10*). Seeing this, we felt like a similar solution would work well for our property, family, and neighbors. You can imagine our feeling of injustice if we are made remove this concrete while others are allowed to be in violation of the code.

We feel that this issue began when our contractor accidentally cut the next door neighbor's internet connection. Mr. West did not inform us or our neighbor that this line was cut (*see Figure 11*). As you can imagine, our neighbor was not very happy when he came home to find this out. We immediately apologized to our neighbor for the inconvenience. We can't help but believe that if the internet line was never cut we wouldn't be dealing with this issue or submitting this case to this board.

We have spoken to our neighbors about the driveway situation, and they have no objections to it. It was our intent from the very beginning to make the neighborhood better by this driveway extension. We ask that you please allow us to keep the extra 5 feet in our driveway by granting a variance for this property.

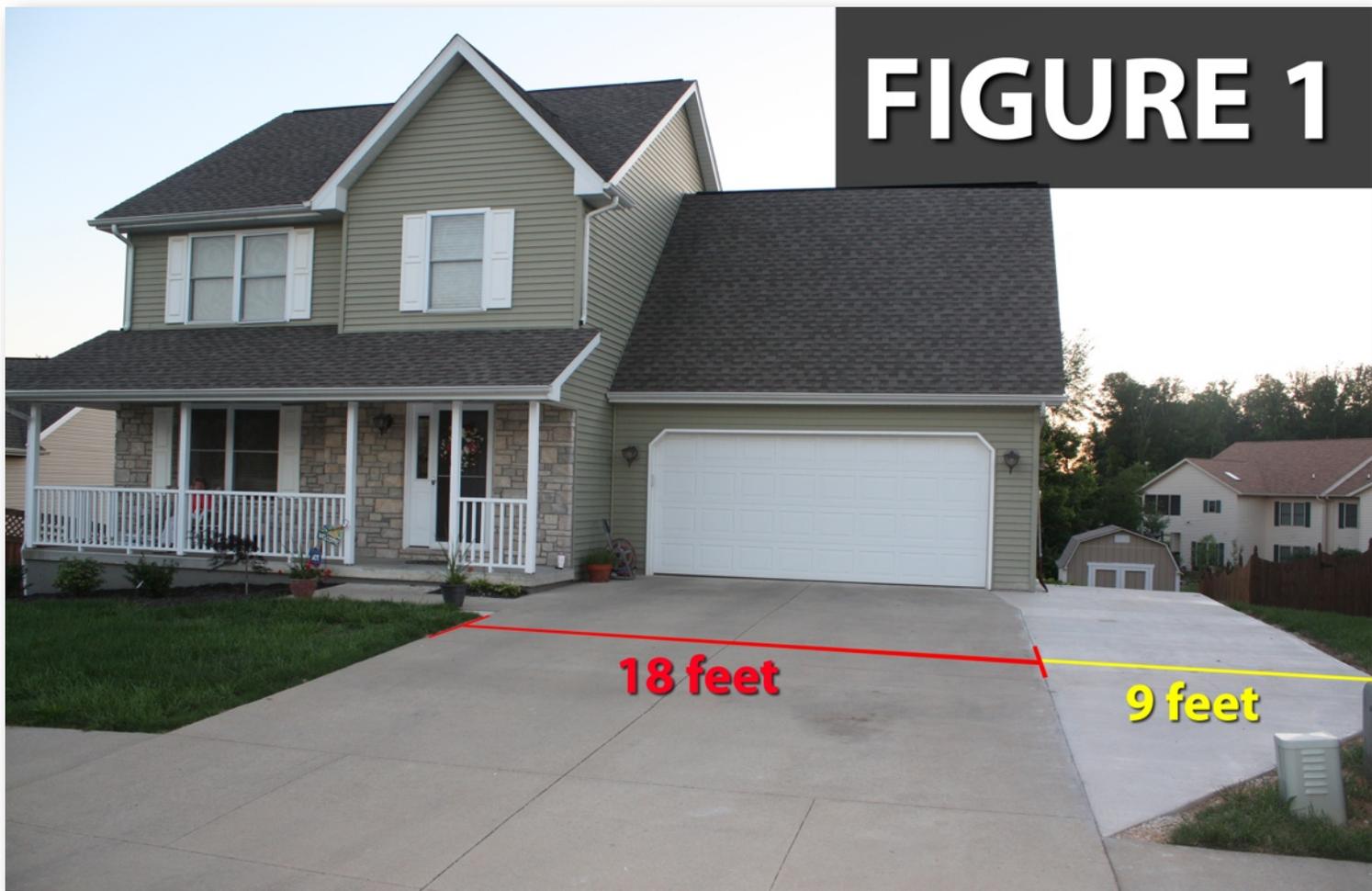
Thank you for your time and consideration.

Sincerely,

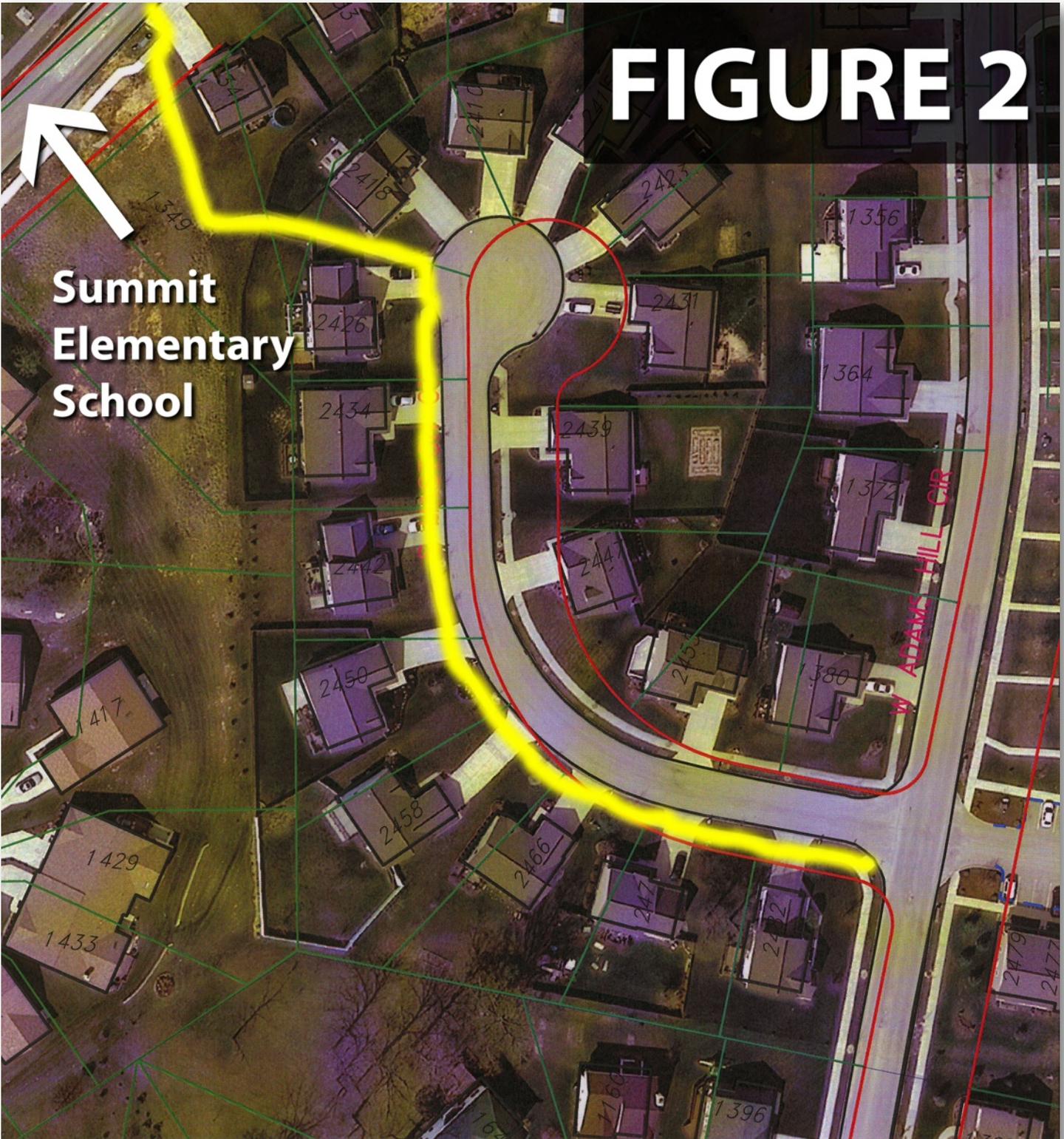


Dan & Pam Hendricks

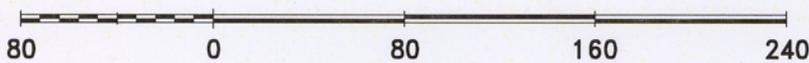
# FIGURE 1



# FIGURE 2



By: roachja  
16 Jun 11



City of Bloomington  
Planning



Scale: 1" = 80'





V-26-11, Petitioner's Statement

**FIGURE 7**



**FIGURE 8**



**West Concrete Inc.**  
**P. O. Box 6386**  
**Bloomington, IN 47407**

# FIGURE 9

DATE	INVOICE #
6/6/2011	903

BILL TO
Dan Hendricks

P.O. NO.	TERMS	PROJECT

DESCRIPTION	QTY	RATE	AMOUNT
Tearout sidewalk, excavate, prep & pour slab	1	2,348.00	2,348.00
Thank you for your business.		<b>Total</b>	<b>\$2,348.00</b>

A service charge of 1-1/2% per month will accrue 30 days after invoice date. This is an annual interest rate of 18%. All delinquency & collection charges will be paid by the customer, all without relief valuation & appraisalment laws.

**FIGURE 10**



**809 Countryside Ln.**



**1106 Countryside Ln.**



**1234 Countryside Ln.**



**1159 Twin Oakes Ridge**



**2684 Twin Oakes Ridge**



**1448 W. Adams Hill**

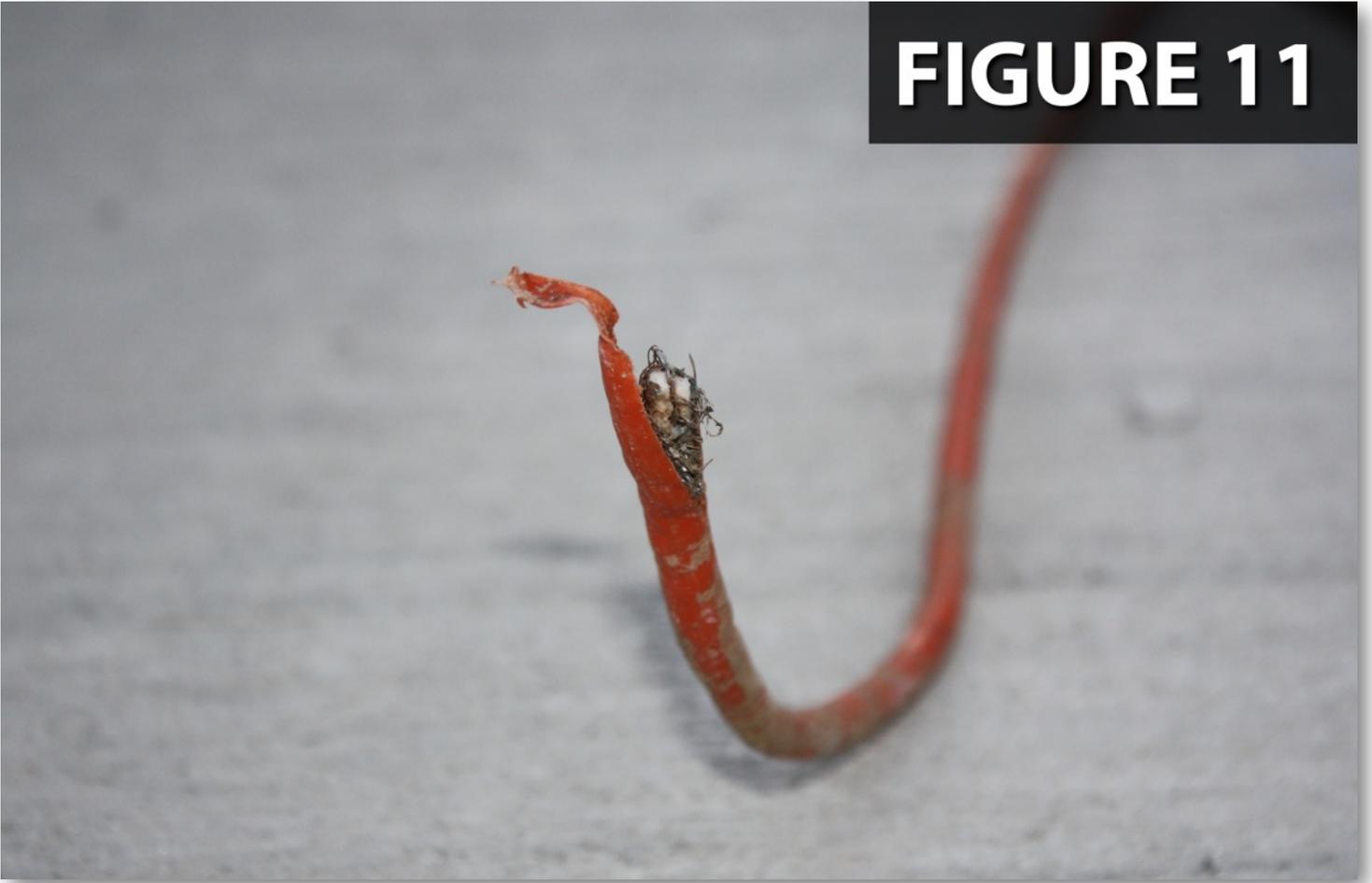


**1478 W. Adams Hill**



**1479 W. Adams Hill**

**FIGURE 11**



Scott and Lisa (Drake) Hein  
2434 S. Maston Ct.  
Bloomington, IN 47403

AUG 15 2011

August 11, 2011

Board of Zoning Appeals (BZA)  
City of Bloomington  
401 North Morton St.  
Bloomington, IN 47403

Dear Board of Zoning Appeals Members:

We are writing the board in reference to variance request case V-26-11, for a variance from maximum driveway width standards. We are the property owners at 2434 S. Maston Ct. (immediately to the north of 2442 S. Maston Ct.) and therefore, the most affected by this driveway expansion.

As with most home owners, our home is our largest investment. As such, our concern with this expansion is as it relates to its effect our property not only in terms of value, but also marketability if or when we would decide to sell our home.

Of all the properties in the Robins Glen addition, this would be the only lot with such a driveway expansion. The original placement of the driveway at 2442 S. Maston Ct. provided for approximately 25 feet between our two homes. Now with the driveway expansion that has been installed that width has been reduced to approximately 16 to 17 feet. In addition to the width expansion, the driveway has also been expanded to be deeper by approximately 5 to 6 feet which places the driveway between the two homes. As we have found in the time since the driveway expansion has been in place, vehicle noises (engine noise, doors, etc.) are trapped between the houses causing the noises to be amplified.

Additionally, the floor plan of our home is such that our bedroom is at the south east corner of our home. So the expansion of the driveway also places it closer to our bedroom. While in some neighborhoods close proximity of driveways to neighboring homes might be expected, our neighborhood was not designed or planned in such a manner.

We feel these concerns affect our home in a way that is detrimental to the value and marketability of our home as it would be compared to a similar home in the Robins Glen addition. While no one can predict the future, we feel the value impact could not be measured accurately until such time as we attempted to market our home.

We are also concerned about future uses of such a space. While we understand that the intent was to make parking more convenient for the Hendricks', we also know that situations change and that the space could quickly become a space to house recreation vehicles, watercraft, or any number of other uses.

We agree that \$2300.00+ is a lot of money and we are empathetic to the Hendricks' having already spent the money to have a contractor install their driveway expansion, as well as costs of removal of the expansion and restoration of landscaping that they could incur, we do not feel that should justify such a change to an already established neighborhood. And, we do not feel it fair

that we are impacted by the errors and omissions that occurred in the installation of this driveway expansion. Since the Hendricks' did seek out and hire a contractor, we feel this matter should be for them and their contractor to resolve as they feel is appropriate.

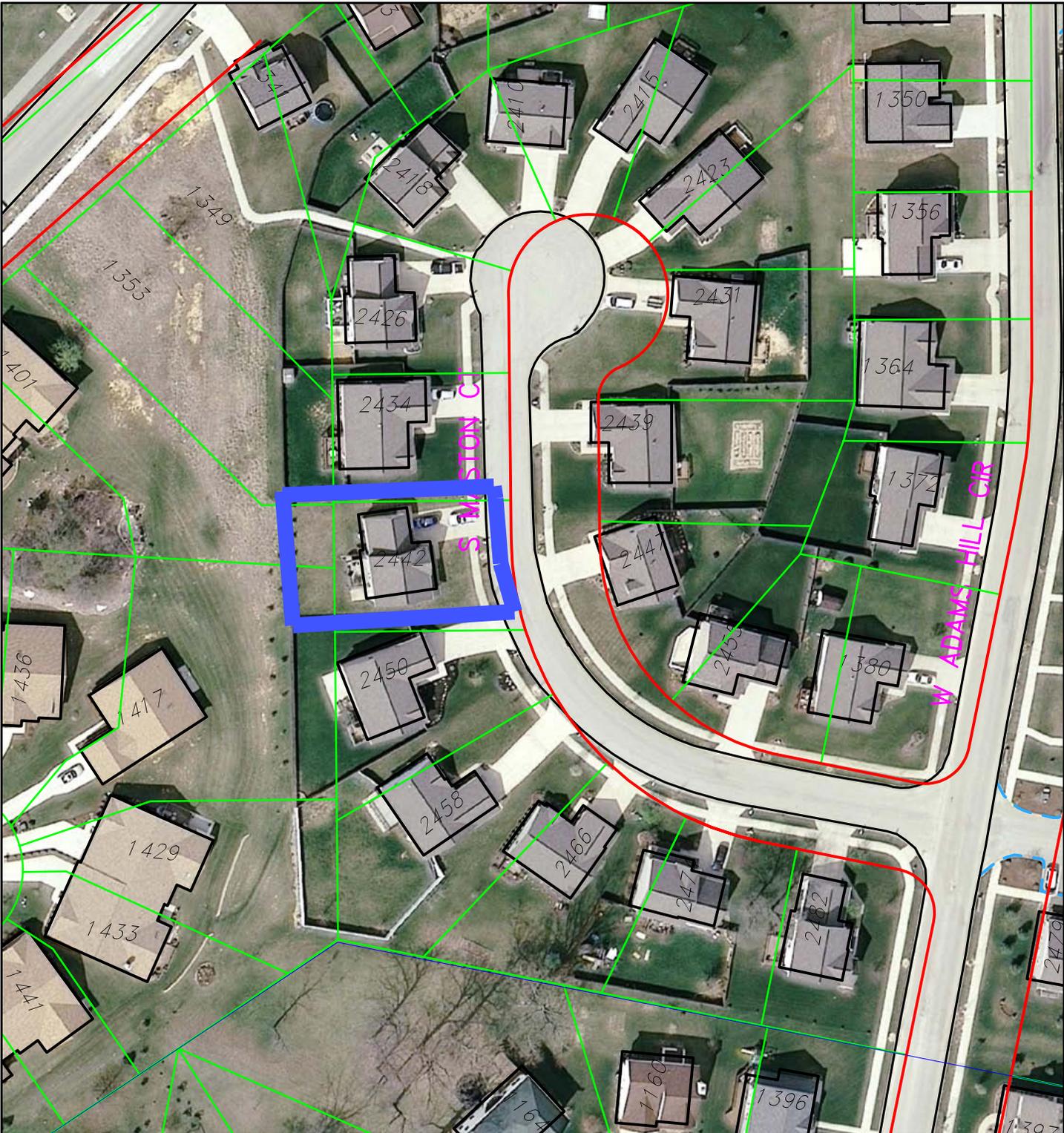
Finally, in the letter the Hendricks' wrote to the board, they bring up many points that all of the people living in the neighborhood contend with. None of these concerns are different than anyone living on Maston Court deal with on a daily basis and have become accustomed to since the neighborhood was established in 2003.

We therefore respectfully ask that the board deny the request for this variance.

Sincerely,

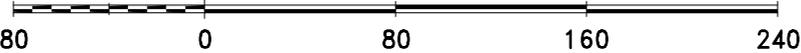
A handwritten signature in blue ink that reads "Scott & Lisa Hein". The signature is written in a cursive, flowing style.

Scott and Lisa Hein

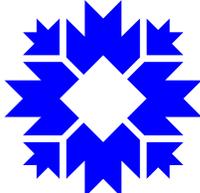


V-26-11  
2010 Aerial Photo

By: roachja  
19 Aug 11



City of Bloomington  
Planning



Scale: 1" = 80'

For reference only; map information NOT warranted.

**BLOOMINGTON BOARD OF ZONING APPEALS  
STAFF REPORT  
LOCATION: 3910 W. 3<sup>rd</sup> Street**

**CASE #: V-29-11  
DATE: August 25, 2011**

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**PETITIONER:** BG Indiana 2, LLC  
600 E. 96<sup>th</sup> Street, Indianapolis

**CONSULTANT:** Dave Harstad  
1720 N. Kinser Pike, Suit 220, Bloomington

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**REQUEST:** The petitioner is requesting a package of variances including maximum number of drive-throughs, architectural standards for building entrances, entrance and drive standards and minimum setback standards to allow construction of a pharmacy.

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<b>Area:</b>	1.6 Acres
<b>Zoning:</b>	CG
<b>GPP Designation:</b>	Community Activity Center
<b>Existing Land Use:</b>	vacant lot, two vacant commercial buildings
<b>Proposed Land Use:</b>	Pharmacy with drive-through
<b>Surrounding Uses:</b>	North –Commercial and multi-family
	East – Commercial
	South – Commercial
	West – Church

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**REPORT SUMMARY:** The subject property is located at the northeast corner of W. 3<sup>rd</sup> Street/W. SR 48 and S. Curry Pike. The site is made up of three different properties. These include a vacant lot most recently used as a gas station and two vacant commercial buildings. The property is zoned Commercial General (CG). The petitioner proposes to demolish the two existing structures and replace them with an approximately 19,000 square foot CVS pharmacy that would be one story with a mezzanine and two drive-through bays.

The proposed site plan meets most of the requirements of the UDO. This petition will reduce the number of driveway cuts onto 3<sup>rd</sup> St./SR 48 from 3 to 1 and onto Curry Pike from four to one. Pervious pavers are used for most parking spaces to meet maximum impervious surface coverage requirements. The site is designed with the building at the corner, with parking to the north and east of the building. Unlike previous proposals for uses with drive-throughs on corner lots, this proposal does not include a drive-through access lane that wraps around the building.

Access is currently proposed with two full access cuts, one on 3<sup>rd</sup> St./SR 48 and one on Curry Pike. The petitioner has been in discussions with INDOT concerning the cut onto 3<sup>rd</sup> St./ SR 48. INDOT may require that the drive be moved further to the east and may require it to be designed as a right-on/right-out cut. The petitioner hopes to know what will be permitted by the time of the hearing, however staff finds that additional variances are required with the potential changed drive location.

The proposed site plan requires approval of four variances. The petitioner is requesting variances from maximum number of drive-through bays, architectural standards for building

entrances, entrance and drive standards and minimum setback standards.

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**Variance Details:**

**Maximum number of drive-through bays:** The CG district limits the number of drive-through bays to no more than 1 for all uses except for banks. This property is located at the corner of two primary arterial roadways but is not zoned Commercial Arterial due to the small lot size and the surrounding Highland Village neighborhood to the west and southwest. The petitioner proposes one primary drive-through bay adjacent to the wall of the building and a second drive-through bay on the edge of the proposed canopy that would utilize a pneumatic tube. The petitioner contends that the second drive would only be used for the drop-off of prescriptions. This type of double drive-through has been developed at the CVS stores at 2701 E. 3<sup>rd</sup> Street and 2650 S. Walnut Street.

**Architectural standards for building entrances:** The UDO requires that all building facades of at least 66 feet in width along an arterial street include a primary pedestrian entrance along each of the streets. With this petition, both W. 3<sup>rd</sup> St./SR 48 and Curry Pike are arterial streets requiring entrances. The petitioner proposes only one pedestrian entrance at the southeast corner of the building. This entrance was placed to serve both pedestrian traffic on 3<sup>rd</sup> St./SR 48 and the adjacent parking lot to the east. The petitioner contends that designing a building with more than one entrance is problematic for this use because of the risk of theft associated with the sale of alcohol and controlled pharmaceuticals. They have chosen to place a single entrance near both the street and the parking lot to allow for the most convenient access to all types of customers, including customers that drive to the pharmacy that may be sick, elderly or have small children with them.

**Entrance and drive standards:** The UDO prohibits drives parallel to a street within the front parking setback, which is 20 feet behind the front wall of the building. At the northwest corner of the building, the petitioner proposes that the exit lane for the drive-through bays be at the same setback from the street as the building. This drive is entirely within the parking setback. While previous corner lot drive-through requests have shown the drive-through lane wrapped around the building, this proposal places all stacked parking out of the setback and only utilizes the setback for exiting from a single cut for both the drive-through and the parking lot. While the proposal does not meet the letter of the law, this petition meets the spirit of the requirement.

**Minimum setback standards:** The CG district requires a minimum setback of 15 feet from the proposed right-of-way in the Thoroughfare Plan, or the average of the setbacks on the block, whichever is less. Based on the block average, the required setback is 65 feet from the centerline of S. Curry Pike. The petitioner proposes a setback of 57 feet from centerline. This proposed setback is inline with 2 other buildings on the block to the north. In addition, Curry pike was recently expanded and additional expansion is unlikely. The proposed building will be out of the anticipated future right-of-way of 50 feet from centerline.

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## CRITERIA AND FINDINGS

### Number of Drive-through bays:

#### **20.09.130 (e) Standards for Granting Variances from Development Standards:**

A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

**Staff's Finding:** Staff finds no injury with the petition. The safety of the proposed site plan is improved significantly over the existing development pattern with the removal of several drive entrances. In addition the drive-through bays do not directly access the street, but use a drive shared with the parking lot.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

**Staff's Finding:** Surrounds uses include gas stations and fast foot restaurants with drive-throughs. Staff finds no adverse impacts to the surrounding uses.

3. *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the variance will relieve practical difficulties.*

**Staff's Finding:** Staff finds no peculiar condition associated with this property. It can be developed with a wide range of uses, including the proposed use, but with only one drive-through bay. Many other uses in the area include drive-through bays, however the only other uses that include multiple drive-through bays are banks, particularly Crane Federal Credit Union to the north and Old National Bank to the west. Multiple bays are permitted for banks in the CG district. Staff finds that allowing only one drive-through bay would not result in practical difficulty in use of the property.

### All other variances:

#### **20.09.130 (e) Standards for Granting Variances from Development Standards:**

A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

**Staff's Finding:** Staff finds no injury with the petition. The safety of the proposed site plan is improved significantly over the existing development pattern with the removal of several drive entrances.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

**Staff's Finding:** Due to the similar nature of the surrounding developments, staff finds no adverse impacts to the surrounding area. The site has been vacant for several years. The proposed redevelopment of this site will only have a positive impact to the use and value of the surrounding area.

3. *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the variance will relieve practical difficulties.*

**Staff's Finding:**

**Setback Variance:** Peculiar condition is found in the other buildings on the block that are closer to the street than 65 feet from centerline. Two buildings to the north are approximately 45 feet and 42 feet from centerline. Peculiar condition is also found in the fact that Curry Pike was recently widened and no additional widening is anticipated. Practical difficulty is found in that the additional setback would exacerbate the problems of the drive through drive discussed below as well as reducing the width of the pedestrian sidewalk on the east side of the building.

**Building entrance:** Peculiar conditions can be found in the nature of the use. Pharmacies, unlike other uses, handle retail sales of many controlled substances including tobacco, alcohol and narcotics. The petitioner has found that a single controlled access point is essential to ensure the security of the controlled substances. Practical difficulty is found in that if the assumption that the use needs to have only one entrance, the location designed is the most appropriate one for all users of the site. While the entrance could be moved to the corner of 3<sup>rd</sup> and Curry Pike and would meet the standard, it would place the entrance further away from the parking lot. Many customers of a pharmacy are sick, disabled or elderly and placing the entrance further from the parking lot would be make it more difficult for a majority of the patrons.

**Entrances and drives:** The UDO requires new construction in commercial districts to be located near the street, with the parking located to the side or rear of the structure. Drive-through aisles are also prohibited within the parking setbacks. For corner lots, traditional drive-through layouts with the drive-through wrapping around the building are not permitted and the UDO only allows the drive-through to be located on the two sides of the building. This makes locating a drive-through on corner lots very difficult. The petitioner has been able to achieve the main intent of the UDO by locating the drive-through to the north of the building and not having any drives or parking between the building and adjacent streets. However, the drive aisle is proposed to be lined-up even with the building façade rather than 20 feet behind. This is necessary due to the short width of the north façade of the building. To make the drive-through functional and not create an internal stacking issue, a variance is necessary. Staff finds peculiar conditions with the combination of this being a corner lot, the shape of the lot and the shorter façade of the building to the north. Denial of the variance would result in practical difficulties in developing a drive-through, which is a permitted use.

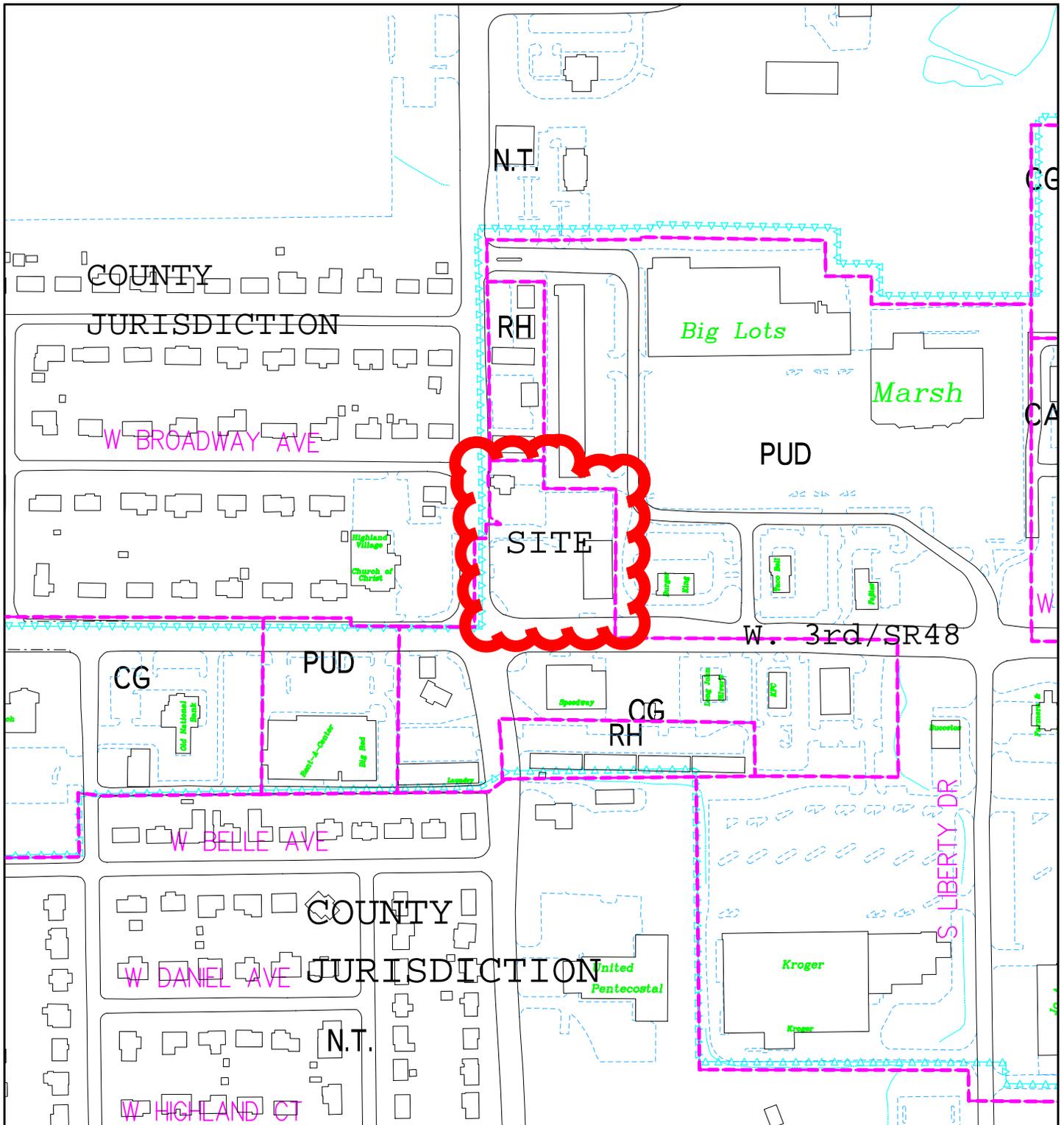
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**CONCLUSION:** Staff finds that the proposed building and site plan would result in a positive redevelopment of this vacant and neglected property. While the petition meets most of the standard of the UDO, three of the four proposed variance are appropriate given the use, lot and proposed lot layout. The proposed drive-through meets the spirit of the ordinance in that it does not wrap the lane around the building. No peculiar conditions or practical difficulty are found in the proposed two drive-through bays.

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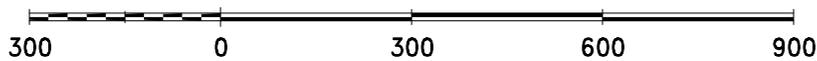
**RECOMMENDATION:** Based on the written findings, staff recommends approval all variances except the number of drive-through bays variance, with the following conditions:

1. Drive through shall be limited to one bay per BMC 20.05.095.
2. A pedestrian easement must be recorded prior to occupancy for any portion of the sidewalk that is not within the public right-of-way.
3. The pedestrian entrance variance is only approved for this use. Future change in change will require a second entrance to be contrasted along Curry Pike.

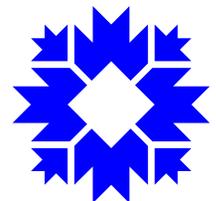


V-29-11 CVS  
 3910 W. 3RD STREET  
 LOCATION/ZONING/LAND-USE MAP  
 BOARD OF ZONING APPEALS

By: roachja  
 18 Aug 11



City of Bloomington  
 Planning



Scale: 1" = 300'

For reference only; map information NOT warranted.

July 25, 2011

James C. Roach, AICP  
Senior Zoning Planner  
City of Bloomington  
401 N. Morton Street, Suite 160  
Bloomington, IN 47402

RE: Petitioner's Statement for proposed CVS at NEC of 3rd and Curry

Dear Jim:

Thank you for the opportunity to present Gershman Brown Crowley, Inc.'s proposal to redevelop the northeast corner of West 3rd Street and Curry Pike in Highland Village.

This long neglected and highly visible corner is made up of three parcels: a closed gas station, a vacant industrial building/pole barn, and a vacant house/commercial building which sits five feet off Curry Pike. The redevelopment site is 1.6 acres of which more than 85% is currently impervious surface.

The gas station parcel required environmental remediation. Leaking underground storage tanks were removed and contaminated soils were cleaned. The Indiana Department of Environmental Management supervised the cleanup and has issued a No Further Action ("NFA") letter.

The site is on the Bloomington/Monroe County border. The understanding of the development team is that Monroe County controls and maintains Curry Pike at this location. A group of project representatives met County Engineer Bill Williams at the site, and he endorsed the proposed drive location. In addition, Mr. Williams stated that, in light of the relatively recent reconstruction of Curry Pike and West Third in this area, the County has no foreseeable plans to make any material changes to Curry Pike, or to acquire additional right of way.

The development team embraced the challenge of attempting to come up with a "front forward" design with a pharmacy drive through that required minimal variances. Pre-submission meetings with staff were very helpful, and improved the project design.

Three variances are necessary for the redevelopment to move forward, all of which arise from the challenge of designing a front forward building on the intersection of two Primary Arterials:

V-29-11, Petitioner's Statement

**1. Building setback from Curry Pike**

Standard: UDO 20.02.320. “Minimum Front Building Setback: 15 feet from the proposed right-of-way indicated on Thoroughfare Plan, or the block face average setback of the existing primary structures on the same block face, whichever is less.”

Variance needed: Approximately eight feet (maximum).

Justification: Bloomington’s Thoroughfare Plan proposes a 50 foot half right of way (ROW) for Primary Arterials, which is 10 more than what currently exists for Curry Pike. However, Monroe County controls Curry Pike at this location, and has no plans to expand the ROW in the foreseeable future beyond its current 40 foot half ROW width.

The building meets the setback requirement based on existing ROW. However, the tight nature of the site and the fact that a 24” water main bisects the site north to south severely complicates site layout and design when applying the proposed ROW standard.

In the block to the north there is a five building apartment complex under common ownership. The two largest buildings are set back only seven feet from Curry Pike. The CVS will be set back approximately twenty feet more than those two buildings. Accordingly, if the proposed CVS is not in technical compliance with the setback requirement per the block face average standard, it certainly conforms with its spirit.

Mitigation: The design will include a sidewalk, street trees, and foundation landscaping, none of which currently exist at this location. It also removes a building which is only five feet off Curry.

**2. Minimum parking setback from Curry Pike (drive through area)**

Standard: UDO 20.02.320. “Minimum parking setback: twenty feet behind primary structure’s front building wall.” (Note: The definition of “parking areas” includes drive through drives, even in situations where no parking areas will be accessible from the variance area, as is the case here).

Variance needed: Twenty three feet (for drive through exit)

Justification: The lot is on a corner, and the front forward design requirement makes technical compliance with this standard difficult for a pharmacy drive through.

The purpose of the requirement is to provide a pedestrian friendly streetscape with building framing and minimal hard surfaces between the building and street. In this design, the drive through area does not appear to compromise those goals. The drive through does not circle the building or otherwise conflict with pedestrian access to/from the building. In addition, the area surrounding the drive will be heavily landscaped and screened.

For security reasons, the pharmacy area is best located in the northwest section of the building, far away from the front door. Further, locating the driveway further east than the proposed location would result in less room for vehicle stacking, and greater potential for

pedestrian/vehicle conflicts, thus undermining the intent of the standard.

Mitigation: Heavily landscaped buffers, including evergreen trees, between Curry Pike and the drive area, and between the drive area and entrance into site from Curry.

### 3. Store entrances from both Curry Pike and 3rd Street

Standard: UDO 20.05.015(c)(6). "One primary pedestrian entrance shall be provided for any façade which contains 66 feet of frontage along a primary arterial."

Justification: The corner lot location on two Primary Arterials and front forward design makes technical compliance with this standard inadvisable. Due to the sale of pharmaceuticals and alcohol, and night time business hours, a single entry point is required for the safety of employees and customers. The door needs to be close to the parking area due to the nature of pharmacy clientele (sick, elderly, parents with children, etc.).

Mitigation. Prominent entrance on southeast corner of building, and matching architectural entry feature/fenestrated area on southwest corner.

The design team worked hard with staff to eliminate the need for other variances, and to otherwise improve site design. For example:

- The 3rd Street entrance design was reworked to meet the minimum parking setback requirement;
- The landscape architects worked hard to find space for the all the required trees and plant materials;
- The design team included a rain garden with native plants and underground detention in order to meet stormwater requirements;
- Pervious pavers will be installed in order to meet the 60% maximum impervious surface requirement;
- The design of the north façade of the building was improved to make it more attractive; and,
- The site was designed to comply with City, County, and INDOT access requirements and will reduce the number of access points from seven to two.

We appreciate your time in reviewing our proposal, and look forward to the prospect of returning this prominent corner to productive use.

Sincerely,



Dave Harstad  
Attorney at Law (#29100-53)

## Memo

August 18<sup>th</sup>, 2011

RE: Proposed CVS Drive Thru at 3<sup>rd</sup> & Curry, Bloomington, IN

To whom it may concern,

Please see the comments below with regards to the Drive Thru use for the newly proposed CVS on the Northeast corner of 3<sup>rd</sup> & Curry.

- Each newly proposed store is designed with a double drive thru for customer convenience and operation efficiency
- The outside drive is utilized for prescription drop offs, allowing customers to return at a later time with their prescription filled and waiting for them.
- The second drive thru lane reduces queue length in the drive thru, providing faster service to customers
- Pharmacy operation is most efficient with a double Drive Thru

Please take the preceding into consideration when considering the approvals for this newly proposed location. We hope to have another well run, successful store in Bloomington.

Regards,



Larry K. Webb  
Director of Real Estate

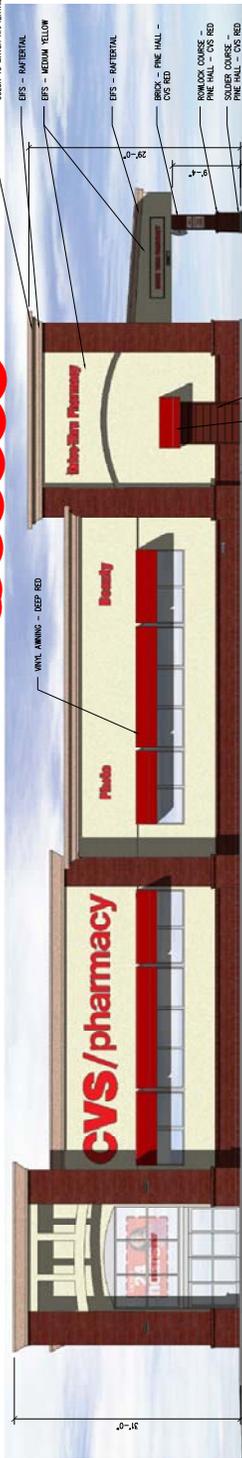




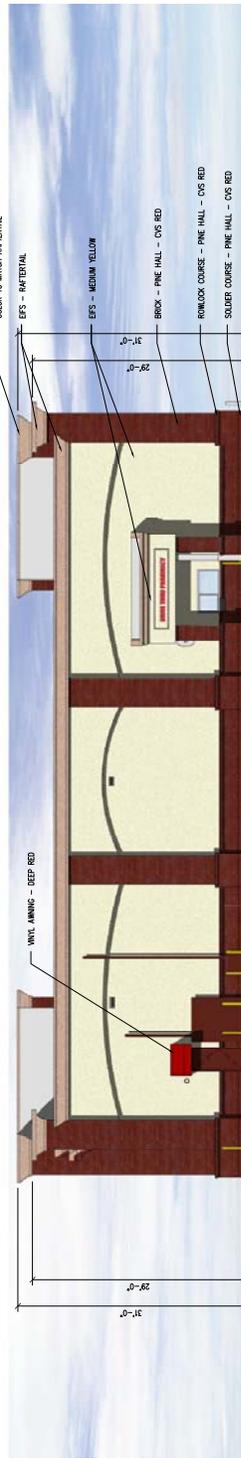
# V-29-11 Elevations



**SOUTH ELEVATION (WEST 3RD STREET)**  
SCALE: 1/8" = 1'-0"



**EAST ELEVATION**  
SCALE: 1/8" = 1'-0"



**NORTH ELEVATION**  
SCALE: 1/8" = 1'-0"



**WEST ELEVATION (CURRY PIKE)**  
SCALE: 1/8" = 1'-0"

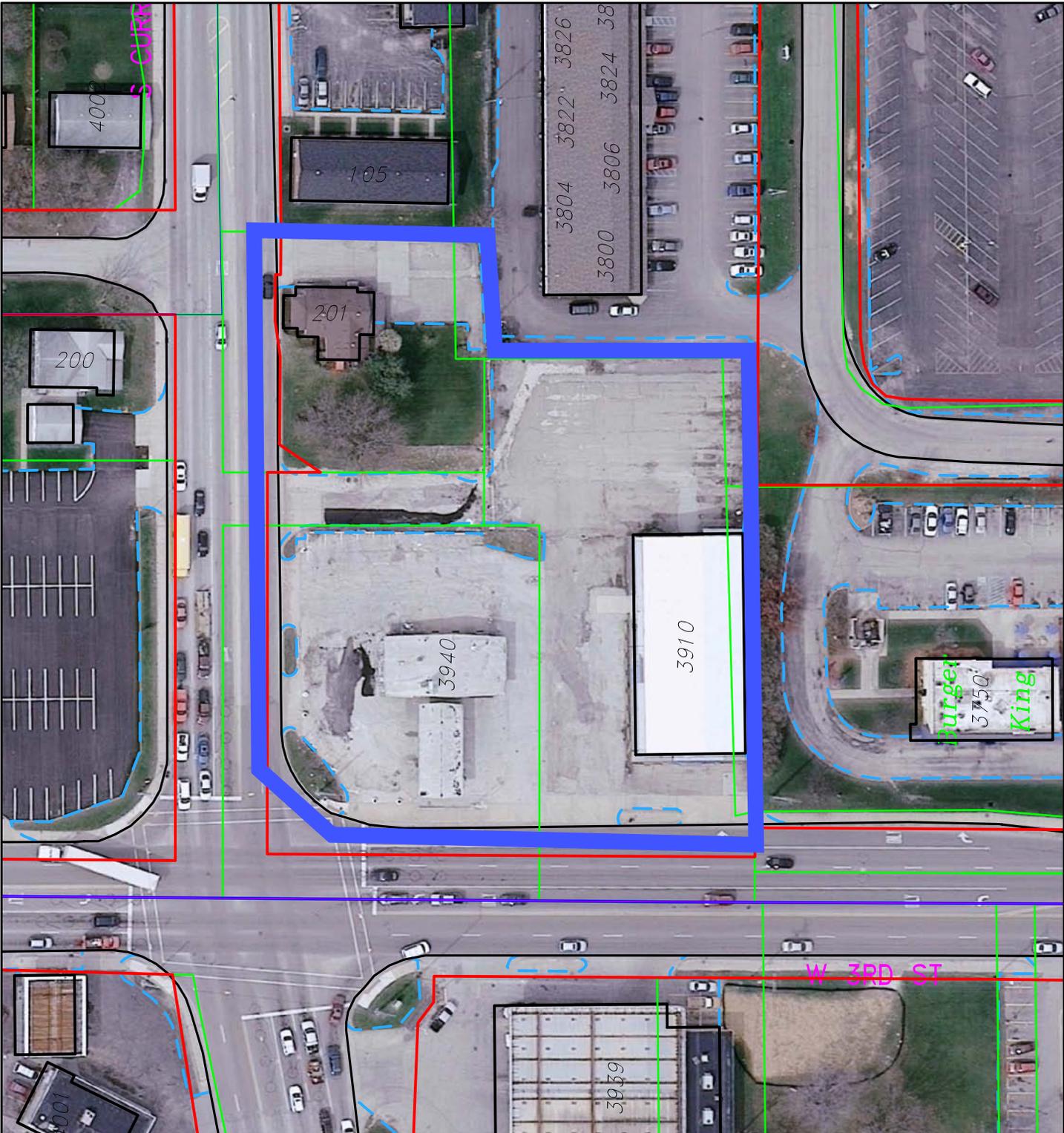
CVS 08665 BLOOMINGTON IN .

**CVS/pharmacy**

**GBC**

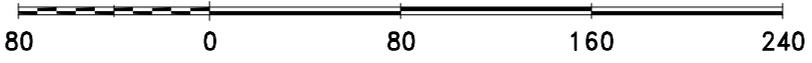
GERSHMAN BROWN CROWLEY INC.

AUG. 16, 2011



V-29-11  
2010 Aerial Photo

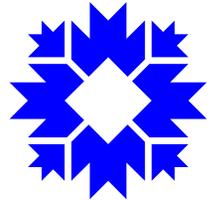
By: roachja  
19 Aug 11



For reference only; map information NOT warranted.



City of Bloomington  
Planning



Scale: 1" = 80'

**BLOOMINGTON BOARD OF ZONING APPEALS  
STAFF REPORT  
LOCATION: 3020 and 3040 S. Rockport Road**

**CASE #: V-31-11  
DATE: August 25, 2011**

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**PETITIONER:** Rockport Road Trust  
Carole Danner-Johns  
6261 Lampkins Ridge Road, Bloomington

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**REQUEST:** The petitioner is requesting a variance from minimum lot size standards to allow a lot line adjustment.

	Existing	Required	Proposed
Northern parcel	2.03 acres	10 acres	4.60 acres
Southern parcel	6 acres	10 acres	3.43 acres

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**REPORT SUMMARY:** The 8.03 acre property is located on the west side of S. Rockport Road, south of W. Tapp Road and is zoned Quarry (QY). The property is surrounded by a place of worship to the north, businesses to the northwest, west and south, Bloomington Country Club to the northeast and single-family residential to the east. The property is made up of two parcels. The northern parcel contains a single-family house and the southern parcel contains a single family house and a barn/garage. The BZA last reviewed a petition on the southern parcel in 1996. This petition approved a use variance to allow construction of a single-family house in a quarry district (UV-02-96).

This property was recently the subject of a zoning enforcement case and a rezoning petition. The property contained three illegal apartments. The Plan Commission and City Council reviewed ZO-01-10 and ultimately denied the petition to rezone the property to multi-family residential. Since denial of that petition, the petitioner has resolved all zoning violations. A letter of zoning compliance was issued by the Planning Department on July 27, 2011.

The petitioner now proposes to rearrange the shape of the existing parcel lines. This change could be reviewed as an administrative lot-line adjustment, but the proposal does not meet one standard of the UDO. The existing northern parcel contains a historic house and a shared drive to the barn/garage, but the barn is located on the southern parcel. The adjustment would place the barn on the same parcel as the historic house and create more regular lot lines for the two parcels. The petitioner hopes to sell these two parcels separately.

The proposal does not meet the minimum lot size standards of the UDO. The QY district requires a 10 acre minimum lot size. While the northern parcel would come closer to compliance, going from 2.03 to 4.60 acres, the southern parcel moves further from compliance, going from 6 acres to 3.43 acres. A minimum lot size variance is required to facilitate the lot-line adjustment.

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## CRITERIA AND FINDINGS

**20.09.130 (e) Standards for Granting Variances from Development Standards:** A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

**STAFF FINDING:** The granting of a variance from these standards will not be injurious to the public health, safety, morals, and general welfare. These properties will continue to house single family uses.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

**STAFF FINDING:** Staff finds no negative effects from this proposal on the areas adjacent to the property. From adjacent properties, there will be no discernable difference in the use or appearance of the property. Furthermore, the barn already is visually and functionally part of the northern parcel.

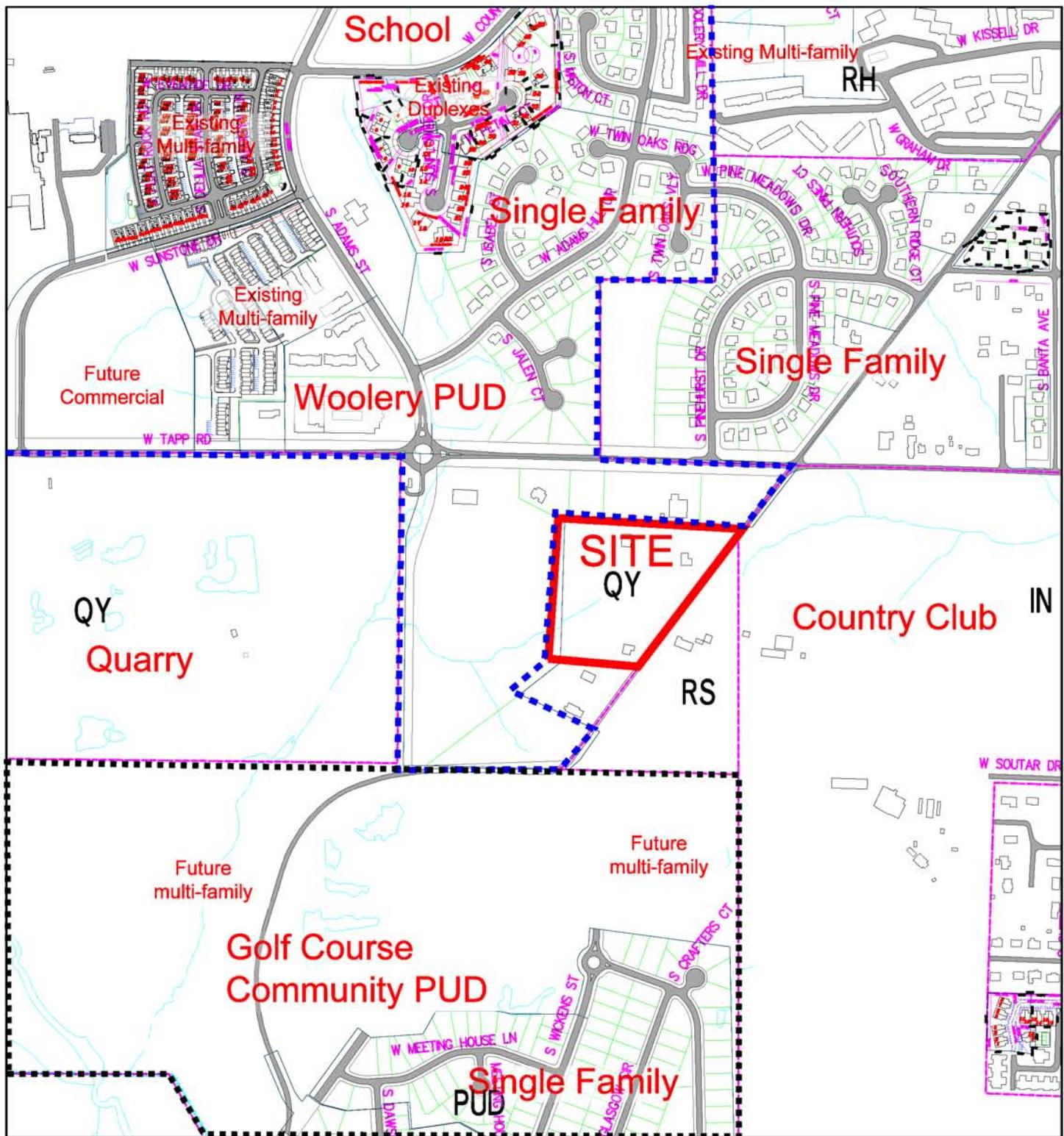
- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

**STAFF FINDING:** Staff finds peculiar condition in the fact that the barn, which is only accessible from the northern parcel, is located on the southern parcel. This results in practical difficulty in selling these two parcels separately. The owner of the southern parcel could not gain reasonable access to the barn because of numerous sinkholes between the two houses. Approval of this variance would allow for reasonably shaped and sized parcels and allow for the barn and historic house to be located on the same parcel.

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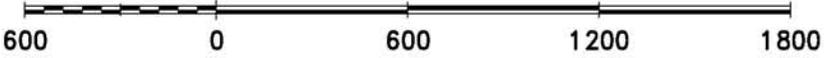
**RECOMMENDATION:** Based upon the written findings above staff recommends approval of V-31-11 with the following conditions:

1. The Planning Department must review and approve the draft deeds prior to recording with the Monroe County Recorder.
2. The deed for the northern parcel must reference zoning commitment recorded as instrument #2011009321
3. The deed for the southern parcel must reference zoning commitment recorded as instrument #2011006298
4. The historic house on the northern parcel remains a legal non-conforming use.



V-31-11  
Location Map

By: roachja  
4 Jan 10



For reference only; map information NOT warranted.



City of Bloomington  
Planning



Scale: 1" = 600'

33

July 25.2011

**Request For Reconfiguration of Tract Lines for Rockport Rd Trust**

In 1987, my former husband, Wayne A Richard and myself negotiated the purchase of a tract of land on Rockport Road from the Rogers Group who owned the Woolery Stone Mill and much of the quarry land surrounding it. This original tract contained only the historic house, which we wished to restore, on approximately 2 plus acres of land fronted by Rockport road and extending westward to a line just short of the existing barn.

Since we were interested in purchasing additional acreage which would include the original barn also, we asked Mr. Rogers to sell us additional land. He was willing to sell only the land to the South of the original tract, but did finally agree to allow us a 50ft strip of land to the North in order to allow us to access the barn from all sides.

The drawing up of the lines of the second tract was done by Mr. Rogers brother, who was an attorney. He simply drew another tract containing the acreage we requested around the first tract of land containing the house, which left a 50 ft strip of Tract 2 on the North side of Tract 1. He laughed and said "You'll never be able to sell it this way"

Now that I am interested in selling the property, I would like to have the property lines properly reconfigured so the restored barn and house are on the same parcel. The division line between the two tracts would be drawn through the karst area in the middle of the property so it can act as a green buffer to divide the two tracts, The other lines of the original tract would be eliminated, including the 50 ft strip.

Carole Danner-Johns



V-31-11

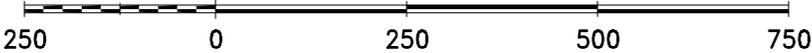
Petitioner's Statement



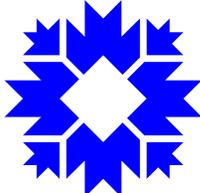


V-31-11  
Aerial Photo

By: roachja  
4 Jan 10



City of Bloomington  
Planning



Scale: 1" = 250'

For reference only; map information NOT warranted.