

CITY OF BLOOMINGTON



May 24, 2012 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL

AGENDA

**CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS
May 24, 2012 at 5:30 p.m.**

Council Chambers - Room #115

ROLL CALL

MINUTES TO BE APPROVED: March 22, 2012

PETITIONS:

- CU-14-12 **New Hope Family Shelter**
 301 W. 2nd St.
 Request: Conditional use approval to allow a homeless shelter in the
 Medical (MD) zoning district.
 Case Manager: Katie Bannon

- UV-15-12 **Renaissance Rentals (Scholar's Loft)**
 1100 N. Walnut St.
 Request: Use variance to allow 1st floor residential use in a Commercial
 General (CG) zoning district.
 Case Manager: Jim Roach

- V-16-12 **Espen Jensen**
 3710 E. Taylor Ct.
 Request: Variance from fence height standards to allow a 5' tall fence in
 the front yard.
 Case Manager: Eric Greulich

PETITIONER: **New Hope Family Shelter**
 P.O. Box 154, Bloomington

REQUEST: The petitioner is requesting conditional use approval to allow a homeless shelter in a Medical (MD) zoning district.

SITE DESCRIPTION: The property is located on the southwest corner of W. 2nd St. and S. Morton St. and is zoned Medical (MD). It has been developed with a one-story single family house. The property is owned by Indiana University Health Bloomington Hospital, and the house has been vacant for some time. Surrounding uses are apartments to the north, IU Health Bloomington to the south, the B-Line Trail and commercial uses to the east, and primarily vacant single family houses to the west.

The petitioner is requesting conditional use approval to allow the house to be used as an emergency family shelter. The petitioner will do some minor interior remodeling to meet current building codes for shelter. Up to 5 families could use the house for a period from 1 to 90 days. Each family will typically have the use of one of the bedrooms. The rest of the house will be common space.

The Unified Development Ordinance (UDO) states that homeless shelters within the MD district may be permitted as conditional uses. The petitioner is requesting conditional use approval to allow the existing house to be used as a homeless shelter.

SITE PLAN ISSUES:

Access: There will not be any new drivecuts on W. 2nd St. with this proposal.

Landscaping: There are two existing mature trees on the property that will be retained. All landscaping requirements will be met.

Automobile Parking: Although no parking spaces are required, the petitioner has secured 4 parking spaces in the adjacent gravel parking lot to the south for use by the families at the shelter as well as the limited staff that will be on the property.

Bike Parking: Four Class II bicycle parking spaces will be installed.

Pedestrian Facilities: There are existing sidewalks along W. 2nd St. and S. Morton St. along this property. No other pedestrian facilities are required. The B-Line Trail to the east also provides pedestrian facilities.

Criteria and Findings for Conditional Use Permits

20.05.023 Standards for Conditional Use Permits

No Conditional Use approval shall be granted unless the petitioner shall establish that the standards for the specific Conditional Use are met and that the following general standards are met.

1. *The proposed use and development must be consistent with the Growth Policies Plan and may not interfere with the achievement of the goals and objectives of the Growth Policies Plan;*

Staff's Finding: The property is designated "Public/Semi-Public/Institutional" by the Growth Policies Plan (GPP). This land use category promotes public and semi-public services which this proposed use satisfies by providing housing needs for families in need of temporary emergency housing.

2. *The proposed use and development will not create nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights;*

Staff's Finding: The proposed use will not create a nuisance. The impacts from noise, smoke, odors, vibrations, and lighting will not differ from those typically associated with a residential house.

3. *The proposed use and development will not have an undue adverse impact upon the adjacent property, the character of the area, or the public health, safety and general welfare;*

Staff's Finding: Staff finds no adverse impacts to the adjacent properties or character of the area as a result of this use. The surrounding properties to the south and west are owned by the property owner. The property will maintain a residential character.

4. *The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, stormwater management structures, and other services, or that the applicant will provide adequately for such services;*

Staff's Finding: The site is adequately served by existing public utilities. No upgrades to the infrastructure are needed for the proposed use. The parking spaces are accessed by existing drivecuts on S. Morton St. that have no known negative impacts.

5. *The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;*

Staff's Finding: The site is located directly off of W. 2nd St., which is classified as a primary arterial. This location will not require traffic to utilize any neighborhood

streets, other than an approximately 150 foot segment of S. Morton St.

6. *The proposed use and development will not result in the excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance;*

Staff's Finding: There are no known natural, scenic, or historic features of significant importance on the property. In addition, there are no proposed changes to the site or the structure proposed. The house is not listed as a historic structure.

7. *The hours of operation, outside lighting, and trash and waste collection must not pose a hazard, hardship, or nuisance to the neighborhood.*

Staff's Finding: The hours of operation, lighting, or trash and waste collection will not pose a hazard, hardship, or nuisance to the surrounding neighborhood.

8. *Signage shall be appropriate to both the property under consideration and to the surrounding area. Signage that is out of character, in the Board of Zoning Appeal's determination, shall not be approved.*

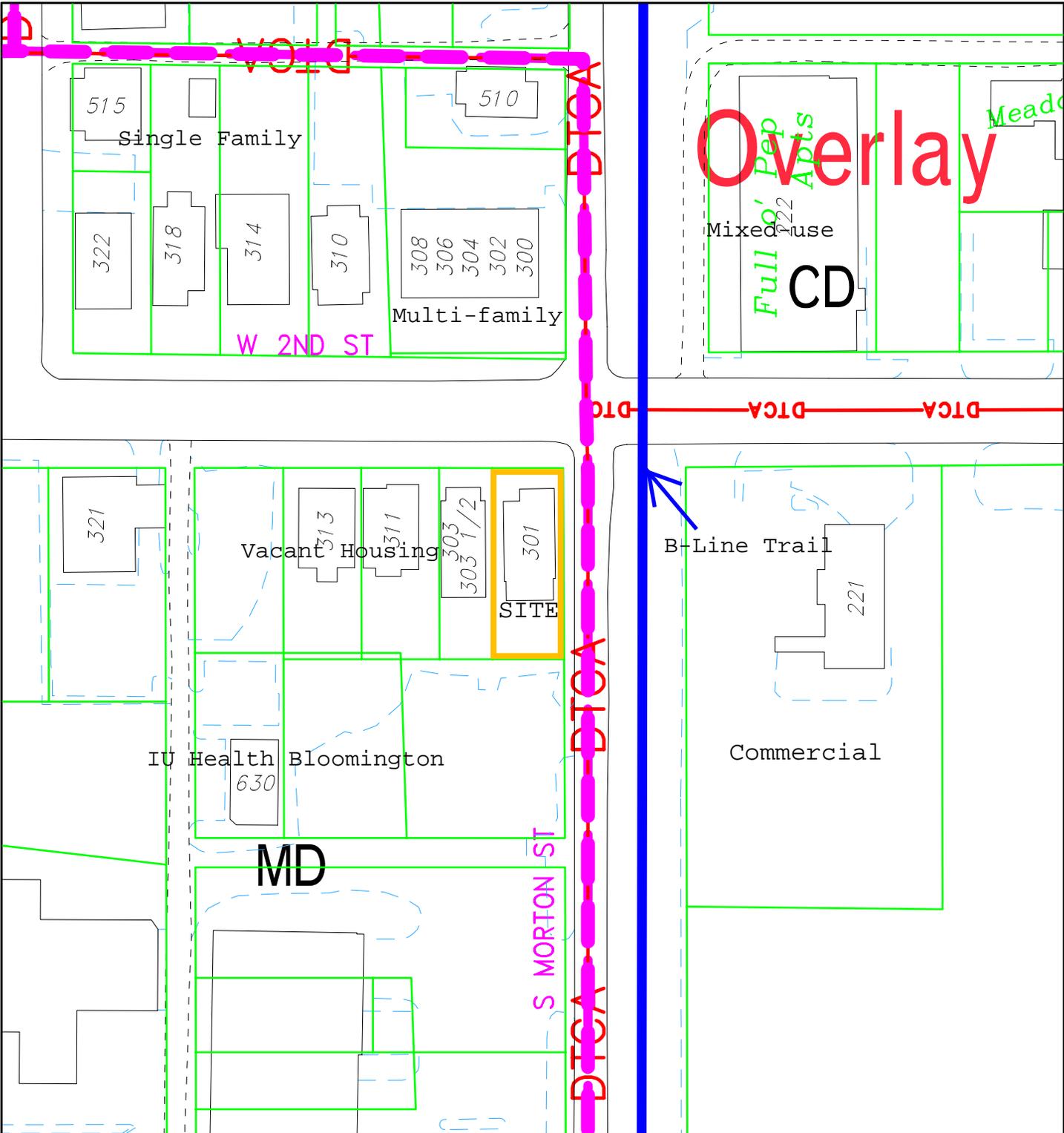
Staff's Finding: No signage is approved with this request.

9. *The proposed use and development complies with any additional standards imposed upon the particular use by Chapter 20.05; CU: Conditional Use Standards.*

Staff's Findings: There are no additional standards for family shelters.

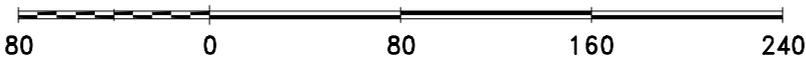
RECOMMENDATION: Staff recommends approval of CU-14-12 with the following conditions:

1. Four Class II bicycle parking spaces must be installed prior to occupancy.
2. All required landscaping must be installed prior to occupancy.



CU-14-12
 301 W. 2nd St.
 New Hope Family Shelter
 Land Use and Zoning Map

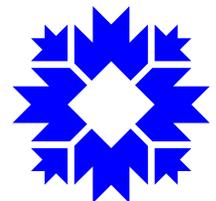
By: bannok
 16 May 12



For reference only; map information NOT warranted.



City of Bloomington
 Planning



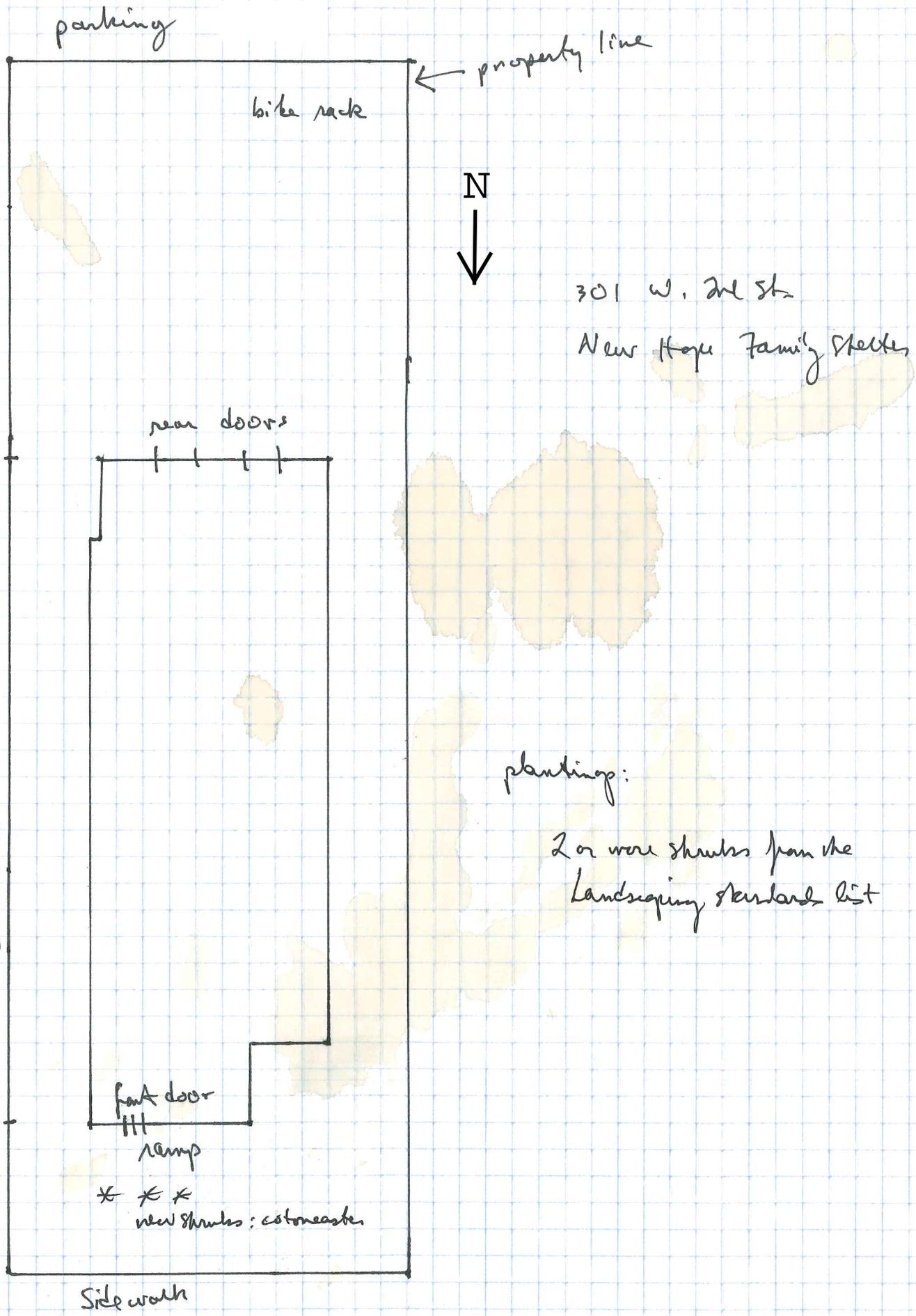
Scale: 1" = 80'

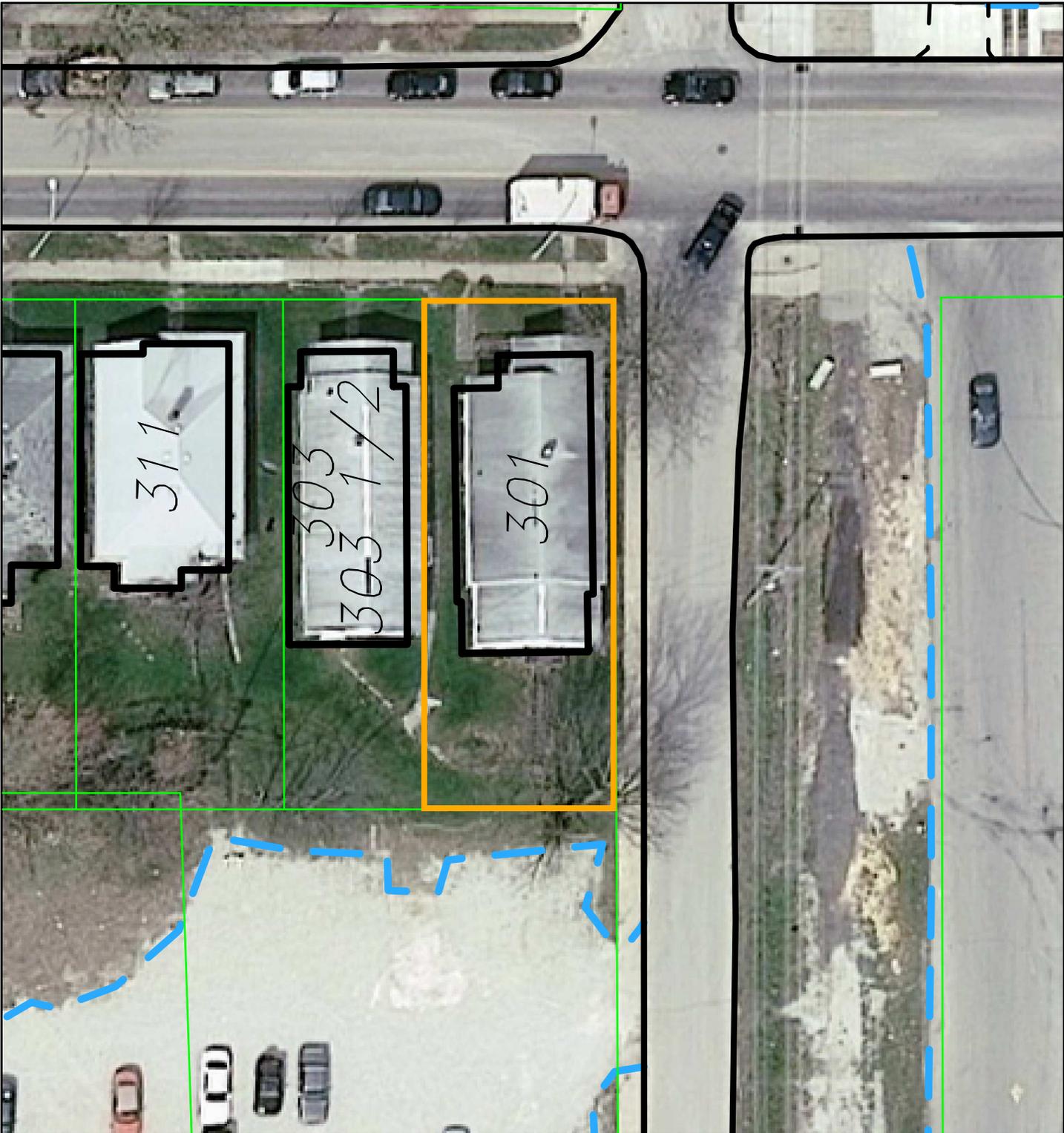
Petitioner's Statement, April 5, 2012

This petition seeks approval for conditional use of the house at 301 W. 2nd St. by New Hope Family Shelter, which will provide emergency shelter for homeless families in stays ranging from 1 to 90 nights. The site is being lent on a temporary basis, for the remainder of the lease term on 409 W. 2nd St., or 4 years and 3 months, by Indiana University Health Bloomington Hospital. It will accommodate up to four or five families.

NHFS will supervise the two facilities together with a 24/7 trained staff. We will work with resident families on the problems they face, and follow up after families have found their own housing. NHFS is a 501c3 agency that has sheltered homeless families since July 20, 2011.

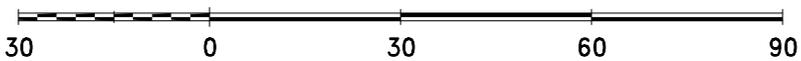
Indiana University Health Bloomington Hospital, the property owner, supports this petition.





CU-14-12
301 W. 2nd St.
New Hope Family Shelter
2010 Aerial Photo

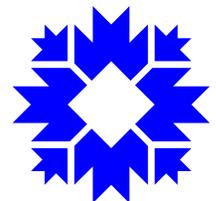
By: bannonk
16 May 12



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 30'

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 1100 N. Walnut Street

CASE #: UV-15-12
DATE: May 24, 2012

PETITIONER: Renaissance Rentals
1300 N. Walnut Street, Bloomington

CONSULTANT: Smith Neubecker & Associates, Inc.
453 S. Clarizz Blvd, Bloomington

REQUEST: The petitioner is requesting a use variance to allow first floor residential use in the Commercial General (CG) zoning district.

SITE DESCRIPTION: This property is located at the northeast corner of N. Walnut Street and E. 15th Street and is zoned Commercial General (CG). The property contains a building that once housed a service station, but has been vacant for many years. The site received a “No further action” letter from the Indiana Department of Environmental Management (IDEM) concerning the former underground storage tanks. The property is surrounded by single family uses in the Garden Hill Neighborhood to the east, mixed uses to the north and commercial uses to the south and west.

The petitioner is proposing to demolish the existing building and build a new three-story mixed-use building. This building was originally reviewed by the Board of Zoning Appeals in February, case #V-06-12. That petition included a three story building with twelve one-bedroom apartments and a 1,500 square foot commercial space and commercial parking on the first floor. The building is designed with innovative landscaping and green development features. The Walnut St. side of the building would be designed to be a “living/green” wall. The petitioner received variances from maximum impervious surface coverage, entrances and drive standards, and architectural standards. The petition met all other landscaping, sidewalk, bike parking, height, parking and setback requirements of the Unified Development Ordinance (UDO).

Since the variance approvals, the petitioner has proposed to change the plan for the building. While not part of the original design, the petitioner’s architect determined that Indiana State Building Codes would require that this building provide an accessible apartment. This apartment could be provided in one of three ways:

1. Replace the proposed stair tower with an elevator.
2. Create a long ramp system from street grade to the second floor, most likely on the rear of the building adjacent to the neighborhood.
3. Replace some of the first floor commercial space with a residential unit.

This petitioner has opted to bring forward the third option. They have designed an additional 1-bedroom apartment on the first floor of the building and decreased the commercial square footage to 510 square feet. In addition, four of the five proposed parking spaces must be viewed as residential spaces because of the UDO’s maximum parking requirements. The CG zoning district only permits apartments on the second

floor and above. The petitioner argues that providing an elevator would be too expensive for this small of a building and that the ramp system would be awkward and unattractive. The petitioner is requesting a Use Variance to allow for a single first floor accessible apartment and residential parking.

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed the use variance request at their May 7, 2012 meeting. The Plan Commission voted 9:0 to forward the use variance request to the BZA with a positive recommendation.

SITE PLAN ISSUES:

Density: The petitioner originally proposed twelve, one-bedroom apartments. This met the CG zoning district maximum of fifteen DUEs per acre or three DUEs. The inclusion of the additional one-bedroom apartment, to thirteen total units, increases the density of the project above CG district maximums. To compensate for this, the petitioner intends to utilize the Level 1 Green Development Incentives of the UDO.

Parking: No parking is required for the commercial or multi-family use. The petitioner proposes to provide five spaces. The proposed 510 square foot commercial space is permitted a maximum of one space. The additional four spaces are residential spaces.

CG DISTRICT INTENT: Within the UDO is a description of the CG zoning district intent and guidance for the Plan Commission and Board of Zoning Appeals. Staff believes that this proposal meets the intentions for the district.

BMC 20.02.290 Commercial General (CG); District Intent

The CG (Commercial General) District is intended to be used as follows:

- Provide areas within the city where medium scale commercial services can be located without creating detrimental impacts to surrounding uses.
- Promote the development of medium-scaled urban projects with a mix of storefront retail, professional office, and/or residential dwelling units creating a synergy between uses where stand-alone uses have traditionally dominated.

Plan Commission/Board of Zoning Appeals Guidance:

- Site plan design should incorporate residential and commercial uses utilizing shared parking in order to ease the transition to residential districts.
- Street cuts should be minimized in order to enhance streetscape and improve access management.
- Encourage proposals that further the Growth Policies Plan goal of sustainable development design featuring conservation of open space, mixed uses, pervious pavement surfaces, and reductions in energy and resource consumption.

20.09.140 CRITERIA AND FINDINGS FOR USE VARIANCE:

Pursuant to IC 36-7-4-918.4., the Board of Zoning Appeals or the Hearing Officer may grant a variance from use if, after a public hearing, it makes findings of fact in writing,

that:

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

Staff Finding: Staff finds no injury with the proposed first floor residential use. Both residential and non-residential uses are permitted and exist in this CG corridor.

- (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; and*

Staff Finding: Staff finds no substantial adverse impacts to the adjacent area from this request. Conversely, staff finds that the redevelopment of a longstanding blighted site will have a positive impact to the adjacent area.

- (3) *The need for the variance arises from some condition peculiar to the property involved; and*

Staff Finding: Staff finds peculiar condition in that this property has been a blighted site for many years as a vacant former gas station. Redevelopment of this site without ground floor units is difficult as it is a substandard-sized corner lot. With this reduced size, a larger building is not possible. Furthermore, peculiar condition is found in the fact that the building will still contain a commercial presence on the first floor.

Staff also finds peculiar condition in small number of units proposed for this infill lot. The size of the building and the limited size and number of units makes development of an elevator impractical for the property. Finally, staff notes that a commercial presence is still maintained in the building.

- (4) *The strict application of the terms of the Unified Development Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and*

Staff Finding: Staff finds that strict application of the UDO constitutes an unnecessary hardship because the combination of the small size of the site only allowing a smaller building and the State's requirement to provide a handicap accessible unit, the petitioner must construction a ground floor unit. While an elevator or ramp system could be constructed, the size of the project, especially including a high level of green features, would result in making the project infeasible. Although a solely commercial building could be constructed, the mixed-use and innovation of the project is desirable.

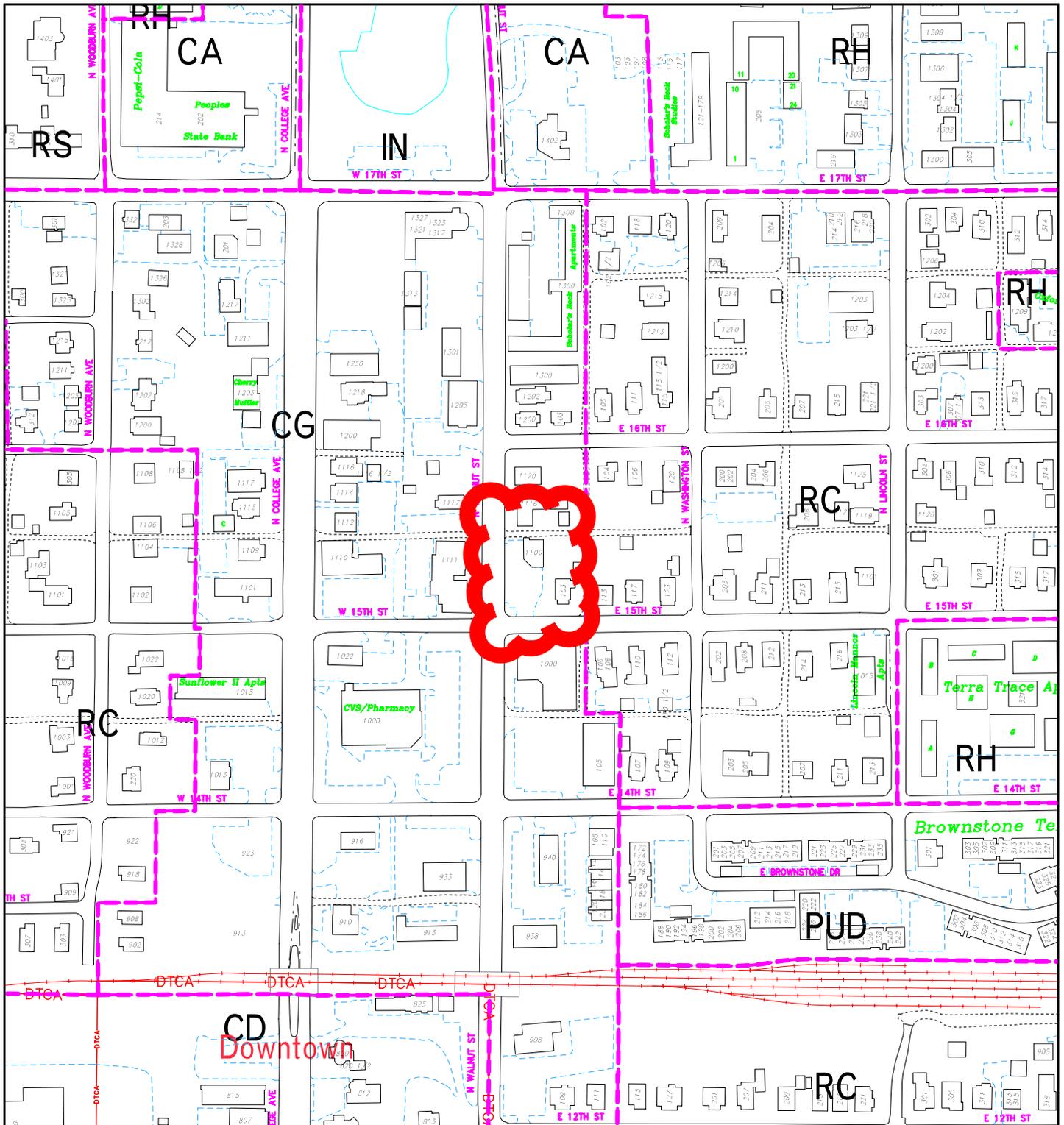
- (5) *The approval does not interfere substantially with the Growth Policies Plan.*

Staff Finding: The GPP designates this property as part of a Community Activity Center (CAC). The Community Activity Center areas are "designed to provide community-serving commercial opportunities in the context of a high density, mixed use development." Land use policies for this area state that "the primary land use in

the CAC should be medium scaled commercial retail and service uses” but notes that Residential units may also be developed as a component of the CAC, and would be most appropriate when uses are arranged as a central node rather than along a corridor.” It also states that “Incentives should be created to encourage the inclusion of second-story residential units in the development of Community Activity Centers.” The Plan Commission found that the proposed use did not substantially interfere with the GPP. This petition would still allow for a mixed use building even though the building contains a single first floor apartment. This portion of the CAC already contains a mixture of uses including apartments, office space and retail establishments.

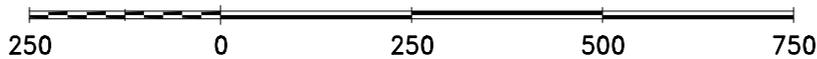
RECOMMENDATION: Staff recommends approval with the following conditions:

1. All terms and conditions of case #V-06-12 are binding on this petition.
2. Prior to release of a grading or building permit, the petitioner must sign and record a zoning commitment concerning the proposed green development incentives and long term maintenance of green roof and wall.



UV-15-12
Location Map

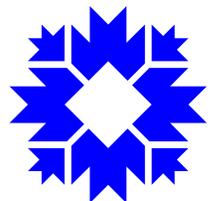
By: roachja
14 Feb 12



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 250'



Stephen L. Smith, P.E., L.S.
Daniel Neubecker, LA
Steven A. Brehob, BS.CnT.

April 10, 2012

James Roach
City of Bloomington Planning Department
401 N. Morton Street
Bloomington, IN. 47404

RE: Scholars Loft
PC Application

Dear James,

On behalf of our client, Renaissance Rentals, we respectfully request to be placed on the agenda for the City of Bloomington Plan Commission for consideration of a use variance to allow a 1st floor residential unit and to utilize the Green Development Incentives for a new multi-family building located at 1100 N. Walnut Street.

The variance requests is related to accessibility code requirements and is discussed in greater detail in the attached petitioner's statement. A work sheet outlining the Green Development Incentives used for this project is also attached.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Steven A. Brehob'.

Steven A. Brehob
Smith Neubecker & Associates, Inc.

J:\3487\approval processing\JRoach PC_4-10-12.docx



Stephen L. Smith, P.E., L.S.
Daniel Neubecker, LA
Steven A. Brehob, BS.CnT.

Petitioners Statement

The project is located at 1100 N. Walnut Street. This is the northeast corner of the intersection of 15th and Walnut. The site was formerly used as a gas station and has sat vacant for several years. Renaissance Rentals propose to redevelop this site for a multi-family use with a small 1st floor commercial space yet include a 1st floor residential area to comply with accessibility code requirements.

Background

Variances for drive-way access location, use of the green roof system and building architectural elements were previously approved by the Board of Zoning Appeals.

Need for Varinace

The proposed building is unique and new in several aspects. The use of primarily steel with recycled content, the green facade, the roof top garden, and the storm water reuse system are all “game” (building) changers. In order to be heard in zoning procedures, we attempt to provide great detail in site and building design before we actually know, how our zoning interpretations will be resolved. Yet full design requires time, expense and known parameters. In our case first floor parking entry on Walnut St versus 15th St, was the biggest unknown affecting the structure.

After the BZA approval, as we progressed thru our design from building elevations to engineering details we determined that the complexity of our design required a more experienced Architect. That Architect (Sherman Bynum AIA) after some submittals to the State of Indiana, first discovered our preliminary ADA/Fair Housing shortcomings.

Renaissance Rentals has a long history of building for people with disabilities. For example on Hopewell St, at 3100 East Covenanter, and at Huntington Gardens Place our buildings were designed, first and foremost, specifically, for people with a disability. We are embarrassed that we did not address accessibility earlier in designing Scholars Loft Green Building.

In our defense, and in the defense of our initial Architect, the codes are complex and fairly recently (2008) adopted. Furthermore, the code itself merely adopts by reference ANSI A117 technical standards, which itself requires interpretation of accessible routes from parking. ANSI 117 requires an interpretation of whether a handicap parking space serves residential units, (as it appears to on our site); or does not, (as it is required not to by zoning regulation, on our site). ANSI 117 also stipulates the requirements for type A accessible and type B accessible units. While there are various exceptions based on unit count and square footage, they are subject to



Stephen L. Smith, P.E., L.S.
Daniel Neubecker, LA
Steven A. Brehob, BS.CnT.

some interpretation themselves and do not appear to apply. We believe, that we could probably comply technically by providing an accessible route to the City sidewalk. However, because the City sidewalk, slope along 15th Street exceeds the maximum allowable slope for an accessible route (both technically and practically), such a route would be a farce. Even if the slope of the sidewalk could be overcome, a series of metal ramps and landings would be required along the rear of the building. Said ramps and landings would not blend with the building architecture and would be intrusive to the neighborhood.

In summary; the building needs a type B accessible apartment. The building is too small to make an elevator a practical solution. Renaissance Rentals has a long history of serving Handicapped residents and we are pleased that the various codes and regulations have led us to including accessibility into the design of our Scholars Loft Green Building.

SCHOLARS LOFTS GOAL 4 EXHIBIT



SMITH NEUBECKER & ASSOCIATES, INC.



453 S. CLARIZZ BOULEVARD
BLOOMINGTON, INDIANA, 47401
TELEPHONE: (812) 336-6536
FAX: (812) 336-0513
WWW.SNAINC.COM

UV-15-12
Petitioner's Statement

DOWNTOWN GATEWAY OVERLAY



“Providing professional land planning, design, surveying and approval processing for a quality environment”

Stephen L. Smith, P.E., L.S.
Daniel Neubecker, LA
Steven A. Brehob, BS.CNT.

April 10, 2012

James Roach
City of Bloomington Planning Department
401 N. Morton Street
Bloomington, IN. 47404

Re: Scholars Lofts
Green Development Worksheet

Dear Jim,

The Scholars Lofts project would like to request the use of the Green Development Incentives to increase the unit density on site by up to 25%. Total acreage for the site is 0.199 acres, this would allow up to 2.985 DUE's. By achieving the goals listed below, density may be increased to a total of 3.68 DUE's. A total of 12 one-bedroom units were previously approved. We request to add 1 additional one-bedroom ground floor handicap accessible unit for a total of 13 one-bedroom units. This equates to a total DUE of 3.25, representing a 9% increase in density.

Goal 1 – (Two items required)

(D) Recycling and/or salvaging of at least 50% of non-hazardous construction and demolition debris. Incorporation of this practice shall conform to the provisions of MR Credit 2.1: Construction Waster Management as provided in the LEED-NC Green Building Design Guidelines, Version 2.2, as amended.

No less than 50% of non-hazardous construction debris will be recycled and/or salvaged. To meet this requirement, we will maintain a log of all refuse materials removed from the project. We will track refuse by the cubic yard and note contents and destination as they leave the project site. Primary recycled materials will be separated on site, and include steel, cardboard, and Gypsum wallboard. We anticipate less far less waste than a typical construction project. The building components are primarily pre- engineered and delivered to fit.

(E) Utilization of building materials or products that have been extracted, harvested, or recovered, as well as manufactured within 500 miles of the project site for a minimum of 10% (based on cost) of the total material value. Incorporation of this practice shall



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Stephen L. Smith, P.E., L.S.
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conform to the provisions of MR Credit 5.1: Regional Materials as provided in the LEED-NC Green Building Design Guidelines, Version 2.2, as amended.

No less than 10% of building materials, by cost, shall be extracted, harvested, recovered as well as manufactured within 500 miles of the project site. To meet these requirements, we have chosen a pre-engineered steel building, sourced primarily from Evansville Wisconsin. Furthermore concrete is a primary building material that will be sourced in County.

Goal 2 – (1 item required)

(C) Use of greywater and/or storm water systems to capture and reuse at least fifty percent (50%) of greywater and storm water for common and public space irrigation.

To meet this requirement, the building has been designed to include a green roof system to be used by tenants for garden plots. The site also includes storm water collection system that routes excess runoff from site roof area and from site lawn area to a below grade rain collection structure located on site. Rainwater from the structure will be pumped back to the rooftop garden area for irrigation as well as used for irrigation of lawn area and landscape plant material. The roof area alone represents 60% of the total site area.

Goal 3 – (1 item required)

(A) Incorporation of a mix of residential and nonresidential land uses either within the development or within individual buildings.

To meet this requirement, the building has been designed to include a ground floor commercial tenant space to promote “work at home” living.

Goal 4 – (1 item required)

(A) Location of the development within one-quarter (1/4) mile of a Bloomington Transit stop, provided that the transit facility is accessible using pedestrian facilities.

The location of the site easily satisfies this goal as multiple transit stops are available adjacent to the site and accessible by use of the existing public sidewalk network.

(B) Location of the development within one-quarter (1/4) mile of a Neighborhood, Community, or Regional Activity Center or Downtown, as mapped in the Growth Policies Plan, provided these commercial areas are accessible using pedestrian facilities.



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Stephen L. Smith, P.E., L.S.
Daniel Neubecker, LA
Steven A. Brehob, BS.CNT.

The location of the site easily satisfies this goal as it is located within the Downtown area and services such as restaurants, a pharmacy and personal services are adjacent to the site and accessible by use of the existing the public sidewalk network.

(C) Location of development within one-quarter (1/4) mile of a public school or park, provided these public facilities are accessible using pedestrian facilities.

The location of the site easily satisfies this goal as it is located within 600’ of the Miller Showers Park area and is accessible by use of the existing the public sidewalk network.

By meeting the goals described above, we hope to increase the density of the Scholars Lofts project by 9% to add one additional one-bedroom ground floor handicap accessible unit to the project. Please contact me should you have any questions regarding the request or how the goals will be achieved.

Sincerely,

Steven A. Brehob
Smith Neubecker & Associates, Inc.

Cc: Tim Henke
Attachments

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Stephen L. Smith, P.E., L.S.
Daniel Neubecker, LA
Steven A. Brehob, BS.CnT.

May 1, 2012

James Roach
City of Bloomington Planning Department
401 N. Morton Street
Bloomington, IN. 47404

RE: Scholars Loft
Green Wall Façade Plant List

Dear James,

The following list of plant material may be used for the green wall front façade of the building. It is possible that not all of the plant material listed will be used, but many will be to add variety and interests to the building.

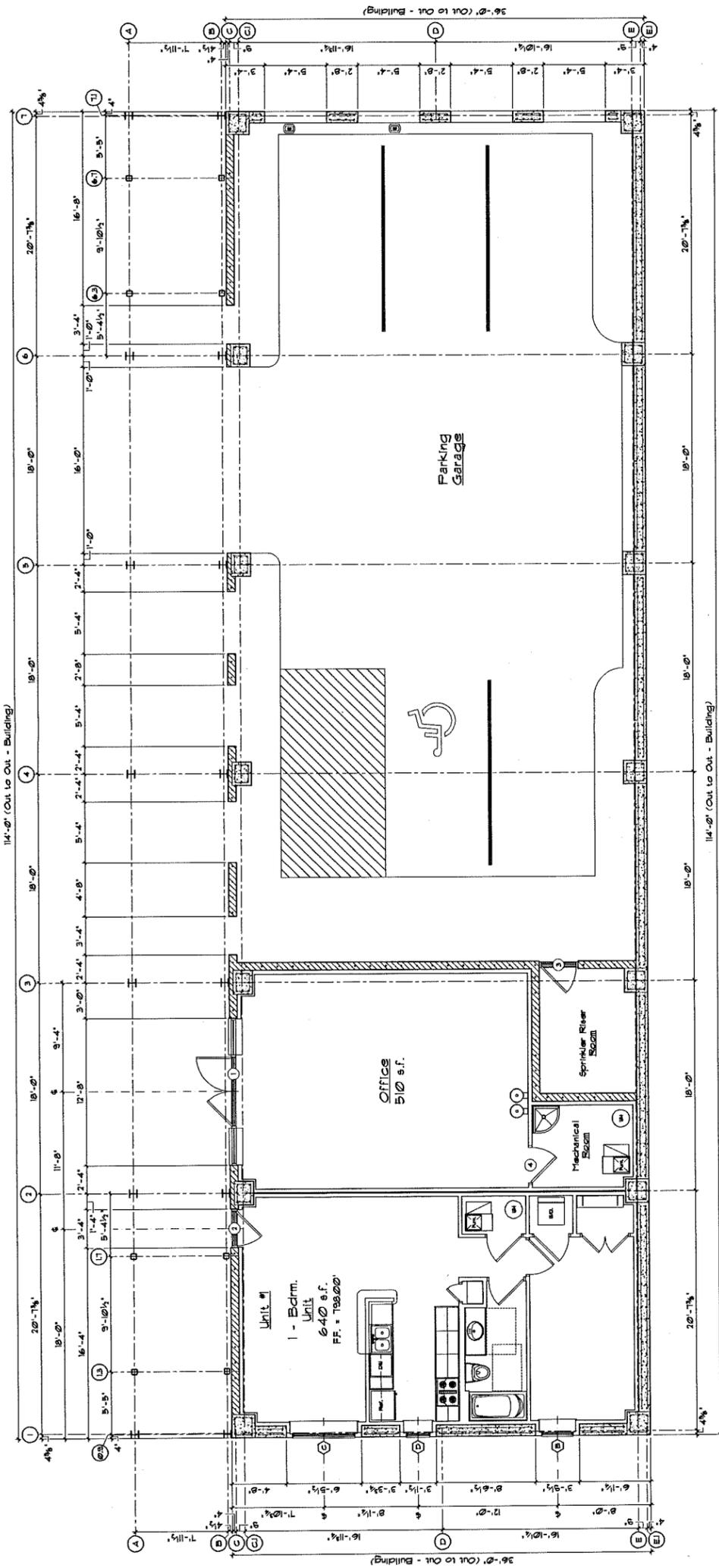
Wooly Douchman's Pipe
Crossvine
Trumpet Creeper
American Bittersweet
Virgin Bower (native clematis)
Virginian Creeper
Wisteria (Wisteria macrostachya)
Hops vine (Humulus lupulus)
Sweet Pea Vine
Pole Beans (Phaseolus vulgaris)

The final plant material selection will be determined as the building nears completion. Plants not listed above will not be considered or used.

A handwritten signature in black ink that reads 'Steven A. Brehob'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Steven A. Brehob
Smith Neubecker & Associates, Inc.

J:\3487\approval processing\JRoach Plant List_5-1-12.docx



GROUND FLOOR PLAN

SCALE: 3/16" = 1'-0"
 BUILDING FLOOR AREA: 4,024 s.f. (GROSS)
 EXTERIOR CANOPY AREA: 130 s.f. (GROSS)

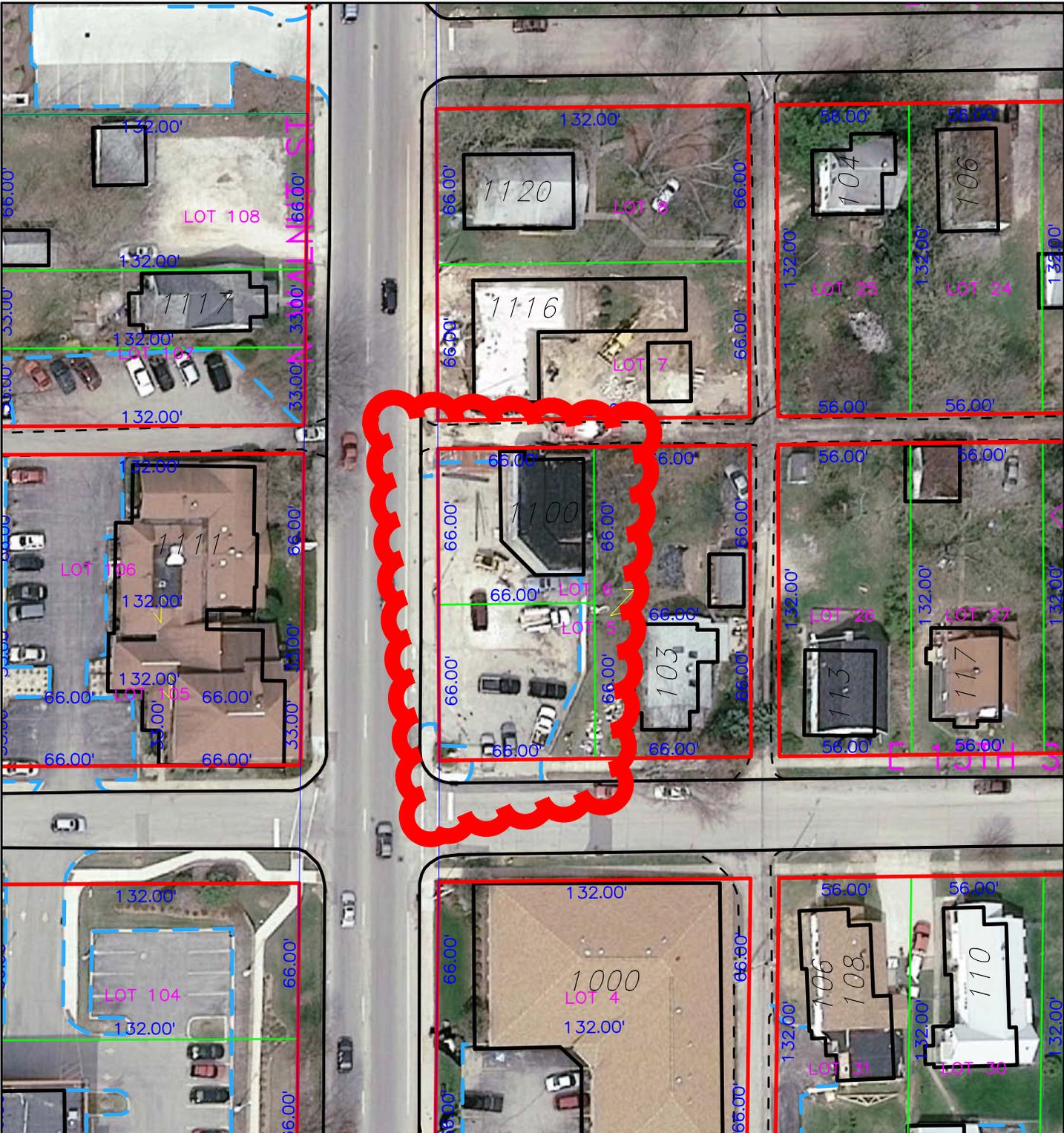
- GENERAL FLOOR PLAN NOTES:**
1. PLAN DIMENSIONS INDICATED ARE TO ROUGH WALL AND/OR FRAMING (TYPICALLY) UNLESS OTHERWISE NOTED.
 2. ALL NEW INTERIOR GIBBS BOARDS PARTITION WALLS SHALL EXTEND TO FINISH FLOOR AND CEILING UNLESS OTHERWISE NOTED. ALL INTERIOR PARTITIONS SHALL BE FRAMED BY METAL FRAMING (SIZES AS INDICATED) AT 1'-4" O.C. (TYPICAL UNLESS NOTED OTHERWISE).
 3. EACH CONTRACTOR SHALL VERIFY SIZE AND LOCATIONS OF ALL RECESSES AND CHASES REQUIRED FOR PLUMBING, MECHANICAL (HVAC) AND ELECTRICAL EQUIPMENT WITH THE APPROPRIATE CONTRACTOR AND THE ARCHITECT.
 4. PROVIDE AND INSTALL ADDITIONAL FRAMING AND BLOCKING FOR FINISHED LAVATORIES, ETC. WALL MOUNTED SHELVS, CABINETS, WATER CLOSETS, LAVATORIES, ETC.
 5. PROVIDE 2x4 HORIZONTAL FIRE BLOCKING BETWEEN STUDS FOR ALL WALLS over 10' h. (TYPICAL).

UV-15-12
 First floor plan



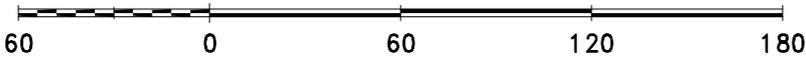
20
HILDRETH

UV-15-12
Color rendering



UV-15-12
2010 Aerial Photo

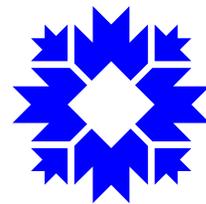
By: roachja
14 Feb 12



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 60'

PETITIONER: Espen Jensen
3710 E. Taylor Ct., Bloomington

REQUEST: The petitioner is requesting a variance from fence standards to allow a 5' tall fence.

SITE DESCRIPTION: The property is located at 3710 E. Taylor Ct. and is zoned Planned Unit Development (PUD). This property, as well as the surrounding properties, are single family residential homes.

The petitioner currently has an 8' tall privacy fence around the backyard of the property. A swimming pool was installed on the adjacent lot to the north that features an automatic enclosure cover. There is not a fence around the backyard of the adjacent property that contains the swimming pool because it has an automatic pool cover and State Code does not require fences for pools with an automatic enclosure.

Section 20.05.046(d) of the Unified Development Ordinance (UDO) limits the height of a fence between the front of the house and the street at a maximum of 4'. The petitioner is requesting a variance to allow a 5' tall fence between the house and the street to provide additional safety for the petitioner's family from the swimming pool on an adjacent property.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

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 the variance from the standards will not be injurious to the public health, safety, morals, and general welfare. Staff has not identified any negative impacts as a result of the proposed variance.

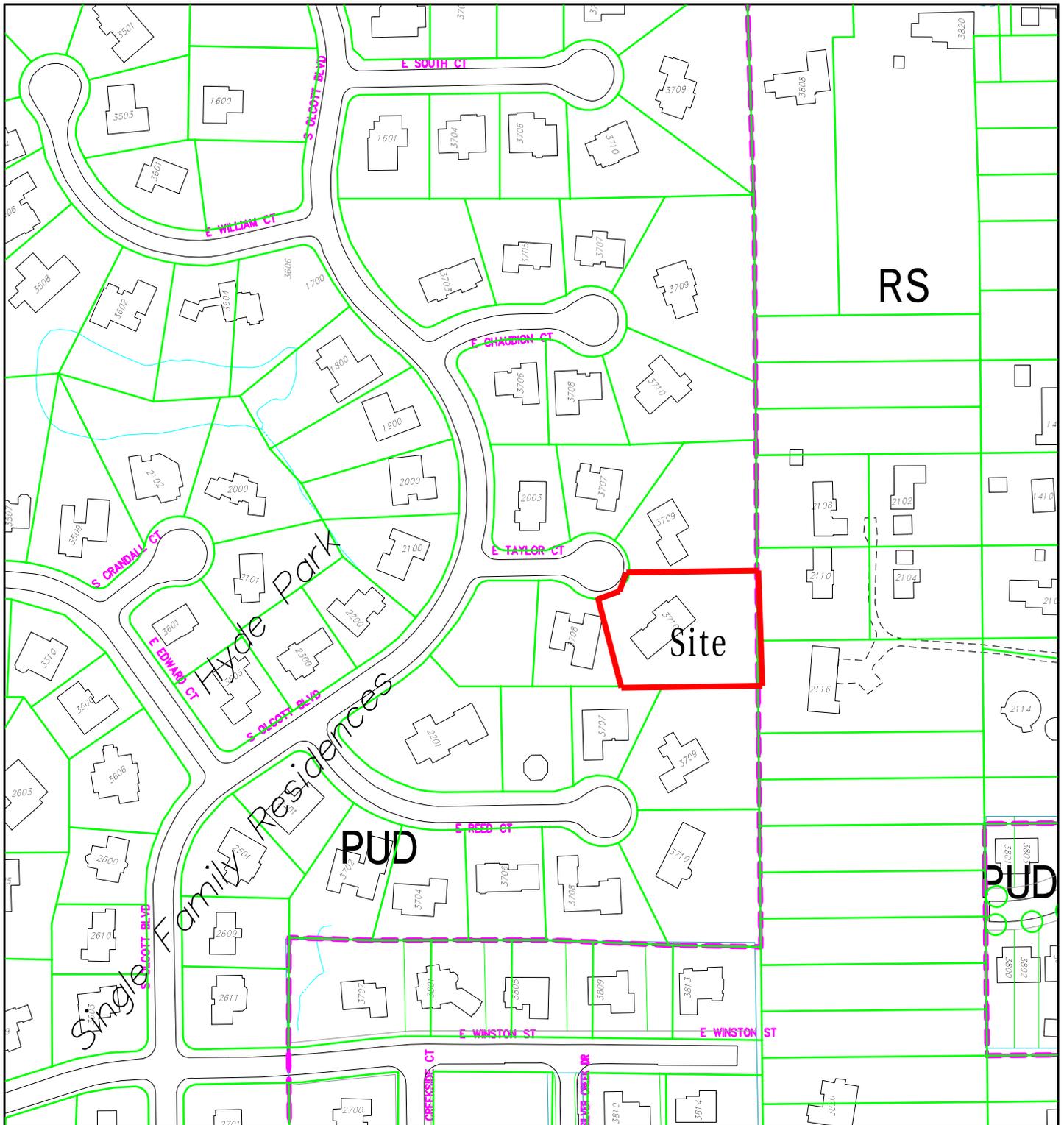
- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

STAFF FINDING: Staff does find negative impacts to the surrounding uses or a as a result of the proposed variance. A taller fence in the front yard is less visually appealing and was specifically limited for that reason. Staff has also received notice of opposition from an adjacent property owner.

- 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.*

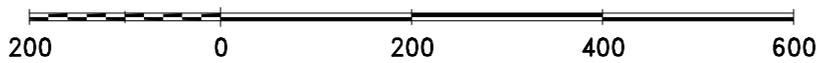
STAFF FINDING: Staff does not find practical difficulty in the use of the property or a peculiar condition about the property that the variance would relieve. There are no conditions unique to the petitioner's property to warrant a variance from these standards. The petitioner would be able to construct a 4' tall fence in the front that would provide the same amount of safety that is provided for all other single family residences.

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



V-16-12 Espen Jenson
 3710 E Taylor Court
 Board of Zoning Appeals
 Site Location, Zoning, Land Use, Parcels

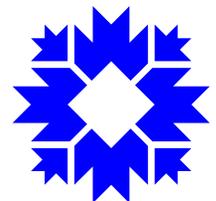
By: greulice
 16 May 12



For reference only; map information NOT warranted.



City of Bloomington
 Planning



Scale: 1" = 200'

April 24, 2012

Dear Board of Zoning Appeal,

I am petitioning for a variance in order to erect a fence between our property at 3710 East Taylor Court, Bloomington, IN 47401 and the neighboring property at 3709 East Taylor Court. My understanding is that Bloomington zoning regulations allow for a 4-foot fence anywhere in front of a house. We are requesting permission to erect a 5-foot fence.

I request that you consider the following points:

1. Recently, a pool was installed at the neighbor lot. The pool is located very close to our property. As the two houses are located next to each other at a near 90 degree angle, the back-yard of the neighboring house is adjacent to our front yard. The proximity of this body of water, which is easily accessible from our side, poses a significant safety issue for us.
2. We have three children, age 7 and younger. Our oldest child is disabled, he has autism. Any child, and particularly one with autism, will explore and behave in unpredictable ways. A pool is extremely tempting to a child, in fact, it is defined legally as an "attractive nuisance." It is necessary for us to hinder direct access from our property to the pool next door by erecting a fence.
3. It is our understanding that the pool next door meets code with an automatic cover. While it satisfies the letter of the law, it does not satisfy the spirit of the law. Two scenarios are common sights next door 1) During heavy rain, the flexible pool cover collects several inches of water on top, more than enough water for a drowning to take place. 2) The neighbor is using their pool intermittently on a sunny day, however, does not cover the pool each time they go inside or attend to the front door.
4. Due to the installation of the pool, our residence has been altered: We now have to take precautions with regard to safety; we hear the sounds of noises of a pool; and the activities in and around the pool are clearly visible to anyone entering our house.
5. Note that the height of our proposed fence is not arbitrary: The code in Indiana requires a fence of 5 ft. installed around a pool unless a pool cover is installed. We recognize that a pool cover is installed, however, it would only be an adequate safety measure *if* it was always covering the pool when no one is using it and *if* water was always drained from the top appropriately. Neither condition is met consistently.
6. The City of Bloomington Planning Department has argued they do not see the need of a fence between the properties as we have a sizeable fenced-in yard in the back. Please note that we are not concerned about the pool when our children are playing in our back-yard. We are concerned about them leaving our house without our knowledge. A child who would leave through an open garage door, for instance, could drown in 6 inches of standing water (on top of a pool cover) in less than two minutes. Please see various literature discussing children with autism, their tendency to wander and their inability to detect and understand danger.
7. The City of Bloomington Planning Department has also argued that there are no circumstances present that affect our property directly. They use the example of a house located right by a high-traffic road as an example of a situation when these circumstances do exist and that variances are warranted. Please note that we distinctly disagree on this assessment. To the contrary, our situation is a parallel: A real safety issue is present, the aesthetics and the enjoyment of our property has been altered due to an installation next door.

Again, we are requesting a variance to be granted to allow us to erect an adequate fence on the property line. Our situation fulfills the criteria used in other cases when a variance has been allowed. We firmly believe that our request is reasonable, in fact, it represent the very minimum that is needed to ensure an acceptable level of safety at our property. It is a practical, precautionary approach to a situation that has been caused by others.

I should note that, if the variance is granted, we are fully prepared to erect a fence that meets the aesthetic standards of our neighborhood.

Thank you,


Espen Jensen
3710 East Taylor Court
Bloomington, IN 47401
Phone: 812-327-8663

May 14, 2012

Dear Sue Aquila, Barre Klapper, Tom Seeber, Jenny Southern, Patrick Murray, and Milan Pece,

We are writing in response to the appeal by Espen Jensen dated April 24, 2012 regarding a request for a variance from standards to build a 5-foot fence on the property line in the front yard between his property at 3710 E. Taylor Ct., Bloomington and our property at 3709 E. Taylor Ct., Bloomington.

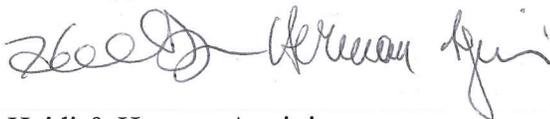
We are against the requested variance from fence standards. We believe that building this fence in the front yard between the driveways would be an eyesore and would negatively affect the appearance of our house and thereby, its value; and would also detract from the overall appearance of the entire cul-de-sac.

We believe that their request for a variance is an unnecessary and extreme measure. We also have young children and are concerned about safety. Accordingly, our pool has an effective electronically-operated cover over it that complies fully with Indiana code. Moreover, the cover can only be opened by a key pad with a password. We also continually maintain a pool cover drain pump on the cover to avoid any rain accumulation.

We believe that there is a less invasive method to keep the Jensen children out of our property, and would not require an unnecessary variance due to a situation that is not sufficiently unique to warrant such a variance. We would be willing to entertain the option of them building a 5-foot fence along the property line up until the front end of our house and us closing it off with a gate between the fence and our house. It is our assessment that this solution should meet their needs regarding unauthorized access of our property by their children without creating an unappealing and invasive fence between the properties. However, we cannot speak to the concern of their children leaving their property and getting into dangers unrelated to our property.

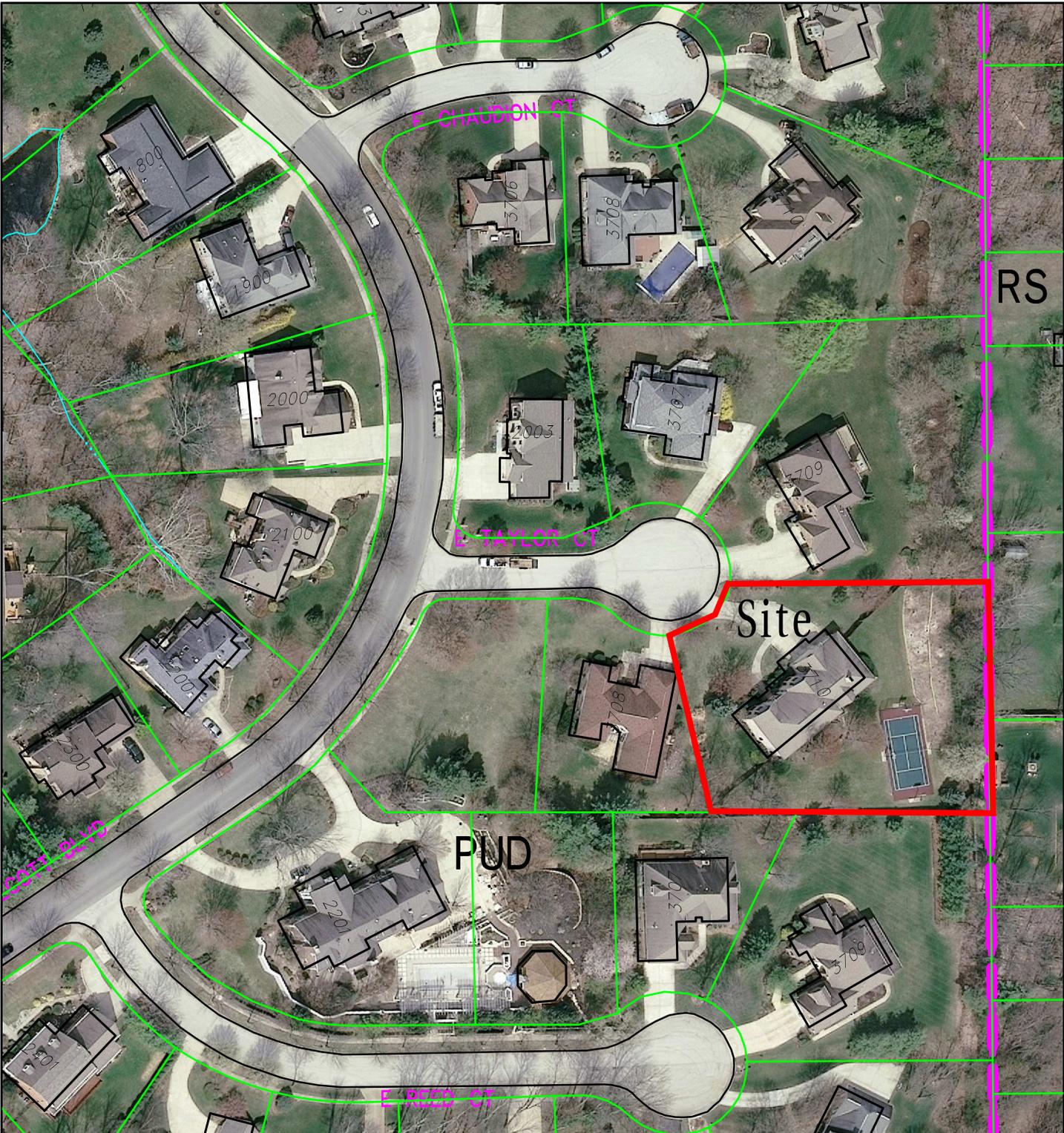
In closing, we believe that the situation does not seem to warrant a variance from the City of Bloomington Unified Development Ordinance. Accordingly, we will plan on attending the public hearing on May 24th to voice our concerns and our proposal for a more practical and realistic solution that does not require a variance from established standards.

Sincerely,



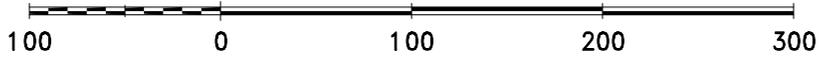
Heidi & Herman Aguinis
3709 E. Taylor Ct.
Bloomington, IN 47401
Tel. 812-961-3434



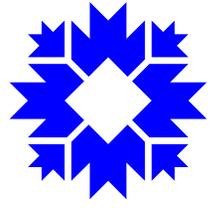


V-16-02 Espen Jenson
 3710 E Taylor Court
 Board of Zoning Appeals
 2010 Aerial Photograph

By: greulice
 16 May 12



City of Bloomington
 Planning



Scale: 1" = 100'

For reference only; map information NOT warranted.