

CITY OF BLOOMINGTON



MARCH 21, 2013 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL

- V-8-13 **Jim Regester**
135 N. Gates Dr.
Request: Variance from maximum parking standards.
Case Manager: Eric Greulich

- V-12-13 **Renaissance Rentals**
4501 E. 3rd St.
Request: Variance from architectural standards for a mixed-use project of
76 hotel units and 152 residential units.
Case Manager: Katie Bannon



**City of Bloomington
Planning Department**

Memo To: Board of Zoning Appeals members

From: Tom Micuda

Date: March 12, 2013

Re: Changes to BZA Rules of Procedure

Proposed are changes to the BZA Rules of Procedure. The changes delete any reference to fees. The reason for the deletion of fees from the BZA rules is that in reviewing changes to the Plan Commission rules, it was determined that only the Plan Commission has permission to make fee changes.

At its March 4 meeting, the Plan Commission adopted a brand new fee schedule including revised fees for Development Standards Variances, Conditional Uses, and Use Variances. Staff requests that Board amend its rules to delete these fees so there is no confusion concerning which body is authorized to adopt such fee changes.

BOARD OF ZONING APPEALS

RULES OF PROCEDURE

Article I - Meetings:

- A. Meetings of the Board of Zoning Appeals shall be held one evening per month as scheduled in a calendar published by the Planning Department and approved by the Board at the first meeting of each year.
- B. All meetings shall be held at 5:30 p.m. in the Council Chambers of Showers Center City Hall - Room #115, unless otherwise publicly announced.
- C. All meetings shall adjourn at 9 p.m. and no new cases shall be heard after 8:30 p.m. Any cases remaining shall be rescheduled for hearing at a special meeting to be held within one week of the original meeting.
- D. A majority of the voting membership shall constitute a quorum. No vote of the Board shall be official unless authorized by the affirmative vote of a majority of the total membership of the Board.
- E. All decisions on petitions shall be by roll call. The vote of each member of the Board shall be recorded and placed in the minutes of the meeting as a matter of permanent record.
- F. No member of the Board shall participate in the hearing or decision of the Board involving any matter in which that person is directly or indirectly interested in a financial sense. In the event that any member disqualifies himself or that any member's eligibility is challenged by a member of the public, such fact shall be entered on the records of the Board and shall appear in the minutes of the Board. Members who intend to disqualify themselves from a vote on a particular petition due to direct or indirect financial interest or for any other reason should notify the Planning Department staff of this fact a minimum of five business days prior to the hearing in order to provide staff and the Board of Zoning Appeals Chairperson adequate time to arrange the attendance of an alternate member, if applicable, and to make other arrangements as necessary. Alternate members may act at meetings as specified by the Bloomington Municipal Code.
- G. As soon as possible after a regular meeting a summary of minutes of the proceedings shall be made available to each member of the Board.

- H. All minutes of the proceedings, findings of fact, tape recordings of the hearings and all 2 exhibits submitted by the petitioners, remonstrators and staff shall be public records and shall be filed in the Planning Department office. These materials shall become a part of the case and all such materials shall be held by the Planning Department for a period of at least one-year. At the end of the one year time period, all materials held by the Board may be placed in a 'back filing' system for preservation of city records.
- I. The final disposition of any request, petition, or resolution before the Board shall be in the form of a motion, adopted according to proper parliamentary procedures. Said motion may be to grant, deny, continue, modify, or table the petitioner's request. Additionally, the members of the Board may attach such conditions to a motion as are deemed necessary for the furtherance of the public health, safety, or convenience, or to achieve consistency with the City Master Plan or Bloomington Municipal Code.

Article II - Officers:

- A. The Board shall, at its first hearing in each year, elect from among its members a chairperson and vice-chairperson.
- B. The chairperson shall preside over Board meetings and shall supervise over the determination of points of order and procedure, and shall be responsible for the signing of all official documents. The vice-chairperson shall have authority to act as chairperson of the Board during the absence or disability of the chairperson. In the case of the death or resignation of the chairperson, the vice-chairperson shall succeed to the chairmanship and a new vice-chairperson shall be elected from the membership.
- C. The Planning Department secretary shall be responsible for supervising the keeping of an accurate and complete record of all Board proceedings, including the keeping of records and minutes, findings of fact, and preservation of all papers and documents of the Board and the maintenance of a current roster with the qualifications of members.
- D. The Board shall request the City Attorney to serve as Counsel for the Board.
- E. The City's Director of Planning or his/her designate shall appear at all meetings and assist the Board presenting factual opinion on significant issues raised by the petition.

Article III - Filing of Petitions:

Deleted: and Fees

- A. All requests to the Board or Hearing Officer shall be by petition and petitioners shall be required to follow these procedures:

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1. All petitioners shall use the uniform petition forms approved by the Plan Commission, which are available upon request in the Planning Department. 3
2. All petitions shall be filed no later than the deadlines established on the calendar of meetings to be adopted by the Board each year.

Deleted: 3.

Deleted: Filing fees shall be as follows, and shall apply both to petitions to be heard by the Board and to petitions to be heard by the Hearing Officer.¶

¶ **Conditional Use** . \$100.00¶

¶ **Variance from Development Standards**¶

Single Family Residential . \$50.00 + \$25.00 each additional standard¶

¶ Multi-Family Residential and ¶ Non-Residential . \$200.00 + \$50.00 each additional standard¶

¶ **Use Variance**¶ Single Family to Multi-Family . \$200.00 + \$2.00/dwelling unit¶

¶ Residential to Commercial & ¶ Commercial to Less Restrictive Commercial . \$200.00 + \$25.00/acre¶

¶ All Other Residential . \$100.00 + \$10.00/acre¶

¶ **Administrative Appeal** . \$50.00¶

¶ **Appeal of Hearing Officer Decision**¶ By Petitioner for Variance or Conditional Use . No additional charge¶ By any other Interested Party . \$50.00

Deleted: No application fees shall be required for any application made by not-for-profit, community service organizations or government agencies.¶

¶ No refunds shall be permitted after a petition has received a BZA or Hearing Officer hearing, whether or not the BZA or Hearing Officer has taken action on the petition.¶

B. Appeals:

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1. Appeals of administrative decisions or from Hearing Officer decisions shall be filed with the Planning Department on forms available in the Planning Department.
2. Appeals of administrative decisions or from Hearing Officer decisions must be filed with the Planning Department within (14) days of the administrative decision or Hearing Officer decision.
3. Appeals of administrative decisions or from Hearing Officer decisions will be heard de novo by the Board of Zoning Appeals and following the testimony limits noted in Article V of these Rules of Procedures.

Article IV - Notices:

- A. All petitioners for any BZA or Hearing Officer approval shall inform the persons affected by their petitions (interested parties) by sending a copy notice of public hearing to their residences or the last known address of the property owners at least ten (10) days before the date of the hearing. Such notice may be sent using regular first class mail.
- B. Such notice shall state:
 1. The general location by address or other identifiable geographic characteristic of the subject property.
 2. The name of the petitioner.
 3. The times and places the petition has been set for hearing.
 4. That the petition and file may be examined in the office of the Planning Department.
 5. That the addressee may voice an opinion at the hearing and/or file written comments with the Board and/or Hearing Officer.

6. If the petition is to be considered by the Hearing Officer, the notice shall state 5 that the Hearing Officer may, at his/her discretion, transfer the petition to the full Board and that in such case the hearing would be held at the next regular Board of Zoning Appeals meeting, unless continued, and shall include the date of the next regular Board meeting.
- C.
1. Interested parties shall be defined as all persons owning land adjacent and contiguous to the site as well as all persons owning land abutting the aforementioned immediately adjacent property (i.e., “two properties deep”). Notices shall be provided “two properties deep” only if the interested parties are located within 300 linear feet of the subject site. However, notices shall not be provided “two properties deep” if the interested parties property location exceeds 300 linear feet from the subject site for which the petition is being requested. Intervening public rights-of-way shall not be considered in determining what lands are adjacent or contiguous. Where any adjacent or contiguous parcel is owned by a petitioner, the property included in the petition shall be deemed to include said adjacent parcel or parcels owned by a petitioner, and owners of property adjacent and contiguous to said parcel(s) owned by a petitioner but not included in the petition shall be considered interested parties entitled to notice.
 2. In order to determine the names and addresses of property owners to whom notice must be sent under this rule, the petitioner or his/her agent shall consult the current Plat Book located in the office of the Auditor of Monroe County, Indiana to determine the name of each adjacent property owner. The petitioner or his/her agent shall then consult the computer located in the office of the Auditor to determine the most current mailing address for each adjacent property owner. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine name and address of the current owner of record. Each notice shall be mailed and postmarked no later than the second business day after the date upon which the name and address of the owner were obtained from the Plat Book and the computer records in the Auditor's office as described above.
 3. Proof of notice to interested parties shall be submittal of the following items to the Planning Department in the following manner:
 - a. A copy of the Notice of Public Hearing to be mailed to the interested parties.
 - b. A list of interested parties with addresses.

- c. An Affidavit of Notice to Interested Parties in a form approved by the Planning Department including: name of person preparing and mailing the notice; name of petitioner; location of petition; and a statement that notice was mailed at least ten (10) days prior to the Board of Appeals or Hearing Officer public hearing, whichever applies.
- d. A plat map showing interested parties' property.

The Planning Department shall retain the proof of notice within the petition file.

- D. The Planning Department shall cause a legal notice to be published in a daily newspaper published and distributed in the City (10) days prior to the hearing. The petitioner shall bear the expense of said advertisement.
- E. If the Hearing Officer, at a lawfully convened meeting, transfers a petition to the Board of Zoning Appeals, said petition shall be placed on the agenda for the next regular meeting of the Board. The decision of the Hearing Officer to transfer the petition shall constitute due notice to interested parties.

Article V- Hearings:

- A. The order of business at regular meetings shall be as follows:

- I. Roll Call
- II. Approval of Minutes
- III. Reports, Resolutions, and Communications
- IV. Hearings
- V. Discussion, Staff proposals, etc.
- VI. Adjournment

- B. Limits on Testimony:

1. The general format for each case will be an order and time limit as follows:
 - Staff Report
 - Presentation by Petitioner - 20 minutes total
 - Questions for the Staff and Petitioner by the Board
 - Public Comment – 5 minutes per speaker
 - Back to the BZA for final action

It will be the responsibility of staff to keep time for each speaker wishing to make comment. Staff will inform both the petitioner and speaker when there are 30 seconds left in their presentation time.

2. All speakers, other than staff, shall sign an attendance sheet provided by the Planning Department. Any person who wishes to speak shall first be sworn by the presiding officer. The form of this oath shall be as follows: 7

From the presiding officer, "Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?"

Speaker, "I do."

3. If further public discussion is warranted in the opinion of the Board of Zoning Appeals, then the time limit may be increased by a majority vote of the Board.

- C. The Planning Department Secretary shall then compile a detailed report of all the hearing proceedings; setting forth in writing a record of the Board's final decisions, including findings of fact, and a record of voting of individual members. These minutes shall be available for any interested party upon request.

Article VI - Docket:

- A. Each case to be publicly heard before the Board or Hearing Officer shall be filed in proper form, shall be numbered serially and placed on the docket of the Board or Hearing Officer after determination by the Planning Department that a petition has been presented in proper form with all the required exhibits and supporting documents. The docket numbers shall begin anew on January 1 of each year.
- B. The Planning Department shall also determine and identify whether application for variance is for variance of use or variance from development standards.
- C. The identification of docket numbers shall be as follows:
- Home Occupation - HO
Administrative Appeal - AA
Development Standards Variance - V
Use Variance - UV
Conditional Use – CU
- D. As soon as a petition is received, it shall be place on the docket and a date set for its hearing. On such date it shall come before the Board or the Hearing Officer in the regular order of consecutive numbers.

Article VII - Final Disposition of Petitions:

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- A. The final disposition of any petition before the Board or the Hearing Officer shall be recorded in the minutes of the Board or Hearing Officer. The motion shall restate the findings of the Board or of the Hearing Officer for the record.
- B. The Board or Hearing Officer shall make a decision on any matter it is required to hear at the conclusion of its hearing on that matter. Decision on any matter shall be to approve, deny, or continue the petition.
- C. Final disposition of an administrative appeal shall be in the form of an order either reversing, affirming, or modifying the requirement, order decision or determination appealed from.
- D. Findings of Fact shall be adopted concerning each decision made by the Board or by the Hearing Officer. The Findings of Fact form shall be completed by planning staff and shall accurately reflect the Board's findings on each case heard by the BZA. The Findings of Fact form shall be completed by the Hearing Officer on each case heard by him/her. The Board or Hearing Officer may elect to adopt the findings recommended by the staff without modification or with partial modification, or to adopt findings which conflict with the staff recommendation. In any case, the Board or Hearing Officer's finding shall be reflected on the Findings of Fact form or other written document.
- E. No petition may be withdrawn by the petitioner after a vote has been ordered by the chairperson. No petition which has been withdrawn by the petitioner shall be placed on the docket again for hearing within a period of six months from the date of said withdrawal, except upon motion to permit redocketing adopted by the unanimous vote of all members present at a regular or special meeting.
- F. No zoning petition which has been disapproved by the Board shall again be placed on the docket for hearing within a period of 6 months from the date of the Board's original disapproval, except upon the motion of a member adopted by the unanimous vote of all members present at a regular or special meeting. In all cases involving a rehearing of a zoning petition previously disapproved by the Board, the Board may require the petitioner to demonstrate a material change in circumstances.
- G. Whenever a zoning petition is continued for three consecutive hearings, any further request for continuance requires a majority vote by the Board. If the Board denies such a request for continuance, the petition shall be treated as a denial unless the petitioner elects to formally withdraw the petition within 24 hours.

- H. In the case of a petition for variance or conditional use, the Board or the Hearing Officer⁹ may permit or require the owner of a parcel of property to make a written commitment concerning use or development of that parcel. The Board or the Hearing Officer may specify the form of any commitment and may also specify the termination date, if any. Such commitment, along with a copy of the site plan, shall be recorded in the office of the Monroe County Recorder and the original shall be filed with the records of application for variance or conditional use. The Hearing Officer may not modify or terminate a commitment, whether such commitment was permitted or required by the Board or by the Hearing Officer. A commitment may be modified or terminated only by the Board after notice and hearing in accordance with these rules. The Board, the City, the property owner, and any adjacent property owners shall be entitled to enforce commitments.

Article VIII - Expiration of Order:

Any variance or conditional use permit granted by the Board of Zoning Appeals or the Hearing Officer shall expire:

- A. In the case of new construction or modifications to an existing structure:
1. Two (2) years after the date granted by the Board or Hearing Officer, unless a building permit has been obtained and construction of the structure or structures has commenced; or,
 2. At the date of termination established by the Board or Hearing Officer as a condition or commitment if different from (1) above.
- B. In the case of occupancy of land which does not involve new construction:
1. Two (2) years after the date granted by the Board or Hearing Officer, unless an occupancy permit has been obtained and the use has commenced; or,
 2. At the date of termination established by the Board or Hearing Officer as a condition or commitment if different from (1) above.
- C. If an appeal by writ of certiorari is taken from an order, variance, or conditional use, the time during which such appeal is pending shall not be counted in determining whether the variance, order, or conditional use has expired under Subsection A(1) of this Article. In other words, if an appeal to the Board of Zoning Appeals ruling is filed, the clock stops as to the time of expiration until a determination is made.

- D. The Board may, upon proper showing in writing prior to expiration, grant extension of variance or conditional use for periods not to exceed two (2) years. Said extension shall run from the original date of expiration rather than from the date of granting the extension and the Board shall make written findings.
- E. The Board may renew a variance or conditional use after the expiration date for another two (2) year period. In considering said renewal, the Board shall consider only material changes relevant to the variance or conditional use criteria that have occurred since the variance or conditional use was last granted.
- F. The Hearing Officer may extend or renew a variance or conditional use that was originally granted by a Hearing Officer, subject to all provisions of C and D above.

Article IX - Miscellaneous Provisions:

- A. Every person appearing before the Board shall abide by the order and direction of the chairman. Discourtesy, disorderly or contemptuous conduct shall be dealt with as the Board directs.
- B. The Board, at its discretion, may continue or postpone the hearing of any case on an affirmative vote of a majority of the members. In the event that new information is presented by the petitioner, a member of the Board of Zoning Appeals (BZA) may make a motion to continue the case at that time.
- C. Amendments to these rules of procedure may be made by the Board at any regular or special meeting upon the affirmative vote of a majority of the members of the Board.
- D. The suspension of any rules may be ordered at any meeting by a unanimous vote of those present.
- E. A person may not communicate with any member of the Board or the Hearing Officer before the hearing with intent to influence the member or Hearing Officer's action on a matter pending before the Board or Hearing Officer. Not less than five (5) days before the hearing, however, the planning staff may file with the Board or Hearing Officer a written statement setting forth any facts or opinions relating to the matter.

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT**

**CASE #: UV-4-13
DATE: March 21, 2013**

Location: 2221 and 2231 N. Martha Street

**PETITIONER: Atlantis Properties Asset Management Company, LLC
P.O. Box 1370, Bloomington, IN 47402**

REQUEST: The petitioner is requesting a Use Variance to allow the property located at 2231 Martha Street to have an occupant load of five people rather than the required three people for a single family district. In return, the undeveloped lot owned by the petitioner at 2221 Martha Street would be deed restricted as an unbuildable lot.

BACKGROUND: The properties located at 2221 and 2231 Martha Street are both zoned Residential Single-family (RS). The property at 2231 Martha Street contains an existing structure with a rental occupancy permit for three adults. The property at 2221 Martha Street is a vacant lot. In November of 2012, the petitioner filed a building permit to construct a new rental home on this vacant lot. Photos and plans showing the proposed structure are included in the packet material. The same exact house plans were also submitted for a second building permit concerning the property located at 2207 North Dunn St. This is the second use variance case for the same petitioner.

Because there are very few code requirements in the Unified Development Ordinance that regulate the aesthetics of single family home architecture, the proposed building plans for this vacant lot can comply with all aesthetic requirements contained in the UDO. Additionally, the height, setbacks, and other development standards comply with code. The petitioner has built a very similar rental structure located at 538 South Washington Street. The visual impact of this existing structure is mitigated by the lot location away from Washington Street. Additionally, there are other structures that block views, and the property is zoned multifamily.

After a thorough analysis of both permits and the ordinance, staff requested that the petitioner voluntarily modify the permits to make them more compatible with existing structures in the Matlock Heights neighborhood. A map showing neighborhood boundaries is contained in the packet material. The neighborhood is going through the review process to become a Conservation District. These districts require the adoption of residential design guidelines and require Commission review of new construction and demolition requests. The petitioner submitted these permits with an acknowledgement that the potential Conservation District would negate construction of these proposed rental homes.

The petitioner indicated to staff that he would not modify the proposed house plans to construct more compatible structures. Furthermore, the petitioner indicated to staff that his preference was not necessarily to construct the structures at all. Rather, he was making sure his right to build was protected before the Conservation District issue is considered by the City Council. Additionally, the petitioner and at least one other property owner along Martha Street have always believed that the locations of these lots next to the Bypass and near apartment and commercial development warrant a non-single family zoning designation.

Because there are issues associated with rezoning a number of properties along the Bypass and both staff and the neighborhood have significant concerns about the incompatibility of the proposed rental homes, staff believes that a targeted Use Variance approach makes the most sense to resolve the impasse. The approach outlined below is supported by the petitioner, several Council members, and the leadership of the Matlock Heights neighborhood. The Plan Commission voted unanimously to support the Use Variance request. The approach, most specifically as it pertains to the property on Martha Street, is opposed by an adjacent property owner.

The Use Variance request for 2221 and 2231 Martha Street is proposed to work as follows:

- The petitioner would receive a revised rental occupancy permit to have a 5 person occupant load at 2231 Martha Street. The home is the largest in the area and located on a lot that was part of the parent tract for both addresses. The home would not require any modification for this occupant load.
- Prior to this permit being granted, the petitioner would withdraw the building permit request and record a zoning commitment approved by City Legal that renders the property at 2221 Martha Street as unbuildable. A draft agreement is included in the packet and would not allow primary structures, accessory structures, or any parking/surfacing for parking to be placed on the property. Like all agreements, it would be binding on future owners and is clearly enforceable by the City and adjoining owners. It can only be removed through action of the Plan Commission, with adequate notice, in a public hearing.

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 in increasing the occupant load for the property located at 2231 North Martha Street. In exchange for increasing this occupant load, the property located at 2221 Martha Street will be rendered unbuildable. This exchange will slightly decrease the combined occupancy load from six adults to five. As a result, there will be no comparable negative impacts to public health, safety, morals, or general welfare.

- (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: In this case, there is one owner with properties located west of the site who would prefer to have the property at 2221 Martha Street constructed on rather than deeded unbuildable. This owner has identified concerns ranging from his belief that the petitioner will never ultimately construct the rental home to the fact that the home would be largely hidden from view. He is also concerned about the

policy precedent of allowing greater occupant loads. Staff respects these concerns but still doesn't find substantially adverse impacts by granting the Use Variance. First, the combined occupancy count on both lots will still be less in the Use Variance scenario. Second, the grossly incompatible structure that could be built otherwise will still be seen from Martha Street to the east and other adjoining property owners to the north.

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

Staff Finding: Peculiar condition is found because the location of the property at 2231 Martha Street adjoins one of the few vacant lots in the neighborhood (2221 Martha Street) that also happens to be in the petitioner's control. This allows the petitioner to deed restrict the vacant lot for no occupancy, eliminate the potential for a rental home that completely contradicts the goals of the proposed Conservation District, and ultimately create a more compatible situation for adjacent owners and the neighborhood at large.

- (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: The strict application of the UDO would restrict the existing home at 2231 Martha Street to an occupancy level of three adults. While this level is consistent with zoning, the hardship finding should be made by considering how this restriction affects the petitioner's vacant, adjoining lot at 2221 Martha Street. If the occupancy level at 411 East State Road 45/46 Bypass is held at three adults, this eliminates the potential of reducing combined occupancy as well as protecting the neighborhood's built environment by deed restricting the currently vacant lot. In this case, strict application of the code creates an unnecessary hardship that can be relieved through variance.

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

Staff Finding: The GPP designates this property as Urban Residential. These areas were developed after the Core Neighborhoods in the City were largely built-out. Contained within these areas are vacant lots that the GPP identifies with neighborhood conservation policies. In other words, development on the 2221 Martha Street parcel should conserve neighborhood character and form. Fundamentally, such development must encourage residential desirability and stability. Where new infill development is proposed, it should be consistent and compatible with preexisting developments. More specifically, site design for any new development should emphasize building and site compatibility with existing densities, intensities, building types, landscaping and other planning features.

Staff finds that the Use Variance does not substantially interfere with the GPP. Staff fully acknowledges the unusual nature of the petition and the importance of reducing occupancy within single family zoning districts. However, the total occupancy of both lots is being decreased from six to five with this request. Additionally, there is

clear benefit to adjacent property owners as well as the neighborhood in general to creating a no-build option at 2221 Martha Street. There are owner occupied properties located north of this site, and the construction that is being eliminated with this Use Variance request would be visible to the east on Martha Street. Construction on this lot would also clearly contradict the neighborhood's efforts in becoming a Local Conservation District.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of UV-4-13.

PETITIONER: Atlantis Properties Asset Management Company, LLC
P.O. Box 1370, Bloomington, IN 47402

REQUEST: The petitioner is requesting a Use Variance to allow the property located at 2231 Martha Street to have an occupant load of five people rather than the required three people for a single family district. In return, the undeveloped lot owned by the petitioner at 2221 Martha Street would be deed restricted as an unbuildable lot.

BACKGROUND: The properties located at 2221 and 2231 Martha Street are both zoned Residential Single-family (RS). The property at 2231 Martha Street contains an existing structure with a rental occupancy permit for three adults. The property at 2221 Martha Street is a vacant lot. In November of 2012, the petitioner filed a building permit to construct a new rental home on this vacant lot. Photos and plans showing the proposed structure are included in the packet material. The same exact house plans were also submitted for a second building permit concerning the property located at 2207 North Dunn St. This is the second use variance case for the same petitioner.

Because there are very few code requirements in the Unified Development Ordinance that regulate the aesthetics of single family home architecture, the proposed building plans for this vacant lot can comply with all aesthetic requirements contained in the UDO. Additionally, the height, setbacks, and other development standards comply with code. The petitioner has built a very similar rental structure located at 538 South Washington Street. The visual impact of this existing structure is mitigated by the lot location away from Washington Street. Additionally, there are other structures that block views, and the property is zoned multifamily.

After a thorough analysis of both permits and the ordinance, staff requested that the petitioner voluntarily modify the permits to make them more compatible with existing structures in the Matlock Heights neighborhood. A map showing neighborhood boundaries is contained in the packet material. The neighborhood is going through the review process by the City's Historic Preservation Commission to become a Conservation District. These districts require the adoption of residential design guidelines and require Commission review of new construction and demolition requests. The petitioner submitted these permits with an acknowledgement that the potential Conservation District would negate construction of these proposed rental homes.

The petitioner indicated to staff that he would not modify the proposed house plans to construct more compatible structures. Furthermore, the petitioner indicated to staff that his preference was not necessarily to construct the structures at all. Rather, he was making sure his right to build was protected before the Conservation District issue is considered by the City Council. Additionally, the petitioner and at least one other property owner along Martha Street have always believed that the locations of these lots next to the Bypass and near apartment and commercial development warrant a non-single family zoning designation.

Because there are issues associated with rezoning a number of properties along the Bypass and both staff and the neighborhood have significant concerns about the incompatibility of the proposed rental homes, staff believes that a targeted Use Variance approach makes the most sense to resolve the impasse. The approach outlined below is supported by the petitioner, several Council members, and the leadership of the Matlock Heights neighborhood. The approach, most specifically as it pertains to the property on Martha Street, is opposed by an adjacent property owner.

The Use Variance request for 2221 and 2231 Martha Street is proposed to work as follows:

- The petitioner would receive a revised rental occupancy permit to have a 5 person occupant load at 2231 Martha Street. The home is the largest in the area and located on a lot that was part of the parent tract for both addresses. The home would not require any modification for this occupant load.
- Prior to this permit being granted, the petitioner would withdraw the building permit request and record a zoning commitment approved by City Legal that renders the property at 2221 Martha Street as unbuildable. A draft agreement is included in the packet and would not allow primary structures, accessory structures, or any parking/surfacing for parking to be placed on the property. Like all agreements, it would be binding on future owners and is clearly enforceable by the City and adjoining owners. It can only be removed through action of the Plan Commission, with adequate notice, in a public hearing.

GROWTH POLICIES PLAN: In order to make a recommendation to the Board of Zoning Appeals on this use variance request, the Plan Commission must determine that the request does not substantially interfere with the Growth Policies Plan (GPP). The GPP designates this property as Urban Residential. These areas were developed after the Core Neighborhoods in the City were largely built-out. Contained within these areas are vacant lots that the GPP identifies with neighborhood conservation policies. In other words, development on these two parcels should conserve neighborhood character and form. Fundamentally, such development must encourage residential desirability and stability. Where new infill development is proposed, it should be consistent and compatible with preexisting developments. More specifically, site design for any new development should emphasize building and site compatibility with existing densities, intensities, building types, landscaping and other planning features.

Staff Finding: Staff finds that the Use Variance does not substantially interfere with the GPP. Staff fully acknowledges the unusual nature of the petition and the importance of reducing occupancy within single family zoning districts. However, the total occupancy of both lots is actually decreased with this request. If 2221 Martha Street is deed restricted as unbuildable, the legal total occupancy of both lots is actually decreased from an aggregate of six to five. Additionally, there is benefit to adjacent property owners as well as the neighborhood in general to create a no-build option at 2221 Martha Street. Development of this lot, in the manner proposed by the petitioner, would detract from neighborhood character, deviate substantially in terms of form and building type, and make the area less desirable for owners. While staff is not prepared to support a larger scale rezoning of the Martha Street area which would substantially increase occupant loads, staff concludes that a higher load for a directly adjoining

property creates virtually the same occupant-related impact while providing substantial improvement to neighborhood compatibility.

RECOMMENDATION: Staff finds that this use variance will not substantially interfere with the Growth Policies Plan. Based upon the written report, staff recommends forwarding UV-8-13 to the Board of Zoning Appeals with a positive recommendation.



UV-8-13 and UV-9-13
Aerial Location Map

By: micudat
25 Feb 13

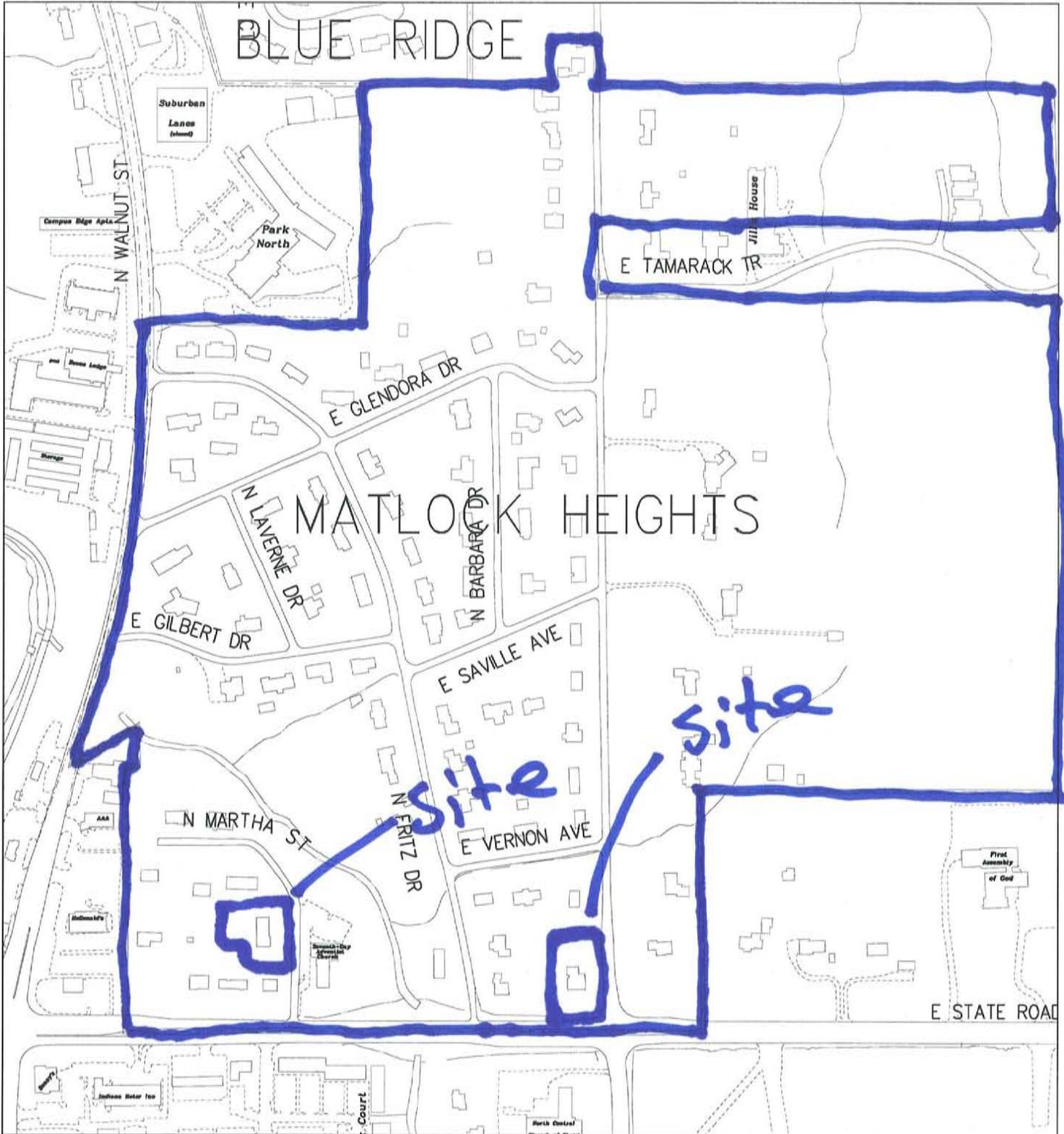


City of Bloomington
Planning



Scale: 1" = 200'

For reference only; map information NOT warranted.



Neighborhood
Boundaries

By: micudat
27 Feb 13



City of Bloomington
Planning



Scale: 1" = 400'

For reference only; map information NOT warranted.

January 25, 2013

City of Bloomington Planning Department

Ref: Use Variance for 2231 N Martha

Atlantis Properties Asset Management Company LLC is requesting a “Use Variance” to allow multi-family occupancy for 2231 N Martha Street. Atlantis Properties agrees to enter into a “no-build agreement” on the adjacent vacant lot in return. Atlantis Properties feels this is in the best interest for both the proposed Matlock Neighborhood’s proposed Conservation District and itself as the owner.

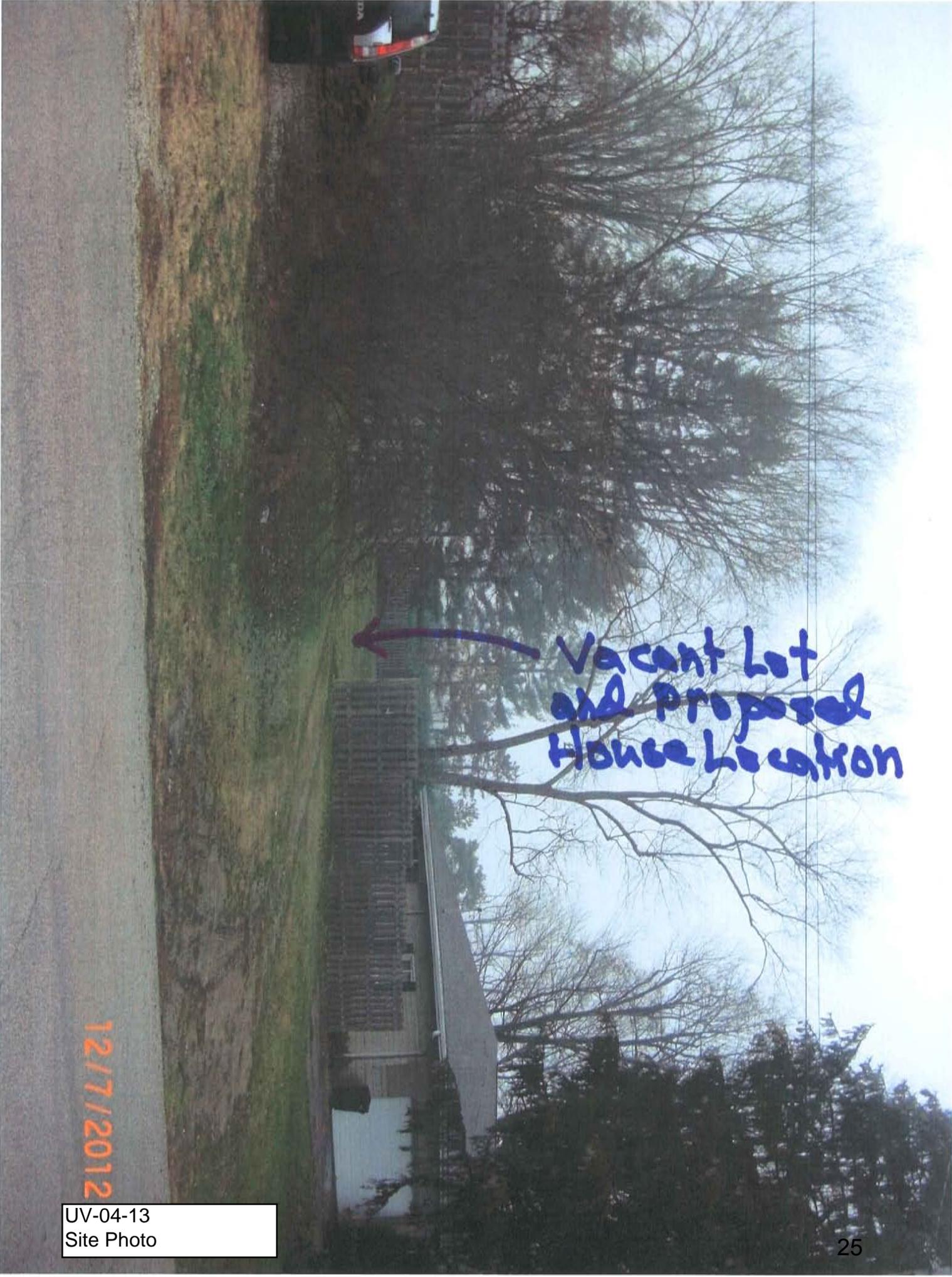
Thank you,

Brad Gillenwater
Managing Member

2616 S Robins Bow, Bloomington, IN 47401

IU4RENT@gmail.com

MARION ST #3

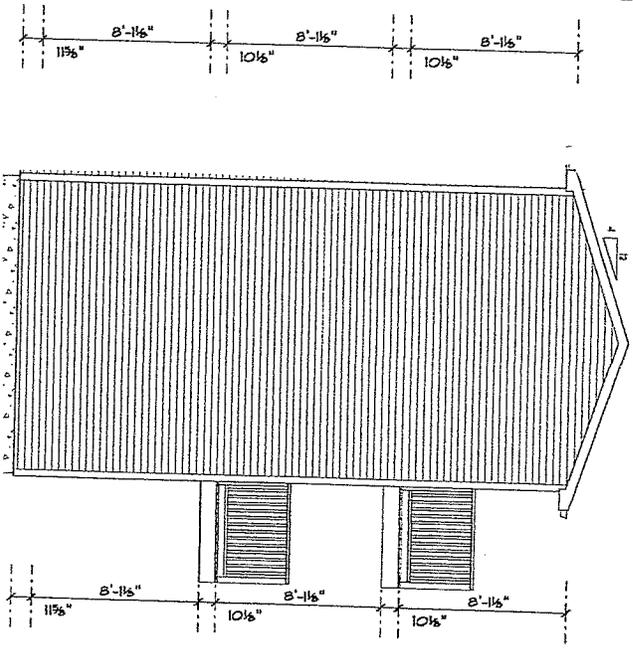


Vacant Lot
and Proposed
House Location

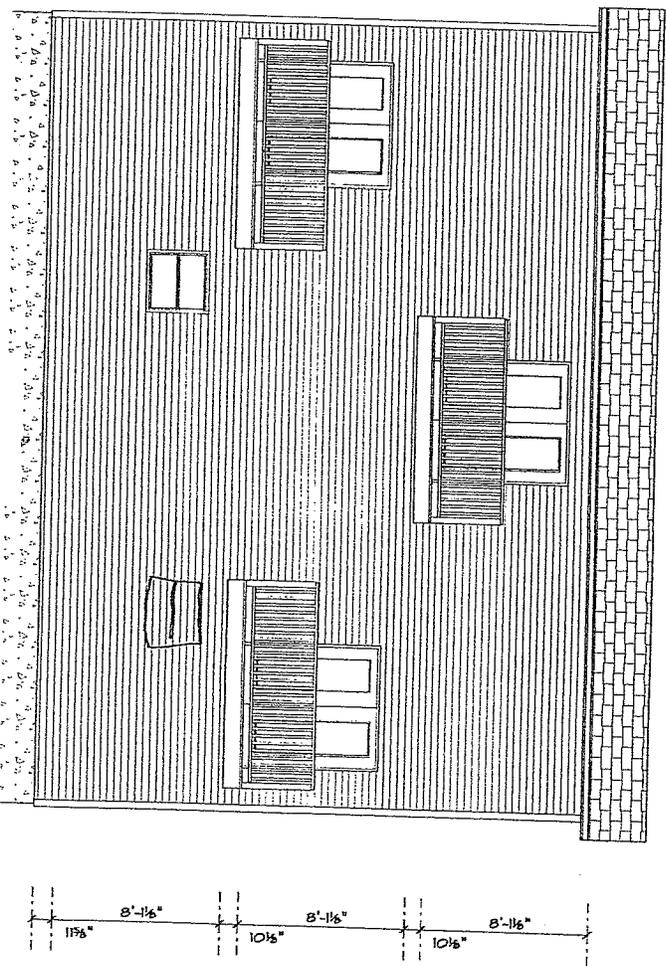
12/7/2012

UV-04-13
Site Photo

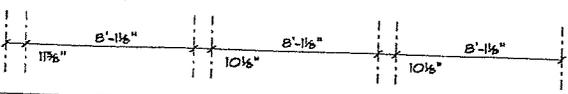
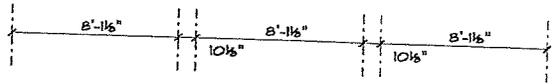
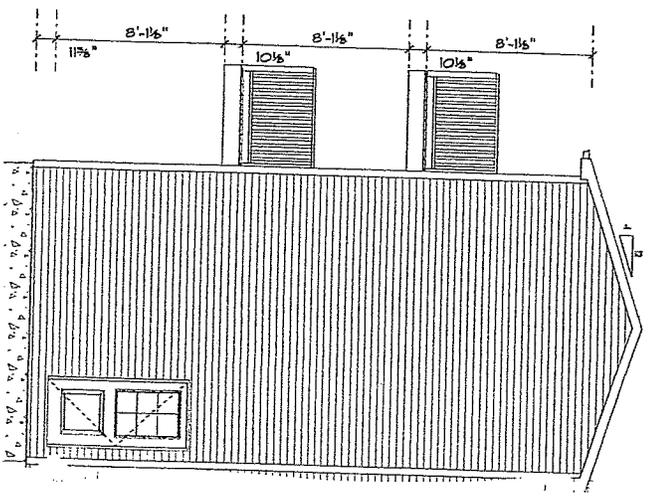
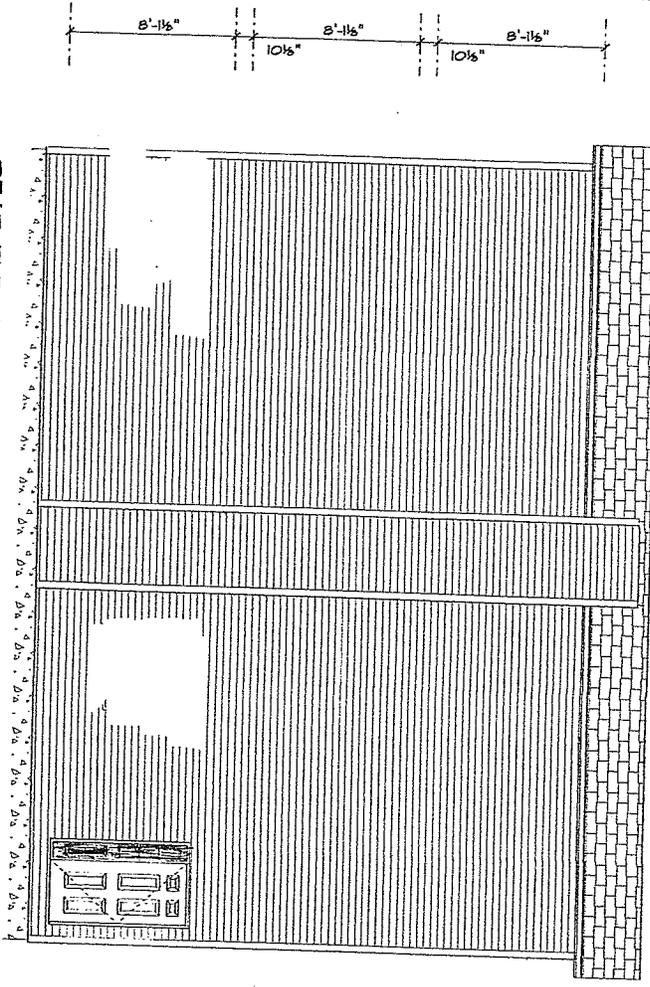
LEFT ELEVATION
SCALE 1/4" = 1'-0"



FRONT ELEVATION
SCALE 1/4" = 1'-0"



Not to Scale



Not to scale

[Handwritten signature]
 11-16-2009
 1/4" = 1'

UV-04-13
 House Plans

NEW CONSTRUCTION



UV-04-13
House built elsewhere



UV-04-13
House built elsewhere



UV-04-13
House built elsewhere

DRAFT ZONING COMMITMENT

This Commitment is being made in connection with an approval of a Use Variance given by City of Bloomington Board of Zoning Appeals, Case Number UV-4-13, having been first heard by the Plan Commission, Case Number UV-8-13, being for real estate located in Monroe County, Indiana. This real estate is described as 2221 North Martha Street, Bloomington, Indiana (hereinafter, "the Real Estate"), currently a vacant lot, the legal description of which is:

A part of the Northwest quarter of Section 28, Township 9 North, Range 1 West, in Monroe County, Indiana, bounded and described as follows, to wit: Beginning at a point that is 1013.6 feet West and 210 feet North of the Southeast corner of the said Northwest quarter; thence running North for a distance of 135 feet; thence running West for a distance of 106.25 feet; thence running South for a distance of 135 feet; thence running East for a distance of 106.25 feet, and to the place of beginning. Containing in all 0.33 acres, more or less. Whose Tax ID number is 53-05-28-200-038.000-005.

Which real estate is owned by Changing Latitudes, LLC ("Owner") pursuant to a deed recorded under Instrument #2010020365 QC in the Office of the Recorder of Monroe County, Indiana.

The Owner hereby commits, on its own behalf and on behalf of its successors and assigns, that:

The purpose of this Zoning Commitment is to assure that the Real Estate will be maintained in its current vacant condition in perpetuity, and that it will remain a predominantly natural, scenic and undeveloped lot except as otherwise provided herein. The following acts and uses shall be prohibited on the Real Estate:

- 1. Constructing, placing, or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt, gravel or concrete pavement, road, parking lot, or other temporary or permanent structure or facility on, above or under the Real Estate;**
- 2. Mining, excavating, dredging or removing from the Real Estate of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit which would make or cause topographical changes to the Real Estate;**
- 3. Use, parking, or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Real Estate except for vehicles necessary for public safety (i.e., fire, police, ambulance, other governmental official) in carrying out their lawful duties;**

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT**

**CASE #: UV-5-13
DATE: March 21, 2013**

**Location: 411 East State Road 45/46 Bypass
2207 North Dunn Street**

**PETITIONER: Atlantis Properties Asset Management Company, LLC
P.O. Box 1370, Bloomington, IN 47402**

REQUEST: The petitioner is requesting a Use Variance to allow the property located at 411 East State Road 45/46 Bypass to have an occupant load of five people rather than the required three people for a single family district. In return, the undeveloped lot owned by the petitioner at 2207 North Dunn Street would be deed restricted as an unbuildable parcel.

BACKGROUND: The properties located at 411 East State Road 45/46 Bypass and 2207 North Dunn Street are zoned Residential Single-family (RS). The property at 411 East State Road 45/46 Bypass contains an existing structure with a rental occupancy permit for three adults. The property at 2207 North Dunn Street is a vacant lot. In November 2012, the petitioner filed a building permit to construct a new rental home on this vacant lot. Photos and plans showing the proposed structure are included in the packet material. The same exact house plans were also submitted for a second building permit concerning a property located at 2221 Martha Street (another Use Variance request).

Because there are very few code requirements in the Unified Development Ordinance that regulate the aesthetics of single family home architecture, the proposed building plans for this vacant lot can comply with all aesthetic requirements contained in the UDO. Additionally, the height, setbacks, and other development standards comply with code. The petitioner has built a very similar rental structure located at 538 South Washington Street. The visual impact of this existing structure is mitigated by the lot location away from Washington Street. Additionally, there are other structures that block views, and the property is zoned multifamily.

After a thorough analysis of both permits and the ordinance, staff requested that the petitioner voluntarily modify the permits to make them more compatible with existing structures in the Matlock Heights neighborhood. A map showing neighborhood boundaries is contained in the packet material. The neighborhood is going through the review process to become a Local Conservation District. These districts require the adoption of residential design guidelines and require Commission review of new construction and demolition requests. The petitioner submitted these permits with an acknowledgement that the potential Conservation District would negate construction of these proposed rental homes.

The petitioner indicated to staff that he would not modify the proposed house plans to construct more compatible structures. Furthermore, the petitioner indicated to staff that his preference was not necessarily to construct the structures at all. Rather, he was making sure his right to build was protected before the Conservation District issue is considered by the City Council. He has also previously discussed having the properties he owns near the Bypass and along Martha Street rezoned for non-single family

occupancy or use.

Because there are issues associated with rezoning a number of properties along the Bypass and both staff and the neighborhood have significant concerns about the incompatibility of the proposed rental homes, staff believes that a targeted Use Variance approach makes the most sense to resolve the impasse. The approach outlined below is supported by the petitioner, several Council members, and the leadership of the Matlock Heights neighborhood. The Plan Commission recommended in favor of this Use Variance by a unanimous vote. The approach, most specifically as it pertains to the property on Martha Street, is opposed by an adjacent property owner.

The Use Variance request for 411 East State Road 45/46 Bypass and 2207 North Dunn Street is proposed to work as follows:

- The petitioner would receive a revised rental occupancy permit to have a 5 person occupant load at 411 East State Road 45/46 Bypass. Unlike the existing structure on Martha Street, this structure does need a building addition in order to feasibility house the 5 potential occupants. Plans for the building addition are included in the packet. The proposed addition does not require Plan Commission review, but staff has checked it for code compliance. The proposed addition is one story in nature, will have cement board siding, complies with setbacks, and is in line with the existing patio on the north side of the property.
- Prior to this permit being granted, the petitioner would withdraw the building permit request and record a zoning commitment approved by City Legal that renders the property at 2207 North Dunn Street as unbuildable. A draft agreement is included in the packet and would not allow primary structures, accessory structures, or any parking/surfacing for parking to be placed on the property. Like all agreements, it would be binding on future owners and is clearly enforceable by the City and adjoining owners. It can only be removed through action of the Plan Commission, with adequate notice, in a public hearing.

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 in increasing the occupant load for the property located at 411 East State Road 45/46 Bypass. In exchange for increasing this occupant load, the property located at 2207 North Dunn Street will be rendered unbuildable. This exchange will slightly decrease the combined occupancy load from six adults to five. As a result, there will be no comparable negative impacts to public health, safety, morals, or general welfare.

- (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 substantially adverse impacts to adjacent properties. Staff has talked to the owner occupant who lives in the adjoining house located at 2211 North Dunn Street. This owner strongly supports the Use Variance approach as opposed to allowing potentially incompatible construction at 2207 North Dunn St. With the property at 2207 North Dunn being left as greenspace and combined occupancy decreasing from six to five adults, staff believes that the Use Variance will actually improve the use and value of adjacent properties.

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

Staff Finding: Peculiar condition can be found due to the following: 1) location of the property adjoining the Bypass, which has recently been significantly widened, and 2) location of the property adjoining one of the few vacant lots in the neighborhood, also in the petitioner's control. If these conditions are combined, the parcel located at 411 East State Road 45/46 Bypass is a property that is most conducive to receiving a Use Variance for higher occupancy. It is located at the intersection of two highly traveled streets – one with over 25,000 vehicles per day. Additionally, the petitioner's vacant lot next to the Bypass lot allows for the occupancy increase to be achieved without creating incompatible development and negative occupancy impacts for adjoining properties.

- (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: The strict application of the UDO would restrict the existing home at 411 East State Road 45/46 Bypass to an occupancy level of three adults. While this level is consistent with zoning, the hardship finding should be made by considering how this restriction affects the petitioner's vacant, adjoining lot at 2207 North Dunn Street. If the occupancy level at 411 East State Road 45/46 Bypass is held at three adults, this eliminates the potential of reducing combined occupancy as well as protecting the neighborhood's built environment by deed restricting the currently vacant lot. In this case, strict application of the code creates an unnecessary hardship that can be relieved through variance.

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

Staff Finding: The GPP designates this property as Urban Residential. These areas were developed after the Core Neighborhoods in the City were largely built-out. Contained within these areas are vacant lots that the GPP identifies with neighborhood conservation policies. In other words, development on the 2207 North Dunn St. parcel should conserve neighborhood character and form. Fundamentally, such development must encourage residential desirability and stability. Where new infill development is proposed, it should be consistent and compatible with preexisting developments. More specifically, site design for any new development should emphasize building and site compatibility with existing densities, intensities, building types, landscaping and other planning features.

Staff finds that the Use Variance does not substantially interfere with the GPP. Staff fully acknowledges the unusual nature of the petition and the importance of reducing occupancy within single family zoning districts. However, the total occupancy of both lots is being decreased from six to five with this request. Additionally, there is clear benefit to adjacent property owners as well as the neighborhood in general to creating a no-build option at 2207 North Dunn Street. There are a number of owner occupied properties located north of this site, and the construction that is being eliminated with this Use Variance request would otherwise occur on a lot that is highly visible from Dunn Street. Construction on this lot would also clearly contradict the neighborhood's efforts in becoming a Local Conservation District.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of UV-5-13.

**BLOOMINGTON PLAN COMMISSION
STAFF REPORT
Location: 411 East State Road 45/46 Bypass
2207 North Dunn Street**

**CASE #: UV-9-13
DATE: March 4, 2013**

**PETITIONER: Atlantis Properties Asset Management Company, LLC
P.O. Box 1370, Bloomington, IN 47402**

REQUEST: The petitioner is requesting a Use Variance to allow the property located at 411 East State Road 45/46 Bypass to have an occupant load of five people rather than the required three people for a single family district. In return, the undeveloped lot owned by the petitioner at 2207 North Dunn Street would be deed restricted as an unbuildable parcel.

BACKGROUND: The properties located at 411 East State Road 45/46 Bypass and 2207 North Dunn Street are zoned Residential Single-family (RS). The property at 411 East State Road 45/46 Bypass contains an existing structure with a rental occupancy permit for three adults. The property at 2207 North Dunn Street is a vacant lot. In November 2012, the petitioner filed a building permit to construct a new rental home on this vacant lot. Photos and plans showing the proposed structure are included in the packet material. The same exact house plans were also submitted for a second building permit concerning the property located at 2221 Martha Street (another Use Variance request).

Because there are very few code requirements in the Unified Development Ordinance that regulate the aesthetics of single family home architecture, the proposed building plans for this vacant lot can comply with all aesthetic requirements contained in the UDO. Additionally, the height, setbacks, and other development standards comply with code. The petitioner has built a very similar rental structure located at 538 South Washington Street. The visual impact of this existing structure is mitigated by the lot location away from Washington Street. Additionally, there are other structures that block views, and the property is zoned multifamily.

After a thorough analysis of both permits and the ordinance, staff requested that the petitioner voluntarily modify the permits to make them more compatible with existing structures in the Matlock Heights neighborhood. A map showing neighborhood boundaries is contained in the packet material. The neighborhood is going through the review process by the City's Historic Preservation Commission to become a Conservation District. These districts require the adoption of residential design guidelines and require Commission review of new construction and demolition requests. The petitioner submitted these permits with an acknowledgement that the potential Conservation District would negate construction of these proposed rental homes.

The petitioner indicated to staff that he would not modify the proposed house plans to construct more compatible structures. Furthermore, the petitioner indicated to staff that his preference was not necessarily to construct the structures at all. Rather, he was making sure his right to build was protected before the Conservation District issue is considered by the City Council. He has also previously discussed having the properties

he owns near the Bypass and along Martha Street rezoned for non-single family occupancy or use.

Because there are issues associated with rezoning a number of properties along the Bypass and both staff and the neighborhood have significant concerns about the incompatibility of the proposed rental homes, staff believes that a targeted Use Variance approach makes the most sense to resolve the impasse. The approach outlined below is supported by the petitioner, several Council members, and the leadership of the Matlock Heights neighborhood. The approach, most specifically as it pertains to the property on Martha Street, is opposed by an adjacent property owner.

The Use Variance request for 411 East State Road 45/46 Bypass and 2207 North Dunn Street is proposed to work as follows:

- The petitioner would receive a revised rental occupancy permit to have a 5 person occupant load at 411 East State Road 45/46 Bypass. Unlike the existing structure on Martha Street, this structure does need a building addition in order to feasibility house the 5 potential occupants. Plans for the building addition are included in the packet. The proposed addition does not require Plan Commission review, but staff has checked it for code compliance. The proposed addition is one story in nature, will have cement board siding, complies with setbacks, and is line with the existing patio on the north side of the property.
- Prior to this permit being granted, the petitioner would withdraw the building permit request and record a zoning commitment approved by City Legal that renders the property at 2207 North Dunn Street as unbuildable. A draft agreement is included in the packet and would not allow primary structures, accessory structures, or any parking/surfacing for parking to be placed on the property. Like all agreements, it would be binding on future owners and is clearly enforceable by the City and adjoining owners. It can only be removed through action of the Plan Commission, with adequate notice, in a public hearing.

GROWTH POLICIES PLAN: In order to make a recommendation to the Board of Zoning Appeals on this use variance request, the Plan Commission must determine that the request does not substantially interfere with the Growth Policies Plan (GPP). The GPP designates this property as Urban Residential. These areas were developed after the Core Neighborhoods in the City were largely built-out. Contained within these areas are vacant lots that the GPP identifies with neighborhood conservation policies. In other words, development on these two parcels should conserve neighborhood character and form. Fundamentally, such development must encourage residential desirability and stability. Where new infill development is proposed, it should be consistent and compatible with preexisting developments. More specifically, site design for any new development should emphasize building and site compatibility with existing densities, intensities, building types, landscaping and other planning features.

Staff Finding: Staff finds that the Use Variance does not substantially interfere with the GPP. Staff fully acknowledges the unusual nature of the petition and the importance of reducing occupancy within single family zoning districts. However, the total occupancy of both lots is actually decreased with this request. If 2207 North Dunn Street is deed

restricted as unbuildable, the legal total occupancy of both lots is actually decreased from an aggregate of six to five. Additionally, there is benefit to adjacent property owners as well as the neighborhood in general to create a no-build option at 2207 North Dunn Street. Staff also notes that there are two additional factors occurring in this situation that make the Use Variance even more supportable. First, there is a greater number of owner occupied properties near the petitioner's properties, in comparison to the Martha Street situation. Second, the property which could be constructed upon is easily visible from a Collector level street.

Development of this lot, in the manner proposed by the petitioner, would detract from neighborhood character, deviate substantially in terms of form and building type, and make the area less desirable for owners. While staff is not prepared to support a larger scale rezoning along the Bypass which would substantially increase occupant loads, staff concludes that a higher load for a directly adjoining property creates virtually the same occupant-related impact while providing substantial improvement to neighborhood compatibility.

RECOMMENDATION: Staff finds that this use variance will not substantially interfere with the Growth Policies Plan. Based upon the written report, staff recommends forwarding UV-9-13 to the Board of Zoning Appeals with a positive recommendation.



UV-8-13 and UV-9-13
Aerial Location Map

By: micudat
25 Feb 13

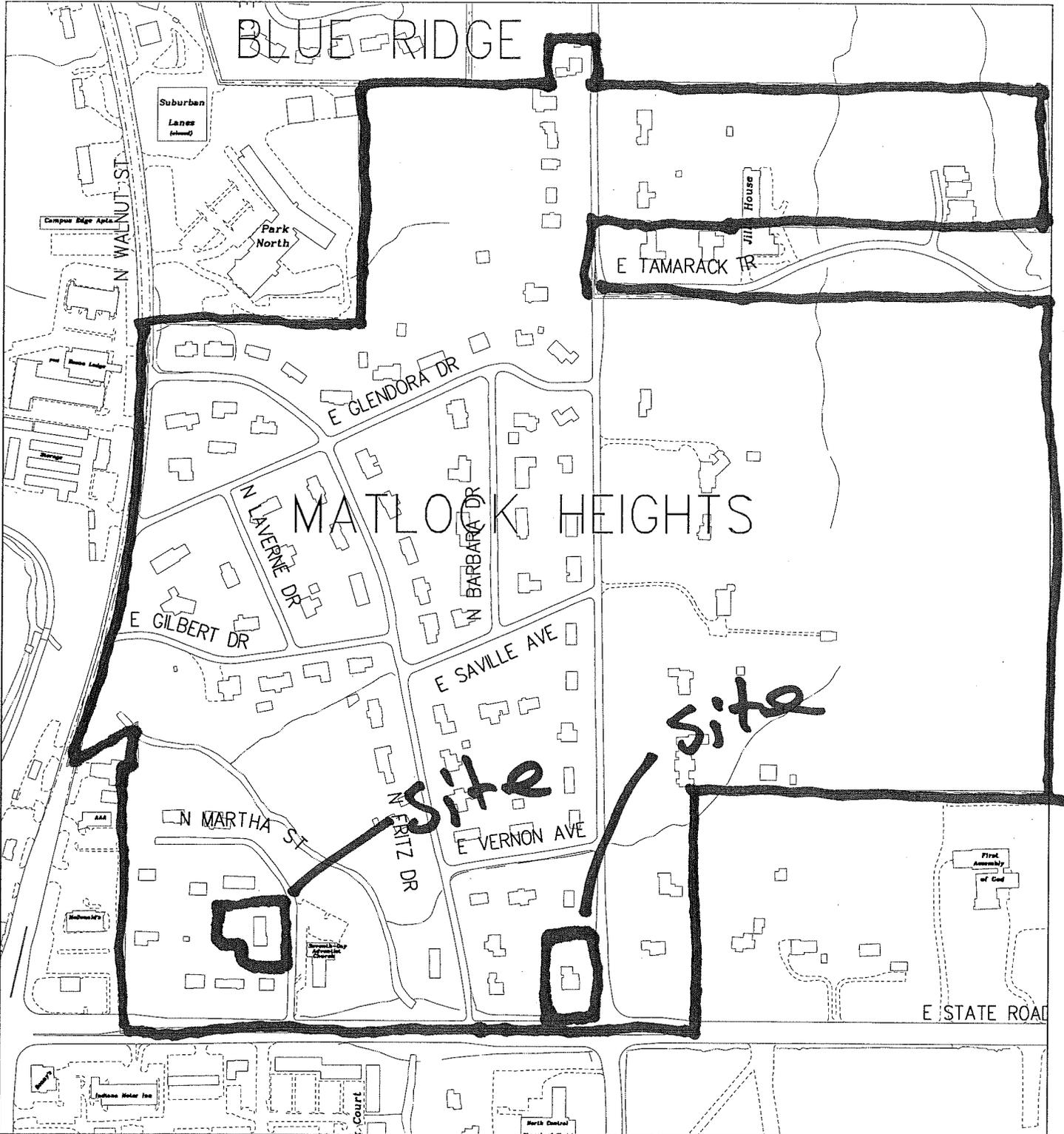


City of Bloomington
Planning



Scale: 1" = 200'

For reference only; map information NOT warranted.



Neighborhood Boundaries

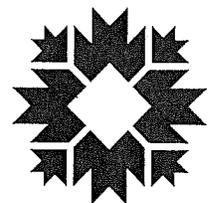
By: micudat
27 Feb 13



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 400'



January 28, 2013

City of Bloomington Planning Department

Ref: Use Variance for 411 E State Road 45-46

Atlantis Properties Asset Management Company LLC is requesting a "Use Variance" to allow multi-family occupancy for 411 E State Road 45-46. Atlantis Properties agrees to enter into a "no-build agreement" on the adjacent vacant lot in return. Atlantis Properties feels this is in the best interest for both the proposed Matlock Neighborhood's proposed Conservation District and itself as the owner.

Thank you,

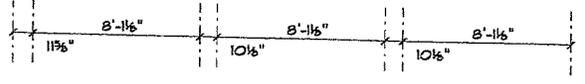
Brad Gillenwater
Managing Member

2616 S Robins Bow, Bloomington, IN 47401

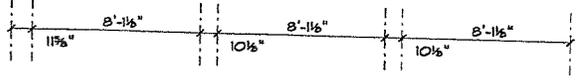
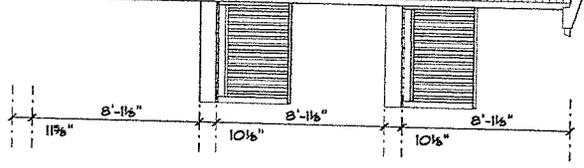
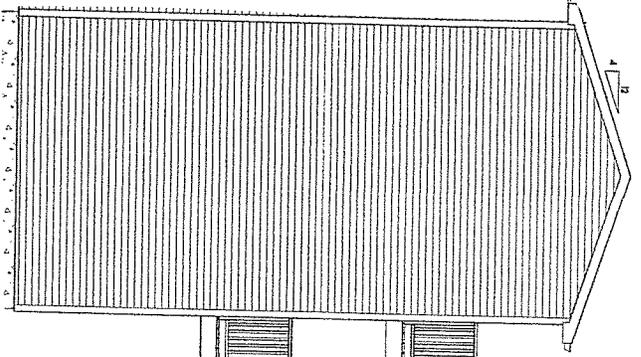
IU4RENT@gmail.com

UV-05-13
Petitioner's Statement

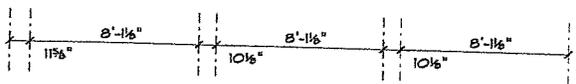
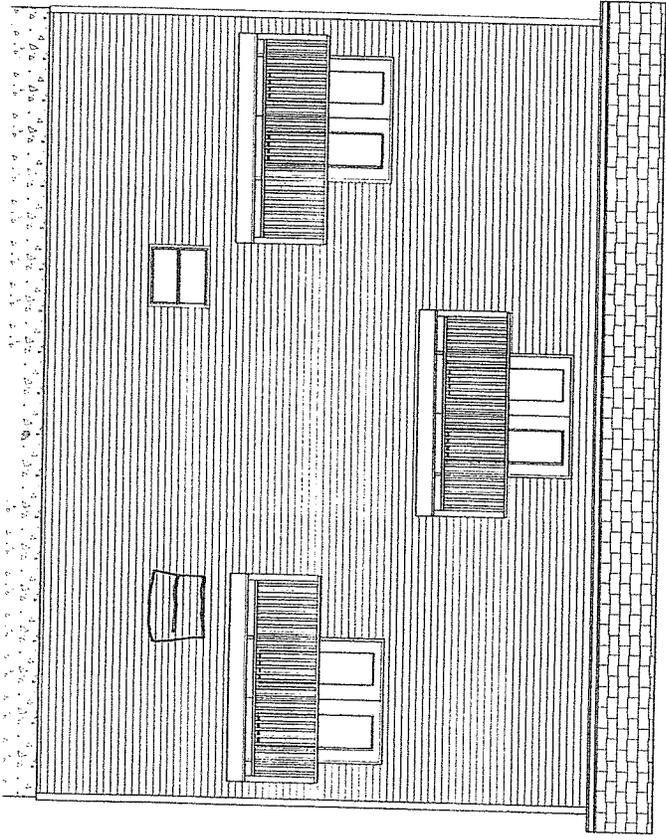
Not for Sale



LEFT ELEVATION
SCALE: 1/4" = 1'-0"

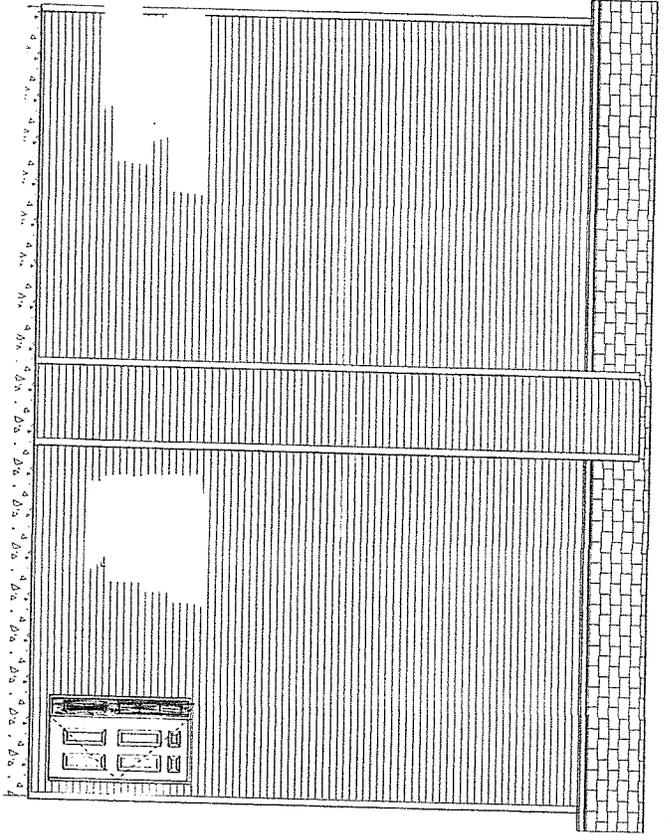


FRONT ELEVATION
SCALE: 1/4" = 1'-0"

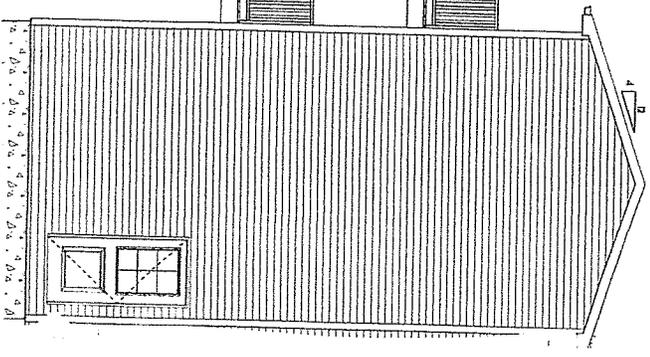


8'-11 1/2" 10 1/2" 8'-11 1/2" 10 1/2" 8'-11 1/2"

REAR ELEVATION
SCALE 1/4" = 1'



11 5/8" 8'-11 1/2" 10 1/2" 8'-11 1/2" 10 1/2" 8'-11 1/2"



8'-11 1/2" 10 1/2" 8'-11 1/2" 10 1/2" 8'-11 1/2"

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Not to scale

[Handwritten signature]

Revised:
11-16-2009
1/4" = 1'

NEW CONSTRUCTION

UV-05-13
House Plans



UV-05-13
House Built Elsewhere



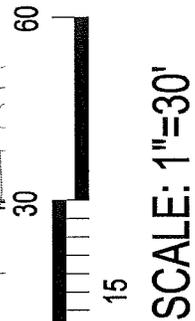
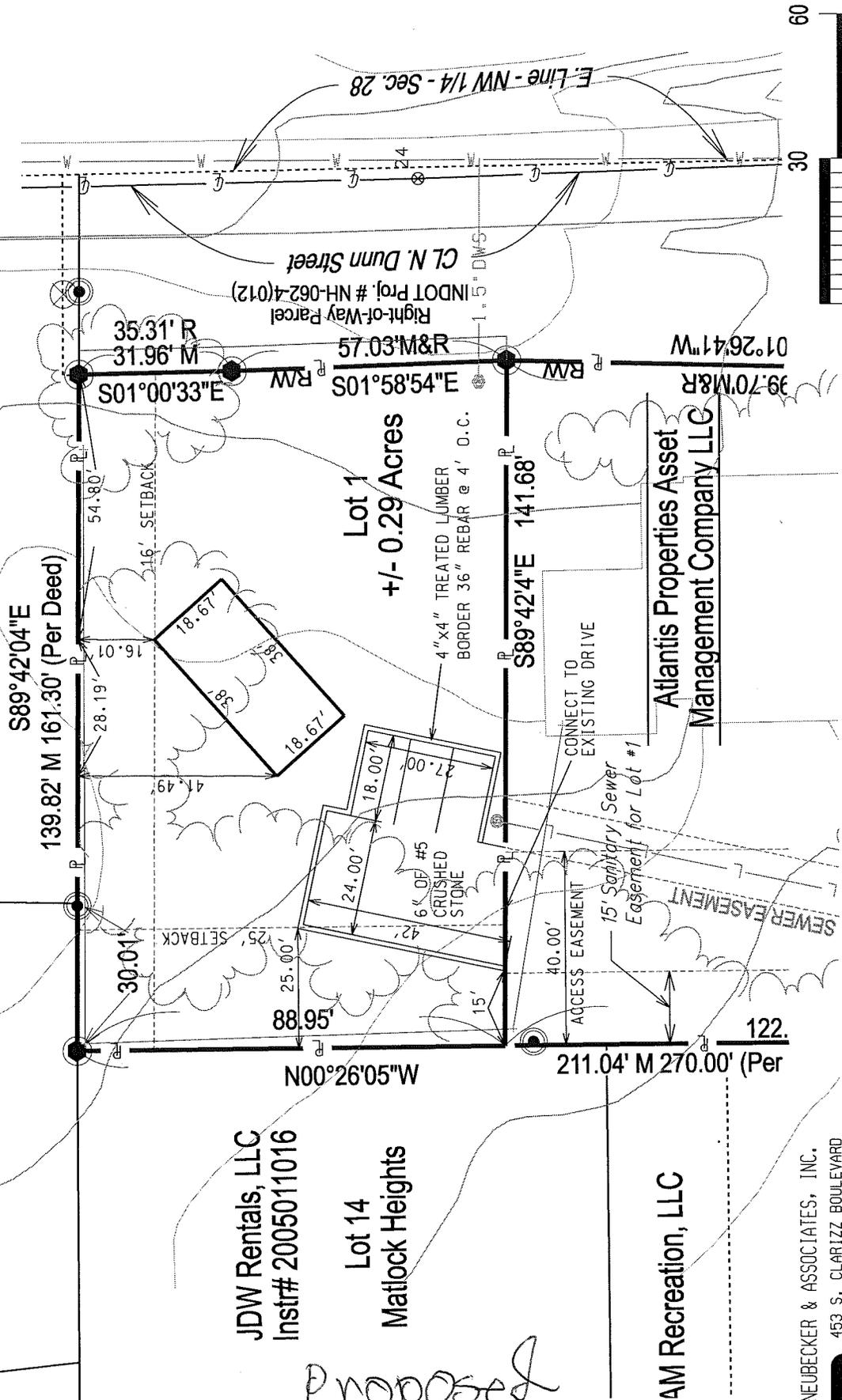
UV-05-13
House Built Elsewhere



UV-05-13
House Built Elsewhere

ECT NO.: 4401
 WN BY: RGB
 DATE: 12/12/12
 UV-05-13
 Site Plan

**PLOT PLAN FOR LOT #1
 NORTH DUNN
 2-LOT PLAT**



JDW Rentals, LLC
 Instr# 2005011016

Lot 14
 Matlock Heights

AM Recreation, LLC

Atlantis Properties Asset
 Management Company LLC

*Proposed
 Site Plan*

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



DOWN ST #1

12/7/2012

House location
on
Vacant
Lot



DRAFT ZONING COMMITMENT

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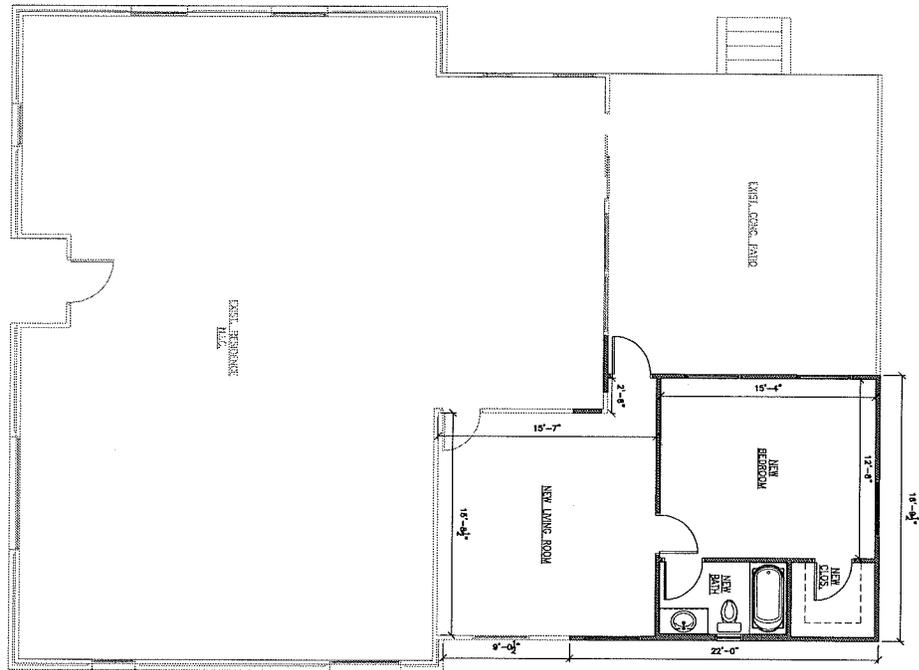
A part of the Northwest quarter of Section 28, Township 9 North, Range 1 West, in Monroe County, Indiana, bounded and described as follows, to wit: Beginning at a point that is 1013.6 feet West and 210 feet North of the Southeast corner of the said Northwest quarter; thence running North for a distance of 135 feet; thence running West for a distance of 106.25 feet; thence running South for a distance of 135 feet; thence running East for a distance of 106.25 feet, and to the place of beginning. Containing in all 0.33 acres, more or less. Whose Tax ID number is 53-05-28-200-038.000-005.

Which real estate is owned by Changing Latitudes, LLC ("Owner") pursuant to a deed recorded under Instrument #2010020365 QC in the Office of the Recorder of Monroe County, Indiana.

The Owner hereby commits, on its own behalf and on behalf of its successors and assigns, that:

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- 1. Constructing, placing, or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt, gravel or concrete pavement, road, parking lot, or other temporary or permanent structure or facility on, above or under the Real Estate;**
- 2. Mining, excavating, dredging or removing from the Real Estate of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit which would make or cause topographical changes to the Real Estate;**
- 3. Use, parking, or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Real Estate except for vehicles necessary for public safety (i.e., fire, police, ambulance, other governmental official) in carrying out their lawful duties;**

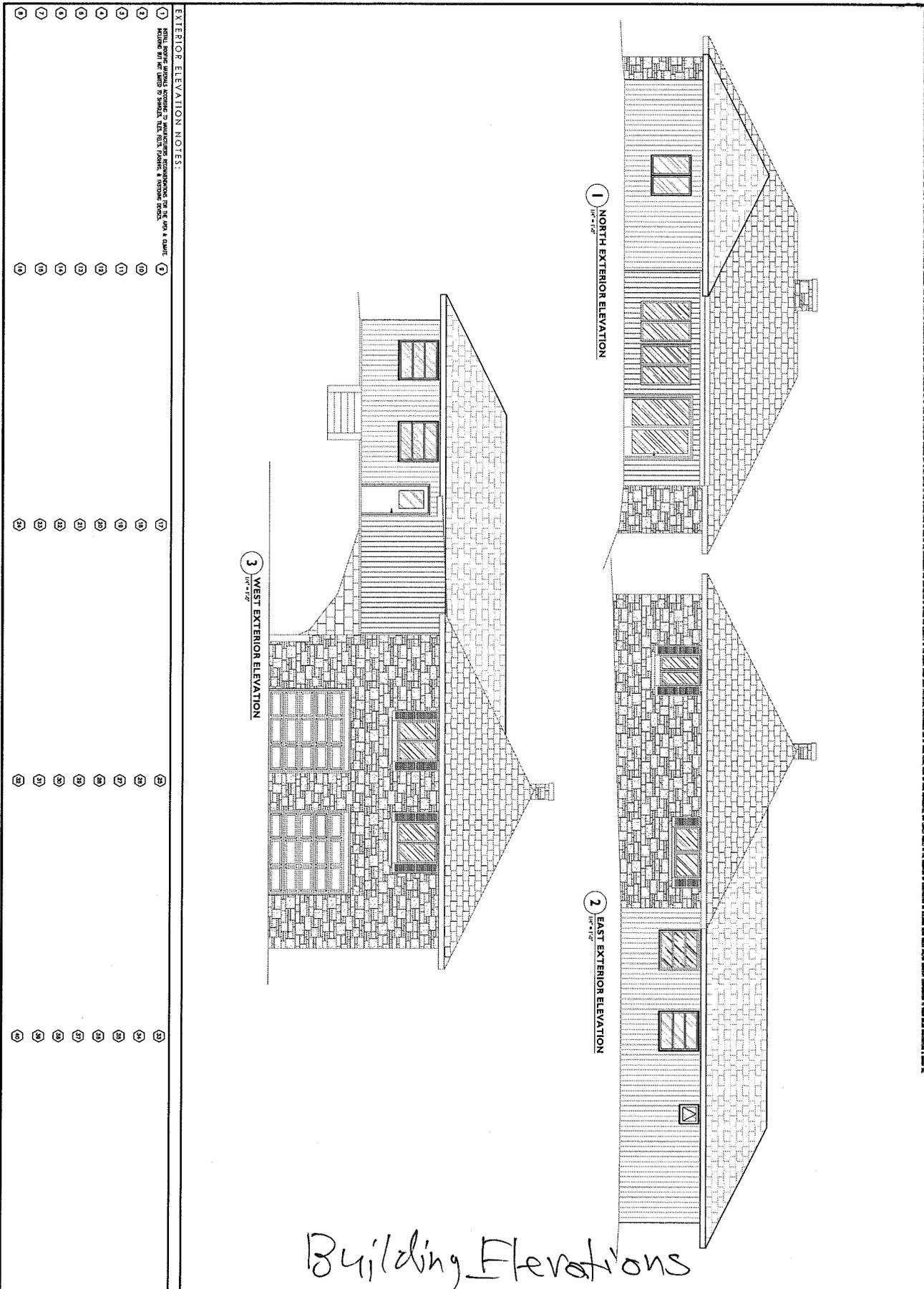


Interior Layout

8940 GLENWAYNE
 CONCEPTUAL
 ©2013 TRAVIS BRUCE ARCHITECTURE & DESIGN
 02/08/13
 1/4" = 1'-0"
FIRST FLOOR PLAN



UV-05-13
 House addition plans



EXTERIOR ELEVATION NOTES:
 1. ALL ELEVATIONS SHALL BE ACCORDING TO THE ARCHITECT'S REPRESENTATIONS FOR THE DATE & QUOTE.
 2. ALL ELEVATIONS SHALL BE ACCORDING TO THE ARCHITECT'S REPRESENTATIONS FOR THE DATE & QUOTE.
 3. ALL ELEVATIONS SHALL BE ACCORDING TO THE ARCHITECT'S REPRESENTATIONS FOR THE DATE & QUOTE.

Building Elevations

UV-05-13
 House addition plans

A NEW RENOVATION & ADDITION FOR:
BRAD GILLENWATER
 STREET
 BLOOMINGTON, INDIANA 47404

NO.	DATE	DESCRIPTION


TABOR BRUCE
 ARCHITECTURE & DESIGN, INC.
 1101 S. WALNUT STREET - BLOOMINGTON, IN
 TELEPHONE: (812) 332-4228 FACSIMILE: (812) 332-4228

PETITIONER: Val & Lynn Nolan
5751 Mahalia Way, Bloomington

CONSULTANT: Costley & Co (Julie Costley)
487 S. Clarizz Blvd, Bloomington

REQUEST: The petitioner is requesting a use variance to allow an expansion of a lawful non-conforming single family home within the Institutional (IN) zoning district.

SUMMARY: This 2 acre property is located on the east side of Fee Lane approximately 400 feet from its intersection with N. Jordan Avenue. This property is zoned Institutional (IN) and is surrounded on all sides by properties owned by Indiana University. The existing structure was built in approximately 1930 and has been used as a single family home since that time. Furthermore, the home was owner-occupied until it was initially rented in 2003. Although there is an attic area that may have been utilized at different times in the past as a bedroom, the rental application and rental permit for this structure indicated 3 bedrooms.

Upon a recent inspection by the Housing and Neighborhood Development Department (HAND), the attic area was being used a 4th bedroom. Since single family uses are not a permitted use within the IN zoning district, a use variance approval must be granted prior to the addition of any bedrooms to the structure. This request would not result in any modifications to the structure. It would legitimize the use of an attic area as a bedroom, which in all likelihood had previously been used in that manner.

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed the use variance request at their March 4, 2013 meeting. The Plan Commission voted unanimously to forward the use variance request to the BZA with a positive recommendation.

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 increasing the number of bedrooms from 3 to 4 on a 2 acres site surrounded by Indiana University properties. The proposed change is internal to the existing structure and will only have negligible impacts to

the surrounding areas as this property has a less intense land use than the surrounding area.

- (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: The use and value of the surrounding Indiana University properties will not be significantly impacted by this proposal.

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

Staff Finding: Staff finds peculiar condition in that the property has been used as a single family home since its construction and is not allowed to add bedrooms due to it being surrounded entirely by properties owned by Indiana University. It is rare to have a single privately owned property completely imbedded within the University campus. It is this situation that leads to this single family use being designated as lawful non-conforming as single family uses are not listed as permitted within Institutional zoning districts. It would not be appropriate to have this single property zoned differently than the surrounding properties.

- (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*

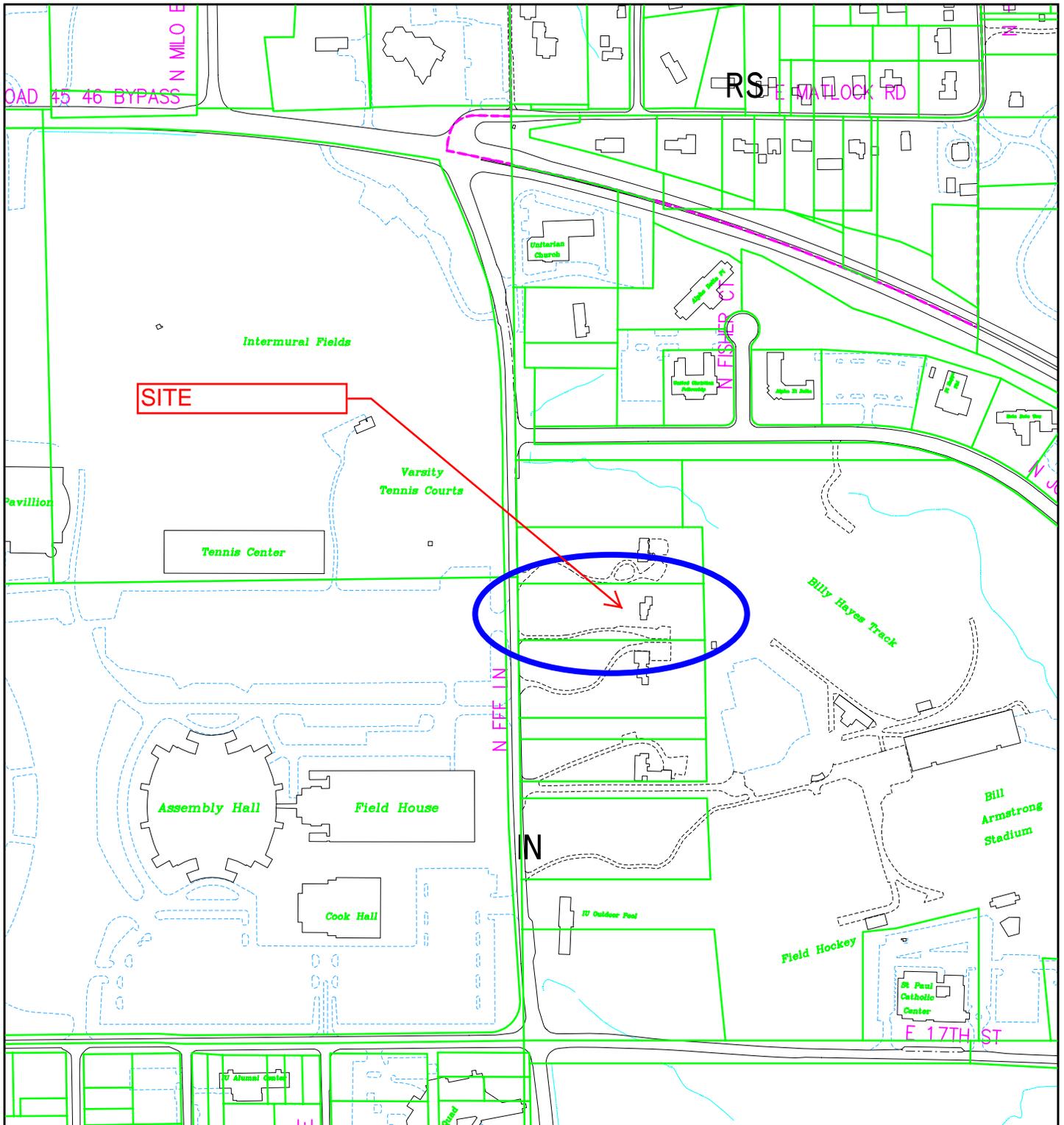
Staff Finding: The strict application of the UDO would not allow a 4th bedroom to be added to the interior of a single family home located on a 2 acre property. Staff finds this to restrict an appropriate use of the existing building that is consistent with the historic use of the property.

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

Staff Finding: The Plan Commission found that the proposed bedroom will not substantially interfere with the Growth Policies Plan (GPP). This is the only privately owned property in the immediate area. The impacts of a single bedroom on a two acre site will not significantly impact the potential of this property to be redeveloped in the future as an institutional use.

CONCLUSION: Staff finds this proposal to be a minor change to an existing structure that will have very little impact to the area. Although the Institutional zoning on the property renders this home a non-conforming use that cannot be intensified, the use of this structure as a single family home is appropriate.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of UV-6-13.

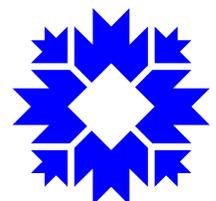


UV-6-13 Val & Lynn Nolan
 1708 N. Fee Lane
 Board of Zoning Appeals

By: shapp
 27 Feb 13



City of Bloomington
 Planning



Scale: 1" = 400'

For reference only; map information NOT warranted.

Costley & Company Rental Management, Inc.

487 S. Clarizz Blvd.
Bloomington, IN 47401
812-336-6246

MEMO

To: City of Bloomington Planning Department
From: Julie Costley, Property Manager
Re: Petition for Use of the Property at 1708 N. Fee Lane as a 4 bedroom home
Date: January 22, 2013

This property has always had 4 bedrooms and has been grandfathered for 5 unrelated adults. We feel there may have been made a miscalculation showing it as 3 bedrooms, either at the time the property was registered with HAND or upon HAND's initial inspection.

Regardless of when this occurred, we feel the property qualifies easily for a 4 bedroom rental – there are 3 separate bedrooms on the main level and another attic type bedroom on an upper level. This bedroom has heat, a closet, adequate light and ventilation, and a separate staircase leading to it (one does not have to go through a bedroom to access this bedroom).

We request that we be allowed to market the property as 4 bedrooms rather than 3.



Julie Costley, Property Manager
Agent for Val and Lyn Nolan

UV-6-13
Petitioner's Statement 1/3



ATTIC BR CLOSET



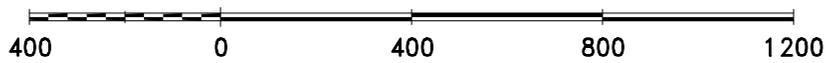
STAIRS TO ATTIC BR

ATTIC BR

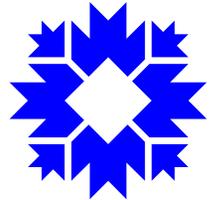


UV-6-13
Aerial Photo

By: shayp
27 Feb 13



City of Bloomington
Planning



Scale: 1" = 400'

For reference only; map information NOT warranted.

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 2424 S. Walnut Street**

**CASE #: AA-7-13
DATE: March 21, 2013**

APPELLANT: PIC Walnut Park, LLC
4101 Sierra Drive, Bloomington, 47403

CONSULTANT: John West
487 S. Clarizz Blvd., Bloomington, 47401

REQUEST: The appellant is appealing the Planning Department's decision to restrict the permitted use list for the former Marsh building located within the Walnut Park Planned Unit Development.

REPORT SUMMARY: The subject property is located on the west side of S. Walnut Street, near the northwest corner of the Walnut and Winslow Road intersection. The property is part of a Planned Unit Development created in 1981. This PUD, named Walnut Park, contains the following businesses – a Burger King restaurant, branch bank, B-shop stores, a Dollar General store, and a vacant, approximately 40,000 square foot building that used to contain a Marsh Grocery Store.

In December 2006, the appellant purchased the vacant building and associated parking area. The property was purchased at an auction based on the appellant's understanding that the vacant building could be used as if it were zoned Commercial Arterial (CA). Prior to the purchase, a member of Planning staff provided information to the appellant noting that any use in the CA zoning district would be permitted to occupy this vacant building space.

Soon after the appellant's purchase, Planning staff conducted additional research into the PUD records. During the course of this research, staff found additional information indicating that the PUD had restrictions on permitted uses. Specifically, staff determined that only the following land uses were allowed for the PUD.

- Grocery Store
- Drug Store
- Financial Establishments
- Restaurants
- Miscellaneous Retail and Office Uses
- Light Industrial or Warehousing (only allowed on industrially zoned property in a floodplain that was never developed)

The appellant clearly purchased the vacant building and parking area based on original Planning staff guidance that all 115 permitted uses listed within the CA zoning district were possibilities for a building renovation project. They were clearly disappointed with the new information provided by staff, but continued to try and lease the building to a grocery store tenant. To date, they have had no success luring grocery store franchises

such as Trader Joes or Whole Foods. Additionally, the presence of Kroger and CVS to the south has simply made it difficult to find a competitive grocery or drug store tenant.

Issue of Contention: The appellant has owned the building and parking area for seven years. The purchase of the property was based on information provided by staff that the building could be used for any permitted use allowed in the CA zoning district.

Based on further research, staff believes that the building is restricted to the uses outlined above. It is not unusual for a PUD to have a restricted land use list, but the age of the PUD (32 years) made this information difficult to determine. Staff believes that the most accurate reading of the information, which is included in the packet, is that the vacant building can only be re-used for a grocery store or be divided in a manner to be used for a drug store, bank, restaurant space, or miscellaneous retail/office uses. If miscellaneous retail/office uses are allowed, this leaves approximately 15-20 permitted uses in the CA zoning district that could not be incorporated into the vacant building without amending the PUD. An amendment to the PUD requires both Plan Commission and City Council review and takes approximately 120 days. There is a party interested in leasing the building, and if the Board finds in favor of the staff position, it is likely that the leasing of the building for this particular interested party will not occur.

Recommendation: Although staff regrets the circumstances that have led the appellant to file for this appeal, staff recommends that AA-7-13 be denied. Because it is common for PUDs to have permitted use restrictions and the record indicates that such restrictions were placed, staff believes that the uses listed in the staff report represent the legal options for the owner to re-use the vacant building.

February 20, 2013

Bloomington Plan Department/Bloomington Board of Zoning Appeals

In December 2006 PIC Walnut Park, LLC, a locally owned company, purchased the vacant Marsh property in Walnut Park on S. Walnut St. The property was purchased at an auction with the understanding it was zoned Commercial Arterial. The zoning information was provided by the Bloomington Plan Department as part of the auctioneers bid package.

On August 23, 2008, Dee Burris of PIC Walnut Park LLC met with the Plan Department staff regarding a potential user for the subject property and was informed that the CA zoning was not accurate and that a PUD existed allowing for 5 uses.

In February 2013 John West, a real estate Broker representing PIC, met with Tom Micuda and together they thoroughly went through the zoning file for the subject property. At that time we were informed that the sole approved use for the property is grocery/drug store.

PIC Walnut Park LLC and their Broker have marketed the property to many grocery store users in hopes of leasing most (if not all) of the vacant space to one user. To date we have had no success with grocery chains such as Whole Foods or Trader Joes. Since the opening of Kroger and CVS south of the subject property, there appears to be no market for large grocery or drug store users.

PIC Walnut Park LLC did its due diligence prior to purchasing the property and did so with the understanding the applicable zoning was CA which allows for many commercial uses whereby re-utilization of the existing building had merit. Limiting the uses to the current PUD makes it more likely the building will remain vacant for some time. The surrounding market is CA zoned and the subject property is not adjacent to any residential neighborhoods.

PIC Walnut Park LLC requests that the BZA consider our appeal and allow for the subject property to be zoned CA.

Thank you for your consideration of this matter.



Barbara Dee Burris, Manager
PIC Walnut Park, LLC

AA-07-13
Petitioner's Statement

Commercial Arterial (CA) District

20.02.330 Commercial Arterial (CA); District Intent

The CA (Commercial Arterial) District is intended to be used as follows:

- Identify locations for higher intensity commercial developments along major thoroughfares.
- Ensure that new developments and redevelopment opportunities incorporate a balanced mix of retail, office and multifamily residential uses.

Plan Commission/Board of Zoning Appeals Guidance:

- Site Plan design of retail centers should ensure access to all modes of transportation.
- Redevelopment and expansion of commercial uses should incorporate improvements to access management, signage, and landscaping.
- 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.

20.02.340 Commercial Arterial (CA); Permitted Uses

* Additional requirements refer to Chapter 20.05; §SC: Special Conditions Standards.

- | | | |
|--|---|---|
| <ul style="list-style-type: none"> • amusements, indoor • antique sales • apparel and shoe sales • art gallery • artist studio • arts/crafts/hobby store • assisted living facility • auto body shop* • auto parts sales • bank/credit union • banquet hall • bar/dance club • barber/beauty shop • bed and breakfast • bicycle sales/repair • billiard/arcade room • boat sales • bookstore • bowling alley • brewpub • building supply store • building trade shop • business/professional office • car wash* • cellular phone/pager services • check cashing • coin laundry • community center • computer sales • convenience store (with gas or alternative fuels) • convenience store (without gas) • copy center • country club • day care center, adult • day care center, child • department store • drive through • drugstore | <ul style="list-style-type: none"> • dry-cleaning service • dwelling, single family (detached)* • dwelling, upper floor units • equipment/party/event rental, indoor • equipment rental, outdoor • fitness center/gym • fitness/training studio • florist • furniture store • garden shop • gas station • gift shop/boutique • golf driving range, outdoor • government office • government operations (non-office) • grocery/supermarket • group care home for developmentally disabled* • group care home for mentally ill* • group/residential care home* • hardware store • health spa • home electronics/appliance sales • hotel/motel • jewelry shop • library • license branch • liquor/tobacco sales • lodge • medical care clinic, immediate • medical clinic • miniature golf • mini-warehouse facility • mortuary • museum • music/media sales • musical instrument sales • nursing/convalescent home • office supply sales • oil change facility • park • parking garage/structure | <ul style="list-style-type: none"> • pawn shop • pet grooming • pet store • photographic studio • place of worship • plant nursery/greenhouse • police, fire or rescue station • radio/TV station • recreation center • research center • restaurant • restaurant, limited service • retail, low-intensity • retail, outdoor • rooming house • school, preschool • school, primary/secondary • school, trade or business • sexually oriented business • shoe repair • skating rink • social service • sporting goods sales • tailor/seamstress shop • tanning salon • tattoo/piercing parlor • theater, indoor • transportation terminal • utility substation and transmission facility* • vehicle accessory installation • vehicle repair* • vehicle sales/rental • veterinarian clinic • video rental |
|--|---|---|

20.02.350 Commercial Arterial (CA); Conditional Uses

* Additional requirements refer to Chapter 20.05; §CU: Conditional Use Standards.

- | | | |
|--|---|---|
| <ul style="list-style-type: none"> • amusements, outdoor • communication facility* | <ul style="list-style-type: none"> • crematory • historic adaptive reuse* • homeless shelter • impound vehicle storage • kennel* | <ul style="list-style-type: none"> • manufactured home sales • rehabilitation clinic • theater, drive in |
|--|---|---|

PLAN COMMISSION
March 23, 1981
FINAL STAFF REPORT

ZO/PCD-10-81 Walnut Park Shopping Center
N. W. Corner of S. Walnut & Country Club Drive
Request for a change of zone from RL/BA to BA/ML/PCD.

Country Club/Winstlow does the same in the east/west direction. Winstlow is the most likely of three S. E. arterial routes under study, and in any event will remain a high priority for improvements.

Traffic

Both streets now operate at a good level of service. The Developer proposed to add a lane to the east side of 37, plus deceleration lanes (irregular configuration due to existing distasters). The effect will be to provide one continuous three lane southbound, plus right turn lanes at the entrances, and left turn lanes at the Walnut Street Pike and IGA entrances, and an exclusive left turn at Country Club. In addition the intersection at Walnut Street Pike will be channelized on its east leg to eliminate the virtually non-existent left turn movement onto 37.

All of the required control will be achieved by the use of a mountable concrete median, not part of the proposal but a staff recommendation due to the many accesses involved in a relatively short length.

These improvements will accommodate the center's demands without detriment to level of service and offer improvement over existing conditions, with the Developer's traffic projections.

Master Plan Compliance

The Plan, as mentioned above, supports the need for more commercial service in this corridor. On the site, open space is shown, an invalid result of the less rigorous floodplain data available in 1970. Current information proves the site to be developable.

The plan also shows the extension of College Avenue to Country Club, a concept that staff is prepared to abandon at this time.

RECOMMENDATION: Approval, on condition that:

1. Street improvements be modified to include mountable concrete median and island, and continuous decel lane between the two entrances.
2. Dimensional and parking requirements to be met.
3. Floodway clearance required before development plans approval of phases in Floodway.
4. Right-of-way dedication.
5. Sidewalk decision (build or defer, but not waive) to be made at development plan approval.

PLAN COMMISSION
March 23, 1981
FINAL STAFF REPORT

ZO/PCD-10-81 Walnut Park Shopping Center
N. W. Corner of S. Walnut & Country Club Drive
Request for a change of zone from RL/BA to BA/ML/PCD.

Proposal

A combined action:

1. Rezoning of part of the site from RL to BA and ML (part is now BA; the rest RL)
2. Approval of an outline plan for the 15.6 acre site, consisting of:
phase 1: A 45,000 sq. ft. ± supermarket, with 250 parking spaces ±, on 4.9 acres. This phase will include all street improvements, two 37 entrances and the Country Club entrance.
phase 2 a & b: Separate lots at the corner of 1.3 and 1.1 acres, for free standing buildings, such as branch financial establishment, auto related, or restaurants. These are to access from within the center, with no individual street access.
phase 2 d: 1.1 acre at the west end of the Marsh store, with phase 2 c: 2.3 acres along the west side of the parking area, to accommodate about sq. ft. of miscellaneous retail shops or office uses. This phase may, if permitted, encroach into the floodway.
phase 3: 4.4 acres of floodway between the Marsh and the Retail center, to be designated for light industrial or warehousing uses as might be permitted. This could be limited to open space uses due to floodplain considerations.

The parts of phase II are intended to be developed in any sequence.

Compatibility with surroundings

The area is predominantly non-residential, with manufacturing zoning to the west (Railroad Yard), BA to the east, and a small bit of BA to the north, with an undeveloped RL tract beyond that. To the south, the immediate "37" frontage is business, and land across Country Club is undeveloped RS.

The proposal is consistent with these surroundings.

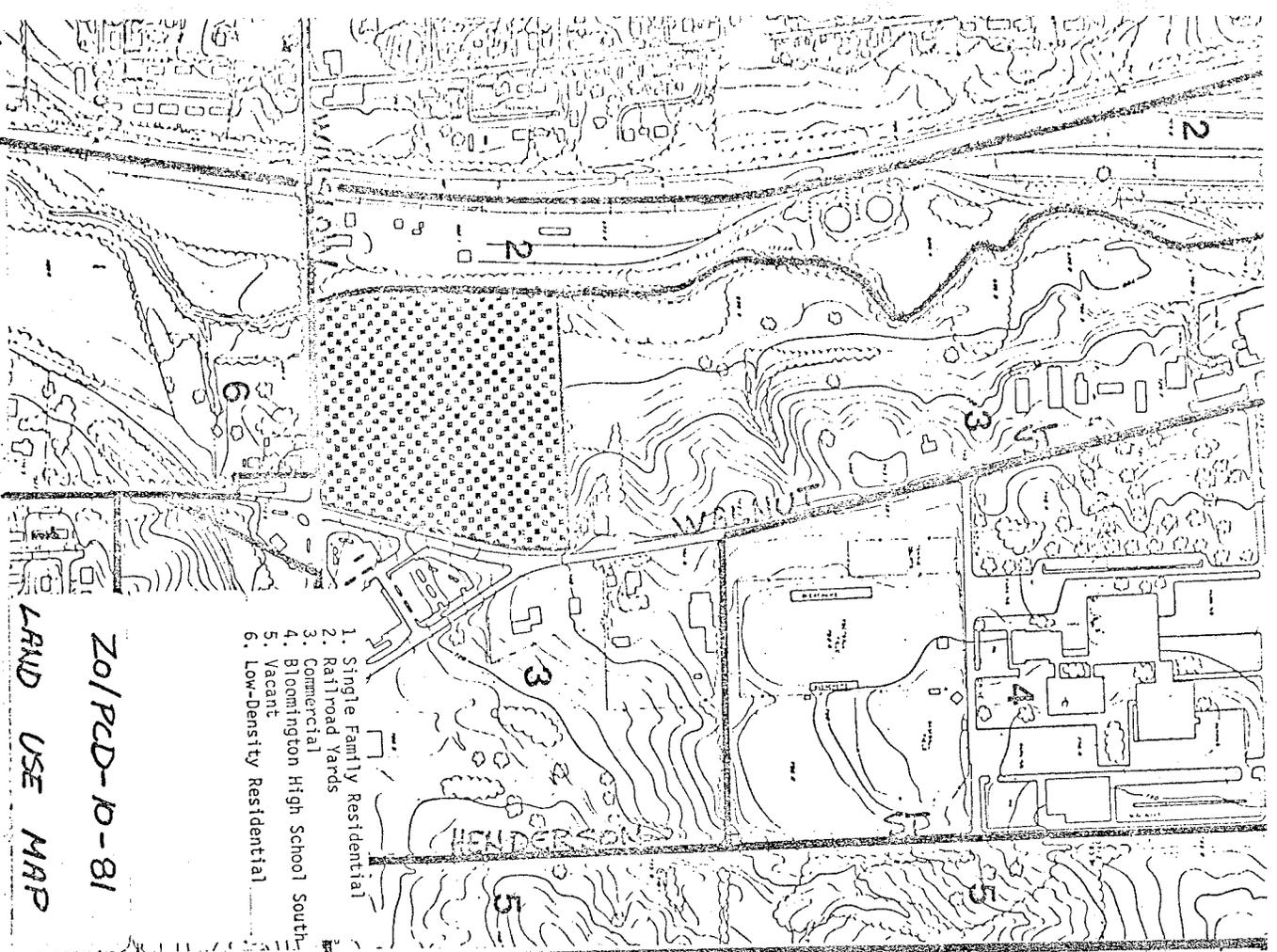
Access

The site is well located with respect to developed or developing residential areas. 37 provides good access to north and south, and has high improvement priority.

Alternative Sites: It is clear that the growing population of the southeast and south 37 areas will require new convenience retail service. Considerations should include:

- * relation to abutting uses
- * relation to primary residential trade area.
- * access from all directions.
- * impact upon existing or future traffic confection problems.

The master plan showed centers on Winstlow and Henderson where three corners are zoned business only the NE is large enough and is zoned BL on the east side of 37 midway between Winstlow and Rhorer where scattered strip development has pre-empted a large center. Not on the plan, viable possibilities also exist at Rhorer and 37, including the soon to be shut down Winstlow-Thomas sewage treatment plant.



GRODNER & FORE
 Attorneys At Law
 205 South Walnut Street
 Bloomington, Indiana 47401
 (812) 333-0081

Geoffrey M. Grodner
 Scott E. Fore

February 18, 1981

Plan Commission
 City of Bloomington
 P.O. Box 100
 Bloomington, Indiana 47402

RE: Walnut Park Development

Dear Commission Members:

Walnut Park Development proposes a rezoning and Planned Commercial Development designation on a tract of approximately 15.6 acres on the northwest corner of South Walnut Street and Country Club Drive. Approximately two (2) acres of this tract are presently zoned R₁ and the balance is zoned R₂.

The PCD will be a retail/commercial center anchored by 40,000 square foot combination supermarket and drugstore as Phase I. Phase II will be divided into four (4) sub-phases so the developer will have the flexibility to commence construction on any of the sub-phases as market conditions dictate. Phases II-A and II-B are intended as out parcels for free standing commercial uses. Phases II-C and II-D are intended as inline commercial/retail space. Phase III is intended for future light manufacturing development.

The neighborhood surrounding the site is virtually all developed for commercial and retail uses. On the north, extending several miles to the courthouse square, there is continuous commercial development on both sides of Walnut Street. To the east is a large supermarket. To the south there are a service station, flower shops and other various commercial uses, and there is only one (1) residence within sight of the proposed development. On the west there is a large flood plain, railroad tracks and several large light manufacturing businesses. The flood plain makes development under the current R₁ zoning.

Commencement of construction on Phase I is anticipated this summer. The balance of the center will be developed soon thereafter.

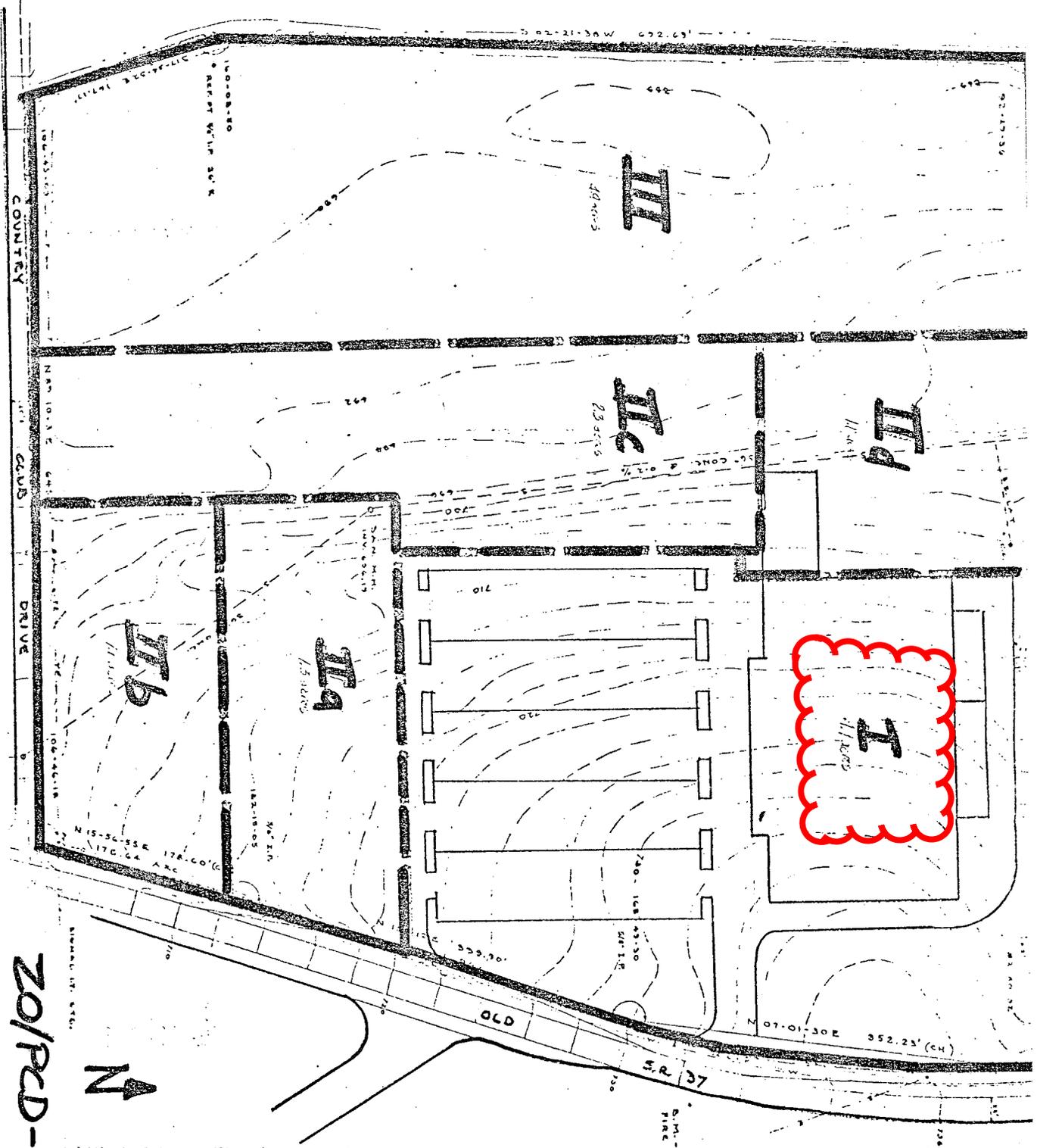
The real estate to be included in the PCD is owned by the heirs of Andrew White. Walnut Park Development holds an option from the heirs and is authorized to act as their agents in requesting this rezoning.

Sincerely,

GRODNER & FORE

Geoffrey M. Grodner
 Geoffrey M. Grodner

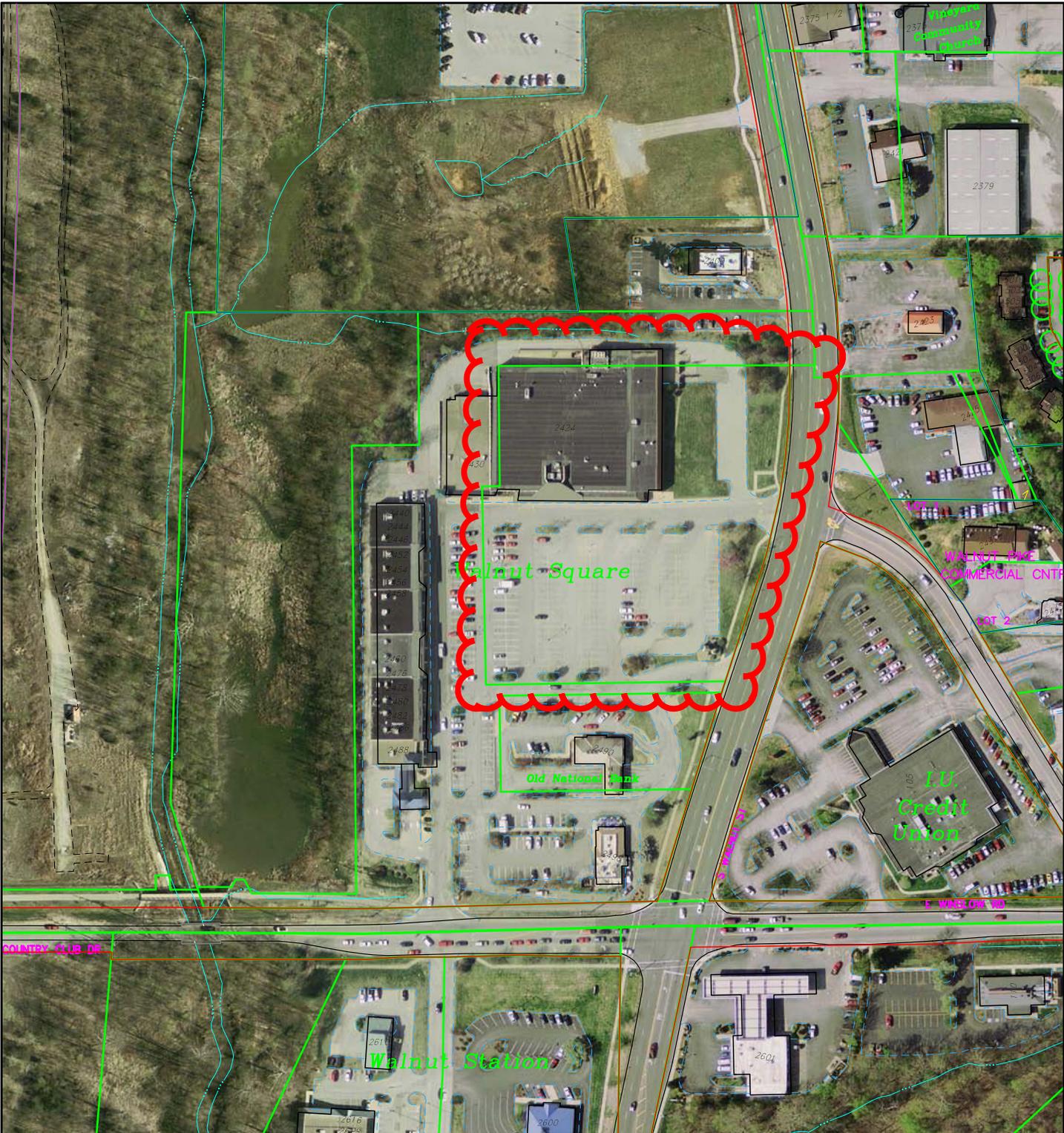
RECEIVED
 FEB 20 1981



PROPOSED OUTLINE PLAN

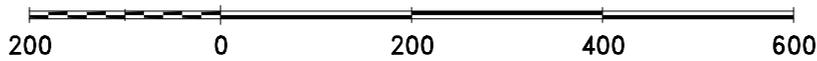
20/PCD-10-81

AA-07-13
 PUD-10-81 Outline Plan Map



AA-07-13
2011 Aerial Photo

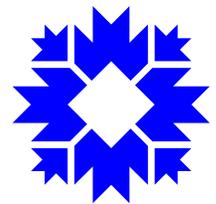
By: roachja
14 Mar 13



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 200'

PETITIONER: **Jim Regester**
 328 S Walnut St., Bloomington

REQUEST: The petitioner is requesting a variance from the maximum parking requirements.

Approved	Currently Permitted	Existing	Proposed
36	39	47	59

REPORT SUMMARY: This commercial property is located at the northwest corner of N. Gates Drive and W. Runkle Way and is zoned Commercial Arterial (CA). Surrounding land uses include an electrical service station to the north, vacant commercial property to the west, and multi-tenant commercial buildings to the east and south.

The property was approved for a 9,750 sq. ft. multi-tenant building and 36 parking spaces in 2009. The maximum permitted parking for building this size in is 39 spaces. The building is currently divided into 3 tenant spaces that include David's Bridal, Wine and Canvas, and Monarch Media. Sometime after the construction of the building, an additional 11 parking spaces were added without any permits or approvals.

The petitioner is requesting approval to add an additional 12 parking spaces to bring the total count to 59 parking spaces. The petitioner has submitted a parking study to he believes supports these additional spaces. This study however only shows an occasional need for more than the approved 36 parking spaces. At this time, Staff does not believe that enough information has been submitted to justify more than the permitted 39 parking spaces.

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's Finding: Staff finds no injury to the public health or safety, however the parking maximums were intended to limit excess parking and minimize impacts of parking.

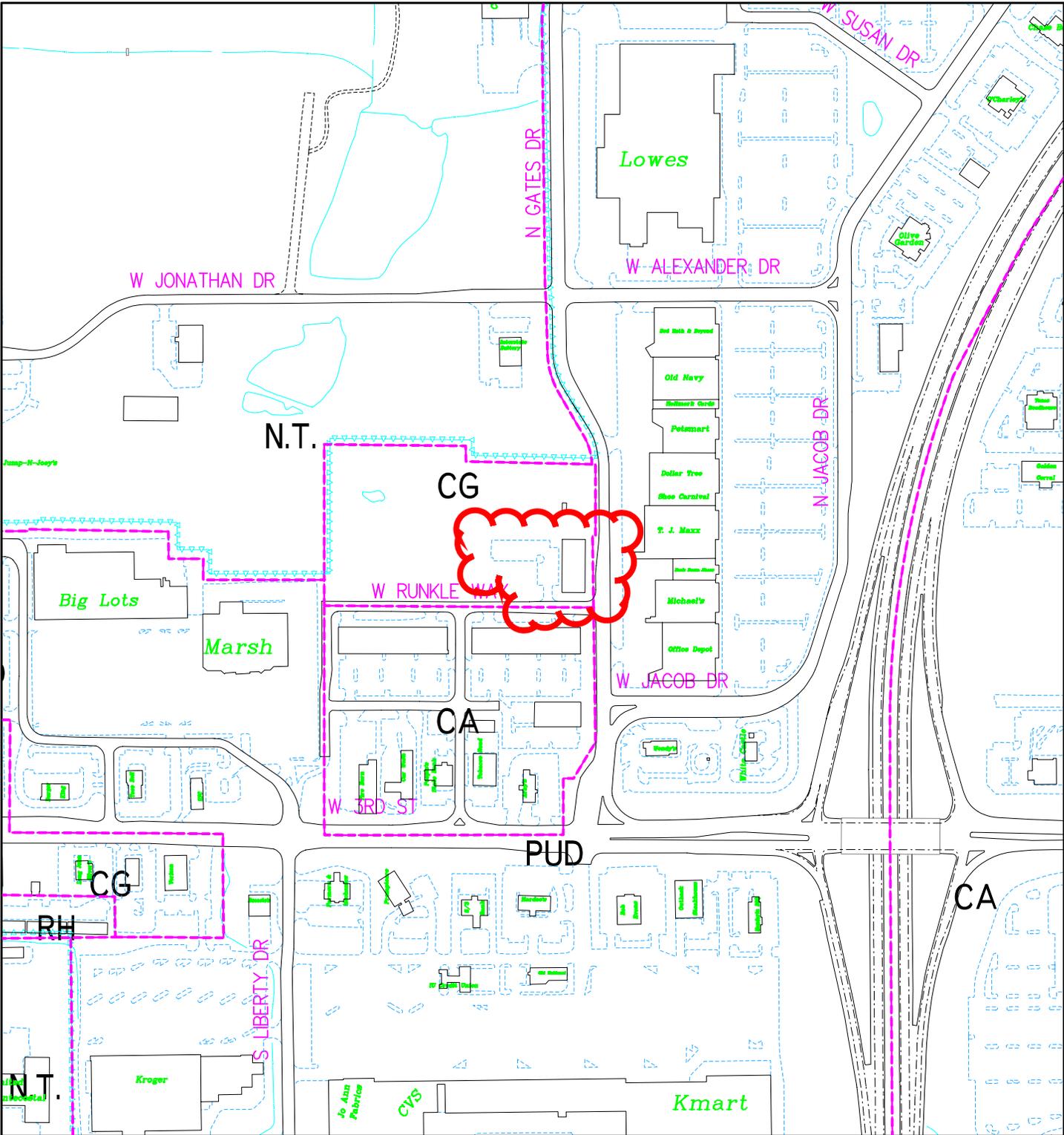
2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

Staff's Finding: Staff finds no adverse negative impacts to the adjacent properties.

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.*

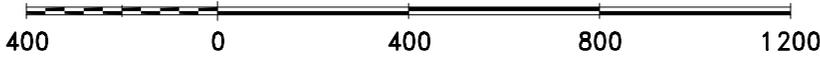
Staff's Finding: Staff finds no peculiar conditions on the property. Staff does not find any practical difficulties with the use of the property based on the limited information that has been submitted.

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

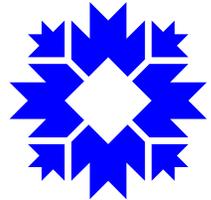


V-08-13
Location Map

By: roachja
14 Mar 13



City of Bloomington
Planning



Scale: 1" = 400'

For reference only; map information NOT warranted.

Petitioner's Statement

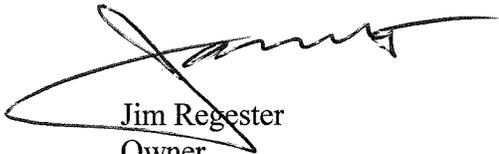
February 19, 2013

Plan Department and Board of Zoning Appeals
City of Bloomington
Bloomington IN

To Whom it May Concern,

We respectfully request approval to expand parking lot at 135 North Gates Drive by a new 11 spaces in order to meet the current demand for parking on the site. David's Bridal, Monarch Media and Wine and Canvas businesses are experiencing an overflowing parking situation at peak times resulting in a loss of business. We commit that the site will meet all current code requirements. Thank you for your consideration.

Sincerely,



Jim Regester
Owner
Regester & Blackwell, Inc

V-08-13
Petitioner's Statement

Petitioner's Statement

February 19, 2013

Plan Department and Board of Zoning Appeals
City of Bloomington
Bloomington IN

To Whom It May Concern,

We respectfully request approval to expand parking lot at 135 North Gates Drive in order to meet the current demand for parking on the site. David's Bridal, Monarch Media and Wine and Canvas businesses are experiencing an overflowing parking situation at peak times resulting in a loss of business. Both David's Bridal and Wine and Canvas are experiencing a shortage of parking depending on the day of the week and time of day. Wine and Canvas has asked for up to 10 additional spaces and David's Bridal has asked for 14 additional spaces. Each business has provided a written statement and documentation showing their customer count and appointments which are a part of this petition. Our request would add a net 11 parking spaces as shown on the submitted Site Plan. We commit that the site will meet all current code requirements, including landscaping and sidewalk extension.

On behalf of Monarch Media, David's Bridal and Wine and Canvas, I thank you for your consideration.

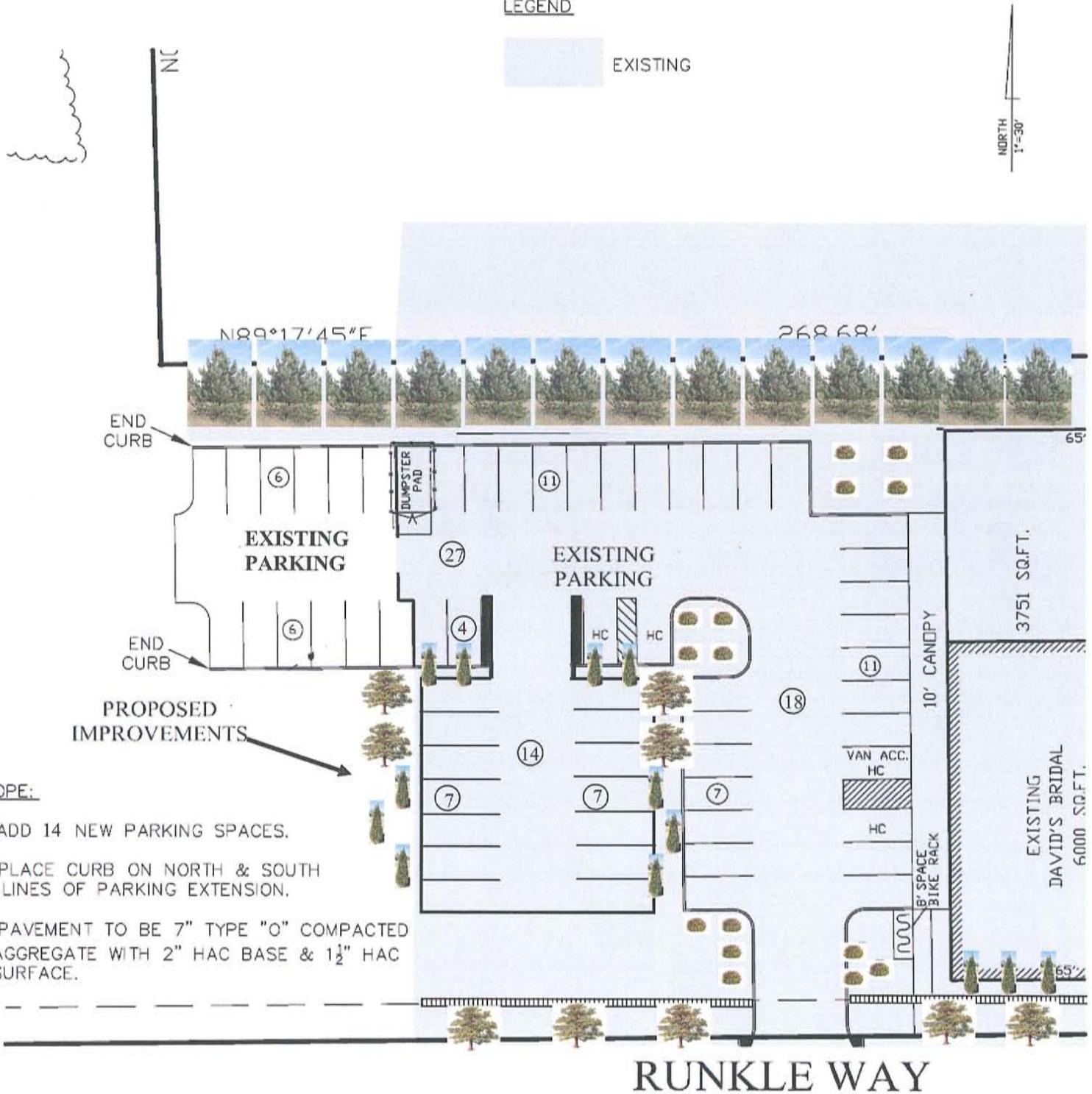
Sincerely,

Jim Regester
Owner
135 North Gates Drive

LOT 8 WHITEHALL PARK PARKING LOT IMPROVEMENTS

LEGEND

EXISTING



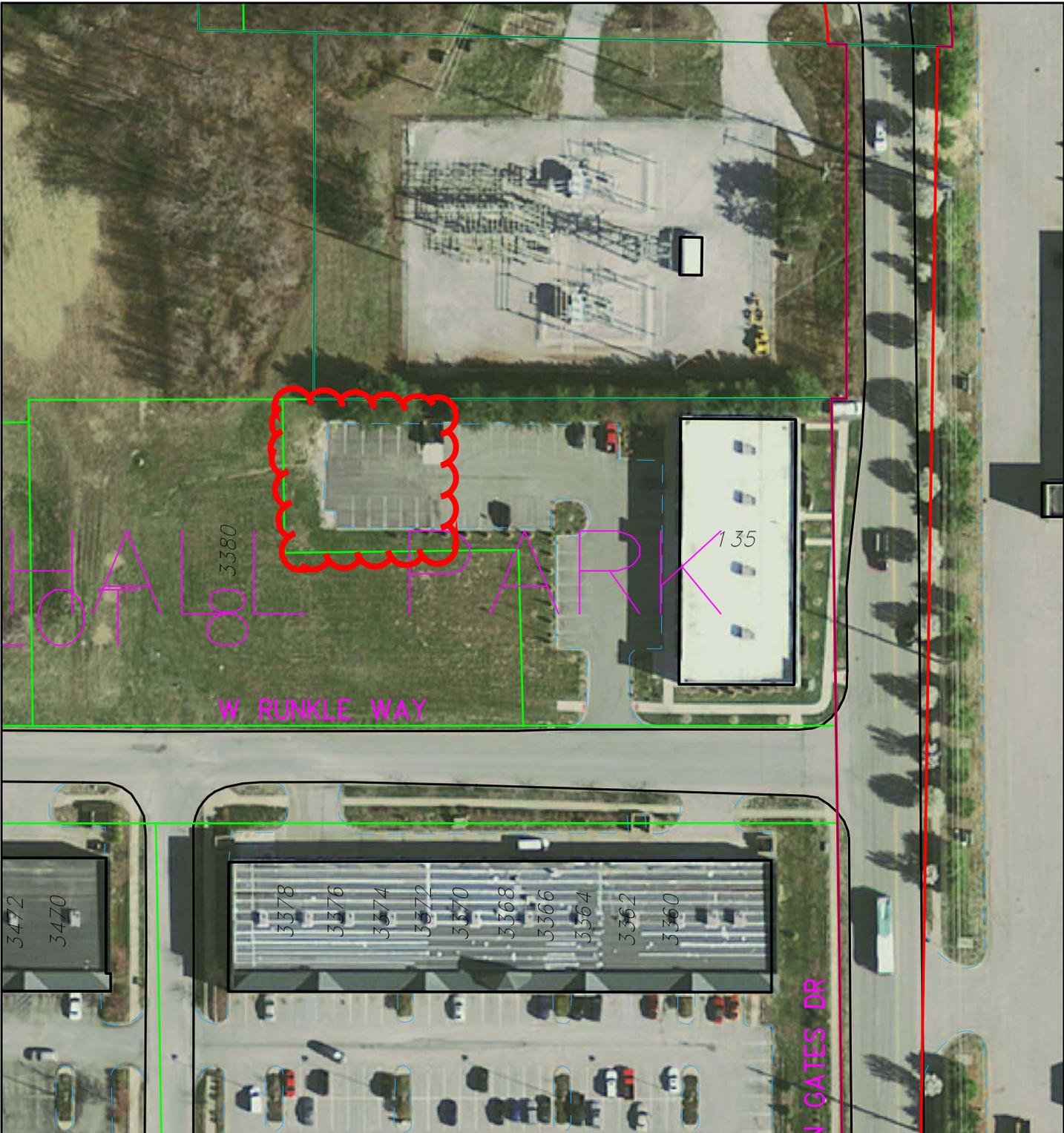
PROPOSED IMPROVEMENTS

SCOPE:

1. ADD 14 NEW PARKING SPACES.
2. PLACE CURB ON NORTH & SOUTH LINES OF PARKING EXTENSION.
3. PAVEMENT TO BE 7" TYPE "O" COMPACTED AGGREGATE WITH 2" HAC BASE & 1½" HAC SURFACE.

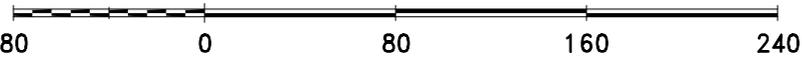
Small Shrub
V-08-13
 Proposed Parking

Arborvitae



V-08-13
 2011 Aerial Photo
 11 added spaces highlighted

By: roachja
 14 Mar 13



City of Bloomington
 Planning



Scale: 1" = 80'

For reference only; map information NOT warranted.



V-08-13
Existing Building

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 4501 E. 3rd Street

CASE #: V-12-13
DATE: March 21, 2013

PETITIONER: Renaissance Rentals
1300 N. Walnut St., Bloomington IN 47404

CONSULTANT: Smith Neubecker & Assoc., Inc.
435 S. Clarizz Blvd., Bloomington, IN 47401

REQUEST: The petitioner is requesting a variance from architectural standards for a mixed-use project consisting of 76 motel units and 152 residential apartment units among 11 buildings. All residential apartment units are one-bedroom.

REPORT SUMMARY: This 6.23-acre property is located at the northwest corner of E. 3rd Street and Morningside Drive and has been developed with four motel buildings, a lobby building, and an outdoor pool. The property is zoned Commercial Arterial (CA). Surrounding land uses include indoor amusement, veterinarian clinic, and office to the east, a restaurant and vacant land to the south, multifamily to the north, and convenience store with gas station and multi-family to the west.

The Plan Commission approved a site plan to remove all of the existing motel buildings except for the lobby building and construct 11 three-story mixed-use buildings at their March 4, 2013 meeting under SP-06-13. The first floors will consist of 76 total motel units. The second and third floors will consist of 152 one-bedroom apartments, which could be used as motel units during the summer months. A total of 186 surface parking spaces are proposed on the site. In addition, 25 parallel parking spaces are proposed on Morningside Drive. A new 5'-wide concrete sidewalk and tree plots will be installed along 3rd St. and Morningside Dr. as required. A compliant landscape plan will be installed. A new outdoor pool is also being proposed.

A variance is requested from exterior façade architectural standards and from primary pedestrian entry standards. The Unified Development Ordinance (UDO) states that within the CA and other commercial and industrial zoning districts, building façades visible from a primary arterial or freeway/expressway must meet particular architectural standards. The proposed buildings do not meet the exterior façade standards or the primary pedestrian entry standards.

Building facades visible from E. 3rd St, a primary arterial, may not have a blank uninterrupted length exceeding 40 feet without including at least three of the following design elements:

- (A) Awning or canopy;
- (B) Change in building façade height (minimum 5 feet of difference);
- (C) A regular pattern of transparent glass which shall comprise a minimum of 50% of the total wall/façade area of the first floor faced/elevation facing a street;

(D) Wall elevation recesses and/or projections, the depth of which shall be at least 3% of the horizontal width of the building façade.

The proposed façade elevations meet the wall recess/projection requirement but do not meet any of the others. Although awnings are proposed over some of the windows, they are more than forty feet apart. Placing awnings over all proposed windows would meet this standard. However, the petitioner believes that this would result in a less attractive façade.

The building façade height change is written to require a change in total building height from ground to roof peak looking at an elevation view of the building. The petitioner has proposed gabled roofs on the façade projections to meet the intent of this design element. However, these do not extend over the ridge line of the main roof and, therefore, do not meet the standard.

The transparent glass design element is meant to encourage storefront glass for a retail, restaurant, or similar use. Fifty percent transparent glass on the first floor would not be appropriate for a motel use. This standard does not properly anticipate this quasi-residential use. The proposed architecture includes six first floor transparent windows. However, they make up less than 50% of the total façade area.

The primary pedestrian entrance requirement anticipates a single grand entrance into a building rather than the individual entry doors typical with motel uses. A street front entrance to a common room is proposed, and the entrance includes several architectural details which highlight the entry.

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: Staff finds that the variance will not negatively affect the public health, safety, morals, or general welfare of the community. The proposed architectural meets the intent of the standards and will present an aesthetically appealing front to the public from surrounding streets.

- 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.*

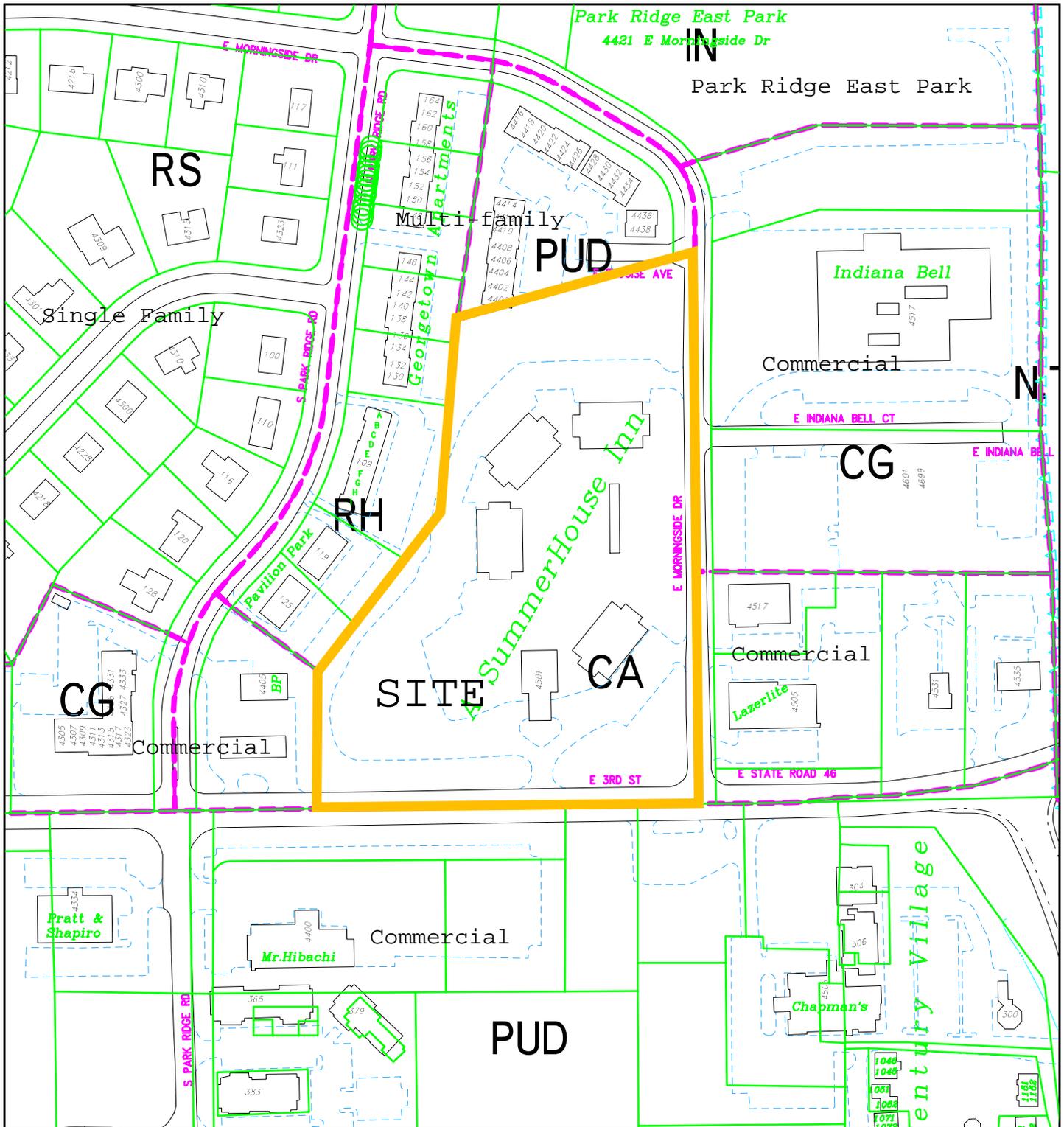
STAFF FINDING: Staff finds no adverse impacts to the use and value of the surrounding area associated with the proposed variance. The petitioner has proposed trellis elements over the pedestrian paths leading onto the property which will create attractive viewsheds into the property from the higher vantage point of E.

3rd St. The proposed use is permitted in the CA district and similar to the existing motel use. Additionally, it meets density and all other zoning standards.

- 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.*

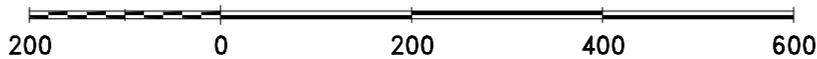
STAFF FINDING: Staff finds peculiar condition in that the proposed buildings are mixed-use, with motel units on the first floor and flexible apartment or motel units on the second and third floors. The arterial architectural standards were written with retail, office, or restaurant type uses in mind. The strict application of the UDO results in practical difficulty because the architectural standards would be unattractive or inappropriate on this building type. The majority of the architectural standards are met with this proposal, and the petitioner has met the overall intent of these standards.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of this petition, subject to the terms and conditions of Plan Commission case SP-06-13.



V-12-13
 4501 E. 3rd St.
 Summerhouse Inn
 Zoning and Land Use Map

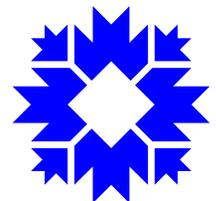
By: bannok
 10 Jan 13



For reference only; map information NOT warranted.



City of Bloomington
 Planning



Scale: 1" = 200'



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

Petitioner's Statement

Location

The project is located at the existing Summerhouse Inn hotel site at 4501 E. 3rd Street at the NWC of E. 3rd Street and Morningside Drive.

Zoning

The site is zoned CA (Commercial Arterial). Adjacent zoning to the west is CA, Northwest is RH, North is PUD, Northeast is CG and East is CA.

Existing Use

The site's existing use is a motel. There are 4 buildings with 24 units for a total of 96 units. There is also an office building, pool and maintenance building on site.

Proposed Use

The proposed use will continue to be motel on the first floor. With development of new buildings on site, first floor motel units will total 76 units. Residential units on the 2nd and 3rd floor of each building will total 152. The total number of units, both residential and motel on site will be 228.

Variance Request

Variances to 20.05.015 AG-01 (Architectural Standards; General) will be required. More specifically Section (2) Exterior Facades requirements A, B and C.

(A) Awning or canopy;

Awnings are shown over the windows on the 3 story façade projections, but are not shown on all of the windows along the façade. The proposed elevation is close to the requirement.

(B) Change in faced height;

The building was designed to meet the intent of the change in façade height. The gabled roof on the façade projection extends above the ceiling line of the 3rd floor but does not extend above the ridge line of the main roof. Extending the gable above the ridge line creates an unbalanced look to the building elevation. We believe that the proposed elevation meets the intent, given the

V-12-13



Stephen L. Smith, P.E., L.S.
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building type. The ordinance appears to contemplate a flat roof building with a parapet and not one with a gabled roof.

- (C) A regular pattern of transparent glass;
The proposed elevation does not meet this requirement. Complying with this requirement would result in a doorway or glass storefront in the bedroom area of the first floor motel unit. We do not feel that this is appropriate for a motel with a bedroom adjacent to 3rd Street. We believe that this requirement of the ordinance contemplates a commercial first floor use and not a motel use.

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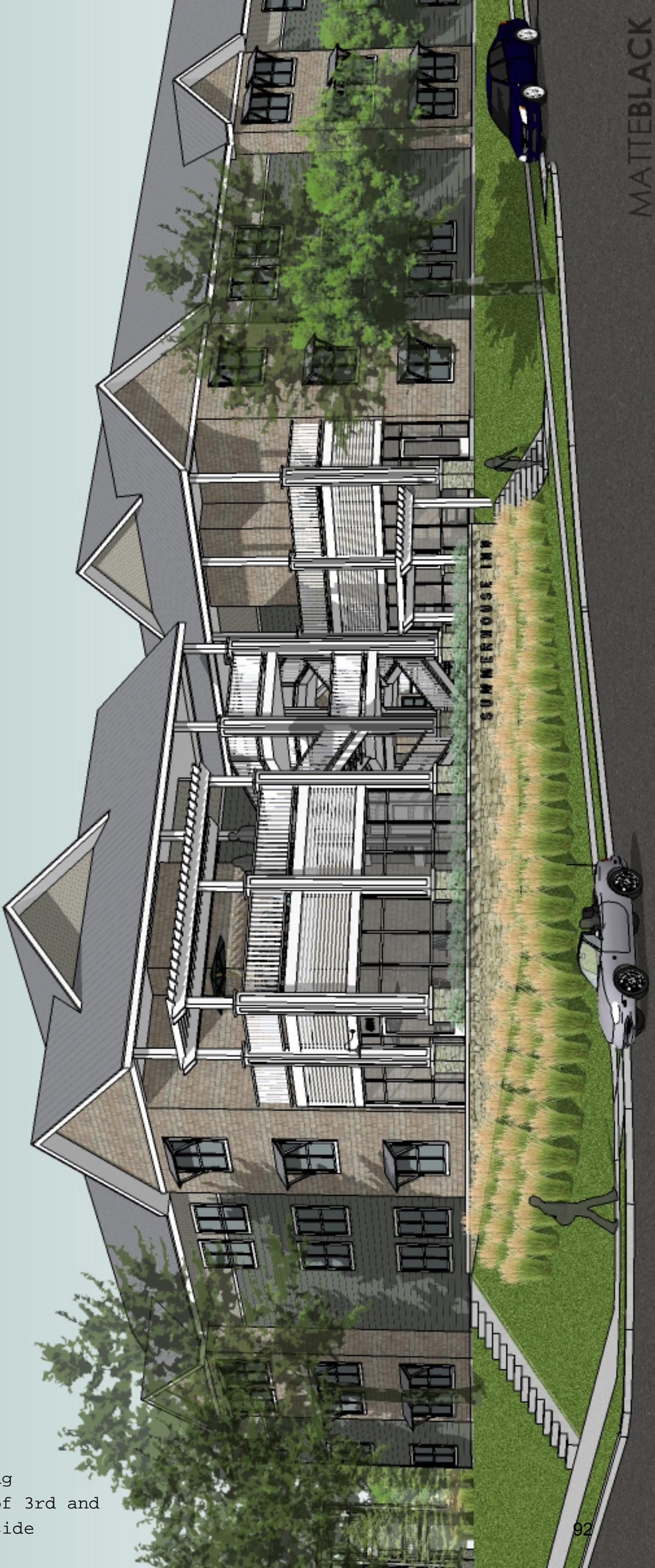


9 TYPICAL 3RD STREET FACADE

V-12-13
Rendering
E. 3rd Street



MATTEBLACK
ARCHITECTURE



V-12-13
Rendering
Corner of 3rd and
Morningside

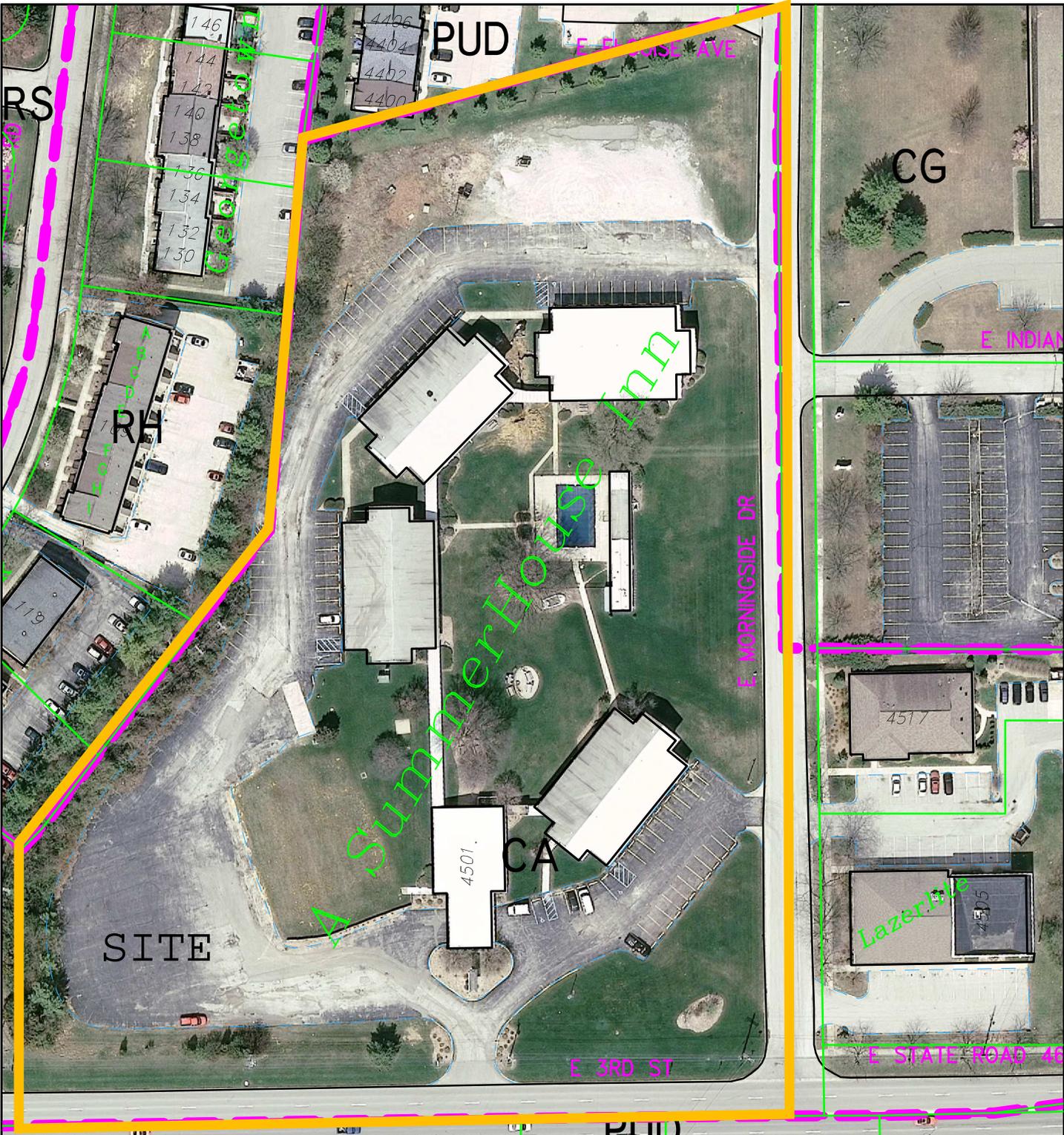


V-12-13
Rendering
Morningside Drive



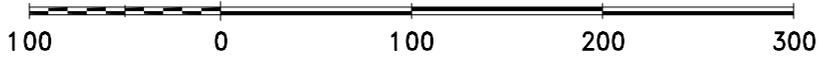
V-12-13
Rendering
Morningside Drive



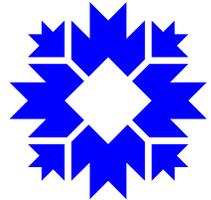


V-12-13
 4501 E. 3rd St.
 Summerhouse Inn
 2010 Aerial Photograph

By: bannok
 26 Feb 13



City of Bloomington
 Planning



Scale: 1" = 100'

For reference only; map information NOT warranted.