

CITY OF BLOOMINGTON



**FEBRUARY 19, 2015 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL**

- UV-2-15 **Innovative Surgical Designs**
3903 S. Walnut St.
Request: Use variance to allow light industrial use in the Commercial Arterial (CA) zoning district.
Case Manager: Jim Roach

- V-5-15 **Yaling Huang**
1801 E. Hillside Dr.
Request: Variance from maximum height standards for a fence.
Case Manager: Jim Roach

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 1410 N. Walnut St.

CASE #: V-40-14
DATE: February 19, 2015

PETITIONER: Motels of Bloomington, LLC (Home 2 Suites by Hilton)
 1220 Brookville Way

CONSULTANT: Angela Parker
 116 W 6th Street, Bloomington, IN

REQUEST: The petitioner is requesting a variance from front, side, and rear parking setbacks, entrance and drive standards, and height standards to allow the construction of a 107 room hotel.

	Required	Proposed
Front Parking Setback	20' behind building	45' from property line
Side Yard Parking Setback	30'	7'-15'
Rear Yard Parking Setback	30'	7'-15'
Entrance Setback	100'	75'
Driveway Angle	>45 degrees	Parallel
Building Height	50'	67'

BACKGROUND:

Area: 2.2 acres
Current Zoning: CA
GPP Designation: Community Activity Center
Existing Land Use: Vacant
Proposed Land Use: Hotel
Surrounding Uses: North – Single and Multifamily residences
 West – Miller Showers Park
 East – Single and Multifamily residences
 South – Restaurant

SUMMARY: The property is located at 1410 N. Walnut St. and is zoned Commercial Arterial (CA). There is a surface parking lot on the property that was associated with the former restaurant use. This parking is accessed from drivecuts on both E. 17th St. and N. Walnut St. There is a low quality vegetated fence row along the perimeter of the property with one higher quality mature tree. There are no other known environmental features on the site. The property slopes downward from east to west with approximately 22' of elevation change from the southeast corner to the northwest corner of the site. This elevation change presents a challenge for site redevelopment. An additional challenge for development occurs because the corner property at the intersection of 17th and Walnut Streets is in separate ownership and has not been aggregated for the petition. The Plan Commission voted 6-0 at the February 9, 2015 meeting to approve the proposed site plan approval (SP-32-14) contingent upon BZA approval of the requested variances.

The petitioner is proposing to construct a new 66,000 sq. ft. hotel on the property with 107 rooms and 107 parking spaces. The location of the existing drive cut on 17th St. is proposed to remain in its current location. The curb ramps adjacent to the drive cut will be brought into compliance with ADA standards. The existing drive cuts on Walnut St. will be removed and one new drive cut will be installed further north. A new 5' wide concrete sidewalk and tree plot is required along the property frontage on Walnut St. and has been shown on the site plan. There is an existing monolithic sidewalk along the north side of 17th St. that extends across this property. The petitioner is proposing to utilize permeable pavers for the parking spaces and asphalt for the drive aisles in order to meet maximum impervious surface requirements. Stormwater will be directed to Miller Showers Park on the west side of Walnut St.

The petitioner is requesting the following variances as part of this project:

- 1) **Front Yard Parking Setback**- Due to the shape of the property, the location of the proposed hotel, and the fact that the corner property is not part of this petition site, there is a portion of the proposed parking area that is not located 20' behind the front of the hotel along 17th St. The parking area will be 45' from the property line along 17th St. and almost 60' from the edge of pavement.
- 2) **Side and Rear Yard Parking Setback**- The required parking setback is 30' from the side and rear property lines. The petitioner is requesting a variance to allow a side and rear parking setback ranging from 7' to 15'.
- 3) **Entrance and Drive Standards**-
 - a. **Driveway Setback**: The property is required to have 100' between adjacent driveways and the petitioner is requesting to allow the drive cut on 17th St. to be reused in its current location.
 - b. **Driveway less than 45 degrees from parallel**: The UDO prohibits an entrance or drive to be less than 45 degrees from parallel to the adjacent street right-of-way. The petitioner is requesting a variance to allow a portion of the driveway to be parallel to the street to access adjacent parking aisles.
- 4) **Height Standards**- The UDO has a 50' height limit in this zoning district. As a combined result of increasing the amount of building wall façade along Walnut St., to provide a pedestrian entrance and the lighted tower elements at each corner, the proposed building is approximately 67' tall.

SITE PLAN ISSUES:

Architecture/Design: The hotel will have brick, stacked stone, and limestone finish along all four sides with sections of EIFS along the horizontal and vertical accent bands. This property's elevated location along Walnut St. makes the proposed building highly visible from Walnut St, as well as from College Ave. across Miller Showers Park. The main entrance for guests is on the east side of the building adjacent to the parking area. A second entrance for pedestrians is located on the west side of the building adjacent to Walnut St. As a result of the grade change across the site and in order to avoid creating a large retaining wall along the street level frontage, the petitioner has extended the façade of the building to the same elevation as Walnut Street. However, in order to

minimize the amount of excavation of bedrock, half of the ground floor façade does not have useable space behind it. Those portions of the ground floor, north of the entrance, will utilize spandrel glass in place of window void. From the entrance on Walnut St, there will be an internal hallway and plaza/seating area with large windows along the area south of the entrance that connects to the internal elevators. This extended façade and Walnut Street streetscape were thoroughly discussed during the Plan Commission hearings to arrive at the current proposal. The Plan Commission found a building façade that extended to the same level as Walnut Street highly desired to achieve a more pedestrian friendly design that complimented the street. The increase in overall height of the building as a result of the extended façade was not seen as a negative impact to the project.

The petitioner has submitted elevations for all four sides of the building. These elevations have been included in the packet. The building will be finished with brick and limestone with sections of EIFS for accent. The roof will be flat with a raised parapet to hide mechanicals. As mentioned, additional details have been added to provide more modulation along the façade. In addition, the extension of the parapet and new awnings would allow the building to meet the architecture requirements of the UDO. The location of the pedestrian entrance in the center of the building and detailing around the entrance help make this a prominent feature of the building. The increased modulation between the walls and extended parapet break up the massing of the building and create distinct features as required by the UDO.

Access: As previously mentioned, the property would be accessed by the current drive cut on 17th St and one new drive cut on Walnut St. There are 2 existing drive cuts on Walnut St. that will be removed and replaced with a new drive cut located further north. The existing drive cut on 17th St. does not meet the required 100' separation from the existing drive cut for the apartments to the east. However, it has been located as far from that driveway as possible to still meet the 150' separation from the Walnut St. intersection. The Fire Department has expressed support for the second entrance on 17th Street as it provides an additional emergency access point from a separate street frontage.

Landscaping: With the construction of the new building and parking area, the property would be required to meet all landscaping requirements. The petitioner has submitted a landscape plan that closely meets UDO requirements, however minor adjustments are still needed. A condition of approval has been included that the petitioner will continue to work with staff to revise the landscape plan. The petitioner is proposing to utilize permeable pavers for the parking spaces to improve stormwater quality and meet impervious surface coverage requirements. Street trees are required not more than 40' from center along both street frontages and have been shown on the proposed landscape plan.

Parking: The UDO allows for a maximum of one parking space per lodging room for a maximum of 107 parking spaces. The petitioner has shown 107 parking spaces for this site. Since the property is zoned Commercial Arterial and the adjacent properties to the east are zoned Residential High-Density Multifamily (RH), the base setback for parking is 15' from side and rear property lines. However, this setback is increased an additional 15' as part of the buffer requirements of the landscape ordinance. This buffer also

requires a row of coniferous and deciduous trees. The petitioner is able to install the plantings within the setback as shown on the landscape plan and is only seeking a variance from the required 30' parking setback requirement from the side and rear property lines. To mitigate the lack of distance that would be provided by the required 30' setback, the petitioner has agreed to install an 8' tall privacy fence along the property lines adjacent to the RH zoned properties. This proposal of installing a privacy fence to mitigate the lack of physical separation in a required buffer yard has been considered with other past variance approvals.

Pedestrian Facilities: A new 5' wide concrete sidewalk and tree plot is required along the property frontage on Walnut St. and has been shown on the site plan. There is an existing monolithic sidewalk along the north side of 17th St. that extends across this property and stretches from the intersection of Walnut St. to Dunn St. to the east. The sidewalk along 17th Street could be replaced and provide separation. Given the adjacent topography and existing street trees, Staff finds it is more reasonable and consistent with adjacent properties to maintain the current configuration. There will be improvements to the sidewalk ramps at the drive cut to bring them into compliance with ADA standards. New street trees not more than 40' from center will be installed behind the sidewalk along 17th St.

Signage: No sign package has been reviewed with this request. Any signage must meet all requirements of the Unified Development Ordinance.

Utilities: There is adequate water and sewer service along Walnut and 17th St. Stormwater drainage will be directed to the Miller Showers Park immediately adjacent to the site. A utility plan has been submitted to the Utilities Department and is under review. No problems have been identified with the proposed utility lines and connections. Final approval from CBU is required prior to issuance of a grading permit.

Lighting: The lighted tower elements must be designed to meet all lighting requirements of the UDO.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

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

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

STAFF FINDING:

Front Parking Setback: The granting of a variance from this standard will not be injurious to the public health, safety, morals or general welfare of the community. The setback for the parking area has been placed 45' from the property line and almost 60' from the edge of pavement along 17th St.

Side and Rear Parking Setback: The granting of the variances from these

standards will not be injurious to the public health, safety, morals, or general welfare of the community. The setbacks for the parking areas have been maximized to the extent practical and a fence has been included to separate the uses and reduce impacts on the adjacent properties.

Entrance and Drive: The granting of the variances from these standards will not be injurious to the public health, safety, morals, or general welfare of the community. The location of the proposed driveway on 17th St. is in the same location as the current driveway and meets the setback requirement from the Walnut Street intersection. Furthermore this location maximizes line of sight distance to the crest of the hill to the east on 17th St. The presence of a drivecut on 17th St. increases public safety by providing a second means of access to the property for emergency vehicles, rather than having to use a sole access point along Walnut St. The placement of a small section of the driveway that is less than 45 degrees will not be injurious to the public health, safety, morals, and general welfare of the community. The intent of the 45 degree restriction was to prohibit buildings with drive thru's that circulate around buildings rather than achieving a building forward design. This proposal would only add a small section of drive to the front of the property.

Maximum Height: The granting of the variance from the standards will not be injurious to the public health, safety, morals, or general welfare of the community. The majority of the additional height of the building was a factor of extending the ground floor to the same elevation as Walnut St. to provide the most ideal access point for pedestrians.

- 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:

Front Parking Setback: Staff finds no negative effects from this proposal on the use and value of the areas adjacent to the property as a result of the reduced front parking setback. As mentioned previously, the setback for the parking area has been placed 45' from the property line and almost 60' from the edge of pavement along 17th St. The parking area along 17th St. has setback equal to or greater than the distance that would be required if a building were constructed at the 15' setback line and with parking 20' behind.

Side and Rear Parking Setback: Staff finds no negative effects from this proposal on the use and value of the areas adjacent to the property as a result of the reduced side and rear parking setbacks. The setbacks for the parking areas have been maximized to the extent practical and a fence has been included to separate the uses and reduce impacts on the adjacent properties. The properties to the east of this are all zoned High Density Residential Multifamily (RH) and some of the adjacent properties have been developed with high density student apartments. The decreased parking setback and proposed use of this property as an upper tier, extended stay hotel will have little negative impacts on

surrounding high-density, multifamily properties. A majority of the parking area is adjacent to a parking area on the adjacent property so the need for buffering a parking area from another parking area is minimal. The setback has been maximized to 15' for the portions next to the residential units further north. A majority of the area proposed for parking was historically used for parking in the past with a similar setback with no known negative impacts.

Entrance and Drive: Staff finds no negative effects from this proposal on the use and value of the area adjacent to the property as a result of the entrance on 17th Street or the portion of the drive parallel to the street. The proposed entrance is in the same location as an existing drive, with no known negative impacts to the adjacent property. The previous parking area utilized a small section of the parking area that was parallel with the street with no known negative impacts to surrounding properties.

Maximum Height: Staff finds no negative effects from this proposal on the use and value of the areas adjacent to the property. Staff does find a positive impact on the use and value of the adjacent areas due to the redevelopment of this property. The tallest portions of the building are along the street and not adjacent to surrounding residential buildings.

- 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:

Front Parking Setback: Staff finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property in that it would not allow the appropriate placement of a building on the site with frontage on Walnut Street. Requiring building frontage along 17th St. would make it very difficult to place building frontage along the Walnut St frontage since the property has over 400' of frontage on Walnut and only 100' along 17th St. Staff finds that the practical difficulties are peculiar to the property in question due to the unique lot shape and the fact that the corner property is not involved with this petition.

Side and Rear Parking Setback: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property in that the 30' setback combined with the irregular shape of the property make it very difficult to develop the site and maximize the amount of façade along Walnut St. The petitioner has placed the building as far forward as possible and located the majority of the parking behind the building from the Walnut St. frontage. The practical difficulties are peculiar to this property in that the shape of the lot with a narrow depth and long street frontage, combined with the corner property not being part of this petition, make it difficult to construct a building forward design while still providing parking that is behind the building. By utilizing

a long, narrow building, the petitioner has accomplished both tasks of a building forward design.

Entrance and Drive: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property in that it would not allow for the existing drive cut on 17th St. to remain. That drive cut had been previously utilized by the former use on the property with no known negative impacts. The 75' distance from the adjacent drive provides adequate distance for traffic movement. Prohibiting the placement of this drive cut would decrease additional access points which would hinder emergency service access and response. The practical difficulties are peculiar to the property in question in that the location of the existing driveways on the adjacent properties do not allow any location on the 17th St. frontage that would meet UDO requirements. The location proposed is identical to the existing cut and provides adequate sight distance to the east and adequate stacking distance from the 17th and Walnut St. intersection. As mentioned previously, the intent of the 45 degree restriction was to prohibit buildings with drive thrus that circulate around buildings rather than achieving a building forward design. This proposal would only add a small section of drive to the front of the property and not create a significant driveway that is parallel with the street.

Maximum Height: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property in that the height limit would not allow for the desired building design that has been proposed and endorsed by the Plan Commission. The desire to have a ADA accessible, street level pedestrian entrance on Walnut St., combined with the change in topography across the property, create difficulties in the use of the property. The practical difficulties are peculiar to the property in question because of the change in topography that exists across the site. As mentioned, the 17th St. portion of the site is almost 22' taller than the Walnut St. portion. This creates practical difficulty in designing a building with parking behind the building that is accessed from 17th St, while also having a street level entrance on Walnut St. The height requirement would be met if the desirable design elements were removed. The increased height of the building has resulted from trying to achieve all of the goals outlined by the Plan Commission and the Unified Development Ordinance.

RECOMMENDATION: Staff recommends approval of the variances with the following conditions:

1. Approved per terms and conditions of Plan Commission case #SP-32-14.
2. Architecture must be consistent with the submitted elevations and rendering.
3. Petitioner will continue to work with staff for minor changes to the landscape plan.

MEMORANDUM

Date: February 9, 2015

To: Bloomington Board of Zoning Appeals

From: Bloomington Environmental Commission

Through: Linda Thompson, Senior Environmental Planner

Subject: V-40-14; Home 2 Suites Hilton Hotel
1410 N. Walnut Street

This memorandum contains the Environmental Commission's (EC) input and recommendations regarding the request of a group of variances for a 4-story hotel. The site is a high profile, 2.2 acre, vacant parcel within the Commercial Arterial (CA) Zoning District, across Walnut Street from Miller Showers Park.

The Petitioner is requesting multiple variances from the Bloomington Municipal Code, Unified Development Ordinance (UDO) standards regarding the following.

1. Landscape Standards, Buffer Yards (20.05.052(f));
2. Minimum Parking Setback (20.02.360) for
 - a. front,
 - b. side, and
 - c. rear parking setbacks;
3. Entrance and drive standards (20.05.035); and
4. Height standards (20.02.360).

The EC opposes these variances, and believes that if this many major variances are required for the hotel to proceed with construction, then this is not the most suitable location.

The landscaped Buffer Yard for this site is required to be 15 feet wide. The parking lot setback width is also required to be 15 feet wide, and must be in addition to the Buffer Yard. As such, the total width of the buffer required for this site is 30 feet. Furthermore, the Buffer Yard and the parking lot setback areas are not allowed to "double dip" on plant material. In the Buffer Yard rules (f)(1), "New landscaping that is required to meet these Buffer Yard requirements shall not count toward other site or parking landscaping requirements."

The EC realizes that to create the buffer the way it is required to be, the Petitioner would have to shrink the size of the project, which of course is why they are seeking a variance. However their plan calls for the total buffer width to be 7' in one area and 15' in a different area, instead of 30' across the entire length. The EC believes this is excessively narrow.

The plan calls for enough vegetation to be planted within that 7' to satisfy the regulations for

both the Buffer Yard and the parking lot setback (30'). This profuse density of plants coupled with a privacy fence is unrealistic regarding survivability. They may be able to install all of this now while the plants are small, but it will be a constant maintenance struggle through time to keep everything alive.

The CA District Intent states the following.

* 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.

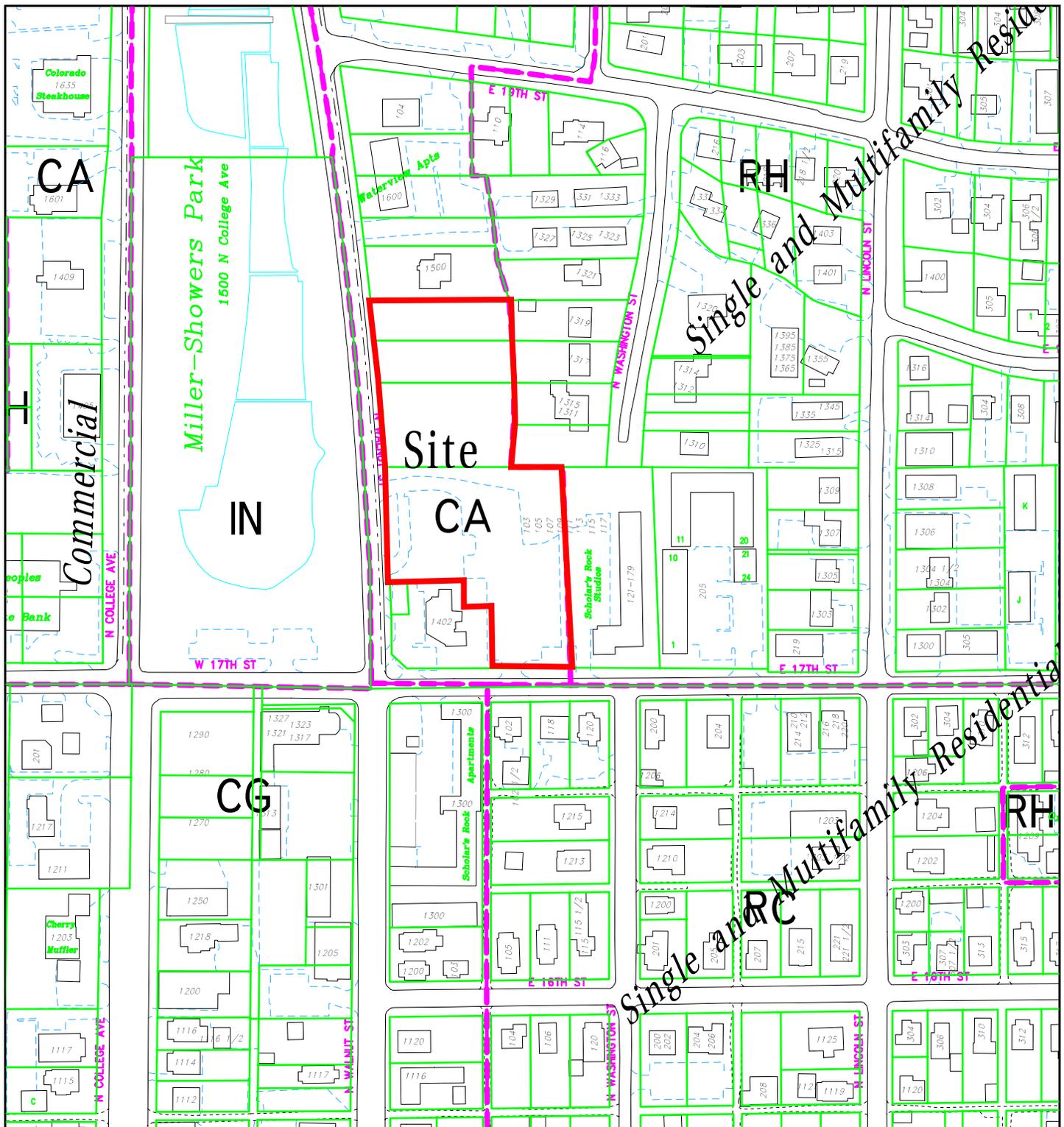
The EC does not believe this plan, as is, is satisfying the intent of the CA district because the omission of the required Buffer Yard and its accompanying landscaping is counter to the intent of improved landscaping and conservation of open space. Therefore, the space should be dedicated for the required space between zoning districts and planted with sustainable, native vegetation.

The City of Bloomington established buffer zone requirements between different zoning districts to ameliorate nuisances and incompatible land uses. A spatial separation can improve air and water quality, conserve soil, screen unattractive views, muffle sound, reduce the effects of dirt, noise, litter, glare of lights, signs, or possible fires or explosions, and maintain property values. In this case, the buffer is intended to protect existing residential stakeholders from a new, active commercial use. This required buffer can also create a wildlife habitat zone, noteworthy on its own accord.

For the above reasons, the EC believes that a variance from the UDO regulations for both the 15' Buffer Yard and 8' of the parking lot setback should not be granted, and that the 15' Buffer Yard should be installed and planted with diverse native vegetation to create a wildlife habitat zone as well as a use buffer.

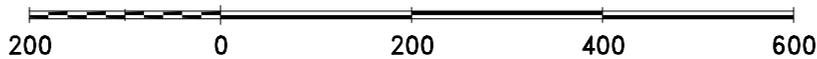
EC RECOMMENDATION:

1. The EC finds no persuasive reason to grant a variance from both the 15' Buffer Yard regulation, and 8' of the parking lot setback regulation; therefore, the EC recommends that at least the 15' Buffer Yard with diverse native vegetation be installed.

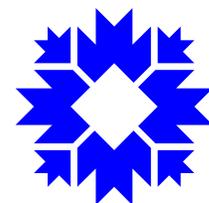


V-40-14 Home 2 Suites by Hilton
 1410 N Walnut Street
 Board of Zoning Appeals
 Site Location, Zoning, Land Use, Parcels

By: greulice
 13 Feb 15

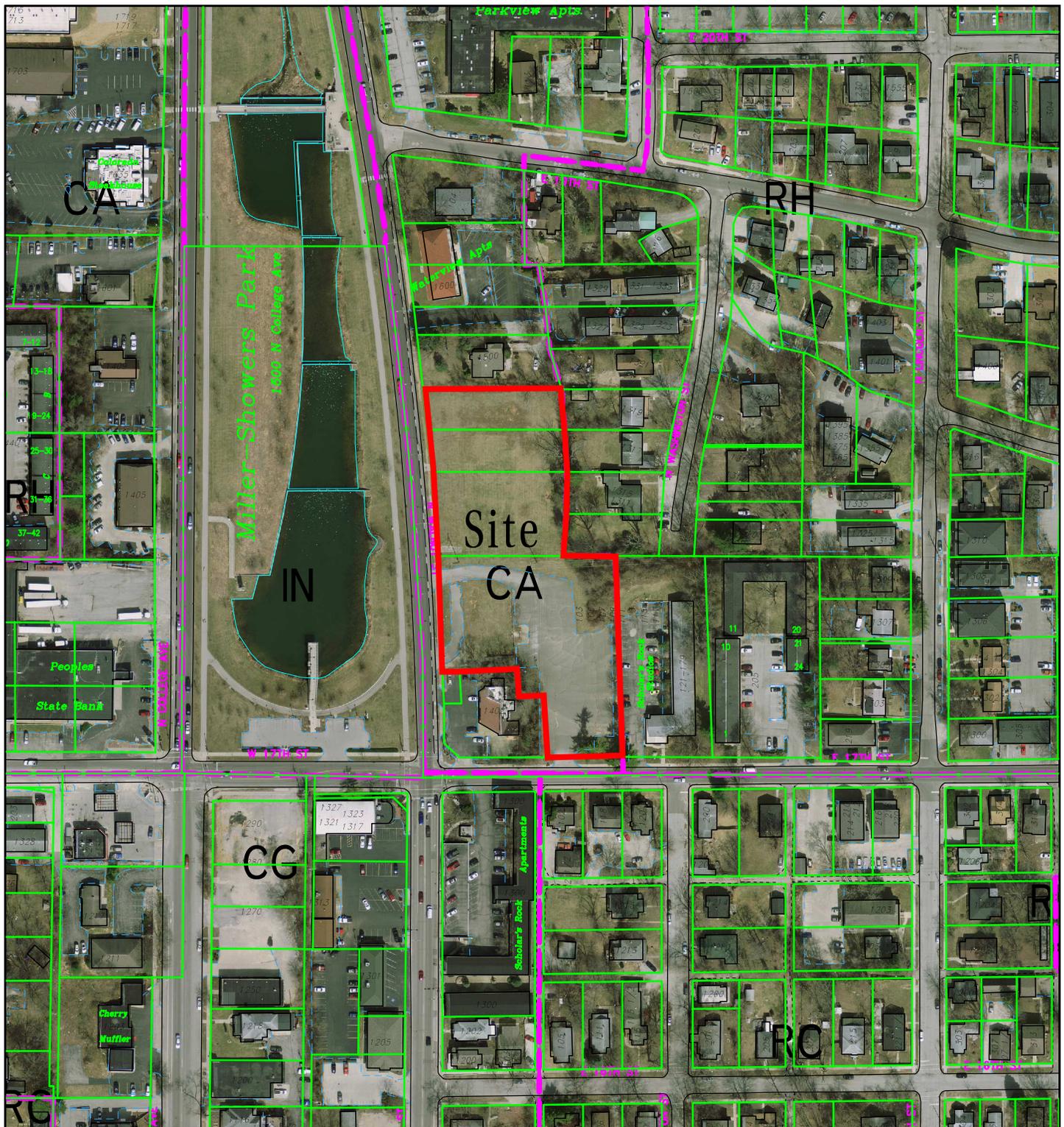


City of Bloomington
 Planning & Transportation



Scale: 1" = 200'

For reference only; map information NOT warranted.



V-40-14 Home 2 Suites by Hilton

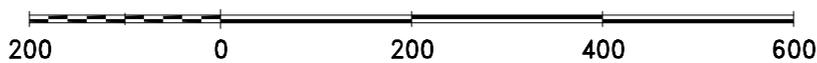
1410 N Walnut Street

Board of Zoning Appeals

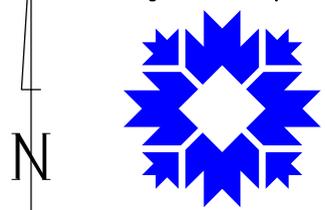
2014 Aerial Photograph

By: greulice

13 Feb 15



City of Bloomington
Planning & Transportation



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Scale: 1" = 200'

For reference only; map information NOT warranted.

Petitioner's Statement to the Board of Zoning Appeals

A. Introduction

Motels of Bloomington, LLC is an Indiana Limited liability Company that was formed on October 7, 2011. The two members of the LLC include Sanjay Patel, President and principal of Midwest Hospitality Group, Inc ("MHG"), and the fee title owner of the project site, Walnut Street Lodging, LLC. The entity was formed as a single-purpose company and plans to develop a Home2 Suites by Hilton ("Project") at property with a common address of 1410, 1416 and 1420 North Walnut Street in Bloomington, Indiana ("Project Site"). Prior to completion of the approval process and certainly before construction, it is anticipated that the property will be transferred by Deed to Motels of Bloomington, LLC.

MHG and Mr. Patel, in particular, have been in the hotel development and management business since 1991. Under Mr. Patel's leadership, his companies have developed several hotels in four states with brand names that include Comfort Suites, Comfort Inn, Holiday Inn Express, Super 8 Motels, Fairfield Inn and Suites by Marriott. MHG is a privately owned company specializing in development, construction and management services in the hotel industry.

The Home2 Suites by Hilton Project will consist of a four-story, 107-room, select service, upper-tier extended-stay hotel containing approximately 66,000 sq. ft. and situated on a high-profile 2.2 acre *shovel-ready* site with on-site parking. The current zoning classification for the property allows for the development of a hotel and MHG obtained a franchise to construct and operate the hotel. The hotel will feature many distinctive design features and will offer a combination of studio and one bedroom suites.

The Project Site is intended to be constructed and operated as a Hilton brand hotel – Home2 Suites. An approved Home2 Suite hotel is premised on eco-conscious products and design and also on developing connections to the local community. The Home2 principles are based on sustainability, community and culture and Motels of Bloomington, LLC is actively engaged in developing this new innovative concept in Bloomington, Indiana through this development.

B. Plan Commission Process

Petitioners received (unanimous) approval from the Bloomington Plan Commission on February 9, 2015 after a 2nd hearing and several revisions to the proposed Project from its initial hearing on December 8, 2015. The approval by the Plan Commission was conditioned on six items, including:

1. The site plan must be modified to show only 107 parking spaces.
2. The building must be consistent with the submitted architecture and elevations.
3. The petitioner shall work with staff to bring the landscaping into compliance with current UDO standards.
4. A maintenance plan shall be provided for the pavers prior to issuance of the grading permit.
5. The lighted tower elements must meet all lighting standards of the UDO.

2. Entrance and Driveway Standards (BMC 20.05.035): The 17th Street entrance to the project is closer than 100' to the next adjacent driveway. The distance is 70' and a variance is requested to allow this drive to be located less than 100' from the nearby drive (to the apartment complex). In addition, development standards require that "no entrance or drive shall be installed within the front parking set back running less than forty-five degrees from parallel to the street right-of-way." In this project, the relatively short egress/ingress (that split off from the 17th Street entrance to the parking areas) are necessitated by the 4 rows of parking, separated by 2 aisles that are almost immediately accessed from the entrance from 17th Street. The proposed plan is not to create any sort of drive-through or frontage road but is designed to safely and efficiently access the aisles of available parking as one enters the parking lot from 17th Street. The turn radius from the access point to the parking aisles cannot reasonably be configured in any other way, as discussed below.

By allowing two points of access to the property (one off 17th Street and one off of Walnut Street), emergency vehicles will be better able to service the property if needed and traffic flow within the property can be appropriately managed and directed throughout the parking lot and lobby drop off area. It is anticipated that east-bound travelers on 17th Street would logically turn left on Walnut Street to then access the hotel with a right-hand turn to the property (as the hotel will have a Walnut Street address) and not attempt to access the drive from 17th street. Travelers heading north on Walnut street will most logically continue north to the entrance to the north of the hotel structure from Walnut Street. West-bound travelers will be able to make a right-hand turn to the property and completely avoid the 17th and Walnut Street intersection and light.

Both variances at this point of ingress and egress along 17th Street are necessitated by the actual real estate available for the entry, the initial driveway into the hotel, and necessary drive-aisles. The point of entry from the south side of the property is the narrowest part of the parcel as it is situated between an apartment complex and restaurant operation and the primary area of developed property then extends to the north along Walnut Street. The use of the drive and turn radius to the aisles in this predominantly commercial area will not adversely or negatively impact the surrounding properties the immediately adjacent properties are commercial or rental in nature (with a sizable parking lot immediately to the east of the project site). The driveway is situated in a manner that is as close to the west lot-line as feasible to maximize available separation from the adjacent driveway. A variance of the development standards as requested is necessary in the appropriate development of this site in a way that could not otherwise be accomplished and the lack of a variance on these issues will create significant difficulty in the development of this point of ingress/egress otherwise needed to the property. Approval of the variances, as proposed, will not compromise or injure public health, safety, morals and general welfare, as considered by IC 36-7-4-918.5 and Chapter 20.09.120(e) of the Unified Ordinance.

3. Architectural Standards. The Petitioner requested a variance for Architectural Standards under BMC 20.05.015(c)(2). Based on modification to the Project since the initial filing, the variance for architectural standards is no longer needed and such request is withdrawn.
4. Height (BMC 20.05.360): The building complies with height development standards of Title 20 of the UDO, with two exceptions.
 - a. An architectural feature included as a requirement of the Home2 Suites by Hilton franchise. Petitioner is seeking a waiver from the 50' height standard in the UDO to allow a design feature that extends approximately four feet higher than the top of the structure with a feature that resembles a tower. The feature is referred to by the franchise as the "Beacon" and is a required component of the construction of a Home2 Suite by Hilton. The architectural feature specifically "brands" the Home2 Suites design nationally. As a part of the local planning process, the Petitioner's initial design was further modified to provide a 2nd matching tower to provide more balance along the west façade of the building and to assist in meeting the UDO's architectural standards. The two towers are designed to "anchor" the building on the north and south ends to "break-up" the building mass, provide modulation and visual interest. The feature will be constructed with stacked stone, with clear windows on all four sides at the top, creating the visual effect of a lighthouse but is open and not imposing as a solid tower would be. The variance for the additional height needed for the feature would not be injurious to the public health, safety, moral and general welfare of the community and will not adversely affect property values in the adjacent area. In this instance, a strict application of the ordinance with regard to height for this architectural feature results in difficulty in the project for the petitioner given the franchise design requirements and in meeting the design as approved by the Bloomington Plan Commission on February 9, 2015. The increased height is *de minimus* relative to the overall height of the structure and affects more narrow portions of the building and not the whole.
 - b. The Plan Commission approved and Petitioner proposes that the Walnut Street side of the property (west façade) include a centered pedestrian entrance into the building, as depicted on the drawing, and a partially "faux wall" that serves as a base for the building. The entry would include a wide, well-lighted hallway to a lower level sitting area and elevator to the first floor lobby of the building. This request and variance is necessitated by several factors:
 1. The property is sloped upward from Walnut Street to the east side of the property, making development from the Walnut Street level challenging. The main lobby of the hotel is on the east side of the building where the bulk of the parking is located (set behind and to the north of the structure, forward-facing on Walnut Street). Egress/ingress to the building will be accessed from the east side, both from Walnut Street and 17th Street, which sits at a higher elevation than the Walnut

Street side. In order to respect the 17th Street slope at the south drive entrance and the lower-level Walnut Street entrance, the building must necessarily sit higher on the east side.

2. Excavating the rock and surface on this site to actually “lower” the entire building (while appropriately designing parking, drive and entrance to the east) would prove cost-prohibitive, making the project financially impossible to complete for the petitioner.
3. A “ground level” entrance and lower level façade create the appearance of a continuous building from the Walnut Street view, creating a desired street/pedestrian/building interaction without compromising the size, design and footprint of the building on the site. The Plan Commission specifically asked for a more dominant Walnut Street pedestrian entrance to create the desired interaction on the west side of the property, facing the Showers-Miller Park.
4. By creating the ground level entrance and façade, the overall height of the building from the base at the lowest point to the top exceeds 50 and therefore, the variance is requested to create a project that works well on this site and does not create a wall or barrier along the Walnut Street corridor to create the necessary height to meet the east side entrance requirements.

The variance for the additional height needed for the feature would not be injurious to the public health, safety, moral and general welfare of the community and will not adversely affect property values in the adjacent area. In fact, the lower level improves the appearance and aesthetics of the Project on this site, a main corridor through the north side of Bloomington. A strict application of the ordinance with regard to height for this architectural feature results in difficulty in the project for the petitioner given the engineering, cost, and design requirements.

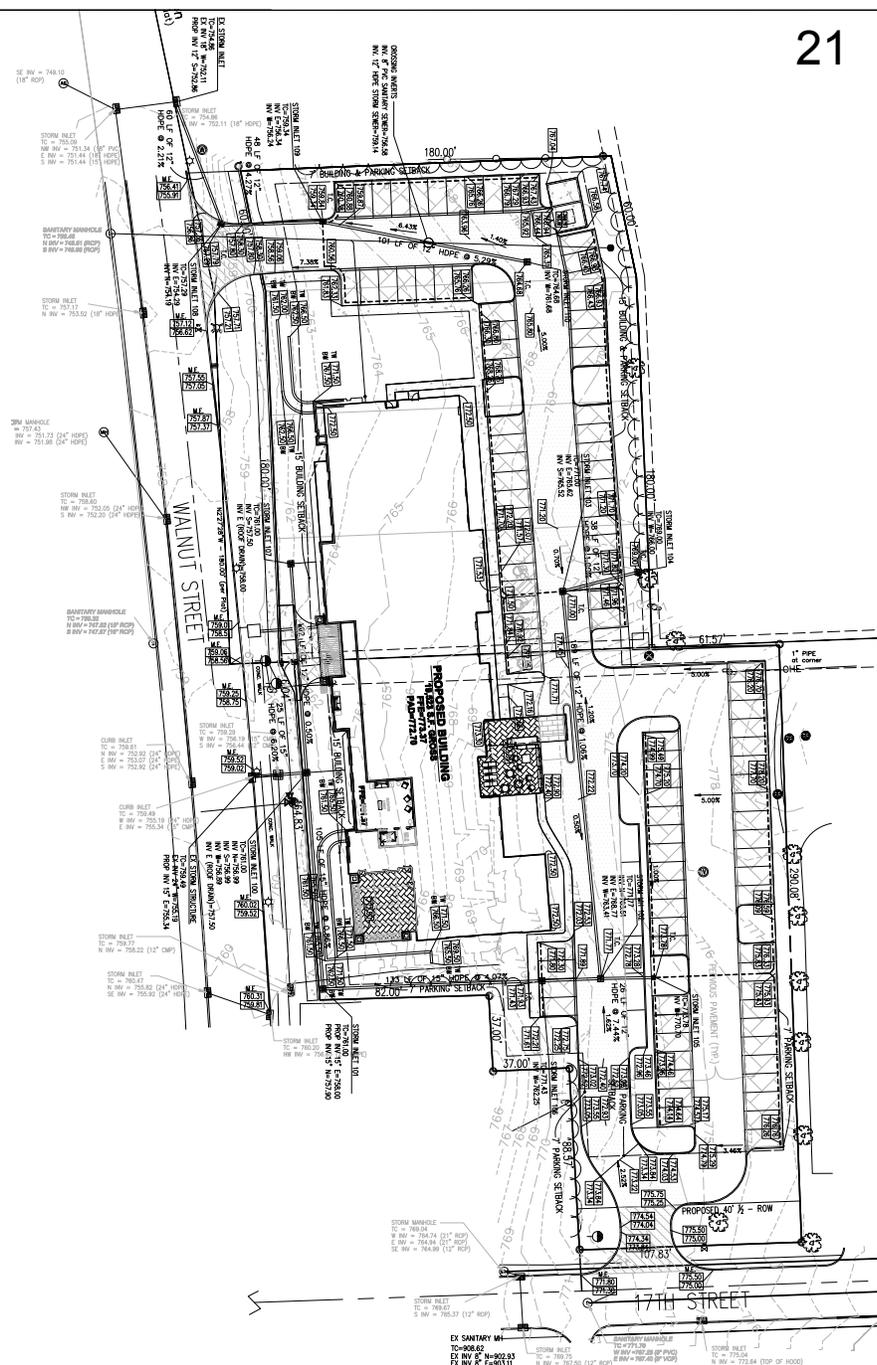
Thank you for your consideration of the variances requested for this Project as part of plan and site approval.

Project participants include:

Owner: Motels of Bloomington, LLC, 1220 Brookville Way, Indianapolis, IN 46239

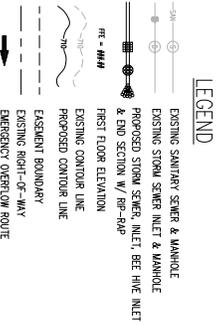
Contractor: Letap Development, LLC, 1220 Brookville Way, Indianapolis, IN 46239

Engineer: Roger Ward Engineering 7474 Noel Road, Indianapolis, IN 46278



STORM SEWER TABLE

SITE #	CASTING	TC	INVERTS	DOMESTIC/RAIL PIPE INFO	STRUCTURE TYPE
100	NEEDHAM R-3065	26.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
101	NEEDHAM R-3065	26.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
102	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
103	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
104	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
105	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
106	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
107	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
108	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
109	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE
110	NEEDHAM R-3065	27.00	N=7826.9 (12) S=7826.9 (10) E=7572.9 (8) W=7826.9 (12)	22.0" U. OF 12" PIPE @ 4.00%	48" MANHOLE

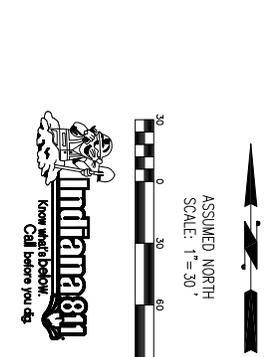


- GRADING & DRAINAGE NOTES**
1. ALL GRADERS AT BOUNDARY SHALL MEET EXISTING GRADES.
 2. ALL SLOPES SHALL HAVE A MINIMUM SLOPE OF 1.00%.
 3. CONTRACTOR SHALL MAINTAIN DRAINAGE TO EXISTING TREES.
 4. SLOPES SHALL NOT BE GREATER THAN 3:1 UNLESS OTHERWISE SPECIFIED.
 5. REMOVE AND BACKFILL ALL AREAS WHERE ANY FIELD, THE CROSS SECTION BEHIND PAVEMENT, ALL AREAS NOT TO BE PAVED SHALL BE REGRADED TO MATCH THE EXISTING GRADE AND THE DRAINAGE IN ANY CIRCUMSTANCES WHERE THIS CANNOT BE DONE.
 6. FILL UNDER LAWN AREAS SHALL BE COMPACTED TO AT LEAST 90 PERCENT STANDARD PROCTOR DENSITY (ASTM D-1557). FILL UNDER BUILDING AND PAVEMENT AREAS SHALL BE COMPACTED TO AT LEAST 95 PERCENT STANDARD PROCTOR DENSITY (ASTM D-1557).
 7. THE CONTRACTOR SHALL COVER ALL EXISTING QUANTITIES FROM THE STREET OR CONTOUR TO THE PROPERTY LINE WITH A MINIMUM 12" SAND FILL TO THE EXISTING CONTOUR, REMOVAL OR WORKING OF FURTH.
 8. ANY PART OF STORM SEWER TRENCHES RUNNING UNDER OR WITHIN 5' OF PAVED AREAS IS TO BE BACKFILLED WITH GRANULAR MATERIAL.
 9. STANDARD SPECIFICATIONS FOR THE LOCAL GOVERNING AUTHORITY SHALL APPLY FOR ALL STORM SEWER CONSTRUCTION.

NO EXISTING UTILITIES, STRUCTURES, OR OBSTRUCTIONS TO BE REMOVED OR ALTERED WITHOUT THE WRITTEN APPROVAL OF THE LOCAL GOVERNING AUTHORITY. ALL UTILITIES, STRUCTURES, AND OBSTRUCTIONS TO BE REMOVED OR ALTERED SHALL BE RECONSTRUCTED TO ORIGINAL OR BETTER CONDITION.

FLOODPLAIN NOTE

THIS SITE DOES NOT LIE WITHIN A FEDERALLY DESIGNATED FLOODPLAIN. - FROM MAP PANEL NUMBER: 18009 0140 (CITY OF BLOOMINGTON) - DECEMBER 17, 2010



APPROVAL PENDING NOT FOR CONSTRUCTION

BY: *R. C. ...*
DATE: 09-29-14

INDIANA ENGINEERING BOARD
STATE OF INDIANA
PE19800489

SHEET C103 OF 13

JOB# MHS-002

MHG HOTELS, LLC
HOME2 SUITES BY HILTON
17TH ST. & WALNUT ST.
BLOOMINGTON, INDIANA

GRADING & DRAINAGE PLAN

REVISIONS:

DRAWN BY: MKT
DATE: 09/16/2014
FILE NAME: MHS-002/04/0101
REV: 000000

V-40-14
Grading Plan

INDIANAPOLIS, INDIANA 46278
(317) 251-1738 (FAX) 251-1923
www.rw-engineering.com



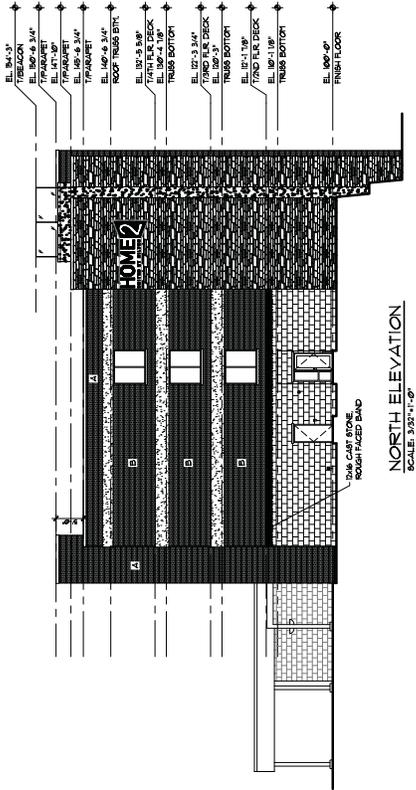
V-40-14
Walnut Street Rendering



V-40-14
Walnut Street Rendering

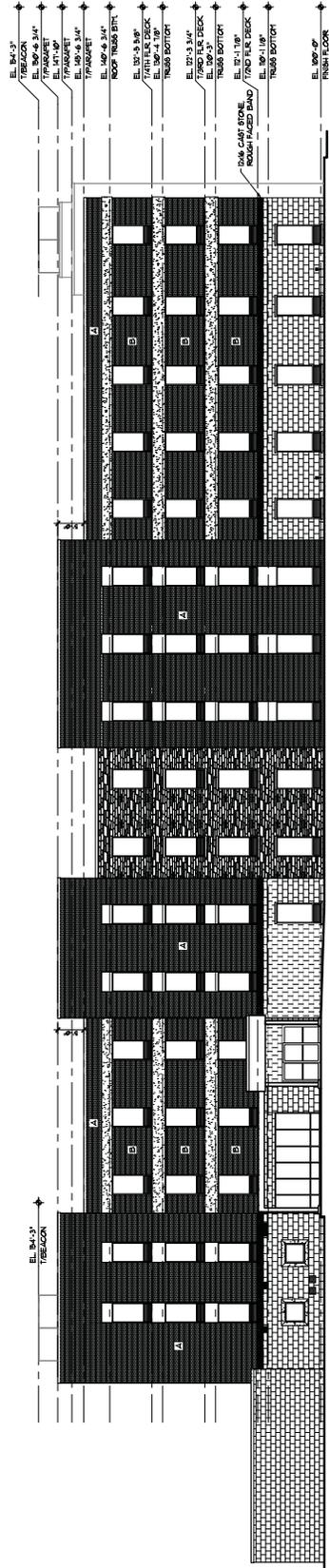


V-40-14
Walnut Street
Rendering



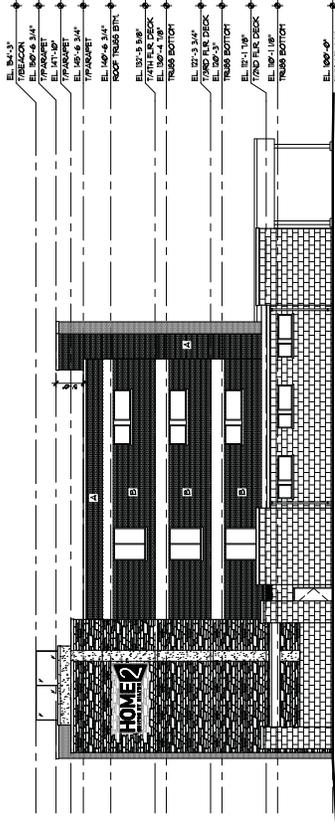
NORTH ELEVATION
 SCALE: 3/32" = 1'-0"

- BRICK COLOR 'A'
- BRICK COLOR 'B'
- 2x6 GRAFT STONE SMOOTH FACED
- STACKED STONE
- EIFFEL FINISH REFLECTIVE
- EIFFEL COLOR (REQ. COMPLEMENTARY TO ADJACENT BRICK)

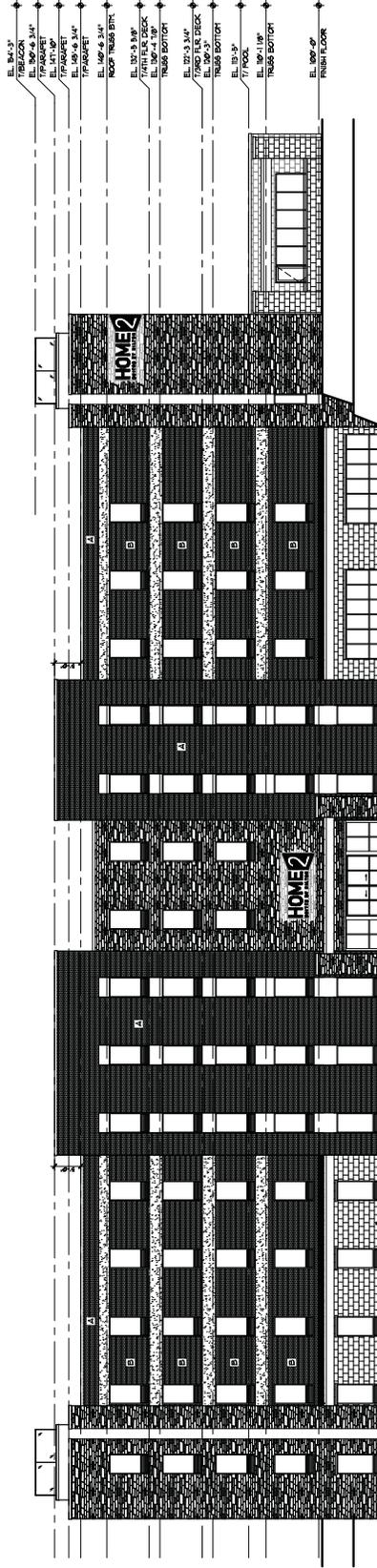


EAST ELEVATION
 SCALE: 3/32" = 1'-0"

V-40-14
 Elevations



SOUTH ELEVATION
 SCALE: 3/32"=1'-0"



WEST ELEVATION
 SCALE: 3/32"=1'-0"

- BRICK COLOR 'A'
- BRICK COLOR 'B'
- 2 1/4" CHISEL STONE, SMOOTH FACED
- STACKED STONE
- EIFS FINISH, REFLECTIVE
- EIFS COLOR (REQ. COMPLEMENTARY TO ADJACENT BRICK)

V-40-14
 Elevations

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 111 S. Lincoln St.

CASE #: UV-41-14
DATE: February 19, 2015

PETITIONERS: GP – GMS Bloomington, LLC
 (GMS) 112 E. 3rd Street, Bloomington
 (GP) – 600 E. 96th Street, Suite 150, Indianapolis

CONSULTANT: Studio 3 Design
 8604 Allisonville Road, Indianapolis, IN

REQUEST: The petitioners are requesting a use variance to allow a surface parking lot within the Commercial Downtown (CD) zoning district.

Area:	0.4 Acres
Zoning:	CD, Downtown Core Overlay
GPP Designation:	Downtown
Existing Land Use:	Vacant building and parking lot
Proposed Land Use:	Multi-Family Residential
Surrounding Uses:	East – Surface parking lot
	South – Fire Station
	West – Church
	North – Bank

PROPERTY SUMMARY: The subject property is located at the northeast corner of E. 4th Street and S. Lincoln Street. The property is zoned Commercial Downtown (CD) and is within the Restaurant Row portion of the University Village Overlay (UVO). The property currently contains a one-story building along Lincoln St. that was previously used as the Monroe Bank loan center and is still used as office space.

PETITON DETAILS: The petitioners are proposing a surface parking lot that will entail removal of the existing building and increase in the number of spaces from 28 to 45. This site is part of a larger holding currently owned by ONB, including the SW corner of Kirkwood and Lincoln approved for a hotel and the SE corner of Kirkwood and Lincoln approved for a bank. These spaces which will serve the parking needs of the hotel, could also be used for parking for the surrounding churches. Stand alone parking lots are not a permitted use in the CD zoning district and the petitioners are requesting a use variance for this use.

With this petition, the applicant has proposed several improvements to the parking lot to offset any negative impacts of the building removal. These improvements include:

- Removal of a drive cut onto S. Lincoln Street
- Reduction in the amount of impervious surface (from 95% to 82%)
- Removal of private parking from the right-of-way
- Creation of new landscaped setbacks and islands
- Creation of 1 new on-street parking space on Lincoln Street

The parking lot will also include improvements to make a more efficient and organized parking layout with reduced street access. Staff finds this parking lot desirable to facilitate redevelopment of the nearby underutilized parcel with a hotel. Staff also looks at this parking lot as a kind of “land bank” until a more appropriate time for development. At some time in the future, once the bank and hotel are built and after the Jordan River culvert is reconstructed, this property could be developed into a more intense land use.

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed this use variance request at their February 9, 2015 meeting. The Plan Commission voted 7-0-1 to forward the use variance request to the BZA with a positive recommendation.

20.09.140 CRITERIA AND FINDINGS FOR USE VARIANCE:

Findings of Fact: 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 this petition. The safety associated with this site will improve with the removal a drive cut onto Lincoln St. as well as the landscaped separation that will be created between the parking lot and the sidewalk. Furthermore, with the petition parking would be removed from the public right-of-way to increase greenspace.

(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 adverse impacts associated with the proposed use variance. Although the use is technically changing to a stand-alone parking lot, this variance will help facilitate other development that results in a greater removal of surface parking spaces. The changes to the property would be the removal of an structure and several improvements to the property that should increase the value of the adjacent area. This site could also be used as additional parking for neighboring churches.

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

Staff Finding: Staff finds several peculiar conditions associated with this site and this proposal. Although the proposed parking lot is technically a stand alone use, it is only separated from the user of the parking lot (the recently approved hotel) by Lincoln Street. The property has a long standing history of providing parking for the adjacent bank use.

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

Staff Finding: Staff finds hardship in not allowing the demolition of the existing structure on the property. The structure has no historic significance. If the use variance is not approved, then the building will be required to remain. Hardship is also found in the need for additional spaces for the recently approved hotel. Providing more parking at this location will help provide additional parking opportunities for the hotel and for nearby churches which has been identified as a needed function though the site plan process.

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

Staff Findings: The most relevant GPP references have been provided below with staff comments, as adopted by the Plan Commission.

- *New surface parking areas and drive-through uses should be limited, if not forbidden, within the Downtown area.*

This petition will allow continuation of parking on the property, just absent of a structure. Within the larger context of the ONB Parcels, this petition will facilitate the construction of the hotel and the bank, which will remove three surface parking lots and an exterior drive-through along Kirkwood Ave.

- *Parking must be dealt with in a manner to not discourage or harm the pedestrian nature of the downtown while at the same time providing sufficient parking to support the diverse land use mix of the downtown.*

The proposal will make this site and the adjacent streetscapes more pedestrian friendly on Kirkwood Ave. while providing adequate parking for the hotel and supplemental parking for adjacent churches.

- *Downtown must continue to be developed at a human scale, with pedestrian amenities such as street trees, sidewalks, and lighting. Existing amenities should be targeted for improvement where necessary.*

While this site will not contain pedestrian interest due to the lack of building activity, all public right-of-way improvements such as street trees, sidewalks, and lighting will be present. The utilization of this lot for parking will facilitate improvements to the pedestrian atmosphere on Kirkwood Ave. with the development of the hotel and bank.

- *Curb cuts along downtown streets are strongly discouraged. Rather, site access should be primarily from sidewalks for pedestrians or alleys for vehicles.*

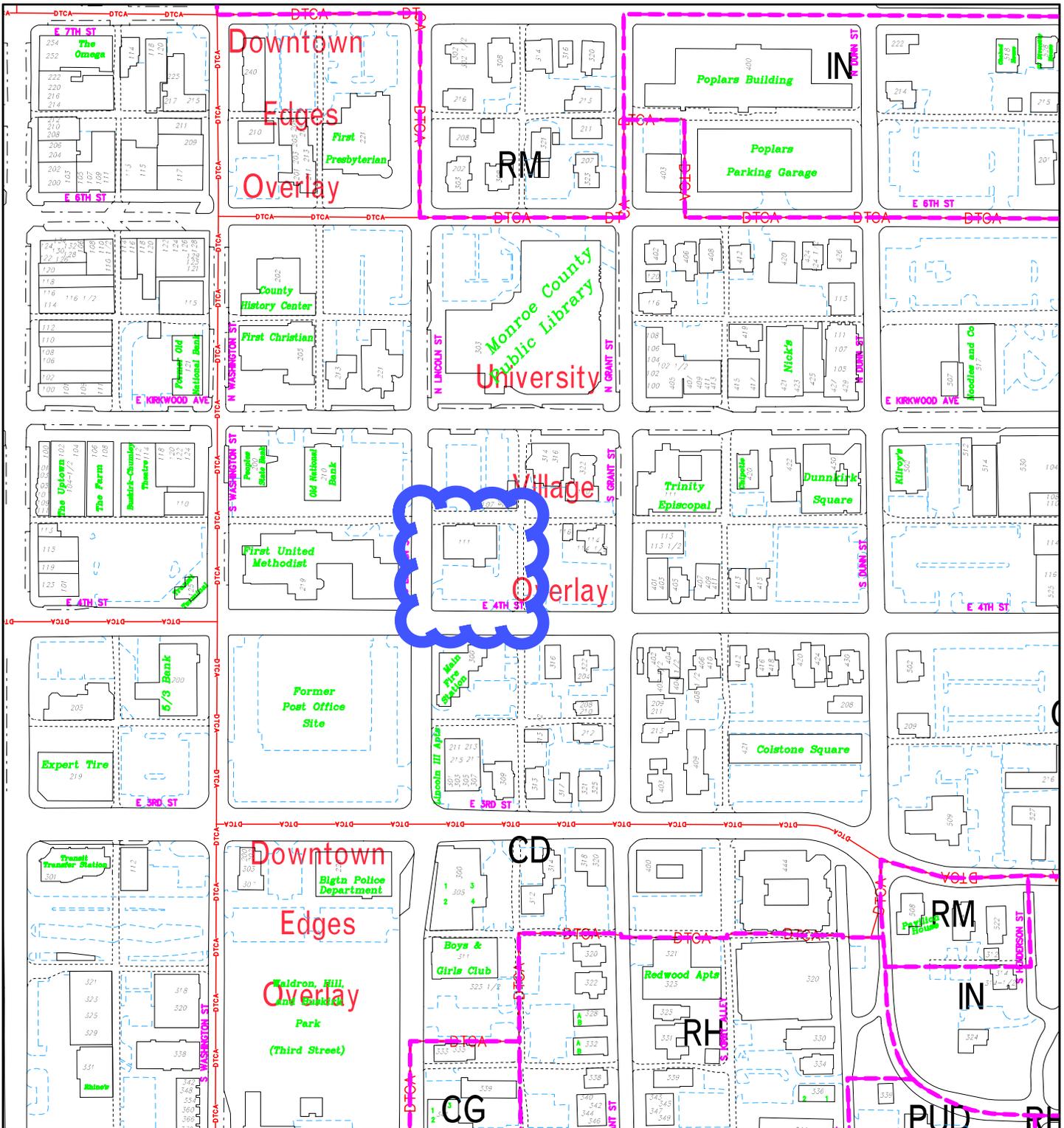
A curb cut will be removed with this petition.

In summation, the Plan Commission found that using this lot only for parking will facilitate the development of the hotel and bank, which will improve the pedestrian environment on Kirkwood Ave., while not degrading the pedestrian environment on 4th Street or Lincoln Street.

CONCLUSION: Staff finds that the proposed surface parking lot is beneficial to the development of the hotel and potentially for area churches. This parking lot may act as a “land bank” until such time as it is more appropriate to be developed. The improvements will enhance the aesthetics of the site and warrant the interim surface parking use at this site. The improvements include removal of a drive cut and increased landscaping. This petition will also facilitate the redevelopment of two other ONB sites and the removal of nearly 500 lineal feet of surface parking along Kirkwood Ave. and Lincoln St. with development of the hotel and the bank. This petition will also allow for short term continued parking options for the downtown churches, if permitted by the owner/petitioner.

RECOMMENDATION: Staff recommends approval of the Use Variance with the following conditions:

1. This use variance will be valid for a period of 3 years without expiration in order to facilitate construction of the hotel.
2. This use variance is only valid if a hotel is constructed on the property at 210 E. Kirkwood Ave. The existing building can not be demolished until a building permit is approved for hotel construction.

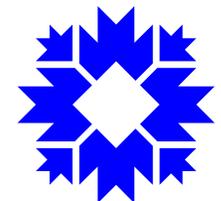
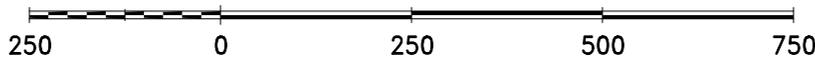


UV-41-14
Location Map

City of Bloomington
Planning & Transportation

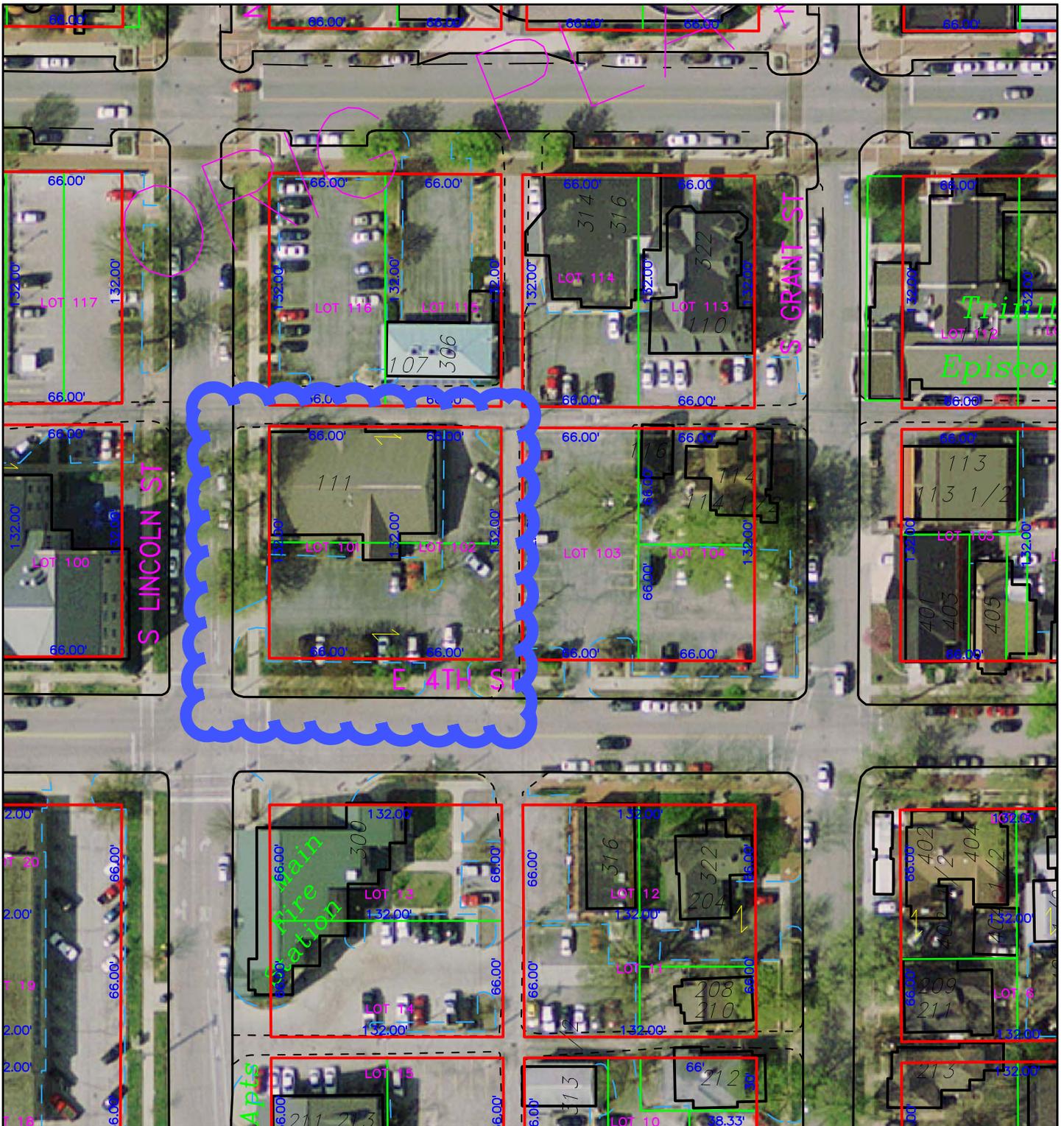
By: roachja

1 Oct 14



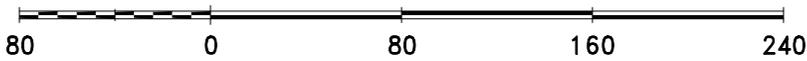
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For reference only; map information NOT warranted.



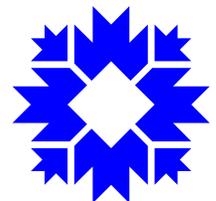
UV-41-14
2011 Aerial photo

By: roachja
1 Oct 14



For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 80'





UV-41-14
ONB Bank Holdings

By: roachja
23 Sep 13



For reference only; map information NOT warranted.

City of Bloomington
Planning

Scale: 1" = 200'



November 12th, 2014

City of Bloomington Planning Department
P.O. Box 100
Bloomington, IN 47402

Attn: Mr. Tom Micuda

**RE: Bloomington Downtown Development
Lincoln and 4th Street – Site “D”
Bloomington, Indiana**

PETITIONERS STATEMENT

Dear Mr. Micuda

Studio 3 Design is pleased to submit the attached development for your consideration. The project scope covers one of the 4 sites (currently owned by Old National Bank) within the downtown. The project zone incorporated by these sites has been identified on the attached documentation as sites “B, C, D & E”. This submittal package will focus on Site “D” but the other sites are mentioned as they are part of the holistic view of the downtown sites that we have been asked to consider.

Site “B” -bordered on the North by Kirkwood Avenue, on the East by Lincoln Street, on the South by a public alley, and on the West by an adjacent land owner.

Site “C” –bordered on the North by Kirkwood Avenue, on West by Lincoln Street, on the South by a public alley, on the east by a public alley.

Site “D” –bordered on the South by 4th street, on the West by Lincoln street, on the North by a public alley and on the east by a public alley.

Site “E” –bordered on the South by 4th street, on the East by Grant Street, On the North by an adjacent property owner and on the West by a public alley.

Project Scope:

The project request for site “D” is for a surface parking lot to be utilized by ONB Bank – Site “C”, the Graduate Hotel – Site “B”. The project includes the demolition of an existing single story structure with a basement and the creation of a new surface lot for 45 surface parking spaces.

Project request for plan approval duration extension.

Typical site plan approval is valid for a period of 1 year. We would request that this site approval be extended to a period of three years prior to Construction having to be started. This will allow us to use the site as a staging area for the Bank building on site "C" and then as a staging area for the Hotel on Site "B". Once the hotel is constructed, the parking lot will be finished and available for use.

Project Overlay District:

University Village Overlay
Restaurant Row subsection- sites D & E

Density: 33 units per acre

Impervious surface:

Restaurant row: 85%

Height Standards:

Restaurant row: min. 25' – max. 35'

Parking:

None residential: No parking required for Hotel, retail, or office functions

Residential: 5 for first 20, .8 for beds 21 on.

Setbacks:

Front: 0 to 15'

Side yard: 0'

Rear yard 0'

Ground floor non-residential:

Applies to Kirkwood, 4th, Lincoln and Grant

50% min. along applicable street frontage

Building alignment:

No Outstanding, notable or contributing structures immediately adjacent to properties.

Building orientation:

Restaurant row: min. of one primary entrance facing 4th street

Street trees:

Restaurant row: 5' wide grassed tree plot area

Lighting:

Street lighting- traditional style design such as acorn or gas lamp style.

Architectural character

Restaurant row: incorporate sloped or pitched roofs

Void to solid:

Restaurant row; lower 50%, upper 20%

Windows:

Restaurant row- windows to have appearance of double hung window

Materials:

Not permitted as Primary

Restaurant Row: EIFS, CMU, natural stone or masonry, precast concrete, vinyl

Not permitted as a secondary material:

Restaurant Row: EIFS, Vinyl

Entrance Detailing:

General: - shall incorporate a min. of 3 of the following:

4' recessed entry, ornamental paving, Canopy/ awning, Portico, arched entry, pilaster or façade module projecting from exterior wall plane, building address with, building name and lighting, public art, raised cornice entryway parapet, rusticated masonry, landscaped patio area for outdoor seating of 8 or more.

Restaurant Row: entrance shall incorporate a front porch, canopy or awning, incorporate 2 or more of the general entrance detailing listed above.

Mass, Scale & form;

Façade modulation- maximum width 50' with a min. 3% offset based on total length of façade.

Height step-down: N/A – properties are not immediately adjacent to outstanding, notable, or contributing structures.

Project Overview:

The project is located at the corner of Lincoln Street and 4th street.

The projects will provide parking for the hotel, hotel conferences, and events and Old National Bank employees and patrons.

The project will include closing the access drive off of Lincoln Street and infilling the area with a grass zone and continuation of the existing sidewalk area.

Waivers:

In working with the planning department, the goal of the project is to maximize the amount of parking we can fit onto Site "D" and still maintain as many of the site development standards as possible. We have initially identified two waivers that we will be requesting support on.

1. Site setback for parking.
2. Site low wall construction on Lincoln / 4th streets.

Parking Standards (Project complies with districts' guidelines)

Required:

Retail: 00 required

Provided: 45 spaces

Site Plan:

Building Frontage – NA

Street trees and perimeter trees:

Existing street trees and grass plots will be maintained along Lincoln Street and 4th Street as they are today. Additional trees and landscaping will be incorporated around the parking lot with large growth trees along Lincoln and 4th streets and species that will not grow as tall and are approved for use around site power line locations along the alleys.

Site landscaping:

Perimeter landscaping will be in compliance with the UDO. Approved plantings will be incorporated around the perimeter of the parking lot and islands.

Lighting: (Site plan complies with the districts' guidelines)

Pedestrian scale lights (less than 15' in height) will be placed in the parking lot central islands to provide down lighting for safety and security in the lot.

Site Accessibility

The parking lot will be accessible from 4th street via an existing curb cut and from the Alley to the north of the site.

Alley modification:

The alley bordering the north side of Site "D" will be increased to 24' in width as part of the site "C" ONB bank branch improvements. This will allow for easy in-out access to the parking lot. The alley will choke down to 20' at the interface with Lincoln Street. The east west alley will be repaved. The North south alley will remain as is with patching as required along the new curb line.

Storm water

The project site will continue to sheet drain toward 4th street where it will be collected by two new inlet structures at the South end of the property. The current property sheet drains to 4th.

Site detention for water:

The site is currently 100% impervious. No detention is required to be added as part of the new site development.

Site D -Private Utilities

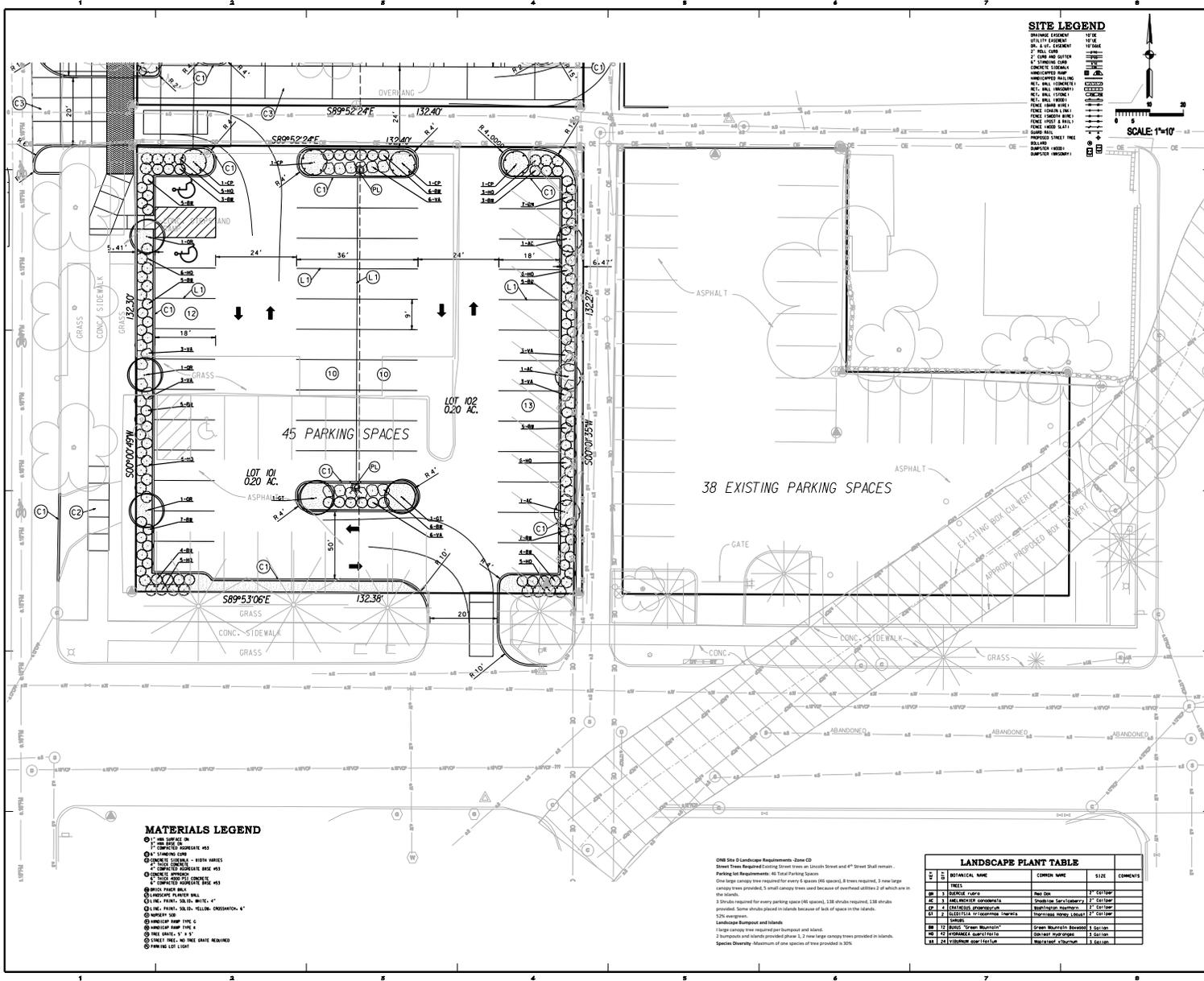
Duke Energy and a cable/phone/internet lines currently run along the east west alley and the north south alley that border the site. These lines will remain where they are.

Respectfully submitted,

STUDIO 3 DESIGN, INC



Timothy W. Cover



STUDIO THREE DESIGN
 601 Alameda Road, Suite 200 Indianapolis, IN 46202
 317.547.1111
 www.studiothreedesign.com

Smith Neibek & Associates, Inc.
 402 S. Gates Road
 Indianapolis, Indiana 46201
 317.547.1111
 www.sna-inc.com

OLD NATIONAL BANK SITES
 BLOOMINGTON, IN

PROJECT NO.
4933 / 5012

DATE
11/11/14

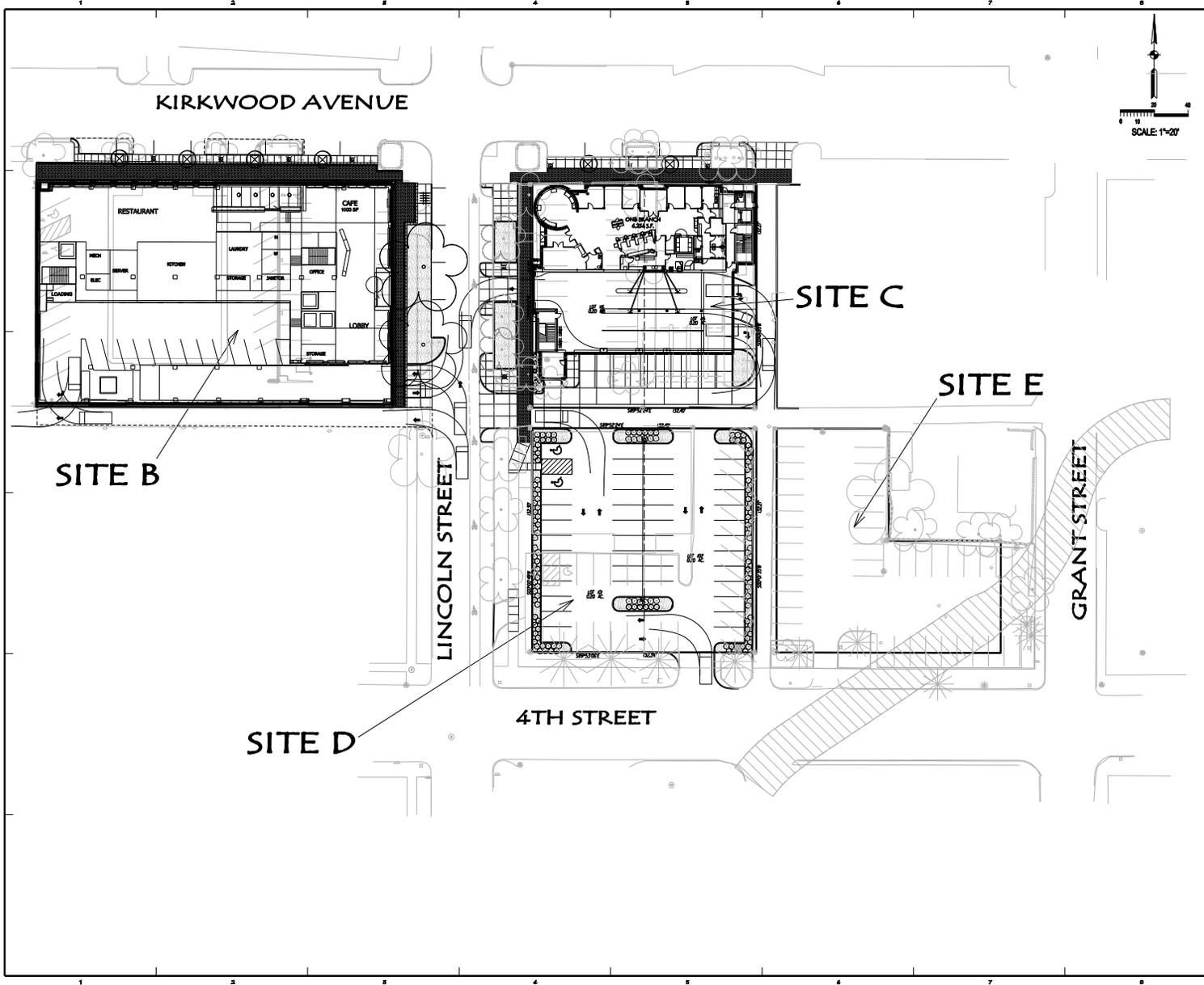
REVISIONS

CERTIFICATION

SHEET DESCRIPTION
SITE D
 SITE PLAN

SHEET NUMBER
C208

THIS DRAWING IS THE PROPERTY OF STUDIO THREE DESIGN, INC. ALL RIGHTS RESERVED.



STUDIO THREE DESIGN
 401 S. State Street
 Bloomington, IN 47404
 Tel: 317.344.4444
 Fax: 317.344.4444
 www.studiothreedesign.com

Smith Probst & Associates, Inc.
 401 S. State Street
 Bloomington, IN 47404
 Tel: 317.344.4444
 Fax: 317.344.4444
 www.spa-inc.com

OLD NATIONAL BANK SITES
 BLOOMINGTON, IN

PROJECT NO.
4933 / 5012

DATE
11/10/14

REVISIONS

CERTIFICATION

SHEET DESCRIPTION
COMBINED
SITE PLAN

SHEET NUMBER
C200

THIS DRAWING IS THE PROPERTY OF STUDIO THREE DESIGN, INC. ALL RIGHTS RESERVED.

4933_Combined Site Plan.sht 11/12/2014 7:45:06 AM

UV-41-14
Combined Site Plan



1
A7

RENDERED SITE PLAN



GMS-PAVILION PROPERTIES, LLC.
 GERSHMAN PARTNERS
 ONB "SITE C" DEVELOPMENT
 BLOOMINGTON, INDIANA

PROJECT NO.
 13018.04
 DATE
 11/24/2014

SHEET DESCRIPTION
 Rendered Site
 Plan

SHEET NUMBER
 A7

UV-41-14
 Combined Site Plan

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 3900 E. Stonegate Dr.

CASE #: UV-45-14
DATE: February 19, 2015

PETITIONER: Trish Ierino
3900 E. Stonegate Dr., Bloomington, IN

REQUEST: The petitioner is requesting a use variance to allow a modification to a previously approved accessory apartment within a Planned Unit Development (PUD) that only allows single family houses.

SUMMARY: The property is located on the southeast corner of S. Smith Road and E. Stonegate Drive and is zoned Planned Unit Development (PUD). It was initially developed with a single-family house as were the surrounding properties. In 2012, the property received a Use Variance (UV-48-12) to allow an accessory apartment within the single-family home with one condition of approval as follows:

A commitment shall be recorded on the deed which requires occupancy of both units to be limited to family only, consisting of an individual or a group of people all of whom are related to each other by blood, marriage, or legal adoption, and any other dependent children of the household.

The petitioner is proposing to expand the permitted occupants in an existing second dwelling unit on the property to include non-family. The original intent of the 2012 use variance was to allow the petitioner's mother and sister to live together in an accessory apartment attached to the petitioner's home. Since that approval, the petitioner's mother has been moved to a nursing home facility. The petitioner's sister remains in the apartment. However, in order to receive care through Medicaid, they must have at least two people (both with disabilities) in the apartment; therefore, the petitioner is requesting that the previously approved commitment be amended to allow an additional roommate in order to receive overnight care.

The Stonegate PUD does not allow duplexes. This use variance request requires Plan Commission review for compliance with the Growth Policies Plan and recommendation to the Board of Zoning Appeals. The Plan Commission and Board of Zoning Appeals both found the original request to be consistent with the GPP. Staff finds the current requested modification to be consistent with the GPP and to provide a beneficial opportunity to accommodate a unique familial and physical situation.

Staff recommends that a new commitment be recorded to reflect the current, unique circumstances, and to limit the future use of the accessory apartment. The new commitment will replace the previously recorded commitment. Additionally, the new commitment should also include language that states that in the instance that the requirements of the commitment cannot be met (ie. it is no longer occupied by relatives or by persons with disabilities) the unit shall be removed. This would include, but would not be limited to, the complete removal of the kitchen, including appliances and cabinets and the establishment of an open connection with the existing home

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed the use variance request at their February 9, 2015 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 to public health, safety, morals, and general welfare with a two-family dwelling. The property has been used for a two-family dwelling since 2006 with no known injury. Furthermore, this request allows for the accommodation of persons with disabilities. This is consistent with Bloomington's goals of being an inclusive community.

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

Staff Finding: Staff finds no substantial adverse impacts to the adjacent area from this request. The occupancy of the second dwelling unit will be limited to family of the occupants of the first unit or persons with disabilities, so increases in noise, traffic, and parking will be minimal.

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

Staff Finding: Staff finds peculiar condition in an accessory dwelling unit occupied by family on a corner lot. Smith Rd. is also designated by the Thoroughfare Plan as a Secondary Arterial street. This slight increase in density is appropriate at this location and is compatible with existing surrounding development. Additionally, peculiar condition is found in that the accessory unit will be used to care for a family member with disabilities and the addition of a roommate with disabilities is necessary to receive benefits through Medicaid.

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

Staff Finding: Staff finds that the strict application of the UDO constitutes an unnecessary hardship in not allowing family members and one roommate with disabilities to reside in an accessory dwelling unit when circumstances dictate the need to do so. The occupancy limits for residential areas were created to better

restrict use of the properties in a manner consistent with a “family”. These occupancy limits and restrictions on accessory units also attempt to reduce the impacts associated with a large number of people and a large number of unrelated adults. These regulations attempt to restrict single family properties to function as a single household unit. Staff finds that the current situation meets that intention as one the tenants involved is related by blood. Both tenants require care and will be receiving joint care through Medicaid.

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

Staff Finding: The GPP designates this property as “Urban Residential”. The fundamental goal of these areas is to “encourage the maintenance of residential desirability and stability.” Regarding infill development, the GPP states that it should be “consistent and compatible with preexisting developments.” Although the primary land use in this category is single family, multi-family housing is appropriate in some areas if designed to be compatible with preexisting developments. The Plan Commission found that the use variance will not substantially interfere with the goals of the GPP.

CONCLUSION: Staff finds that this is an appropriate variance for an accessory dwelling unit to be occupied by either two family members or one family member and one unrelated individual in order to receive proper care.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of UV-45-14 with the following condition:

1. The owner shall record a commitment on the deed which requires occupancy of the accessory unit to be limited to a maximum of two persons that are either related to the owner/tenant of the main home by blood, marriage, or legal adoption; or no more than two persons with disabilities. The commitment must also include language regarding the requirement to return this structure to a single family dwelling unit if it can no longer meet the other standards of the condition. The final language of the commitment must be reviewed and approved by staff prior to recording.
2. The new commitment will replace the previous deed commitment.

December 2014

Trish and Louie Ierino – 3900 E. Stonegate Drive, Bloomington IN 47401

In 2012, we sought city approval to legally use an addition to our home to care for our elderly mother and sister with developmental disabilities. That request for approved by planning, zoning and our neighbors. We now are seeking a change in the original request.

Our Mother's health took a turn for the worst. She had been in relatively good health till October 2014. She broke her hip, required surgery, dementia worsened and now must have 24/7 care at a nursing home facility. This has required us to rethink future plans for my sister.

When you have a family member with a developmental disability, the reality is you must prepare for the day when there is no family members left to care for your loved one. My sister only has us left. We only have two options – placing Cheryl in a supported living site (staffed apartment) or a group home. But there must be a transition plan to get to the point of living away from home.

We attempted an apartment for Cheryl a few years ago and it did not work out. Her safety and health was at high risk due to the strong attachment to Mom. She had jumped out of vehicles to run home to Mom. When that occurred the second time – we brought Cheryl back home.

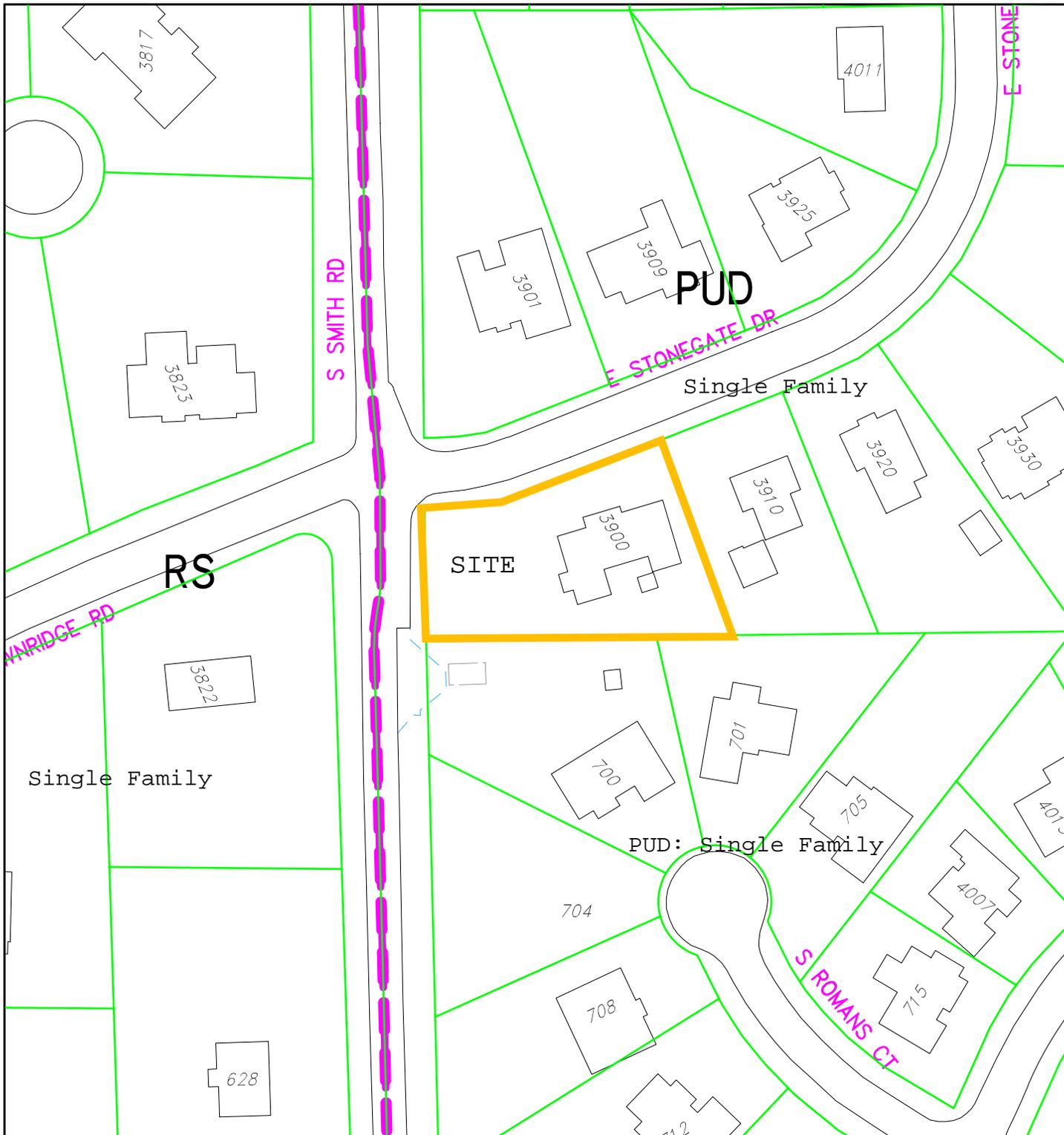
What we've learned since Mom has been in nursing home, Cheryl has become more independent. She is more at ease being away from Mom. We believe a future transition to different living arrangements could happen if done in a natural way and not forced.

In order for Cheryl to receive overnight staffing, she will need to have a roommate due to Medicaid budgets and funding. This would be another special needs person what would have similar needs as Cheryl. Our original agreement with Planning and Zoning states a family member only in the addition – our new request would not be a family member. The only traffic impact would be an extra car in our driveway or in front of house in the evening/overnight.

This would allow us to help Cheryl be more independent and eventually transition to a new living site. We would hope that in the next 2-4 years that Cheryl and a roommate would discuss a new apartment on their own. At this time, Cheryl does not know that Mom will not be returning home.

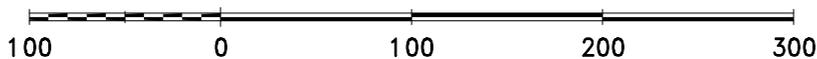
Thank you.

UV-45-14
Petitioner's Statement

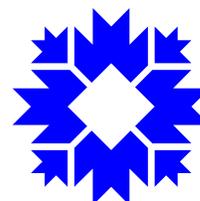


UV-45-14
3900 E. Stonegate Dr.
Location Map

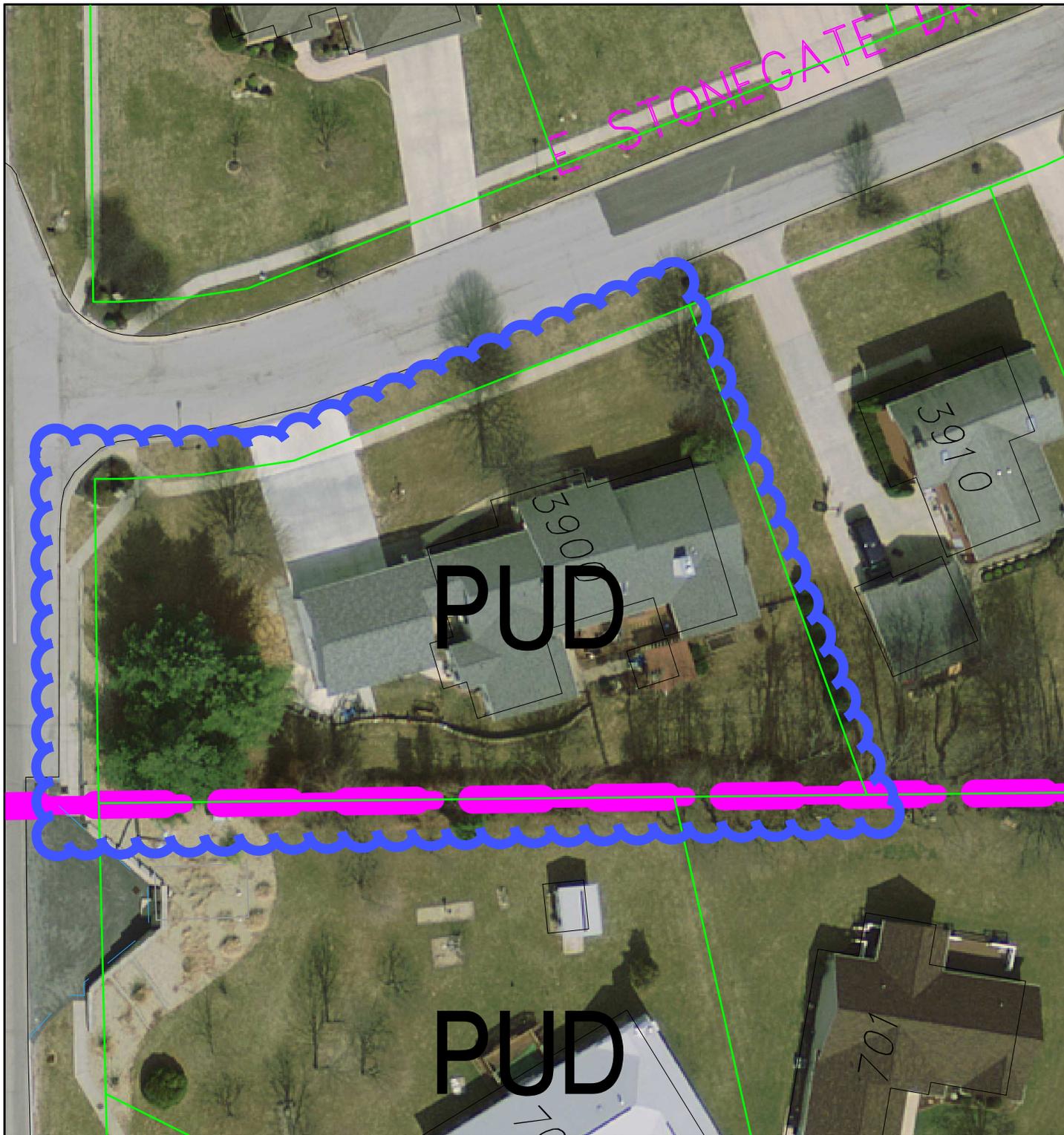
By: bannok
 1 Nov 12



City of Bloomington
 Planning



Scale: 1" = 100'



PC: UV-35-14 BZA: UV-45-14

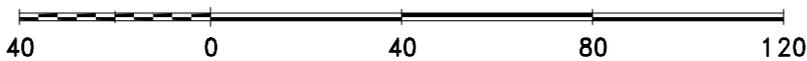
Trish Ierino

3900 E. Stonegate Drive

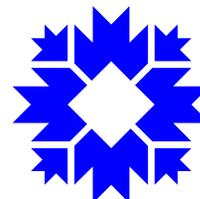
2014 Aerial Imagery

By: rosenbab

2 Feb 15



City of Bloomington
Planning & Transportation



Scale: 1" = 40'

For reference only; map information NOT warranted.



UV-45-14
Image from Google
Streetview

BLOOMINGTON BOARD OF ZONING APPEAL
STAFF REPORT
 Location: 3903 S. Walnut Street

CASE #: UV-02-15
DATE: February 19, 2015

PETITIONER: **Innovative Surgical Designs (Wayne Beams)**
 2660 E. 2nd Street, Bloomington

REQUEST: The petitioner is requesting a use variance to allow a light manufacturing use in a Commercial Arterial zoning district.

Area:	1.29 Acres
Zoning:	Commercial Arterial (CA)
GPP Designation:	Community Activity Center
Existing Land Use:	Vacant Building/warehouse
Proposed Land Use:	Light Manufacturing
Surrounding Uses:	East – Multi-family Residential
	South – Truck maintenance
	North/West – Commercial

SUMMARY: The subject property is located near the intersection of S. Walnut Street and E. Rhorer Road and is located behind the Tevac Heating A/C & Plumbing building at 3905 S. Walnut Street. The property is zoned Commercial Arterial (CA) and has been developed with a 10,000 square foot warehouse style building that was most recently used as a fitness center.

The petitioner wishes to lease the building for a light manufacturing use. Innovative Surgical Solutions manufactures medical devices used in spinal surgery. Both the supplies and the finished product are shipped using UPS. The business currently has 8 employees but plans to expand to 10 with full build out. With reuse of the building, the petitioner will bring the site into compliance with current UDO requirements including parking lot paving, striping, landscaping and bike racks. Light manufacturing is not a permitted use in the CA zoning district and requires Use Variance approval.

One member of the public expressed concerns about the Use Variance at the Plan Commission meeting. This homeowner along Kennedy Drive was concerned about this project being reviewed as a Use Variance instead of a change in zoning. He was also concerned about any precedent it would set for other industrial and more intense uses along S. Walnut Street. Staff would note that no variance is precedent setting. Each variance is reviewed individually on its merits based on the peculiar conditions of an individual property. Staff would also note that a rezoning of this property would be an inappropriate "spot zone" and open the building up to more intensive and less appropriate uses.

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed this use variance request at their February 9, 2015 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 to public health, safety, morals, and general welfare with a two-family dwelling. The property has been used for quasi-industrial uses like warehousing in the past with no known injury.

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

Staff Finding: Staff finds no substantial adverse impacts to the adjacent area from this request. Properties to the south, west and north have all been developed with quasi-industrial uses (Building trades, small engine repair and large truck repair). The property is buffered from the residential properties to the east by 130 feet of wooded are.

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

Staff Finding: Staff finds peculiar condition in the fact that this property is a large warehouse style building. The building is more suitable for small scale manufacturing and warehousing uses than retail, office or restaurant uses. Peculiar condition is also found in the fact that the building has no street frontage. Access is gained to Walnut Street through a shared access easement. Lack of street frontage makes this property difficult to develop with a consumer oriented use.

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

Staff Finding: Staff finds that the strict application of the UDO constitutes an unnecessary hardship in not allowing a light manufacturing use. If this use variance is denied, the owner would suffer an unnecessary hardship in trying to lease this warehouse style building with no street frontage to a permitted use. Permitted uses in the CA district are mostly consumer oriented retail, office and restaurant use. Light manufacturing can often be less intensive and have less of an impact on neighboring properties than some permitted uses, such as vehicle repair, auto body shops, and gas stations.

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

Staff Finding: The Growth Policies Plan (GPP) designates this property as a Community Activity Center. Community Activity Center is designed primarily to provide community-serving commercial opportunities in the context of a high density mixed use development.

The Plan Commission found that the following policies toward CACs directly relate to this proposal.

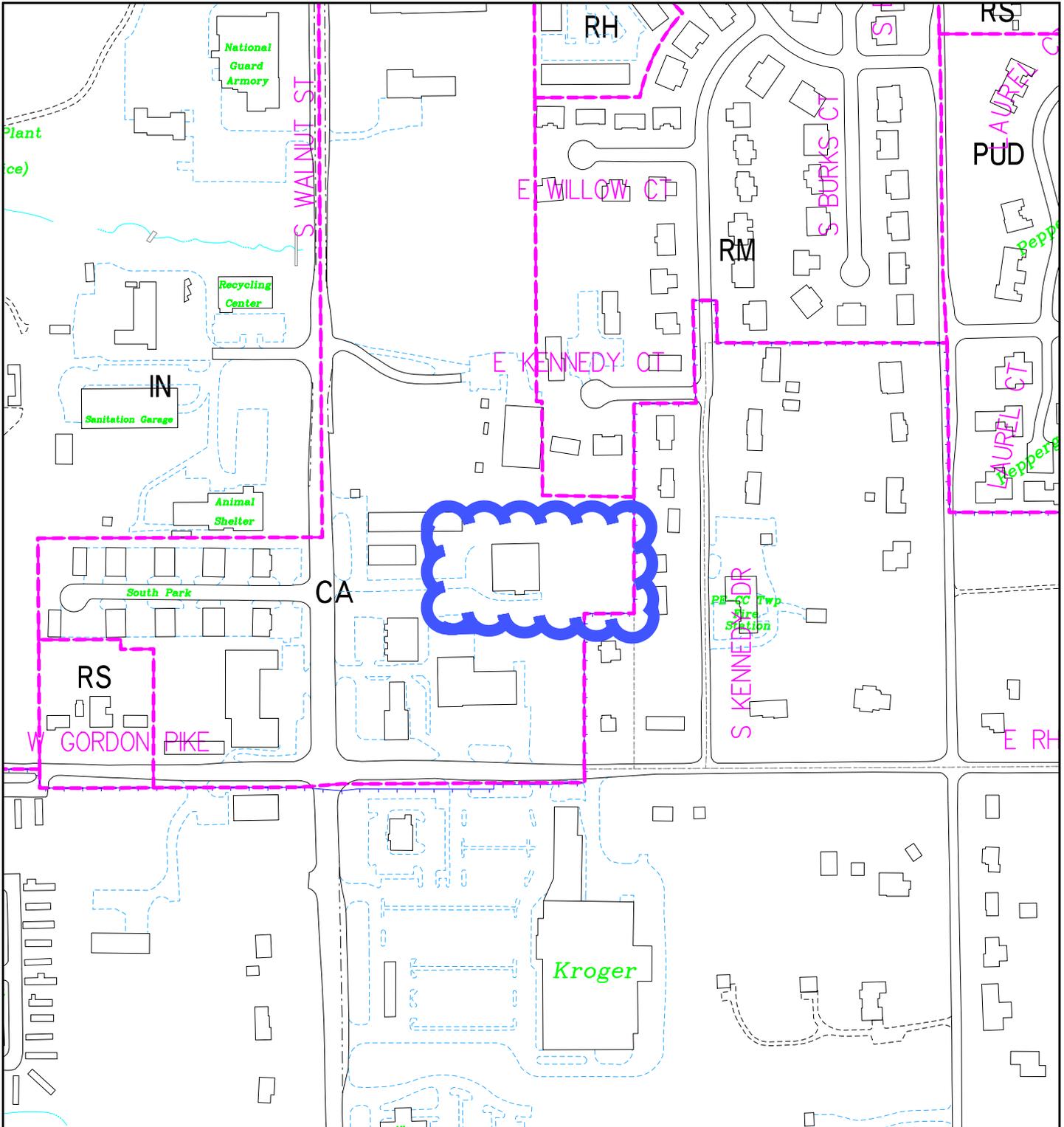
- The CAC must be designed to serve...a community wide group of users that may drive a personal vehicle to the CAC.
- The CAC will incorporate a balance of land uses to take advantage of the proximity of goods and services.
- The primary land use in the CAC should be medium scaled commercial retail and service uses.
- Public Transit access should be a major component of the urban services provided for any Community Activity Center

In addition, the *Sustain Economic and Cultural Vibrancy Guiding Principle* of the GPP encourages the City to “Enhance Bloomington’s strong economic base by encouraging job creation and new capital investment by building upon the community’s quality of life assets and cultural amenities.”

While the CAC is mainly geared toward retail and residential development, it does not preclude other uses. For example, non-consumer oriented offices are a permitted use in the CA zoning district. The same qualities of a CAC that make it attractive to residential and retail uses, access to major roads, transit and bicycle infrastructure, also make them attractive to employers. The Plan Commission found that low intensity employment and light manufacturing uses can be a vital component of a mixed use Community Activity Center.

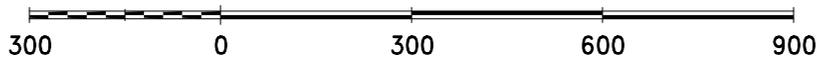
CONCLUSION: Staff finds that this is an appropriate use in this warehouse style building with no street frontage. The building is surrounded by other quasi-industrial uses and is buffered from adjacent homes by a 130 foot wide wooded area.

RECOMMENDATION: Staff recommends approval of this Use Variance.

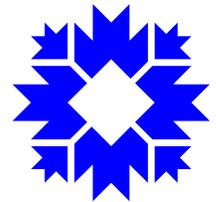


UV-02-15
Location and Zoning Map

By: roachja
16 Jan 15

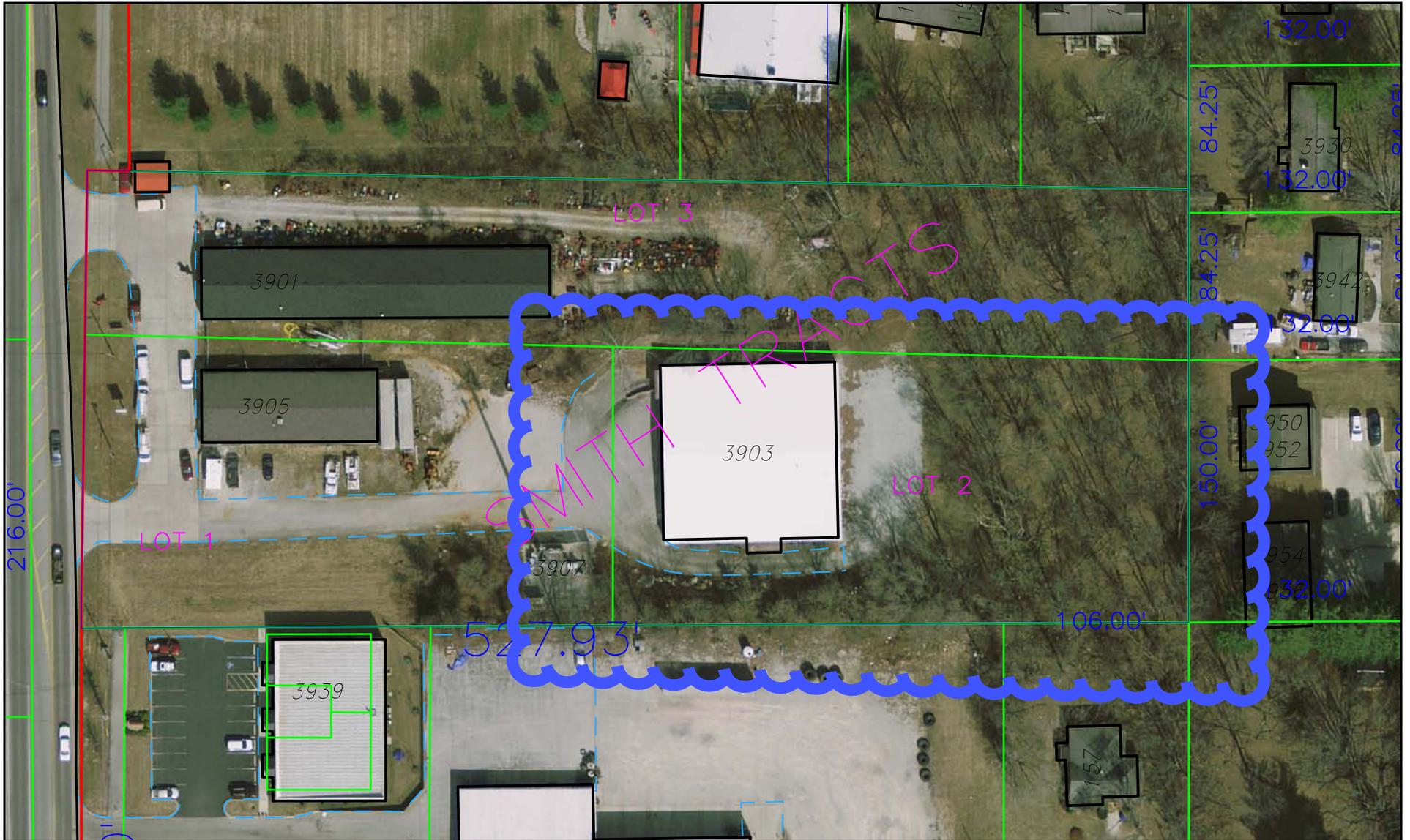


City of Bloomington
Planning & Transportation



Scale: 1" = 300'

For reference only; map information NOT warranted.



UV-02-15
2014 Aerial Photo

By: roachja
16 Jan 15



For reference only; map information NOT warranted.



City of Bloomington
Planning & Transportation



Scale: 1" = 80'



Providing professional land planning, design, surveying and approval processing for a sustainable environment.

Stephen L. Smith P.E., L.S.
Steven A. Brehob B.S., Cn.T.

Bloomington Board of Zoning Appeals
Bloomington Plan Commission
C/o Jim Roach
Planning Department
Showers Building
Bloomington, Indiana

January 13, 2015

Re; Innovative Surgical Designs
Use Variance for
Manufacturing in a CA zone

Dear Jim and Board Members,

We are seeking a Use Variance to allow Innovative Surgical Designs to locate in the existing building at 3903 South Walnut Street. Innovative Surgical Designs is a growing local business that needs a larger facility. The existing 10,000 sf building on South Walnut is a good size and in a good location to meet their needs.

The company currently has eight employees that all work on the same shift. As the employee number expands it is estimated that the maximum on the largest shift will be ten employees. Any additional employees will be on a different shift. Ten parking spaces are shown on the site plan along with access drives and landscaping. There is space for additional parking on the east side of the parking area at the rear of the site if it is needed in the future.

The following items are being submitted with this application;

- Site Plan
- Application form and application fee
- Petitioner's statement

Thank you for your assistance as we move this project towards final approvals and construction.

Very truly yours,

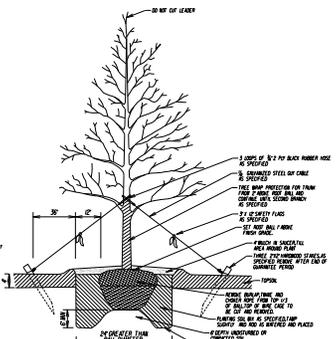
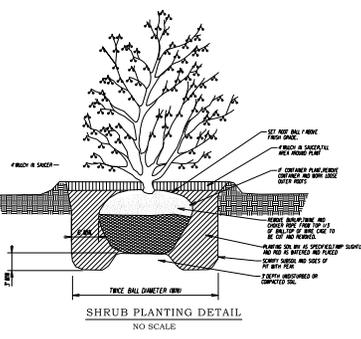
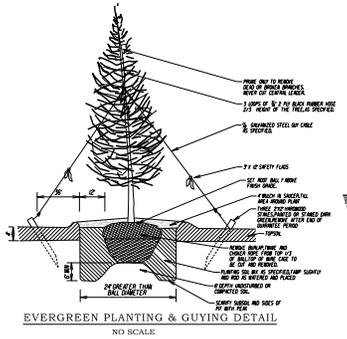
Don Kocarek
Consultant for Innovative Surgical Designs

cc; file, Beams
Encl

UV-02-15
Petitioner's Statement

Innovative Surgical designs is a small medical device company that has been developing novel spinal implant systems. Currently we are selling a fusion system developed in house in the US market and a Spinal implant system that treats Spinal Stenosis. Everything we produce can fit in your hand and is shipped via small UPS truck. The Machines we use to produce these parts are fully self-contained are not loud and don't produce smoke or contaminants. We did not start out producing any of our own parts but as a company we have learned that to survive we needed to develop our own prototyping and production capabilities. We have been looking for a building to expand into for months and this and one and one other building that is actually in the county are the only 2 we have found that fit our location and size needs. With this change in our business structure we need to have a facility that is capable of both housing our small amount of manufacturing and the office space needed for administrative needs. The building on S Walnut is the perfect location, layout and size for our needs. We don't believe that what we are doing would be a problem in that location. Considering the building is actually a long distance from Walnut, and doesn't have any frontage. Another consideration is that the majority of businesses around this location are doing some type of commercial service. There is an HVAC business in front, commercial tire sales and automotive shop on one side, lawn mower repair and sales on the other side. And a noisy dog kennel next door to that. Our company would not change what type of business was being done in the area, or impact what is already there. This location has been vacant for a considerable amount of time and needs to be utilized. I believe it is ideally suited for what we want to use it for. Its size and location are ideal for our use. We don't need or want to pay for frontage property. All of these factors make this an ideal property for our needs.

LANDSCAPE PLANT TABLE					
KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE	COMMENTS
TREES					
GT	3	OLEA FRUTICOSA	Thornless Honeylocust	2" Caliper	
QR	2	QUERCUS RUBRA	Red Oak	2" Caliper	
SHRUBS					
HO	12	HYDRANGEA QUERCIFOLIA	Oakleaf Hydrangeas	3 Gal/ton	
IG	14	ILEX GLABRA	English Holly	3 Gal/ton	
BR	11	BURNING BUSH	Burnwood	1 Gal/ton	



SITE LEGEND

- 10' TO 15' EASEMENT
- 10' TO 15' EASEMENT
- DR. & UT. EASEMENT
- 2" ROLL CURB
- 2" CURB AND GUTTER
- 6" STANDING CURB
- CONCRETE SIDEWALK
- HANDICAPPED RAMP
- HANDICAPPED RAMP
- RET. WALL (CONCRETE)
- RET. WALL (STONE)
- RET. WALL (WOOD)
- FENCE (CHAIN LINK)
- FENCE (SMOOTH RING)
- FENCE (POST & RAIL)
- FENCE (WOOD SLAT)
- GUARD RAIL
- PROPOSED STREET TREE
- BOLLARD
- DUMPER (WOOD)
- DUMPER (CONCRETE)

GENERAL NOTES

- 1) SEE SMITH BRENOB STANDARD SPECIFICATIONS FOR CONSTRUCTION REQUIREMENTS.
- 2) TOP OF EXISTING ELEVATIONS ARE GIVEN IN THE FOLLOWING LOCATIONS:
 - a) MANHOLE RISE ELEVATION
 - b) INTERIORS: SEE DETAIL PACKET
 LOCATIONS #1 AND #2 ARE TO BE VERIFIED IN THE FIELD BY THE CONTRACTOR. PLEASE NOTIFY ENGINEER IF FIELD ADJUSTMENTS ARE NECESSARY.
- 3) LOCATION OF EXISTING UTILITIES ARE TO BE VERIFIED IN THE FIELD BY THE CONTRACTOR. PLEASE NOTIFY ENGINEER IF FIELD ADJUSTMENTS ARE NECESSARY.

SITE PLAN NOTES

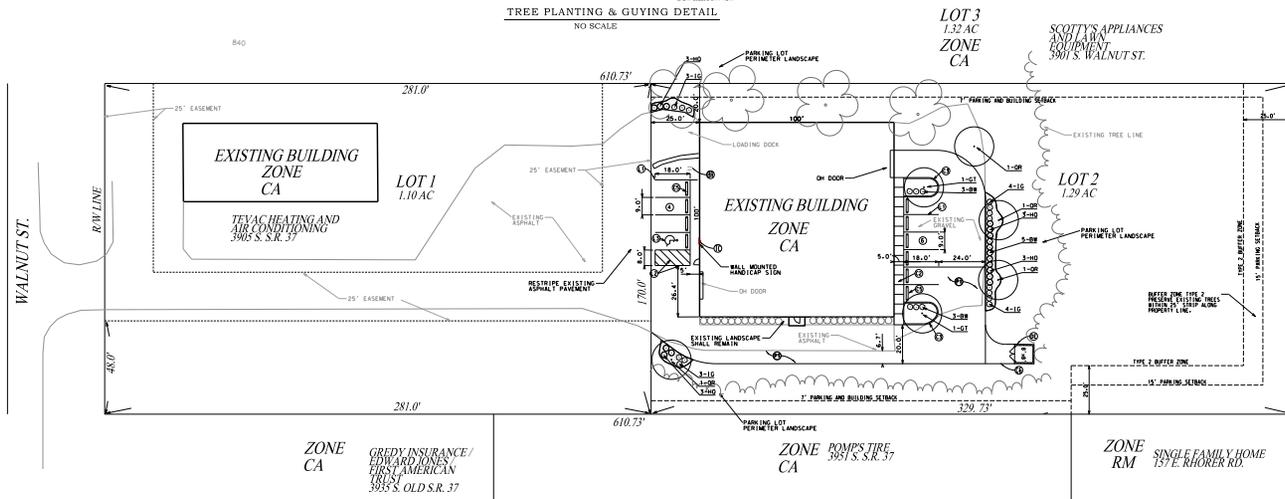
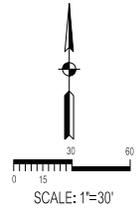
- 1) SIDEWALK RAMP SHALL BE IN ACCORDANCE WITH THE LATEST ADA REQUIREMENTS.
- 2) PARKING MARKINGS, IF SHOWN, SHALL BE APPLIED IN ACCORDANCE WITH SECTION 808 & 912.14 OF THE 1988 INDOT STANDARD SPECIFICATIONS AND AS SHOWN ON THE PLANS.
- 3) CONTRACTOR IS RESPONSIBLE FOR OBTAINING A CITY R/W EXCAVATION PERMIT IF WORK WITHIN THE PUBLIC R/W IS NECESSARY FOR THE PROJECT COMPLETION.

DEVELOPMENT DATA

BUILDING SF: 1 STORY 1000 SF
 PARKING REQUIRED = 1 SPACE PER EMPLOYEE AT LARGEST SHIFT
 EMPLOYEES = 8
 PARKING PROVIDED = 10 SPACES, 1 ADA
 MAX IMPERVIOUS AREA = 602
 IMPERVIOUS AREA = 602
 MIN WIDTH = 150'

MATERIALS LEGEND

- 1) 3" HMA SURFACE #11 ON 2" 5" HMA INTERMEDIATE
- 2) COMPACTED AGGREGATE BASE #5.5, TYPE "D"
- 3) CONCRETE SIDEWALK - WITHIN PARADELS
- 4) 4" THICK CONCRETE
- 5) COMPACTED AGGREGATE BASE #5.5, TYPE "D"
- 6) 6" STANDING CURB
- 7) CONCRETE CURB AND GUTTER
- 8) CONCRETE BARRIER BLOCKS
- 9) CONCRETE SLAB
- 10) 7" THICK CONCRETE
- 11) 8" COMPACTED AGGREGATE BASE #5.5, TYPE "D"
- 12) WOOD DUMPER ENCLOSURE
- 13) 4" HIGH CHAIN LINK FENCE
- 14) CONCRETE GUTTER
- 15) LINE, PAINT, SOLID, WHITE, 4"
- 16) LINE, PAINT, SOLID, BLUE, 4"
- 17) TRANSVERSE MARKINGS, PAINT, BLUE, HANDCAP SYMBOL
- 18) SEEDED LAWN
- 19) HANDICAP RAMP TYPE K
- 20) TRAFFIC CONTROL SIGN, HANDICAP PARKING
- 21) BIKE RACKS



Smith Brebob & Associates, Inc.
 453 S. Claire Boulevard
 Huntington, Indiana, 47304
 Phone: (812) 336-0513
 Fax: (812) 336-0513
 Web: http://smithbrebob.com

IDENTIFICATION SHEET

JOB TITLE
**INNOVATIVE, SURGICAL
 DESIGNS
 SITE IMPROVEMENTS**

REVISIONS	DATE

APPROVED BY
 DK
 DK
 DK

5114
 SHEET
2 OF 3

DATE: 1/13/2014
 SITE AND
 LANDSCAPE
 PLAN

**UV-02-15
 Site Plan**



UV-02-15
Site Photo

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT DATE:
LOCATION: 1801 E. Hillside Drive

CASE #: V-5-15
February 19, 2015

PETITIONER: Yaling Huang
1801 E. Hillside Dr., Bloomington

REQUEST: The petitioner is requesting a variance to allow a 6-foot tall fence forward of the front building wall.

SUMMARY: The property is located on the northeast corner of E. Hillside Drive and S. Longwood Drive. It has been developed with a single family house and is zoned Residential Single-family (RS). To the north, west, and east are other single-family homes, also zoned RS. The area to the south is zoned Residential High-Density Multifamily (RH) and has been developed with apartments.

This petition comes to the Board of Zoning Appeals as a result of a zoning violation and subsequent enforcement action. The petitioner constructed a 6-foot tall fence and enforcement action began in October 2014. The UDO prohibits fences above 4 feet tall between the street and the “front building wall.” The “front building wall” is defined as “the building elevation which fronts on a public street.” Corner lots have two front building walls. The area between the house and the street can be fenced with a 4-foot fence, but not the 6-foot fence that was constructed. The petitioner is requesting a variance to allow the 6-foot tall fence between both front building walls and the adjacent streets to remain.

The petitioner contends that a fence taller than 4 feet tall is necessary because of a high volume of traffic on Hillside Dr., the desire for privacy, a small back yard, and the configuration of the lot. Hillside Dr. is designated as a secondary arterial and Longwood Dr. is designated as a neighborhood street in the Master Thoroughfare Plan.

While there are other examples in town of fences taller than 4 feet tall between the front building wall and the street on corner lots, these fences were erected prior to the adoption of the UDO. Under Bloomington’s previous zoning ordinance, fences could be up to 8 feet tall anywhere on a lot. With the adoption of the UDO, the Plan Commission and City Council limited fence height in front yards to 4 feet in order to limit tall fences looming near sidewalks, keep front yards and structures from being fenced off from the street view, and promote a more engaging, pedestrian-friendly atmosphere.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

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

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

STAFF FINDING: Staff finds no injury to the general welfare with this request.

- 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 a negative impact on the public space that the standard was designed to protect. A 6-foot tall privacy fence within the front yards at this location adversely impact the streetscape.

- 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: The Board of Zoning Appeals ruled on a similar case in 2009 (V-17-09), where a petitioner requested a variance from fence height standards to allow for a 6-foot fence between the street and the front building wall along High St. for the property located at 2105 E. Meadowbluff Ct. The BZA approved the variance request, finding that the peculiar condition could be found in the combination of three issues: First, that the property in question was on a corner lot. Second that the street along the “non-functional side” of the house is a classified street with heavy traffic. These issues created a privacy need that could not be achieved with a 4-foot tall fence. Third, the part of the fence taller than 4 feet tall was constructed of lattice and was not solid.

This case satisfies just one of the three peculiar conditions identified in the V-17-09 approval. The petitioner's proposal is on a corner lot. The fence has been constructed on the corner fronting both adjacent streets. Hillside is a street with heavier traffic. However, the fence is forward of the front building wall on both streets. In this case, the "non-functional side" of the home would be considered Longwood, not Hillside, the busier of the two streets. Third, the entirety of the fence is opaque wood; no portion of the fence is constructed of lattice. Staff finds no practical difficulty in requiring compliance. Privacy could also be achieved through additional landscaping or window treatments.

RECOMMENDATION: Based upon the written findings above, staff recommends denial of V-5-15.

To Whom It May Concern,

January 15, 2015

I am writing to request a variance on a portion of a fence installed on my property that is taller than the Unified Development Ordinance(UDO) code allows.

My name is Yaling Huang. I am the owner of the property at 1801 E. Hillside Dr. Bloomington, Indiana since 2007.

In November, 2014 I received a courtesy warning letter from City of Bloomington Planning Department stating a zoning violation regarding the Maximum Height of a fence if installed on the forward of the front building wall of the primary structure, the height shall not exceed 4' tall.

In initial consultation with senior planner, Jim Roach, I realized the violation at my property simply exceeds to the forward of the front house wall and involves the portion of the side of the fence along the Longwood Ave. He explained that even my house is facing the Hillside Drive, but it sits on the corner of two main street, the side of my fence along Longwood Ave. even it is behind the forward of the front house wall, it is considered as the front instead of the back yard.

I was also informed that this UDO for fence standards was passed in 2007. Therefore, even though two properties, one is directly across from my house on Longwood Ave. and the other, located on the corner of Hillside Dr. and Nancy St. which is one house away from mine, both have 6' tall fences built around the forward and side of the front building wall. They are not violating the zoning code since the fences are built before 2007.

I honestly had no idea of the codes for fence until the meeting with Jim. Before installing the fence I consulted with my neighbors directly behind my house. I believe that they are pleased with both privacy and safety features of the fence offered for their young children.

Safety concern: heavy traffic on hillside-

My main concerns for my house in this busy Hillside Drive is that the traffic is getting worse during certain time of the days. I did not think in 2007 or even 2012 to install an all around privacy fence is necessary, since there were less cars, trucks and school buses.

Privacy, sound barrier and noise reduction-

Second, the way the house is built and located, the backyard was a narrow strip which is very close to the neighbors house. The Side yard on the opposite side is an open space where one can enjoy the outdoor space if there is a privacy fence. A 4' tall fence provides less privacy sometimes no privacy in this case. Also, it is impossible to retain large dogs with 4' tall fence. I would love to sell this house in the future to anyone, retired or working, old or young, with or without kids or pets, whom will be able to enjoy the nice open side yard along the quieter Longwood Ave.

V-5-15

Petitioner's Statement

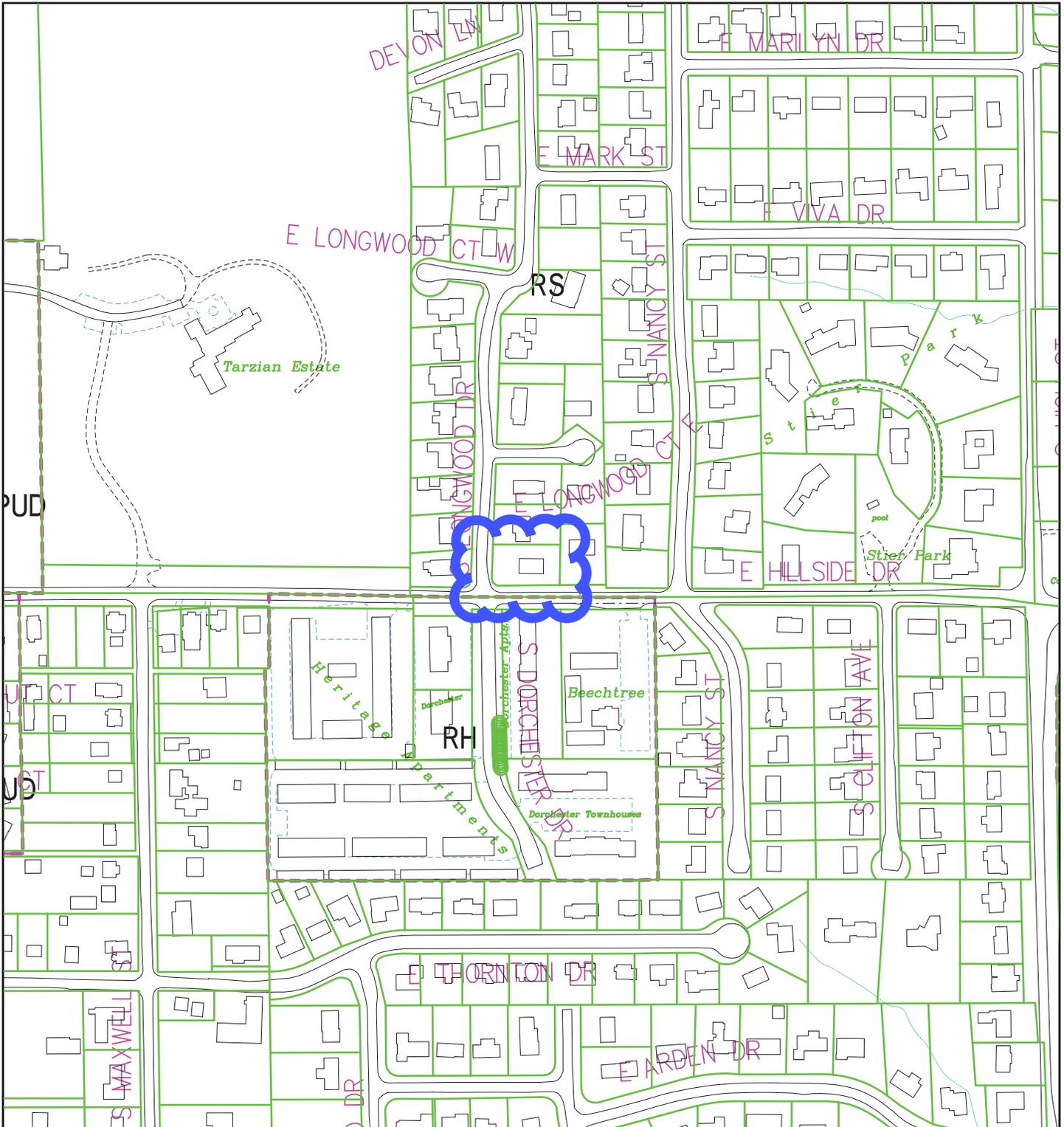
My sincerely asking the board to view this case as an individual case that because:

1. this fence is built first of all due to safety and privacy issues
2. this fence does not hinders visibility since it is set back far away from the property line.
3. this fence is very sturdy and well reconstructed with good materials- however, if in some people's view that it is not up to their aesthetic standards, I would love to do some nice landscaping around those sections in question to make it more attractive instead of cutting those section to a 4' tall and built all the way to the property line and in front of sidewalks yet the majority and rest of the fence is still 6' tall, which in my opinion will make it look strange, not unified and more massive than it is.
4. this fence is not intent to set a precedent for any other fence but to ask board to evaluate every situation differently and have some flexibility on issues being presented.

Thank you very much for considering the variance.

Sincerely yours,

Yaling Huang



V-5-15
Location Map

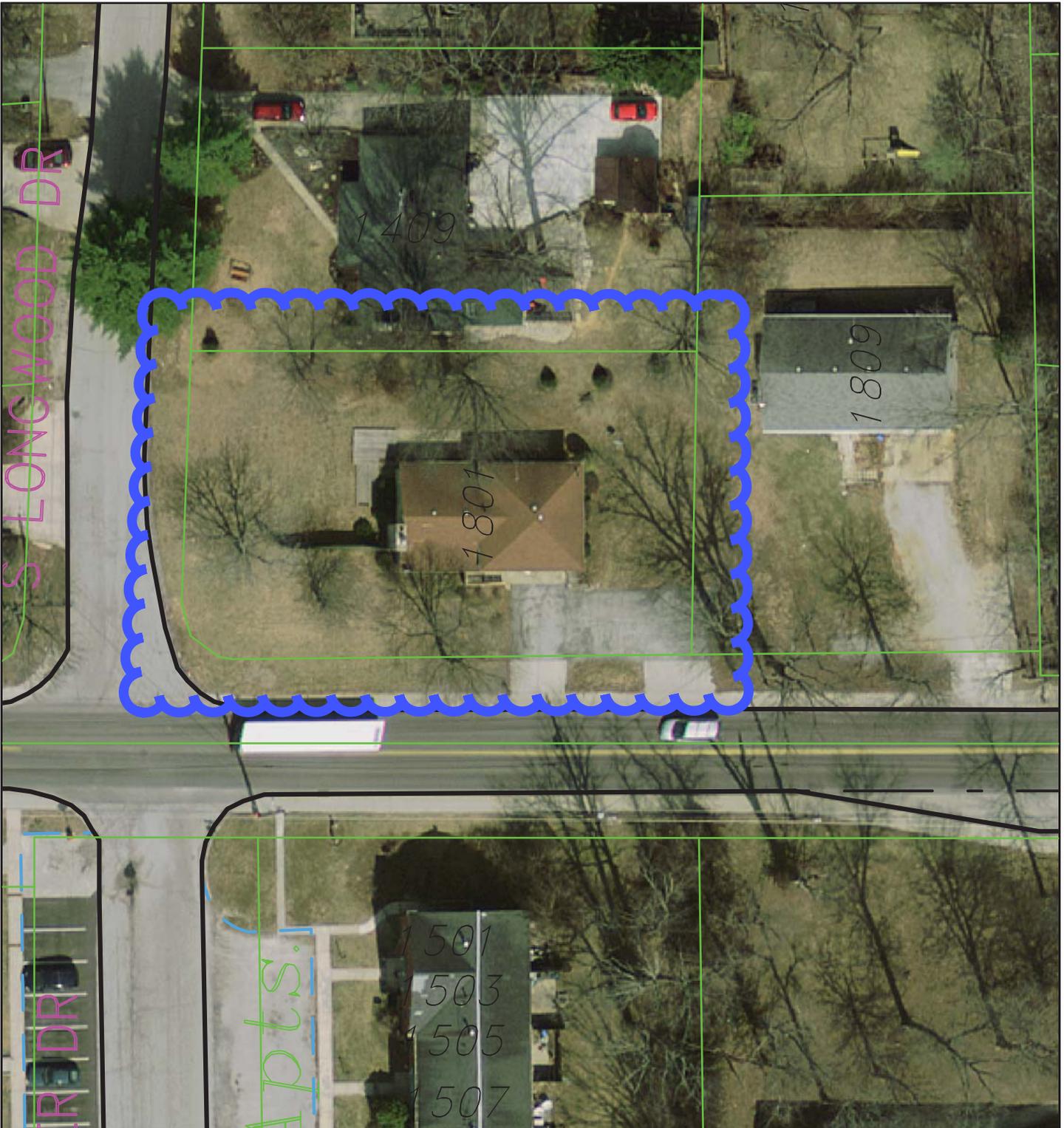
By: rosenbab
 13 Feb 15



City of Bloomington
 Planning & Transportation



Scale: 1" = 300'



V-5-15
Aerial Map

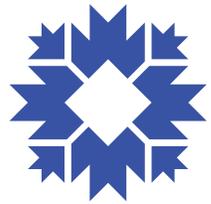
By: shayp
 13 Feb 15



For reference only; map information NOT warranted.



City of Bloomington
 Planning & Transportation

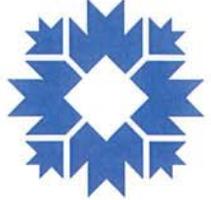


Scale: 1" = 40'



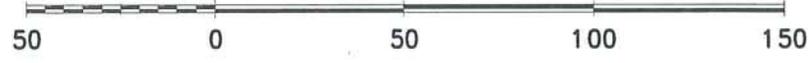
V-5-15
Permitted Fence Heights

City of Bloomington
 Planning & Transportation

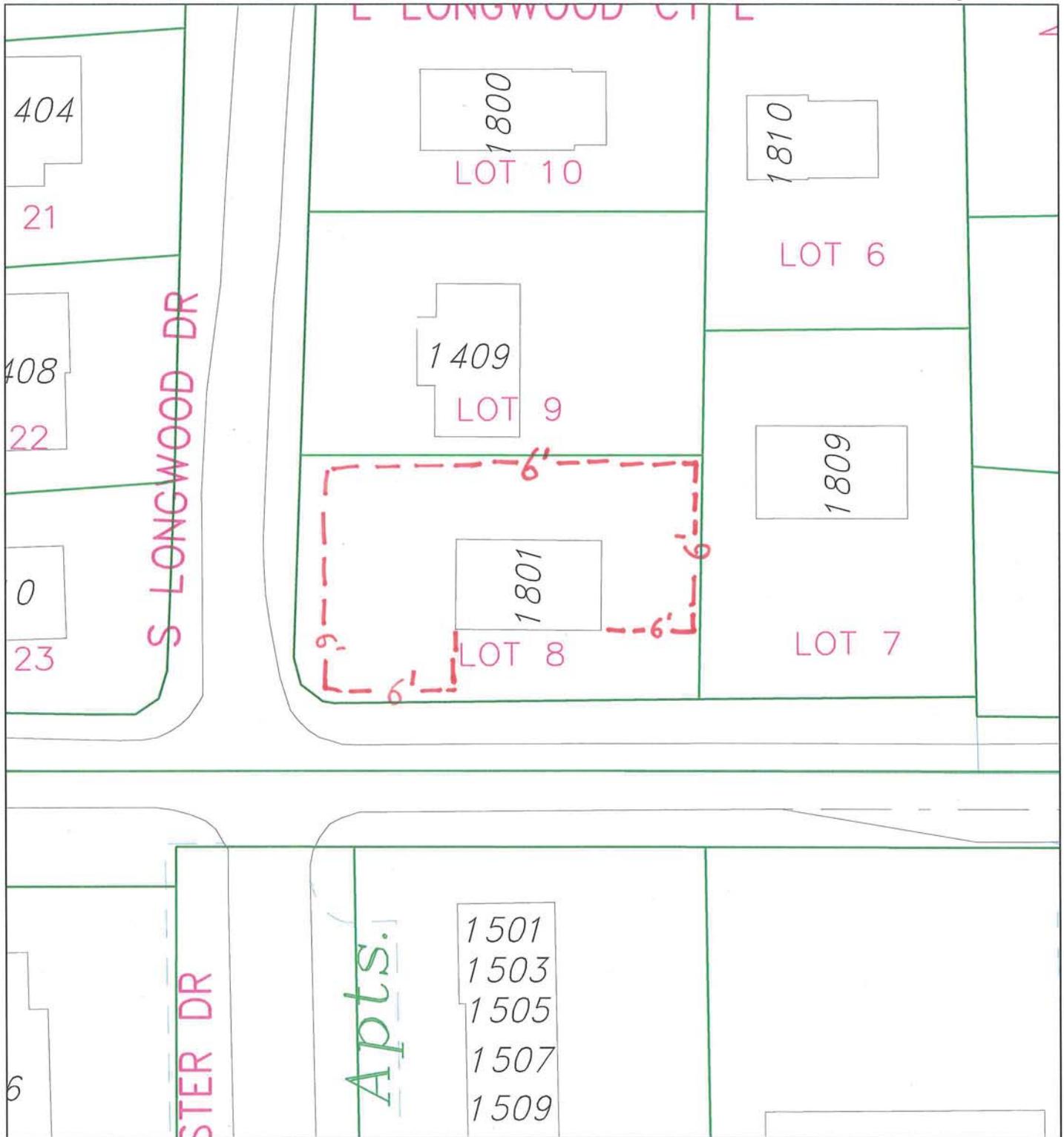


Scale: 1" = 50'

By: roachja
 13 Feb 15

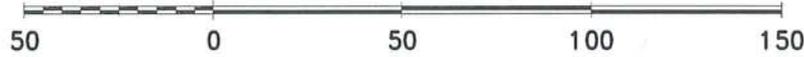


For reference only; map information NOT warranted.

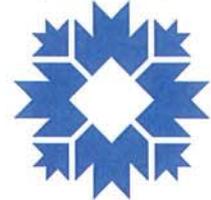


**V-5-15
Existing Fence Heights**

By: roachja
13 Feb 15

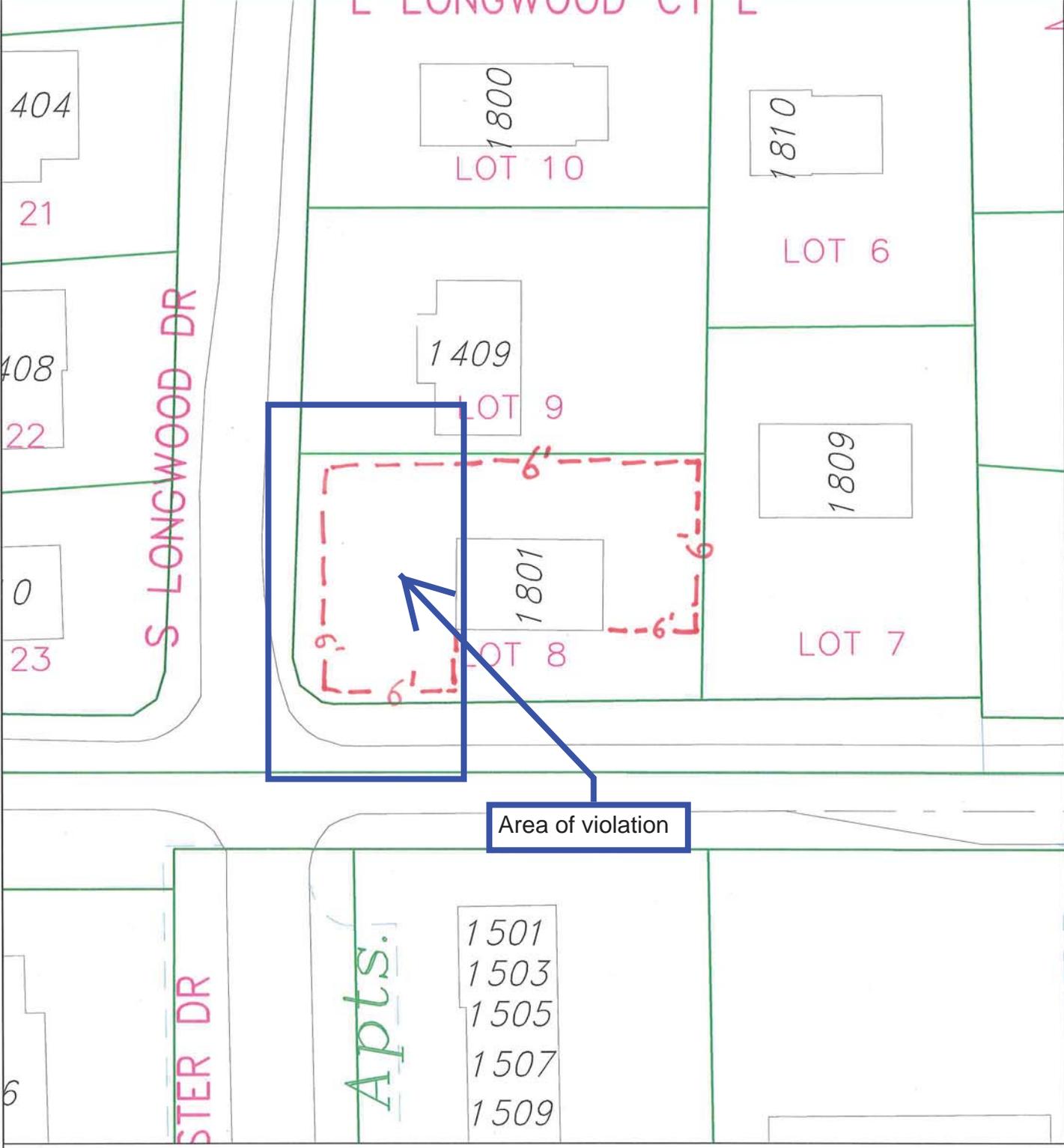


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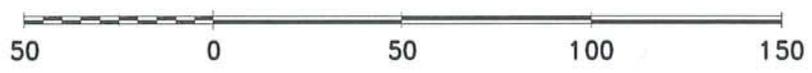
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For reference only; map information NOT warranted.

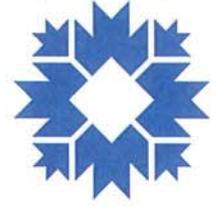


V-5-15
Fence area of violation

By: roachja
 13 Feb 15



City of Bloomington
 Planning & Transportation



Scale: 1" = 50'

For reference only; map information NOT warranted.



V-5-15
Site photo
View from Hillside of 1801 E. Hillside



V-5-15
Site photo
View from Longwood of 1801 E. Hillside

From: Martha Wailes
Subject: Longwood-Devon Fence
Date: January 16, 2015, 3:31 PM
To: Mom, James Roach roachja@bloomington.in.gov

In response to your request for the Longwood-Devon Neighborhood Association for a variance for the fence at the corner of Longwood and Hillside, I sent an email on Monday, 1/12, to the neighborhood. Attached are my email (in italics) and the comments.

Please be aware that ours is a very small neighborhood association – 3-block Longwood plus 1-block Devon, about 40 houses. Residents of Nancy Street to High Street, and the south side of Hillside, would be different "neighborhoods."

Best wishes,
martha



V-5-15
Comments from neighbors

it's not the height of the fence that causes the visual obstruction problem as much as it is where it has been constructed. The fence does block the view but height is not the issue. so, it would not matter if the fence were lower, in our view.

The fence doesn't bother us. During its install, I was concerned about traffic visibility to the east. But since the position of the fence isn't a safety issue, we have no real complaint.

I think the fence is fine. It would look better if they spent, say, \$1000 dollars to have some plantings/landscaping around the public facing areas. But, really it does not look bad at this point. Now, in two years when the boards weathers, twist and warp, it will be less attractive - hence the suggestion for planting.

As a property owner that directly abuts this fence, I do not really have any problems with the fence as it stands. The fence gives our lot some additional screening and noise reduction from Hillside. The look of the fence is consistent with several other fences in the area, and nicer looking and farther from the street than some, like this rather ugly (but likely grandfathered) fence:

https://www.google.com/maps/@39.150501,-86.511245,3a,75y,317.35h,90t/data=!3m4!1e1!3m2!1sVSWQLtSokJVFY_WaRgFtWA!2e0

This fence was actually built by the renters who live in the house, with the materials purchased by the owner. I did give them a bit of guidance as to where the property line was located between our lots, and made sure they knew about the fairly wide easement for Longwood. However, I had no idea about the 4 foot limit for fences for street facing sides of the lot until recently.

[Would a 4' fence with 2' lattice on top meet the code? Less obtrusive.]

V-5-15

Comments from neighbors

As you may be aware, a complaint has been filed about the new fence on the corner of Longwood and Hillside. City code specifies that fences in the front yard can be a maximum of 4 feet in height, and on the side behind the front line of the house or in the back can be 6 feet. For a house on a corner, the side yard along any street is considered front yard.

This fence, therefore, is non-compliant both in front and all along Longwood.

The owner of the house, which is a rental house, has contacted me to ask if the neighborhood association would support her in a request for a variance. Her other options, I gather, would be to reduce those sections to 4' or to remove them.

I am asking you for any comments you have, positive or negative, of her request for our support for a variance from the height regulation. I don't feel comfortable asking for a formal vote from our neighborhood association on this, but I would be glad to pass comments on to her with a copy to the city zoning planner who is following this.

Whatever you say can either be attributed to you or forwarded just as from a neighborhood resident – your preference.

I'd like to get back to her by the weekend, if possible. Thanks for any input.

I think the primary reason for this rule is to prevent tall fences from affecting visibility when people are driving by. I don't see that this fence hinders visibility. I don't have a problem with it, and am of the opinion that because of the deer problem, the City needs to have some flexibility on this issue.

I do not find that this fence inhibits visibility and think that the homeowner should be able to have this taller option to create a sound barrier from a busy street, and to also protect her pets if she has any. I would happily support her in securing a variance.

[from a neighborhood owner, whose neighborhood house is currently a rental house] I would support her getting a variance. Renting or not, it must be rough to have a house on Hillside w/ the heavy traffic. ... I support an exception. The city can decide these matters on a case by case basis.

Other than aesthetic reasons (I think it is really ugly and I can see the north parameter from my yard), I guess I have no objections. But the new property owner should know the law.

I'm annoyed that someone with rental properties didn't check about what the code might be for a fence, especially one in the front yard along Hillside. That's part of being in that business.

Knowing that what you thought of as a side yard is considered to be front yard when you have a corner lot is trickier.

I worry about the precedent. Will others argue for a 6' fence in their front yard based on this -- in our neighborhood or in other neighborhoods?

Can we make a distinction about deer fences specifically around a garden and major fences around an entire yard?

For me, it's an aesthetic issue. It's out of character for the neighborhood.

I find the fence does impede my sight down Hillside. I am in favor of compliance.

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