

CITY OF BLOOMINGTON



**December 17, 2015 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL**

CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS
December 17, 2015 at 5:30 p.m.

Council Chambers - Room #115

ROLL CALL

MINUTES TO BE APPROVED: October 22, 2015

REPORTS, RESOLUTIONS, AND COMMUNICATIONS:

PETITIONS:

- AA-36-15 **Steve Thomas**
 114 N. Walnut St.
 Request: Administrative Appeal of the Planning and Transportation
 Department's interpretation that "Seaview Outfitters" is a standardized
 business.
 Case Manager: Eric Greulich

- UV-37-15 **Nile Ridge Apartments (Robert Thompson)**
 980 W. 17th St.
 Request: Use variance approval to allow first floor residential in a
 Commercial General (CG) zoning district.
 Case Manager: Beth Rosenbarger

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 114 N. Walnut Street

CASE #: AA-36-15
DATE: December 17, 2015

PETITIONER: SeaView Outfitters (Steve Thomas)
114 N. Walnut Street

REQUEST: The appellant is appealing Staff's decision that the SeaView Outfitters store is a standardized business.

STAFF REPORT: The appellant leases the property located at 114 N. Walnut Street located on the east side of the Courthouse Square. This property is zoned Commercial Downtown (CD) and is within the Courthouse Square Overlay District. This site is also subject to the recently approved Courthouse Square Historic District guidelines that would address any exterior signage or façade alterations. A sign permit was applied for prior to establishment of the historic district. No problems have been identified with the proposed wall sign.

The appellant moved into the business space in the summer of 2014 and sells outdoor apparel and merchandise. The business also has another established retail store located in Oxford, Ohio. Staff from the Planning and Transportation and Legal Department reviewed the aspects of this case and made a determination that the business would be classified as a "Business, Standardized" based on the UDO definition. The UDO lists Standardized Businesses as a conditional use in the Courthouse Square Overlay District and a conditional use approval is required for the use to be permitted.

The UDO defines a Standardized Business as-

"Any type of commercial business establishment, not including commercial businesses located in such a manner as to be devoid of any building frontage which is visible to a street, located in the Courthouse Square Overlay and University Village Overlays, which are required by contractual or other arrangement or affiliation to offer or maintain standardized services, merchandise, menus, employee uniforms, trademarks, logos, signs, or exterior design".

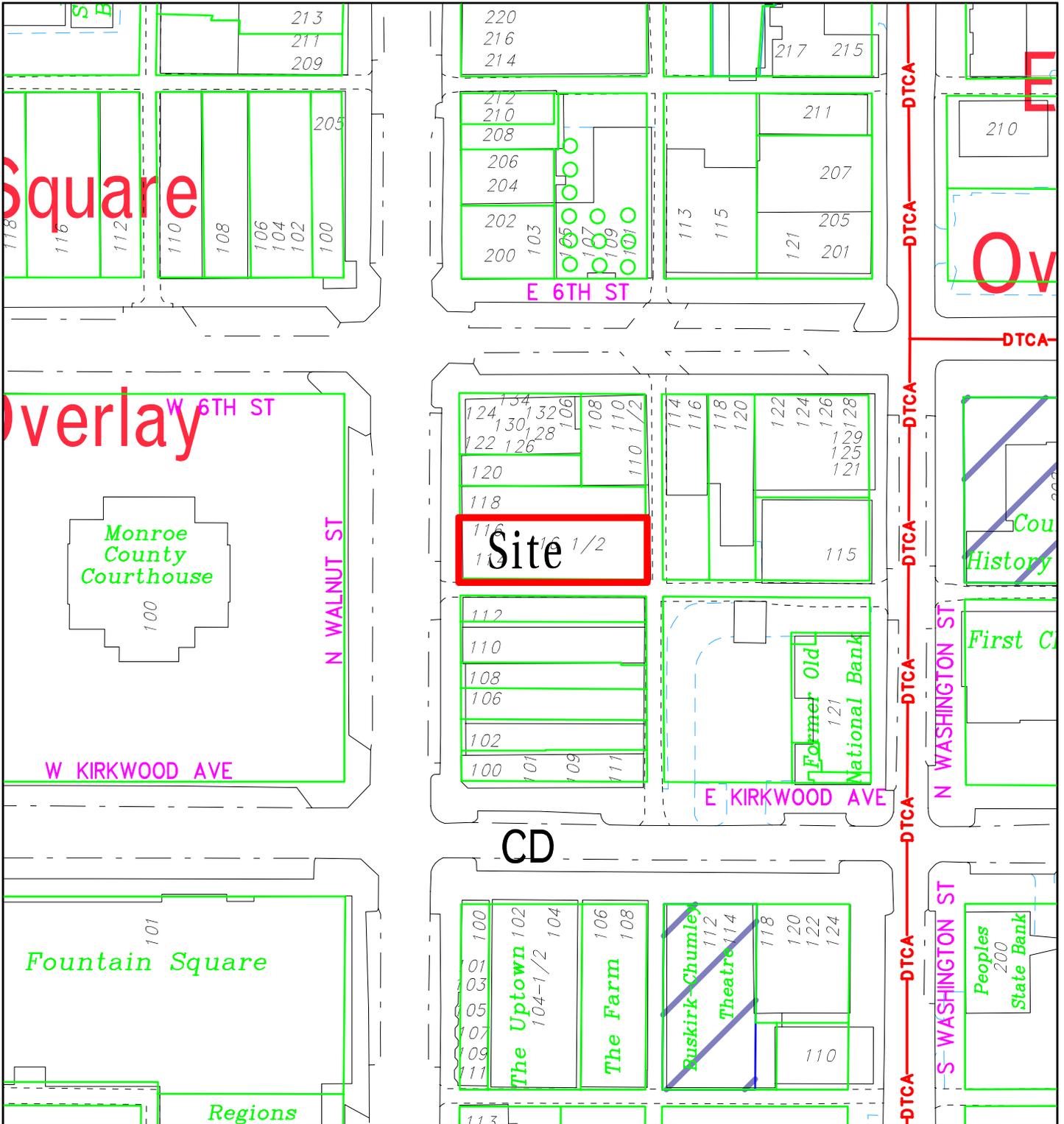
The Planning Department determined that the proposed SeaView Outfitters store was a Standardized Business based on the following facts:

- The store has another location in Oxford, Ohio that shares the same name and use of logos and identifying signage.
- This location will sell the same types of merchandise as the other location, thus meeting the "...maintain standardized services, merchandise....and logos..." aspect of the definition.

Although there are many aspects of the possible identifying traits listed in the definition of a Standardized Business that this business does not match, not all of the

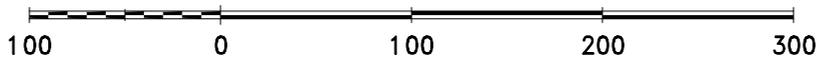
characterizations have to be met. The petitioner believes that since they do not offer the same merchandise, have the same exact signage at both locations, or that they require employees to wear uniforms that they should not be classified as a standardized business. It should also be noted that Staff does not recommend any changes to the signage proposed. There are no exterior changes to the store proposed which would alter the historic nature of the storefront.

RECOMMENDATION: Staff recommends denial of the Administrative Appeal as the business in question is a standardized business as such term is defined by the UDO. By denying this Administrative Appeal the business owner will need to file for a Conditional Use approval, and staff believes that the petition would meet the criteria for the Conditional Use and staff anticipates recommending approval of the Conditional Use.



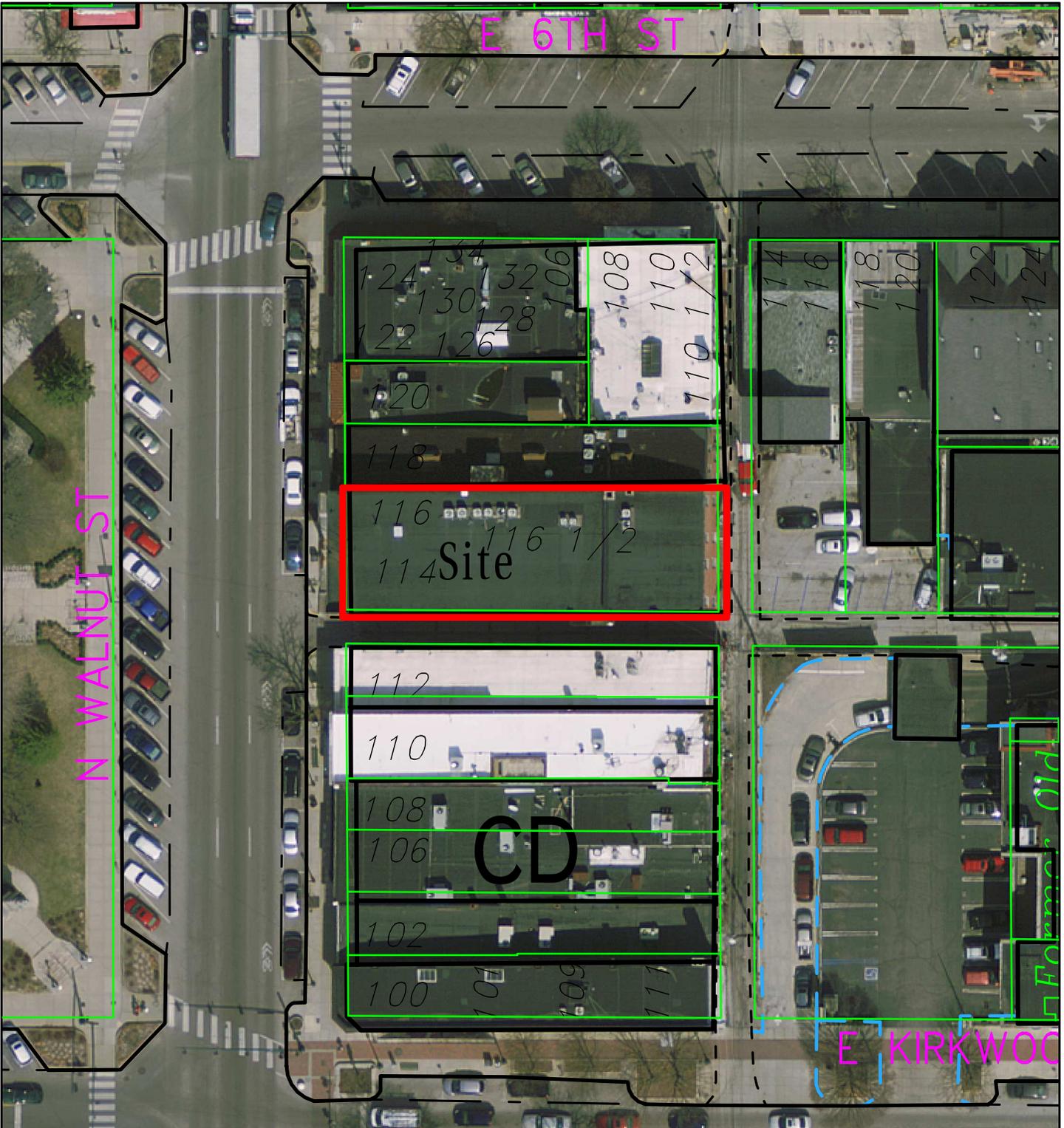
AA-36-15 SeaView Outfitters
 114 N Walnut Street
 Board of Zoning Appeals
 Site Location, Zoning, Land Use, Parcels

By: greulice
 8 Dec 15



City of Bloomington
 Planning & Transportation

Scale: 1" = 100'



AA-36-15 SeaView Outfitters

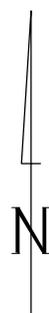
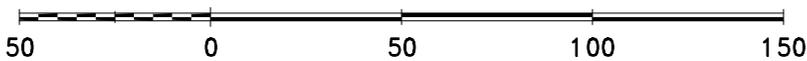
114 N Walnut Street

Board of Zoning Appeals

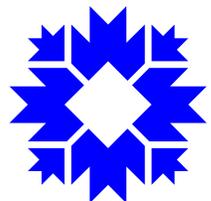
2014 Aerial Photograph

By: greulice

8 Dec 15



City of Bloomington
Planning & Transportation



Scale: 1" = 50'

For reference only; map information NOT warranted.

October 23rd, 2015

Seaview Outfitters Petitioner's Statement

To Whom This May Concern:

I, Steve Thomas, owner/operator of Seaview Outfitters would like to thank you for helping as we move through these "Standardized Business" items and the appeal process.

After extensive analysis, my team and I feel strongly that Seaview Outfitters does not fall under the definition of a "Standardized Business".

In Section 7 of the ordinance, the definition of "Standardized Business" is listed.

Seaview Outfitters does not fit the description for the following reasons:

The Seaview is NOT contractually required to offer/maintain any of the line items listed.

Seaview Outfitters does NOT offer the same merchandise at both of its locations.

Seaview Outfitters does NOT use the same signage as both locations.

Seaview Outfitters does NOT require employees to wear uniforms.

Seaview Outfitters does NOT use the same exterior design at both locations.

Seaview Outfitters compliments the Courthouse Square collection of business's very well. It is a small business, owner operated, with a community focus. We understand that the business may have been flagged for having another location, however Seaview Outfitters does not fall under the Standardized Business umbrella. We are not CVS or Subway or McDonalds. Instead we hire local community members with the goal of creating as many long term, career length jobs as possible.

My business is clearly not a massive, faceless, nameless business, but rather, I am the business. Seaview Outfitters is my heart and soul and I pour my hard work into it seven days a week. I would not have moved to Bloomington and committed to Bloomington if I did not love this community. We have teamed up with numerous community groups working on local and environmental initiatives.

It should also be mentioned, as the owner of the business, I live directly above the store, in one of the Redman Building Apartments. I'm not sure of any chain businesses in which the owner lives above the business and runs the business's day to day operations.

Seaview Outfitters also requests the dates in which this ordinance came into affect. One of the property owner's legal staff has mentioned we may have been open for business before this ordinance came into affect.

I again, thank you, for the opportunity to operate my business in the great town of Bloomington, Indiana. I look forward to discussing this appeal further.

Best,

Steve Thomas



AA-36-15
Bloomington Site Photo



AA-36-15
Oxford Location

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 980 W. 17th Street**

**CASE #: UV-37-15
DATE: December 17, 2015**

**PETITIONER: RN Thompson & Associates
Robert Thompson Jr.
234 S. Franklin Road, Indianapolis, IN**

**CONSULTANT: Smith Brehob & Associates, Inc
453 S. Clarizz Boulevard, Bloomington**

REQUEST: The petitioner is requesting use variance approval to allow for dwelling units to be placed on the ground floor within a Commercial General (CG) Zoning District.

Area:	3.25 Acres	
Zoning:	CG	
GPP Designation:	Community Activity Center	
Existing Land Use:	Vacant	
Proposed Land Use:	Multi-family Residential	
Surrounding Uses:	North	- Mobile Home Park
	South	- Commercial
	East	- Industrial & Commercial
	West	- Single Family

REPORT: The subject property is zoned Commercial General (CG) and is located approximately 450 feet north of W. 17th Street mid-block between N. Monroe Street and N. Willis Drive. It is currently vacant and has some vegetation.

The property has received two prior approvals to construct multi-family units. In 2004, the property received a grading permit and approval for a 46-unit multi-family development. Grading was started, but was not completed, and the approval expired. In 2007, another proposal and use variance were brought forward and approved under the Unified Development Ordinance (UDO). Again, the project was not started and has since expired. The current proposal is almost exactly the same as the 2007 petition. The petitioner is requesting a use variance in order to allow first-floor residential in a CG district.

The proposed 44 dwelling unit equivalents (DUEs) are permitted under the CG district, but only on the second floor and above. The petitioner must receive a use variance from the Board of Zoning Appeals (BZA) before ground floor units are permitted. Ground floor units were prohibited on the first floor by the UDO in these areas to ensure that significant amounts of property along major roadways are not consumed by solely residential use.

This property has no public street frontage and lies approximately 450 feet north of W. 17th Street. The property is accessed via a private ingress/egress easement that

connects to W. 17th. The subject parcel was previously part of a larger parcel that extended south to 17th St. Now, there are three parcels between this lot and W. 17th Street to the south. The parcels between the petitioner's property and W. 17th street include commercial uses, office uses, and an electrical contractor.

SITE PLAN DETAILS: The site plan has been altered to meet nearly all regulations. The 44 apartments with 3-bedroom units is within the permitted maximum density. Portions of the parking area will utilize pervious pavement in order to meet the permitted maximum impervious surface standard. Bicycle parking is included and will require the addition of bike lockers as well. A landscaped buffer to the north is also included per code requirements.

At the time of filing this petition, the property to the west was zoned CG; therefore, a landscaped buffer is not required on the west side of the property. There is a 30-foot strip of City owned right-of-way along the west side of the property that functions as a buffer. Additionally, staff is working with the petitioner to add a privacy fence along the west side adjacent to single-family zoning districts. The proposal includes a sidewalk along the private access easement to provide a pedestrian connection to W. 17th Street. A few minor changes are necessary in the landscaping plan in order to meet standards. Staff will continue to work with the petitioner on these changes.

20.09.140(e) 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. Only the use on the first floor of the structures is being proposed for variance. Multi-family uses are permitted in this zoning district. The use of solely multi-family will not create any unsafe conditions or result in negative impacts to the public health, safety, morals or general welfare of the 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 adverse impacts to the use and value of the surrounding properties. Solely multi-family use will provide a transition between the residential uses located to the north and west and the commercial uses to the south of the parcel in question.

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

Staff Finding: Staff finds peculiar condition in requiring commercial uses on a property without any public street frontage. The fact that this is a “piggy-back” lot with no road frontage and nearly 450 feet of separation from 17th Street is very unique for a commercially zoned property. Access to the lot utilizes a private drive.

- (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 requiring commercial uses on the first floor of this property. With the lack of frontage and distance between the property and the public street frontage, the viability of commercial uses at this location is questionable.

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

Staff Finding: The Growth Policies Plan (GPP) designates this property as Community Activity Center (CAC). The CAC designation “is designed to provide community-serving commercial opportunities in the context of a high density, mixed-use development.” Land use policies for this area state that:

The primary land use in the CAC should be medium scaled commercial retail and service uses.

Residential units may also be developed as a component of the CAC, and would be most appropriate when uses are arranged as a central node rather than along a corridor.

Provision of public spaces should be used as an incentive to allow additional residential units or commercial space to be developed as part of the planning approval process.

Although residential units are allowed only on the second floor and above, in 2007, the Plan Commission found this property to have poor visibility that would make successful commercial enterprises in this area very difficult. Due to this lack of frontage and adjacent commercial uses, the Plan Commission found that this request does not substantially interfere with the general and specific policies of the GPP for this area and forwarded this use variance request with a positive recommendation by a unanimous vote at its November 5, 2007 meeting. Because the GPP has not changed since that time, the Plan Commission recommendation was determined to still be appropriate.

CONCLUSION: The property in question was originally a part of a larger parcel that extended south to 17th St. The southern half of the property has been developed as commercial and industrial, while the northern half of the property has remained vacant. The northern portion lies more than 450 feet from the arterial roadway and has no direct

public street frontage. Staff finds legitimate concern in the viability of this property as commercial. Furthermore, staff finds that the requirement for the use of ground floor space as commercial within this district was to ensure that properties along major roadways were not unduly used for solely residential use rather than mixed-use as encouraged by the GPP. Even if this parcel is utilized for only residential use, staff finds that the past development to the south has created the desired mixed-use. It has also utilized the higher visibility portion of the original property for commercial uses.

RECOMMENDATION: Based upon the written report, staff recommends approval of UV-37-15 with the following conditions:

1. The petitioner must make the necessary alterations to have a compliant landscaping plan.
2. Six Class 1 bicycle lockers must be added to the plan.
3. A five-foot sidewalk must be constructed along the ingress/egress easement.
4. A detailed, UDO compliant lighting plan must be submitted with the building permit.

Smith Brehob & Associates, Inc.



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

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

November 9, 2015

City of Bloomington Plan Commission
C/o Beth Rosenbarger
Planning Department
Showers Building
Bloomington, Indiana

Re; Nile Ridge Apartments

Dear Beth and Commissioners,

On behalf of our Client, Robert Thompson, we are seeking site plan approval and two zoning variances for the proposed Nile Ridge Apartments, which was previously, approved around 2007. The project is located at 980 W. 17th Street and includes 44 3 bedroom apartment units.

It appears that two variances are needed to allow the project to proceed according to the revised plan. The underlying zoning is commercial and the UDO requires commercial uses on the first floor in this zone. The site resides behind three other parcels, and has no public street frontage, has residential uses to the north and west and is clearly not a realistic site for a commercial use. In order to do an entirely residential project, a use variance is needed to allow residential use of the first floor.

Also, since the underlying zoning is commercial and low density residential exists to the north and west, the UDO calls for a type 2 landscape buffer along the north and possibly the west sides of the site, which effectively increases the setbacks in these areas by 20'. We are therefore requesting that the type 2 landscape buffer requirement be reduced to a type 1 buffer along the west and north frontage. A type 1 buffer is what would normally be required between an apartment use and a low density residential use and would reduce the increased setback to an additional 10'. Attenuating this smaller landscape buffer is the existence of a 30' piece of property (zoned CG) that parallels the west property line on the adjacent property which ensures a suitable separation between adjacent uses and provides additional buffering. Also, the site plan is laid out so that the windowless end caps of the buildings face the west property line and the parking lot ends are well buffered with landscaping, therefore maintaining the privacy of the adjacent residential areas.

UV-37-15
Petitioner's Statement

Smith Brehob & Associates, Inc.



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.Ca.T.

The following items are being submitted with this application (printed copy or e-mail);

- Typical architectural floor plans, and elevations
- Civil site drawings
- Application form
- Application Fee

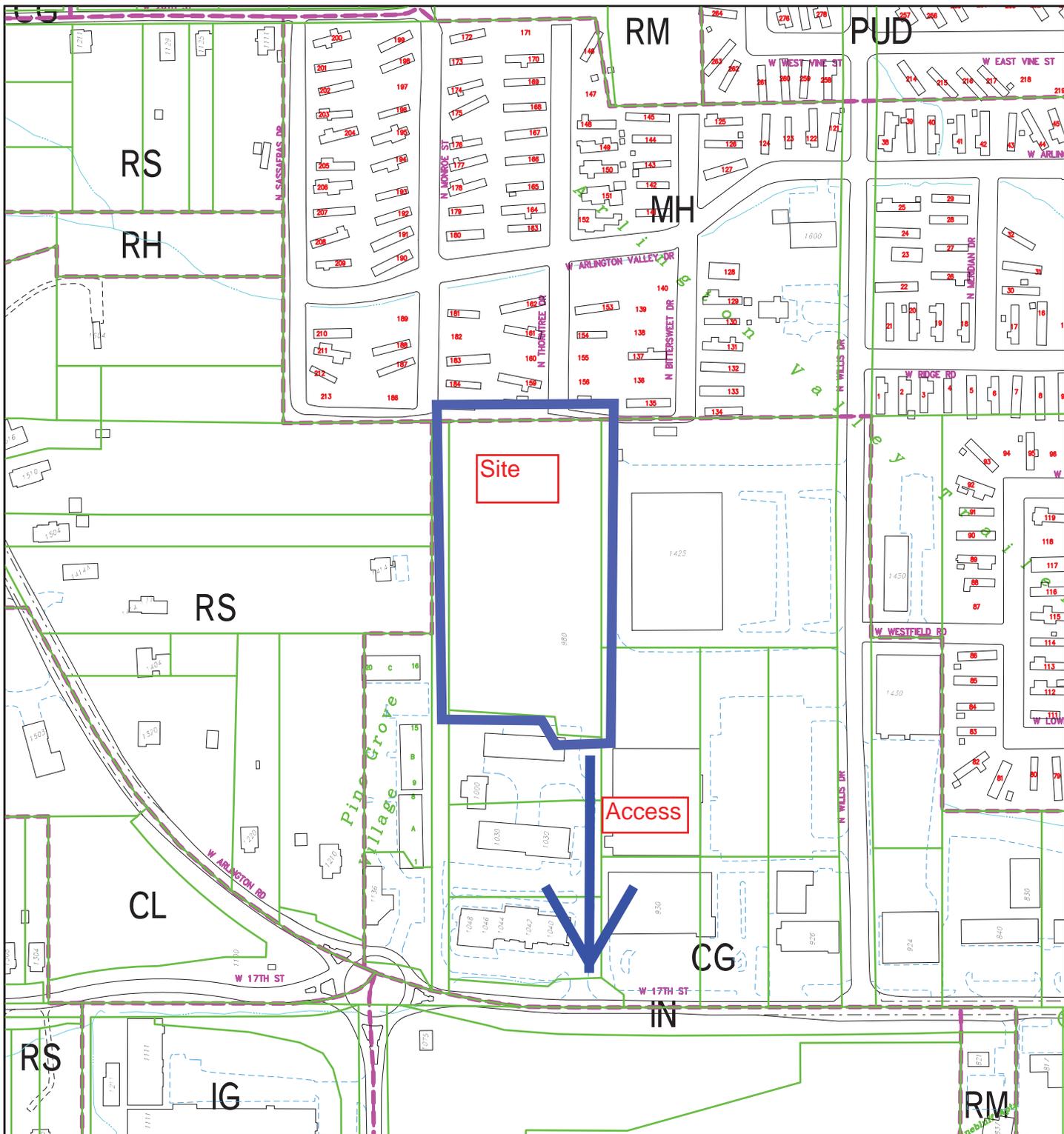
Thank you for all of your assistance getting the project to this application stage. We look forward to working with you as we proceed through the formal hearings and approval process.

Very truly yours,

Don Kocarek

Cc; Robert Thompson

UV-37-15
Petitioner's Statement



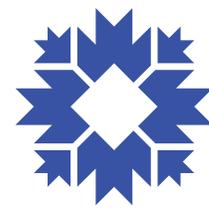
Nile Ridge Apartments
 W. 17th Street

By: rosenbab
 23 Oct 15

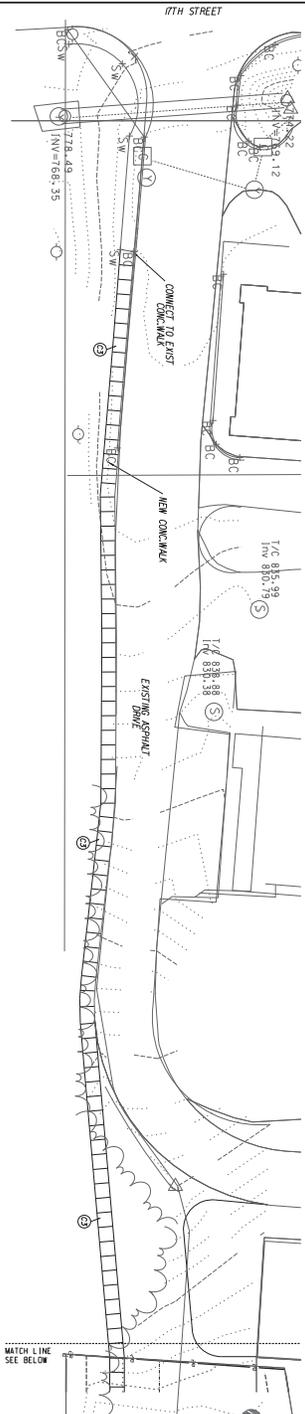


For reference only; map information NOT warranted.

City of Bloomington
 Planning & Transportation



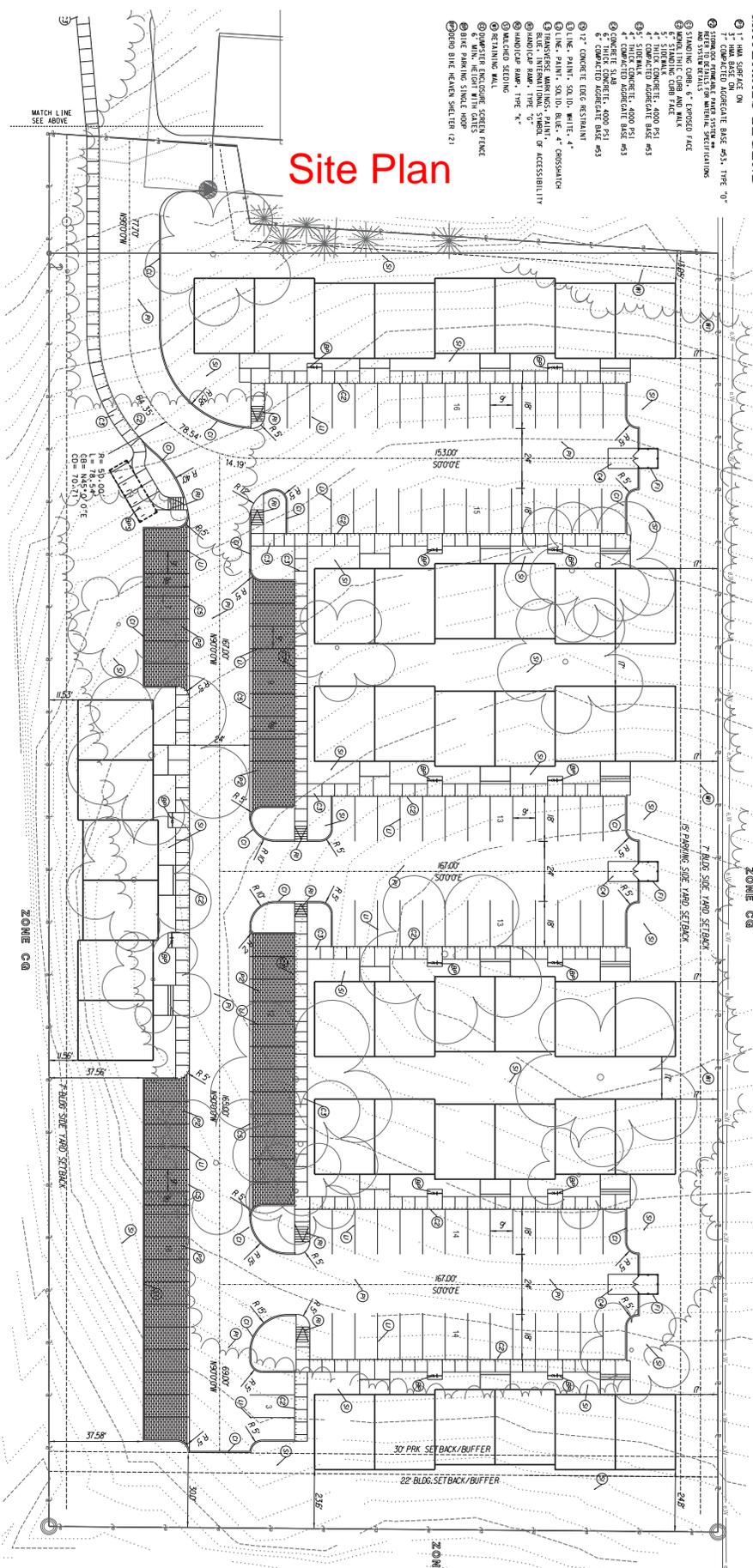
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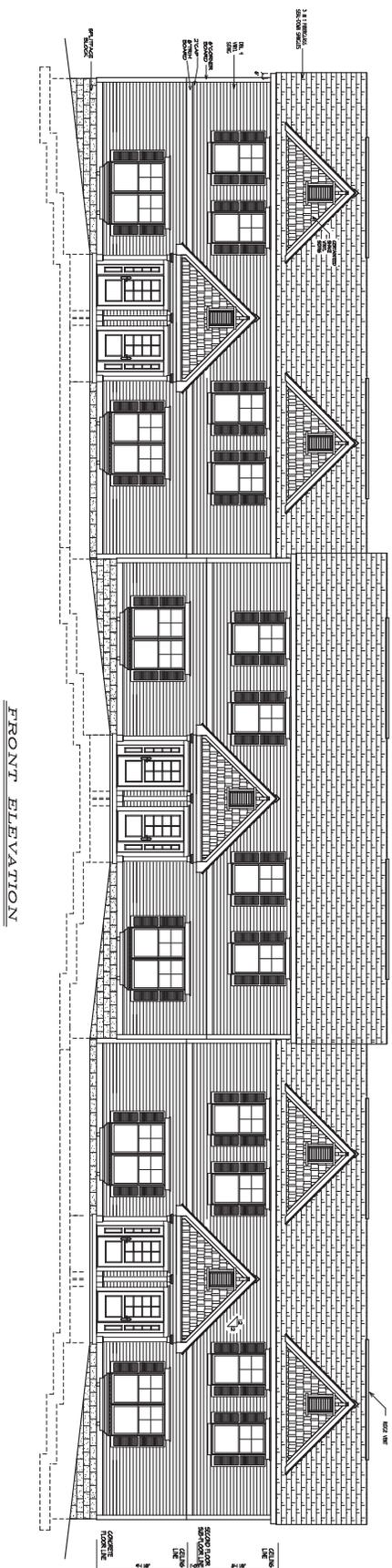
Site Plan



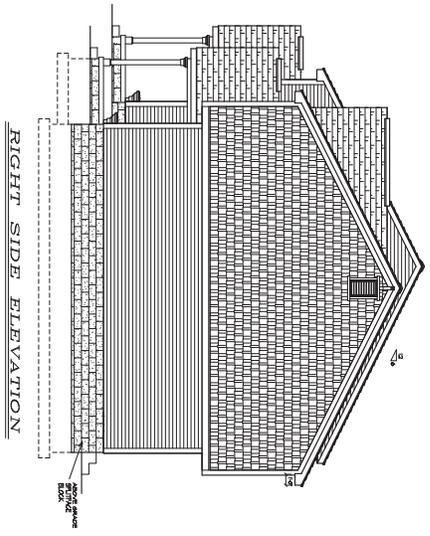
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<p>11/20/2015 SHEET 2 OF 12</p>	<p>5226 DK/SB DK SAB</p>	<p>REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DESCRIPTION	DATE										<p>BY</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td> </td> </tr> <tr> <td> </td> </tr> <tr> <td> </td> </tr> </table>				<p>DATE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td> </td> </tr> <tr> <td> </td> </tr> <tr> <td> </td> </tr> </table>				<p>JOB TITLE NILE RIDGE MULTIFAMILY 17TH STREET BLOOMINGTON INDIANA</p>	<p>Smith Brehob & Associates, Inc. 453 S. Clarize Boulevard Bloomington, Indiana, 47401 Telephone #317-336-5336 Fax #317-336-0513 Web: http://www.smithbrehob.com</p>
NO.	DESCRIPTION	DATE																						



FRONT ELEVATION



RIGHT SIDE ELEVATION

Elevations

PROPOSED PLANS FOR APARTMENTS
 ELEVATIONS
 A-4
 JOB SITE: 1074
 SCALE: 3/16" = 1'-0"
 DATE: FEB.04
 DATE REVISED:

SEEBER APARTMENTS
 BLOOMINGTON, IN

