

CITY OF BLOOMINGTON



February 23, 2012 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL

- V-6-12 **Renaissance Rentals**
1100 N. Walnut St.
Request: Variances from maximum impervious surface coverage, entrance & drives, and architectural standards for a 3-story mixed-use building.
Case Manager: Jim Roach

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 528 S. Highland Ave.

CASE #: V-17-11
DATE: February 23, 2012

PETITIONER: Debby Herbenick
528 S. Highland Ave., Bloomington

REQUEST: The petitioner is requesting a variance to allow a fence in excess of the Unified Development Ordinance maximum height requirements.

	Fence Height
Proposed:	6 feet
Permitted:	4 feet

REPORT SUMMARY: The petitioner owns the single family home at the northwest corner of S. Highland Avenue and E. 2nd Street. The property is zoned Residential Core (RC). Both the house and the driveway face Highland Ave. All other homes on this block of Highland Ave. face this street, however there are many homes in the area that face 2nd Street.

This petition comes to the Board of Zoning Appeals as a result of a zoning violation and subsequent enforcement action. The petitioner constructed an addition to an existing 6 foot tall fence in 2009. The existing 6 foot tall fence was replaced and repaired, it was grandfathered in its location. The petitioner added approximately 30 feet of new 6 foot tall fence along the 2nd Street frontage. The Planning Department issued a notice of zoning violation on October 20, 2010.

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 extended 6 foot tall fence between the front building wall and the street to remain.

The petitioner contends that a fence taller than 4 feet tall is necessary because of a high volume of traffic on 2nd Street, the desire for privacy, a small back yard, the need to keep a dog contained and provide a place for it to run, and a need for security because of a past history of being a victim of stalking. The petitioner has submitted a copy of a protective order issued by the Monroe County Circuit Court in January 2011. The document is part of the file if the BZA would like to review it.

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 and keep front yards from being fenced off from the street view.

CRITERIA AND FINDINGS

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

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

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

Staff's Finding: No adverse impact to adjacent properties is anticipated. The new fence section is approximately 30 feet from the sidewalk along Highland Ave. The portion of the fence along E. 1st St. is no closer to the street than the older fence section. Property owners to the west and north will not be affected, as these portions of the fence are older grandfathered sections.

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

Staff's Finding: Staff finds no injury to the general welfare. The fence does not create any visibility issue from adjacent streets and sidewalks.

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

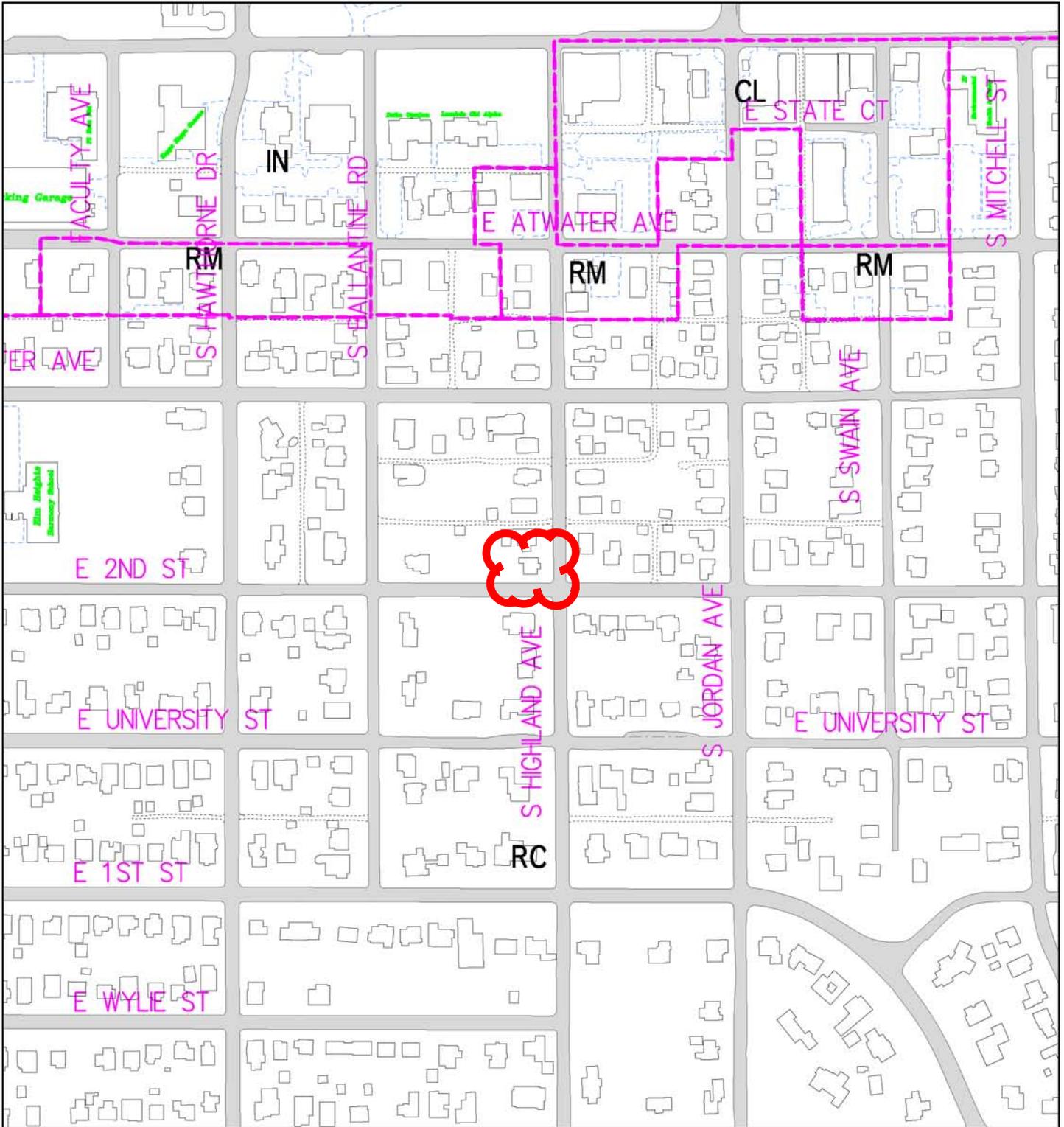
Staff's Finding: The Board of Zoning Appeals ruled on a similar case in 2009 (V-17-09), where a petitioner requested a variance from fence height standards to allow for a 6-foot fence between the street and the front building wall along High St. for the property located at 2105 E. Meadowbluff Ct. The 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 generally 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.

The petitioner's proposal is also on a corner lot, and the new 6-foot fence is not along the true front of the building wall. However, the second criteria used to find a practical difficulty in the previous case, that the property is on a classified street, is not present in the current situation. While E. 2nd Street has similar traffic counts as S. High Street, it is classified a neighborhood street while S. High St. is a primary collector. In addition, the petition does not meet the third criteria in that it is a fully 6 foot tall solid wood privacy fence with no lattice.

However, the petitioner argues that E. 2nd St. has a significant amount of traffic when you include pedestrian traffic, school bus stop traffic, and street parking, which necessitate the need for a taller fence to allow for more privacy. Because the petition is not along a classified road and includes a solid board privacy fence, it does not meet the criteria previously determined by the BZA to justify peculiar conditions. In addition,

the fence is built with a zero setback from the sidewalk, creating an additional expanse of blank wall very close to the street. Staff finds no practical difficulty in requiring compliance. Privacy could also be achieved through additional landscaping or window treatments.

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

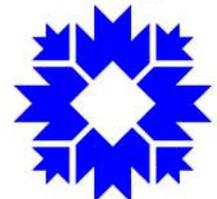


V-17-11
Location Map

By: roachja
9 Nov 11



City of Bloomington
Planning



Scale: 1" = 300'

For reference only; map information NOT warranted.

Petitioner's Statement

Property Location

Our property, 528 South Highland Avenue, is located at the corner of Highland Ave and 2nd Street. The lot immediately to our north is owner-occupied residential real estate. The two lots immediately to our west are vacant homes owned by David Jacobs. The lots on the other three corners of 2nd Street and Highland Avenue have been rental properties (though 1 of the 3 is currently vacant and for sale).

Background

I, Debby Herbenick, purchased the home in Summer 2009. Within one week of moving into the home, the westward neighbor at the time (Pat Carroll) informed me that the seller of my home (Kevin Jeffers) had an encroachment on his property that consisted of his (now my) fence and deck being on his property. Mr. Jeffers and Mr. Carroll had a signed agreement about the acceptability of this encroachment. None of this had been recorded with the city or county or any other authority even though Mr. Carroll was/is an attorney. Additionally, none of this information was known to me until a week after closing on the house.

I offered to purchase the 33-inch strip of land on which my fence and deck encroached on the Carroll's property and he indicated that they would likely be happy to sell the strip of land as they had several lots. Shortly thereafter, they decided not to sell the land as they were planning to sell their home. Mr. Carroll then notified me that this home and property were being purchased by a family that "understood the spirit of Bloomington" and would likely be happy to sell the strip of land. Soon after, I learned that David Jacobs had purchased the Carroll's property. After several discussions through his representative (Charlie Webb) about the planned uses of the land for Indiana University, we learned that he did not wish to sell the 33-inch strip of land. At one point, we asked Mr. Webb if Mr. Jacobs would consider selling us a 10 or 12 inch strip of land so that we could keep the wood deck at the rear of our home. Mr. Jacobs did not wish to sell this strip of land.

As such, in order to remove the encroachment, we had to pay to remove and replace the 6-foot tall wood privacy fence that was on the side of the house and in between our lot and that of the Jacobs'. We also had to pay to remove the wood deck behind our home as well as the decaying painted iron fence that was about 3 to 4 feet high and ran all along our property along 2nd Street.

Rather than just move it forward 33 inches we had a new fence installed as the old one was decaying in some ways and with loose nails. We wanted to have a fence for several reasons including (1) privacy and (2) a place for our dog to run and to safely be away from passerby as she is not friendly to other dogs or to men.

Shortly after having our fence built, we received a notice from the City stating that the fence was not in compliance with code. After an email and phone call to Russell White, we were able to learn that a portion of the fence along 2nd Street was identified as the problem. Although some of the 6-foot tall

fence was deemed allowable because it already existed on the property and he told us that we were allowed to rebuild/improve it along those lines, the new portion of the fence was not in compliance.

Petition

We would like to petition for a variance on our fence. Having a 6-foot tall fence involves several significant benefits for us, including:

1) **We have a greater sense of privacy.** There are only two living areas on the ground floor of the home – the living room and dining room – and both of these feature large windows that look out onto, and in from, 2nd Street which is a busy street. There are many student rentals in our area and it is not unusual for individuals to loiter on our corner or to park their cars there. A school bus stop also lets out by our house. At 6 feet tall, we have significantly more privacy in these two living areas and enjoy opening our blinds without everyone being able to look in. We also have privacy in the yard. Our side yard (the portion in question runs along the side yard) is the only sunny area in our entire yard, which is quite small to begin with. We enjoy having a sunny spot to lay in a hammock and to enjoy the sun. With a shorter fence, this would not be possible.

On a related note, I am the victim of stalking and have a protective order against a man who has sent more than 1,200 emails to me, many of which are sexually graphic, threatening and violent in nature. Although he has not come to my home (to my knowledge) he has referenced coming to Bloomington and has referenced being able to find my home address. Although it may seem a small matter to others, to me it is extremely valuable that we have a fence that shields our living area from plain public view.

2) **Our dog has a place to run that keeps passerby safe.** Our dog is able to jump up to four feet ledges (she does so on neighborhood walks) though we don't know if she can actually jump over a four foot fence – nor do we wish to find out! She is not friendly to other dogs or to men. We don't ever leave her in the yard unattended for longer than 5 or 10 minutes but she does go into the yard and having a 6-foot tall fence gives us confidence about others' safety.

We have already incurred significant expense including paying \$1900 for the new fence, removal of the old fence, removal of the old iron gates, and removal of the wood deck. We have experienced a loss in the perceived size of our lot (due to the seller not disclosing the true property lines or the encroachment) and we have experienced a loss in the value associated with having a deck.

We would greatly appreciate the committee's consideration to allow us to keep the fence as-is. We have received estimates on a new fence including a four-foot fence, which greatly concerns us due to privacy and dog-related concerns and that estimate is approximately \$750 to \$900. We also received an estimate on adjusting the sideyard fence to be a lattice fence and that estimate was approximately \$1100. Further if the sideyard is adjusted it won't match the portion of the fence that has been "grandfathered in" which will not be attractive for the neighborhood. As such, we kindly petition the committee to consider our request for a variance on our fence.

James C. Roach, AICP
Senior Zoning Planner
401 N. Morton Street, Suite 160
PO Box 100
Bloomington, IN 47402

Dear Mr. Roach,

I am writing to provide additional information and documentation related to the appeal I have filed about requesting a variance for part of the fence on my side yard (technically considered a second "front yard" as my home is on a corner lot).

For several reasons, it is important to me to be able to have a 6 foot fence on the side yard rather than a 4 foot fence. These reasons relate to characteristics of the property and situational characteristics.

Characteristics of the property

1. We have a very small backyard. Being able to have the side yard fenced in with a six foot tall fence provides room for our dog to be outside and to not be a threat to people or dogs on the sidewalk.
2. The only two living areas in our home, which is small, have large windows facing Second Street. Having a six foot tall fence in this area provides a sense of privacy in our living room and dining room.
3. Second Street is quite busy not only in terms of traffic patterns but in terms of the way that it is used. Cars sometimes park along the street outside our window. Sometimes people loiter waiting for rides. Other times parents wait outside our windows waiting for their children's bus to arrive. It is also an intersection where a large number of people run the stop sign on Second Street and several months ago there was an accident there as a result.
4. The property is also adjacent to the Jacobs' property which, at times, has become trafficked with individuals taking photographs in the yard next door to us (during the recent demolition period) or walking the property, also during this time. Mr. Jacobs' representative has also alluded to the property eventually being used for entertaining groups of people. It would be nice to have some privacy as this occurs.
5. We already have two types of fences and if we have to change this one small section of the fence, it will look strange to have three fence "types". We have had significant expense already related to the fence and removal of a deck that was located several inches on Mr. Jacobs' property (the previous owners of both properties had an undisclosed agreement about this encroachment which was not revealed to me until after I closed on the house; this is further described in the previous information I submitted to your office). We have had significant expense and burden already related to this fence and it would be a great kindness not to have to do anything further to the fence or fence height. We had no idea that there was a fence height issue when we had the fence built a year ago. We have waited patiently while the committee reviewed plans and our case was continued, but this has also meant that we have been in limbo with uncertainty about adding landscaping or lighting because we don't know what will become of our fence or yard situation.

As I mentioned there are also personal situational characteristics that are important and that, from my perspective, are highly relevant to my desire to have a six foot tall fence on the side yard for privacy reasons. As previously noted, there is a man who has sent me more than 1,200 emails that contain

specific sexual and violent language directed at what he wants to do to me. I have suffered significant trauma and fear from these. I have a protective order issued against him that is valid for two years (roughly only one more year). Although I know that two extra feet of fence (six rather than four) cannot guarantee my safety, the peace of mind that it provides me when I am in my home and sitting in my living room is something that cannot be described. I am attaching a copy of the protective order application so that you and the committee can understand the extent of this situation.

Please do not publish this protective order anywhere public. Your office and committee members are welcome to review copies, but I ask that at the meeting we not enter this man's name into public record in case he Googles himself and finds this case. I cannot tell you how much I fear being re-contacted by him or having him know for certain what my address is.

I understand that there are few circumstances in which your office may recommend a variance. However, I beg of you to please consider lending your support for this petition so that we may keep the extra two feet of fence height in this one small section of our yard. It may be a small section of fence but it provides a great sense of personal peace and makes living in my home tenable.

Thank you.

A handwritten signature in black ink, appearing to read 'Debby Herbenick', written in a cursive style.

Best,

Debby Herbenick



V-17-11
Petitioner's Photo

Highland Ave-view

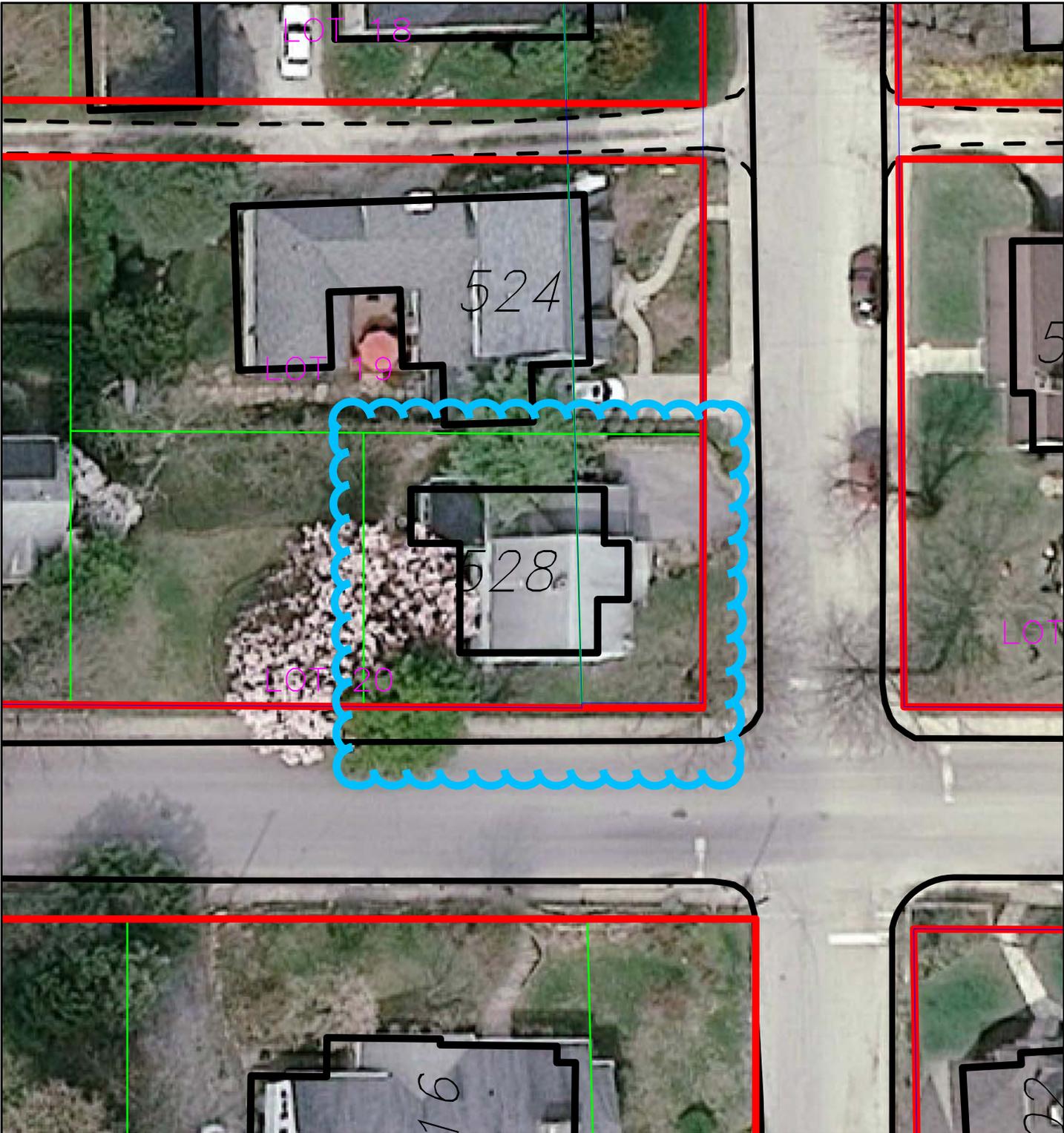


10/27/2010



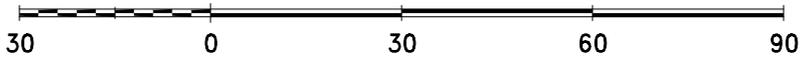
10/27/2010

V-17-11
Site Photos



V-17-11
2010 Aerial Photo

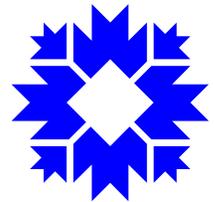
By: roachja
9 Nov 11



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 30'



James Roach <roachja@bloomington.in.gov>

528 S. Highland Fence

1 message

lukasd@comcast.net <lukasd@comcast.net>

Wed, Nov 2, 2011 at 9:03 AM

To: roachja@bloomington.in.gov

Cc: James Hunter Capo <jcapo@indiana.edu>

Dear Mr. Roach,

This letter is in regards to the variance from maximum height of the fence on the property of Debby Herbenick on 528 S. Highland Ave. We own the house across the street on 1206 E. Second St. that faces the fence. We have NO problem with the wooden fence that affords privacy to the small yard on a busy street. It does muffle the noise from traffic on one side, and noise from the household like pets & music on the other. The current fence is esthetically appealing and does not hamper the view of drivers on Second St. or Highland Ave.

Thank you for your consideration of our opinions.

Sincerely, Dawn & Rod Lukas

V-17-11
Letter of support



James Roach <roachja@bloomington.in.gov>

Debby Herbenick Petition

2 messages

Kevin Weiss <KWeiss@authorsolutions.com>

Thu, Nov 3, 2011 at 10:51 AM

To: roachja@bloomington.in.gov

Dear Mr. Roach - I'm writing in support of Debby Herbenick's petition for a fence height variance for her home on 528 S. Highland Ave. My wife and I currently live on the next block (500 S. Ballantine) but we were Debby and James' neighbors on Highland last year. They have an unusually small yard that is enhanced by having it fenced in. The height of the fence serves to increase their privacy, muffle sound from the road, as well as keep their dog on their property. They have also already experienced significant expense, burden and distress related to the property line issue with David Jacobs, the removal of their old fence, replacement with a new one and the necessary removal of their deck.

As a neighbor, I have no problem with the height or appearance of their fence. I actually enhances the appeal of the property. I support their petition for a variance.

My best – Kevin

Kevin Weiss

President & CEO

AuthorSolutions, Inc.

1663 Liberty Drive

Bloomington, Indiana 47403

o: [812.334.5408](tel:812.334.5408)

f : [812.349.0808](tel:812.349.0808)

James Roach <roachja@bloomington.in.gov>

Thu, Nov 3, 2011 at 10:56 AM

To: Kevin Weiss <KWeiss@authorsolutions.com>

Thank you Kevin,

I'll pass your e-mail on to the Board of Zoning Appeals.

James

[Quoted text hidden]

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James C. Roach, AICP
Senior Zoning Planner

V-17-11
Letter of support

15



James Roach <roachja@bloomington.in.gov>

In Support of Debby Herbenick

Dodge, Brian Mark <bmdodge@indiana.edu>

Thu, Nov 3, 2011 at 10:42 PM

To: "roachja@bloomington.in.gov" <roachja@bloomington.in.gov>

Dear Mr. Roach,

This letter is intended to be in support of Debby Herbenick's petition for a fence height variance (528 S Highland Avenue). I am an Elm Heights resident, living only two streets away from Dr. Herbenick on S. Hawthorne. As a neighbor, I support her petition for the height variance; she and her fiancé have a very small yard and having a fence provides a more reasonable amount of space for her dog to be let out into. The fence is attractive and in keeping with neighborhood aesthetics, many of whom have similar/identical fences - particularly on corners.

I am also a colleague of Dr. Herbenick's and am aware of the enormous strain and distress she was caused by a man who she has never met, now has a protective order against, but who she has long been in fear of given the more than a thousand emails he sent to her. The fence height provides her with privacy which would be important to anyone but is especially important to someone who has received the kinds of sexually violent threats that she has received.

Thank you.

Brian Dodge (422 S. Hawthorne)

Brian M. Dodge, Ph.D
Indiana University - Bloomington
Associate Professor, Department of Applied Health Science

Sent from my iPhone

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 4292 E. Janet Drive**

**CASE #: V-51-11
DATE: February 23, 2012**

PETITIONER: James Rose
4292 E. Janet Dr, Bloomington

REQUEST: The petitioner is requesting a determinate variance from sidewalk requirements to not require a sidewalk along Janet Drive.

Report Summary: The property is located at 4292 E. Janet Drive and is zoned Residential Single family (RS). This property and surrounding properties, all contain single family residences.

The petition site is located along Janet Dr. which is a dead-end street accessed from State Road 446. There are several vacant lots within this neighborhood that can be built with single family residences. The right-of-way for Janet Drive dead ends into the Gentry Honours subdivision to the west. The petition site has no environmental or other topography constraints that would prevent a sidewalk from being installed.

The petitioner recently constructed a house on this vacant property and as a result of the new construction, is required to install a sidewalk along the property frontage. The petitioner is requesting a determinate sidewalk variance to not install a sidewalk along the property frontage.

Criteria and Findings for Determinate Sidewalk Variances 12.04.005- Any person subject to the requirements of Sections 12.04.001 or 12.04.003 who believes it impractical to construct a sidewalk on the lot or tract at present may apply to the board of zoning appeals for a variance that is determinate with respect to the criteria for variance and the time period during which such criteria are in effect, and with respect to the time period during which the variance is effective. The board, after notice and hearing as provided in Sections 20.09.050 and 20.09.060, may grant a variance if construction of sidewalks appears impractical based upon, but not limited to, the following considerations:

(1) The adjacent lot or tracts are at present undeveloped, but it appears that at some future date these lots or tracts will be developed, increasing the need for sidewalks for the protection and convenience of pedestrians; or

Staff Finding: There are several undeveloped lots along this street and it is likely that there will be future development of these lots.

(2) The location of the lot or tract is such that the present pedestrian traffic does not warrant the construction of sidewalks, but it appears that in the future the pedestrian traffic may increase; or

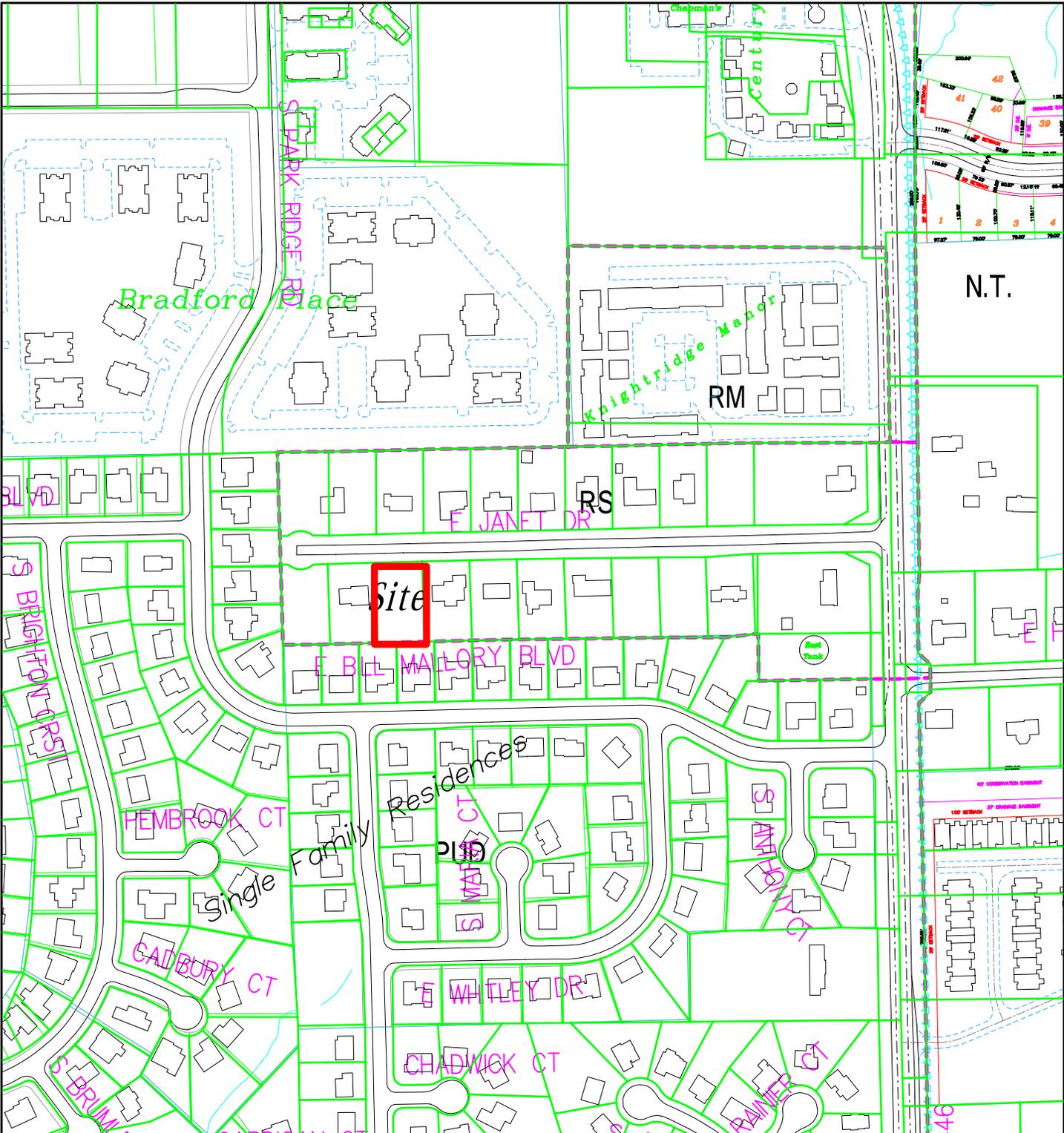
Staff Finding: Although there are not sidewalks along other portions of Janet Drive or along State Road 446, Staff does believe that future pedestrian improvements in the area may increase pedestrian connections and this sidewalk connection would be needed.

(3) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

Staff Finding: As mentioned previously there are no environmental or topography constraints that would prevent the petitioner from installing the sidewalk now. No substantial work would need to be done to this property or adjacent properties to provide sidewalks along this street.

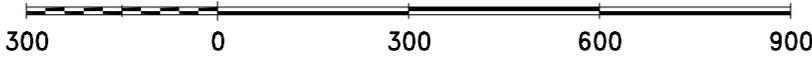
CONCLUSION: Staff does not find the criteria for a variance from the sidewalk have been met on this property. In addition, Staff does not find a determinate sidewalk variance is consistent with the adopted policies of the BZA or the Board of Public Works. Therefore, Staff finds installation of the required sidewalk is more appropriate at this time per the requirements of the UDO.

RECOMMENDATION: Based upon the written findings above, staff recommends denial of this petition.

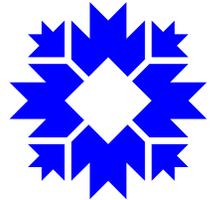


V-51-11 James Rose
 4292 E Janet Drive
 Board of Zoning Appeals
 Site Location, Zoning, Parcels, Land Use

By: greulice
 16 Feb 12



City of Bloomington
 Planning



Scale: 1" = 300'

For reference only; map information NOT warranted.

November 30, 2011

City of Bloomington Board of Zoning Appeals

I wish to petition for a variance for installing a sidewalk on my property at 4292 E. Janet Drive, also known as Lot 9 McElhinney Addition. A property that is 100'x180' with the north end (100') running parallel to Janet Drive This section is the subject of the sidewalk variance. The entire area including Janet Drive is used for single family residences.

I have consulted all the residents on Janet Drive and they are opposed to a sidewalk being installed and have recently signed a petition stating that fact. I have attached a copy of that petition and many of the residents plan to come to the Board of Zoning Appeals to state their case.

Their residents agreed that the sidewalk would serve absolutely no purpose on this dead end street with no chance of further development. All vacant lots are owned by adjacent property owners, who are already residents of Janet Drive.

Janet Drive is a true dead end street with no cul-de-sac making it impossible to turn around unless they use Dan and Janet Spore's driveway, two residents who have signed the sidewalk petition.

Janet Drive also has an extremely low traffic volume, residential use only. The neighborhood is old both in look and feel, and the residents want to keep it that way. The neighborhood was established in 1959 and several residents are from that era.

I wish that you would consider the desires of all on the street and please grant the variance concerning the sidewalk.

Thank You

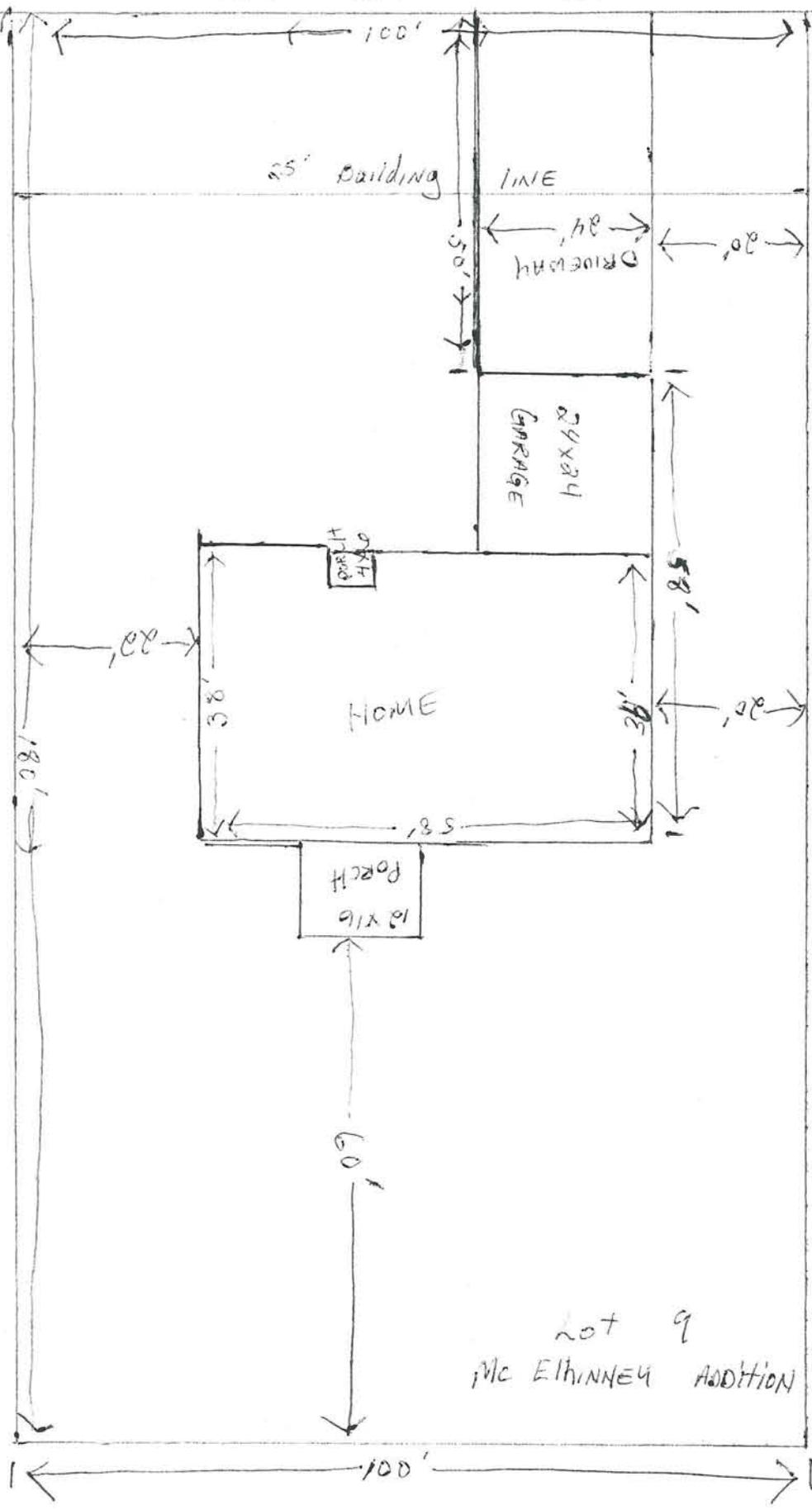


James Rose

V-51-11
Petitioner Statement

N

E. JANET DRIVE

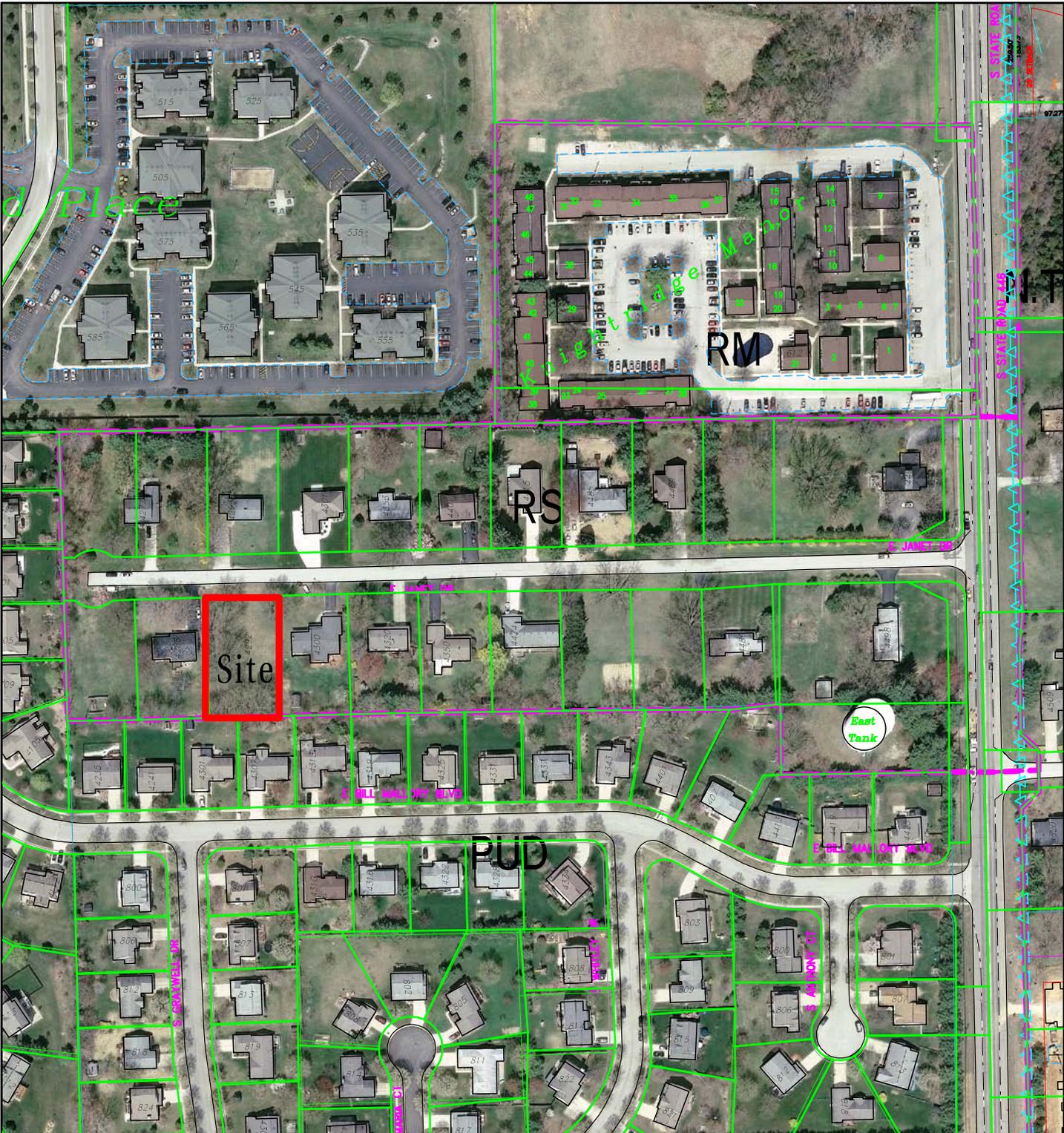


RECEIVED
 APR 11 2011
 BY: Rose

Lot 9
 Mc Elhinney Addition

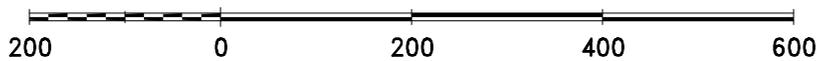
V-51-11
 Site Plan

SITE PLAN FOR
 Jim ROSE

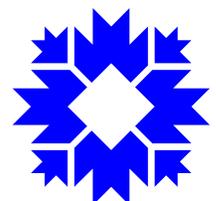


V-51-11 James Rose
 4292 E Janet Drive
 Board of Zoning Appeals
 2010 Aerial Photograph

By: greulice
 16 Feb 12



City of Bloomington
 Planning



Scale: 1" = 200'

For reference only; map information NOT warranted.

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 210 W. Gordon Pike

CASE #: UV-53-11
DATE: February 23, 2012

PETITIONER: Gary and Ginnie Phero
210 W. Gordon Pike, Bloomington

REQUEST: The petitioners are requesting use variance approval to allow a Multifamily dwelling unit within a Residential Single-family (RS) zoning district.

Zoning:	RS
GPP Designation:	Community Activity Center
Existing Land Use:	Single Family Residence
Proposed Land Use:	Multi-family Residence
Surrounding Uses:	North - Commercial
	South - Commercial/Mobile Home Park (County)
	East - Single Family/Commercial
	West - Single Family/former CBU Treatment Plant

SUMMARY: The petition site is located at 210 W. Gordon Pike and is zoned Residential Single-family (RS). There is a mix of commercial and residential uses that surround this property.

The petitioners have owned and lived on the property since 2004. The petitioners applied for and received a building permit in 2008 to construct an addition to the north side of the residence. During the course of review of the building permit, it was not noticed that a second dwelling unit was being created, and a Certificate of Zoning Compliance and a building permit were issued approving the work. After the permit was issued and the work was completed, it was discovered that the permit was issued in error since the permit authorized a second dwelling unit to be created in a single family zoning district.

The petitioners are requesting a use variance to legitimize the work that was done to allow a second dwelling unit. Staff evaluated several different options to bring the property into compliance before advising the petitioner that the best resolution would be to apply for a use variance. The Plan Commission heard this at their February 6, 2012 meeting and found that this proposal did not conflict with the Growth Policies Plan and voted unanimously to send this to the Board of Zoning Appeals 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 the use variance request for a multi-family unit at this location. The addition of one unit in this area will not have a significant impact to 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 associated with the proposed use variance. The majority of the surrounding properties have been developed with uses other than single family residences.

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

Staff Finding: Staff finds peculiar condition in the conflict between the GPP guidance for this area and the existing use of the property. When combined with the fact that the majority of the surrounding property is not utilized as single family uses, staff finds hardship in not allowing an additional unit.

(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 the strict application of the Unified Development Ordinance will place an unnecessary hardship in that it would not allow the increased development on this property that is encouraged by the Growth Policies Plan. The denial of the use variance would require substantial remodeling to bring the structure into compliance.

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

Staff Finding: The Plan Commission and Staff find that this proposal does not substantially interfere with the Growth Policies Plan. The GPP designates this area as a Community Activity Center. The petitioner is increasing the use and density on this site, which is in keeping with the goals of the Community Activity Center.

CONCLUSION: Staff finds that the petitioners request does not substantially interfere with the GPP. Furthermore, staff finds that the proposed use does further the goals of the GPP by increasing density and diversifying land use that is located in close proximity to goods and services along established corridors. Although this request is coming after-the-fact, Staff still believes that this property is an appropriate location for higher intensity development. In addition, Staff notes that this lot and two other adjoining lots zoned single family are residentially zoned outliers completely

surrounded by non-residential uses within the City's Planning Jurisdiction. These three lots will be good candidates for commercial or multi-family zoning in the future.

RECOMMENDATION: Staff recommends approval of this request with the following conditions of approval.

- 1) The dwelling unit must be registered and approved by HAND for use as rental.
- 2) Occupancy limited to maximum of 3 unrelated adults in the additional dwelling unit.

To: City of Bloomington Planning Department
Hearing Officer

December 9, 2011

From: Gary Phero

Dear Sir:

My wife (Ginnie Phero) and I formalized a land contract in 2004, and then purchased on April 1, 2009 the property located at 210 W Gordon Pike (parcel # 53-01-50-660-500.000-009). The property consisted of 1100 square foot, three bedroom, one bathroom house with a detached garage situated on .45 acres of ground. The property was surveyed and deed recorded prior to closing on the property with a construction loan for a major addition to the home. The detached garage on the property was torn down and sewer lines were run to add the home to city sewer in preparation for the addition to the home. The expansion and addition would include the addition of a full basement, a master bedroom and bathroom, expansion of the living room area of the home, and the addition of a separate, handicap accessible, mother-in-law's suite with a full kitchen, living room, bedroom and bathroom (adding approximately 1898 square feet to the home). A storage shed was also constructed in the back west corner of the property to house building materials. Plans were submitted to the Bloomington Planning Department along with detailed drawings of the addition and expansion. Approval was given for the project, building permits issued, and the work on the addition began in the spring of 2009. The work on the project has been carried out in stages by me, my wife, and other family members in addition to our regular jobs, so it has been an on-going project. The first major stage was completed in December of 2010 when the mother-in-law's suite was finished and approved for move-in by the inspectors. At this move-in inspection, it came to our attention that an error had been made in allowing us to build the mother-in-law's suite as a separate unit without entry from inside the existing home. My wife and I were assured that this problem would be resolved to everyone's satisfaction, and my mother-in-law was allowed to move into her new home.

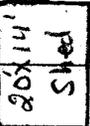
My wife and I are seeking a variance that will allow us to use the mother-in-law's suite as a separate unit and rent the unit after my mother-in-law passes away. We searched diligently in Bloomington for a home with a mother-in-law's suite prior to making the decision to add one onto our existing home, and we did not find anything suitable to our needs. The unit is very attractive, all on one level, with hard-wood floors and a walk-in bathtub, making a nice unit for an elderly or handicapped individual. Our home is situated on Gordon between two other homes, one of which is used as a rental unit. Across Gordon Pike from our home is a small field and trail, and a mobile home park.

Thank you for your consideration in this matter.

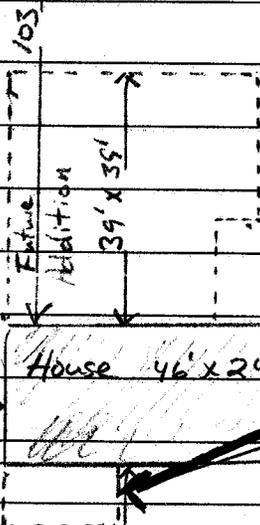
N 00° 17' 43" E

265.4' PL

75.2'



Permit For 20' x 14' Shed 16' high

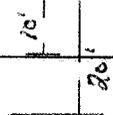


265.3' PL

Garage to be removed



N 00° 36' 01" E



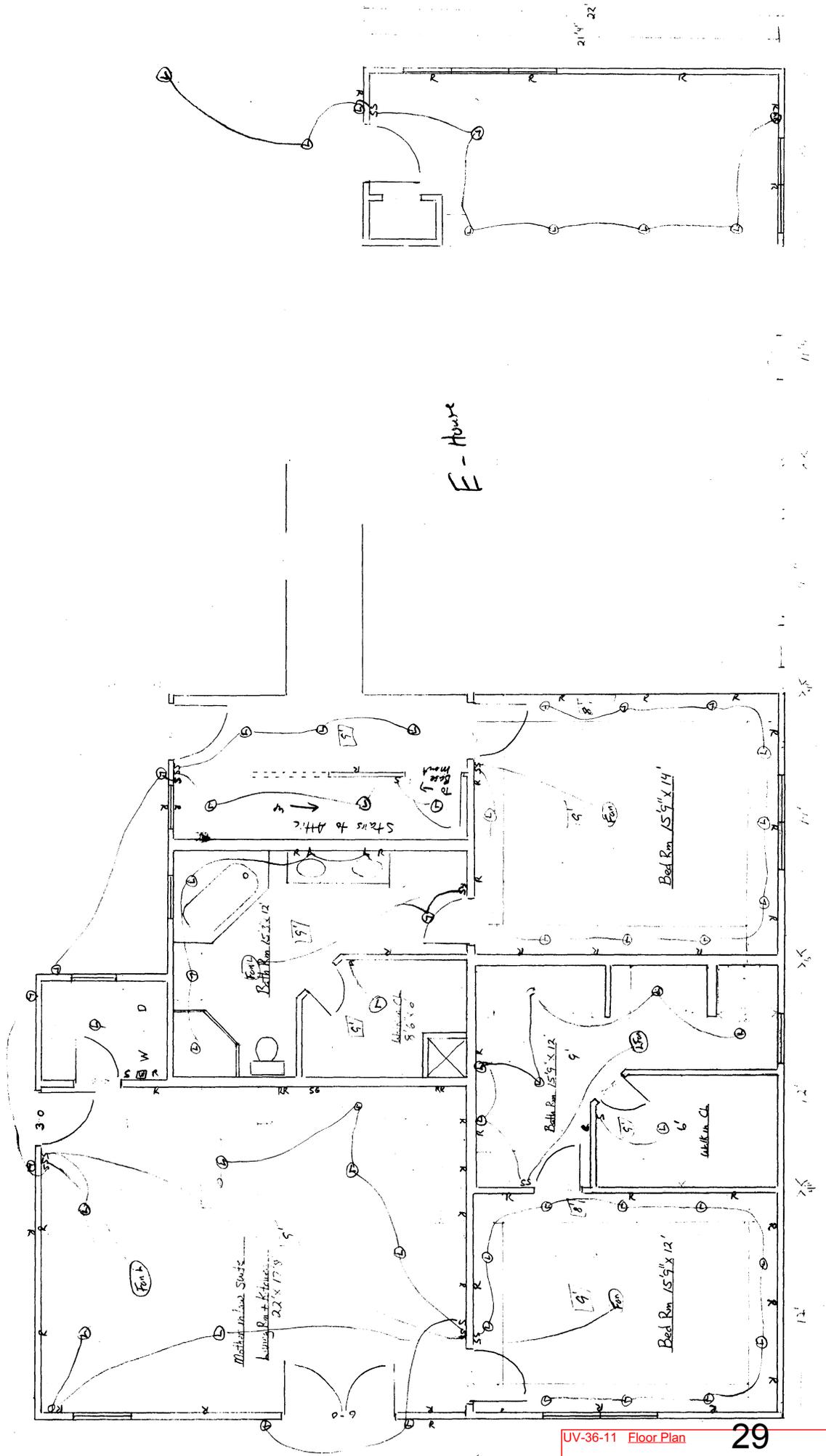
Driveway

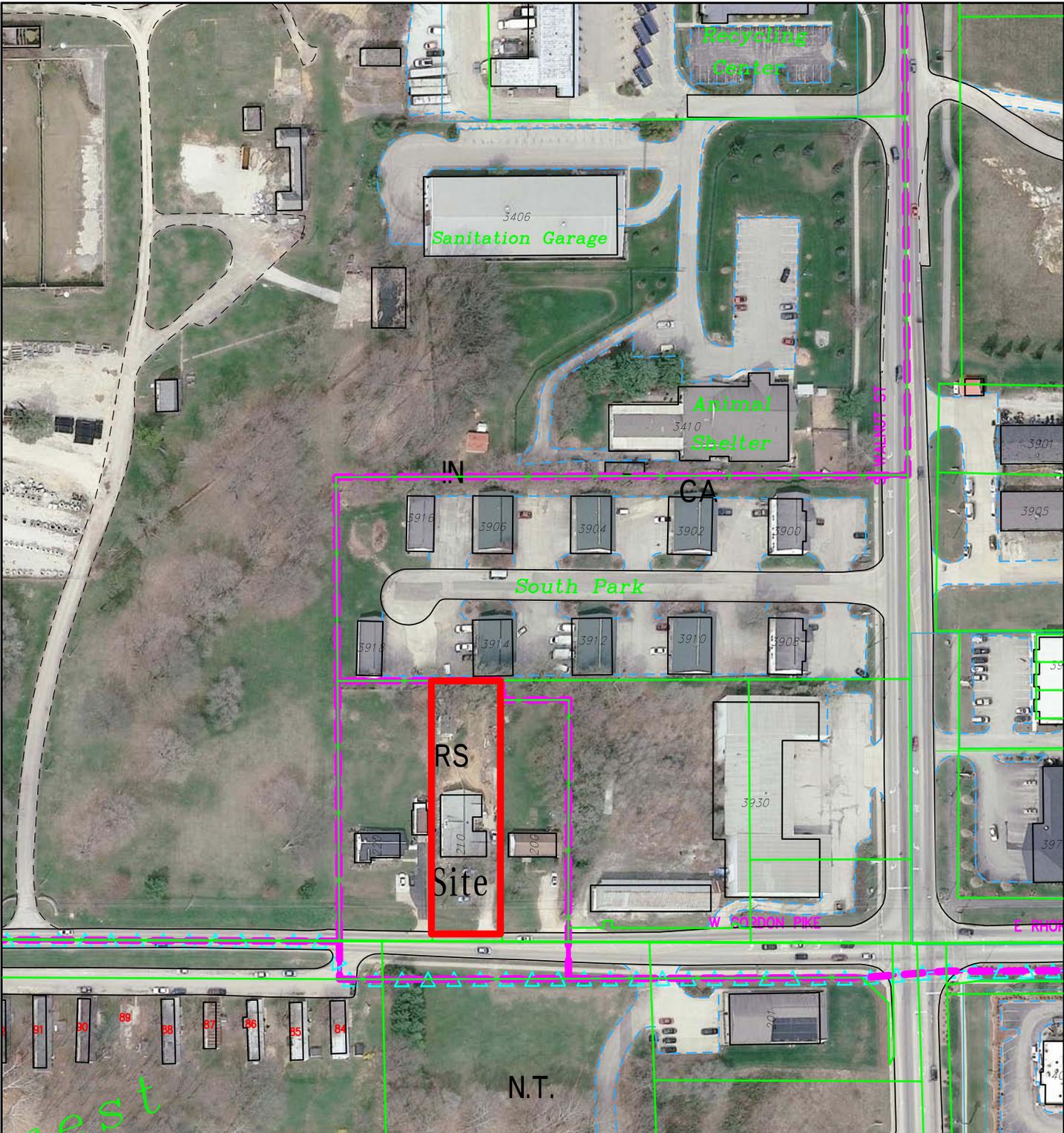
N 89° 28' 23" W

73.78'

210 W Gordon Pike

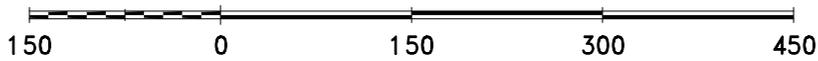
UV-36-11 Floor Plan



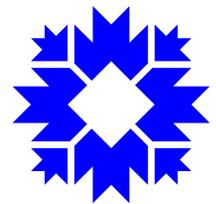


UV-36-11 Gary and Ginnie Phero
 210 W Gordon Pike
 Plan Commission
 2010 Aerial Photograph

By: greulice
 1 Feb 12



City of Bloomington
 Planning



Scale: 1" = 150'

For reference only; map information NOT warranted.

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 917 & 919 S. Rogers Street**

**CASE #: UV/V-03-12
DATE: February 23, 2012**

**PETITIONERS: Martha's House, Inc.
919 S. Rogers Street., Bloomington**

REQUEST: The petitioner is requesting a use variance to allow the expansion of an existing lawful non-conforming homeless shelter in the Commercial Limited (CL) zoning district. Also requested are variances from maximum parking and front parking setback requirements.

Area:	0.40 Acres
Zoning:	CL
GPP Designation:	Core Residential
Land Use:	Homeless shelter
Surrounding Uses:	North - Office
	South, east west - Single family homes (McDoel Gardens neighborhood)
	Southwest - Church

SUMMARY: The subject property is zoned Commercial Limited (CL) and is located on the east side of S. Rogers Street, between W. Dodds Street and W. Allen Street. The property has been developed with a one-story commercial building that was used until 2010 by both the Community Kitchen and Martha's House.

Martha's House is an emergency shelter that was approved in 1992 at this location through a "special exception" process (SE-02-92). This process no longer is part of the UDO but was similar to the current Conditional Use process. The Special Exception limited the shelter use to half of the building and no more than 30 beds. The other half of the building was approved for use by the Community Kitchen. With the adoption of the UDO in 2007, homeless shelters are no longer a permitted use in the CL district. This change made Martha's House a lawful non-conforming use.

In 2010 the Community Kitchen purchased a new building and began the process of vacating this space. The northern half of the building is currently vacant and the petitioner would like to expand the Martha's House use into this space. The expansion would increase the space for Martha's House from 50% of the building to 100%. It would also increase the number of beds to 40, which is above the 30 approved in 1992. The petitioner is requesting a use variance to allow the expansion of a lawful non-conforming homeless shelter in a CL zoning district. Also requested are two development standards variances.

Maximum Parking Variance: The UDO permits a maximum number of parking spaces for this use of 1 space per 30 beds and 1 space per employee. With the

average number of employees and the proposed 40 beds, the maximum parking would be 4 spaces. The site currently has 15 parking spaces. The petitioner proposes to eliminate a rear parking lot that is in disrepair, is not handicap accessible, and often floods. The main parking lot would be reconfigured to have 9 parking spaces. This is five more spaces than the UDO maximum. The petitioner believes the 9 parking spaces are appropriate because many of the clients they serve own cars and they have a desire to not have parking spill over into the surrounding neighborhood.

Parking Setback Variance: The petitioner proposes to maintain the existing 6 foot parking setback from the ROW. The UDO requires that parking be located 20 feet further from the street than the building. The existing building is 30 feet from the right-of-way. Strict code compliance would require a parking setback of 50 feet from the right-of-way. This would virtually eliminate the existing paved parking lot accessed from Rogers St. While the existing rear lot could be utilized instead of the main lot, the rear lot experiences flooding and does not provide an accessible route between the spaces and the front door.

Other Site Upgrades: With this expansion of use on the property, the UDO requires compliance with several site development standards. The petitioner will be removing two curb cuts onto Rogers St., landscaping to meet UDO standards, increasing pervious surfaces from 11% to 45%, and adding bicycle parking spaces to meet requirements.

Neighborhood Meeting: This project was discussed at a meeting of the McDoel Gardens Neighborhood Association on December 1st, 2011. Those in attendance believe that Martha's House has been a good neighbor in the past. They encouraged the petitioner to provide enough parking to meet their true needs and to increase greenspace on the lot. One letter in opposition to the project was received and is included in the packet.

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed the plan and the use variance request at their February 6, 2012 meeting. The Plan Commission voted 7:0 to forward the use variance request to the BZA with a positive recommendation. The Plan Commission found that the proposed use variance does not interfere with the Growth Policies Plan.

ENVIRONMENTAL COMMISSION: The Environmental Commission (EC) issued a memo in support of the petition.

GROWTH POLICIES PLAN: The Growth Policies Plan (GPP) designates this property as Core Residential. The Core Residential areas "are characterized by a grid-like street system, alley access to garages, small street setbacks, and a mixture of owner occupants and rental tenants.." Land use policies for this area state that:

- The existing single family housing stock and development pattern should be maintained with an emphasis on limiting the conversion of dwellings to multi-

family or commercial uses, and on encouraging ongoing maintenance and rehabilitation of single family structures.

- Multi-family (medium and high-density) residential and neighborhood-serving commercial uses may be appropriate for this district when compatibly designed and properly located to respect and compliment single family dwellings.
- Neighborhood-serving commercial uses, and possibly even office uses, may be most appropriate at the edge of Core Residential areas that front arterial street locations.
- Allow multi-family redevelopment along designated major streets, in transition areas between the downtown and existing single family residential areas, and when appropriately integrated with adjacent uses per adopted form district requirements.
- Discourage the conversion of single family homes to apartments.

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 that the proposed homeless shelter expansion will not be injurious. No safety issues have been identified with this petition. Impacts of this “high threshold” model of homeless shelter are comparable to a multi-family use, which is permitted in this zoning district.

- (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 properties from this request. The impacts of the use with 40 beds would be only marginally higher than the impacts of the existing use with a 30 bed maximum. Neighbors in attendance at the McDoel Neighborhood Association meeting where this was discussed indicated that the primary issue was the provision of adequate parking so that resident’s cars would not spill over onto adjacent lots.

- (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 Martha’s House is already located in this building and that the former use was also a business that catered to people experiencing poverty. While this space could be occupied by another permitted use, the proposed use is similar in impacts to permitted uses in

the district, such as multi-family housing, and will not dramatically increase impacts to the surrounding neighborhood.

- (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 the strict application of the UDO will constitute an unnecessary hardship. The building is already partially used for Martha's House. Expansion into the vacant portions of the building is a logical expansion for this use. If this use variance is denied, Martha's House still has a need for additional capacity. They would be forced to relocate to another zoning district where they may run into neighbor opposition. Martha's House has been located at this location since 1992 with few conflicts with neighbors.

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

Staff Finding: The GPP designates this property as "Core Residential." The Core Residential areas "are characterized by a grid-like street system, alley access to garages, small street setbacks, and a mixture of owner occupants and rental tenants..." The GPP notes that the prime goal of the Core Residential district is the preservation of the existing single family housing stock. The GPP does acknowledge that there may be areas along major streets or along the periphery of Core Residential areas where multi-family, office or neighborhood serving commercial uses may be appropriate when compatibly designed to integrate into the neighborhood. The Plan Commission unanimously found that this petition did not substantially interfere with the GPP.

CRITERIA AND FINDINGS: All other variances

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

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

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

Staff's Finding: Staff finds no injury with the petition. This homeless shelter use is operated to improve the public health, and 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.*

Staff's Finding: Staff does not anticipate any substantially adverse impacts of the proposed variances. The site plan increases the amount of greenspace and

landscaping on the property, while reducing the amount of unnecessary parking spaces and curb cuts.

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

Staff's Finding: Peculiar condition for the parking setback variance is found in the large setback of the existing structure and the inadequate rear parking lot. Compliance with the parking setback would require all but two parking spaces to be removed from the main lot. In addition, the rear parking lot is substandard in width and often floods. There is considerable grade difference between the two parking lots and they cannot be connected.

Peculiar condition for the maximum parking variance is found in this property's location within a neighborhood. If this use was located in a predominately commercial district, or an area with more available nighttime street parking, the impacts of spill over parking would be less.

Practical difficulty for the parking variance is found in that if compliance is required, the petitioners would have to remove all but two spaces and utilize a parking lot with limited accessibility.

Practical difficulty for the maximum parking variance is found in the existing parking lot and the needs of the use. The proposed nine parking spaces, which more efficiently utilize the paved area than the existing parking arrangement, would provide for the approximately 3 staff members and up to 6 residents. This will better allow the use to provide for its parking needs on-site, while still reducing parking from the existing 15 spaces.

Conclusions: Staff finds that the proposed use does not interfere with the GPP. This petition would allow the expansion of a lawful-nonconforming use within the confines of an existing non-residential building. This use provides benefits to the entire community and has existed at this location for 20 years with little disruption to the neighborhood.

RECOMMENDATION: Based upon the written report, staff recommends approval with the following condition:

1. Occupancy shall be limited to a maximum of 40 beds.

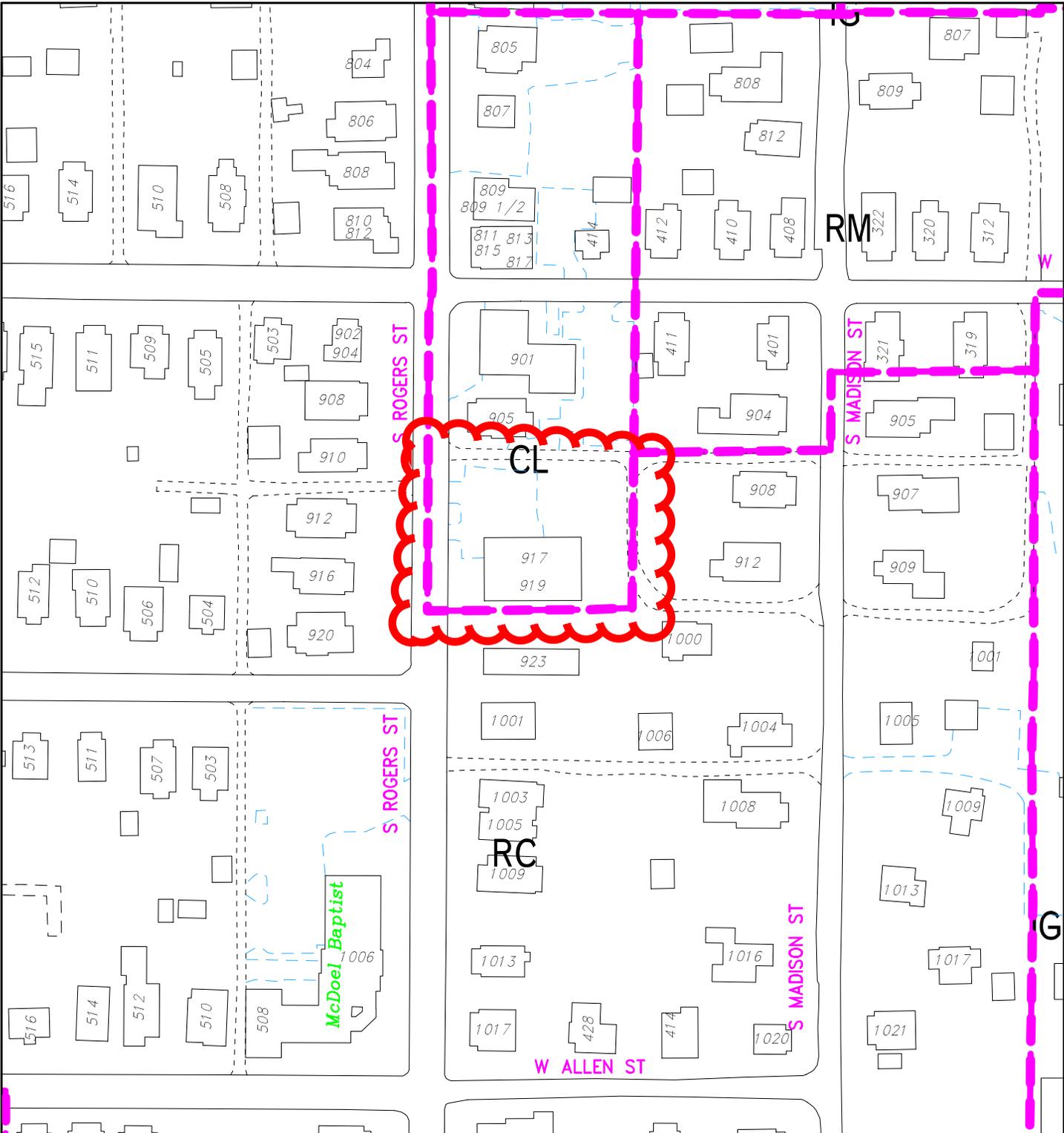
MEMORANDUM

Date: February 8, 2012
To: Bloomington Board of Zoning Appeals
From: Bloomington Environmental Commission
Through: Linda Thompson, Senior Environmental Planner
Subject: UVV-3-12, Martha's House

This memorandum contains the Environmental Commission's (EC) thoughts regarding a request for a Use Variance and other variances. The Petitioner is requesting an expansion of an existing emergency shelter within a Commercial Limited (CL) Zoning District. The Petitioner is also requesting variances from the maximum parking spaces, and parking setback regulations.

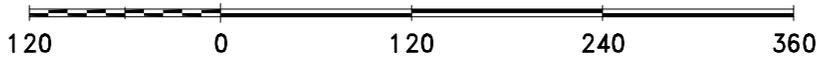
EC Recommendations:

1. The EC supports a Use Variance. Furthermore, the EC supports the additional variances considering the benefits proposed. The impervious surface on the site will be reduced significantly, the landscaping will be increased significantly, and the parking request is reasonable.

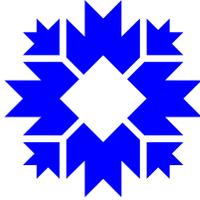


UV-02-12
Location Map

By: roachja
13 Jan 12



City of Bloomington
Planning



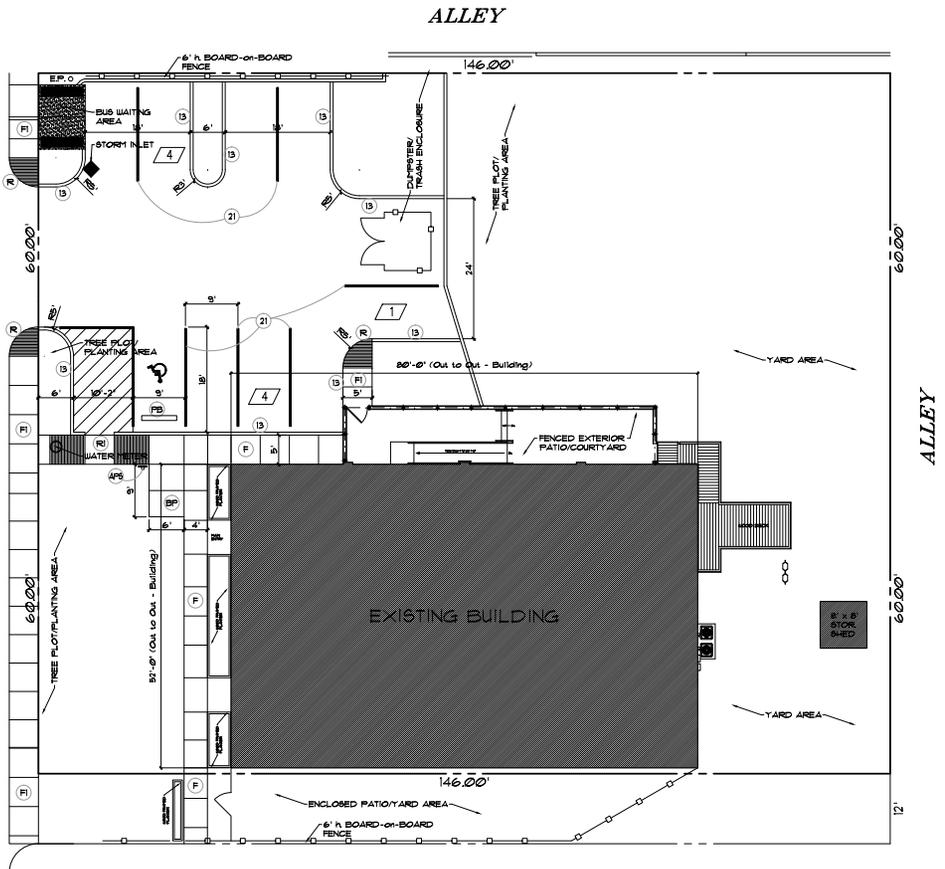
Scale: 1" = 120'

For reference only; map information NOT warranted.

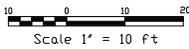
UVV-03-12
Site Plan

SITE LEGEND	
(13)	PROPOSED 6" STANDING CURB
(R)	PROPOSED CONC. SIDEWALK TRANSITION RAMP
(R)	PROPOSED CONC. SIDEWALK TRANSITION RAMP
(PB)	PROPOSED PARKING BUMPER
(21)	PROPOSED MARKING; PAINTED, SOLID, WHITE, 4"
(7)	PROPOSED CONCRETE SIDEWALK
(2)	PROPOSED MONOLITHIC CURB AND SIDEWALK
(AS)	PROPOSED ACCESSIBLE PARKING SIGN
(XX)	PROPOSED NUMBER OF PARKING SPACES PER LOT
(BP)	PROPOSED BIKE PARKING ORIGINAL RIBBON RACK MODEL RB-05-1 WITH 63"x72"x4" CONCRETE PAD

SOUTH ROGERS STREET



A SITE PLAN
SCALE: 1" = 10'-0"



revisions:
drawn by: dgo
ARCHITECTURE CIVIL ENGINEERING PLANNING Bloomington, Indiana
BBB BYNUM FANTO & ASSOCIATES, INC. 528 north walnut street
certified by:
Proposed renovations for: MARTHA'S HOUSE 917 South Rogers Street Bloomington, Indiana
title: SITE PLAN
S-2 date: 12/2/11 201001



BYNUM FANYO & ASSOCIATES, INC.

ARCHITECTURE
CIVIL ENGINEERING
PLANNING

January 5, 2012

Petitioner's Statement
Martha's House Remodel
917 South Rogers Street
Bloomington, IN

The Perry Township Trustee and the Board of Directors of Martha's House respectfully request your consideration for a Use Variance to enable Martha's House to expand into the north half of their existing building previously occupied by Community Kitchen and now vacant space. When Martha's House commenced operations in the early 90's the property was zoned BL. Subsequently the property was rezoned CL which had the effect of placing the site and use in a state of nonconformance as the use as a Group Shelter is not an approved use within the CL Zone. This Use Variance, if approved, will bring the use in compliance with current code. Proposed site modifications will also aid in bringing nonconforming parking space count and pervious surface coverage ratios into compliance with current code or very close to compliance.

Current parking space count is 15; we are proposing to reduce this number to 9. Existing pervious coverage is 2193 sq ft; proposed pervious coverage is 8749 sq ft, or 45% of lot area. This represents a nearly 400% increase in pervious coverage.

In closing, we ask that this use variance be granted and the expansion of Martha's House into the vacated Community Kitchen space be allowed.

Sincerely,

Sherman R. Bynum
Agent for Perry Township Trustee

UVV-03-12
Petitioner's Statement

528 NORTH WALNUT STREET
812-332-8030

BLOOMINGTON, INDIANA 47404
FAX 812-339-2990

Perry Township Trustee
DAN COMBS
1010 South Walnut Street
Bloomington, Indiana 47401
(812) 336-3713 • Fax (812) 332-6406

Township Board
Barbara Sturbaum
Jack E. Davis
Susie Hamilton

Bloomington Plan Commission

RE: Martha's House, Inc Shelter Renovation
919 South Rogers Street
Bloomington, IN

Martha's House, Inc., is an emergency shelter that serves a critical need in Bloomington by providing emergency shelter for sober, drug free homeless men and women in the community.

As the only emergency shelter in the area serving an single adult population twelve months of the year, Martha's House is a unique provider of emergency shelter and case management services for the homeless in the community. Martha's House is not affiliated with any religious organizations.

In addition to temporary housing Martha's House has a case worker to help residents obtain employment and permanent housing as well as referrals for medical attention and other social services to help them help themselves to overcome their individual causes for homelessness and achieve self sufficiency. Residents can stay up to 120 days per year.

Martha's House works closely with the other service providers in the community to provide a continuum of care. These include: agencies that provide day services (Shalom), or provide recovery programs (Amethyst House) or shelter for domestic violence (Middle Way) and others. We are trying to promote responsible behavior on the part of our residents as they pursue their goal toward self sufficiency.

Martha's House is planning a renovation to convert the former Community Kitchen site (which shared the building with Martha's House) into additional housing for homeless men and women. This project will upgrade the residential areas to lessen the intense crowding in the current shelter. It will double the number of women who can be housed in the shelter and add a few more beds for men. Currently the shelter can accommodate up to six women and twenty-two men. The project will expand emergency shelter services to twelve women and twenty-eight men for a total of forty persons.

The expanded services for women will include three new sleeping rooms that will house four women on bunk beds in each room. The women's area will be separated from the men's sleeping area by common areas and toilet facilities giving the women far more privacy than they have currently. A small lounge / meeting / lunch room will provide a "social" gathering area for staff

meetings, group meetings with residents, training sessions, watching TV and more. This space may also be used for the "winter shelter" as needed (when the shelter is full and outside temperatures drop, this space is used to house a few more residents to keep them out of freezing weather). Additional storage space will provide much needed space for supplies. This will allow bulk purchases of commonly used supplies at reduced unit pricing.

The project will also provide life safety improvements for an updated fire alarm system, a fire suppression sprinkler system for the entire building and a new water service to the building. The new system is required by a new more stringent building code for group residential facilities.

The project will also provide much needed administrative space for shelter staff.

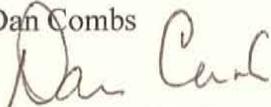
Currently Martha's House is a non-conforming conditional use. The site received a zoning variance to operate a group shelter in 1992. That approval was for a total of 30 (thirty) beds to be in one half of the building and the Community Kitchen in the other half. This new project will increase the emergency shelter capacity to 40 (forty) beds and occupy the entire building. In addition, the current use is no longer approved by the current zoning for that site. As a result of these proposed changes to this old agreement, additional approvals are required for the project go forward.

James Roach, Senior Planner in the Metropolitan Planning Office is working with Martha's House and Bynum / Fanyo, architects on the project to outline the scope of site work required to meet new zoning ordinances. These include maximum number of parking spaces and the ratio of pervious and impervious surfaces.

The neighborhood association, McDoel Gardens, where this project is located was informed of the project at a neighborhood meeting December 1, 2011. Efforts are being made to incorporate the input from that meeting into the project site plan. Additional meetings will be held as needed.

Various surveys and anecdotal evidence tell us that there are many homeless people in the community. This project will provide a small, but important additional number of beds to house these homeless. The addition of more beds for women is an important component of this project.

Dan Combs



Perry Township Trustee

We've had homeless sleeping in their cars in the Church lot remaining beside their cars.

One guy was living in a tent behind a neighbors house all last summer the Police and Ambulance over them all the time because he would overdose after he left the tent. he parked a small motor home and strung an extension cord across the alley from the church lot to A's house.

The Police and Ambulances are at the shelter all the time. Early this morning
1-25-2012

We don't need this in Mc Doel
Gardens Neighborhood !!!

Think About This



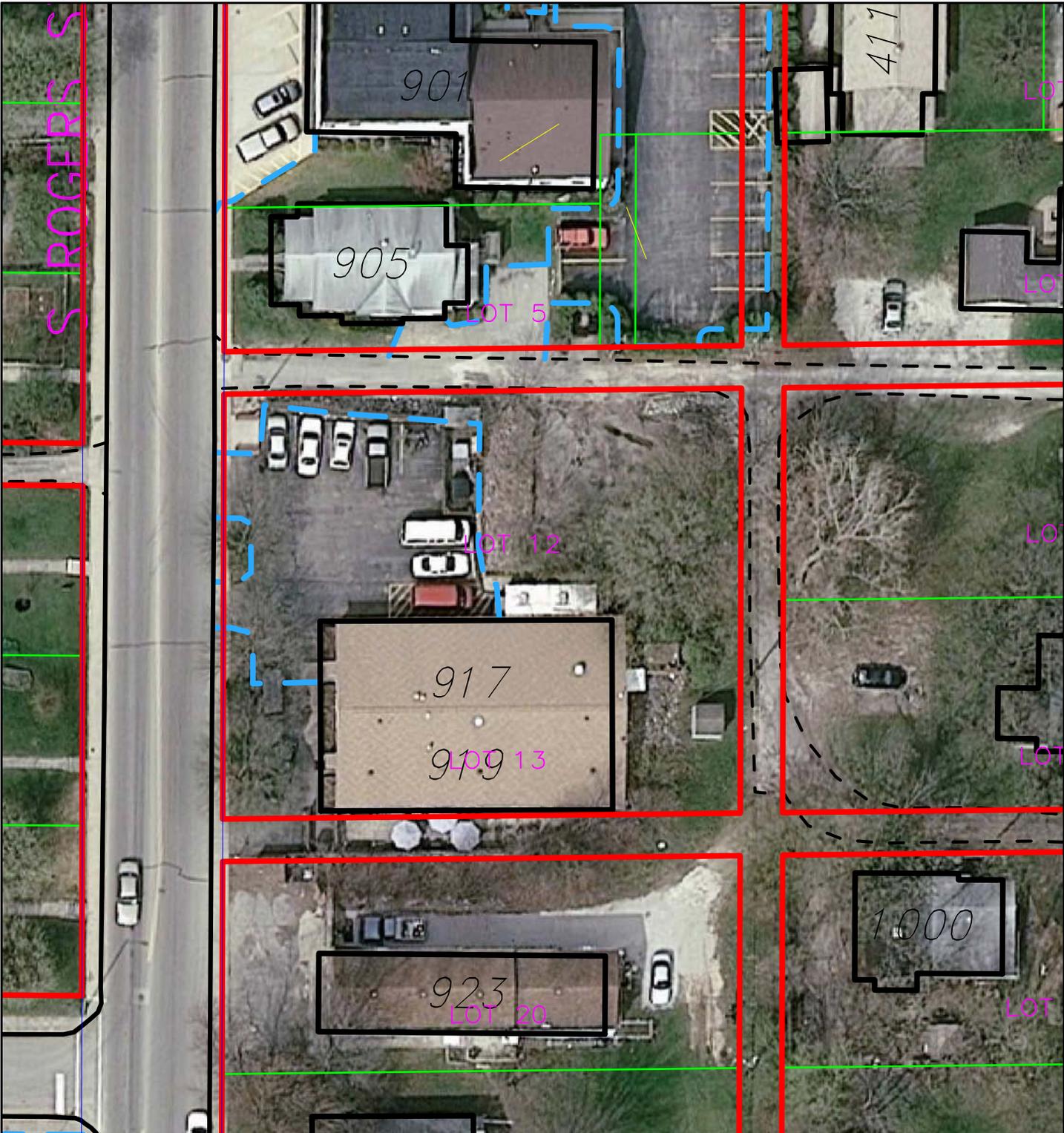
Thank goodness we got rid
of the Kitchen.

Now more homeless where
it used to be.

Forget it.

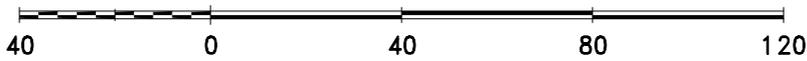
Let me have a good afternoon
and evening on my porch!

Betsy Quikens
920 So Rogers



UVV-03-12
2010 Aerial Photo

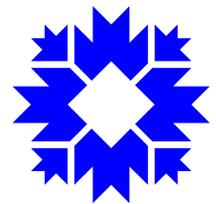
By: roachja
13 Jan 12



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 40'

PETITIONER: Renaissance Rentals
1300 N. Walnut Street, Bloomington

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

REQUEST: The petitioner is requesting variances from maximum impervious surface coverage, entrances and drives, and architectural standards.

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

The petitioner is proposing to demolish the existing building and build a new three-story mixed-use building. The first floor would contain a 1,500 square foot commercial space and five parking spaces. The upper two floors would contain twelve one-bedroom apartments. Vehicle access to the site would be from a single drive onto Walnut St. Pedestrian access to the apartments would be from an exterior stair tower and balcony system on the Walnut St. side of the building.

The building is designed with innovative landscaping and green development features. The Walnut St. side of the building would be designed to be a “living”/”green” wall.

Variances are requested from maximum impervious surface coverage, entrances and drive standards, and architectural standards. The petition would meet all other landscaping, sidewalk, bike parking, height, parking and setback requirements of the Unified Development Ordinance (UDO).

SITE PLAN ISSUES:

Density: The petitioner proposes twelve, one-bedroom apartments. This calculates as three DUEs. The CA zoning district permits a maximum of fifteen DUEs per acre, or three DUEs for this 0.2 acre property.

Parking: No parking is required for the commercial or multi-family use. The petitioner proposes to provide the maximum allowed parking for a 1,500 square foot commercial space: 5 spaces. No residential parking is required or provided. Parking is available on both 15th St. and E. 16th Street, as well as the petitioner’s other properties at the intersection of E. 17th Street and Walnut St. In addition, two new on-street parking spaces will be created on 15th St. with the removal of the existing drive-cut.

Impervious surface/green roof variance: The proposed site plan is 66% covered by impervious surfaces. The UDO permits a maximum of 60% impervious surface coverage. The petitioner would like to compensate for the increased impervious surface with a partial green roof. They propose to cover 1,000 square feet of the roof with raised planters include decorative plantings as well as serve as rooftop gardens for tenants. This rooftop deck and green roof will be fully accessible to tenants for other outdoor activities. The petitioner argues that the green roof will provide similar benefits as pervious pavers, which the UDO specifically permits to be counted as pervious surfaces, in that it will filter, cool and slow down stormwater. With the green roof, the petition is 55% impervious.

Access variance: The property is currently accessed by three drive-cuts, two on Walnut St. and one on 15th St. With this petition all three cuts would be removed and a new drive would be established onto Walnut St. This drive would access a 5 space parking area inside of the building. The UDO requires that corner lots include access onto the street with the lower road classification, in this case that would be 15th St. The petitioner argues that because of the narrow lot width along 15th St., 65 feet, a drive onto 15th St. is impractical and would create a drive very close to the 15th St. and Walnut Street intersection, as well as an adjacent owner occupied home. A drive onto 15th St. would also remove the possibility for the two new street parking spaces and could push some of the site's traffic through the Garden Hill neighborhood.

Architecture/design variance: The petitioner has submitted elevations for the building and these have been included in the packet. The building is designed with a low pitched roof, large metal panels with a texture that simulated stucco or EIFS, and exterior entry balconies and staircase. The building utilizes a unique design on its west side to provide visual interest to the building. It will utilize a "living"/"green" wall along the street frontage. The balconies will be designed with a wire mesh and planting troughs to provide a medium for vining evergreen and deciduous plants. This green wall will shade the building and provide visual interest from the street. Despite this unique design, the submitted elevations do not meet the following Architectural Standards section of the UDO:

- The building does not include the required parapet
- The building does not include required blank wall control

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

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

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

STAFF FINDING: The granting of the variances will not be injurious to the public health, safety, morals or general welfare of the community. There is adequate sight distance along Walnut Street to allow for the proposed drive without causing conflicts with the existing 15th Street intersection.

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

STAFF FINDING: Staff finds no negative effects from this proposal on the use and value of the areas adjacent to the property. The petitioner met with several nearby residents on January 13, 2012 and discussed the project and addressed many concerns. While those in attendance did have some concern about the proposed rooftop patio and parking for the building, they were not opposed to the specific variances requested. In addition, the lack of a drive onto 15th Street will reduce traffic through the neighborhood and allow for two new on-street parking spaces.

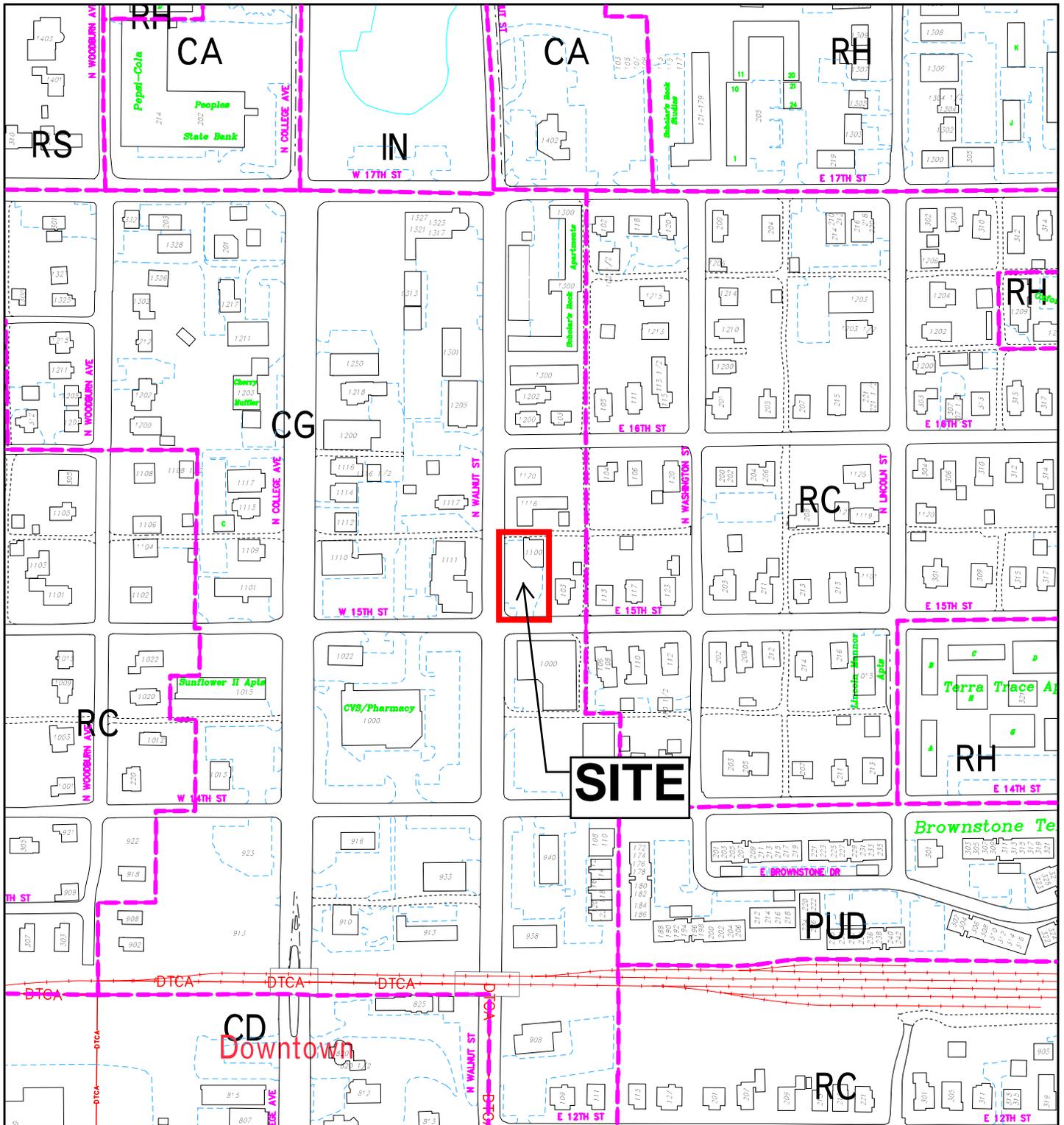
- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

STAFF FINDING: Staff finds peculiar condition in the architectural and impervious surface coverage variances in the proposed design of the building. The petitioner has designed a building in an attempt to achieve green building goals, while not requesting any density increases or setback reductions. The proposed green roof is an innovative site and building feature that satisfies some of the need for impervious surface coverage maximums. It provides a way to slow down, cool and filter water in a way similar to grass and creates no more hardscape on the lot than would be created with a pervious pavement system. The architectural standards of the UDO, especially the blank wall control standards, are meant to require the breaking up of long stretches of buildings so that there are not uninteresting or blank facades. Options given in the UDO include changes in height, modulation, windows, and canopies. The proposed "green"/"living" wall accomplishes this goal but in a way not envisioned by the UDO. Staff finds practical difficulty in not allowing these innovative and sustainable building practices to be used to satisfy the intent of the UDO, even though they do not meet the letter of requirements for impervious surface coverage and architectural standards.

Staff finds peculiar conditions for the driveway variance in the fact that the adjacent lower classified street is a neighborhood serving street. No other business uses utilize this street east of Walnut St. A drive onto 15th street would not only encourage unnecessary cut-through traffic and remove 2 on-street parking space, it would also create an unusual site layout. In addition, a drive onto Walnut St. is in a sense a right-in/right-out access because of the one-way nature of the street. It would make placing a commercial space immediately on the corner of 15th and Walnut St. impractical.

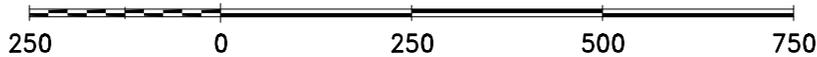
RECOMMENDATION: Staff recommends approval of the variances, based on the written findings, with the following conditions:

1. The proposed “green”/“living” wall plantings are a required element of the building, based on the written findings of the architectural standards variance.
2. Final City Utilities approval is required prior to the release of any building or grading permits.
3. Signage, address, and lighting must be added to entrance to meet entrance detailing requirements of the UDO.



V-06-12
Location Map

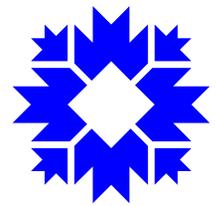
By: roachja
14 Feb 12



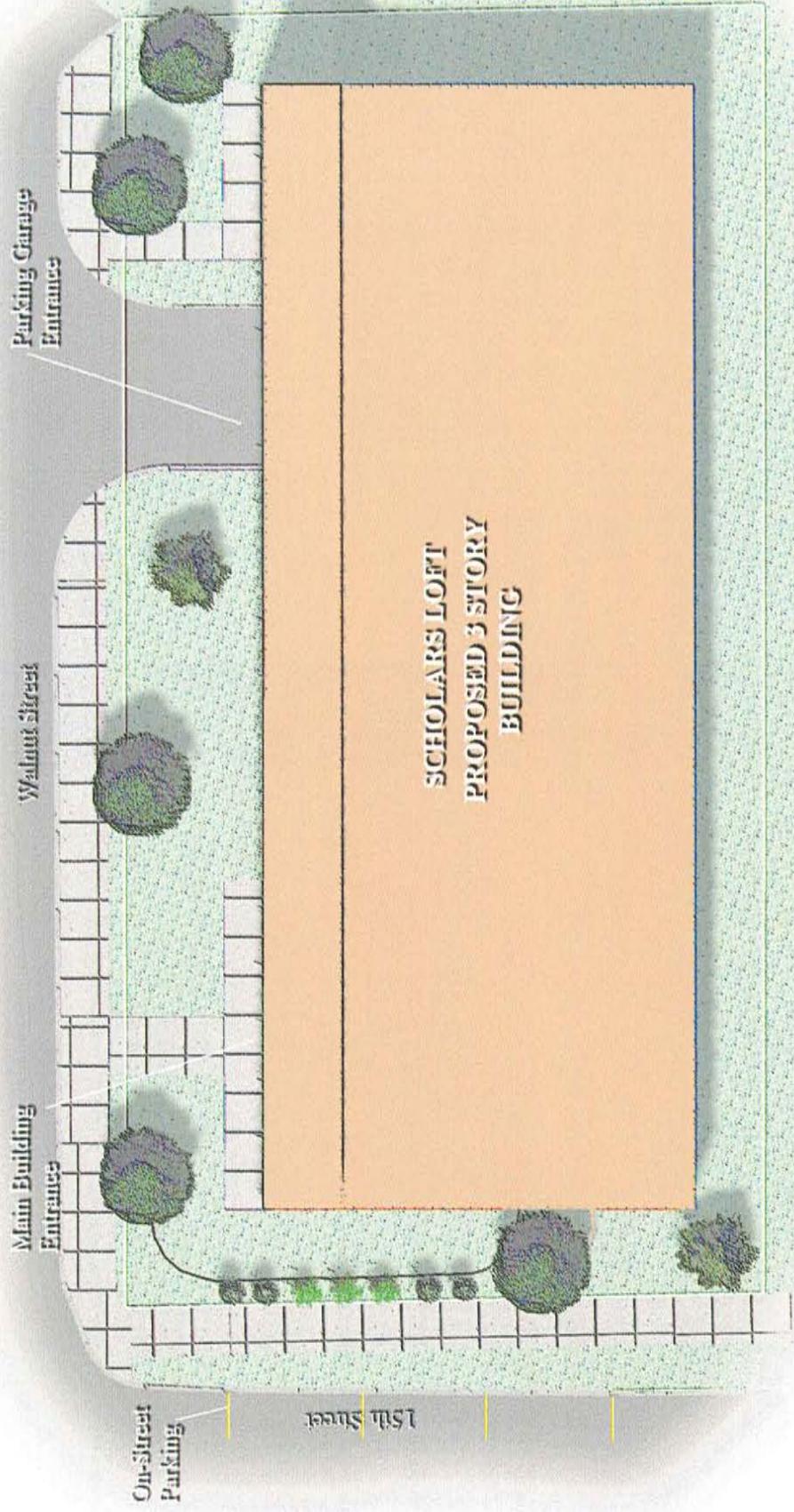
For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 250'





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

Petitioners Statement

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

Background

Renaissance Rentals has built, renovated, managed and owned apartments and homes in Bloomington for almost 25 years. Each development is a complement to the community and its respective neighborhood. This building will be a beautiful improvement to the neighborhood and be an innovative green pilot with multiple pioneering green features many aspects never before attempted in Bloomington. The hope is that this building can show case and promote many features and serve as a test media for future building projects. No density incentives are being sought for utilization of green development features. However, variances will be required to complete the project as planned. The project could be completed without the need for variances, but it is our opinion that doing such does not accomplish the goals for this building, results in an inferior development and is contrary to neighborhood input.

Renaissance Rentals has been a part of the Garden Hill neighborhood for many years and as such, is aware of neighborhood concerns regarding redevelopment. The neighborhood concerns have been taken seriously and have been incorporated into the design beginning with a meeting held on January 13th at the home of Julie Dotson, the neighbor who will be most impacted by the development.

Development Proposal Highlights

- 12 one bedroom apartments
- 1100 sq ft small office or retail
- 5 parking space enclosed garage
- Walnut Street facing walkways and balconies
- No public spaces facing east towards adjacent neighborhood
- Owned and managed by Renaissance Rentals with near site office
- Additional parking available at nearby Scholars Rock

Green Building Features

- Primary construction material will be recycled steel
- Green rooftop garden including a minimum of 1000 SF of plant area
- Solar reflective "cool" roof panels
- Electric car charging stations in garage
- Rain harvest and re-use system for site and roof top garden irrigation



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- Living wall system
- 6' blanket wall polyscrim foil insulation system in 12" thick exterior walls
- Low e window glass
- Sustainable non-reflective stucco steel panels
- Low waste construction process with recycling of all steel scrap

Variiances

Three variances will be required for this project. Each variance and its justification are presented below:

Access

The UDO indicates that access to developments along Walnut Street should be derived from the minor street, in this case 15th Street. The proposed development has been designed to access Walnut Street. Walnut Street access is critical to the look and function of the building as well as to the concerns of the neighborhood. Access from the neighborhood street is not desirable.

Though this development will not be a high traffic development, access from the neighborhood street routes unnecessary traffic onto the side street, increasing noise and creating a potential traffic conflict for vehicles turning across traffic to enter the building. The lot itself is very shallow. Since Walnut Street is a one way street, a Walnut Street access to the site is a simple right-in / right-out movement without any cross traffic conflicts. Locating the drive access off of the neighborhood street forces the drive to the far eastern edge of the property to provide for sufficient distance at the Walnut Street intersection, thereby moving it immediately adjacent to the home of Julia Dotson. In meeting with the neighbors, it became apparent that they were not supportive of a 15th Street access.

Lastly, a Walnut Street access will result in the closure of an existing driveway cut onto 15th Street and the addition of 2 on street parking spaces whereas the 15th Street access, required by the UDO would result in the loss of the neighborhood parking spaces.

Impervious Surface Coverage

The UDO limits this site redevelopment to a maximum impervious surface coverage of 60%. The site could meet that requirement through the use of permeable pavers or porous pavement without any difficulty. However, the goal for this building is to utilize green development features that have not been attempted in a project before. In lieu of impervious hardscape, the project proposes to utilize a green rooftop garden area. This green roof will differ from the other green roof project in Bloomington in that it is planned to be useable space by the residents. In meeting with the neighborhood, there was some concern raised over safety and creating a platform from which tenants of this



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building could gaze down into homes of the neighbors. We have listened to their concerns and have designed the feature to alleviate that issue as well as provide for resident safety. The rooftop garden will be setback 10' from the edge of the roof on all sides and will be fenced to prevent access beyond the edge of the garden. Site angles do not provide visibility from the rooftop patio to nearby neighbors.

A green rooftop, though not considered by the UDO, meets the same goals expressed in the UDO by permeable and porous pavement systems. The purpose of those hardscape systems is to slow the rate of runoff from the site by causing infiltration. These systems not only reduce the site's runoff rate, but also provide filtering characteristics to enhance water quality. A green rooftop garden provides the same benefits, but may provide better absorption. Residents will be able to actually use the rooftop garden area, both actively in planting in the garden areas, but also passively by sitting in the plaza area planned within the garden. The green rooftop garden also reduces the "heat island" effect of a traditional rooftop by creating a roof system that can absorb heat energy as opposed to reflecting it.

Additional site runoff from building canopy downspouts will be collected in a below grade rain harvest structure. A pump located in the structure will allow rain water runoff to be re-used for roof top garden and site irrigation.

Inclusion of the green rooftop garden area will result in a net site impervious surface coverage of 55%.

Though not required or contemplated in the UDO, the building will also incorporate a living wall on the Walnut Street frontage. "Green gutters" or growing trays will be installed continually along the balcony area of levels 2 and 3. The railing on each balcony area will serve as a trellis for vining plant material to grow along the front façade. This living wall will provide shade and cooling in the summer for the western building exposure. The living wall will also provide interest and a diversion of architecture along the Walnut Street frontage. Examples of this feature are attached.

Architecture

The UDO requires various design elements and patterns meant to create interest and prevent blank walls. We propose to add this interest and pedestrian connection primarily through our "Green Wall Design". Although Green Walls were not anticipated when the UDO was written, the vining and draping plants will easily accomplish the goals of the UDO. Additionally the full length balcony, the arched motif and the linear wave created by the stair towers and balcony do meet the intended interest required in the UDO guidelines.

J:\3487\approval processing\JRoach Petitioners statement_1-25-12.docx

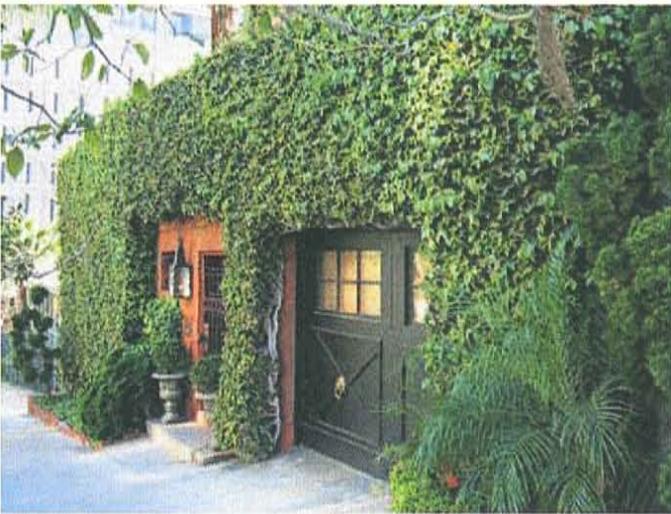
Green Walls or Green Facades



Balet Valet Miami Florida

How it Works

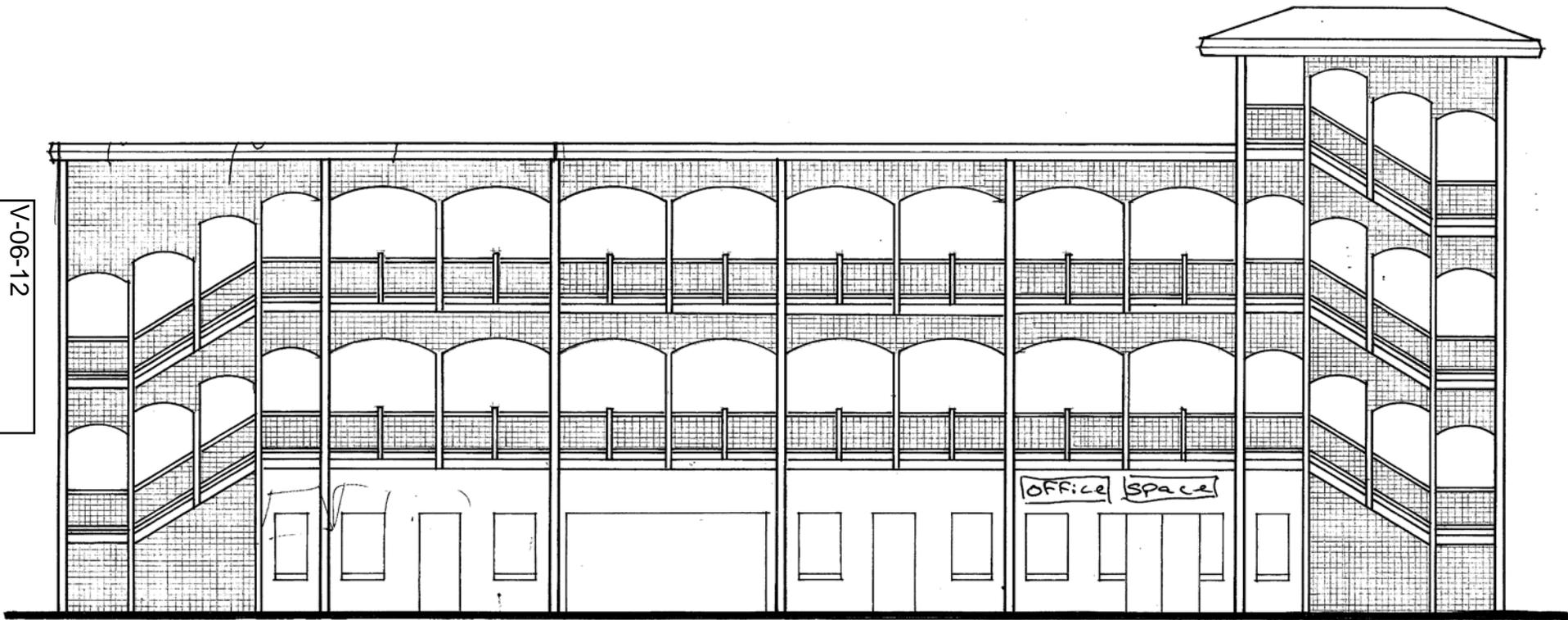
Green wall construction is much more involved than vertical garden designs of the past. Green facades can be freestanding or mounted on an existing wall.



The planting system provides support and prevents the vegetation from growing directly on the building to eliminate structural damage.

From Landscape-designer-advisor.com/sustainable

V-06-12
West Elevation

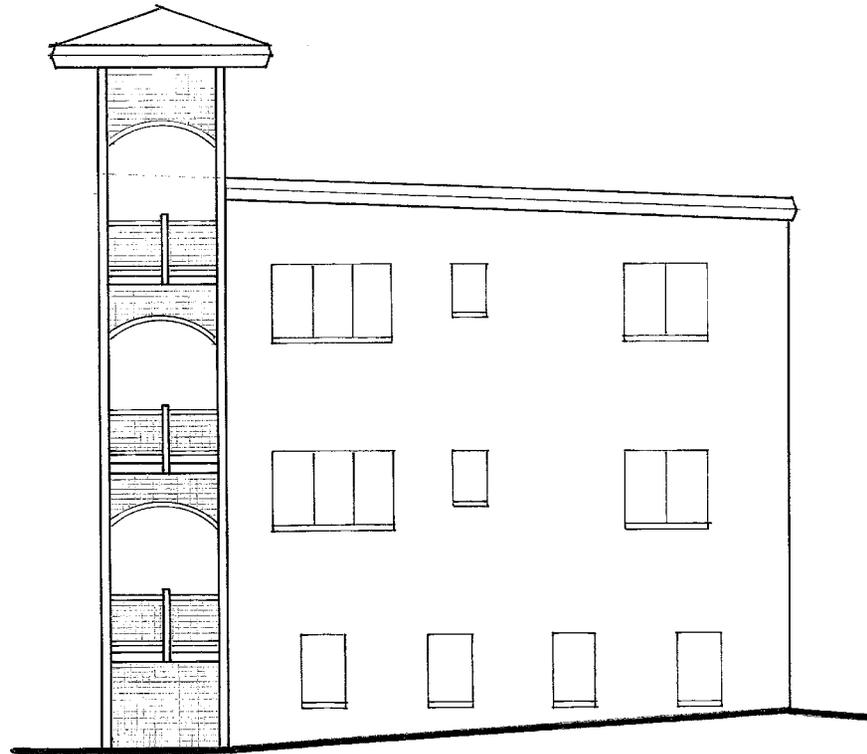


WEST ELEVATION

SCALE: $\frac{1}{8}'' = 1'-0''$

1-12-12
Draft +

V-06-12
West Elevation

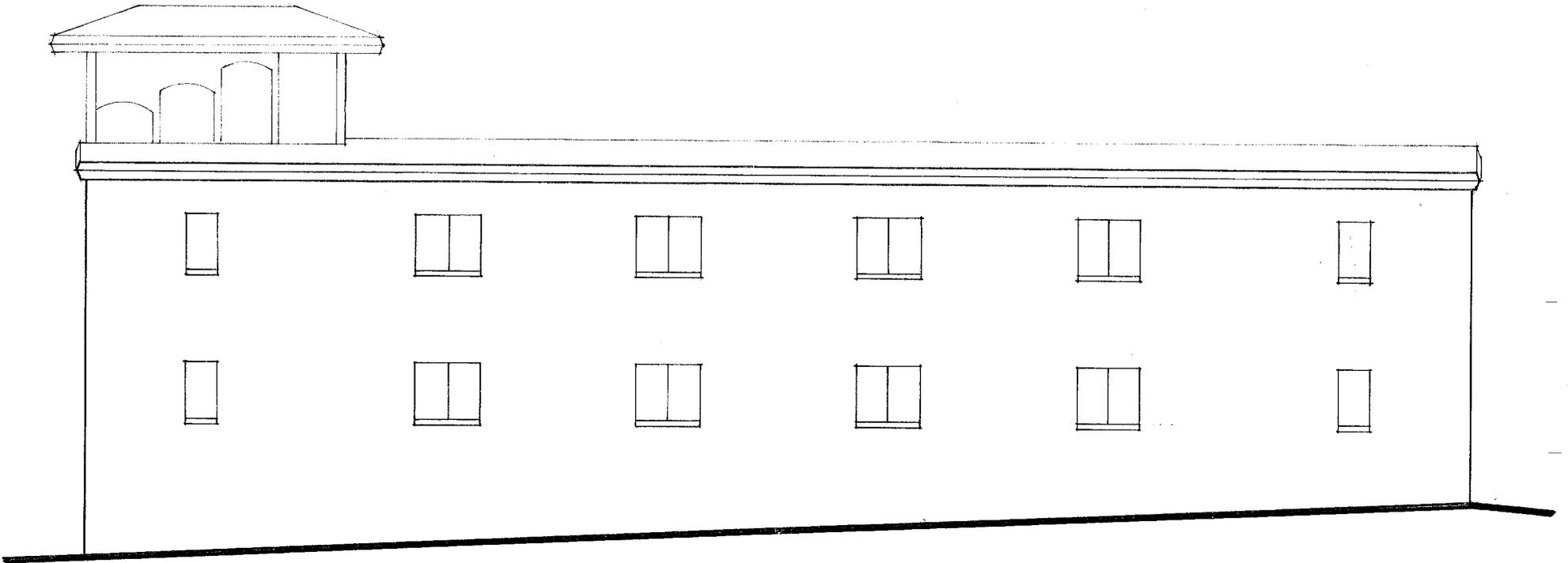


SOUTH ELEVATION

SCALE : $\frac{1}{8}'' = 1'-0''$

1-12-12
Draft

V-06-12
South Elevation

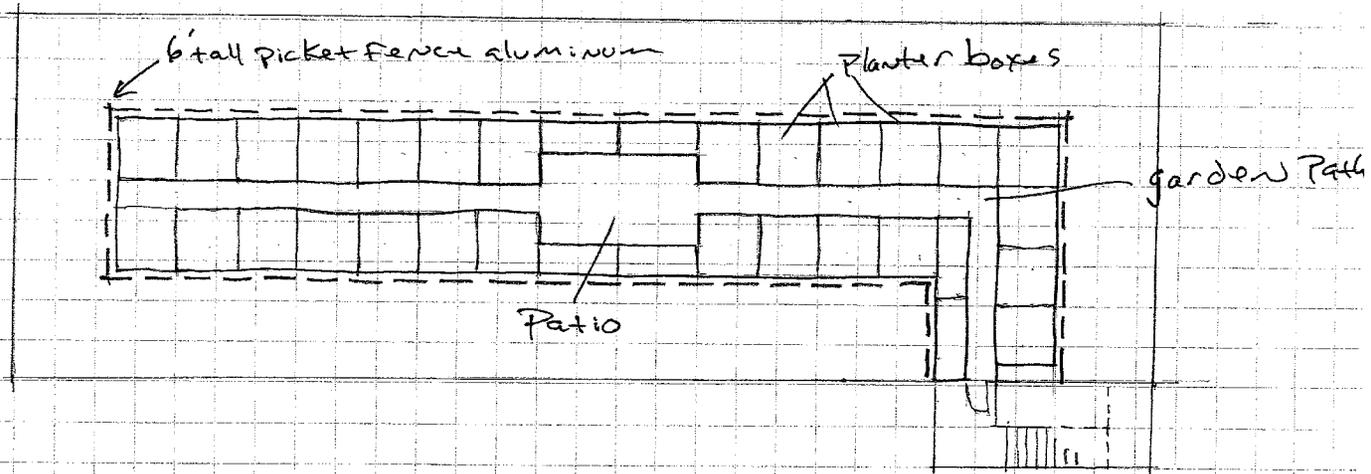


E A S T E L E V A T I O N

SCALE: $\frac{1}{8}'' = 1'-0''$

V-06-12
East Elevation

Rooftop Garden



LANDSCAPING

(27) 6 x 6 Boxes = 972 SF

(6) 3 x 8 " = 144

1116 SF

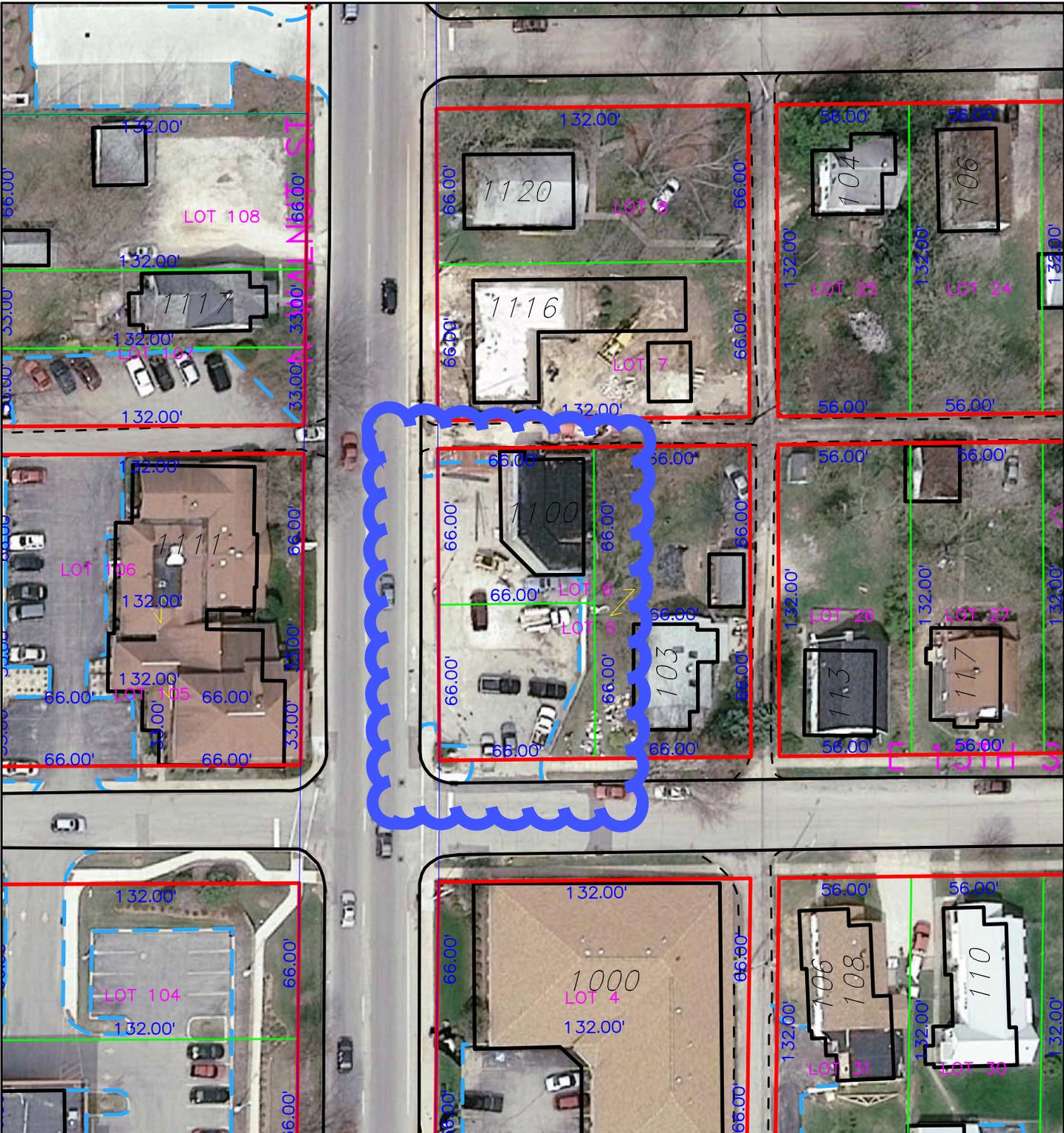
PATIO

16' x 9' = 144 SF

(Max. for (1) EXIT = 150 SF)

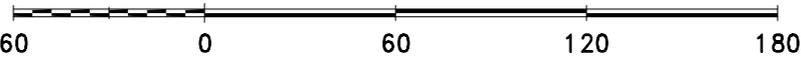
FENCE

212' of 6' high fence



V-06-12
2010 Aerial Photo

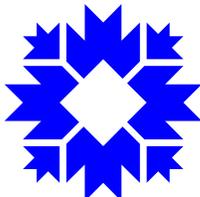
By: roachja
14 Feb 12



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 60'