

CITY OF BLOOMINGTON



December 21, 2023 @ 5:30 p.m.
City Hall, 401 N. Morton Street
Common Council Chambers, Room #115

[https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVDI
nWGROTU43dEpXdz09](https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVDI
nWGROTU43dEpXdz09)

Meeting ID: 824 4898 3657
Passcode: 319455

**CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS (Hybrid Meeting)**

City Hall, 401 N. Morton Street
Common Council Chambers, Room #115 and via Zoom

December 21, 2023 at 5:30 p.m.

❖Virtual Meeting:

<https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVdInWGROTU43dEpXdz09>

Meeting ID: 824 4898 3657

Passcode: 319455

Petition Map: <https://arcg.is/1en1Cu1>

ROLL CALL

APPROVAL OF MINUTES: November 16, 2023

PETITIONS CONTINUED TO: January 18, 2024

AA-17-22 **Joe Kemp Construction, LLC & Blackwell Construction, Inc.**
Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Dr.
Parcel(s): 53-08-07-400-008.002-009, 53-08-07-400-008.004-009...
Request: Administrative Appeal of the Notice of Violation (NOV) issued
March 25, 2022. Case Manager: Jackie Scanlan

AA-45-23 **424 Walnut LLC**
424 ½ S. Walnut Street
Parcel: 53-08-04-200-082.000-009
Request: Appeal of Notice of Violation related to vacant lot landscaping.
Case Manager: Jackie Scanlan

PETITIONS:

V-43-23 **Bryan Rental Inc., & Crane of Indiana, LLC**
123 S. Kingston Drive
Parcel: 53-05-35-300-020.000-005
Request: Variances from UDO standards for number of drives, drive entrance
width, parking lot drainage, bicycle parking standards, and landscaping to allow
the reuse of an existing building in the Mixed-Use Corridor (MC) zoning district.
Case Manager: Gabriel Holbrow

****Next Meeting: January 18, 2024**

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V-44-23

Bailey 8, LLC

200 E. Kirkwood Avenue

Parcel: 53-05-33-310-227.000-005

Request: Variance from height standards to allow an addition to an existing building in the Mixed-Use Downtown (MD) within the University Village Overlay (UVO) District. Case Manager: Eric Greulich

****Next Meeting: January 18, 2024**

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****Next Meeting: January 18, 2024**

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BLOOMINGTON BOARD OF ZONING APPEALS CASE #: V-43-23 / VAR2023-11-0018
STAFF REPORT

DATE: December 21, 2023

Location: 123 S. Kingston Drive

PETITIONER/OWNER: Bryan Rental Inc. & Crane of Indiana LLC
 1440 South Liberty Drive
 Bloomington, IN

REQUEST: Variances from standards for driveways and access, vehicle parking location and design, bicycle parking location and design, parking lot landscaping, and street trees to allow the reuse of an existing building for a “retail sales, large” use in the Mixed Use Corridor (MC) zoning district

REPORT: This 5.23 acre property is located at 123 South Kingston Drive and is zoned Mixed-Use Corridor (MC). Surrounding land uses include a multi-tenant shopping center to the east, undeveloped land to the north, multi-family residences to the west, and commercial uses to the south. The property has been developed with a 51,268 square foot building that was previously used by Marsh supermarkets. The previous use of the building by Marsh as a “Grocery or supermarket” was removed several years ago and the building has since remained vacant. A new tenant, Academy Sports and Outdoors, is proposing to use the building for a new use of “Retail sales, large”.

Since the previous use within the building was removed and the building has been vacant for more than 12 months, the establishment of any use is considered a change in use and triggers compliance with the limited compliance standards of Unified Development Ordinance (UDO) section 20.06.090(f)(2)(B). The owner previously came to the Board for variance petition V-27-23 related to this same proposed change in use, and the Board granted the variance on September 21, 2023 to allow up to 252 parking spaces where the UDO would otherwise have only allowed 169 parking spaces.

The petitioner has come back before the board to request several additional variances for the same proposed change in use. This variance petition includes the following four variances:

1. UDO section 20.04.050(c)(1)(B) Driveways and Access; Number of Drives for uses other than single-family, duplex, triplex, and fourplex residential
 Required: *No property shall be permitted to have more than two driveway access points per street frontage.*
 Proposed: Retain the three existing driveways on Kingston Drive
 (Numbered 1 in the petitioner’s statement)

2. UDO section 20.04.050(c)(3)(B)ii. Driveways and Access; Driveway Pavement Width for uses other than single-family, duplex, triplex, and fourplex residential

Required: *Maximum 24 feet; exception: "The City Engineer may authorize a 34-foot entrance to accommodate heavy truck use."*

Proposed: Retain the existing widths of the three driveways on Kingston Drive: 28 feet for the southern driveway, 30.25 feet for the middle driveway, and 30.25 feet for the northern driveway

(Not included in the petitioner's statement, but requested at the time of filing)

The petitioner has submitted a request to the City Engineer to authorize the existing driveway widths on Kingston, as allowed by the UDO, and has provided a diagram of truck turning movements. As of the date of this staff report, the City Engineer is still reviewing the request and has not made a final determination. The review is not complete because the City Engineer has requested specific further information from the petitioner and the petitioner has not provided the further information yet, as of the date of this staff report. The packet following this staff report includes the correspondence to date between the project's site engineer and the City Engineer regarding the driveway entrance widths. The petitioner's request to the City Engineer is still in review, but based on the information available at this time it appears a reduction in driveway width on at least the southern and middle driveways would be possible while still accommodating large truck access.

Because the City Engineer has not yet authorized the existing driveway widths, the applicable UDO standard is a maximum of 24 feet. The petitioner has a right to petition for a variance from this standard, and the Board has the authority to grant a variance from this standard if the Board determines that the request meets the three variance criteria. The Board has the authority to grant the variance at this time, even though a determination by the City Engineer later could render the variance unnecessary. Conversely, if the Board determines that the request does not meet the three variance criteria and denies the variance, the City Engineer would still have the authority under the UDO to approve the existing driveway widths.

3. UDO section 20.04.060(i)(6)(A) Vehicle Parking design; Stormwater Drainage and UDO section 20.04.080(h)(2)(D) Parking Lot Landscaping; Landscape Bumpouts, Islands, and Endcaps; Stormwater Filtration

Required: *Parking lot bumpouts, islands, or endcaps shall be installed lower than the parking surface to allow stormwater run-off to enter the bumpout, island, or endcap for natural treatment and filtration. Any parking areas with curbing shall incorporate gaps to allow stormwater to enter the bumpout, island, or endcap.*

Proposed: Parking lot bumpouts, islands, and endcaps (both existing and new) with surfaces not below the level of the parking lot and without cuts in the curbing

(Numbered 3 in the petitioner's statement)

Because the proposed parking lot design includes existing bumpouts, islands, and endcaps (hereafter "islands" for brevity) that are not being modified, existing islands that are being expanded, and new islands, staff has provided guidance to the petitioner on the specific application of this UDO standard to this parking lot, including a diagram of the parking lot

islands on the site classifying them by the compliance required. As provided to the applicant, the Planning and Transportation Department's determination of the UDO standard as applied to this parking lot is:

- Existing islands that are not being modified (marked as A in the diagram): Must have at least one cut in the curb on the uphill side to allow water to filter into the soil inside the island. The existing ground level (elevation) can remain, even if it is above the level of the parking lot. If there is concern that sediment (soil, mulch) from the raised island bed may wash out of the required curb cut, the plans should call for a permanent mesh screen (not plastic) or similar in the cut to hold in the sediment but allow water to filter in. Staff is open to discussion about the exact format of such mesh or similar, based on practical engineering considerations.
- New islands (marked as C in the diagram): Must fully comply with the standard, including an interior ground level that is lower than the parking lot surface and at least one cut in the curb on the uphill side.
- Existing islands that are being modified fall into three categories (marked as B1, B2, and B3 in the diagram): B1 are three existing islands that are being expanded on the downhill side, and so should be treated the same as type A; namely curb cut required but lowered level not required. B2 is one existing island that is being expanded narrowly on both the uphill and downhill sides; curb cut required, and lowered elevation in the uphill (northern) expanded area required unless the design engineer or site contractor determines that the expanded area is too narrow to fit in a workable grade to lower any meaningful part of the island--that is, if they determine that a lowered elevation is not reasonable based on practical engineering considerations. B3 is one existing island that is being significantly expanded on the uphill side, and so should be treated similarly to type C; namely curb cut required and lowered level required for the expanded portion (the existing ground level on the south side may remain).

The petitioner has submitted a site plan that does not comply with staff's guidance for the applicable UDO standard. The proposed site plan does not provide gaps in the curbing of any of the existing or new parking lot islands, and does not lower the level of any of the existing or new islands below the parking lot surface. The petitioner has requested a variance from this standard in order to allow the parking lot islands as shown in the proposed site plan.

4. UDO section 20.04.060(m)(2)(B)iii. Bicycle Parking Location and Design; Type
 Required: *For nonresidential and mixed-use developments with more than 20,000 square feet of gross floor area, all required bicycle parking facilities shall be Class II covered spaces.*

Proposed: 13 Class II uncovered bicycle parking spaces
 (Numbered 4 in the petitioner's statement)

The submitted site plan labels the bicycle parking areas as "CBP" which the site legend identifies as "Covered Bike Parking". The site plan as submitted is therefore compliant with this standard. However, the petitioner's statement clearly requests a variance to allow uncovered bicycle parking and the petitioner has verbally confirmed to staff that they wish to request this variance.

The petition's statement lists three other variances which are not part of this variance petition as explained below.

The variance from the UDO standard for a minimum five-foot-wide tree plot, numbered 2 in the petitioner's statement, is not necessary because the Planning and Transportation Department has determined that the proposed site plan is compliant. The petitioner proposes to retain the existing curb and tree plot along Kingston Drive, which includes areas greater than five feet wide, areas less than five feet wide, and areas with no tree plot. The Department is comfortable with the determination that adding the tree plot is not practicable at this time, and therefore not required under limited compliance.

The variances from the UDO limited compliance standards for pedestrian facilities and landscaping, numbered 5 and 6 in the petitioner's statement, cannot lawfully be heard at this Board hearing because these items were not included in the legally required public notice for this hearing. The petitioner will be able to bring these variance requests to the Board without prejudice at a later hearing date when proper public notice can be made.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE
20.06.080(b)(3)(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.*

PROPOSED FINDINGS:

Number of Drives: The granting of the variance will be injurious to the public health, safety, morals, or general welfare of the community because it will increase the number of conflict points and potential crash points between vehicles turning to enter or exit Kingston Drive and vehicles and pedestrians traveling along Kingston Drive, compared to if this property had only two driveway entrances. The length of the property frontage and the resulting distance between the three driveway entrances mitigates the potential injury, but does not eliminate the injury to the community.

Driveway Pavement Width: The granting of the variance will be injurious to the public health, safety, morals, or general welfare of the community because it will enable faster turning speeds into and from the driveways, increasing the potential for crashes and potentially increasing the severity of crashes that do occur.

Stormwater Filtration in Parking Lot Islands: The granting of the variance will be injurious to the public health, safety, morals, or general welfare of the community because it will increase the sheet flow runoff from the parking lot and reduce water quality by eliminating a filtration step, compared to if the parking lot design provided stormwater filtration in proposed new parking lot bumpouts, islands, and endcaps.

Covered Bicycle Parking: The granting of the variance will be injurious to the public health, safety, morals, and general welfare of the community because it will be less feasible for customers and employees to travel to the property by bicycle particularly in times of rain or snow, reducing the community's ability to achieve climate mitigation goals by reducing use of carbon fuel vehicles. Although the injurious impact of this variance alone is very small, it nonetheless will have an injurious impact on the general welfare of the community.

- 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.*

PROPOSED FINDING:

Number of Drives: The potential increase in congestion and conflict on Kingston Drive due to an increased number of turning movements and conflict points from three driveways compared to two will adversely affect the use and value of other properties on Kingston Drive, but the adverse effect is not expected to be substantial.

Driveway Pavement Width: The potential increase in the number and severity of vehicle crashes on Kingston Drive due to faster turning speeds into and from the driveways enabled by wider driveway widths will adversely affect the use and value of other properties on Kingston Drive, but the adverse effect is not expected to be substantial.

Stormwater Filtration in Parking Lot Islands: The granting of the variance will have a substantial adverse effect on the use and value of properties downhill to the south, southwest, and west along 3rd Street by increasing the amount and reducing the water quality of stormwater runoff from this property onto those adjacent properties during peak precipitation events than the amount and quality of water that would be leaving if the UDO requirements were met .

Covered Bicycle Parking: The granting of the variance will not affect the use and value of adjacent properties in a substantially adverse manner.

- 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.*

PROPOSED FINDING:

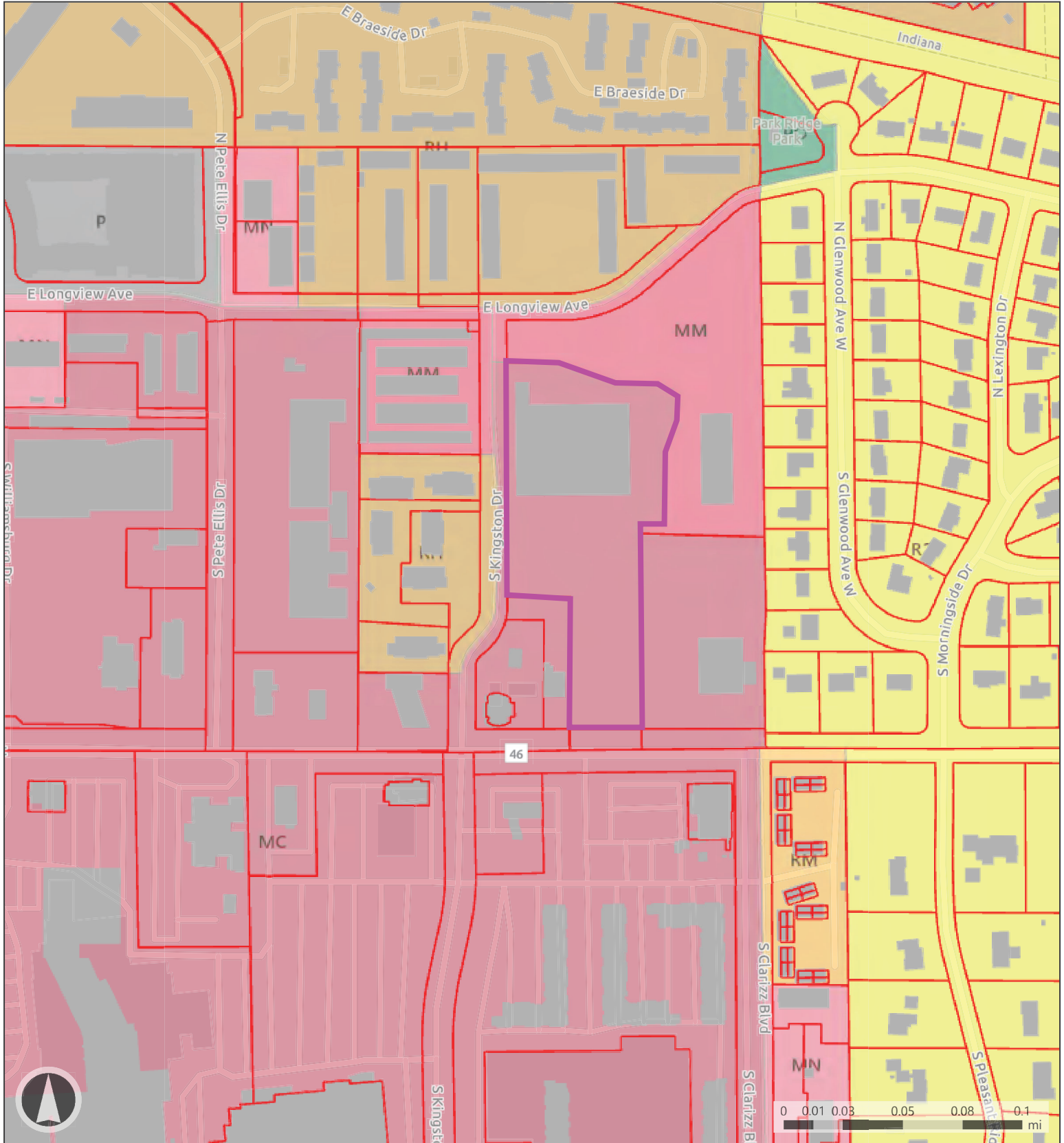
Number of Drives: Limiting the property to two driveways on Kingston Drive will not result in practical difficulties in the use of the property. Customers and employees will still have three vehicle access points to the proposed “retail sales, large” use on the property, including the existing driveway entrance on 3rd Street and two driveway entrances on Kingston Drive. A diagram of truck turning movements provided by the petitioner shows that the property can be served by large trucks using the northern and southern driveways on Kingston without passing through the middle driveway on Kingston. All existing driveways on the property also provide vehicle access to the abutting property to the northeast, known as Kingston Shoppes, as demonstrated in a recorded easement agreement, but the easement does not specify the location of the access easement over the property and adequate access to Kingston Shoppes can still be provided through just the northern driveway on Kingston or through the northern and middle driveways on Kingston. To the extent that the existence of the recorded easement could be considered a practical difficulty peculiar to this property, it would be a self-created hardship because the petitioner is both the grantor and grantee of the recorded easement and is currently the property owner of both properties. There is nothing peculiar about the property that would result in a need for more driveways than other properties of similar size and shape.

Driveway Pavement Width: The proposed “retail sales, large” use has a need to accommodate heavy truck use, and preventing truck access would create a practical difficulty in the use of the property. However, a diagram of truck turning movements provided by the petitioner shows that the southern and middle driveways on Kingston Drive could be reduced to 24 feet or less while still accommodating large trucks. Based on the information in the record, reducing the width of these driveways to 24 feet would not prevent truck access to the property. To the extent that wider width can be demonstrated as necessary for the northern driveway on Kingston Drive or any other driveway on the property, strict application of the UDO includes authorization of driveway widths up to 34 feet as long as there is a demonstrated need for the additional width to accommodate heavy truck use. Because of this provision, strict application of the terms of the UDO cannot prevent truck access and will not result in practical difficulties.

Stormwater Filtration in Parking Lot Islands: Providing stormwater filtration in parking lot bumpouts, islands, and endcaps as required by the UDO will not result in practical difficulties in the use of the property. Staff has provided specific guidance to the petitioner for how to comply with this UDO standard in a way that is feasible given the existing conditions on the site, taking into account those conditions and planning for the differences in island type. There is nothing peculiar about the property that would make it infeasible to design the new and modified parking lot islands so that they can provide stormwater filtration.

Covered Bicycle Parking: Providing a canopy or other covering over required bicycle parking areas will not result in practical difficulties in the use of the property. The potential for unhoused people to seek shelter under the bicycle parking covers may be undesirable for the proposed business at the property, but it will not result in a practical difficulty. The property owner retains all rights to enforce against trespassing. Because unhoused people exist in locations throughout the city and beyond, any challenges posed by their presence are not peculiar to this property. Additionally, the petitioner has submitted a site plan indicating that covered bicycle parking is feasible. There are no practical difficulties to including it on the site.

RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Board of Zoning Appeals adopt the proposed findings for V-43-23 / VAR2023-11-0018 and deny the requested variances.

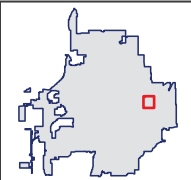


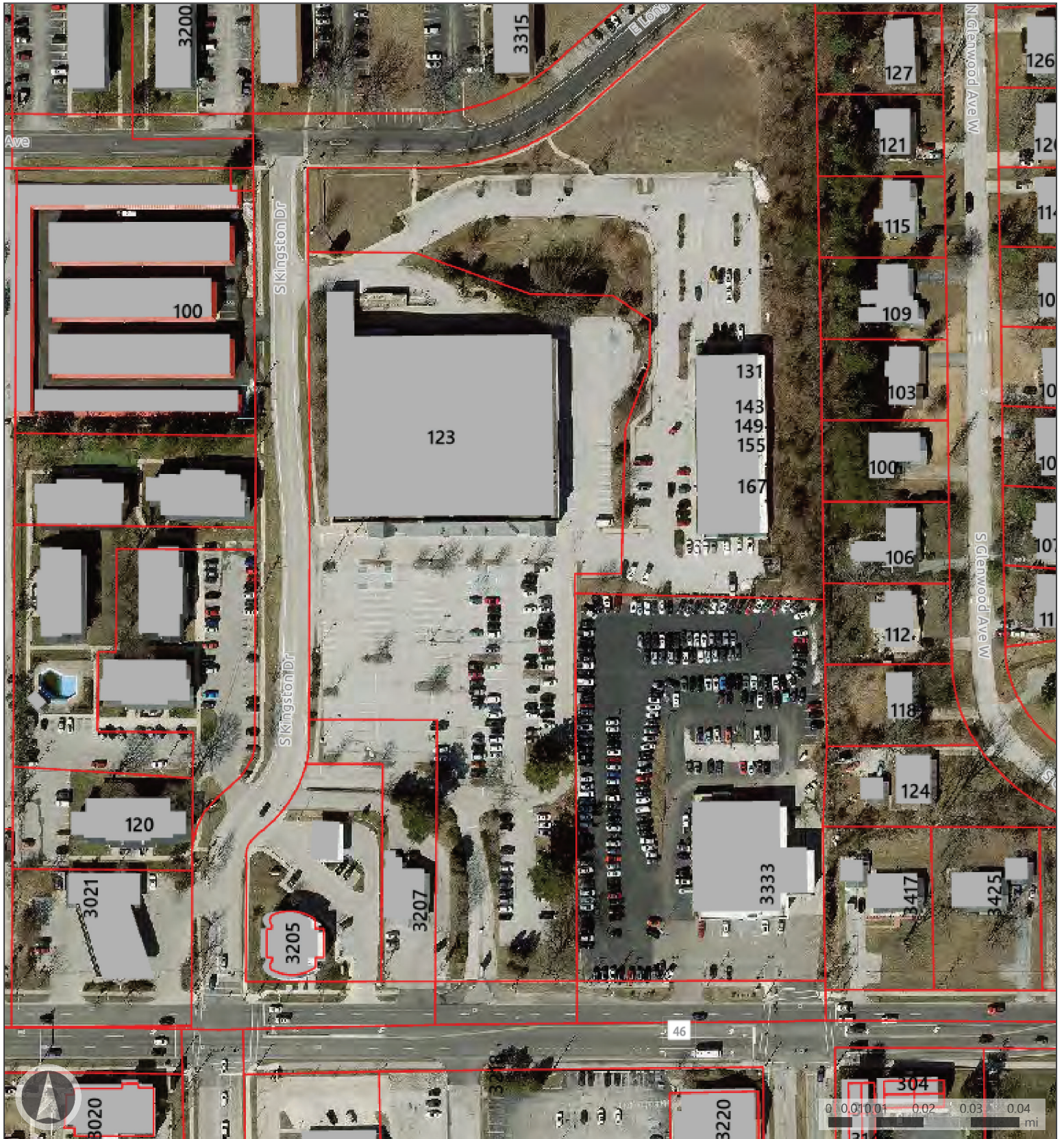
Map Legend

-  Parcels
-  Buildings

Code : Description

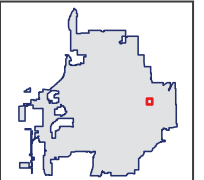
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|---|--|
|  R2 : Residential Medium Lot |  RM : Residential Multifamily |
|  RH : Residential High-Density Multifamily |  MC : Mixed-Use Corridor |
|  MM : Mixed-Use Medium-Scale | |





Map Legend

- Parcels
- Buildings



December 5, 2023

City of Bloomington
401 N. Morton St.
Bloomington, IN 47404

Re: Academy Sports + Outdoors – Bloomington
UDO Site Improvements Variance
123 South Kingston Drive
Bloomington, IN

Dear BZA Members,

On behalf of Academy Sports and Bryan Rental Inc. & Crane of Indiana LLC, we respectfully request the acceptance of the attached variance application and supporting documents for the proposed occupancy of Academy Sports + Outdoors (“Academy”).

About Academy Sports + Outdoors:

Academy is the second largest sporting goods retailer in the US, with 280 stores across the nation and growing. Academy employs over 22,000 people nationally and takes pride in its localized merchandising strategy along with its value proposition to consumers. Academy will bring a variety of merchandise across thousands of brands that no other retailer in Bloomington has to offer. Academy will expand on Bloomington’s existing economic activity, which will resonate throughout the community. Academy takes pride in the communities that they do business in and has a dedicated Community Relations team to make sure that they support their communities where they can best add value. Most importantly, Academy will re-activate a prominent retail building which has been vacant since Marsh Supermarket closed at this location.

Academy looks forward to being a part of the Bloomington community.

Project Narrative:

Academy has leased the former Marsh Grocery building located at 123 South Kingston Dr. It is proposed that the BZA approve specifics of the attached site plan, landscape plan and other detailed conditions that may stand in the way of Academy finally receiving a building permit. We greatly appreciate the Maximum Vehicle Parking Allowance variance the BZA granted us on September 26, 2023 and believed that variance would lead us to a building permit as the parking lot plan and site plan are part and parcel of each other. In early August, the Planning Department identified the parking issue but did not inform us of any other major conditions which would require any other variance; hence the reason for this request for additional variance approvals.

We respectfully request variance from: **Bloomington Indiana Unified Development Ordinance:**

1. **20.04.050(c)(1)(B) Access and Connectivity, Driveways and Access, Number of Drives, All Other Uses, “No property shall be permitted to have more than two driveway access points per street frontage.”**
2. **20.04.080(f)(3)(B) Landscaping, Buffering, and Fences, Street Trees, Location, Arterial, Collector, Local or Private Street, “Street trees along an arterial, collector, local, or private street shall be planted in a minimum five-foot wide tree lot between the sidewalk and the curb.”**
3. **20.04.080(h)(2)(D) Landscaping, Buffering, and Fences, Parking Lot Landscaping, Landscape Bumpouts, Islands, and Endcaps, Stormwater Filtration, “Parking lot bumpouts, islands, or endcaps shall be installed lower than the parking surface to allow stormwater run-off to enter the bumpout, island, or endcap for natural treatment and filtration. Any parking areas with curbing shall incorporate gaps to allow stormwater to enter the bumpout, island, or endcap.”**

4. **20.04.060(m)(2)(B)(iii) Parking and Loading, Bicycle Parking Location and Design, Design, Type, "For nonresidential and mixed-use developments with more than 20,000 square feet of gross floor area, all required bicycle facilities shall be Class II covered spaces."**
5. **20.06.090(f)(2)(B)(viii) Nonconformities, Nonconforming Site Features, Limited Compliance, Required Compliance, Pedestrian Facilities "If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition, except that curb ramps shall comply with the Americans with Disabilities Act."**
6. **20.06.090(f)(2)(B)(vii) Nonconformities, Nonconforming Site Features, Limited Compliance, Required Compliance, Landscaping, "If full compliance with Section 20.04.080 (General Landscaping) cannot be achieved due to lack of adequate planting area, all yard areas must be landscaped to the maximum practicable density with a priority given to shade tree installation."**

The Petitioner has used best efforts to substantially comply with the City of Bloomington's UDO, including retaining the highly regarded Byum Fanyo & Associates firm to draft a complying site plan while incorporating and redrafting the site plan per the Planning Department's comments. Even after incorporating the Planning Department's comments into our site plan, we were sent an email dated November 1, 2023 that requested removal of our important southernmost South Kingston Dr. entrance along with other issues. As a follow up to our initial BZA hearing, it's worth noting that we retained Tom and Lester Anders from Nature's Link Inc. to draft a dynamic landscape plan, as we were told that the City of Bloomington has worked with Nature's Link for years with good results. The Petitioner promised the BZA at the last hearing that a great landscape plan would be designed and implemented. We are happy to report that the landscape plan goes above and beyond normal run of the mill landscape standards.

There are compelling reasons why the proposed variances requested are practicable and necessary as follows:

1. The existing property's site plan which the BZA was presented with at the Maximum Vehicle Parking Allowance variance hearing contains three (3) important driveway access points from South Kingston Drive which all serve a purpose not only for the subject property, but for the Kingston Shoppes neighbors to the east. The three driveway access points allow for safe flow of traffic for both customers and truck/delivery drivers. Eliminating any of the driveway access points would create a hazard, and Academy will not be able to operate as efficiently with the elimination of any of these driveway access points. Eliminating the southernmost S. Kingston access drive would double the retail traffic directly in front of all pedestrians walking into and out of the front door of Academy, creating unnecessary congestion and an increased hazard and risk of accidents. Also important is the semi-truck movement. Academy's freight delivery plans primarily features semi-trucks entering the northern most access driveway to access the semi-docks and exiting around the southeast part of the front parking lot drive, using that driveway radius to then move west towards the southern most access driveway to exit the property. This design safely provides for both delivery and pedestrian traffic. The drive lane immediately to the south serving Big Red Liquors is primarily utilized by truck/delivery drivers, which is an occasional use, and has not posed undo hazards for decades. The northern most driveway is a shared "Y Junction" driveway serving the delivery truck needs for both the proposed Academy store and adjacent Kingston Shoppes as well as customer traffic to the Kingston Shoppes. What's peculiar about the driveway access points for this particular site is that there is approximately 590 feet of S. Kingston frontage. Per the UDO, a small commercial building such as a retail or office building with minimal street frontage would be allowed the same number of driveway access points as the subject property. This is a large site and needs adequate access. Simply put, the parking and access configurations were engineered to safely use the existing three access driveways. As previously mentioned, the Petitioner relied upon the Planning Department's earlier review, and trusted that all was acceptable with the parking lot layout of the spaces, and the traffic flow into those spaces.
2. It is not practical or convenient for right turn traffic to introduce a minimum of a five-foot-wide tree plot near the north end of the middle entrance. The existing tree plot is compliant until the tapered curb part begins where it tapers for safe and convenient right turns into the property (similar to a radius guiding traffic). Planning proposed moving the bike path markings further

west into Kingston Drive, which is less safe for all. The planning department stated in writing that The City of Bloomington Engineering Department has expressed that they don't have a problem with the condition of the existing tapered curb. The Petitioner has agreed to plant trees along the tree plot on S. Kingston Drive per UDO standards, but not in the tapered curb area.

3. The existing parking lot islands were not engineered to allow for stormwater drainage, yet Bynum Fanyo engineered proper drainage for the pervious paver areas. Bynum Fanyo civil engineer Daniel Butler informed us that the parking lot design and slope is such that it is not practical to accomplish full UDO compliant island stormwater drainage because the islands were not engineered to accept water and suggested an island drainage variance from this provision. It's important to note that storm water already drains properly on the site, and CBU has given it's stormwater drainage approval per the Petitioner's site plan.
4. Covered bicycle facilities will create a problem with undesirable effects. Unhoused people are already a large issue in Bloomington, and creating more places for these people to shelter outside is going to burden Academy, the neighboring properties, and surrounding neighborhoods. The Petitioner is proposing to install uncovered bicycle facilities with 13 bicycle stations per UDO requirements.
5. The Petitioner has agreed to comply with Americans with Disability Act for the five (5) curb ramps in the public right-of-way on S. Kingston Dr. The Petitioner is seeking a variance from the curb ramps along East 3rd St., which is in the State of Indiana right-of-way. The Petitioner is not authorized to work in the area controlled by the Indiana Department of Transportation ("INDOT"). Obtaining an INDOT permit to work in their right of way can hold up the project many months and is at INDOT's sole discretion whereby a permit may not be issued at all. It's worthy to note that the existing INDOT curb ramps are handicap accessible, yet not up to today's standards (see photo attachment). INDOT is responsible for maintaining these curb ramps and the Petitioner has no control over this area. Therefore, the Petitioner requests a variance to not be required to improve any of the INDOT controlled area on E. 3rd Street only, which is under INDOT's control. This includes the existing sidewalks, paving, curbs and curb ramps.
6. The Petitioner has demonstrated that it has made every effort to be in full compliance (and much further) with the UDO's landscape requirements including but not limited to; (i) meeting with and being advised by Linda Thompson, City of Bloomington Senior Environmental Planner (ii) retaining Lester Anders with Nature's Link Inc. who has worked successfully with Linda Thompson on many projects to create a fully compliant landscape plan (iii) the Petitioner's landscape plan shows 40 new trees and 599 new shrubs to be planted and (iv) Linda Thompson consulted with Lester Anders, Dave Kamen and Eric Kamen in regards to the Petitioner's landscape plan to make it wonderful. The Petitioner has shown that they are using best efforts to implement landscaping to the maximum extent practicable, yet, City Planning has yet to approve (without comments) the Petitioner's landscape plan to this date. We ask the BZA to approve this landscape plan by way of a variance in the event the planning department has not approved the landscape plan on or before the date of the BZA hearing.

Development Standards Variance Criteria:

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

The variances requested will not be injurious to the public health, safety, morals, and general welfare of the community and will in fact create a safer, more beneficial environment. At the time Marsh Supermarkets occupied the building, and used the parking lot in its current configuration, including parking lot islands, bicycle parking, access points, ingress, egress and overall traffic flow, there were never any known safety problems. The community has shown overwhelming support of Academy occupying the proposed site. The general welfare of the community would be enhanced by approval of the proposed variances.

- 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:**

The use and value of the area adjacent to the property will not have adverse effects, and in fact, will greatly benefit from having a vibrant retailer enter this now vacant site. The current issues associated with the property being vacant, i.e., vandalism, unhoused people, etc., will be greatly alleviated. Variance approval will allow Academy to commence construction, revitalize the largest building on this block, and will attract customers to an otherwise vacant building. The Petitioner argues that Variance approval will substantially enhance the area adjacent to the property, and the adjacent property owners. Public support also indicates the same.

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:

Given the large size and nature of the building, site-plan, street frontage, landscaped areas, existing parking lot islands and parking lot areas, it is not practicable for the Petitioner to meet all UDO site improvements as previously described above. Given the driveway access and safety concerns addressed, it becomes obvious that the strict application of the UDO results in major practical difficulties along with safety issues. The strict application of the UDO to this large property is a practical difficulty in itself. It's not practical to hold such a large retail building to the same standards, which is why these variances are requested. Variance approval will relieve Academy's practical difficulties that are peculiar to the subject property, and will allow them to open in Bloomington.

The BZA body has the ability to finally allow Academy Sports + Outdoors to open to the public. We believe we covered all of the Planning Department obstacles this time around. The public clearly wants Academy to occupy the property. We hope the BZA will realize these practical difficulties will restrict Academy's ability to occupy the building and enhance the general welfare of the community. The Petitioner kindly requests that the proposed variances along with the previously approved Maximum Vehicle Parking Allowance **shall not be conditioned or solely limited to Academy**. The Petitioner does not want to go through this arduous process again.

Academy Sports + Outdoors opening at the proposed site is what the community desires and should be the goal of us all.

We sincerely thank you for your time and consideration and look forward to our presentation to you on December 21, 2023.

Sincerely,
Academy Sports + Outdoors & Bryan Rental Inc./Crane of Indiana LLC



INDOT Curb Ramp – East 3rd Street



PROJECT
LOCATION



VICINITY/LOCATION MAP
NOT TO SCALE



SHEET INDEX

SHEET NO.	SHEET NO.
C301	SITE GRADING & UTILITY PLAN
C601	MISCELLANEOUS DETAILS

City of Bloomington
Planning and Transportation Department

NOISE ABATEMENT

September 27, 2023

Project: 402350
Location: 123 S. Kingston Drive

This form of zoning approval is valid for 180 days from the date of approval. If the project is not completed within this period, the applicant must re-apply for approval. A separate form for noise abatement is available at the City of Bloomington website for more information. The applicant is responsible for obtaining all necessary permits from the appropriate agencies. The applicant is responsible for obtaining all necessary permits from the appropriate agencies. The applicant is responsible for obtaining all necessary permits from the appropriate agencies.

1. A minimum of 18 inches shall be maintained.
2. A minimum of 18 inches shall be maintained.
3. A minimum of 18 inches shall be maintained.
4. A minimum of 18 inches shall be maintained.

Priority and Transportation Dept

123 SOUTH KINGSTON DRIVE BLOOMINGTON, IN 47401

UTILITY CONTACT INFORMATION	
GAS	ELECTRIC
INDIAN GAS	CITY OF BLOOMINGTON UTILITIES
1400 S. LIBERTY DRIVE	506 SOUTH HENDERSON STREET
BLOOMINGTON, IN 47401	BLOOMINGTON, IN 47401
0000 ANDERSON (812)344-4009	NANCY JACOB (812)344-3689
	JIM SHULTS (317)351-2071
TELEPHONE	UNDERGROUND UTILITY LOCATION
AMT	INDIAN UNDERGROUND
P.O. BOX 56	PLANT PROTECTION
BLOOMINGTON, IN 47402	2405 SOUTH HENDERSON STREET
URBN INDRG (812)334-4501	BLOOMINGTON, IN 47401
	SCOTT TAMPSON (812)335-7922



BYNUM FANYO & ASSOCIATES, INC.

528 North Walnut Street Bloomington, Indiana 47404 (812) 332-8030

OWNER/DEVELOPER:
BRYAN RENTAL INC., ET AL
1440 S. LIBERTY DRIVE
BLOOMINGTON, IN 47403

THE CURRENT EDITION OF THE INDIANA DEPARTMENT OF
TRANSPORTATION, MANUAL ON UNIFORM TRAFFIC CONTROL
DEVICES & CITY OF BLOOMINGTON UTILITIES STANDARD
SPECIFICATIONS IS TO BE USED WITH THESE PLANS



Certified By:
Jeffrey S. Fanyo
JEFFREY S. FANYO, P.E.
IND. REG. NO. 18283

Revisions

architecture
civil engineering
planning

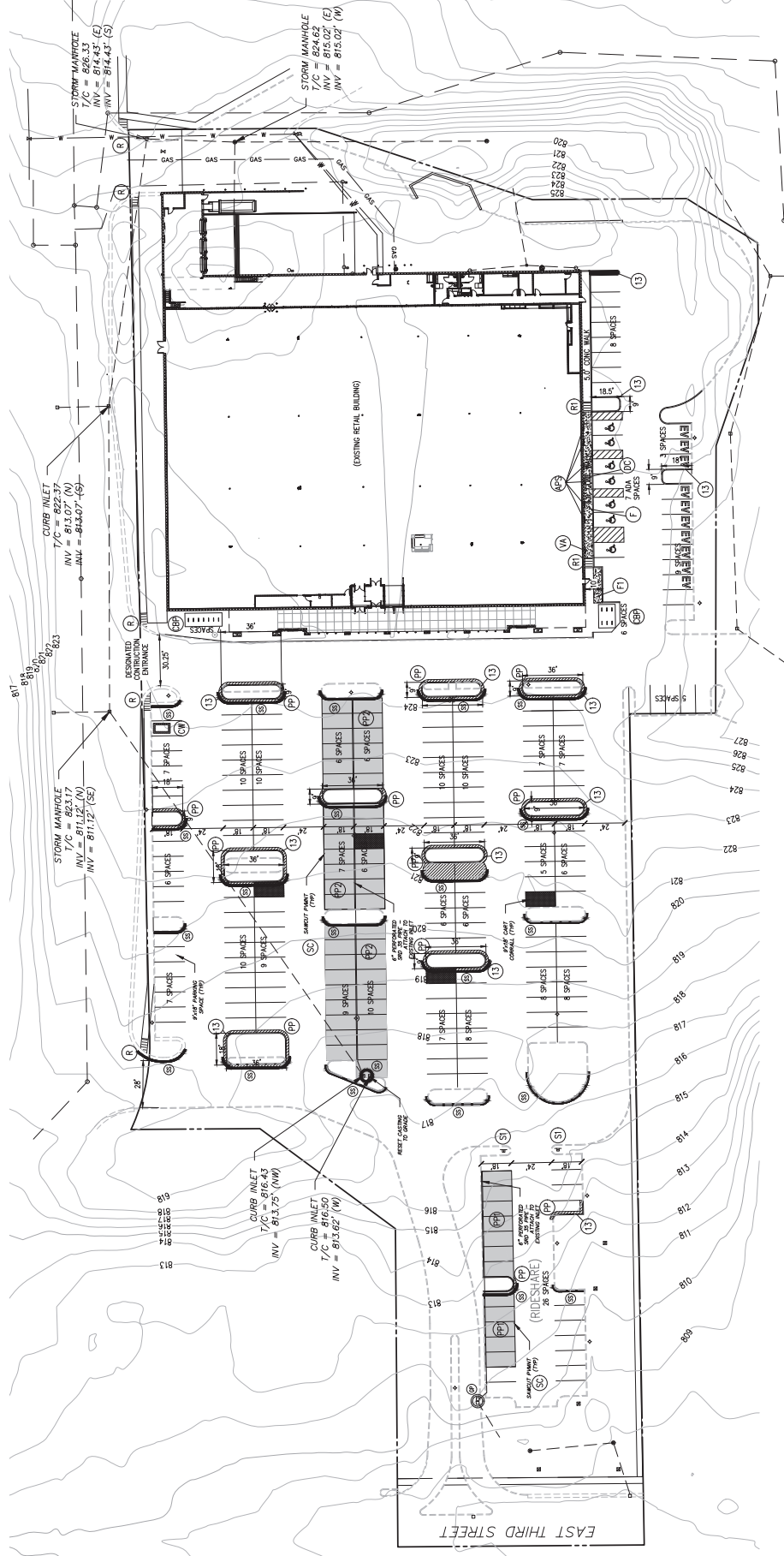
revision:  SCALE: 1"=30'

ARCHITECTURE
CIVIL ENGINEERING
PLANNING
BYNUM FANVO & ASSOCIATES, INC.
528 North Walnut Street
(812) 332-8030

REGISTERED PROFESSIONAL ENGINEER
No. 182783
STATE OF INDIANA
BRYAN J. FANVO
certified by: 

ACADEMY SPORTS
2100 S. WINDY HILL
123 SOUTH KINGSTON DRIVE
BLOOMINGTON, IN

designed by: JSF
drawn by: MSF
checked by: MSF
sheet no.: 0301
project no.: 402350



TOTAL AREA = 227057 SF = 5.21 acres = 100%
TOTAL IMPERVIOUS = 182373 SF = 4.19 acres = 80%
TOTAL PERVIOUS = 44684 SF = 1.02 acres = 20%
TOTAL DISTURBED AREA = 13073 SF = 0.30 acres

NOTE TO CONTRACTOR
CONTRACTOR TO CONTACT CBU UTILITIES
TECHNICIAN AT (812)-349-3676 PRIOR TO
START OF CONSTRUCTION FOR THE PURPOSE
OF SCHEDULING A PRE-CONSTRUCTION MEETING

PARKING SPACE TOTAL	AMOUNT
REGULAR	206
RIDESHARE	26
ADA	7
EV	10
BIKE PARKING	13

- GENERAL NOTES:**
1. SURVEY INFORMATION PROVIDED BY CLIENT FROM OUTSIDE SOURCES
 2. ELEVATION CONTOURS TAKE FROM LIDAR WITH SURVEY DATE OF MARCH 13, 2011 TO APRIL 30, 2012.
 3. SPOT GRADES SURVEYED BY BYNUM FANVO ASSOCIATES SEPTEMBER 30, 2023.

SHEET LEGEND

- EXISTING CURB
- PROPOSED PERMEABLE PAVERS AREA
- CART CORRAL

GENERAL LEGEND

- PROPERTY LINE
- RIGHT OF WAY (THIRD STREET)
- PROPOSED ACCESSIBLE PARKING SPACE

SITE LEGEND

- PROPOSED PARKING LOT SIGN
- PROPOSED PERMEABLE PAVERS WITH CURB
- PROPOSED PERMEABLE PAVERS (NO CURB)
- SMART (TYPICAL)
- CONCRETE BIKI PARKING
- ACCESS RAMP (INTERSECTION)
- ACCESS RAMP (PARKING)
- SOAKAWAY (TUSH) WITH PAVERS
- SOAKAWAY WITH CURB
- ACCESSIBLE PARKING SIGN
- PROPOSED CURB
- 3/4" SLOPE ENDSTOP PROTECTION
- PAVEMENT REPAIR PATCH
- 2' CONCURE CURB & RATES
- OPPOSED CURB WITH 1' HEIGHT

NOTE TO CONTRACTOR
CONTRACTOR SHALL VERIFY ALL UTILITY LOCATIONS & DEPTHS AND NOTIFY
THEIR RESPECTIVE OWNERS PRIOR TO ANY EXCAVATION. NO PAVEMENT SHALL BE MADE
TO CONTRACTOR FOR UTILITY DESTRUCTION OR UNDERGROUND CHANGES
REQUIRED DUE TO DEVELOPING ELEVATIONS.

revisions:

ARCHITECTURE
CIVIL ENGINEERING
PLANNING
Bloomington, Indiana
(612) 339-2990 (Fax)

BBB
BYNUM FAYO & ASSOCIATES, INC.
528 North Walnut Street
(612) 339-2930

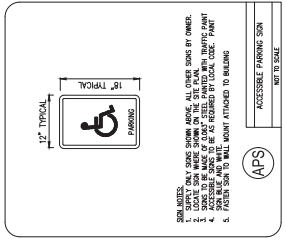
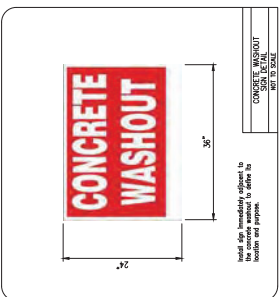
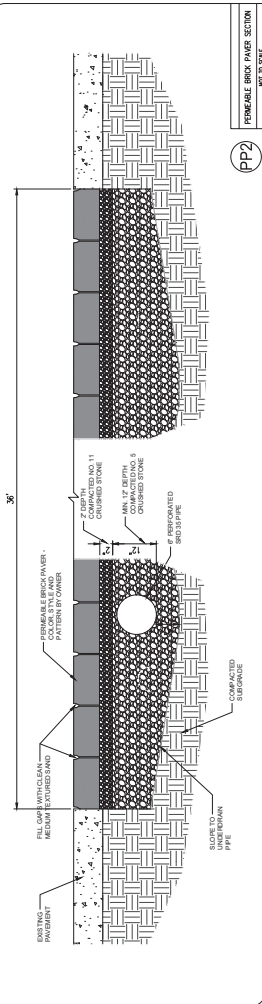
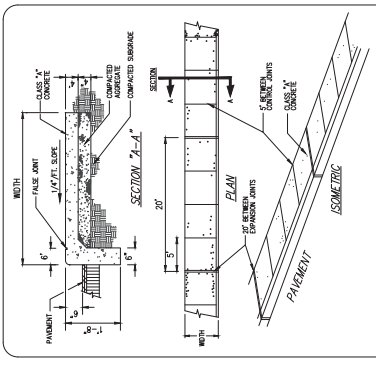
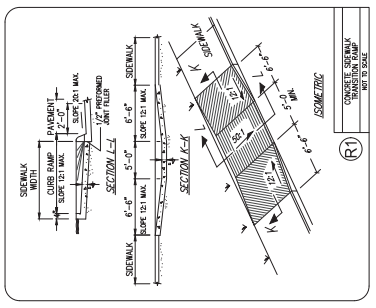
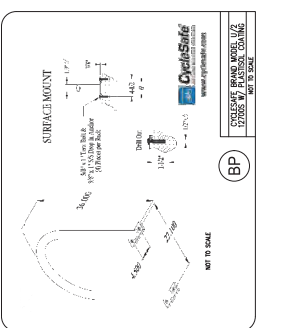
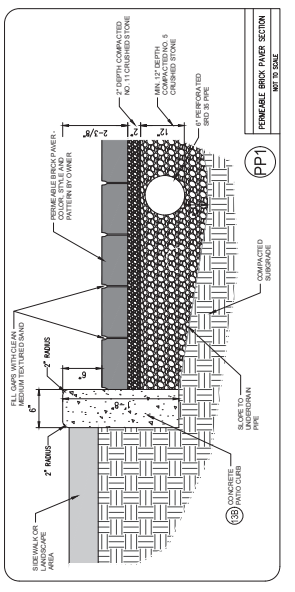
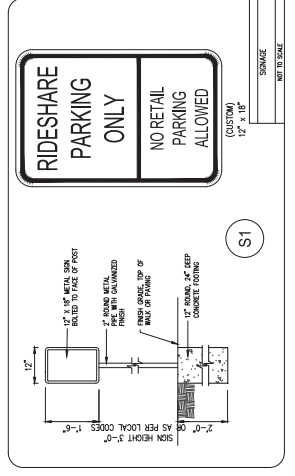
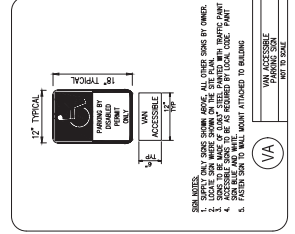
REGISTERED PROFESSIONAL ENGINEER
No. 182783
STATE OF INDIANA
LICENSED UNDER
BOARD OF ENGINEERS
and SURVEYORS

certified by *[Signature]*

PRINCE OF SILENT
ACADEMY SPORTS
123 SOUTH KINGSTON DRIVE
BLOOMINGTON, IN

THE MISCELLANEOUS &
EROSION DETAILS

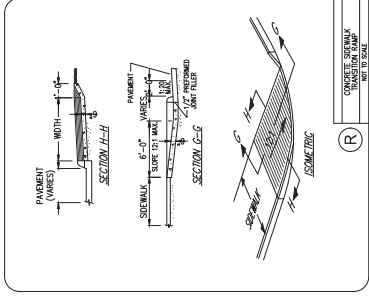
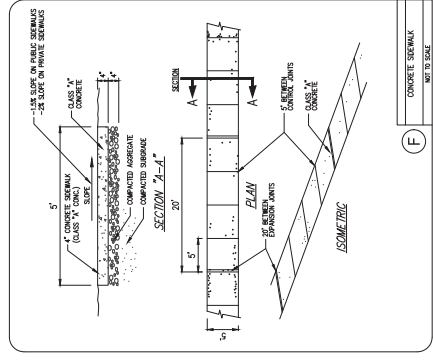
designed by: JSF
drawn by: JMS, JSF
checked by: JMS, JSF
sheet no.: 0001
project no.: 402350



SILT SOCK INSTALLATION GUIDELINES

Silt Sock
EROSION CONTROL PRODUCTS
(800) 438-7625
WWW.SILT SOCK.NET

- THESE GUIDELINES ARE BASED UPON STANDARD PRACTICES AND SHOULD BE USED AS A GENERAL GUIDE. FOR SPECIFIC PROJECTS, CONSULT WITH A PROFESSIONAL ENGINEER.
- REFER TO REGULATORY AUTHORITY OR PROJECT ENGINEER FOR SPECIFIC REQUIREMENTS.
- INSTALLATION SHOULD BE DONE IN ACCORDANCE WITH THE FOLLOWING GUIDELINES:
- NEED - BEED A DRAINAGE FREE AND ENVIRONMENTALLY SOUND.



NOTE TO CONTRACTOR

CONTRACTOR SHALL VERIFY ALL UTILITY LOCATIONS & DEPTHS AND NOTIFY ALL UTILITIES PRIOR TO ANY EXCAVATION. NO PAINT SHALL BE MADE TO CONTRACTOR FOR UTILITY DESTRUCTION OR UNDERGROUND CHANGES REQUIRED DUE TO COMPLETING ELEVATIONS.



Issues (and variances) for site plan limited compliance at 123 S Kingston Dr, Academy Sports

Andrew Cibor <andrew.cibor@bloomington.in.gov>

Tue, Dec 12, 2023 at 4:35 PM

To: Daniel Butler <dbutler@bynumfanyo.com>

Cc: Gabriel Holbrow <gabriel.holbrow@bloomington.in.gov>, Eric Kamen <eric@bryanrental.com>, David Kamen <david@kksales.com>, "holly.wood@pb2ae.com" <holly.wood@pb2ae.com>, Derek Dague <derek.dague@pb2ae.com>, Phillip Frank <Phillip.Frank@academy.com>, Jeff Gould <gooster57@aol.com>, Tom Orman <tom@cowdenenterprises.com>, Bryan Chandler <bchandler@eclipsere.com>

Hi Daniel,

Thank you for this additional information! Upon quick review a few follow-up questions:

- I don't see the additional context I requested around the access points of Kingston (curbs, pavement markings, etc.). It is hard to evaluate a turning movement analysis without knowing the context of the facility it is entering/exiting (e.g., I need information on both sides of the road). Am I missing something?
- Is the 'island' within the southeast corner of the site's parking lot be mountable? It appears the proposed design vehicle will struggle to maneuver the site but I'm not certain of the details of this design element.
- The access easement I'm looking at appears to be on the adjacent parcel, not the subject site. Am I looking at that correctly?

Thanks again for your help!

-Andrew

On Tue, Dec 12, 2023 at 2:44 PM Daniel Butler <dbutler@bynumfanyo.com> wrote:

Andrew,

See attachments.

Here is a description from our project team after additional research:

Attached is the revised large truck movement plan. For further clarification regarding the 3 Kingston Drive entrances, the Academy Sports intended semi-truck movement is to enter the northern most Kingston Drive entrance, then back into the 2 semi docks and exiting as shown on the revised attached drawing the Southern most Kingston Drive entrance. Regarding the middle Kingston Drive entrance, it can and does serve an occasional semi-truck entering or exiting that entrance but can only circulate thru the adjacent Kingston Shoppes property located and adjoining east of the subject property and thereafter entering and exiting thru the northern most Kingston Drive entrance-way. This middle Kingston Drive truck entrance and exit way are served by an easement recorded February 22, 2007 attached hereto. The attached Kingston Shoppes site plan details the shared northern most Kingston Drive entrance with the subject property."

Thank you!

-Daniel

From: Andrew Cibor <andrew.cibor@bloomington.in.gov>
Sent: Thursday, December 7, 2023 12:28 PM
To: Daniel Butler <dbutler@bynumfanyo.com>
Cc: Gabriel Holbrow <gabriel.holbrow@bloomington.in.gov>; Eric Kamen <eric@bryanrental.com>; David Kamen <david@kksales.com>; holly.wood@pb2ae.com; Derek Dague <derek.dague@pb2ae.com>; Phillip Frank <Phillip.Frank@academy.com>; Jeff Gould <gooster57@aol.com>; Tom Orman <tom@cowdenenterprises.com>; Bryan Chandler <bchandler@eclipse.com>
Subject: Re: Issues (and variances) for site plan limited compliance at 123 S Kingston Dr, Academy Sports

Hi Daniel,

Thanks for the email summary and your patience given my recent time off. I'm not entirely sure what the question regarding curb ramps may be at this time and will note that detail feels like something to coordinate through the plan review/grading permit process. If there is a specific question I need to weigh in regarding curb ramps please let me know.

It seems the primary question to me right now is regarding access point width. I appreciate you proactively including the truck turning movement drawing that is critical to the evaluation and determination. I have a couple notes/questions for you to help work towards an answer:

- Can you update the drawing that shows the truck movements so that it reflects a continuous route through the site? I would have assumed trucks would use the northernmost access point and potentially one of the others. I also want to make sure the proposed interior of the site can accommodate trucks through the proposed route.
- Can the drawing be updated to provide some additional context for Kingston? At this point all I see are general grades but what is necessary for this evaluation are things like the roadway's curbs/edge of pavement and pavement markings in proximity to the access points.

Thanks!

-Andrew

On Thu, Dec 7, 2023 at 12:04 PM Daniel Butler <dbutler@bynumfanyo.com> wrote:

Andrew,

As an update to the e-mail below, see attached. It is an updated version with the truck movements on the 2nd attachment. The 1st attachment has added curb ramps along Kingston

-Daniel

From: Daniel Butler

Sent: Wednesday, November 29, 2023 2:21 PM

To: 'Gabriel Holbrow' <gabriel.holbrow@bloomington.in.gov>; Eric Kamen <eric@bryanrental.com>; David Kamen <david@kksales.com>; Andrew Cibor <andrew.cibor@bloomington.in.gov>

Cc: holly.wood@pb2ae.com; Derek Dague <derek.dague@pb2ae.com>; Phillip Frank <Phillip.Frank@academy.com>; Jeff Gould <gooster57@aol.com>; Tom Orman <tom@cowdenenterprises.com>; Bryan Chandler <bchandler@eclipsere.com>

Subject: RE: Issues (and variances) for site plan limited compliance at 123 S Kingston Dr, Academy Sports

Hello Andrew,

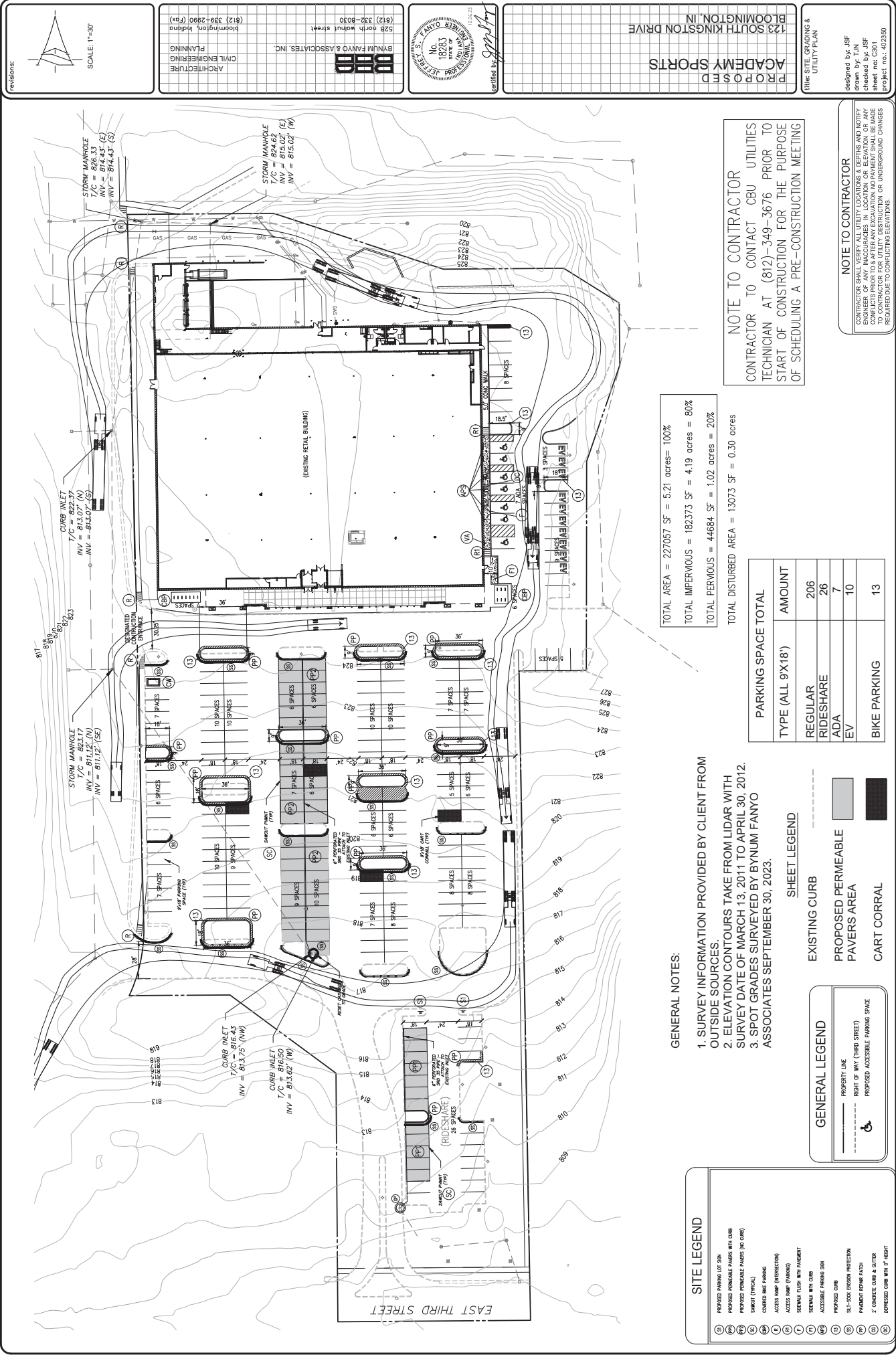
There have been a couple of comments from you regarding this subject project. Please see attached for existing driveway widths labeled along with a truck turning movement for the deliveries. We believe this shows the need for keeping both driveway widths as existing.

Also, we plan to get the City a plan to show the new curb ramps along Kingston. However, you noted that there is a need for this project to look at curb ramps at 3rd and Kingston? We think this is away from the project and should be looked at when 3rd Street improvements are happening or a bordering project. Additional thoughts?

-Daniel

1. Number of drives

- Required: Maximum of 2 per street



2007003009 EASE \$30.00
02/22/2007 02:32:45P 9 PGS

Monroe County Recorder IN
Recorded as Presented

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made as of the 15th day of February 2007 (the "Effective Date"), by and between BRYAN RENTAL INC., an Indiana Corporation, and CRANE OF INDIANA, LLC, an Indiana limited liability company (collectively, "Grantee"), and BRYAN RENTAL INC., an Indiana corporation ("Grantor"),

WITNESSES THAT:

WHEREAS, Grantee is the owner in fee simple of certain real property in the City of Bloomington, Monroe County, Indiana, which is more particularly described on the attached Exhibit "A" (the "Grantee Property").

WHEREAS, Grantor is the owner in fee simple of certain real property in the City of Bloomington, Indiana, which property is east of and contiguous to the Grantee Property and is more particularly described on the attached Exhibit "B" (the "Grantor Property").

WHEREAS, Grantor wishes to convey to Grantee and Grantee wishes to receive a non-exclusive easement for pedestrian and vehicular ingress and egress on, across and over the Grantor property and for parking on a portion of the Grantor Property.

NOW, THEREFORE, in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easements. Grantor hereby grants and conveys to Grantee, its tenants, invitees, customers, successors and assigns:

(a) a non-exclusive easement and right-of-way on, across and over the Grantor Property for the purpose of ingress to and egress from the Grantee Property; and

(b) a non-exclusive easement and right-of-way on, across and over the portion of the Grantor Property shaded in black on the attached Exhibit C for the purpose of parking vehicles.

Grantor agrees not to erect, construct or install any signage, buildings or other improvements on the paved portions as they exist from time to time in such a manner as would materially obstruct the use of the easement granted herein for the purposes described herein.

2. Nature of Easement. The burdens of the easement on the Grantor Property shall run with the Grantor Property and shall be binding upon Grantor and every successor owner of the Grantor Property. The easement on the Grantor Property shall inure to the benefit of Grantee unless and until such easements shall have been abandoned or terminated by written agreement.

3. Authority. Grantor represents and warrants that Grantor has full right and lawful authority to enter into this Agreement, that Grantor is lawfully seized of the entire Grantor Property, and that no consent or approval of any mortgagee or other entity is required.

Grantee represents and warrants that Grantee has full right and lawful authority to enter into this Agreement, that Grantee is lawfully seized of the entire Grantee Property, and that no consent or approval of any mortgagee or other entity is required.

4. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

5. Miscellaneous. In addition to the other rights and remedies hereunder or at law or in equity, and without limitation of any of the foregoing, each party hereto shall each be entitled to enjoin the other from any breach or threatened breach of any covenant, agreement, term, provision, or condition hereof. If any provision of this Agreement or the application thereof to any party, person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other entities, persons or circumstances shall not be affected thereby, and shall be enforced to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the Effective Date.

BRYAN RENTAL INC.

By: David H. Kamen
Printed: David H. Kamen
Title: President

CRANE OF INDIANA LLC

By: [Signature]
Printed: John J. Gould
Title: Member

BRYAN RENTAL INC.

By: David H. Kamen
Printed: David H. Kamen
Title: President

STATE OF INDIANA)
) SS:
COUNTY OF Monroe)

On this 15 day of Feb., 2007, personally appeared before me, David
A. Kamen, who, being by me duly sworn, did say that he is the President
of Bryan Rental Inc., an Indiana corporation, and as such had been duly
authorized to execute, acknowledge and deliver the foregoing instrument in the name of and for
and on behalf of said corporation, and acknowledged that as such officer he did in the name of
said corporation, execute and acknowledge said instrument for the uses and purposes set forth
therein.

(SEAL)

Ben R. Mitchell

Notary Public

Resident of _____ County, Indiana

BEN R MITCHELL
NOTARY PUBLIC STATE OF INDIANA
MONROE COUNTY
MY COMMISSION EXP FEB. 15, 2009

BEN R MITCHELL
NOTARY PUBLIC STATE OF INDIANA
MONROE COUNTY
MY COMMISSION EXP FEB. 15, 2009

My Commission Expires: _____

STATE OF INDIANA)
) SS:
COUNTY OF Monroe)

On this 15 day of Feb., 2007, personally appeared before me, Jeffrey
S. Gould, who, being by me duly sworn, did say that he is the member
of Crane of Indiana LLC, an Indiana limited liability company, and as such had
been duly authorized to execute, acknowledge and deliver the foregoing instrument in the name
of and for and on behalf of said company, and acknowledged that as such officer he did in the
name of said company, execute and acknowledge said instrument for the uses and purposes set
forth therein.

(SEAL)

Ben R. Mitchell

Notary Public

Resident of _____ County, Indiana

BEN R MITCHELL
NOTARY PUBLIC STATE OF INDIANA
MONROE COUNTY
MY COMMISSION EXP FEB. 15, 2009

BEN R MITCHELL
NOTARY PUBLIC STATE OF INDIANA
MONROE COUNTY
MY COMMISSION EXP FEB. 15, 2009

My Commission Expires: _____

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.



David T. O'Malia, Attorney-at-Law

This instrument was prepared by David T. O'Malia, attorney-at-law, 9800 Crosspoint Boulevard, Indianapolis, Indiana 46256-3350.

CROSS REFERENCES

Warranty Deed, dated 10/07/2005, and recorded in the Office of the Recorder of Monroe County, Indiana, as Instrument Number 2005020535.

Warranty Deed, dated 2/16/2007, and recorded in the Office of the Recorder of Monroe County, Indiana, as Instrument Number 2007002667.

AFTER RECORDATION
RETURN ORIGINAL TO:

Bryan Rental Inc.
1440 South Liberty Drive
Bloomington, Indiana 47403

EXHIBIT A
to
Easement Agreement

Legal Description of Grantee Property

TRACT 1:

Part of the Southwest Quarter of Section 35, Township 9 North, Range 1 West, Monroe County, Indiana, and more particularly described as follows:

Beginning on the South Line of said Southwest Quarter, North 89 degrees 27 minutes 27 seconds West 422.20 feet of the Southeast corner of said Southwest Quarter; thence North 00 degrees 34 minutes 00 seconds East 190.00 feet to a 5/8 inch rebar with cap set; thence Northwesterly along a curve to the left having a radius of 12.00 feet and a deflection angle of 53 degrees 7 minutes 48 seconds for an arc distance of 11.13 feet to a 5/8 inch rebar with cap set; thence North 52 degrees 33 minutes 48 seconds West 100.66 feet to a 5/8 inch rebar with cap set; thence North 89 degrees 27 minutes 27 seconds West 76.97 feet to a 5/8 inch rebar with cap set on the Easterly right-of-way of Kingston Place; thence Northeasterly along the right-of-way along a curve to the left having a radius of 121.13 feet for an arc distance of 50.71 feet to a 5/8 inch rebar with cap set; thence continuing on said right-of-way North 00 degrees 19 minutes 00 seconds East 538.21 feet to a 5/8 inch rebar with cap set; thence leaving said right-of-way South 89 degrees 25 minutes 30 seconds East 111.87 feet to a 5/8 inch rebar with cap set; thence South 70 degrees 46 minutes 50 seconds East 136.38 feet to a 5/8 inch rebar with cap set; thence South 89 degrees 25 minutes 30 seconds East 92.00 feet to a 5/8 inch rebar with cap set; thence South 56 degrees 59 minutes 1 second East 50.00 feet to a 5/8 inch rebar with cap set; thence South 00 degrees 21 minutes 32 seconds West 47.49 feet to a 5/8 inch rebar with cap set; thence South 20 degrees 1 minute 34 seconds West 77.82 feet to a 5/8 inch rebar with cap set; thence South 1 degree 5 minutes 46 seconds West 159.71 feet to a 5/8 inch rebar with cap set; thence North 89 degrees 27 minutes 27 seconds West 51.37 feet to a 5/8 inch rebar with cap set; thence South 496.36 feet to the South line of said Southwest Quarter; thence along said South Line North 89 degrees 27 minutes 27 seconds West 147.20 feet to the Point of Beginning.

Tract 3:

A detention pond easement as set forth in Detention Pond Easement and Maintenance Agreement by and between Teblok Corporation; an Indiana corporation and Service Merchandise Company, Inc., a Tennessee corporation, dated June 22, 1993, and recorded June 28, 1993, in Deed Record 412, page 255, in the office of the Recorder of Monroe County, Indiana.

EXHIBIT B
to
Easement Agreement

Legal Description of Grantor Property

A part of the southwest quarter of Section 35, Township 9 North, Range 1 West, Monroe County, Indiana being more particularly described as follows:
COMMENCING at a point on the south line of the said southwest quarter that is 422.20 feet NORTH 89 degrees 27 minutes 27 seconds WEST (assumed bearing) of the southeast corner of the said southwest quarter, said point being in the centerline of East Third Street; thence NORTH 00 degrees, 34 minutes EAST, parallel to and 222.00 feet east of the east right-of-way of Kingston Place for a distance of 190.00 feet; thence northwesterly over and along a curve to the left having a radius of 12.00 feet and a deflection angle of 53 degrees 07 minutes 48 seconds for a distance of 11.13 feet; thence NORTH 52 degrees 33 minutes 48 seconds WEST for a distance of 100.66 feet; thence NORTH 89 degrees 27 minutes 27 seconds WEST parallel to the south line of the said southwest quarter for a distance of 76.97 feet to the east right-of-way of Kingston Place; thence northeasterly over and along the east right-of-way of Kingston Place over and along a curve to the left having a radius of 121.13 feet for an arc distance of 50.71 feet, the chord of said curve bearing NORTH 12 degrees 19 minutes 08 seconds EAST for a distance of 50.34 feet; thence NORTH 00 degrees 19 minutes EAST continuing over and along the east right-of-way of Kingston Place for a distance of 538.21 feet to the Point of Beginning; thence along the east right-of-way of Kingston Place NORTH 0 degrees 19 minutes East 100.00 feet; thence SOUTH 89 degrees 25 minutes 30 seconds EAST over and along the south right-of-way of Longview Avenue for a distance of 150.69 feet; thence continuing over and along the said last named right-of-way over and along a curve to the left having a radius of 223.15 feet and a deflection angle of 40 degrees 22 minute for a distance of 157.22 feet; thence NORTH 50 degrees 12 minutes 30 seconds EAST continuing over and along the said right-of-way for a distance of 265.88 feet; thence continuing over and along the said right-of-way over and along a curve to the right having a radius of 181.15 feet and a deflection angle of 24 degrees 19 minutes 02 seconds for a distance of 76.88 feet to a stone monument and to the east line of the southwest quarter of the Section 35, also being the west line of Park Ridge and Park Ridge North; thence south over and along the said east line for a distance of 712.30 feet; thence NORTH 89 degrees 27 minutes 27 seconds WEST, parallel to the south line of the said southwest quarter for a distance of 223.63 feet; thence NORTH 01 degrees 05 minutes 46 seconds East 159.71 feet; thence NORTH 20 degrees 01 minutes 34 seconds East 77.82 feet; thence NORTH 0 degrees 21 minutes 32 seconds East 47.49 feet; thence North 56 degrees 59 minutes 01 seconds WEST 50.00 feet; thence NORTH 89 degrees 25 minutes 30 seconds West 92.00 feet; thence NORTH 70 degrees 46 minutes 58 seconds West 136.38 feet; thence NORTH 89 degrees 25 minutes 30 seconds West 111.87 feet to the Point of Beginning. Said tract containing 4.294 acres, more or less.

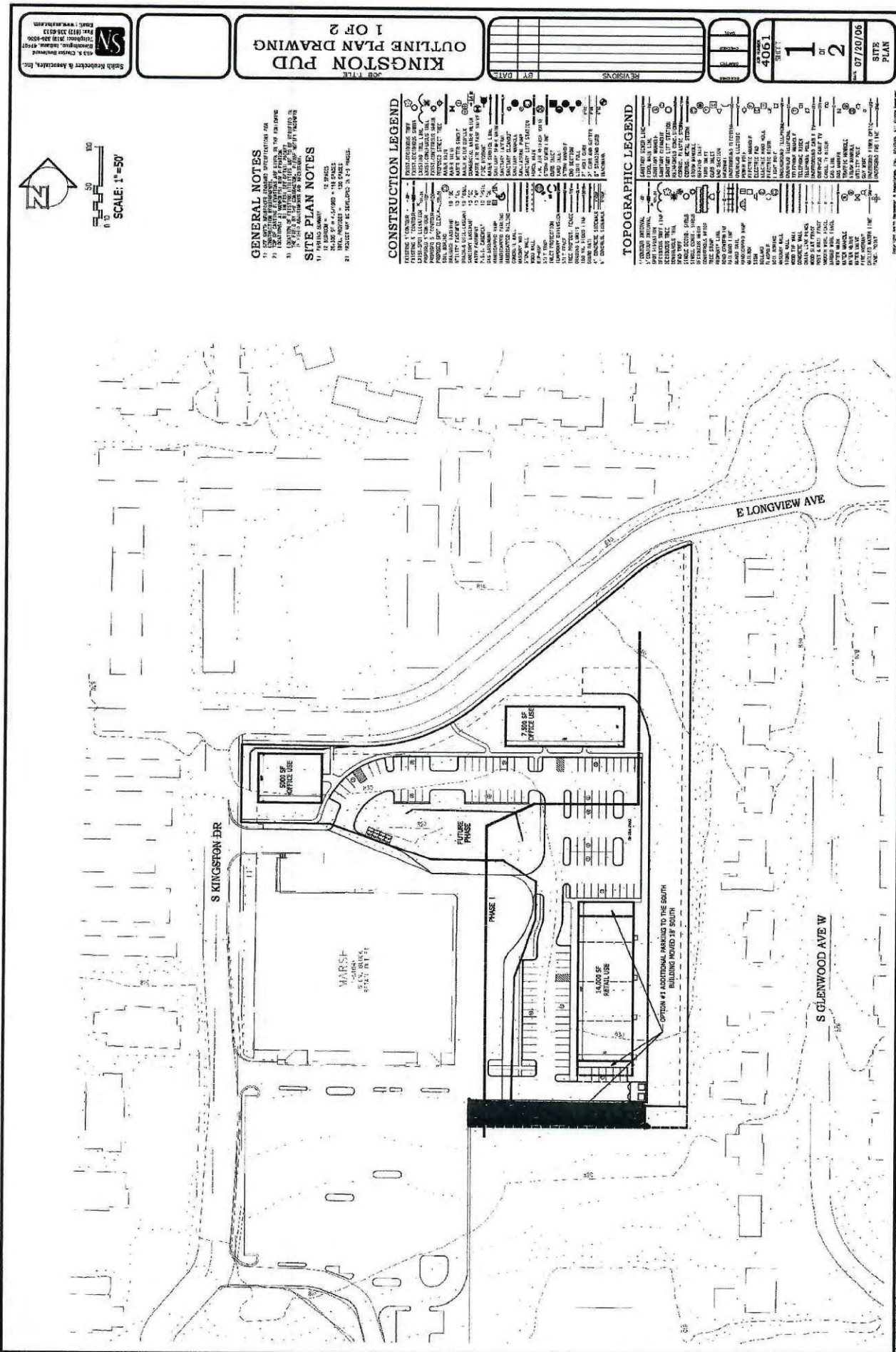
PLUS a part of the southwest quarter of Section 35, Township 9 North, Range 1 West, Monroe County, Indiana being more particularly described as follows: Commencing at the Southeast Corner of the Southwest Quarter of Section 35, Township 9 North, Range 1 West, Monroe County, Indiana and going North 00 degrees 00 minutes 00 seconds West (assumed basis of bearing) 466.36 feet along the East line of CRTM Property, Recorded in D.B. 426, PG. 477 in the Office of the Recorder of Monroe County, Indiana to the POINT OF BEGINNING of this description; thence North 88 degrees 49 minutes 57 seconds West 275.00 feet to the West line of the CRTM Property as mentioned above; thence North 00 degrees 00 minutes 00 seconds West 30.00 feet to the Northwest corner of said property; thence along the North line of said property, South 88 degrees 12 minutes 29 seconds East 275.12 feet to the Northeast corner of said CRTM Property; thence along the East line of said property, South 00 degrees 00 minutes 00 seconds East 27.00 feet to the POINT OF BEGINNING of this description, containing 0.18 acres, more or less.

More particularly described in a survey by Smith Neubecker & Associates, Inc., dated December 1, 2006 as follows to-wit:

A part of the southwest quarter of Section 35, Township 9 North, Range 1 West, Monroe County, Indiana being more particularly described as follows: COMMENCING at a point on the south line of said southwest quarter that is 422.20 feet NORTH 89 degrees 27 minutes 27 seconds West (assumed bearing) of the southeast corner of the said southwest quarter, said point being in the centerline of East Third Street; thence NORTH 00 degrees 34 minutes 00 seconds EAST, parallel to and 222.00 feet east of the east right-of-way of Kingston Place for a distance of 190.00 feet; thence northwesterly over and along a curve to the left having a radius of 12.00 feet and a deflection angle of 53 degrees 07 minutes 48 seconds for a distance of 11.13 feet; thence NORTH 52 degrees 33 minutes 48 seconds WEST for a distance of 100.66 feet; thence NORTH 89 degrees 27 minutes 27 seconds WEST parallel to the south line of said southwest quarter for a distance of 76.97 feet to the east right-of-way of Kingston Place; thence northeasterly over and along the east right-of-way of Kingston Place and over and along a curve to the left having a radius of 121.13 feet for an arc distance of 50.71 feet, the chord of said curve bearing NORTH 12 degrees 19 minutes 08 seconds EAST for a distance of 50.34 feet; thence NORTH 00 degrees 19 minutes 00 seconds East continuing over and along the east right-of-way of Kingston Place for a distance of 538.21 feet to the Point of Beginning; thence continuing along the east right-of-way of Kingston Place NORTH 00 degrees 19 minutes 00 seconds East 100.00 feet to the South right-of-way of Longview Avenue; thence SOUTH 89 degrees 25 minutes 30 seconds East over and along the south right-of-way of Longview Avenue for a distance of 150.69 feet; thence continuing over and along the said last named right-of-way over and along a curve to the left having a radius of 223.15 feet and a deflection angle of 40 degrees 22 minutes for a distance of 157.22 feet; thence NORTH 50 degrees 12 minutes 30 seconds East continuing over and along the said right-of-way for a distance of 265.88 feet; thence continuing over and along the said right-of-way over and along a curve to the right

having a radius of 181.15 feet and a deflection angle of 24 degrees 19 minutes 02 seconds for a distance of 76.88 feet to a stone monument and to the east line of the southwest quarter of the Section 35, also being the west line of Park Ridge and Park Ridge North; thence South 00 degrees 00 minutes 00 seconds West over and along the said east line for a distance of 739.30 feet; thence SOUTH 89 degrees 55 minutes 03 seconds West for a distance of 274.99 feet; thence NORTH 00 degrees 00 minutes 00 seconds WEST 30.00 feet; thence SOUTH 89 degrees 27 minutes 27 seconds EAST 51.36 feet; thence NORTH 01 degrees 05 minutes 46 seconds EAST 159.71 feet; thence NORTH 20 degrees 01 minutes 34 seconds EAST 77.82 feet; thence NORTH 00 degrees 21 minutes 32 seconds East 47.49 feet; thence NORTH 56 degrees 59 minutes 01 seconds West 50.00 feet; thence NORTH 89 degrees 25 minutes 30 seconds West 92.00 feet; thence NORTH 70 degrees 46 minutes 58 seconds West 136.38 feet; thence NORTH 89 degrees 25 minutes 30 seconds West 111.87 feet to the Point of Beginning. Said tract containing 4.474 acres, more or less.

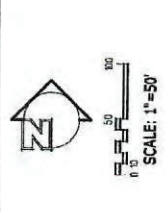
EXHIBIT C
to
Easement Agreement
Grantor Property Site Plan (currently undeveloped vacant ground)



KINGSTON PUD
JOB #1712
OUTLINE PLAN DRAWING
1 OF 2

NO.	DATE	BY	DATE

4061	DATE	07/20/06
1	DI	2
SHEET		PLAN



GENERAL NOTES

- 1) SEE ALL REVISIONS AND SPECIFICATIONS FOR
- 2) ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE ILLINOIS
- 3) ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE ILLINOIS
- 4) ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE ILLINOIS

SITE PLAN NOTES

- 1) ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE ILLINOIS
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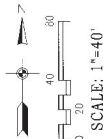
CONSTRUCTION LEGEND

- 1" CONCRETE
- 2" CONCRETE
- 3" CONCRETE
- 4" CONCRETE
- 5" CONCRETE
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- 7" CONCRETE
- 8" CONCRETE
- 9" CONCRETE
- 10" CONCRETE
- 12" CONCRETE
- 14" CONCRETE
- 16" CONCRETE
- 18" CONCRETE
- 20" CONCRETE
- 24" CONCRETE
- 28" CONCRETE
- 32" CONCRETE
- 36" CONCRETE
- 40" CONCRETE
- 44" CONCRETE
- 48" CONCRETE
- 52" CONCRETE
- 56" CONCRETE
- 60" CONCRETE
- 64" CONCRETE
- 68" CONCRETE
- 72" CONCRETE
- 76" CONCRETE
- 80" CONCRETE
- 84" CONCRETE
- 88" CONCRETE
- 92" CONCRETE
- 96" CONCRETE
- 100" CONCRETE

TOPOGRAPHIC LEGEND

- 1' ELEVATION
- 2' ELEVATION
- 3' ELEVATION
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- 48' ELEVATION
- 49' ELEVATION
- 50' ELEVATION

Submitted by Daniel Butler to City Engineer 12/12/2023



SCALE: 1"=40'

GENERAL NOTES

1. CONSTRUCTION SHALL BE ACCORDING TO THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.
2. ALL CONSTRUCTION SHALL BE ACCORDING TO THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.
3. ALL CONSTRUCTION SHALL BE ACCORDING TO THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.

SITE PLAN NOTES

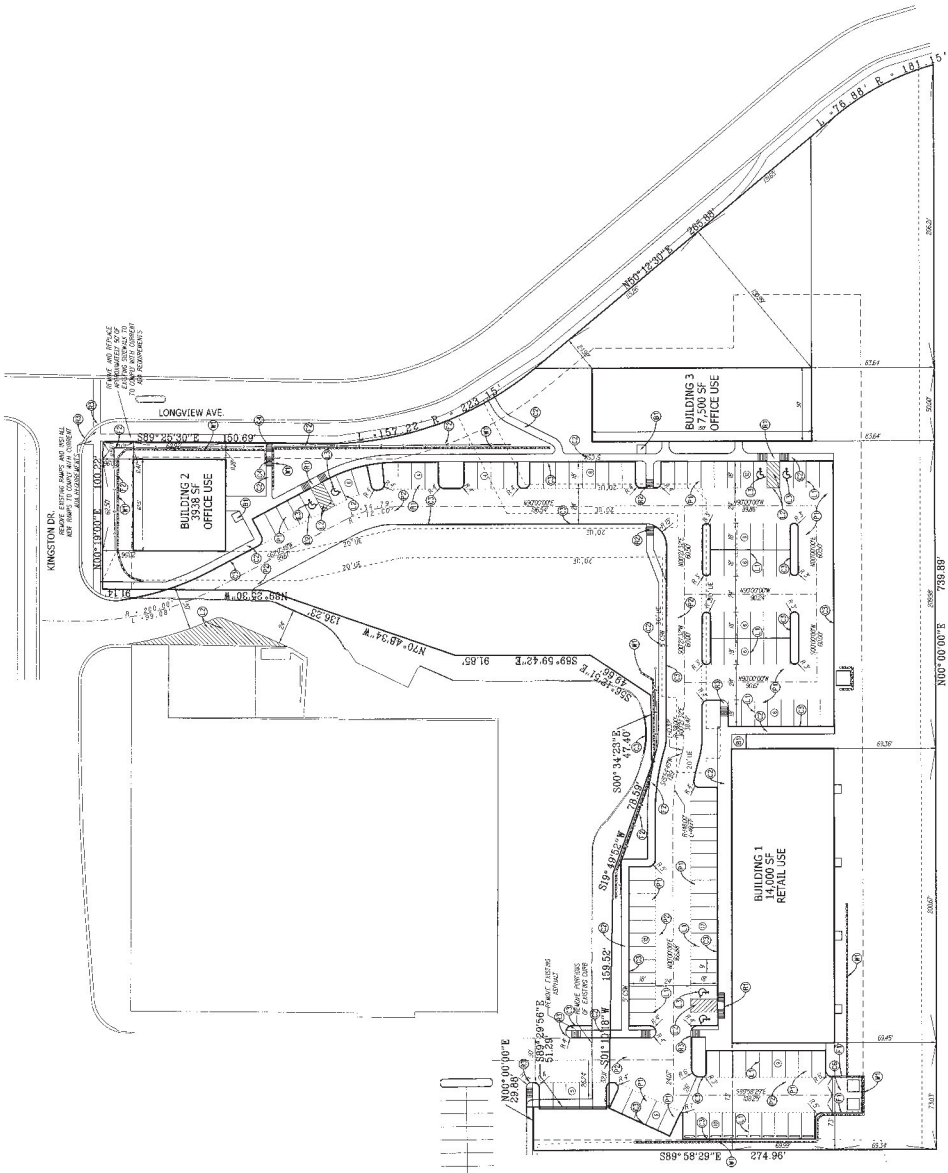
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CONSTRUCTION LEGEND

EXISTING	CONSTRUCTION
1"=24" DIAMETER TREE	6" THICK CONCRETE
4" THICK CONCRETE	4" THICK CONCRETE
6" THICK CONCRETE	6" THICK CONCRETE
8" THICK CONCRETE	8" THICK CONCRETE
10" THICK CONCRETE	10" THICK CONCRETE
12" THICK CONCRETE	12" THICK CONCRETE
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18" THICK CONCRETE	18" THICK CONCRETE
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44" THICK CONCRETE	44" THICK CONCRETE
46" THICK CONCRETE	46" THICK CONCRETE
48" THICK CONCRETE	48" THICK CONCRETE
50" THICK CONCRETE	50" THICK CONCRETE

MATERIALS LEGEND

- 1. 100% BITUMINOUS SURFACE #11, 1 1/2" ON
- 2. 100% BITUMINOUS SURFACE #8 OR #9, 1 1/2" ON
- 3. 100% BITUMINOUS SURFACE #4, 1 1/2" ON
- 4. 100% BITUMINOUS SURFACE #1, 1 1/2" ON
- 5. 100% BITUMINOUS SURFACE #1, 1 1/2" ON
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- 50. 100% BITUMINOUS SURFACE #1, 1 1/2" ON



Smith Reedeker & Associates, Inc.
 433 S. Center Boulevard
 Birmingham, Illinois 61707
 Phone: (815) 326-0310
 Email: www.sra-inc.com

4061
 SHEET
 2
 4
 DATE 7/17/07
 SITE PLAN

KINGSTON
 PUD
 JOB TITLE

BY	DATE	REVISIONS
SAB	10-23-07	Issue along north row section to north-proj. line
RJB	8-11-07	Issue 2 spaces west of concrete bridge, double 2
SAB	8-11-07	Issue back Lining Drive

4061 SHEET 2 OF 4 DATE 7/17/07 SITE PLAN

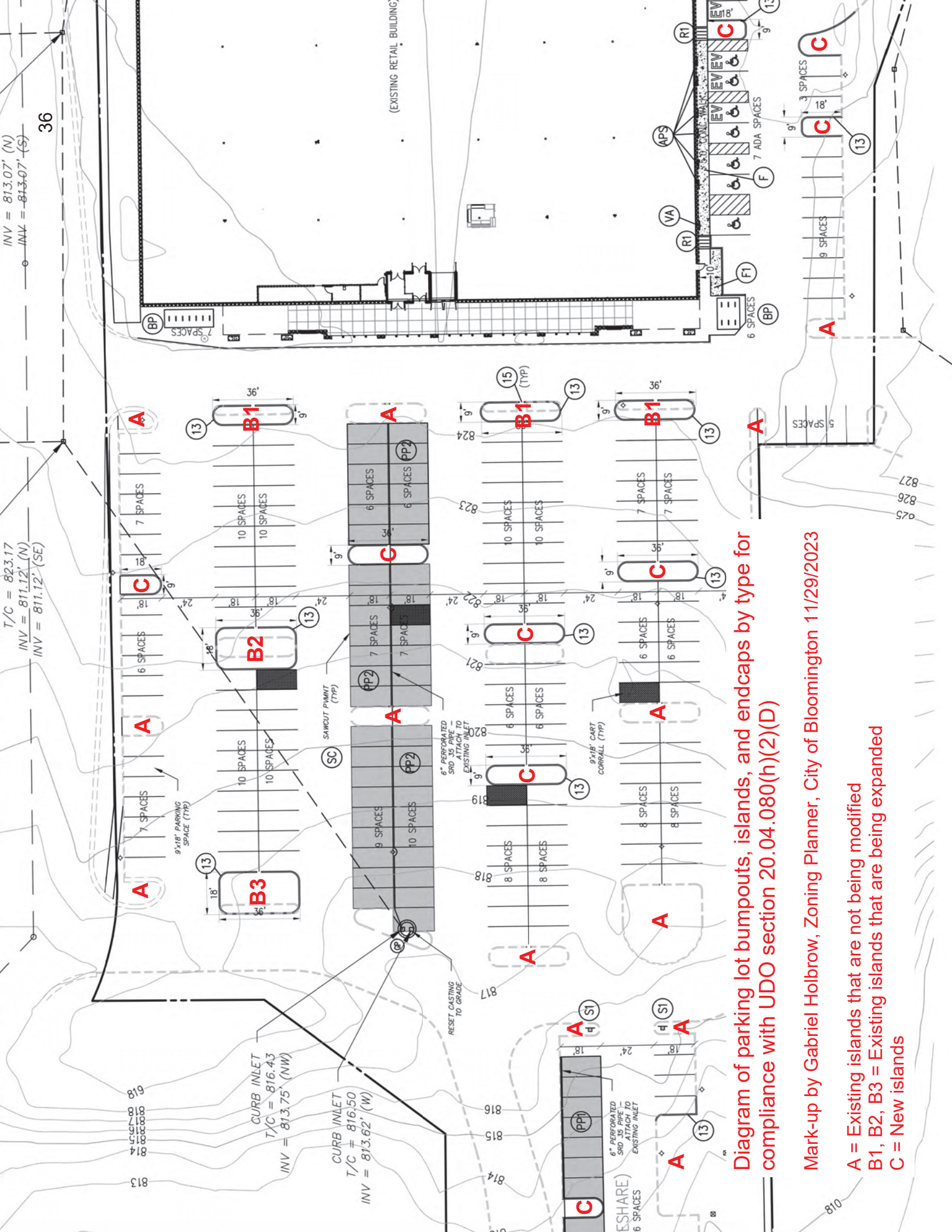


Diagram of parking lot bumpouts, islands, and endcaps by type for compliance with UDO section 20.04.080(h)(2)(D)

Mark-up by Gabriel Holbrow, Zoning Planner, City of Bloomington 1/12/2023

- A = Existing islands that are not being modified
- B1, B2, B3 = Existing islands that are being expanded
- C = New islands

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 200 E Kirkwood Ave

CASE #: V-44-23
DATE: December 21, 2023

PETITIONER: Bailey 8, LLC
601 N College Ave., Suite 1A
Bloomington, IN

CONSULTANT: Studio 3 Design – Tim Cover
8604 Allisonville Rd., Suite 330
Indianapolis, IN

REQUEST: Variance from height standards to allow an addition to an existing building in the Mixed-Use Downtown (MD) within the University Village Overlay (UVO) District.

REPORT: The property is located on the southeast corner of E. Kirkwood Avenue and S. Washington Street. The lot is bounded by an alley on the south side and the Graduate Hotel on the east side. The property is zoned Mixed-Use Downtown within the University Village Character Overlay zoning district (MD-UV). The properties to the north, east and south are also zoned MD-UV, and the properties to the west are zoned Mixed-Use Downtown within the Courthouse Square Character Overlay zoning district (MD-CS). The site currently contains Peoples State Bank in a building and property designated as a historic district. A Certificate of Appropriateness (COA-23-84) has been reviewed and approved by the Historic Preservation Commission for the proposed addition.

The petitioner is proposing to add three stories above the front portion of the existing building and construct a 5-story addition to the southern (rear) portion of the building to allow for the entire building to be used for a new hotel. The petitioner received approval for a different petition in 2022 with a package of variances (V-26-22) and site plan approval (SP-30-22) to allow for the building to be converted into multi-family dwelling units. However, the petitioner has changed the design and intended use for the building and is now coming forward with this petition. The use of the affordable housing incentives is proposed through the payment-in-lieu section to allow for 2 (two) additional floors with a 12' allowance for each floor.

The maximum height allowed in the University Village Character Overlay is 3 stories, not to exceed 40'. Although the use of the affordable housing incentives allows an additional 2 stories and 12' per story, due to the 15' tall floor-to-ceiling height of the two floors in the existing building and the requirement of the historic district designation to preserve the existing building, it is not possible to achieve the 5 stories allowed within the 62' height limit. The petitioner is therefore requesting a variance from the 62' maximum height standard to allow for a building height of 69'8".

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards: Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO 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*

PROPOSED FINDING: The granting of the variance to allow for 69’8” of total building height will not be injurious to the public health, safety, morals, or general welfare of the community. The number of stories proposed is allowed within the District through the use of the incentives and the 7’ of additional height will not have any anticipated negative impact.

- (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; and*

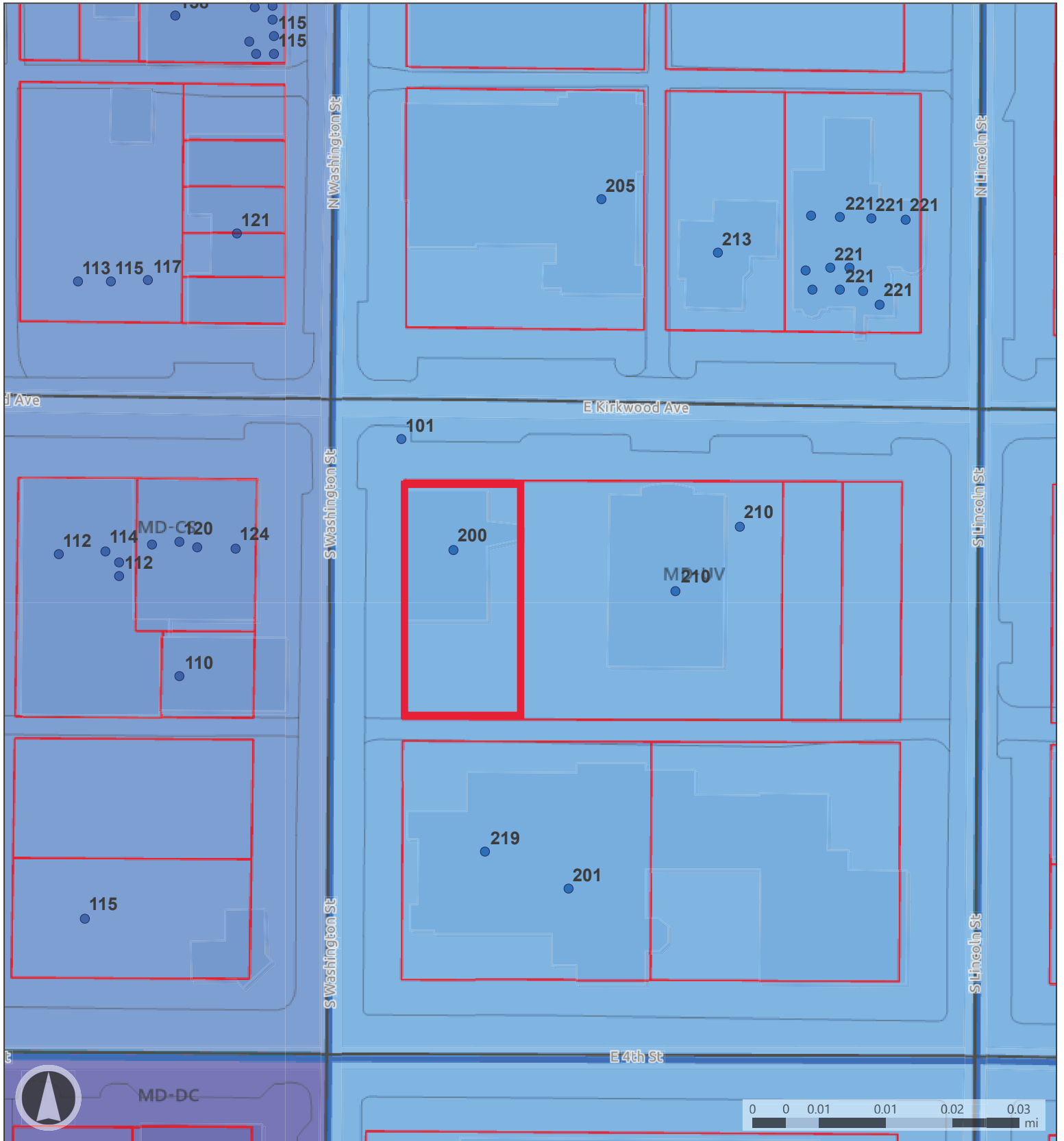
PROPOSED FINDING: The granting of the variance to allow for 69’8” of total building height will not affect the use and value of the area adjacent to the property in a substantially adverse manner. The proposed height is less than the existing building (Graduate Hotel) immediately to the east of this site. Given that the surrounding buildings are at a similar height, this proposal is appropriate in scale. The fifth story has been setback from the Kirkwood Avenue façade to minimize the impact of the height.

- (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 questions; that the development standards variance will relieve the practical difficulties.*

PROPOSED FINDING: The denial of the variance to allow for the proposed 69’8” feet of total building height will result in practical difficulties in the use of the property since it would not allow a building addition that preserves the existing building while still meeting the allowed number of stories in the district. The existing building is two stories and 30 feet tall. The building has been locally historically designated and must remain on the property. A five-story building is not out of character with the area, and is allowable with the incentives. The only reason that the height cannot be met is because of the existing conditions on the parcel, which are of a tall two-story building that is locally designated and creates a peculiar condition for additional development of the property. Granting the variance will allow a five-story building that enhances commercial space along Kirkwood, while accommodating the protection of the historic structure.

RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Board of Zoning Appeals adopts the proposed findings for V-44-23 and approve the petition with the following conditions:

1. This approval is for the submitted building elevations and hotel use as proposed only.
2. Petitioner must submit the required linkage study for the use of the Affordable Housing incentives.
3. Site plan and grading permit approval are required prior to any site disturbance.
4. Any proposed changes to the existing on-street parking must be approved through changes to Title 15 and are not approved with this variance petition.



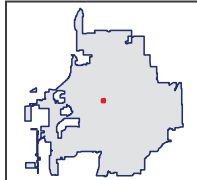
Map Legend

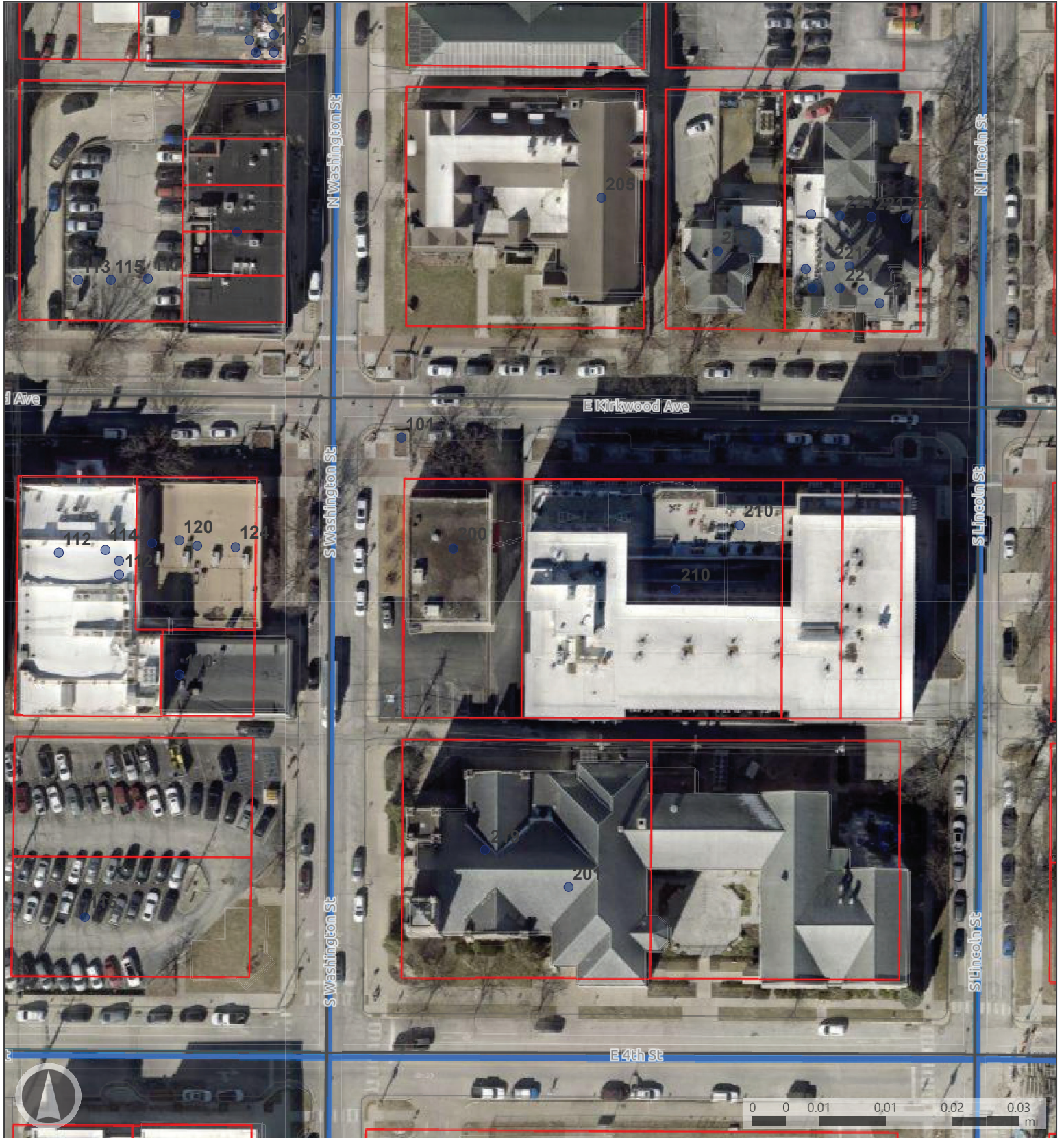
- Addresses
- Parcels
- Edge of Pavement

- Street Typology**
- Current
 - General Urban

- Neighborhood Connector
- Shared Street

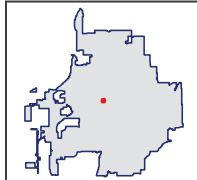
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 - AADT





Map Legend

- Addresses
- Parcels
- Edge of Pavement
- Current
- Street Typology**
- General Urban
- Neighborhood Connector
- Shared Street
- Functional Classification**
- Primary Collector
- AA DT**





November 21, 2023

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

Attn: Mr. Eric Greulich

RE: 200 E. Kirkwood

PETITIONERS STATEMENT

Eric,

Studio 3 Design is pleased to submit the attached development located at Kirkwood and Washington Street. The following document outlines the project scope. Please take time to review and contact us with any additional questions.

The attached petition is based on the current UDO.

Project Location

The project is located at 200 E. Kirkwood Ave at the intersection of Kirkwood and Washington Streets. Current building is the Peoples State Bank.

Project History

The existing Peoples bank Building was submitted to the BZA in August of 2022 for a series of variances directly related to the work done to save and preserve the historic building. The variances at that time were for:

1. Building Height: Tied directly to working with the existing tall two-story historic building.
2. Building exit drive onto Kirkwood: Original exit drive,
3. Building glazing percentage on level 1
4. Window fenestration/ detail
5. Building Module

The project and all variances were approved.

Since that time the project has evolved from a student housing project to a one-of-a-kind Boutique Hotel. The use as a hotel in lieu of apartments has led to the addition of a 5th level to the building. The variance we are requesting today is limited to height and as you will see below is still tied to the same logic and hardship that was originally presented to and approved by the BZA in August of 2022.

Historic Designation:

On June 15th, 2022 the City Council voted to designate the property and building at 200 E. Kirkwood as its own historic district with the classification changed to Notable. We worked with HPC staff over the following months to develop a great project that respected the original historic project while still allowing the site to be developed to its full potential. The final building has a simple elegance that takes its architectural cues from the existing building. In working with the HPC the building was simplified to read more as a box set back from the original box (Peoples State Bank). Detailing was streamlined and colors softened to work in harmony with the existing while still standing as a recognized addition. The process of working with HPC to create an end product that allowed the historic building to remain significant and identifiable, while successful, did put the building in conflict with the current UDO for height.

We are here today, **supported by the Historic Preservation Committee** to request a height variance that is directly linked to the preservation of the historic structure and development of an addition that respects that structure. The **HPC on November 9th, 2023** voted unanimously to approve the revised petition for a 5-story hotel at this site. Several members even commented that they liked the 5-story version of the project better than the initially proposed 4 story version. The HPC also, at that same meeting, voted unanimously to pass a recommendation by the HPC to support this request for a height variance for the 5-story hotel. There were no negative comments, remonstrators or individuals in opposition from the commission or public against the project or requested height. We hope that the HPC's work over the past 18 months and unanimous approval of this project will weigh in as you consider your support for the variance.

Project Description

The project will consist of a single building that fills the majority of the site. The district allows for 100% site coverage, 3 levels and a max of 40 feet in hgt. We will be seeking the addition of a 4th and a 5th level through the use of UDO provided options for Incentives.

With the designation of the building, we will be saving the current 31' tall two-story building and providing an addition of three levels on top of the existing as well as an expansion of the building to the East (toward the Graduate Hotel (**6 story structure**) and to the south alley. The first floor will be utilized as primarily amenity space and service space for the Hotel with the Kirkwood and Washington Street facades supporting public dining and restaurant frontage to engage the street. The second floor of the existing building and addition, as well as the 3rd, 4th and 5th floors will be utilized for hotel rooms. We are proposing the creation of 47 hotel rooms. The 4th floor has been peeled back to lessen the buildings impact at the corner of the historic structure. The 5th level peels back again from the 4th floor opening up the corner and diminishing the impact of the added height. The height and historic designation of the current structure establishes the need for this variance as noted above and outlined in the paragraphs below.

Project Site Access:

The site is currently accessed off of Washington Street on the west side of the property. An existing bank drive-thru enters off of Washington Street, wraps around the building to the east and then exits onto Kirkwood. The first-floor retail is accessed off of Kirkwood into the existing building. A new stair with access to the upper levels will also be available for residents entering off of Kirkwood. On the West side of the building at the interface of the existing and new building addition, there will be a new primary entrance to the Hotel that faces Washington Street. This entrance will serve the new hotel lobby and elevator bank to the upper levels of the new and existing building.

Vehicular site access has been removed from the site. The access off Washington Street has been closed off. The access onto Kirkwood Avenue has been removed. A drop off zone serving the main hotel entrance off Washington Street has been provided and a valet service taking cares to the public garage around the corner on 4th street will be provided.

VariANCES:

Based on the new UDO, there is one variance that we are aware of that will be requested through the BZA process. This variance is tied to the project (building and site) being designated as its own historic district and the development of the design in conjunction with HPC staff to be respectful of the existing structure.

1. Variance 1 - Building Height exceeding allowable height

This site (located in an opportunity zone – designated for redevelopment) was purchased with the intent to take down the structure and build a new denser development that fit within the parameters of the UDO.

The ability to meet all the requirements of the UDO changed when the building was designated and the project now needed to be modified to build over the top of the existing building. Height is 29'-9" at Kirkwood – 31'-4" at rear of building.

In order to use the site and add density, we now need to build over the existing building with a separate structural system to support additional floors. This not only adds substantial cost- but to the point of this request, **adds unusable height.**

The UDO allows for a 40', 3 story building by-right and provides, through incentives, the opportunity to add an additional two (2) story (24 vertical feet max) to the zone's allowable height. **This equates to a 5 story, 64' high building.** The UDO w/ incentives (64') easily allows for a 5-story building in new construction. (See attached exhibit for height).

The existing historic bank building is 31' tall (excluding an additional 3 feet of grade fall down to the alley. This is tall for a two-level building. The existing wall structure is not designed to carry upper floors which forces the addition of a new steel framework through and over the top of the existing building in order to add the additional desired floors and provide the appropriate density for the site.

The sub-structure built over the roof of the historic building adds approx. three feet (3'-0") of interstitial space between the roof of the existing building and the floor of the third level.

A typical floor to floor level shown is 11'-8" which allows for a 10' ceiling. The top-level w/ a 10' ceiling and 3' of roof structure is approx. 13' (plus parapet (generally a 12" min.).

The base height allowed by the UDO with Incentives is 64'-0"

New Construction: LV1 -12', LV2-11'-8", LV3- 11'-8", LV4-11'-8", LV5-10'+3'+1'
Total Height new construction: **61'-0"**
Add for Median grade height: 1'-8",= **62'-8" total , meets UDO**

Historic building: LV1 &2 – 31'-8" to LV3-11'-8", LV4-11'-8", LV5-10'+3'+1'
Total Height with saving the Historic building: 69'-8"
Add for Median Height: 1'-8" = 71'-4" **(8'-0" above the base 64')**

In any case, maintaining the existing building does not allow for the development of the site based on what has been defined by the UDO as allowable.

We are requesting a variance to allow for an additional 8'-0" of vertical height to be added to the UDO height limit as adjusted by incentives. This is the same height variance requested and approved by the BZA last year for this building.

Petitioner's Statement
November 21, 2023

- a. Approval will not be injurious to public health, safety, morals, and general welfare of the Community

Approval of this variance will not be injurious to public health, safety or welfare. The additional eight vertical feet requested allows the existing historic building to remain and the same number of floors to be built that the UDO would allow if the site was cleared and the building was built new.

- b. 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:

The neighboring properties will not be impacted in a negative way by allowing the additional height. Currently the 6+ story Graduate hotel towers over the two-story bank. Adding height to the building will help it not get lost against its neighbors. The Graduate tops out at 80'-4"

- c. The strict application of the terms of this UDO 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:

The site is in an opportunity zone that was set up to encourage redevelopment and the creation of a denser use of the land in the downtown area. The designation and subsequent adaptive re-use of the tall two-story bank building makes it unrealistic to be able to build to the potential that the UDO allows. Not allowing the extra 8 vertical feet in height to account for constructability over and around the historic structure results in practical difficulties in the use of the land.

Thank you for your consideration of these Variances.

Respectfully submitted,

STUDIO 3 DESIGN, INC

A handwritten signature in black ink that reads "Tim Cover". The signature is written in a cursive, flowing style.

Tim Cover, Architect

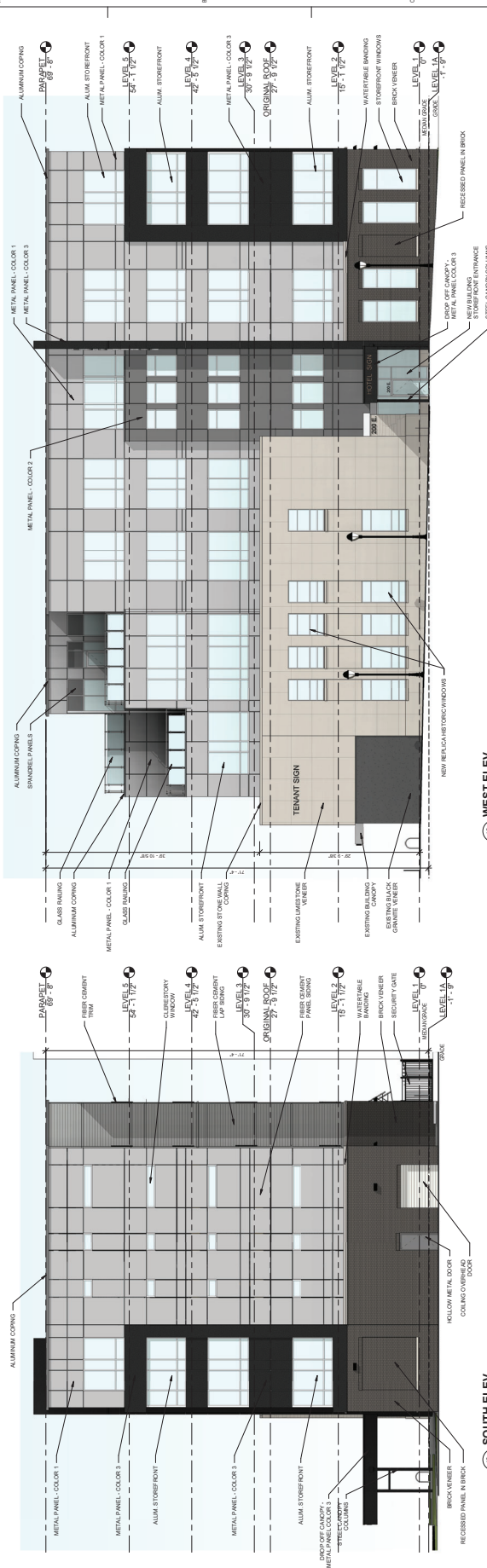
EXHIBIT OF HEIGHT OF TYP. NEW CONSTRUCTION WITHOUT EXISTING HISTORIC BUILDING



HEIGHT COMPARISON EXHIBIT

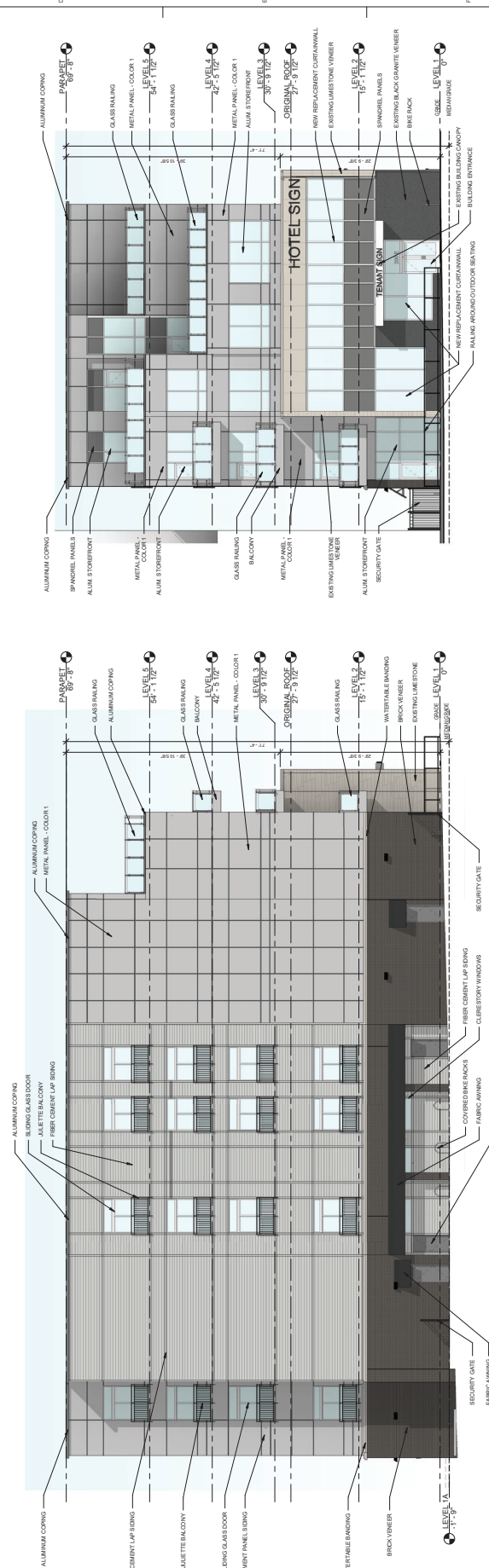
HOTEL on KIRKWOOD

11/21/2023



WEST ELEV
 1/4" = 1'-0"

SOUTH ELEV
 1/4" = 1'-0"



NORTH ELEV
 1/4" = 1'-0"

EAST ELEV
 1/4" = 1'-0"



CORNER VIEW

HOTEL on KIRKWOOD

11/21/2023



AERIAL VIEW

HOTEL on KIRKWOOD

11/21/2023



WASHINGTON STREET VIEW

HOTEL on KIRKWOOD

11/21/2023



WEST VIEW

HOTEL on KIRKWOOD

11/21/2023



KIRKWOOD VIEW

HOTEL on KIRKWOOD

11/21/2023



SOUTH VIEW

HOTEL on KIRKWOOD

11/21/2023



EAST VIEW

HOTEL on KIRKWOOD

11/21/2023