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The Board of Zoning Appeals (BZA) met in a virtual (Zoom) meeting at 5:30 pm. Members present: Ballard, Burrell, Coyne, Klapper, and Throckmorton.

APPROVAL OF MINUTES: October 21, 2021 and November 18, 2021

****Throckmorton moved to approve the minutes from October 21, 2021. Burrell seconded. Motion carried unanimously.**

****Throckmorton moved to approve the minutes from November 18, 2021. Burrell seconded. Motion carried unanimously.**

REPORTS, RESOLUTIONS, COMMUNICATIONS:

Jackie Scanlan, Development Services Manager, welcomed Tim Ballard to the Board of Zoning Appeals. He is the Mayoral appointment from the Planning Commission so he will join us this year. Scanlan said we are glad to have five members so thank you.

Scanlan said the Board should have received an email earlier this afternoon that contained a number of letters that were submitted for the second Conditional Use petition on the agenda. These were inadvertently omitted when the packet was sent out so just an FYI on that so apologies for the news now.

ELECTION OF OFFICERS:

****Throckmorton moved to nominate Barre Klapper to serve as President for 2022. Klapper accepted the nomination. Burrell seconded. Motion carried unanimously.**

****Klapper moved to nominate Jo Throckmorton to serve as Vice-President for 2022. Throckmorton accepted the nomination. Burrell seconded. Motion carried unanimously.**

***Note:** Scanlan requested that the Board hear V-23-21 after CU-24-21. She explained the Rules of Procedure dictate that petitions be heard in order but Staff thinks addressing the use issue first before particulars regarding the design of the site probably makes more sense. Klapper (President) agreed to switch the order of the petitions so CU-24-21 will be heard first followed by V-23-21.*

PETITIONS:

CU-22-21 **Aidan Reef**
1808 S. Rogers St.
Request: Conditional Use approval to allow the operation of a home bakery business in the R2 zoning district.
Case Manager: Jackie Scanlan

Scanlan presented the staff report. The subject property is located on the west side of S. Rogers Street and is zoned R2 Residential Medium Lot. The property has been developed with a single-family residence. The properties to the south and west are also single-family residences. The property to the east is developed with a park. The property to the north is developed with utility and industrial uses. The petitioner lives in the home and wishes to conduct a bakery as a home business. The petitioner is the only employee. The proposed business would use the kitchen on the property for baking goods to be sold at the local farmer's markets. The interior area of the house is approximately 2,194 sq. ft. and the petitioner plans to use 234 sq. ft. for the home occupation which is 12% of the interior. This meets the restriction that no more than 15% of the interior square footage will be used for the home occupation. No additional changes to the exterior of the residence is proposed. No outdoor display is planned or permitted. The existing driveway will serve as parking for the home occupation, but no on-site sales are planned. The hours of operation are limited to 8 AM to 8 PM and the petitioner is aware of this limitation and will not operate outside of those hours. No commercial vehicles are proposed. No deliveries are anticipated with this use outside of typical deliveries for a residential use. No special lighting will be required for this use. Scanlan also noted that this use requires approvals from City of Bloomington Utilities (CBU) and the Monroe County Health Department. The Comprehensive Plan identifies this area as "Neighborhood Residential" and lists single-family residential development as the primary land use with some additional uses permitted, including commercial and mixed-use. This home occupation will have no outward signs of any use separate from a typical single-family household. A home occupation would be consistent with the goals of this district. To date, the Planning Department has not received any comments from adjacent property owners regarding this petition. Staff recommends approval of CU-22-21 based on the written findings at outlined in the staff report including the following conditions:

1. This Conditional Use is limited to the proposed use as described in the petitioner statement, no other use is approved.
2. The petitioner must meet all City of Bloomington Utilities standards before the Conditional Use permit is issued.

3. The petitioner must meet all Monroe County Health Department standards before the Conditional Use permit is issued.

Aidan Reef has a home based business called *Frostfall Baked Goods*. All baking is done in the home kitchen. He uses the Monroe County Board of Health Indiana Code 1642528, which is the code for home based vendors. He only sells at Farmer’s Markets —breads, donuts, stuff like that. Since the Farmer’s Market is on Saturday, he does all of his baking on Fridays beforehand between the hours of operation given and then he sells those items at the Farmer’s Market. The Board had no additional questions.

No public comments.

****Throckmorton moved to approve CU-22-21 based on the written findings, including the three conditions outlined in the staff report. Burrell seconded. Motion carried 5:0—Approved.**

CU-24-21 **WS Property Group**
106 E. Hillside Dr.
Request: Conditional Use approval to allow the use ‘Student Housing or Dormitory’ in the Residential Multifamily (RM) zoning district to allow for one new building containing five, three-bedroom apartments.
Case Manager: Jackie Scanlan

Jackie Scanlan presented the staff report. The petitioner is requesting a Conditional Use approval to allow the use ‘Student Housing or Dormitory’ in the Residential Multifamily (RM) zoning district to allow for one new building containing five, three-bedroom apartments. The properties to the south, east, and west are also zoned RM. The properties to the north are zoned Residential Urban (R4). The property is currently a vacant lot. The site is not within a historic district or any overlay districts. The petitioner is proposing to construct a new three-story structure with ground floor parking spaces and five three-bedroom dwelling units. Since the proposed units will each contain 3 bedrooms, they are classified as student housing or dormitory use. Student housing is listed as a conditional use in the RM zoning district and the petitioner is therefore requesting conditional use approval to allow for this new construction. The petitioner previously received a variance under V-16-20 to allow for the front steps of the structure to encroach into the setback. The petitioner is also requesting a variance from the required front parking setback of 20’ to allow for ground floor parking. There are use-specific standards that apply to student housing within the RM district. The UDO restricts the maximum floor plate for student housing uses in the RM district to 5,000 square feet per lot. The proposed building will be approximately 3,519 square feet and therefore meets the 5,000 square foot maximum floor plate allowance. This petition received a variance from front setback standards under V-16-20 and is currently requesting a variance from the required front parking setback which is pending. This petition complies with other applicable regulations, utility, service, and improvement standards as required

by the general compliance criteria. The UDO requires that student housing or dormitory uses outside of the Mixed-Use Student Housing (MS) zoning district be separated from other student housing or dormitory uses by at least 300 feet. Planning staff did not find any existing student housing or dormitory uses within 300 feet of this property. This proposal is in line with the goals of the Comprehensive Plan. The Comprehensive Plan identifies this area as “Mixed Urban Residential.” Infill development within this district is encouraged as part of creating a compact urban form. This petition provides additional housing units on a property that is currently vacant. The construction of five dwelling units on this site is not expected to have any negative impacts. This site is near the 7 and 1 bus lines and intends to provide adequate parking for the residents. There are no natural, scenic, or historic features that will be impacted. The creation of five dwelling units for student housing on this property is not expected to have any adverse impacts on surrounding properties. No additional lighting outside of what is typical of a residential unit is being proposed. No nuisance regarding noise, smoke, odors, vibrations, lighting, or hours of operation is found. No pre-submittal neighborhood meeting is required. Staff recommends approval of CU-24-21 based on the written findings outlined in the staff report including the following conditions:

1. This Conditional Use is limited to a maximum of five units and a maximum of three bedrooms per unit as submitted, no other use is approved.
2. A grading permit is required before construction can begin.

Scanlan noted there were some remonstrance emails and letters that were in the packet of information that went to the Board, including some additional ones that were supplied to the Board today. She is happy to answer any questions.

Tim Hanson, petitioner’s representative from WS Property Group, said they have been working on this project for over a year and trying to put something together, specifically the townhome project since April 2021. The site consists of a vacant lot. The previous structure on the lot was considered inhabitable and the building was raised by, I think the City, and it became a vacant lot during the City’s improvements (road widening and sewer drain project) along Hillside Drive during the late 80’s and early 90’s. We are proposing to remove an existing retaining wall on the south side of the road at S. Walnut and Hillside. The wall sweeps around onto Walnut and this project is just east of that; we have an alley on our east side and the retaining wall runs approximately 3 ½ feet to 7 feet at the corner going east/west. We are proposing to remove the retaining wall and build five townhomes with a staircase walk up with Brownstone-type access. A 5-foot tree lawn will be installed against the curb on Hillside. This would separate the sidewalk and curb and provide a 7-foot concrete sidewalk for pedestrians. Later, you will hear about the variance request in order to park in the garage which will be on the first floor of each unit.

BZA Discussion:

Throckmorton needed clarification on the parking garage. Hanson said access is from the alley and then people would go behind the townhomes and then underneath to park. Throckmorton wondered if these units would be for sale or rented. Hanson said currently rentals. Throckmorton asked if any are slated to be classified as affordable housing. Hanson: Not at this time. Throckmorton asked if there is a reason for that. Hanson said no but thinks “affordable housing” should be part of another discussion. Throckmorton asked if there is a management plan in place from August to August or if someone just rents it on more of a rolling basis when a unit is available. Hanson said they have never mandated August to August. Klapper asked Hanson if there is anything in the packet that shows the proposed building in context with the existing streetscape or surrounding buildings. One of the criterion for Conditional Uses has to deal with meeting the objectives of the Comprehensive Plan, and since this is an infill project in an established neighborhood that is an important aspect. Hanson said he could work something up for the Board. In the meantime, Klapper asked Staff (Scanlan) if a neighborhood meeting was required for this petition. Scanlan: I don’t believe so. Klapper wondered why not. Scanlan explained this is not in a neighborhood and not in a neighborhood registry. Eric Greulich, Sr. Zoning Planner, added that Conditional Uses in and of themselves do not require Neighborhood Association meetings. It’s only the duplexes and tri-plexes that were considered within neighborhoods and are required to have a neighborhood meeting, including major site plan approvals and rezones. Burrell made the point that the petitioner can build multi-residential by right already. Scanlan went on to explain why these two petitions are being heard out of order. Originally, the petitioner was thinking of doing just apartments and not these townhome style units that would not have three bedrooms, which could have been done by right then they decided to go this way. By definition it goes into student housing; however, it doesn’t mean only students will live in this place, correct? Scanlan: Correct. Klapper asked if the setback of 20 feet is related to the student housing aspect. Scanlan responded no. The Conditional Use for student housing is related to the three bedrooms. The setback from the 20-foot requirement would be for either multifamily or the more particular defined multifamily of student housing. Hanson reiterated that townhomes would have access from the alley to the rear of the property. Klapper said she’s trying to understand the scale of the bungalow because it looks a lot larger than the petitioner’s project in terms of the height of what is off the ground and the retaining wall. Hanson explained it’s the grade and how the entire grade of that area sits up, kind of on a level plane. The wall at the drive access for the house ranges from approximately 2 ½ feet to approximately 7 feet, so the entire grade sits up level so the wall just climbs and climbs as you go down the street. The bungalow and the base of the townhome units sit relatively at the same distance. Throckmorton asked if the existing bungalow next to the project is going to remain. Hanson: Yes, we like the house. Discussion ensued regarding whether this site is located in a neighborhood or not. Throckmorton said he wanted to make sure that those in the neighborhood, whether it’s a Neighborhood Association or not, are aware that this project is happening instead of just having it built and then suddenly there is going to be 15 students and a lot of student traffic. I think the intent of this project is to provide more housing for the general population. Scanlan believes people know about it. Part of the reason you’re seeing the next variance is that there was some non-allowed outreach from a Council Member to the Hearing Officer in December 2021 about the petition,

because they heard about it from people in the Bryan Park Neighborhood. The variance was supposed to be heard by the Hearing Officer in December but wasn't due to the non-allowed outreach, so I think there have been conversations and information being distributed in the neighborhood about this project for quite some time. Ballard asked if any data was collected about the percentage of owner-occupied housing versus rental housing north of Hillside on this corridor with Washington. Scanlan said she didn't think any data like that was compiled for this petition.

Public Comments:

Jan Sorby lives in the Bryan Park Neighborhood and she owns a four-plex up the street from this project. She is asking the BZA to deny the Conditional Use request. She believes the project presents challenges that make it inappropriate. The area is very dangerous for this kind of high intensity use; this is the east/west corridor through the City. Also, the development pattern is radically different than anything in the neighborhood. Traffic is always present at this location any time of day or night and traffic is typically backed up from the light at Walnut St. past the intersection. Sight lines are really horrible for motorists and pedestrians. You can see that it's a very difficult area. The entire street is incredibly hostile and where are they going to park? She urged the Board to deny this request. **Karen Duffy** read her letter into the record that was previously submitted to Planning and Transportation. She is opposed to the project due to its density. She urged the Board to deny this request. **Marian Conaty** lives at 1305 S. Washington which is two blocks away from the proposed site. She has concerns about pedestrian safety and the cars coming out of the alley so close to the intersection of Hillside. She believes a smaller project would probably be fine; fifteen beds seems excessive for the location. **Colin Johnson** owns the property at 300 E. Hillside Drive which is four or five houses down the street from this site. He is opposed to this project. The relationship between the proposed development and the bus line is cited as an amenity for the purposes of facilitating development, but it happens that the #7 bus line stops in front of my house, and my front yard basically operates as a waiting room for people who are departing and with this development there would be even more people. He has concerns about this development setting a precedent for how the sidewalk would eventually run all the way down Hillside because it actually isn't in line with the sidewalk as it currently exists. He, too, is concerned about the density. **Jon Lawrence** said the neighborhood line is at Hillside so this property is 15 feet from the Neighborhood Association, so I think it's a little short sighted to think that this doesn't affect the neighborhood just because it's sitting on the opposite side of a dotted line. He is opposed to this petition and believes it will be a real problem for the neighborhood. Parking is a problem and is overflowing onto Washington St. Also, the drawing that was presented by the petitioner's representative is a bad characterization and it made the proposed building seem much smaller than it's going to be. **Deborah (last name inaudible)** lives in the 1200 block of S. Washington St. and she agrees with everyone opposing this petition. She is opposed to the project due to the existing traffic and parking problems. She said parking is already bad enough and this development is going to cause those problems to get even worse.

Back to the petitioner:

Hanson said this petition is moving the sidewalk back and creating better sight lines whereby creating a pedestrian separation between Hillside and the pedestrian way, as well as setting the buildings back. There is ample parking in the garage. There will be no parking on the street. There are no additional drive cuts; this project will use an existing drive cut that is also accessed by other homes. This area is zoned multifamily. This project is five units. In relationship to other multifamily projects, it's relatively small in scale and we believe it has maximum flexibility for different types of users.

Additional Public Comment:

Wendy Bernstein also wished to make a public comment. She enjoys walking in this area along Washington Street and visiting friends in this area. She is opposed to adding this type of urban density. She objects to the changing character of the City, which is against the wishes of a lot of the population because the idea of density is being held up as the ecological solution, but it's denying human beings desires of how they want to live. She is opposed to the development of this project.

Back to the BZA:

Klapper asked Scanlan if she could explain a little bit about the third bedroom because everything else is essentially by right in terms of the density. Scanlan said we don't regulate density anymore. Many people are used to talking about Dwelling Unit Equivalents (DUE's) in terms of how many bedrooms you can fit on this site based on certain calculations but that has been out of the code since 2019—the UDO update in 2019-2020. When the UDO update was done we added a definition for "Student Housing" and the key to that is the four and five unit developments, but we also wanted to acknowledge that sometimes on larger developments, there will be partially one and two bedrooms as well, so we put in the restriction that if you have more than 33% which is three bedrooms that you would also be classified student housing. I think the idea of that is really for larger developments. Obviously, this is a new regulation for us coming in early 2020, and so what we're seeing bear out is that its catching small developments like this—five units with 15 beds on an arterial on a bus line. Scanlan said regarding Mr. Ballard's previous question about this area being rental or owner-occupied; we were able to look it up and this area is almost entirely rental.

Discussion ensued between the Board, Mr. Hanson, and Staff in terms of possibly reducing the number of bedrooms; comments on density; comments about infrastructure; the challenges of this area being close to the intersection; pedestrian safety; the significant slope of the area; the narrow right-of-way. Scanlan added that if this project is approved, it has to go through site plan approval which gets extensive review as does the grading permit process by the Engineering staff. Engineering would work with Mr. Hanson on what is safe and what improvements need to be made to the alley. Ballard asked about the number of proposed parking spots. Hanson said all parking will be within the building. There is no actual on-site parking for guests or

anywhere else to park on the site. Scanlan said the number of parking spaces he can have on the site is 11 but if he decides that is not enough, you (the BZA) will see him again and he will tell you he thinks he needs 15 parking spaces because there is no on-street parking. Scanlan reiterated this petition is a request for a Conditional Use and the petitioner will still have to get a site plan approval and go through that whole process.

****Coyne moved to approve CU-24-21 based on the written findings including the two conditions outlined in the staff report. Burrell seconded. Motion carried 3:2— Approved.**

V-23-21 **WS Property Group**
106 E. Hillside Dr.
Request: Variance from the required 20' front yard parking setback for the proposed construction of five 3-bedroom townhomes in the RM (Residential Multifamily) zoning district.
Case Manager: Jackie Scanlan

Scanlan presented the staff report. The petitioner is requesting a variance from the required 20-foot front yard parking setback for the construction of five, 3-bedroom townhomes in the RM (Residential Multifamily) zoning district. The subject property is located at 106 E. Hillside Drive and is zoned Residential Multifamily (RM) and is currently vacant as the previous home was demolished. The properties to the east and south are also zoned RM and have been developed with single-family and multifamily dwellings. The properties to the north across E. Hillside Drive are zoned R3 and have been developed with detached single-family dwellings. The properties to the west are zoned MM and have been developed with single-family dwellings. Currently on the site there is a retaining wall that spans the entire site along Hillside Drive. The petitioner is proposing to construct a 5-unit structure on the site. For the use 'Student Housing or Dormitory', 20.03.030(b)(13)(A) in the Unified Development Ordinance (UDO) requires that any portions within the ground floor of a structure used for vehicular parking shall be located at least 20 feet behind the building façade facing a public street. The UDO classifies this use as "student housing or dormitory" due to the fact that more than 33% of the dwelling units have 3 bedrooms. Student housing uses are required to provide 0.5 spaces per dwelling unit when there are more than 11 bedrooms and a maximum parking allowance of 0.75 parking spaces per bedroom. This proposed development has 15 bedrooms for a minimum parking requirement of 7.5 parking spaces and a maximum of 11.25 (11) parking spaces. For this proposed development to provide the required minimum parking, locating the parking in the ground floor of the structure is the most practical location. No adverse impacts to the use and value of adjacent properties is found as a result of this petition. The variance will allow for adequate parking on-site. The improvements to the sidewalk and tree plot will provide a more pedestrian friendly streetscape than what currently exists. The site is currently a vacant lot with a large retaining wall along the sidewalk. Practical difficulty is found in the combination of the size of the lot and the lack of on-street parking available. The lot would not allow for the construction of adequate on-site parking behind the building that would meet setback and dimensional requirements. Parking in the building that is adequate for the use is not

possible while also meeting the front parking setback. No on-street parking is available on Hillside. Ground floor parking is typical for a development of this type. Scanlan reiterated that code (the UDO) only allows 11 parking spaces here. Even with the 11 parking spaces obviously a variance is still needed. Staff recommends approval of V-23-21 based on the written findings outlined in the staff report including the following conditions:

1. A grading permit is required before earth moving begins.
2. The petitioners must obtain a building permit prior to construction.

Tim Hanson, WS Property Group, is representing the petitioner. We started looking at the property a long time ago. We worked with Staff on a by right project, working through issues concerning front yard setbacks, the staircases, sidewalks, etc., and basically got to where we were comfortable with the overall project. We met open space requirements, buffer yard requirements, and then started civil site work so that we could apply for a grading permit and site plan review as well as our construction documents for the townhome piece. The grade is flat along the back of five townhomes so the water has to go somewhere. We had to split the building so that we could have a grade going east to west to get to a detention facility that will be on the west side of the building to treat the runoff and requirements by City of Bloomington Utilities (CBU). During this process of design, the City had a text amendment to the UDO in July of last year which is similar to what is required in the downtown where if you have a multifamily building, and you have parking on the 1st floor then the parking needs to be set back 20 ft. from the front wall line of the building inside the building. To that end, this is why I requested a variance. I would hope that there would be another text amendment to the code (UDO) that would address townhomes specifically. I can answer any questions.

BZA Discussion:

Erik Coyne asked Hanson what impacts there would be if this variance is not granted. Hanson said the building is 35-½ feet deep and if you took 20 feet that you were not allowed to park in, it would leave about 15 feet to park. A standard garage is about 20 feet deep. Jackie Scanlan, Development Review Manager, added there isn't an opportunity for parking in the back of the site, and there wouldn't really be room for parking in the building either without the variance. Barre Klapper said so the reason is the building type, the building form, topology that is creating the difficulty with the parking being satisfied any other way? Scanlan said it's that and the depth of this lot because surface parking would be typical for a multifamily use but there just isn't room for that here. Klapper added the size of the lot is just under 15,000 square feet. Klapper pointed out the size of the lot is three times larger than the minimum size of a lot for this zoning district. Scanlan said I think it's the depth that makes it difficult because of the combination of the hill at the front of the lot (referring to the north end of the lot) necessitating the buildings being built back. Also, the lot is only 100 feet deep where as sometimes we see slightly larger lots or deeper than that, even on our smaller lots in

town they will be slightly deeper. The reason being is because the buildings have to be built further to the south because of the slope on the north end, and because there isn't that extra cushion of 20 feet in the back so it squeezes the area required for buffer yard and building in the parking setback into no parking available for service. Hanson explained that the topology for this road is urban. The right-of-way on Hillside is urban. It's wide and provides large sidewalks and provides offset from the travel way so you have a 5-foot green strip and you have a 7-foot sidewalk as part of this. It's not so much the setback that has pushed the units back, it's the requirement for the 5-foot tree plot on the 7-foot sidewalk and then the transitioning grade up and in some cases 6 feet to get up on a level surface. The site conditions with the various grades coming from front to back is what partially limits what can be done in the front part of the site. You are about 20 feet back from the right-of-way and from the right-of-way you are approximately 12 feet back from the back of the sidewalk. Klapper asked about the alley elevation and wondered if the elevation is still rising as you go east. Hanson said we go up and transition out across the slope on the alley. There is a grade transition of about 3 feet up from the alley on the site. Discussion ensued regarding the alley and grade elevation. Klapper asked if the petitioner considered pushing the parking down a little bit because there is no living space on the 1st floor anyway. Hanson said they wanted to make sure they weren't getting too steep on the southeast side of the site. There is an existing utility box. We still wanted to have room to provide a small detention facility.

No public comment.

Hanson said this is a unique situation that's why we're at the BZA. There has been a lot of discussion about the parking maximums and minimums. There was a lot of discussion about the neighborhood and the lack of parking and the on-street parking concerns, including current parking issues. We are trying to address parking by providing ample parking within the building and not have sprawling parking on the surface.

****Erik Coyne moved to approve V-23-21 based on the written findings including the two conditions outlined in the staff report. Ballard seconded.**

Klapper asked if the Board would consider adding some language that practical difficulty is found in the steep slope and the relationship of the lot to the street elevation and the alley elevation, because I feel like that is a really specific condition of this particular piece of land and how it's situated.

Jackie Scanlan, Development Services Manager, said sure if you would like to add it that's fine. I think Mike (Rouker), City Attorney, can jump in if I'm wrong but I think you just propose to add the language and then the Board votes. Rouker said it isn't a separate vote. The person who originally proposed the motion can just adopt the friendly amendment and that's that, then the motion itself has been modified with the friendly amendment added.

Coyne: I will adopt the friendly amendment as part of my motion.

Klapper: Thank you.

ROLL CALL: 5:0—Approved.

- V-01-22 **Catalent Indiana, Inc.**
1600 S. Rogers St.
Request: Variance from fence and wall standards, riparian buffer standards, and front parking setback standards to allow the construction of a new parking area.
Case Manager: Eric Greulich

Eric Greulich presented the staff report. The subject property is zoned Mixed-Use Employment (ME). The petitioner is requesting variances from fence and wall standards, riparian buffer standards, and front parking setback requirements to allow the construction of a new parking area. This 7.6 acre property is located at 1600 S. Rogers Street and is located on Tract C within the Thomson PUD. The property was most recently used by IMI Materials as a gravel and concrete facility. Surrounding land uses include Hays Trucking and a Duke electrical substation to the south and east, Catalent manufacturing facility to the north, and undeveloped land within the Thomson PUD to the west. There is a portion of the floodplain of the West Branch of Clear Creek that encroaches onto the far eastern portion of this property. As part of recent expansions and increased production requirements at the Catalent facilities for work associated with government contracts to manufacture the COVID-19 vaccine, the petitioner has had to substantially increase employees at the site. As a result, there is an increased demand for parking for the new employees around the facility. The petitioner purchased this contiguous property to the south of the facility to redevelop for a new parking area. The petitioner is proposing to construct a new surface parking area with 523 parking spaces, which would also include a 7' tall fence around the perimeter. The parking area would include a minimum of 21 electric vehicle charging stations and 11 bicycle parking spaces. The property currently shares an access drive onto Rogers Street with the trucking company to the south, which will be reconstructed with this petition in the same approximate location. The drive cut meets separation requirements from adjacent drives. The eastern portion of the proposed driveway and a new sidewalk are located in the floodplain of the West Branch of Clear Creek. Any work within the floodplain must receive a permit from Indiana Department of Natural Resources prior to issuance of any local permits. The Catalent building to the north is approximately 600 feet west of Rogers Street. Since there will be portions of the proposed fence that are more than 4 feet tall between the building and the street, the petitioner is requesting a variance to allow for a 7-foot tall fence that is forward of the building façade. The petitioner is also requesting a variance from the front parking setback standards to allow for portions of the proposed parking area to not be located 20 feet behind the front façade of the building. Although the proposed parking area will be approximately 400 feet away from Rogers Street, it will extend approximately 200 feet forward of the building façade and therefore not meet the 20' setback behind the building front. Since there is a creek between the proposed parking area and the buildings to the north, the petitioner is proposing to construct two elevated walkways from the parking area to the building. The creek is subject to the riparian buffer standards and the petitioner is requesting a

variance from the riparian buffer standards to allow the construction of the walkways. The granting of the variance to allow portions of the parking to not be setback 20 feet from the building facade will not be injurious to the public health, safety, morals, or general welfare of the community. The location of the parking does not affect access to the main building or the interface of the site with the public way, as it is setback approximately 400 feet from Rogers Street. The granting of the variance to allow the fence to be 7 feet tall will greatly increase the security of the property to help with the production of a vaccine to address the global public health emergency. This directly promotes the public health, safety, and general welfare of the community. Additionally, the distance of the parking from Rogers Street ameliorates concerns about tall fences between buildings and the road. The granting of the variance to allow the proposed minor disturbance to a small portion of the top of bank area to install the elevated walkways will not be injurious to the public health, safety, morals, or general welfare of the community. The granting of the variance would improve public safety by providing a safe way to access the building from the parking area. The construction will not be allowed without IDEM approval. No adverse impacts are found. Staff finds that the strict application of the terms of the Unified Development Ordinance (UDO) will result in practical difficulties of the use of the property because it would require the parking area to be placed substantially further back into the property than is practical. Practical difficulties are considered a peculiar condition to this property in that the adjacent building is setback approximately 600 feet from Rogers Street and creates a substantial restriction on the location of parking to serve the site. The granting of the variance will allow an existing substantially non-conforming site to be redeveloped according to most other current Unified Development Ordinance regulations. The Department finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties of the use of the property because it would not allow the fencing needed to provide appropriate security for this property. The practical difficulties are peculiar condition to this property in that the location of the lot in relation to the building does not allow for the parking to occur behind the building, where a 7 foot fence would be allowed. The granting of the development standards variance will allow the petitioner to meet the stated safety standards for this facility to address the public health emergency. Staff finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property as they would not allow the minor work necessary for the pedestrian bridges. The installation of elevated walkways in this area will not require any substantial grading or disturbance of vegetation. In addition, the Thomson PUD was approved prior to the current riparian buffer standards. The Thomson PUD also only identified the West Branch of Clear Creek as a dominant stream through this area. Peculiar condition is found in the limited amount of area along this portion of the site that is available for pedestrian crossings and that the intermittent stream along the south side of the building had been previously straightened and altered during development within the PUD. The Thomson PUD anticipated development within existing disturbed areas. The proposed encroachment is not excessive and is in keeping with the development pattern within the PUD. Staff recommends approval of V-01-22 based on the written findings outlined in the staff report including the following conditions:

1. A permit from the Indiana Department of Natural Resources is required prior to the issuance of any permit related to the pedestrian crossings.
2. The variance approves a maximum number of parking spaces between the front building wall and Rogers Street as shown in the site plan with this application. Final site plan details will be reviewed with the minor site plan approval.
3. Disturbed areas around walkways will be replanted with native vegetation. Any trees removed in the riparian buffer area will be replaced with a 2:1 factor.
4. The variance approves a fence with a maximum height of 7 feet, and does not allow barbed wire or any other materials restricted by the Unified Development Ordinance.

Bill Riggert, Bledsoe Riggert Cooper James, is representing Catalent. There are three 25-foot sections of the riparian buffer where we are required to provide, and we are requesting as part of our variance, the outer third 25 feet where it lines up is exactly where the edge of the existing IMI site has disturbed. We would preserve the 50-foot buffer that is currently there. Also, the item about seeking DNR approval for the bridges doesn't apply here because we are less than a square mile of upstream flow, so the DNR would not regulate the bridges. But we will deal with the DNR out on Rogers Street where it's in the West Branch of Clear Creek floodwaters so we will make sure we follow those requirements.

BZA Discussion:

Erik Coyne asked Greulich to clarify the DNR permit issue that Mr. Riggert previously made reference to since it's written in the staff report. Greulich explained there is a very small portion of the east section of this site that isn't in the floodplain of the West Branch of Clear Creek that will have some disturbance take place for a sidewalk, so it's basically to make sure that the approval from DNR is granted prior to any work within the floodplain. If DNR says "no permit is needed" then that's fine as well, but it was mostly to call attention to the fact that there is going to be work within the floodplain and to make sure proper approvals are obtained for that. Barre Klapper asked Greulich to show the Board where that part of the riparian buffer is located.

No public comment.

Riggert had nothing further to add and thanked the Board for their consideration.

****Coyne moved to approve V-01-22 based on the written findings including the four conditions outlined in the staff report. Burrell seconded. Motion carried 5:0— Approved. _**

V-02-22 **Catalent Indiana, Inc.**

1100 S. Strong Dr.

Request: Variance from fence and wall standards, and variance from architectural standards to allow for an addition to the existing building.

Case Manager: Eric Greulich

Eric Greulich presented the staff report. The petitioner is requesting a variance from fence and wall standards and a variance from architectural standards to allow for an addition to the existing building. The property is located at 1100 S. Strong Drive and is located on Tract A within the Thomson PUD. The site has public road frontage along three property lines with Allen Street to the north and Strong Drive that wraps around the east and south property lines. The property has been developed with one 50,000 square foot building that was previously occupied by Best Beers. There is a loading dock and parking area on the south side of the building. There are no known environmental features on the site. The petitioner has recently acquired this property and building and will be utilizing it for expanded production and storage needs related to the manufacturing of the COVID-19 vaccine. To that end, they are proposing a 12,000 square foot addition to the north side of the building to install 58 freestanding freezer units for storage needs. The addition will feature a masonry block wall surrounding the units, but will not have a roof. There will also be an approximately 7,200 square foot addition to the south side of the building for additional storage needs that will include typical walls and roof. The addition would trigger limited compliance with the Unified Development Ordinance (UDO) since it is more than 10% of the existing floor area and those aspects will be reviewed with the minor site plan approval with the grading permit. Those compliance items would include the installation of a sidewalk along Strong Drive and landscaping throughout the property. As part of a recent government contract to start manufacturing a vaccine for the COVID-19 virus, the petitioner has been directed to secure the perimeter of their facility with a 6-foot tall fence. This is necessary for heightened security due to the sensitive nature of the work being conducted. It should be noted that due to a declared public health emergency, communities have been encouraged to allow more flexibility in local regulations in response to the global pandemic to promote public safety. To that end, during the pandemic and declared public health emergency, both local government agencies and state government agencies have been more relaxed in enforcing their regulations when it comes to matters that are directly related to the health emergency. In order to comply with the recommended security precautions, the petitioner is proposing a 6-foot tall fence, with 7-foot tall columns that will be spaced a minimum of 12 feet apart around the perimeter of the property (including around the area of parking between the building and the streets). The UDO prohibits fences that are taller than 4 feet forward of the front building wall of the primary structure. Since the property was developed prior to current UDO regulations with the building as far back from the adjacent street frontages as was possible, it is not possible for them to comply with the 4-foot tall fence allowance to install the recommended 6-foot tall fencing and they are requesting a variance from the maximum 4-foot height limit that is allowed. The petitioner is also requesting a variance from architectural standards for the proposed additions to not require them to meet the architectural standards. This would require modulation, change in building façade

height, regular pattern of windows, and/or the incorporation of awnings along the ground floor that is not possible with the existing building design and use. The petitioner is also requesting a variance to allow for a section of barbed wire fence along the west property line to be removed and replaced with new barbed wire. The granting of the variance to allow the fence to be the required 6 feet tall will greatly increase the security of the property to help with the production of a vaccine to address the global public health emergency. This directly promotes the public health, safety, and general welfare of the community. The granting of the variance to not require the additions to meet architectural standards is not expected to be injurious to the public health, safety, morals, or general welfare of the community. The proposed building wall surrounding the units is a durable masonry material and features elements of visual interest. Staff finds that the granting of the variance to allow barbed wire would be injurious as this element is something that is not appropriate within the City and the proposed 6-foot tall fence does provide adequate protection. Staff found no adverse impacts to the use and value of surrounding properties as a result of this variance request. Staff finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties of the use of the property because it would not allow the fencing needed to provide appropriate security for this property. The practical difficulties are peculiar to this property in that the site has street frontages along three property lines, it has a unique lot shape, and the location of the existing building and parking areas create difficulties with meeting the code in the use of the property. The granting of the development standards variance will allow the petitioner to meet the stated safety standards for this facility to address the public health emergency. Staff finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property as it would require building additions that would not work with the existing building design or shape. It is very difficult to construct compatible additions to existing buildings that currently do not meet design standards. The proposed addition to the south is not highly visible from the street and to require the addition to meet current architectural standards would result in a design that is not complimentary or appropriate. Staff finds no practical difficulty in the use of the site that necessitates a variance for barbed wire. The proposed fencing will provide adequate protection for the site and the denial of the variance request for barbed wire will not result in practical difficulties in the use of the property. Staff recommends approval of the variances from fence height and architectural standards. Staff recommends denial of the variance from the barbed wire standard based on the written findings outlined in the staff report including the following conditions:

1. The areas of the fence facing a public street must be landscaped with a minimum of 5 shrubs at each column.
2. Minor site plan approval is required prior to issuance of a building permit.
3. The request for a variance to allow the use of barbed wire is denied and the use of barbed wire is not allowed.

Bill Riggert, Bledsoe Riggert Cooper James, is representing Catalent. He said Eric explained everything quite well. We really don't have any issue with the barbed wire. We just wanted to preserve the fence and replace it with the same but that shouldn't be a problem. I can answer any questions.

BZA Discussion:

Barre Klapper asked Greulich to clarify whether or not separate motions were needed for the approval of two variances and the denial of the other variance. Greulich explained that would only be necessary if the Board disagreed with Staff's findings, so if you make a motion to approve the petition per Staff findings then it would be approval of the two variances and denial of the other. Klapper asked if consideration had been given to integrating some landscaping with the retaining wall structures because it looks like there is an opportunity for that. Greulich stated the petitioner is required to install street trees along that side which is something he discussed with them along with some heavy landscaping. He added that, that is something Staff will pursue with a minor site plan approval. Of course the goal is to get in as much landscaping along that area as possible.

Public Comment:

Mark Lauchli is an adjacent property owner directly to the west of the former Best Beers building and I'm in support of the Catalent making these changes to the building. I would like to add a couple of things and be included in the conversation as far as the property line we share (approximately 600 feet) regarding landscaping and how it's going to look because that information has not been shared with me. If you look through the petition, there really isn't any detail about this property line that we share. Also, I wanted to be assured that we have the ability to connect to the City sidewalk per our approval from December 2019 when we bought this parcel for a redevelopment petition. We are excited to see Catalent grow and expand; they have been incredibly good neighbors but we do want to be included in that discussion to have those two major concerns addressed.

Riggert had nothing further to add and thanked the Board for their consideration.

Burrell had a question about the sidewalk from the redevelopment that abuts Best Beer. Where is it? Greulich explained that Mr. Lauchli owns the property to the west. He received approval to redevelop that property 2-3 years ago. The sidewalk being referenced is along Allen St. The fence included with this petition would be on Catalent property, so it would stop even with the front of that building so it's not going to encroach on the right-of-way. And it's still going to be set back a significant distance from the road so I'm not seeing any immediate conflicts that would impede connection to the sidewalk along Allen St. Greulich assed that landscaping would only be required along the sides of the property facing the street or the west side of the fence. Klapper asked if there is a buffer yard between the uses. Greulich said that is something that would be put on the site plan approval to look into. Burrell stated the Mr. Lauchli said that wasn't the sidewalk

he was referring to when he spoke. Burrell asked Greulich for clarification. Greulich said he would try and pull up the site plan. Lauchli said if you look at the site map there is an existing structure right on the southeastern corner of my property that is going to be removed. Right now it's just a little shed that was there. It's the existing sidewalk that is on the very south of the property that is a City sidewalk that we had an agreement with Best Beer; Catalent also agreed that we would connect to that sidewalk. We talked to the Engineers at Catalent and also had a written agreement with Best Beers, and that is what we received the approval on in 2019 was to connect to that sidewalk. Klapper asked if the BZA could add a condition of approval given that additional information. Greulich said it doesn't appear to be in the public right-of-way. The sidewalk along Strong Drive is, but what connects from Strong Drive to that does go through the Best Beers former property. I would be hesitant to have a condition that says, somebody has to go across somebody else's property. That would be a private matter and up to the property owners to negotiate.

****Throckmorton moved to approve V-02-22 based on the written findings including the three conditions outlined in the staff report. Burrell seconded.**

Klapper asked to make a friendly amendment under the proposed finding for Architectural Standards where it says--*"The practical difficulty in the use of the property as it would require building additions that would not work with the existing building design or shape"*, I would like to add **"the large scale existing building"** because that is a distinct aspect of this. We are really dealing with a very large facility.

Greulich: Thank you. I'm making a note of that.

ROLL CALL: Motion carried 5:0—Approved.

Meeting adjourned at 8:43 p.m.