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

APPROVAL OF MINUTES: None at this time.

PETITION CONTINUED TO: April 21, 2022

V-04-22 Southern Indiana Medical Park (Staley Signs) – 2810 S. Deborah Drive

REPORTS, RESOLUTIONS, COMMUNICATIONS: None at this time.

PETITIONS:

V-05-22 **Hiren Patel (Overlook on 46, LLC)**
4500 E. 3rd St.
Request: Variance from tree preservation standards.
Case Manager: Eric Greulich

Jackie Scanlan, Development Services Manager, presented the staff report. This is a request for a variance from tree preservation standards. The subject property is located at 4500 E. 3rd Street, which is at the southwest corner of E. 3rd Street and State Road 446. The site is zoned Mixed-Use Corridor (MC). Surrounding properties are also zoned MC, Residential PUD (Planned Unit Development), Residential Multifamily (RM), and Residential High Density (RH). The property has frontage along E. 3rd St. to the north and S. State Road 446 to the east. The site is currently undeveloped and sits vacant. Scanlan said there is a large stand of trees in the southeast portion of the site that are subject to the tree preservation standards in the Unified Development Ordinance (UDO). The petitioner received approval for a major site plan under petition #SP-18-21 for a new 176-unit multifamily development with a separate self-storage facility on the back of the property. Since the Plan Commission approval in 2021, the petitioner has modified the proposed site plan to remove the self-storage facility. As a result of this removal, the site plan must be modified to include a Type 2 buffer yard for the sections of property that are adjacent to commercial uses. The current proposal features three multifamily buildings that contain a mix of one and two-bedroom units for a total of 176 units and 236 bedrooms. Approximately 203 parking spaces will be provided within surface parking lots, and “on-street” parking spaces on a private driveway that connects through the site from the 3rd Street frontage to the State Road 446 frontage. As part of this proposal, two new bus shelters will be constructed along the driveway so that Bloomington Transit (BT) can serve this development as well as the adjacent multifamily use to the south (Knightridge Apartments). Bloomington Transit Route #6 currently uses the parking lot of Knightridge Apartments in order to turn around. With this new

development, they will be able to use the new private driveway to access 3rd Street, East State Road 46, and State Road 446 instead of turning around in the Knightridge Apartments parking lot. The proposed new service route was viewed favorably by BT. In addition, this new route (through the site) was also desired by Emergency Services since it provides two different ways into the site. The property has approximately 44,135 sq. ft. of tree canopy coverage which consists of approximately 96% of the property. The UDO requires 90% of the existing trees to be preserved, which allows for only 4,414 sq. ft. of disturbance. During the review of the grading plans for the project, it was determined that it wasn't possible to construct the driveway through the property and to meet preservation standards outlined in the UDO. Therefore the petitioner is requesting a variance from the maximum amount of allowed disturbance for an additional 5,716 sq. ft. of disturbance. The petitioner has submitted a proposed 2:1 mitigation plan to offset the requested variance to plant an additional 11,432 square foot area. Further, the existing stand of trees bisects the property in the southeast portion of the site, and due to its location, it isn't possible to construct the driveway through the site without encroaching into the required preservation area. The proposed driveway has been located as far from the trees as possible and the driveway was approved to only have one sidewalk along the south side of the road in order to minimize disturbance as much as possible. Staff finds that strict application of the terms of the UDO will result in practical difficulties in the use of the property. The practical difficulties are peculiar to the property in question because the location of the stand of trees bisects the property and does not allow for any connection through that area to be able to meet the tree preservation standards. The construction of the road through the site greatly increases accessibility to public transit and also improves access to the site by Emergency Services. Staff recommends approval of V-05-22 based on the written findings outlined in the staff report including the following conditions:

1. This variance is for the driveway location and cross section as submitted. Any new road design or placement will require a new variance.
2. All trees shown for mitigation must be planted prior to recommendation of issuance of final occupancy.
3. All trees shown for mitigation must be a minimum of 2" DBH (Diameter at Breast Height).
4. A tree preservation easement is required for the area to be preserved, including the mitigation area. This must be recorded prior to recommendation of issuance of final occupancy. *Note: This will be recorded at the Monroe County Recorder's Office prior to recommendation for issuance of final occupancy.*

Representative from American Structurepoint (name inaudible) said he wanted to reiterate the reasoning behind the excess tree removal is due to construction means and methods, rather than design at this point. Just to allow the contractor to have space to put excavators and to allow us to tie a grade in, and to allow us to extend the through drainage culvert from Knightridge to the south. We would be removing the trees in excess of what is

allowed in this case, but we would be mitigating that at a 2:1 ratio. As Jackie (Scanlan) previously mentioned, approximately 11,400 sq. ft. would be the mitigation area and the specific trees would be all hardwood species—hickory and oak, but no pine or evergreens associated with this. Eric Greulich, Sr. Zoning Planner, wanted to see the typical 40-foot center spacing adjacent to the road so we have reshaped the easement and mitigation area to allow that 40-foot spacing adjacent to the road without the mitigation area ever being touched by the right-of-way or any future right-of-way that may occur. Part of the effort of this project is to figure out what the easement looks like so that's what we're doing right now. Once the easement is decided upon between our discussions with Staff, we will then record the easement based on the approved documents.

No further discussion by the BZA.

No public comments.

****Burrell moved to approve V-05-22 based on the written findings, including the four conditions outlined in the staff report. Ballard seconded. Motion carried 3:0—Approved.**

V-06-22 **Jerico Management, LLC**
1111 W. 17th St.
Request: Variance from development standards to allow vehicular drive access to be located on N. Monroe Street.
Case Manager: Karina Pazos

Karina Pazos presented the staff report. The petitioner is requesting a variance from development standards to allow drive access to be located on N. Monroe Street. The 2.98 acre property is currently zoned Mixed-Use Neighborhood Scale (MN). The properties to the north are zoned MN and Residential Multifamily (RM). The properties to the south are also zoned MN. The properties to the east are zoned Mixed-Use Institutional (MI). The properties to the west are zoned Residential Medium Lot (R2). The property is being redeveloped and full compliance with the Unified Development Ordinance (UDO) has been triggered. The petitioner is proposing to continue to use the existing drive access location on N. Monroe Street. The UDO requires that for nonresidential corner lots, drive access shall be located on the street with the lower functional classification in the Transportation Plan. West 17th Street is currently assigned the lower functional classification, as the classifications were designated before the expansion of 17th Street. The road classification for 17th Street will likely change to reflect a higher classification than N. Monroe Street due to the completion of the Trinitas multifamily development and the expansion of the road to the west of this site. The width of the existing drive along N. Monroe Street is allowed through approval of the City Engineer and would allow for manufacturing shipping and deliveries necessary for the proposed upgrade of the existing facility. The current driveway was upgraded when the roundabout at 17th and Monroe Streets was constructed. Staff has worked with the Engineering Department to ensure that the existing location can continue to be used

safely. The petitioner is requesting a variance to allow the drive access to be located on N. Monroe Street. Staff finds no injury with the allowance of drive access to be located on N. Monroe Street as the design of the street functions as the lower classification which the UDO prefers. No adverse impacts to the use and value of the surrounding area associated with the proposed variance. The variance is not expected to have negative consequences as it will continue the existing design that was determined in conjunction with the Engineering Department. Practical difficulties are found in the use of the property because the property has a significant change in elevation along W. 17th Street that would require a 12% drive slope, which is in excess of a safe access parameter. Because of the adjacency to the roundabout, the property has unique access issues, and access at Monroe Street at the current location is the safest location to place a driveway. Staff believes the petitioner has supplied sufficient data or reasoning, indicating that there are practical difficulties in the use of the site and that a variance is necessary for relief. Staff recommends approval of V-06-22 based on the written findings in the staff report, including the following condition:

1. This variance approves allowing one vehicular entrance on N. Monroe Street. No other variance is approved.

Jeff Fanyo, Bynum Fanyo & Associates, is present on behalf of the petitioner. Karina has done a good job of explaining the need for this variance. We have a topography issue with connecting to 17th Street and for that reason we are requesting to be able to utilize the entrance that has been there for several generations. I have nothing further to add unless you have questions.

BZA Discussion:

Flavia Burrell asked Staff if the Engineering Department looked at the driveway location and considered it to be safe. Pazos responded that is correct. Staff discussed it with the City Engineer, Andrew Cibor, and he approved the drive location. **Jo Throckmorton** asked the petitioner if they will have two entrances in the end—one on 17th and one on Monroe. Fanyo responded that is incorrect. We are removing the access drive on 17th Street so sole access will be from Monroe.

No public comment.

****Ballard moved to approve V-06-22 based on the written findings, including the one condition outlined in the staff report. Burrell seconded. Motion carried 3:0—Approved.**

Meeting adjourned at 6:00 p.m.