

CITY OF BLOOMINGTON



October 20, 2022 @ 5:30 p.m.
City Hall, 401 N. Morton Street
Common Council Chamber, Room #115

<https://bloomington.zoom.us/j/82159935351?pwd=YnBBVXI4TEplRnh4b2J6TmZKbjlidz09>

Meeting ID: 821 5993 5351

Passcode: 170905

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

**City Hall, 401 N. Morton Street
Common Council Chambers, Room #115**

October 20, 2022 at 5:30 p.m.

❖Virtual Meeting:

<https://bloomington.zoom.us/j/82159935351?pwd=YnBBVXI4TEpIRnh4b2J6TmZKbjlidz09>

Meeting ID: 821 5993 5351

Passcode: 170905

Petition Map: <https://arcg.is/4P4v5>

ROLL CALL

APPROVAL OF MINUTES: None at this time.

PETITIONS CONTINUED TO: November 17, 2022

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

- CU-22-22 **Mark Figg**
2304 N. Martha St.
Request: Conditional use approval for a ‘dwelling, duplex’ in the Residential
Medium Lot (R2) zoning district.
Case Manager: Karina Pazos

PETITIONS:

- V-27-22 **Cutters Kirkwood 123, LLC** (Continued from 9/22/22 meeting)
115 E. Kirkwood Ave.
Request: Variances from Downtown Character Overlay standards to allow less
non-residential area and less large display windows; and a variance from the
requirement to align with the front setback of an adjacent historic structure in the
Mixed-Use Downtown zoning district with the Courthouse Square Character
Overlay (MD-CS).
Case Manager: Karina Pazos

****Next Meeting: November 17, 2022**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or e-mail human.rights@bloomington.in.gov.

V-45-22

Douglas Wissing

731 W. 3rd St.

Request: Variances from front and side yard setback standards to allow construction of a second floor to an existing accessory structure in the Residential Small Lot (R3) zoning district.

Case Manager: Gabriel Holbrow

****Next Meeting: November 17, 2022**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call 812-349-3429 or e-mail human.rights@bloomington.in.gov.

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 115 E Kirkwood Ave

CASE #: V-27-22
DATE: October 20, 2022

PETITIONER: Cutters Kirkwood 123, LLC
 121 E Kirkwood Ave, Suite 302
 Bloomington, IN

CONSULTANT: Ryan Strauser, Strauser Construction
 453 S Clarizz Blvd
 Bloomington, IN

REQUEST: A variance from downtown character overlay standards to allow for a smaller percentage of total ground floor area dedicated to a nonresidential use other than a parking garage use, and a variance from downtown character overlay standards to allow for a smaller percentage of total first floor facade area dedicated to large display windows in the Mixed-Use Downtown with Courthouse Square Character Overlay zoning district (MD-CS).

CHANGES SINCE SECOND HEARING: This proposal was presented at the Board of Zoning Appeals (BZA) hearing held on September 22nd. The Board voted to suspend the rules for an extension of a hearing for this petition with a time limit of 10 minutes. The petitioner presented additional information about window heights and fenestration that results in tall windows but cannot meet the minimum 70 percent requirement due to grading and ground floor height. The petitioner presented reasons why economic injury should be considered in the practical difficulties and argued that the Indiana Court of Appeals gives the Board the discretion to consider economic arguments, which the petitioner believes he would be significantly impacted if each owner-occupied dwelling unit would not be able to have one parking space. The Board voted to add five minutes to the time limit. The petitioner added that the ground surface grades limit the access points to the parking garage, especially the access to the back of the building.

Staff clarified that the Court of Appeals has said that there are three criteria for the practical difficulties standard that consider mere economic injury as insufficient and if there was a case for significant economic injury then it would have to be coupled with a showing that development alternatives are infeasible for the site. Staff also clarified that not meeting the ground floor regulation is found to be injurious to the community because it goes against what the community desires along the main corridor. Additionally, as the UDO has updated, the community has become less car-centric so this regulation and the fact that the MD-CS zoning district does not require any parking are intentional components of the UDO. The square footage of adjacent commercial spaces was analyzed, with one example being the Book Corner which contains approximately the same square footage of what is currently being proposed as commercial space for this proposal, however the Book Corner uses the entirety of the ground floor for its commercial space. Staff added that the requirement is about using at least 50 percent of the ground floor, which is a percentage that was determined to be reasonable via discussions with a realtor, so the total amount of square footage depends on the size of site and if the petitioner does not believe a larger commercial space is viable, then there is the option to develop this proposal at a different site.

The Board moved approval for the requested variance of first floor façade large display window percentage with alternate findings, and granted that variance request. For the second variance

request, the Board voted to continue this petition to the next hearing in order for the petitioner to provide other options for the design of the ground floor parking that would allow for an increase in space for a ground floor nonresidential use other than a parking garage use. Staff has received a memorandum from the petitioner but no substantive changes to the petition have been made.

CHANGES SINCE FIRST HEARING: This proposal was presented at the Board of Zoning Appeals (BZA) hearing held on August 25th and it was voted by the Board to be continued to the next hearing in order to have more information related to the heights and fenestration. The BZA asked the petitioner to provide more information. The petitioner has not proposed any changes or new information. The petition remains as presented at the August hearing.

REPORT: The property is located on the north side of Kirkwood Avenue, and is bounded by an alley on the north and west sides, and a historic building (CVS) on the east side. The site is located north of the Buskirk Chumley Theater. The property is zoned Mixed-Use Downtown with Courthouse Square Character Overlay zoning district (MD-CS). All the surrounding properties are also zoned MD-CS. The site currently contains a surface parking lot.

The petitioner is proposing to redevelop the site as a 4-story mixed-use building containing a ground floor parking garage with the entrance off the alley to the west of the site and roughly 2,202 square feet of retail space facing the street. The proposal includes three upper stories containing 15 dwelling units and will implement sustainable development incentives to achieve the fourth floor with a maximum height of 52 feet. The petition is subject to major site plan review by the Plan Commission, and has been placed on the schedule for the Plan Commission's public hearing on September 12, 2022.

The petitioner is requesting two variances from the downtown character overlay standards. The first variance is to allow for a smaller percentage of total ground floor area dedicated to a nonresidential use other than a parking garage use. The Unified Development Ordinance (UDO) requires that a minimum of 50 percent of the total ground floor area of a building located along each street frontage identified by a black line in Figure 47 of the UDO shall be occupied by nonresidential primary uses listed in Table 3-1 of the UDO as Permitted or Conditional in the MD zoning district. Enclosed parking garages shall not be counted toward the required nonresidential use (20.03.010(e)(1)). Figure 47 indicates that Kirkwood Avenue, from Madison Street to Indiana Avenue, is required to meet this standard. The second variance is to allow for a smaller percentage of total first floor facade area dedicated to large display windows. The UDO requires a minimum of 70 percent of the first floor facade facing a street in the Courthouse Square overlay district to be large display windows and shall incorporate transom windows and window bases/kick plates, as well as a frieze or sign band above the display windows (20.02.050(a)(6)). One of the purposes for these standards is to encourage site design that engages directly with the public realm of the street and to promote pedestrian accessibility, instead of the first floor site uses being buffered from the pedestrian zone. A second purpose is to reflect the historic design and use patterns of the Courthouse Square overlay district. The proposal designates less than 50 percent of the ground floor to a nonresidential use other than parking garage but has made revisions to increase the total percentage to approximately 19 percent of the ground floor. The proposal incorporates large display windows in less than 70 percent of the facade but has made revisions to increase the total percentage that is currently at approximately 51 percent. The proposal has made efforts to support the same goals of engaging directly with the public realm and promoting pedestrian accessibility, but may not support the reflection of historic patterns. As proposed, the development will provide approximately 19

percent of ground floor retail space, and approximately 51 percent of the façade as display windows. This is below the minimum percentages required and no practical difficulties with the use of the property have been found.

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:

GROUND FLOOR NONRESIDENTIAL USE OTHER THAN PARKING GARAGE USE VARIANCE

- (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 a smaller percentage of total ground floor area dedicated to a nonresidential use other than a parking garage use will be injurious to the public health, safety, morals, or general welfare of the community. The overlay desires robust nonresidential uses on the first floor, while providing ample percentage for garage or residential space. A reduced retail space devalues the interface between the public and private realm on one of the City's busiest downtown commercial/retail corridors.

- (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 a smaller percentage of total ground floor area dedicated to a nonresidential use other than a parking garage use will not affect the use and value of the area adjacent to the property in a substantially adverse manner. The site is providing 19% of the ground floor as commercial space.

- (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 a smaller percentage of total ground floor area dedicated to a nonresidential use other than a parking garage use will not result in practical difficulties in the use of the property. The site can be developed meeting the 50% requirement. No information has been presented or found that indicates that there are peculiar conditions of this property that create practical difficulties in its use while meeting the 50% requirement. Properties to the west, east, and south all maintain more than 50% non-residential/garage space on their ground floors. There is nothing peculiar about the site that requires reduction in ground floor nonresidential or garage space.

FIRST FLOOR FAÇADE LARGE DISPLAY WINDOW VARIANCE

- (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 a smaller percentage of total first floor facade area dedicated to large display windows will be injurious to the public health, safety, morals, or general welfare of the community. The proposal currently indicates 51 percent of the ground floor façade, but is under the minimum of 70 percent. The window requirement is included to reflect the historic pattern of large picture windows in the area. The community and UDO anticipate and encourage infill development, but adherence to the design standards helps to protect the character of the pedestrian experience in the area.

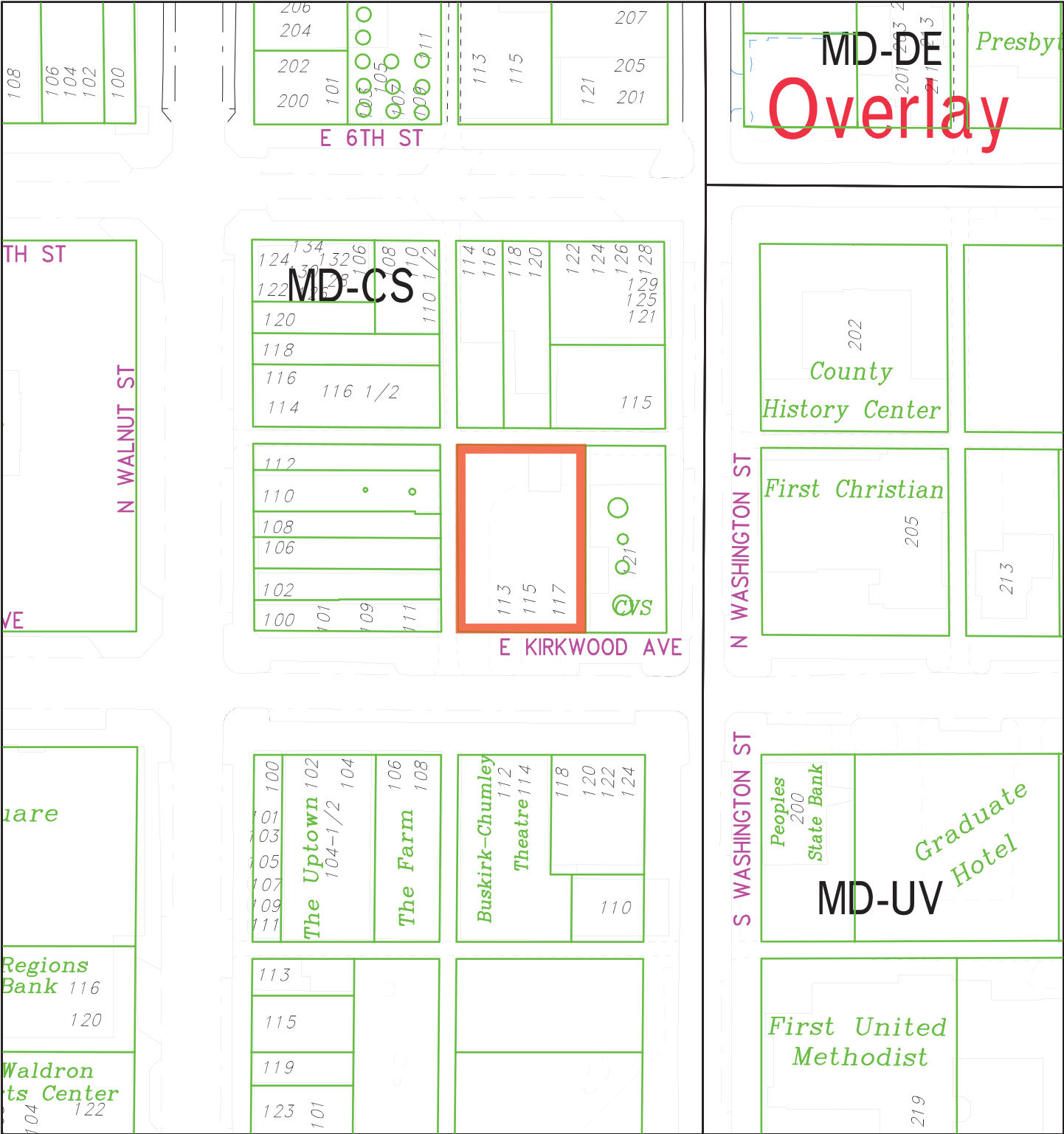
- (2) *The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and*

PROPOSED FINDING: The granting of the variance to allow for a smaller percentage of total first floor facade area dedicated to large display windows will not negatively affect the use and value of the area adjacent to the property in a substantially adverse manner. While the design is under the requirement, no adverse impacts are anticipated on neighboring properties, as a result.

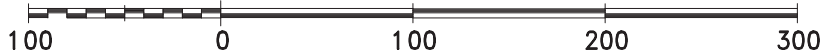
- (3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in questions; that the development standards variance will relieve the practical difficulties.*

PROPOSED FINDING: The denial of the variance to allow for a smaller percentage of total first floor facade area dedicated to large display windows will not result in practical difficulties in the use of the property. The property is vacant, and new construction can be done to meet the 70% requirement. Given the configuration of the particular desired façade, there is sufficient façade area to incorporate large display windows. There is nothing peculiar about this property that requires a building to not meet the large display window requirement. No information has been presented or found that indicates that there are peculiar conditions of this property that create practical difficulties in its use while meeting the 70% requirement.

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-27-22, and denies the requested variances from downtown character overlay standards to allow for less dedicated space to a nonresidential use, other than a parking garage use, in the ground floor and less large display windows in the first floor façade facing the street.

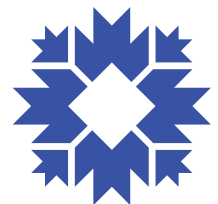


By: karina.pazos
26 May 22



For reference only; map information NOT warranted.

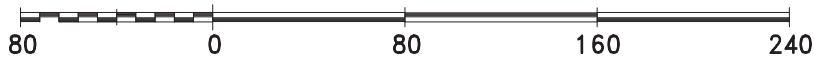
City of Bloomington
Planning



Scale: 1" = 100'

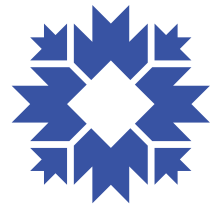


By: karina.pazos
 26 May 22



For reference only; map information NOT warranted.

City of Bloomington
 Planning



Scale: 1" = 80'



121 E KIRKWOOD AVE | SUITE 302 | BLOOMINGTON, IN 47408
 PHONE: 812.287.8596
 RANDY@CLEARPATH-SERVICES.COM

PETITIONER'S STATEMENT

June 23, 2022

City of Bloomington Board of Zoning Appeal
 401 N. Morton Street
 Bloomington, IN 47403

Re: Plan Approval at 115 E. Kirkwood Avenue

Dear Commission Members:

The purpose of our request is to construct a mixed-use project featuring 15 residential owner-occupied condominiums on a small urban infill lot located at 115 E Kirkwood Avenue. This project originally was approved by the Plan Commission in 2018 by a 9-0 vote. Our desire to offer the community condominiums rather than apartments delayed the normal time to begin construction due to the requirement to have a majority of the units presold. We were in the process of pulling our construction permit when Public Works asked if we might go ahead and connect our water and sewer for the building in Kirkwood due to a repaving project. To expedite the work and meet Public Work's timeline, Strauser installed the connections prior to any permits being released. We were prepared to move forward on construction when the COVID pandemic struck. Due to the global uncertainties of how COVID might impact the economy and life in general, we decided to delay any construction until such time as we all better understood the lasting impacts of the pandemic. During this waiting period our approval expired. During this time, we continued the market the units and have secured a number of reservations for the project which has enabled us to work with a local lender for construction financing. Clearpath is prepared to begin construction in the late summer/fall of 2022. We are back before the Plan Commission for reapproval of essentially the same project that was approved in 2018.

The lot has served as a parking lot for adjacent businesses such as Workingmen's, ONB and CVS for well over 60 years. The proposed project is a continuation of Clearpath's overall Bloomington redevelopment plans to add to the fabric of the Kirkwood corridor. An affiliate partnership purchased the former Workingmen's building and adjacent parking lot in 2015. Phase 1 of our efforts was an adaptive reuse of the building. Initial efforts brought a much-needed full-service pharmacy to the building and returned the 3rd floor to Class A office condos for four professional businesses including Meitus Gelbert Rose, Clearpath, JPF Properties, and CGR Services. Phase 2 is the redevelopment of the adjacent parking lot. Our plan is to construct a four story, 47,200 SF mixed-use building that includes approximately 9,000 SF secured parking area with 20 private parking stalls for condominium owners,

1,100 SF of Kirkwood retail and approximately 35,400 SF of owner-occupied residential condominiums consisting of 16 units (15 residential and 1 commercial).

Bloomington's Comprehensive Plan recognizes the need for density and diversity of housing. Specifically, Chapter 4 encourages outlines policy goals and objectives that support the essence of our overall mixed-use development plans—a pharmacy, professional offices and owner-occupied housing combine to create a “sense of place.” Under Goal 4.5: Promote a Sustainable Downtown, recognizes and encourages the need for such owner-occupied housing as being vital to creating and sustaining a sense of place in downtown:

“Develop strategies to stabilize and diversify the Downtown residential population by identifying and encouraging missing housing forms in the Downtown area (such as row houses, condominiums and live/work space).”

Two goals worth noting are goals 4.4 and 4.6. Goal 4.4 Diversity Housing notes that the community should encourage a range of diverse housing types in the Downtown. Policy 4.4.3 encourages developers to build and market housing to non-student residents. Goal 4.6 Optimize Parking encourages “attractive, cost effective, convenient and environmentally public and private motor vehicle and bicycle parking facilities.” ONE15 aims to meet this Goal and related policies by providing sufficient parking for the project for resident’s cars, including electric vehicles, and bicycles to support vibrant economic activity. Additionally, residents with more than one vehicle will be encouraged to use two adjacent City garages.

It is worth noting that there remains a common thread in our long-term community planning that encourages such a development as we are proposing to build. The former Growth Policy Plan and Downtown Vision and Infill Strategy Plan has longed recognized the need for diverse housing options. The GPP Vision Statement echoes the same sentiments as heard in our Comprehensive Plan and UDO:

V. A thriving city center that offers diverse residential housing, government services, specialized shopping, community-centered activities, and entertainment. More residential housing must be encouraged in the downtown area to insure continued demand for services in the city center. Attractive, quality high-rise buildings, with parking, should be considered. Parking should be consolidated, and surface parking reduced and converted to high density residential uses. Public parks that are safe, well maintained, and offer recreation, sports, and leisure activities for our families should also be encouraged.

Additionally, Policy 2 of the GPP’s Policy Essence Statement noted:

Policy 2: Increase Residential Densities in the Urbanized Area As a counterbalance to policies that limit the spatial expansion of growth, denser infill development in areas that already contain City services must be encouraged. Increasing the density of residential development within the community can provide several benefits. Concentrating densities in certain areas allows others to be preserved as greenspace, a vital urban amenity. Further, as densities increase, the efficiency and quality of urban services can be improved, and public transit becomes a much more feasible service.

Furthermore, the GPP specifically addressed the need for increased residential density/diversity in Geography of the Policies:

Land Use: A mix of office, commercial, civic, high-density residential and cultural land uses are recommended for the downtown. New residential, retail, and office growth must be redirected to the downtown if Bloomington is to slow the sprawl at the city's edge. Several land-use policies are necessary to achieve the active and engaging downtown that is so important to this community.

- *The Downtown area should be targeted for increased residential density (100 units per acre) and for intensified usage of vacant and under-utilized buildings.*

The Downtown Vision and In-fill Strategy Plan echoes the need for a mix of residential options in the downtown:

Residential Development Strategy Diverse housing options in downtown should be available in a range of product types and prices, including market rate and affordable categories. Construction of new residential units in mixed use complexes, as well as adaptive reuse of upper floors in older commercial buildings are envisioned. These product types should be promoted in the downtown area:

- *High amenity, market rate units, historic*
- *High amenity, market rate units, new*

Creating projects that combine these residential types is particularly encouraged.

The Strategy Plan recognizes the potential need for variances from some standards to achieve certain community goals:

- *Projects which may need exemptions on some design requirements that fulfill other downtown goals (e.g. affordable housing, owner-occupied housing, base employment, etc.)*

Our multi-phased mixed-use development proposes to address a long-ignored residential segment--owner occupied housing that has been encouraged by community leaders in every strategic visioning plan. Clearpath is offering an urban residential product that offers from one to three-bedroom options with amenities desired by owner-occupied residents. The project will be marketed to young professionals, retirees and downtown/university based employees. This residential demographic is a much-needed addition to our downtown core.

The proposed building's design and density is driven by the unique nature of an infill owner-occupied residential project on a smaller city lot. Our research indicates that the market desires downtown condominiums that provide a unique urban experience. As such, we are offering a design that offers 10-foot ceilings, large outdoor rooms, lobby entry off of Kirkwood, unique common area amenities and secured parking. The Kirkwood level footprint is comprised of street retail, condominium lobby entrance and secured parking. The residential units are located on floors two through four. Additionally, there are other site related expenses unique to an urban infill project that drive the need for additional density: these include land costs, infrastructure (e.g. need to bury electrical lines in both alleys) and construction staging. In order to address this density need, the design steps-back at Kirkwood to bring the scale down. Additionally, the canopy along the street level will bring the street front down to a human scale consistent with Kirkwood.

The project and design is in scale with historical structures and recently approved/constructed projects. The Buskirk, KP building on the Square, Oddfellows, CVS and Uptown buildings are examples of multistory buildings adjacent to the lot. Newer projects such as the Sullivan's building and downtown

hotel projects are representative of Bloomington's evolution towards recognizing the need for greater density for urban infill projects.

The overall design, through the use of brick, limestone, glass and metal breaks the façade up to visually integrate the building into the fabric of Kirkwood and surrounding buildings. The structure itself is to be built with a steel beam/concrete core. This, combined with the use of quality and timeless exterior materials on all four sides, will result in an attractive building that will add to the long-term character of downtown and Kirkwood. Unlike many of the new apartment structures, our project utilizes a design that owner's will be proud to call home for many years to come.

The project is being designed to meet or exceed LEED Certified equivalency. The condos, as such, will incorporate numerous environmentally friendly features including:

- Solar Panels on Roof
- Car Charging Station
- Recycling Program
- Energy Efficient HVAC Systems
- No/Low VOC Materials
- Locally/Regionally Sourced Materials
- LED Lighting
- Energy Efficient Appliances/Systems
- Water Efficient Fixtures

Please refer to the “Green Building Initiatives” exhibit for additional details.

In order to reduce the likelihood that these units may be converted to rentals, the condominium association documents will prohibit owners from offering units for short-term rental such as Airbnb. Additionally, the documents will prohibit the units from being occupied by more than two unrelated adults. These restrictions will aid in the maintenance of a strong owner-occupied environment.

Finally, the addition of nearly 1,100 SF of retail will provide new modern space for the downtown retail scene. The following is a summary of project per the previous submission including the addition of solar panels and garage entry off of Kirkwood.

Residential Density and Owner Occupancy: The proposal offers 15 residential condominiums and 1 commercial condominium. The residential units range from 3,264 SF to 1,582 SF. The commercial condominium is approximately 1,100 SF.

Height: Our proposal is for a 4-story building. The design features an average building height 50’6” feet using the average elevation. It is worth noting that the height is being driven by market demand of owner-occupied housing. Our commercial space has open ceiling heights from 14-16 feet. The owner-occupied housing has 10-foot clear ceilings.

Architecture/Materials: The architect, Ryan Strauser, has blended contemporary design with more traditional elements. Numerous punched openings with distinctive sills/lintels have been added. The renderings show a distinctive base, middle and cap. The extensive use of glass and key entries for the condominiums and commercial space along Kirkwood, including on the garage entry door, will create a pedestrian friendly streetscape with opportunities for outdoor seating and planters.

Building Height Step Down: The design contains a step-back at the front façade facing Kirkwood and adjacent to the alley. Our proposed building is separated by an alley. Our side is across the alley from the Book Corner's rear elevation. Visually, we achieve the required step-back from the Kirkwood/alley perspective.

Void-to-Solid Percentage: See architect's comments.

Solar Panels: Since our last submission, we believe it makes economic sense to add solar panels to the roof of the project. It is projected that addition of the panels will at a minimum cover the costs of electricity for all the common area including the lobby and garage. Additionally, we are seeking the sustainable incentive under the UDO (see Zoning Compliance/Sustainable Incentive section below).

Garage Entry: Our previous submission had the garage entry off of Washington utilizing the loading dock area used by CVS as the entry access. Clearpath did not and does not have a legal easement to use the loading dock for such purposes. In our original petition, we had an arrangement with the owner of the CVS space. This has subsequently expired and will not be considered moving forward. As such, access to the garage off of either of the alleys is not feasible due to grade changes and economics. Under our revised proposal, the garage entry will be on the east side of the building facing Kirkwood. We currently have two very active curb cuts that serve the surface lot. This will now be reduced to one curb cut. The activity from the garage will be significantly less than current uses as it only serves the residents of the condominiums. Additionally, the garage door will be designed to complement the design of the Kirkwood storefronts/streetscape.

Zoning/Sustainable Incentive: The site is currently zoned MD-CS (Mixed-use Downtown with Courthouse Square Downtown Character Overlay). Our previous submission was approved under slightly different regulations. Clearpath is seeking to build a structure that contains 4 floors and that is taller than 40 feet. For the additional floor, we are pursuing the sustainable incentive and will pursue any other required variances either via the BZA or Hearing Officer process. Per 20.04(d), we plan to comply with, at a minimum, four of the six noted qualifying criteria including covered parking, cool roof, solar energy, and building efficiency. In conclusion, we are offering essentially the same project that the Plan Commission unanimously supported in 2018. We look forward to our formal meeting to discuss the project and answer any remaining questions.

Variances Sought: We seek two variances from the BZA.

1. Variance from 20.03.010 (e)(1) Nonresidential Ground Floor Standards. This section requires that a minimum of 50% of the total ground floor area located along Kirkwood. Our previous approval did not have this requirement; thus it was approved with a significant portion of the ground floor with residential parking. As currently designed, One15 has one retail space (@1,100 SF), the condo entry/lobby, and the garage entry. The project as designed is critical to the success of the project. Providing at least one parking spot per condominium unit is market driven by our owner-occupied buyers. Without the parking, the project is not economically sustainable. The design balances the need for an "active" streetscape with the market need for parking. The parking is not public and only for residents. As designed, the retail space qualifies as approximately 10% of nonresidential ground floor space. With the condo entry and other miscellaneous uses (trash, EV charging area and etc), the percentage is closer to 15%. While still considerably less than the 50% requirement, it balances the project's need for parking and the economic realities of retail. We are comfortable with trying to lease an additional 1,100 SF of retail space but do note that there is widespread availability of retail space in the downtown

area. Our desire as a community to have an active retail environment must align with market realities. We believe we have struck a good balance that serves the greater need of the community—housing while providing some retail opportunity. We respectfully request a variance from this requirement.

2. Variance from section 20.02.050 (6) Windows and Doors on Primary Facades. The UDO in this overlay requires 70%. As was previously designed/approved and with the addition of the glass garage entry door, we are approximately at 58%. Architecturally, the additional brick in the modulation provides the building distinct “entry points” for the retail, condo lobby and garage. This provides opportunities for planters and needed wall space in interiors. The small brick sections flow to the upper floors providing needed balance. We would like to maintain the original design balance and respectfully request a variance from this standard.
3. Variance from 20.04.070 (e) (2) Alignment with Setbacks. This section of the UDO requires that new building abutting a notable building align with the existing setback where the façade modules meet. To meet the façade modulation requirements, the design incorporates several different setbacks along the entire Kirkwood façade. When previously approved, the “CVS” building (which we developed and continue to own part of) was not part of any historic designation. The approved design at the façade modulation that meets the existing building is set back approximately 1’6”. This was done to provide modulation relief. Additionally, the “CVS” building has a deeper setback on the ground floor of approximately 8 feet. Visually the existing building has some modulation and is not designed/constructed like some of the traditional courthouse square buildings. We think given the design and age of the existing building combined with the need for façade modulation in the UDO our existing design continues to work well with the abutting facade and request a variance from this requirement.

Respectfully submitted by: Randy Lloyd

August 6, 2022

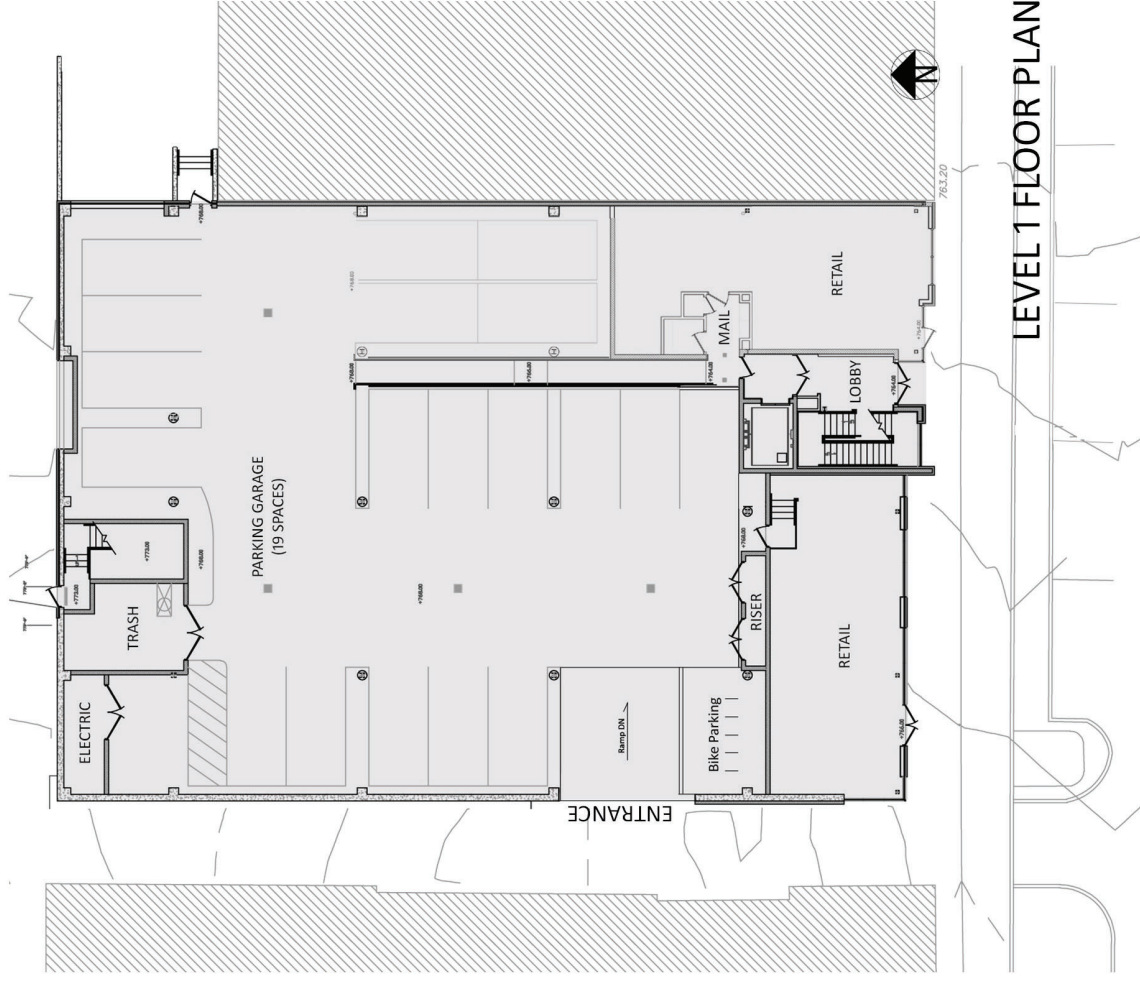


VIEW LOOKING NORTHEAST FROM KIRKWOOD/WALNUT INTERSECTION



ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL



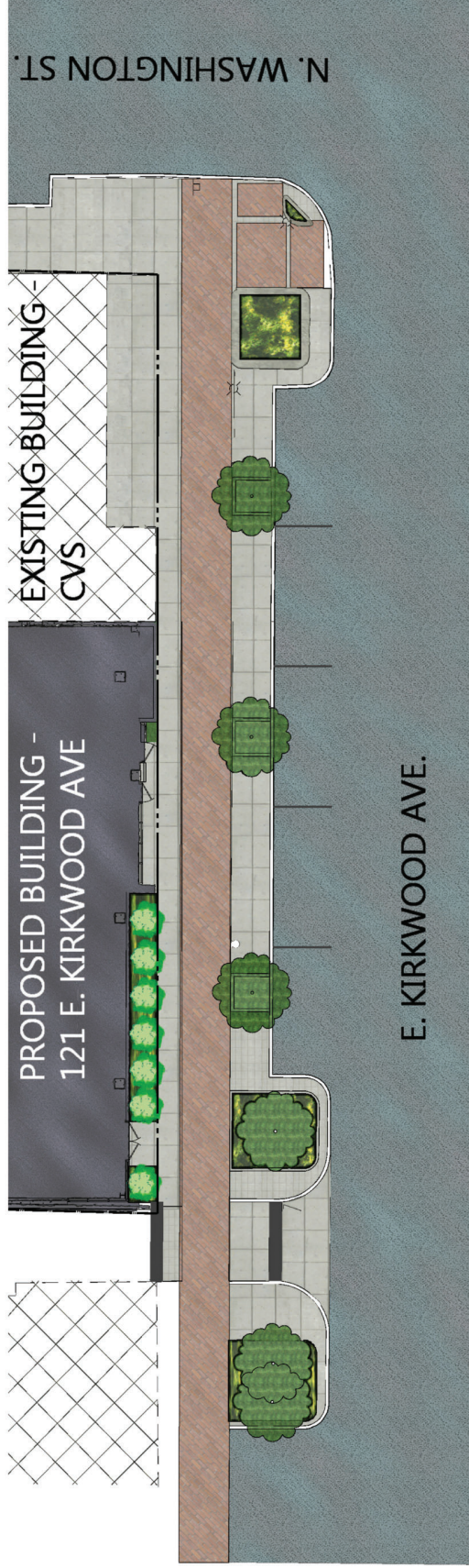
LEVEL 1 FLOOR PLAN

ONE15 KIRKWOOD
 CONDOMINIUMS & RETAIL

August 6, 2022

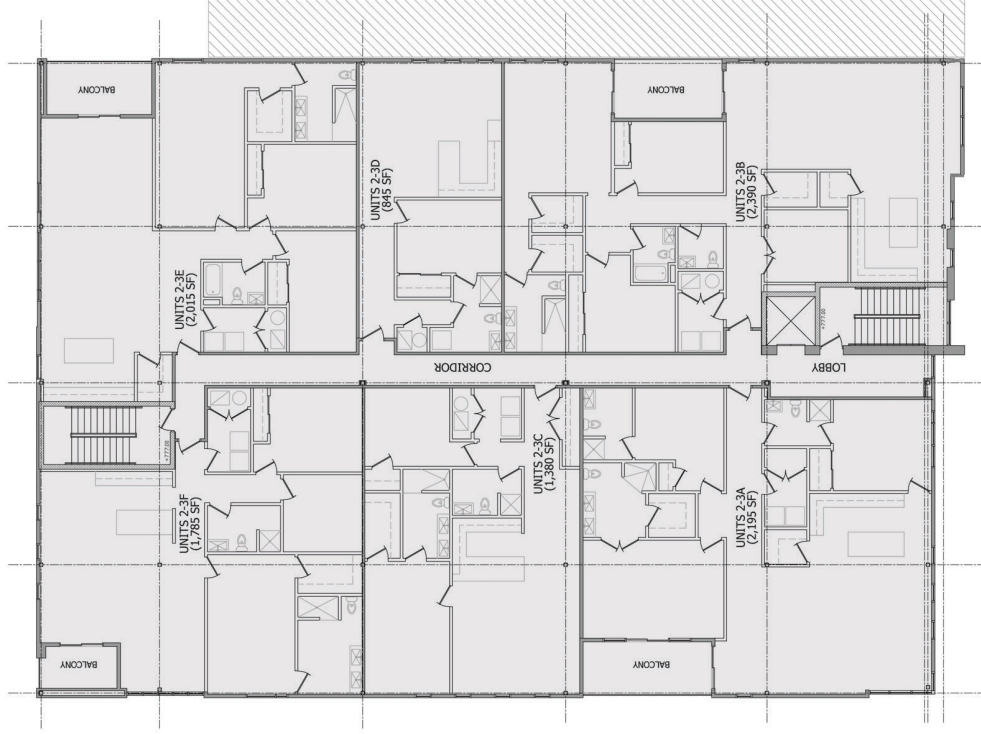


August 6, 2022

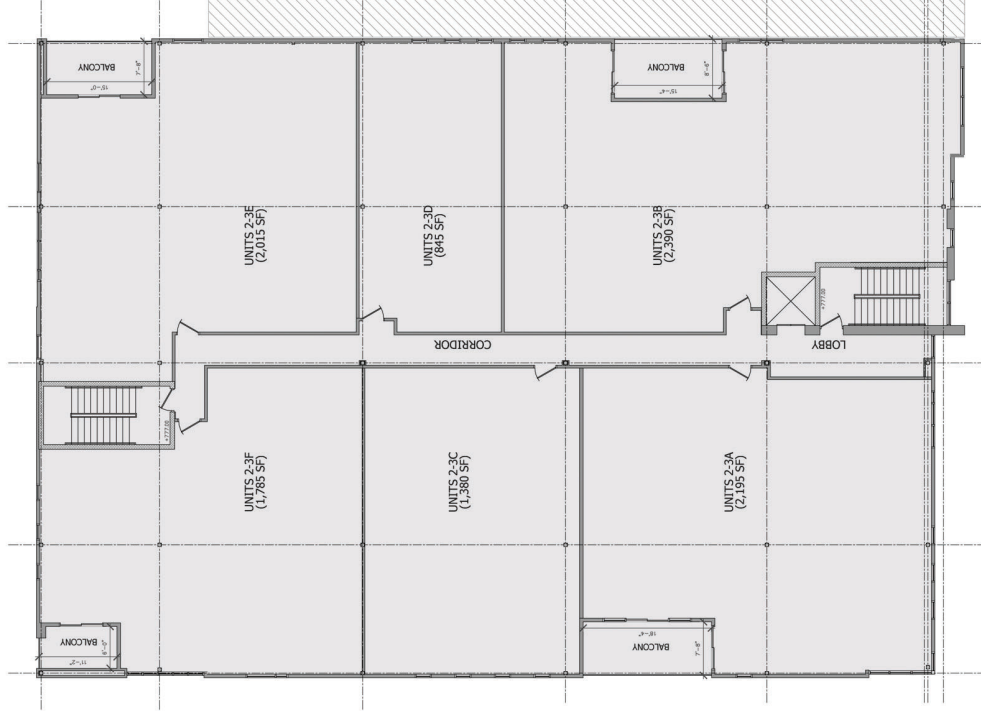


ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL



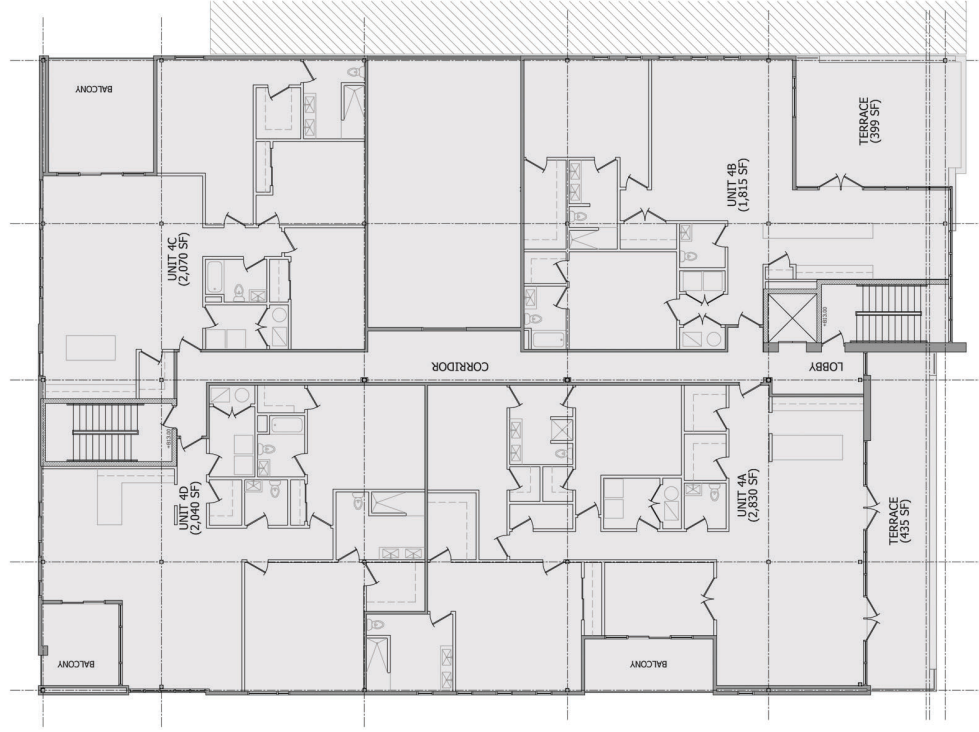
LEVELS 2-3 FLOOR PLAN
PROPOSED BUILD-OUT



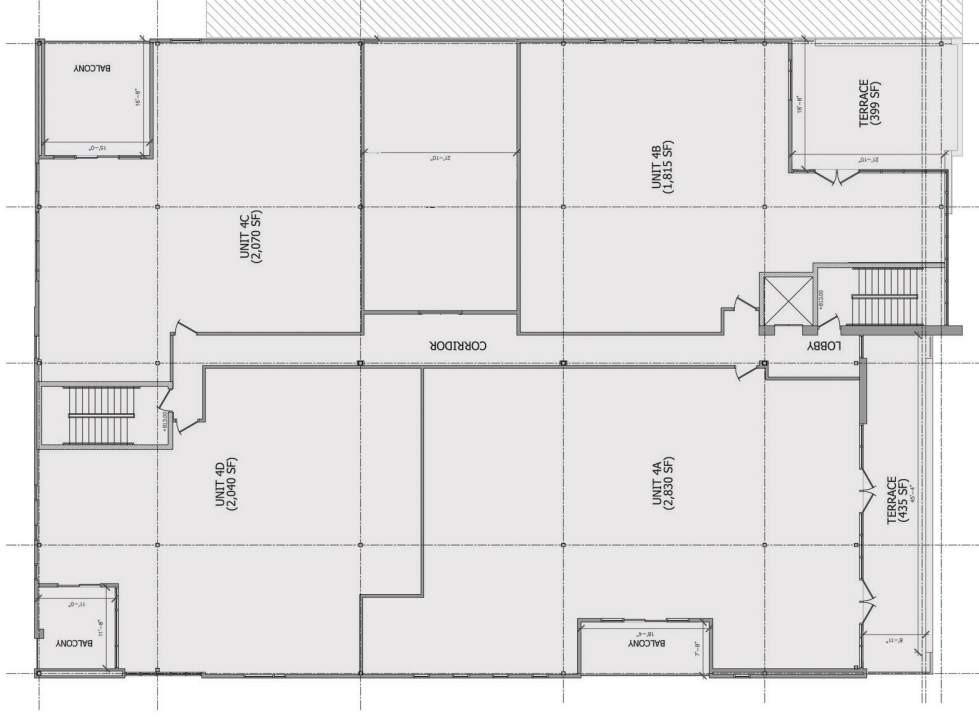
LEVELS 2-3 FLOOR PLAN

August 6, 2022

August 6, 2022



LEVEL 4 FLOOR PLAN
PROPOSED BUILD-OUT



LEVEL 4 FLOOR PLAN

August 6, 2022



VIEW LOOKING NORTHEAST FROM KIRKWOOD



ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL

August 6, 2022



VIEW LOOKING NORTHWEST FROM KIRKWOOD/WASHINGTON INTERSECTION



ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL

August 6, 2022



SOUTH ELEVATION (KIRKWOOD)



ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL

August 6, 2022



WEST ELEVATION (ALLEY)

August 6, 2022



EAST ELEVATION (WASHINGTON)



ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL

August 6, 2022



NORTH ELEVATION (ALLEY)

August 6, 2022



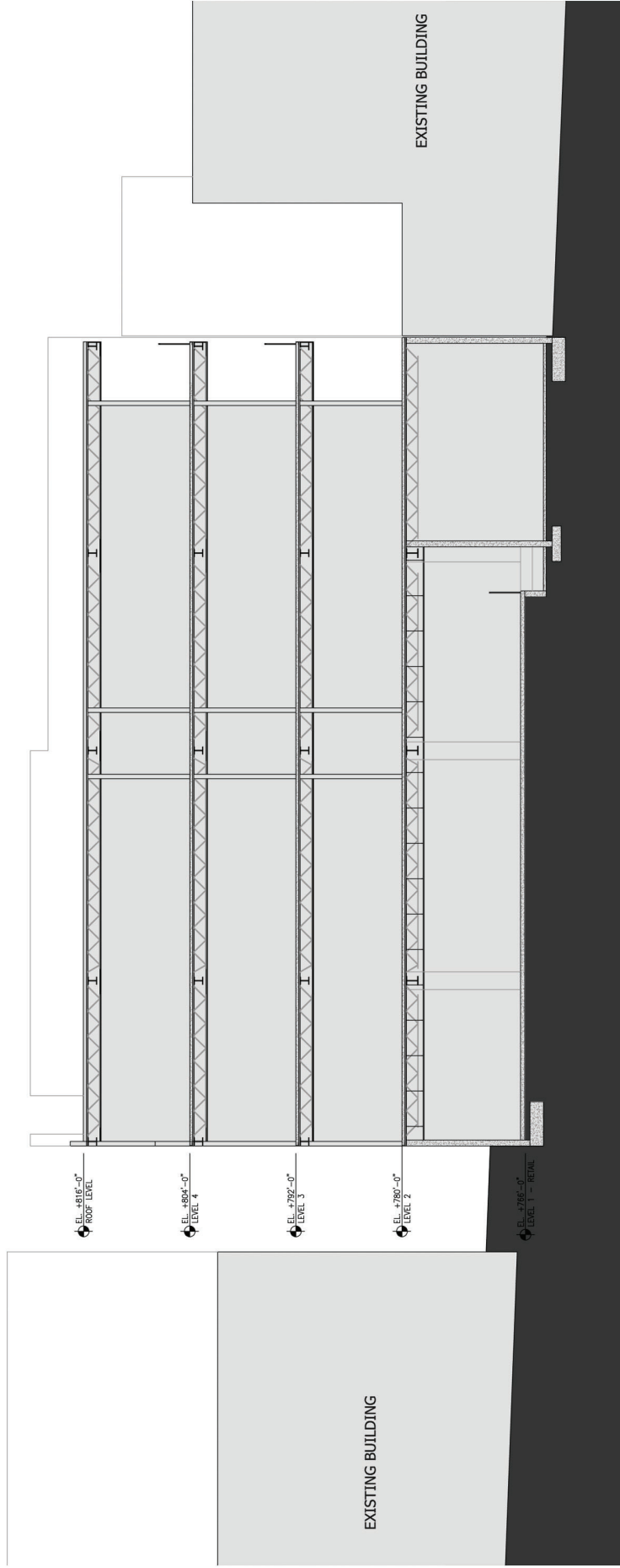
VIEW LOOKING SOUTHWEST ALONG WASHINGTON STREET



ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL

August 6, 2022

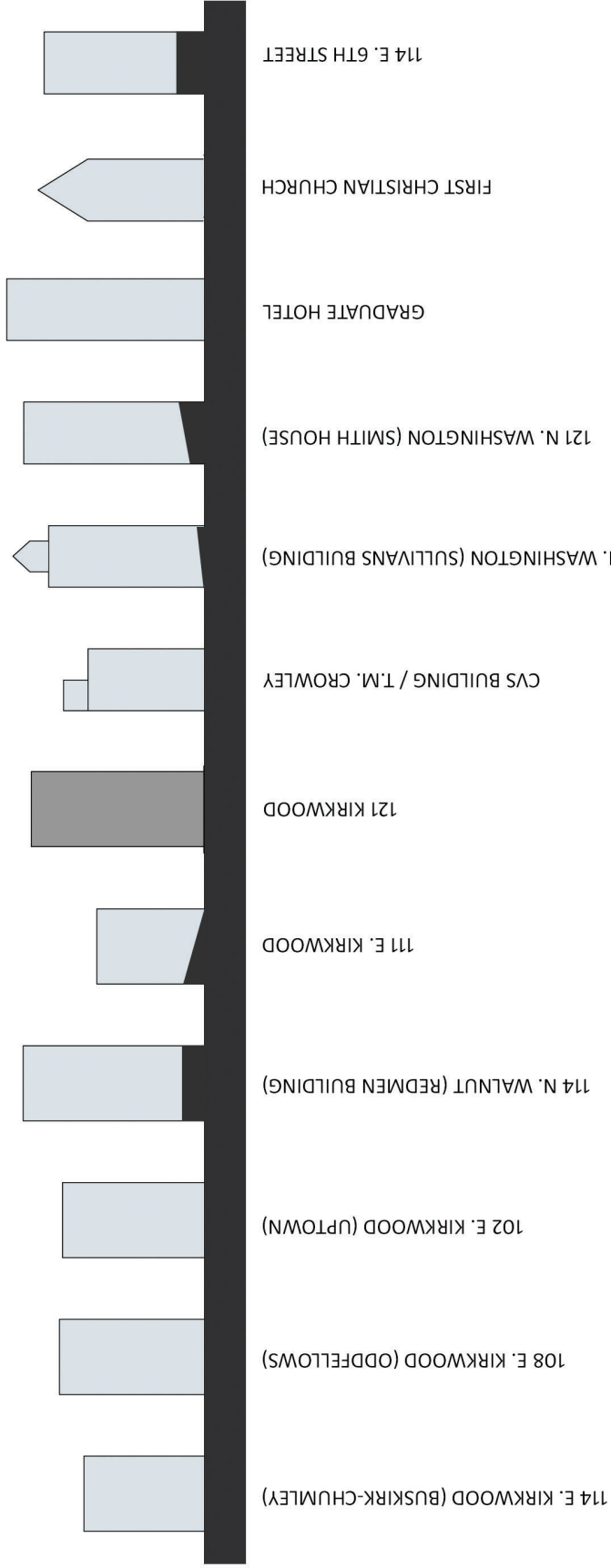


BUILDING SECTION - EAST/WEST



ONE15 KIRKWOOD
CONDOMINIUMS & RETAIL

August 6, 2022



BUILDING HEIGHT DIAGRAM



ONE15 KIRKWOOD

CONDOMINIUMS & RETAIL



121 E KIRKWOOD AVE | SUITE 302 | BLOOMINGTON, IN 47408
 PHONE: 812.287.8596

MEMORANDUM

To: BZA, City of Bloomington

**From: Christine Bartlett, Ferguson Law
 Cutters Kirkwood 123, LLC/Randy Lloyd, Petitioner**

Date: October 12, 2022

In response to the previous BZA hearing for Petitioner's request for a variance from ground floor nonresidential use other than parking, Petitioner engaged Christine Bartlett of Ferguson Law to present a cogent and concise overview to address the questions and concerns of the BZA regarding the variance. We respectfully submit the following memorandum for BZA's consideration.

STANDARD OF REVIEW FOR AREA VARIANCES

The Board of Zoning Appeals (BZA) may approve a variance upon determining the following:

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
- (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
- (3) 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.¹

A finding of "practical difficulties" is determined by the following factors:

- a) a significant economic injury from the enforcement of the zoning ordinance;

¹Bloomington Municipal Code 20.06.080(b)(3)(E)(1); See also Ind. Code 36-7-4-918.5 (outlining the minimum standard that is incorporated in the Bloomington Code).

- b) whether the injury is self-created or self-imposed; and
- c) whether any feasible alternative is available, within the terms of the ordinance, which achieve the same goals of the landowner.²

Significant economic injury can be demonstrated in a variety of ways including showing that damages may occur to the property if preventative measures are not taken, that complying with the zoning code would result in additional cost and lost space, or that the redevelopment of a parcel, which had been vacant for two years, would be an “economic drain” to the petitioner through loss of rental income.³

As to whether the injury is self-created, merely purchasing a property with knowledge of the applicable zoning ordinances does not necessarily constitute a self-created injury.⁴ A self-created injury exists where the landowner took some action to make the proposed development be out of compliance with the zoning code or knowingly violated the zoning code for years before seeking a variance.⁵ Likewise, a Petitioner is not required to take affirmative action to avoid the need for a variance.⁶ “[W]here an unnecessary hardship is shown to exist based upon the terms of an

²Metro. Bd. of Zoning Appeals, Div. II v. McDonald's Corp., 481 N.E.2d 141, 146 (Ind. Ct. App. 1985) (Emphasis added).

³Caddyshack Looper, LLC v. Long Beach Advisory Bd. Of Zoning Appeals, 22 N.E.3d 694 (Ind. Ct. App. 2014); Burton v. Bd. of Zoning Appeals of Madison Cty, 174 N.E.3d 202, 218 (Ind. Ct. App. 2021); Rising Prop. Mgmt., LLC v. Dep't of Metro. Dev. Bd. of Zoning Appeals, 961 N.E.2d 540 at *16-17 (Ind. Ct. App. 2012).

⁴See Reinking v. Metro. Bd. of Zoning Appeals, 671 N.E.2d 137, 142 (Ind. Ct. App. 1996).

⁵See Board of Zoning Appeals of City of Hammond v. Waskelo, 240 Ind. 594, 168 N.E.2d 72 (Ind. 1960) (in which petitioners voluntarily sold a house and a portion of their lot thereby reducing the remaining lot to a smaller size than that required by ordinance) and Edward Rose of Ind., LLC v. Metro Bd. of Zoning Appeals, 907 N.E.2d 598, 606 (Ind. Ct. App. 2009).

⁶See Burton, 174 N.E.3d at 219 (petitioner was not required to purchase contiguous parcels to eliminate the need for setback variances).

ordinance, as they apply to the land, the ability to claim hardship is available to subsequent purchasers as well to the original owner.”⁷

Particularly with respect to the third prong, whether a feasible alternative is available, the required showing should not be heightened; the law requires “a showing of practical difficulties, not practical impossibilities.”⁸ Moreover, the Petitioner’s proposed development goals must be considered. It is not sufficient to deny a variance because the site could be redeveloped entirely if that alternative development does not align with the same goals of the Petitioner.

APPLICATION TO PETITIONER’S VARIANCE REQUEST

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

The Petitioner’s project will not be injurious to the public health, safety, morals, and general welfare of the community. In fact, it will help achieve the goals set by Bloomington’s Comprehensive Plan.

Bloomington’s Comprehensive Plan recognizes the need for density and diversity of housing. Specifically, Chapter 4 outlines policy goals and objectives that support the essence of the project’s overall mixed-use development plans—a pharmacy, professional offices and owner-occupied housing—which combine to create a “sense of place.” “It is important that Bloomington continue to support a diverse and robust Downtown that is neither made up of purely student-centric businesses nor dominated

⁷Reinking, 671 N.E.2d at 141. The “practical difficulties” standard is similar to the “unnecessary hardship” standard, which is applied to use variances. Edward Rose of Ind., LLC v. Metro. Bd. of Zoning Appeals, 907 N.E.2d 598, 606 (Ind. Ct. App. 2009).

⁸Burton, 174 N.E.3d at 219.

by multifamily student housing.”¹ Petitioner’s project adds an underrepresented housing form to the downtown area, owner occupied residential condominiums, serving the Comprehensive Plan’s goals to “diversify the Downtown residential population by identifying and encouraging missing housing forms in the Downtown area (such as row houses, condominiums and live/work space).”²

The project also serves multiple other goals and policies of the Comprehensive Plan. Goal 4.4 seeks to expand the range of diverse housing types in the downtown.³ Policy 4.4.3 encourages developers to build and market housing to non-student residents.⁴ Goal 4.6 Optimize Parking encourages "attractive, cost effective, convenient and environmentally public and private motor vehicle and bicycle parking facilities."⁵ The project aims to meet this Goal and related policies by providing sufficient parking for the project for resident's cars, including electric vehicles, and bicycles to support vibrant economic activity. Additionally, residents with more than one vehicle will be encouraged to use two adjacent City garages.

Moreover, there is a reasonable likelihood that the amount of commercial space required by the UDO would remain vacant, which would be injurious to the neighborhood. As of July 2022, there was more than 200,000 square feet of commercial retail and office space for rent available in Bloomington.⁶ Petitioner’s proposal includes 2 spaces each having approximately 1100 sq/ft of rental space. This boutique-size

¹ Bloomington Comprehensive Plan, p. 52.

² Bloomington Comprehensive Plan, p. 114.

³ Bloomington Comprehensive Plan, p. 55.

⁴ Bloomington Comprehensive Plan, p. 55.

⁵ Bloomington Comprehensive Plan, p. 56.

⁶ Multifamily Projects with Retail Space currently available (7.7.2022) and Coming Soon Multifamily Projects with Newly approved Projects with Retail Space; Total Office Space currently available in Bloomington/Monroe, Indiana 7/21/2022.

space appears to be in higher demand. In fact, CFC, Inc. of Bloomington reports that it has approximately 31,000 square feet of ground floor retail space in downtown. The average size of its retail space is 1,100 square feet⁷. CFC notes that it currently has no vacancy for these units. Of the available retail space, the majority is more than 1100 sq/ft. Per John West, owner/broker with F.C. Tucker, due to the changing nature of retail, larger commercial space in downtown Bloomington is not in demand for retail operations. In his professional opinion, the primary establishments that can justify the rental rates for spaces 3,000 SF and up are restaurants and bars⁸. In Petitioners experience, the high failure rate for restaurants and bars makes these types of tenants a risky proposition. In fact, Petitioner prefers not to have restaurants/bars as tenants based on the financial risk. Statistically, it is estimated that 60% of restaurants/bars fail within the first year and 80% fail within 5 years.⁹ Having vacant commercial space, or any vacant space, is likely to negatively impact neighboring property values,¹⁰ as well as the safety, crime rates, and the walkability of the area.¹¹

Reducing the retail space to allow for a marketable owner-occupied residential space, while maintaining a clear retail storefront presence on Kirkwood, will best serve the downtown with viable and right-sized retail businesses.

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.

⁷ See attached email exchange dated October 6, 2021

⁸ Phone interview with John West dated Monday, October 10, 2022

⁹ See "The No. 1 thing to consider before opening a restaurant," March 15, 2016, <https://www.cnbc.com/2016/01/20/heres-the-real-reason-why-most-restaurants-fail.html>

¹⁰ "Can commercial real estate impact residential property values?," dated March 6, 2021, <https://www.pilotonline.com/life/vp-hl-realtors-on-call-tunncliffe-waring-commercial-impact-030621-20210307-fmzr4mq2yvevja4uxivefjd6yq-story.html>.

¹¹ "Research: When a Retail Store Closes, Crime Increases Around It," June 29, 2017, <https://hbr.org/2017/06/research-when-a-retail-store-closes-crime-increases-around-it>

Here, staff agrees with Petitioner that granting this variance “will not affect the use and value of the area adjacent to the property in a substantially adverse manner.”¹² Developing the now-vacant parking lot will likely serve to increase the value of the area adjacent to the project. Conversely, as stated above, vacant commercial space, which is likely to occur if the variance is denied, would have a negative impact on nearby property values.

3. The strict application of the terms of this UDO will result in Practical Difficulties.

Here, the strict application of the zoning ordinance would result in practical difficulties in the use of the property.

Significant Economic Injury

The ability to sell condominiums depends on being able to provide at least one parking space per unit. According to commercial realtors Brian Thompson and Kerry Feigenbaum, not providing parking to the condominium owners would “drastically devalue the property and hinder future sales.”¹³ Without parking, Brian Thompson, Manager/Realtor/Broker of F.C. Tucker and past President of the Indiana Realtors Association, believes in his professional opinion that the project is not viable without the proposed parking. When pressed further for what it might take for someone to purchase a condominium at this location without on-site parking, he stated that the residential units would need to be marketed at \$250,000 to \$300,000 each¹⁴. Even assuming petitioner could sell 15 units at \$300,000 the total revenue of \$4,500,000 does not even

¹² See Staff Report dated August 25, 2022, p. 2.

¹³ Letter dated September 22, 2022 by Brian Thompson and Kerry Feigenbaum.

¹⁴ Follow-up email exchange between Petitioner and Brian Thompson dated October 7, 2022

come close to supporting the estimated construction costs of \$13,500,000. With additional revenue for the current retail space, moving forward without parking would lead to a total of loss of approximately \$8,000,000 on the project just on construction costs, making it no longer financially viable. Petitioner would suffer a significant economic injury if he built condominiums and was unable to sell them to owners without parking.

Moreover, as stated above, there is a reasonable likelihood that the amount of commercial space required by the UDO would remain vacant. Using the approximate rental price in the area, of \$18 per square foot¹¹, if Petitioner was required to comply with the 50% commercial requirement and such space was not leased, the loss of rental income would be more than \$99,000 per year to the Petitioner.

Injury Not Self-Created

The injury is not self-created. When Petitioner purchased the property, it was subject to a different zoning code and did not require these variances. This is not a case where the Petitioner knew of the need for a variance when the property was purchased. Petitioner designed a project that complied with the then-current zoning ordinance and was approved by the Plan Commission on a 9-0 vote. Start of construction was initially delayed due to protracted negotiations (@14 months) with Duke Energy for the relocation of poles/lines in the adjacent alleys. In addition to adding approximately

¹¹Multifamily Projects with Retail Space currently available (7.7.2022) and Coming Soon Multifamily Projects with Newly approved Projects with Retail Space; Total Office Space currently available in Bloomington/Monroe, Indiana 7/21/2022.

\$400,000 to Petitioner’s infrastructure budget, the Duke negotiations delayed finalizing the overall budget, pricing and the construction loan. The project was then subjected to the world-wide Covid pandemic, which negatively affected financing options and all real estate construction¹², a new UDO was adopted by City Council, which changed the zoning requirements and in turn required Petitioner to need two variances to construct the same project. Pursuant to Reinking, when the need for a variance is based upon the terms of the ordinance, “the ability to claim hardship is available to subsequent purchasers as well to the original owner.”¹³

No Feasible Alternatives

There are no feasible alternatives available that will achieve the same goals of the landowner. The question is not whether other developments could be built at this site or whether the site could be redesigned for apartments, which might be easier to lease without parking spots. The critical inquiry is whether feasible alternatives are available to achieve Petitioner’s same goals—to construct an owner-occupied condominium building. There are not. The only feasible way to develop condominiums, an approved use under current UDO, that will sell is to provide at least one parking space per unit.

¹²See “COVID-19: Most multifamily contractors experiencing delays in projects due to coronavirus pandemic,” April 5, 2020, <https://www.bdcnetwork.com/covid-19-most-multifamily-contractors-experiencing-delays-projects-due-coronavirus-pandemic/>; “Construction Delays Continue for Multifamily Developers,” July 20, 2020, <https://www.multihousingnews.com/construction-delays-continue-for-multifamily-developers/>; “Construction Financing and the COVID-19 Challenge,” September 2, 2020, <https://www.commercialsearch.com/news/construction-financing-and-the-covid-19-challenge/>; “Pandemic Has Negative Impact on Commercial and Multifamily Construction,” January 28, 2021, https://www.multifamilyexecutive.com/design-development/construction/pandemic-has-negative-impact-on-commercial-and-multifamily-construction_o

¹³Reinking, 671 N.E.2d at 141.

The only feasible way to provide parking is to include it on the first floor. Parking cannot be included underground or on the second floor due to difficult grade and dimensions of the alleys. Ryan Strauser, architect for the project, notes¹⁵ that including the parking on the second floor would add an additional cost of \$2,000,000 to the project, would result in a loss of five residential units, and would require the entrance to the garage be located on Kirkwood to have a long enough ramp to get to the upper level. Losing an entire floor of residential units takes approximately \$4,500,000 in value away from the project, making it no longer financially feasible. If units are removed to make room for parking on upper floors, the unit price would have to increase 50% on average. On a per square foot basis, each unit would need to be sold at over \$600 per square foot—far above current market pricing. Residential realtors do not believe they can be sold at this price, with or without parking.

Parking underground would cost an additional \$2,200,000-\$2,400,000 and would require the entrance to the garage be on Kirkwood to have a long enough ramp to get to a lower level. The City has stated that entrance on Kirkwood is not desirable and would also require a significant portion of the Kirkwood facade to be used for a parking drive/ramp, having the effect of reducing the on street retail space on Kirkwood. Off-site parking, while arguably available at two City owned garages, would not be feasible given security issues, distance and market demands requiring on-site parking for owner-occupied condominiums at this location. It is worth noting that two similar projects, The Foundry and Lockerbie, provide unit parking on-site. Additionally, soils and bedrock

¹⁵ Letter from Ryan Strauser, dated October 10, 2022

peculiar to the site, combined with the lots tight urban size and grades, would burden the project with other significant costs even if this was feasible option.

In summary, Petitioner holds that granting the variance is the only practical and economically viable solution to enable the project to move forward. The following suggested findings are offered for your consideration.

Petitioner's Proposed Findings:

(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 a smaller percentage of total ground floor area dedicated to nonresidential use other than a parking garage use will not be injurious to the public health, safety, morals, or general welfare of the community. The project will help achieve the goals of Bloomington's Comprehensive Plan to add density and diversity of housing downtown through owner-occupied condominiums, which is beneficial to the downtown and 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; and

PROPOSED FINDING: The granting of the variance to allow for a smaller percentage of total ground floor area dedicated to nonresidential use other than a parking garage use will not affect the use and value of the area adjacent to the property. The project will likely have the effect of increasing property values by

replacing a vacant lot with a mixed-use development that includes owner-occupied residential condominiums, and is more likely to have leased commercial storefront.

(3) 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.

- a. a significant economic injury from the enforcement of the zoning ordinance;
- b. whether the injury is self-created or self-imposed; and
- c. whether any feasible alternative is available, within the terms of the ordinance, which achieve the same goals of the landowner.

PROPOSED FINDING: The 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; and the development standards variance will relieve the practical difficulties. Not allowing the ground floor to be used for parking will effectively prevent the project from being developed, as the goals of the Petitioner—to build residential owner-occupied condominiums—requires that parking be offered and included on site. Not approving the variance to allow for a smaller percentage of total ground floor area dedicated to nonresidential use other than a parking garage use will result in significant economic injury, as the condominium units would be rendered unmarketable/unsaleable. The injury is not self-created, as it was not Petitioner’s actions which put the property out of

compliance with the UDO; it results from the language of the UDO, which was adopted after Petitioner purchased the property. Finally, no other feasible alternatives exist due to the peculiarity of the property. The difficult grades and dimensions of the alley renders underground or second floor parking unfeasible without entrance off of Kirkwood, which would have the undesirable effect of reducing Kirkwood store frontage.

EXHIBITS

Subject: Re: Commercial space
Date: Wednesday, October 12, 2022 at 1:35:31 PM Eastern Daylight Time
From: Randal L Lloyd
To: Webb, Mark
Attachments: image002.jpg

Thanks for the information, Mark—quite helpful.

Best,

Randy

Randy Lloyd
President & General Counsel
121 E. Kirkwood Avenue, Suite 302
Bloomington, IN 47408
(812) 322-1560 (Cell)
(812) 287-8596 (Office Direct)
www.clearpath-services.com

CLEARPATH

From: Webb, Mark <Mark.Webb@CFCProperties.com>
Date: Thursday, October 6, 2022 at 11:54 AM
To: Randal L Lloyd <randy@clearpath-services.com>
Subject: RE: Commercial space

Hey Randy –

Sorry, it took a little longer than I anticipated to get this to you. Anyway,

We have approx. 31,000 total sq ft of retail space in downtown Bloomington with an overall average size of about 1100 sq. ft.

Hope this helps

Mark Webb
Director
Real Estate Operations
Ethics and Compliance

CFC™ Properties
320 W. Eighth St., Ste 200, PO Box 0729
Bloomington, IN 47402-0729
812.332.0053 ext.12-2085

cfcproperties.com
mark.webb@cfcproperties.com

September 22, 2022

To whom it may concern,

Concerning the parking at the Lofts on Kirkwood. Currently there are two spots allocated for the two top floor units and one space for each additional unit. There are also two spots for potential employees of the commercial space. Removal of any of these lots will drastically devalue the property and hinder future sales. There are currently 4 units reserved and when asked how important having a personal space was it was part of the deciding factor when deciding to reserve a unit. If the unit did not come with parking they would have looked elsewhere. There is already a concern for future residents concerning where guests would be able to park and also future customers of the commercial space may also find it difficult which can also hinder the lease ability of those spaces. Down town parking is at a premium and it is un realistic to expect a future homeowner to pay a monthly parking fee at a garage or constantly "feed" a parking meter.

Thank you,

Brian Thompson, FC Tucker/Bloomington, Manager, REALTOR



Kerry Feigenbaum, FC Tucker/Bloomington, REALTOR



Subject: Re: Parking info
Date: Wednesday, October 12, 2022 at 1:32:10 PM Eastern Daylight Time
From: randylloyd1@comcast.net
To: thomsbl@homefinder.org, Randal L Lloyd
CC: 'Kerry Feigenbaum'
Attachments: image002.jpg

Brian,

Thank you for your professional assessment.

Randy Lloyd
121 E Kirkwood Avenue
Suite 302
Bloomington, IN 47408

From: thomsbl@homefinder.org <thomsbl@homefinder.org>
Date: Friday, October 7, 2022 at 9:18 AM
To: 'Randal L Lloyd' <randy@clearpath-services.com>, randylloyd1@comcast.net
<randylloyd1@comcast.net>
Cc: 'Kerry Feigenbaum' <kerry.feigenbaum@homefinder.org>
Subject: Parking info

Hi Randy,

Sorry I was out of the office Wednesday and Thursday this week and just got your phone message.

So I talked already to Kerry and John West. We all agree that taking the parking away basically kills the project as it stands.

To buy something DT at that price point and then have to secure parking at least a block and a half away is a huge detriment. Just thinking about the weather, everyday living, moving in and out, buyers would expect more.

The Foundry offers a parking space per bedroom and Lockerbie has a similar situation.

There might be a very small market but at a much lower price, much lower. I'm thinking someone might pay \$250-300,000 and be willing to be inconvenienced for the parking situation.

I can't imagine anyone paying more for that situation. It can even be an issue in the surrounding area where single family homes have very limited onsite parking and extra is on the street. You have to secure a parking permit then hope there is something on the street a reasonable distance to your home.

Let us know if you want to talk more.

Brian and Kerry



Brian Thompson
MANAGER/REALTOR*/BROKER

2019 President, Indiana Association of REALTORS

812.320.2394 c | 812.330.7552 o
brian.thompson@tuckerbloomington.com

487 S. Clarizz Boulevard
Bloomington, IN 47401



F.C. Tucker/Bloomington REALTORS*
Independently Owned & Operated



Multifamily Projects with Retail Space currently available (7.7.2022)

Property Name	Address	Price	Available SF	CAM	Lease Type	TI	Notes
Omega - Morton	223 N Morton Street	\$17	2,800	\$ 2.50	MG	N/A	
Omega - S. Walnut	340 S Walnut (Suites 1 & 2) Street	\$18	1230	\$ 2.50	MG	N/A	
Omega - S. Walnut	338 S Walnut Street	\$18	1,368	\$ 2.50	MG	N/A	
4th Garage	0 N Walnut Street	\$18	7,200	TBD	NNN	\$ 50.00	
The Verve	1830 N Walnut Street	\$19	5,347	TBD	NNN	Negotiable	
The Quarters	323 S Westplex Avenue	\$21	9,773	0	Gross	Negotiable	
The Quarters	323 S Westplex Avenue	\$21	9,773	0	Gross	Negotiable	
The Quarters	323 S Westplex Avenue	\$21	11,000	0	Gross	Negotiable	
Evolve Apartments	1525 N. Dunn Street	NA	2,893	TBD	NNN	Negotiable	
Totals			51,384				

Coming Soon Multifamily Projects with Newly approved Projects with Retail Space

Property Name	Address	Price	Available SF	CAM	Lease Type	TI	Notes
Annex Student Living	325 E. 3rd Street	TBD	6,990	TBD			Currently under construction
Switchyard Apartments	1730 S Walnut Street	\$19	3,480	TBD	NNN	\$ 50.00	Construction - Not started
LoftonEastThird, LLC	2611 E. 3rd Street	TBD	11,000	TBD			Currently under construction
Curry Urban Properties, LLC	E. Longview and S. Pete Ellis Drive	TBD	12,000	TBD			Currently under construction
Totals			33,470				

Total Office Space
currently available in
Bloomington/Monroe, Indiana
7/21/2022

48

Class	Property SubType	Price	Address	Total AG SqFt
COMMERCIAL FOR LEASE	Office	\$1	4638 E State Road 45 Highway	2,151
COMMERCIAL FOR LEASE	Office	\$9	1180 S Liberty Drive Suite 410	9,240
COMMERCIAL FOR LEASE	Office	\$12	1145 N Sunrise Greetings	27,000
COMMERCIAL FOR LEASE	Office	\$12	1600 W Bloomfield (Lower Level) Road	7,500
COMMERCIAL FOR LEASE	Office	\$13	1721 W 3rd Street Suite 4	1,180
COMMERCIAL FOR LEASE	Office	\$13	1612 S Liberty Drive	5,350
COMMERCIAL FOR LEASE	Office	\$13	1801 S Liberty Drive	13,000
COMMERCIAL FOR LEASE	Office	\$13	400 W 7th Street	2,193
COMMERCIAL FOR LEASE	Office	\$13	1600 W Bloomfield (Upper Level) Road	4,100
COMMERCIAL FOR LEASE	Office	\$13	400 W 7th Street	2,193
COMMERCIAL FOR LEASE	Office	\$13	400 W 7th Street	2,193
COMMERCIAL FOR LEASE	Office	\$15	3100 E John Hinkle Place	2,600
COMMERCIAL FOR LEASE	Office	\$15	2495 S Walnut Street Pike	3,822
COMMERCIAL FOR LEASE	Office	\$15	1600 W Bloomfield (Main Level) Road	7,255
COMMERCIAL FOR LEASE	Office	\$16	2620 N Walnut	847
COMMERCIAL FOR LEASE	Office	\$16	2755 E Canada Drive	1,983
COMMERCIAL FOR LEASE	Office	\$19	201 N Morton Street	5,000
COMMERCIAL FOR LEASE	Office	\$20	2755 E Canada Drive	1,860
COMMERCIAL FOR LEASE	Office	\$20	1569 S Piazza Drive	950
COMMERCIAL FOR LEASE	Office	\$300	112 N Walnut St #600	179
COMMERCIAL FOR LEASE	Office	\$425	1840 S Walnut Street	7,960
COMMERCIAL FOR LEASE	Office	\$650	1802 W 17th Street Suite 1A	500
COMMERCIAL FOR LEASE	Office	\$775	118 S Rogers Street	495
COMMERCIAL FOR LEASE	Office	\$800	1840 S Walnut Street	7,960
COMMERCIAL FOR LEASE	Office	\$820	403 E 6th Street #120	613
COMMERCIAL FOR LEASE	Office	\$895	118 S Rogers Street	400
COMMERCIAL FOR LEASE	Office	\$950	2656 E 2nd Street	791
COMMERCIAL FOR LEASE	Office	\$1,000	5233 S Old SR 37-W Suite A	1,092
COMMERCIAL FOR LEASE	Office	\$1,000	5233 S Old SR 37-NE Suites	2,728
COMMERCIAL FOR LEASE	Office	\$1,200	822 W 1st Street Unit 6	1,300
COMMERCIAL FOR LEASE	Office	\$1,200	116 1/2 S College Ave Unit 10	795
COMMERCIAL FOR LEASE	Office	\$1,220	403 E 6th Street #100	807
COMMERCIAL FOR LEASE	Office	\$1,300	822 W 1st Street Suite 5	1,200
COMMERCIAL FOR LEASE	Office	\$1,400	822 W 1st Suite 3 Street	1,060
COMMERCIAL FOR LEASE	Office	\$1,500	1840 S Walnut Street	789
COMMERCIAL FOR LEASE	Office	\$2,000	420 W 2nd Street	1,908
COMMERCIAL FOR LEASE	Office	\$2,032	The Mill - 642 N Madison Street	0
COMMERCIAL FOR LEASE	Office	\$2,500	2121 W Industrial Drive	2,240
COMMERCIAL FOR LEASE	Office	\$2,588	710 N Morton Street	1,553
COMMERCIAL FOR LEASE	Office	\$2,900	4211 E 3rd Street	2,400
COMMERCIAL FOR LEASE	Office	\$3,510	4101 E 3rd Street	2,905
COMMERCIAL FOR LEASE	Office	\$5,040	200 E Kirkwood Avenue	3,360
Totals				143,452



One15 – Lofts on Kirkwood

115 E. Kirkwood Avenue
Bloomington, IN 47408

Date: October 10, 2022

ATTN: Board of Zoning Appeals
Cutters Kirkwood LLC

Randy,

At your request, Strauser Design + Build, LLC has spent time evaluating several impacts of the current UDO in comparison to the UDO this building was originally designed under. The main topic of this investigation was centered around parking and the ability to provide alternate access points or plan for the parking on an alternate level of the building. I hope the following points summarize our findings as needed for a thorough review of parking impact on this project.

Item #01 – Possibility of Basement Level Parking

- A basement level of parking could be achieved on the site, but would create a re-designed structural system for the lower levels of the building and require a different access point to the garage. Current design has access from the west alley.
- The long direction of the building is north-south for this proposed structure and this would coincide with optimal direction for ramping internally.
- The sloping topography of the site adjacent the building limits the availability of access points. There are also currently buried utilities in the alleys that would not allow for alteration of alley elevations.
- Due to the sloping topography, garage access to a basement level of parking would be required off Kirkwood Avenue, directly adjacent the building to the east. The access point to the garage would be at +764 elevation at Kirkwood Avenue with a ramp inside the building to a lower parking level at approximately +754 elevation.
- In reviewing the existing topography of the site to determine if north access was achievable, it was determined that an entrance into the garage would be at +771 from the north alley. In review with available space for ramping we do not believe there would be space needed for a ramp to achieve a 17 feet of grade change within the building. Based upon this, a north access point option has been determined to not have feasibility based upon the overall building layout.
- The other condition to point out in review of this option is soils and logistics. Based upon the tight site and building footprint, a basement level of parking would require a detailed earth retention system be put in place to stabilize surrounding utilities, buildings and public ways during construction. This would be additional cost from what was planned in the original project budget.
- It should also be noted that excavation of a basement level would require considerably more bedrock removal to reach basement elevation. This is a cost that should be anticipated to be higher than any contingencies initially planned in the project budget.
- After evaluation of this conceptual additional floor, our team has established a conceptual budget for this additional work of \$2,200,000 - \$2,400,000. This number would be evaluated and updated as revised plans with detailed information would be prepared.

Item #02 – Possibility of Level 2 Parking

- After review of existing conditions, it is determined that Level 2 parking is achievable via a ramp from the southeast corner of the project off of Kirkwood Avenue. This revision would require a complete structural re-design of the Levels 1 through 3 of the building and eliminate one retail bay. Building a 5-story structure would add an additional \$2,000,000-\$2,500,000 to project costs.
- Although this option is achievable, under the current UDO it would eliminate one floor of condominiums as the project, only through environmental incentives, permits 4 floors. Based on the UDO and Petitioner's previous experience, a 5-story building to accommodate a 2nd level garage and residential units likely would not be approved.
- The largest impact from a construction standpoint to this 4-story option is the change of structural system from steel to post-tensioned concrete for Level 2 and Level 3. To fully understand the cost impact of this change, a deeper level of design updates would be required, but it is estimated to be at least in excess of \$500,000.
- From an architectural design and use standpoint, the impact of this option is the loss of 5 for sale units from the project when Level 2 is converted from residential to parking.

Item #03 – Elimination of Parking on Level 1

- If a variance is not granted, adding the required 5,500+ square feet of retail space along Kirkwood by enlarging both retail spaces, would eliminate the ability to access the garage from the west alley as currently planned. Existing alley elevations which serve the adjacent buildings and utilities within the alleys make the alteration of the alley elevations not practical. By enlarging both of the retail areas and increasing depth of the retail spaces, this would necessitate the west alley entrance to move north. Based on alley elevations, garage elevations and available ramping space this is not practical without significant design alteration to the project which would eliminate a large percentage of parking on site. Per discussions with the Owner this is not an economically sustainable option for the Petitioner's project.
- Additionally, access from the north alley based on the current project is limited due to alley elevations, utility pole locations and a viable place on the building to place both gas and electrical meters along a public way. Based upon the limited location of entrance points due to alley elevations, garage elevations and ramping space within the building, this is not a practical option without significant design alteration to the project which would eliminate a large percentage of parking on site. Per discussions with the Owner this is not an economically sustainable option for the Petitioner's project.

After review of this information, if you have additional comments or request further clarification, please let me know and we will provide additional information.

Ryan M. Strauser

Ryan M. Strauser
RA, AIA, LEED AP

Strauser Design + Build, LLC
453 S. Clarizz Blvd.
Bloomington, IN 47401

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 731 West 3rd Street

CASE #: V-45-22
DATE: October 20, 2022

PETITIONER: Douglas Wissing
 2200 East Maxwell Lane
 Bloomington, IN

CONSULTANT: Jayne York, Springpoint Architects
 522 West 2nd Street
 Bloomington, IN

REQUEST: Variance from the side building setback standard to allow construction of a second floor on an existing accessory structure in the Residential Small Lot (R3) zoning district.

REPORT: The property is located at the southeast corner of West 3rd Street and South Maple Street in the Prospect Hill Neighborhood. The property and all surrounding properties are zoned Residential Small Lot (R3) and are within the Greater Prospect Hill Historic District. The use on the property is a detached single-family dwelling. The surrounding properties also contain detached single-family dwellings, co-existing with a small number of lawful non-conforming duplex uses.

The petitioner is proposing to expand an existing single-story detached garage in the rear (south part) of the property by adding on a second story. The existing detached garage is set back three feet from the east side lot line, where the minimum side setback standard for accessory structures in the R3 district is five feet. The existing garage is allowed as a pre-existing nonconforming structure, but the new construction for the second-story addition must either conform to the side setback standard or receive a variance.

The width of the property, from the Maple Street frontage on the west to the east side lot line is 50 feet. The existing garage, and the proposed second story, are 24-feet 2-inches deep (east-west dimension) as shown on the site survey submitted by the petitioner. Because the property is a corner lot, the detached garage has a front setback from Maple Street to the west. The minimum required front setback for the detached garage is 10 feet behind the front building wall of the primary structure. As shown on the site survey, the detached garage is set back just under 11 feet from the building wall of the house that is closest to Maple Street (the end of the west gable, not the west edge of the front porch). The existing garage and the proposed second story are compliant with all other UDO standards, including the standard for height of accessory structures.

The proposed addition to the existing garage received Certificate of Appropriateness (COA) 22-06 from the Bloomington Historic Preservation Commission on January 27, 2022. The proposed addition also preliminarily received Certificate of Zoning Compliance (CZC) C22-112 on April 7, 2022. That CZC was issued in error, and is not valid unless a variance is approved.

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: Approval of the variance to allow the second story to match the existing setback of the first story of the detached garage will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed building will not exceed the allowed maximum height for accessory structures in the R3 district. Although the existing setback does not conform to the UDO standards, it is typical for the neighborhood, as recognized by the Certificate of Appropriateness from the Historic Preservation Commission.

- (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*

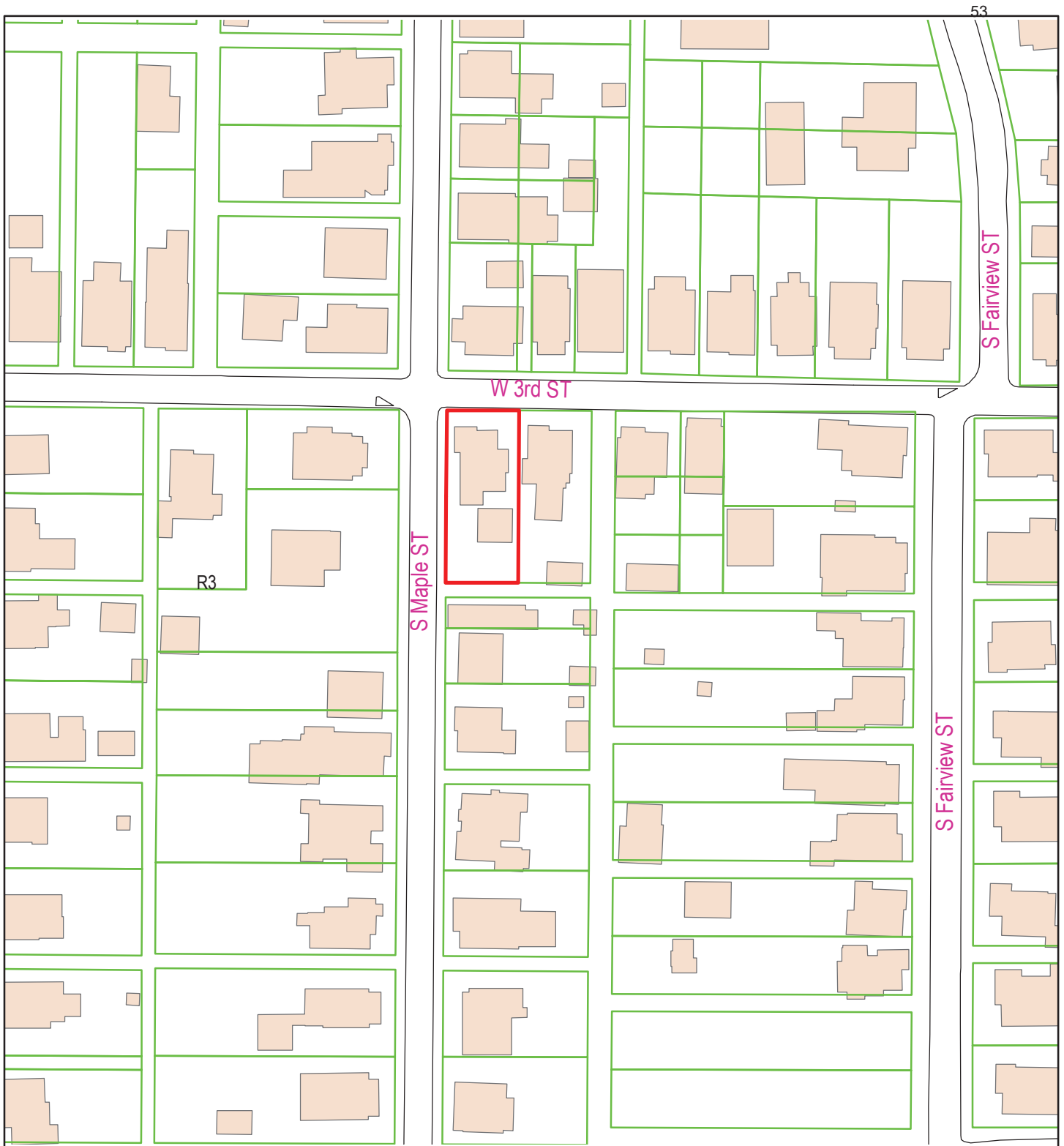
PROPOSED FINDING: Approval of the variance will not result in substantial adverse impacts to the use and value of surrounding properties. While there may be some impacts on the adjacent property to the east in slightly increased shade or slightly increased feeling of nearness, these potential impacts will be minimum and will not affect the use or value of the adjacent property.

- (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: Practical difficulty is found in the 50-foot width of the property in combination with the location and footprint of the existing detached garage. Strict application of the setback standards of the UDO would prevent any increase in the height or footprint of the existing detached garage, even while increased height and footprint are otherwise allowed by all other standards of the UDO. The existing detached garage cannot be moved away from the east side lot line without violating the front setback standard. The requested variance would relieve the practical difficulties by allowing for an increase in height which would otherwise be allowed but for the side setback standard.

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-45-22 and grant the requested variance with the following condition:

1. This variance approves only the submitted site plan and building design.



V-45-22, 731 West 3rd Street

City of Bloomington
 Planning & Transportation

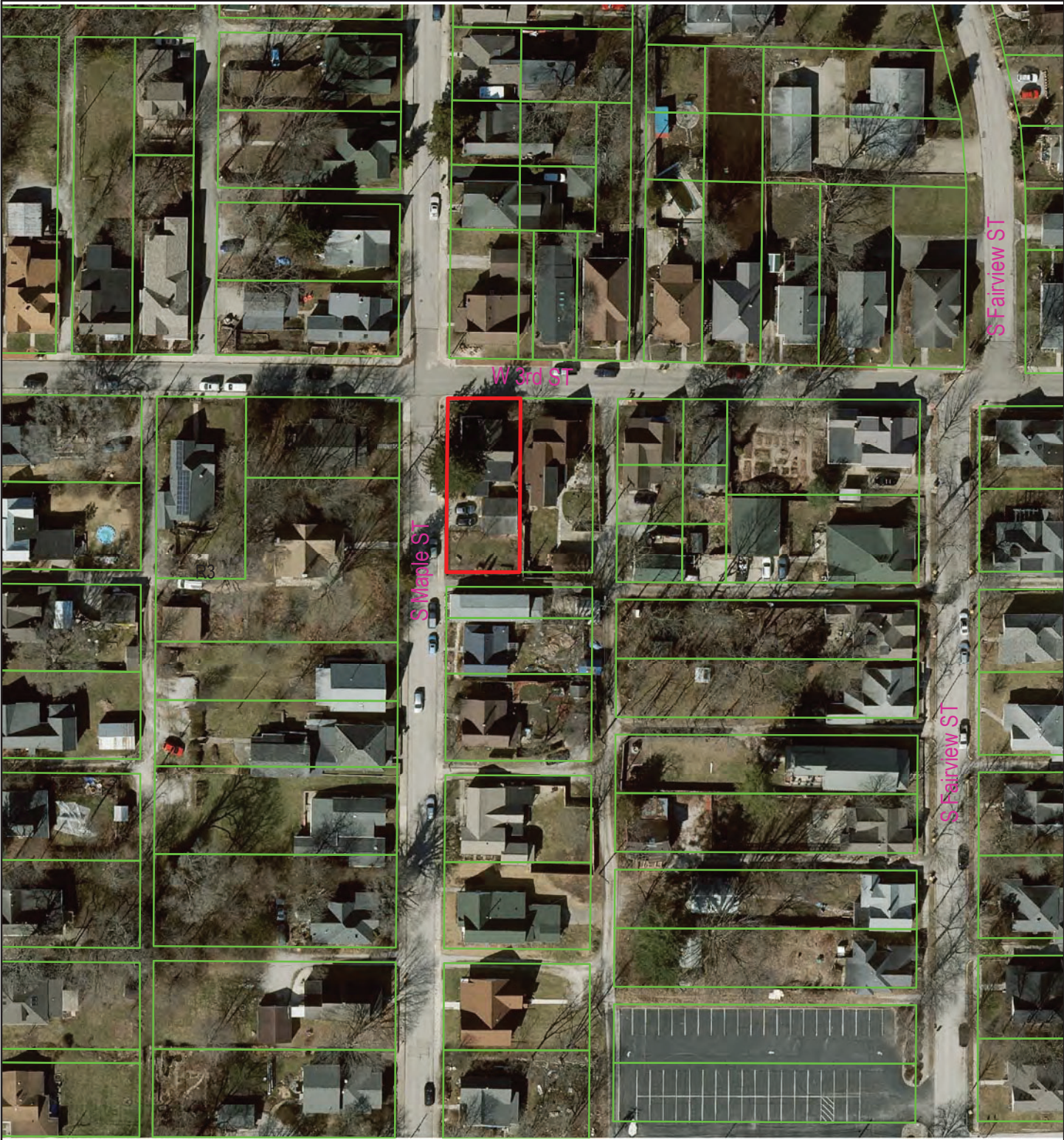


Scale: 1" = 125'



By: Gabriel Holbrow
 10/11/2022

For reference only. Map information NOT warranted.



V-45-22, 731 West 3rd Street

City of Bloomington
Planning & Transportation



Scale: 1 " = 125 '



By: Gabriel Holbrow
10/11/2022

For reference only. Map information NOT warranted.



October 6, 2022

Gabriel Holbrow, AICP
City of Bloomington Planning & Transportation Department
401 N. Morton Street
Bloomington, IN 47404

Re: Alterations to the Garage at 731 West Third Street – Side Setback

Dear Mr. Holbrow,

Our client, Douglas Wissing, seeks to expand the existing garage on the property at 731 West 3rd to 1-1/2 stories. The existing 1-story garage dates from 1975 and is considered an “existing nonconforming structure” under the current City of Bloomington Unified Development Ordinance (UDO) due to its location on the site.

We are requesting a variance from the side setback for accessory structures. As a corner lot in the Residential 3 (R3) zone, the side setback for the garage along the east side of the property is to be 5-feet under the UDO. The existing garage is located 3’-0” from the east property line. We are seeking a side variance for 2’-0”.

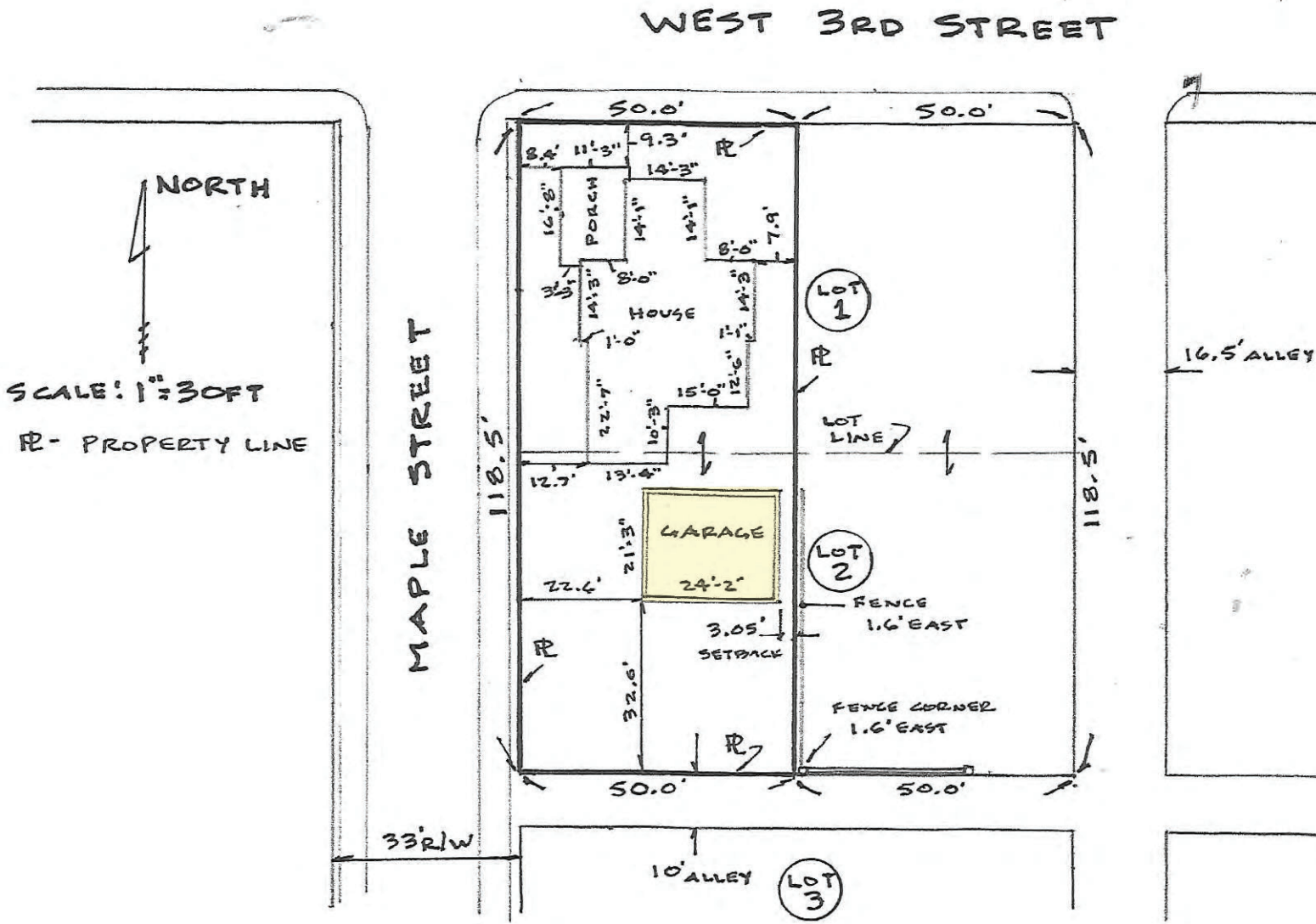
The garage conversion received a Certificate of Appropriateness (COA) from the Bloomington Historic Preservation Committee in January of this year. The project received unanimous support from the Prospect Hill neighborhood committee and received a staff recommendation for approval from Gloria Colom, Historic Preservation Program Manager.

The construction of the neighborhood pattern in the Prospect Hill area of Bloomington predates the current UDO standards, including but not limited to setbacks. The variance, if granted, will not be injurious to the general welfare of the community; there are many examples of existing non-conforming structures due to their location on the property in the Prospect Hill neighborhood. This project will bring additional value to surrounding properties as a non-period structure will be renovated to better reflect the architecture of the house on the same property with respect to roof pitch and detailing. The UDO standards create a practical difficulty for the property in that the garage is existing and reflects the neighborhood pattern established prior to the requirements of the UDO.

Thank you for your consideration of this variance petition,

A handwritten signature in black ink that reads "Jayne York".

Jayne York, AIA, CID, LEED AP
Springpoint Architects, pc



PLAT of SURVEY
 731 West 3rd Street
 Bloomington, IN 47403

OWNER of RECORD – Douglas A. Wissing Revocable Living Trust

LEGAL DESCRIPTION – West half of Lots 1 and 2 of Prospect Park Addition to the City of Bloomington, IN

SURVEY BY: POTTER ENGINEERING
 P.O. Box 5563
 Bloomington, IN 47407
 Phone (812) 331-7981

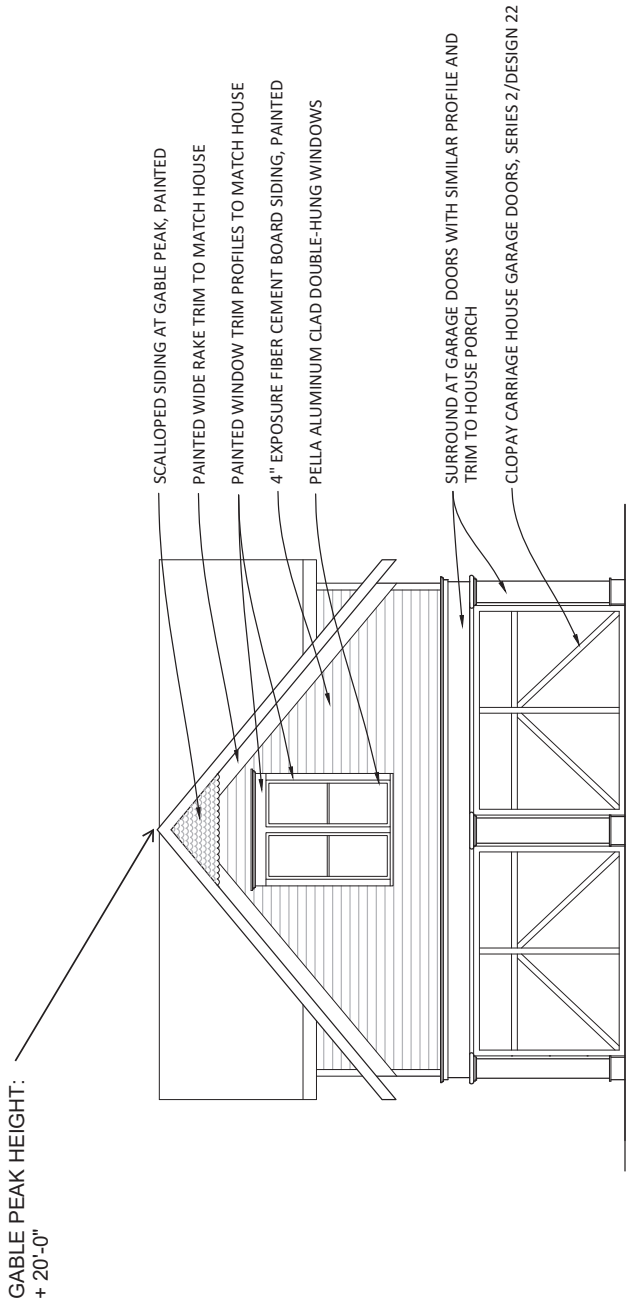
DATE: 9/17/2022



EXISTING HOUSE @ 731 WEST THIRD STREET



EXISTING 1-STORY GARAGE @ 731 WEST THIRD STREET

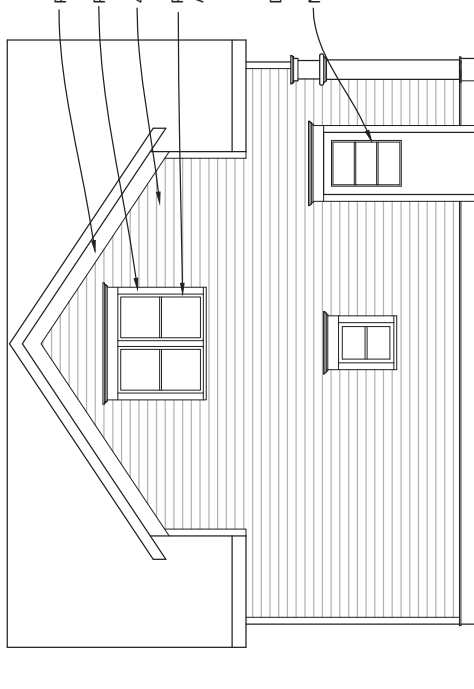


GABLE PEAK HEIGHT:
+ 20'-0"

FRONT ELEVATION

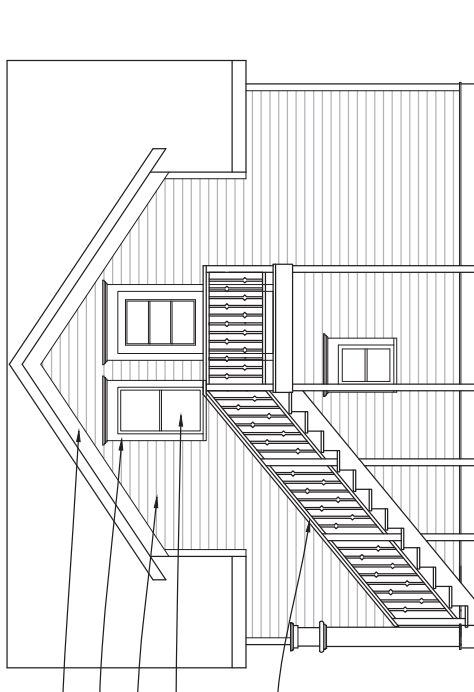
SCALE: 3/16" = 1'-0"

GARAGE @ 731 WEST THIRD
BLOOMINGTON, INDIANA



NORTH ELEVATION

SCALE: 3/16" = 1'-0"



SOUTH ELEVATION

SCALE: 3/16" = 1'-0"



EXHIBIT OF WEST THIRD STREET BETWEEN SOUTH FAIRVIEW AND SOUTH MAPLE:
Existing Structures That Do Not Meet Current UDO Building Setbacks

STAFF RECOMMENDATIONS	Address:	731 W 3rd St.
COA 22-06	Petitioner:	Doug Wissing
	Parcel:	53-08-05-107-009.000-009
RATING: NOTABLE	Survey:	c. 1900, T-Plan Cottage



Background:	Greater Prospect Hills Historic District
Request:	Add a half story with dormers to the garage.
Guidelines:	Greater Prospect Hills Historic District Guidelines

Staff Recommendation: approval of COA 22-06

- The garage is dated to 1980, it is currently one story in height with a low pitch roof.
- The proposal would bring the garage up to two stories and would be visible from Maple Street. Due to its location the proposal would make the garage taller than the original house. However, the height differential would not overwhelm the original house from the principle right of way on Third Street.
- The project can be considered an addition as well as new construction in an accessory structure. Although the addition does not constitute a new house, it does represent a height differential and hence "A new house which is taller than the house next to it must be set back further from the side property line than existing houses (Guidelines Pg. 18)."
- The Greater Prospect Hill Historic District Design Subcommittee has evaluated the proposal and wholeheartedly endorses it (quotes included in the packet).

SPACING

Definition: The distance between contiguous buildings along a block face.

RECOMMENDED

New construction that reflects and reinforces the spacing found in its block. New construction should maintain the perceived regularity or lack of regularity of spacing on the block.

BUILDING HEIGHTS

Definition: The actual height of buildings and their various components as measured from the ground at the foundation and from the grade of the sidewalk that the building faces.

NOTE - In areas governed by this plan, building heights should be determined using these guidelines rather than those noted in the zoning ordinance.

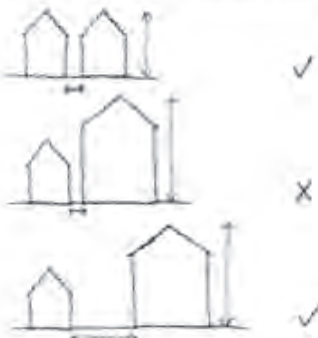


RECOMMENDED

1. Generally, the height of a new building should fall within a range set by the highest and lowest contiguous buildings if the block has uniform heights. Uncharacteristically high or low buildings should not be considered when determining the appropriate range.
2. Cornice heights, porch heights and foundation heights in the same block face and opposing block face should be considered when designing new construction.
3. Consider the grade of the lot against the grade of the adjacent sidewalk as well as the grade of the adjacent neighbor.

BUILDING HEIGHT/ SIDE SETBACK

Definition: The relationship between the height of the house and the distance between them.



RECOMMENDED

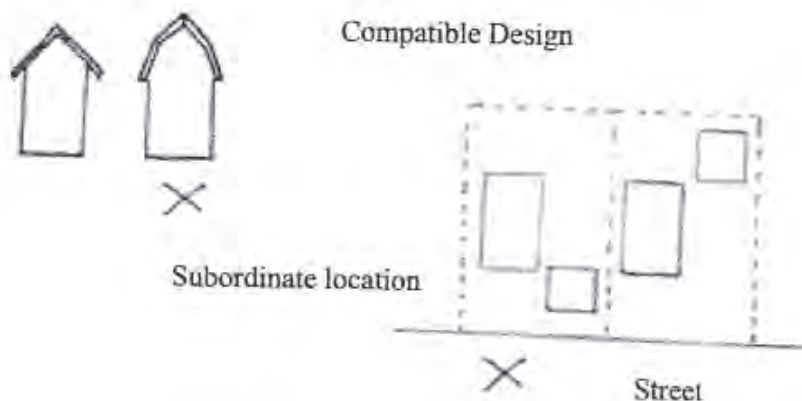
1. A new house of the same height as existing houses may be as close to them as they are to each other.
2. A new house which is taller than the house next to it must be set back further from the side property line than existing houses.

ACCESSORY STRUCTURES

SUBJECT TO REVIEW AND APPROVAL:

All accessory structures greater than 80 square feet within the boundaries of the Greater Prospect Hill Historic District.

Definition: Any structure secondary to the principal building on the lot and greater than 80 square feet in size is subject to the following guidelines:



RECOMMENDED

1. New structures accessory to primary buildings should be visually compatible with existing historic neighborhood patterns for accessory structures and of material consistent with the historic neighborhood pattern.
2. New structures should be placed, where possible, in a subordinate position to the primary building on the lot.

UTILITIES & EQUIPMENT

Definition: Any utilities that might be above ground and visible (such as meters and electric lines) and any mechanical equipment associated with the building (such as air-conditioning equipment).

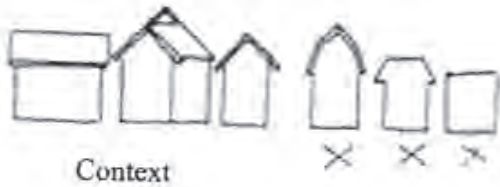
RECOMMENDED

Mechanical equipment, such as permanent air conditioning equipment and meters should be placed in locations that have the least impact on the character of the structure and site and the neighboring buildings.

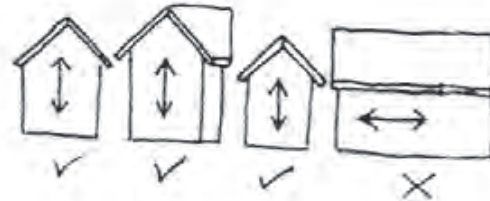
BUILDING OUTLINE

Definition: The silhouette of a building as seen from the street.

Roof Shape



Directional Orientation

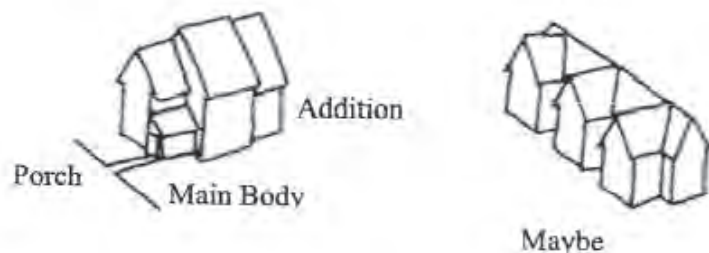


RECOMMENDED

1. The basic outline of a new building, including general roof shape, should reflect building outlines typical of the area.
2. The outline of new construction should reflect the directional orientations characteristic of the existing building in its context.

MASS

Definition: The three dimensional outline of a building. Depending on the block face, buildings in Prospect Hill may reflect the traditional horizontal mass of the gabled-ell or the more vertical projection of the bungalow form. See the architectural description of traditional forms provided in the *Homeowner's Guide to Living in a Historic District*.



RECOMMENDED

1. The total mass and site coverage of a new building should be consistent with surrounding buildings.
2. The massing of the various parts of a new building should be characteristic of surrounding buildings.

COA 22-06

731 W 3RD ST GREATER PROSPECT HILL CONSTRUCTION SUBCOMMITTEE COMMENTS

- The property is at the corner of Third and Maple, so per our guidelines it is reviewable from two public-way facades (although the garage is mostly visible only from the Maple Street view). I made some measurements of nearby structures over the weekend. At 20 feet peak height, the renovated garage will peak slightly higher than rooflines of some of the older contiguous structures. However, given the generous setback of the structure from Maple Street, the appearance should be in alignment with contiguous rooflines. I am okay for the project to move forward.

I appreciate the use of the existing garage's structure and footprint and the thoughtful design elements that will help tie the garage visually to the original house on the property.

Thanks to all,
Richard

- I have visited the site.
It is set back from the alley and the neighbor's house so that is not a concern. At 20 feet at the gable peak it will be similar in height to several nearby structures.
I say "Okay".

Patrick

- This looks like a very nice improvement to the existing garage.
I am excited to see this move forward.
Thumbs up!

John Vialla

- Another good improvement for the neighborhood. Please approve.
Margaret Felle



TO: Board of Zoning Appeals
FROM: Gloria M. Colom Braña, Historic Preservation Program Manager, HAND
RE: Historic Preservation Commission Support for a Variance at 731 W 3rd Street
DATE: June 8, 2022

The purpose of this memorandum to express the Historic Preservation Commission (HPC)'s support for architect Jayne York's request of the following variance to the UDO Standards:

- Two foot side setback variance for the vertical expansion of the 731 W 3rd Street detached garage.

The proposed alteration received a Certificate of Appropriateness on the January 27, 2022 Historic Preservation Commission meeting. The garage itself is not rated as historically contributing, however, its size, scale, and placement are consistent with other buildings in the neighborhood. The proposed design was found to be in accordance with the historic district guidelines.

The Greater Prospect Hill Historic District was created over a century before the current Unified Development Ordinance, and the street, primary buildings, and secondary buildings reflect a tight patterning with buildings almost and sometimes abutting with the lot lines. A variance that would allow the structure to remain in its current location would be in keeping with one of the principal tenant s of the historic district regarding the spacing and location of the structures.