

CITY OF BLOOMINGTON



April 20, 2023 @ 5:30 p.m.
City Hall, 401 N. Morton Street
Common Council Chamber, Room #115

<https://bloomington.zoom.us/j/82057628131?pwd=L0U4QWxyNU14eGVjSVhsK2FST1N5UT09>

Meeting ID: 820 5762 8131

Passcode: 428236

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

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

April 20, 2023 at 5:30 p.m.

❖ **Virtual Meeting:**

<https://bloomington.zoom.us/j/82057628131?pwd=L0U4QWxyNU14eGVjSVhsK2FST1N5UT09>

Meeting ID: 820 5762 8131

Passcode: 428236

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

ROLL CALL

APPROVAL OF MINUTES: March 23, 2023

PETITIONS CONTINUED TO: May 25, 2023

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

PETITIONS:

AA-08-23 **Leo Pilachowski**
2028 E. 1st St.
Parcel: 53-08-03-200-021.000-009
Request: Administrative Appeal that a property owner is required to install
required sidewalks and street trees. Also, that a credit toward preservation of
existing landscaping does not apply towards street trees.
Case Manager: Eric Greulich

V-09-23 **Brinshore Development**
NW Corner of S. Rogers St. and W. 1st St.
Parcel: 53-08-05-100-058.000-009
Request: Variances from dimensional standards for build-to ranges and
setbacks, use-specific standards for multifamily dwellings, building design
standards, and vehicle parking design standards to allow a reuse of the historic

****Next Meeting: May 25, 2023**

*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.*

Kohr building and a proposed building addition for multifamily dwelling use in the Mixed-Use Medium Scale (MM) zoning district within the Transform Redevelopment Overlay (TRO) district.

Case Manager: Gabriel Holbrow

- AA-12-23 **Leo Pilachowski**
2028 E. 1st St.
Parcel: 53-08-03-200-021.000-009
Request: Administrative Appeal of the Notice of Violation issued March 10, 2023.
Case Manager: Eric Greulich
- V-13-23 **Leo Pilachowski**
2028 E. 1st St.
Parcel: 53-08-03-200-021.000-009
Request: A determinate sidewalk variance to not require a required sidewalk on High Street.
Case Manager: Eric Greulich
- AA-14-23 **Chris Junken, Shiel Sexton Co.**
West of the corner of E. 7th Street and E. Longview Avenue (2680 E. 7th St.)
Parcel: 53-05-35-300-043.000-005
Request: Administrative Appeal of Notice of Violation issued March 14, 2023.
Case Manager: Jackie Scanlan

****Next Meeting: May 25, 2023**

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: 2028 E 1st Street

CASE #: AA-08-23
DATE: April 20, 2023

PETITIONER: Leo Pilachowski
2028 E. 1st Street, Bloomington

REQUEST: The petitioner is requesting an administrative appeal that a property owner is required to install required sidewalks and street trees. Also, that a credit toward preservation of existing landscaping does not apply towards street trees.

STAFF REPORT:

The applicant applied for a building permit (C21-309) to construct a new single family residence on a vacant lot at 2028 E. 1st Street. Section 20.04.050(d) of the Unified Development Ordinance requires a sidewalk and tree plot with street trees to be constructed along High Street. Specifically, section 20.04.050(d)(2) of the UDO states that-

Pedestrian facilities shall be required on both sides of all streets, with the exception of new single-family, duplex, and triplex residences built on existing legal lots of record on non-classified (neighborhood) streets with no adjacent pedestrian facilities, and additions to existing residential structures; and except that cul-de-sacs less than 300 feet in length and providing access to less than 10 residential units shall be required to provide pedestrian facilities on one side of the street. All required trails and connector paths shall be provided. Where there are conflicting standards in this UDO and the most recently adopted Transportation Plan, the Planning and Transportation Director shall determine which standard governs.

A tree plot is also required per Section 20.04.050(d)(8) and the UDO states that-

All sidewalks shall be spaced away from the back of curb to provide a tree plot and to provide pedestrian separation from vehicles. This minimum distance shall be as indicated in the Transportation Plan. Except as specified elsewhere in this UDO, tree plots may not be less than five feet and shall be planted with grass. The Planning and Transportation Director may allow tree grates, tree boxes, or other appropriate streetscape treatments in areas that anticipate increased pedestrian traffic.

High Street, at this location, is classified as a Primary Collector, and is therefore not exempted from sidewalk installation.

The petitioner is appealing that the property owner is required to install the required pedestrian improvements and street trees, but instead that the City is obligated under the Barrett Law to give the petitioner the option for the City to install the improvements and allow the petitioner to reimburse the City for the work done. The Barrett Law is an option in the State Code for local governments to fund the installation of public improvements, however it is not a requirement for local municipalities and is not something that the City of Bloomington has ever implemented. More importantly, the use of the Barrett Law as a funding mechanism is a decision made by City

Administration and not something that is within the purview of the Board of Zoning Appeals. The UDO requires that a property owner install any necessary site improvements to be compliant with the UDO. The City is not obligated under any provision to install a property owner's required improvements.

The petitioner is also appealing that the credit allowed in the UDO for the preservation of existing trees should count for street trees. Specifically Section 20.04.080(c)(3)(F)(ii)(3) of the UDO states that-

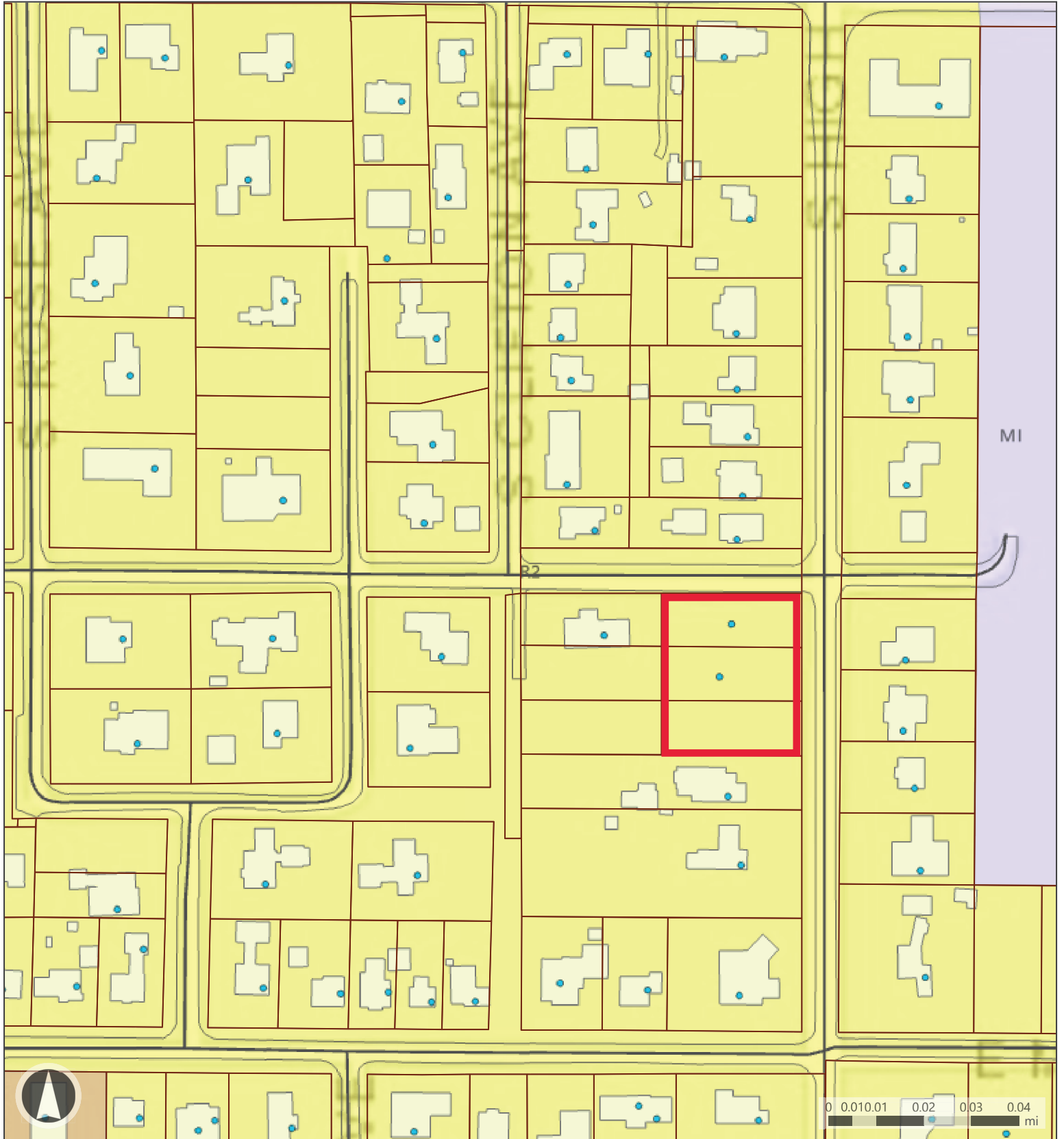
3. Existing vegetation listed in Section 20.04.080(d), shall be credited towards required landscaping based on the following values:

- [a] Deciduous Trees

- A credit of one tree per every four inches DBH of an existing qualified deciduous tree is earned. No single existing tree shall count towards more than four individual required trees.

This section of the UDO allows for a credit to be given toward existing trees that are being preserved to allow for every 4" DBH of an existing tree to be preserved to count toward a required tree to be planted. This credit has always been applied toward interior landscaping requirements and has not counted toward street tree installation since the street tree installation is based on a linear distance and requires a street tree not more than 40' apart. Existing vegetation that is within a tree plot does count toward meeting the street tree requirement, however a credit of allowing an existing tree to count as multiple street trees is not something allowed by the UDO.

RECOMMENDATION: In accordance with UDO Section 20.06.080(d)(3)(B)(ii), because this petition is an administrative appeal, the staff report shall not make a formal recommendation.



Map Legend

Parcels

Address Points

Status

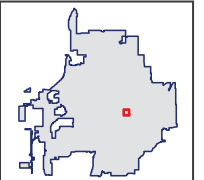
Current

Edge of Pavement

Code : Description

R2 : Residential Medium Lot

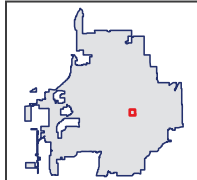
RH : Residential High-Density Multifamily





Map Legend

- Parcels
- Status
- Edge of Pavement
- Address Points
- Current



Leo Pilachowski - Petition for Appeal of the 2/17/2023 determination by Eric Greulich that Alleges Violations of the UDO.

In an email of Friday, 2/17,2023, Eric Greulich, a Senior Zoning Planer with the City of Bloomington's Department of Planning and Transportation, determines and alleges that there are violations of the UDO at 2028 E 1st Street where a new single family dwelling is located. The alleged violations are "that the sidewalk and tree plot with street trees has (sic) not been constructed." We contend that this determination is incorrect and we appeal to the Bloomington Board of Zoning Appeals (BZA).

1.) An adequate, five foot wide tree plot is not able to be located along the S High Street frontage. In an email of 7/7/2023 Eric Greulich stated:

"The Transportation Plan dictates the standards for alternative transportation improvements and the minimum width of sidewalks was increased to 6' in width. The sidewalk still needs to be one foot inside the right-of-way and it is fine if the tree plot only becomes 2' wide. Obviously trees could not be planted in a 2' wide tree plot, so no trees are required in that instance. If you want to have a 5' tree plot so that you can plant street trees, we can still work towards that; however that would mean that the sidewalk would be pushed onto your property and a pedestrian easement would be required."

Thus, a five foot wide tree plot with trees is not required.

2.) Contrary to the email above, the UDO 20.04.080(f)(3)(B) states:

"If a tree plot is not available, then the street trees shall be planted within the front yard immediately adjacent to the street."

However, the UDO 20.04.080(c)(3)(F)ii. allows for "the substitution of required landscape with existing vegetation." In an email of 5/9/2021 to Eric Greulich about our draft site plan, we stated our intention "to substitute the tree credits of three existing qualified deciduous trees for the required street trees along East 1st and South High Streets." This contention was not disqualified and the site plan submitted for the building permit was approved by the City with the statement, in bold letters on the upper right side:

"Existing west walnut, honeylocust, and hickory trees to count toward, the street tree requirement (4 on 1st St and 5 on High St)."

Since the site plan so noted was approved, the street trees along S High Street are not required.

However, we will probably plant more trees along the street frontages as part of the final landscape plan.

3.) We are not questioning the City's power to require a sidewalk in the S High Street abutting right-of-way. We are not questioning the City's power to require the owners of the site abutting the S High Street right-of-way to pay for any sidewalk if the proper procedure is followed. However, Eric Gruelich stated and determined in his 2//17/2023 email that "It is the property owner's responsibility to install" the sidewalk. We contend that this is incorrect.

Indiana has a "Home Rule" statute that grants broad powers to municipalities. However, these broad powers have some limits. In particular IC 346-1-3-6 reads:

"Sec. 6. (a) If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner."

Although there are many avenues in the Indiana Code for funding the construction of an off-site sidewalk, there is but one section in the Indiana Code that speaks to the power of a municipality to request that an abutting property owner construct an off-site sidewalk. This is IC 36-9-36-17, part of what entitled Barrett Law funding:

“IC 36-9-36-17 Construction or repair of sidewalks and curbs; notice to abutting property owner of order requiring construction or repair

(a) The works board may require the owners of abutting property to construct or repair the owners' own sidewalks or curbs if the works board:

- (1) desires to improve or repair any sidewalks or curbs in the unit; and
- (2) adopts a final resolution to that effect.

(b) The works board must give notice of the order concerning the construction or repair to the abutting property owners in person or by mail. Mailing of notices to owners as the names of the owners appear on the assessor's books of the county in which the land is located complies with this requirement.

(c) A property owner has thirty (30) days from the date of the notice to construct the sidewalks or curbs or make the repairs as required by the notice.

(d) If a property owner fails to comply with the order, the works board may have the sidewalk or curb constructed or repaired by an independent contractor.”

This is the only manner in which a municipality may request an abutting property owner construct an off-site sidewalk. This manner (part (d)) allows the abutting property owner the option not to construct the requested sidewalk. Subsequent sections proscribe the manner in which the abutting property owner is then required to pay for the construction.

Unlike Eric Greulich’s assertion, the UDO does not explicitly say that the property owner must install or have installed the required off-site sidewalk. If the City and the BZA interpret the UDO to say that the property owner is required to construct the off-site sidewalk in a manner not the same as that proscribed by the Indiana Code, then this provision of the UDO is invalid. **We ask that the BZA resolve this issue by finding that there is no zoning violation on the part of the property owners as result of the sidewalk not having been constructed. The BZA may direct the Planning Department, if the Planning Department desires the off-site sidewalk to be constructed, to request that the Bloomington Works Board to proceed in the manner proscribed by the Indiana Code 36-9-36-17.**

Leo Pilachowski – Addendum to the Petition for Appeal of the 2/17/2023 determination by Eric Greulich that Alleges Violations of the UDO.

- 1.) Per UDO 20.04.080(f)(3)(B), a 5' wide tree plot in the public right-of-way is not required by the UDO
- 2.) Per UDO 20.04.080(c)(3)(F)ii, existing vegetation on the site may be substituted for the required landscaping (street trees in the instance). The site plan was approved with such a substitution
- 3.) Although the UDO requires a sidewalk in the right-of-way along the site frontage on S High Street, the UDO is silent on what party is responsible for the installation. Per IC 346-1-3-6 and IC 36-9-36-17, the owner has the option of not installing the sidewalk but rather having the City be responsible for the installation. The owner is responsible for paying the City for the installation of the sidewalk.

Appeal Evidence

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Leo Pilachowski

From: Leo Pilachowski <leop@lyradev.com>
Sent: Tuesday, March 30, 2021 1:31 PM
To: 'roukerm@bloomington.in.gov'
Subject: Sidewalk construction

Mr. Rouker,

We plan to start construction of a detached single family house on the vacant lots on the southwest corner of East First and South High Streets. Before the building permits can be issued, there must be a building permit review by City of Bloomington Planning Department and the single family detached construction must meet the standards of the UDO. In addition, the Planning Department also reviews and authorizes the issuance of the Certificate of Occupancy after the construction is completed.

The UDO appears to require the property owner to have constructed a sidewalk, if such a sidewalk does not exist, in the City right-of way along all adjacent streets. There is no sidewalk along the west side of South High Street adjacent to our lots. It is our understanding that the City considered constructing a sidewalk along the west side of High Street between East First Street and East Maxwell Lane. However, such a sidewalk was considered to be very dangerous. The City subsequently constructed the Clifton sidepath, about three hundred (300) feet west of South High Street, between East First Street and East Maxwell Lane. One of the primary reasons for the construction of the Clifton sidepath was to provide a safe and convenient pedestrian path rather than a dangerous sidewalk along the west side of South High Street. That very reasoning still argues against the constructing a sidewalk along the west side of South High Street and subjecting any designer and builder of such a sidewalk to future liability for pedestrian injuries.

For the above reasons, we will neither design and construct nor contract for the design and construction of a sidewalk along the west side of South High Street adjacent to our lots. If the City of Bloomington still desires that such a sidewalk be constructed, the City may follow the procedure mandated by the Indiana Code 36-9-36-17 and subsequent sections. The Indiana Code does not allow for any delay in the issuance of building permits or of the Certificate of Occupancy in this process.

Because time is of the essence, we are asking for written (or email) assurance by the City that the approval and issuance of the building permits and the Certificate of Occupancy will not be delayed by any sidewalk issues.

Regards,

Leo Pilachowski
812-331-9858

Leo Pilachowski

From: Leo Pilachowski <leop@lyradev.com>
Sent: Wednesday, May 12, 2021 9:26 PM
To: 'Eric Greulich'
Subject: RE: New house at East 1st and South High Streets
Attachments: site_high_1st_pilachowski_5_11_2021.pdf

Eric Greulich,

During another review session yesterday evening, we discovered that the CAD team had used the 8' side yard setback distance for the setback along East High Street. Although using the correct 15' setback does not change anything for zoning compliance, I want the City to have the correct zoning information on the site plan. I have attached the latest version of the site plan.

Also, we do not want the issue of the South High Street sidewalk to stop or delay the site plan (preliminary) review with respect to all other zoning aspects (the garage issues, etc.). The sidewalk issue is more complicated and the decision on how to proceed involves both outside parties and matters other than zoning.

Leo Pilachowski
 331-9858

From: Leo Pilachowski [mailto:leop@lyradev.com]
Sent: Tuesday, May 11, 2021 9:00 PM
To: 'Eric Greulich'
Subject: RE: New house at East 1st and South High Streets

Eric Greulich,

Thank you for the prompt reply.

1.) The section of the UDO that speaks to drives that are "running less than 45 degrees from parallel to the street right-of-way or ingress/egress easement" specifically does not apply to the R2 zone. UDO Section 20.04.050(c)(2)(A)i.2. explicitly applies only "Within the front parking setback." UDO Table 04-2 explicitly states that there is no "front parking setback" (none) in the R2 zone. Therefore, no drive can be within a non-existent front parking setback.

As an aside that does not apply to the site plan, the reason for such sections of a zoning or transportation code like the UDO section above is to keep the ingress/egress drive from making an acute angle to the access street or easement. That is the street to which any angle is measured. To measure to any another street or easement would make just about every drive in a front parking setback non-conforming.

2.) The site plan is labeled with sideload garage to differentiate the house plan footprint. With respect to the garage being classified as a front loading garage, such a classification does not affect the site plans conformance with the current UDO. Note [4] of the UDO table 04-2 controls the location of a front loading garage in the R2 zone. The standard is a 25' setback from the front property (or proposed ROW) line. Note [4] adds "Or equal to the setback of the primary structure, whichever is greater." It is obvious from the site plan that the house has primary structure south of the attached, enclosed garage. I have attached the copyrighted floor plan of the house just so you can make sure if it is not obvious to you. The eastside garage face and primary structure face are 57.5' from the South High Street right of way (property line), well within the 32' front setback and further than 25' (40.5' actually) from the proposed right of way line (17' inside the east property line).

3.) I continue to fully understand the City's direction that we should apply for a variance if we do not wish to build the sidewalk along South High Street. I am not asking the City staff to waive that City stated requirement. We have been

advised that that the Indiana Code does not empower a municipality or county to make the construction of such a sidewalk a condition for obtaining a building permit or zoning approval. As I said in the earlier email, our advice is that the Indiana Code (IC 36-9-36-17 and subsequent sections, commonly referred to as Barret Law) does empower a city or municipality to ask an abutting landowner to construct such a sidewalk if the mandated procedural process is followed. This process does not allow for a building permit or zoning approval to be denied. I am relieved that we did not apply for a variance as this may have invoked estoppel and prevented us from asking that the Barret Law be used. One does not ask for a variance from a municipal regulation the enactment of which is not a power granted by the State. We will not ask for a variance (even more so as the City advised us two years ago that the staff will recommend against such a variance).

My question to the Planning Department and City Attorney's Office is if we do not agree to construct the sidewalk, will the City not approve the site plan and thus effectively deny the issuance of the building permit for the new house? If the answer is that the City will not approve the site plan, I ask that the City explicitly state that the City will not approve the site plan as needed for a building permit if we do agree to build the sidewalk.

Again, I would appreciate a timely and explicit answer to the sidewalk question.

Leo Pilachowski
812-331-9858

From: Eric Greulich [mailto:greulice@bloomington.in.gov]
Sent: Tuesday, May 11, 2021 2:31 PM
To: Leo Pilachowski
Subject: Re: New house at East 1st and South High Streets

Thank you for your emails and I wanted to at least reach out and acknowledge receiving them. I am discussing with our staff your proposed site plan and specifically the location of the driveway that is parallel with High Street and the garage. There is a section of our code that prohibits drives from being parallel with a street. The other aspect that we are evaluating is the garage and by virtue of this being a corner lot, could be classified as a front loaded garage from the High Street frontage. I will hopefully have some answers on those aspects this week. In regards to the sidewalk construction on High Street, as we have discussed in the past, you will have to apply for a variance from that requirement if you do not want to meet that requirement. That is not something that we can waive at staff level.

Chapter 20.04: Development Standards & Incentives
20-04-050 Access and Connectivity

(c) **Driveways and Access**

(1) **Number of Drives**

(A) **Single-Family, Duplex, Triplex, and Fourplex Residential Uses**

For single-family, duplex, triplex, and fourplex residential uses, a maximum of one driveway access point shall be permitted, regardless of the number of street frontages, except that a circle drive shall be permitted according to the following standards:

- i. The maximum circle drive width shall be 10 feet;
- ii. The lot shall have at minimum of 120 feet of street frontage on the street the circle drive will access; and
- iii. The minimum distance between the driveway access points of a circle drive shall be 60 feet, measured from the inside edge of each driveway where it intersects the public right-of-way.

(B) **All Other Uses**

No property shall be permitted to have more than two driveway access points per street frontage.

(2) **Location and Separation of Drives**

(A) **Generally**

- i. No entrance or drive shall be installed:
 1. Within 50 feet of any intersection.
 2. Within the front parking setback running less than 45 degrees from parallel to the street right-of-way or ingress/egress easement.
- ii. For nonresidential uses located on corner lots, drive access shall be located on the street assigned the lower functional classification according to the Transportation Plan.
- iii. Multifamily dwelling developments may use garages with individual driveways accessing the street provided that the street being accessed is designated a local street and consistent with access management by the Transportation Plan or is a private street.

On Tue, May 11, 2021 at 1:56 PM Leo Pilachowski <leop@lyradev.com> wrote:

Eric Greulich,

Attached is an updated site plan that has mainly been revised to add the lot coverage details. After yesterday's survey to confirm the foundation elevations, the covered front entry porch design was finalized needed to be included in the impervious area.

I am still awaiting a reply on the High Street sidewalk matter from either the Planning Department or the City Attorney's Office.

Leo Pilachowski

812-331-9858

From: Leo Pilachowski [mailto:leop@lyradev.com]
Sent: Sunday, May 09, 2021 11:01 PM
To: greulice@bloomington.in.gov
Subject: New house at East 1st and South High Streets

Eric Greulich,

We are in the process of building a single family home on the vacant lots located on the SW corner of East 1st and South High Streets (2028 E 1st St). In anticipation of applying to Monroe County for the building permits, I am contacting the City of Bloomington with the preliminary site plan and other relevant drawings (a frontal view drawing of the completed house with a simple front elevation drawing showing the structure height above the finished grade). I understand the City of Bloomington will review the building permit application submittal for zoning compliance. This email to you is to give the City a head start in this review and also to allow the City to comment, in advance, on the zoning aspects of the site plan.

I think that the site plan and structure plan in general comply with all parts of the current (and proposed May 2021 changes) of the UDO. There are three aspects which are not straight forward. First, we wish to use to UDO Chapter 20.04.080 (c) (2) (F) ii. to substitute the tree credits of three existing qualified deciduous trees for the required street trees along East 1st and South High Streets. We will most probably add more trees on the site along the adjacent streets but we will wait for a detailed landscape that will not be started until the house is completed so that the designed can see the actual finished on-site conditions.

Second, the driveway will be located off East 1st Street on the east side of the property near South High Street. Instead of using a circular drive from the existing west driveway, the existing west driveway will need to be abandoned with the apron removed and a new curb installed. The location of the new driveway will also be used as the construction entrance. All parking during the construction phase will be on a gravel construction drive located approximately where the final driveway is shown on the site plan.

The third aspect is the most complicated. The City requires a new sidewalk along South High Street adjacent to the property. We do not want to build or contract for the building of that sidewalk. Well over a decade ago, the City decided to build a side path in the Clifton right of way instead of building a sidewalk on the west side of South High Street between East First Street and East Maxwell Lane. My understanding is that one of the reasons given for building the Clifton side path instead of the estimated less expensive High Street sidewalk was that the side path was a much safer alternative to the High Street sidewalk. At this time the relevant standards and guidelines state that pedestrian access routes need be continuous with logical termini. A sidewalk that ends in the middle of a block and with a wall blocking half of the right of way does not meet such standards and guidelines. Additionally, the sidewalk could attract a child from the nearby schools (or any person) to use the sidewalk. Upon reaching the end of the partly blocked sidewalk, the child could just decide to walk in the street instead of turning around. This could result in injury to the child. It is reasonable that such a partial sidewalk could be considered an attractive nuisance.

We have been advised that the Indiana Code 36-9-36-17 and the following sections outline the powers and procedures that shall be taken if a municipality desires to have a sidewalk constructed along an abutting property. On March 30, 2021, I sent an email to the City Attorney's office (Mike Rouker) about this but have yet to receive a reply. I have attached a copy of that email. Again, because time is of the essence, we are asking for written (or email) assurance by the City that the approval and issuance of the building permits and the Certificate of Occupancy will not be delayed by any sidewalk issues.

I would appreciate a timely reply to this email. In particular I would like a very prompt reply to High Street sidewalk matter so that we can pursue other avenues if necessary. Time is of the essence since we will be ready to apply for the necessary permits in the coming days.

Thank you,

Leo Pilachowski

--

Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department
812-349-3526

Leo Pilachowski

From: Leo Pilachowski <leop@lyradev.com>
Sent: Thursday, July 08, 2021 5:06 PM
To: 'Eric Greulich'
Subject: RE: High and 1st house - Building Permit Review

I fully understand that the sidewalk issue needs to be resolved during the construction phase. I thank the City for approving the building permit before the final resolution. This lets the construction to start now. I will start the variance process next week.

Leo

From: Eric Greulich [mailto:greulice@bloomington.in.gov]
Sent: Thursday, July 8, 2021 4:09 PM
To: Leo Pilachowski
Subject: Re: High and 1st house - Building Permit Review

One of the things that I wanted to make sure to point out is that the sidewalk will be required prior to occupancy. So, if you are planning on applying for a variance for that, please make sure to plan ahead accordingly. We can also work with you on the location of the sidewalk to avoid the existing trees so that those can be preserved.

On Thu, Jul 8, 2021 at 2:52 PM Leo Pilachowski <leop@lyradev.com> wrote:

Thanks! We will start the basement excavation soon. LP

From: Eric Greulich [mailto:greulice@bloomington.in.gov]
Sent: Thursday, July 8, 2021 12:13 PM
To: Leo Pilachowski
Subject: Re: High and 1st house - Building Permit Review

Thank you for sending me the revised drawing, I will have the permit back to the Building Department in about 20 minutes.

On Thu, Jul 8, 2021 at 11:57 AM Leo Pilachowski <leop@lyradev.com> wrote:

Eric Greulich,

I have not seen any reply about the permit finishing. Was there an issue with the updated site plan that I submitted and email to you yesterday?

Leo

From: Leo Pilachowski [mailto:leop@lyradev.com]
Sent: Wednesday, July 7, 2021 12:06 PM
To: 'Eric Greulich'
Subject: RE: High and 1st house - Building Permit Review

I have submitted a new site plan to the County with the sidewalk width and location changes you wanted. The changes were hand drawn. I have attached the new site plan. Please let me know if this is okay.

Leo

From: Leo Pilachowski [mailto:leop@lyradev.com]
Sent: Wednesday, July 7, 2021 9:35 AM
To: 'Eric Greulich'
Subject: RE: High and 1st house - Building Permit Review

Thanks for the reply and info on the new sidewalk width requirement.

Again I do not have my CAD access as I am on travel. Do you want any new site plan submitted to the County (and emailed to you) or just emailed to you? I will see what I can do with the site plan but it may just be by hand with scanned result. Is that okay for now?

Leo

From: Eric Greulich [mailto:greulice@bloomington.in.gov]
Sent: Wednesday, July 7, 2021 8:44 AM
To: Leo Pilachowski
Subject: Re: High and 1st house - Building Permit Review

The Transportation Plan dictates the standards for alternative transportation improvements and the minimum width of sidewalks was increased to 6' in width. The sidewalk still needs to be one foot inside the right-of-

way and it is fine if the tree plot only becomes 2' wide. Obviously trees could not be planted in a 2' wide tree plot, so no trees are required in that instance. If you want to have a 5' tree plot so that you can plant street trees, we can still work towards that; however that would mean that the sidewalk would be pushed onto your property and a pedestrian easement would be required.

On Wed, Jul 7, 2021 at 8:07 AM Leo Pilachowski <leop@lyradev.com> wrote:

Can you tell me why the sidewalk needs to be 6' wide and how the sidewalk needs be placed in the 9' ROW?

I am on travel this week and do not have access to my CAD system although I do have all of the plans and CAD files with me on a laptop. I will see what can be done. Do you want a new site plan submitted to the County or do you want one emailed to you?

Leo

From: Eric Greulich [mailto:greulice@bloomington.in.gov]
Sent: Wednesday, July 7, 2021 7:43 AM
To: Leo Pilachowski
Subject: Re: High and 1st house - Building Permit Review

Leo-

Looking at the site plan everything looks good except that the sidewalk width needs to be adjusted to 6' wide. If you can make that change I can get the permit finished today.

thank you!

On Wed, Jun 30, 2021 at 12:52 PM Leo Pilachowski <leop@lyradev.com> wrote:

Eric Greulich,

I am currently logged into the Monroe County Building Department's Open Gov website run by Viwepoint . My submittal record shows that the site plan was uploaded on June 16, 2021, at 11:43 am. I can only upload an updated file and there is no updated file. I just downloaded the submitted site plan from the County's site with the time

stamped name. I have attached the submitted site plan PDF file to this email. Please note that the construction plans and the site plan are separate downloads (and, thus, files) with the County's system.

I just talked by phone with the Monroe County. The site plan may not have been attached to the email sent to the Planning Department by the County. The County just resent the site plan. I have copied this email to Darla Frost and Jackie Scanlan who the County says gets the information from the County.

Please let me know that the Planning Department has the submitted site plan. Again time is of the essence in this matter. I would ask that this problem, if it is the County's fault, does not put my review to the back of the line.

Leo Pilachowski

812-331-9858

From: Eric Greulich [mailto:greulice@bloomington.in.gov]
Sent: Wednesday, June 30, 2021 11:18 AM
To: Leo Pilachowski
Cc: Scott Robinson
Subject: Re: High and 1st house - Building Permit Review

Thank you Leo for checking in, I looked through the information that was submitted with the building permit and I did not see a site plan. Can you upload that to the portal so that we have all of the required information?

thank you!

On Tue, Jun 29, 2021 at 9:17 AM Leo Pilachowski <leop@lyradev.com> wrote:

Eric Greulice,

As of 8:22 am this morning all of the approvals needed for the issuance of the building permit for the new SFR at 2028 E 1st Street have been completed except for the City of Bloomington review. My understanding from your past emails and other sources is that the City zoning review showed no issues other than the High Street sidewalk matter. We are awaiting the City's approval or disapproval of the building permit application in order to take the next steps in getting the house built. Please note that time is of the essence in this matter.

Leo Pilachowski

812-331-9858

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Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department

812-349-3526

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Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department

| 812-349-3526

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Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department
812-349-3526

Leo Pilachowski

From: Misty Deckard <mdeckard@co.monroe.in.us>
Sent: Wednesday, June 30, 2021 3:58 PM
To: 'Jacqueline Scanlan'; leop@lyradev.com
Cc: Eric Greulich; Scott Robinson; Darla Frost
Subject: RE: High and 1st house - Building Permit Review

I apologize, totally an oversight on my part. Some of the download came in the form of a zip. I thought all required documents were in the file. I did send it to Planning when it was requested today.

Thank you,
Misty

MISTY DECKARD
ADMINISTRATIVE ASSISTANT
MONROE COUNTY BUILDING DEPT.
812-349-2580



From: Jacqueline Scanlan <scanlanj@bloomington.in.gov>
Sent: Wednesday, June 30, 2021 3:54 PM
To: leop@lyradev.com; Misty Deckard <mdeckard@co.monroe.in.us>
Cc: Eric Greulich <greulice@bloomington.in.gov>; Scott Robinson <robinsos@bloomington.in.gov>; Darla Frost <darla.frost@bloomington.in.gov>
Subject: Re: High and 1st house - Building Permit Review

Mr. Pilachowski,

We did not receive the site plan with your application from the Building Department. We do not directly access their system, but rely on staff to email us the contents. We are short-staffed and were not able to notify them until today of the missing document. We received the site plan today.

Mr. Greulich will let you know if more information is needed, and will otherwise process your permit as soon as he can.

Thank you,
Jackie Scanlan, AICP
Development Services Manager

On Wed, Jun 30, 2021 at 12:52 PM Leo Pilachowski <leop@lyradev.com> wrote:

Eric Greulich,

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Leo Pilachowski

812-331-9858

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Subject: Re: High and 1st house - Building Permit Review

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Leo Pilachowski

812-331-9858

--

Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department

812-349-3526

Leo Pilachowski

From: Eric Greulich <greulice@bloomington.in.gov>
Sent: Friday, February 17, 2023 3:48 PM
To: leop@lyradev.com
Cc: Mike Rouker; robinsos@bloomington.in.gov; beth.cate@bloomington.in.gov; Jacqueline Scanlan
Subject: Re: Appealable administrative decision on sidewalk issue for 2028 E 1st Street

Mr. Pilachowski:

Thank you for the response. Please allow me to briefly address several of these issues.

As was discussed during the review and approval of the building permit for the construction of the new residence, Section 20.04.050(d)(2) of the Unified Development Ordinance requires the construction of a sidewalk and tree plot with street trees along the High Street frontage. The required improvements were shown on the approved site plan you submitted and were also noted as a condition of approval on the Certificate of Zoning Compliance (C21-309). It is the property owner's responsibility to install all of the required improvements associated with an approved site plan and in the instance of construction of a sidewalk, we encourage the hiring of a professional engineer to design the actual improvements to ensure they meet all necessary requirements.

A recent visual inspection of the property revealed that the sidewalk and tree plot with street trees has not been constructed. A formal Notice of Violation will be mailed to you next week notifying you of this alleged violation. You may appeal the Notice of Violation to the Board of Zoning Appeals as outlined under Section 20.06.100(f) and Section 20.06.080(d). Under this appeal, the Board of Zoning Appeals will determine whether or not a violation has occurred.

In order to resolve the alleged violation and meet the requirements of the UDO and the Certificate of Zoning Compliance, you must either install the required improvements or receive a variance to not require these improvements. A timeline to resolve the alleged violation will be outlined in the Notice of Violation.

In response to prior communications regarding the sidewalk, you cited Indiana's Barrett Law, suggesting that the City is under an obligation to implement the Barrett Law. This is not the case. The Barrett Law is designed as one option for local governments to fund the installation of certain public improvements. Bloomington has never used the Barrett Law to fund improvements, and we do not have any intention of doing so. Whether or not Bloomington chooses to use the Barrett Law as a means of funding public improvements is not a determination made pursuant to the City's zoning law, and so that decision is not reviewable by the Board of Zoning Appeals.

On Thu, Feb 16, 2023 at 2:30 PM Leo Pilachowski <leop@lyradev.com> wrote:

Ladies and Gentlemen,

The City Attorney's reply below is incorrect in numerous aspects:

1.) The issue is which of the two, the City UDO or the Indiana Code, is controlling in this matter. As the City should know, the UDO, 20.06.080(c)(2)(A), clearly states that the Planning Director is responsible for interpretations of the UDO including which provisions are controlling and/or stricter. And, the controlling and/or stricter provisions are not only limited to the UDO but also include the provisions of the Indiana Code as specifically specified in the UDO, 20.01.030(a)(2)(B). We claim that the Barrett Law section of the Indiana Code is stricter and controlling in this matter. Thus, this is a zoning matter and any Planning Director's decision (which the Planning Director or staff makes and not the City Attorney) on which provision is controlling is appealable to the BZA.

2.) We have not been told several times that the City does not use the Barrett Law as a funding source for public improvements. We have been informed of this just once in the City Attorney's email of July 26, 2022. As the City Attorney again should know, the City uses a process akin the Barrett Law to provide for adjoining property owners to provide and fund repairs of sidewalks (Bloomington City Code, 12.04.010). However, the issue is not the funding of the sidewalk. As the City Attorney should know, if the Barrett Law provisions of the Indiana Code are followed, the adjoining property owner is responsible for paying for any requested new sidewalk. The issue at hand in this matter is who is responsible for the design and construction of the sidewalk if requested by the City. Any possible funding is not an issue and never has been as the City Attorney well knows.

3.) The City Attorney should also know that if a notice of violation of the UDO is issued in this sidewalk construction matter, that notice is appealable to the BZA (UDO 20.06.0(e)(2)(G)). This matter will end up before the BZA if the City proceeds as the City Attorney has implied. It is clearly a waste of time and money not to start the BZA process now rather than after a notice of violation is issued. It is a valid defense of the notice of violation before the BZA that the UDO provision is null, void, not applicable, and contrary to the Indiana Code.

4.) Finally, the City Attorney knows full well that the Indiana Code and Courts require that any argument that a provision of a municipal zoning ordinance is null, void, not applicable and contrary to the Indiana Code or Constitution must first be heard before the BZA. The City Attorney appears to be denying us access to the BZA forum. This denies us our basic due process rights.

We again ask that the City Planning Department provide us with a written decision on the controlling and/or stricter provision in this matter.

Leo Pilachowski

2028 E 1st St

Bloomington IN 47401-5218

812-272-6874

From: Mike Rouker [mailto:roukerm@bloomington.in.gov]
Sent: Thursday, February 16, 2023 1:06 PM
To: leop@lyradev.com
Cc: greulice@bloomington.in.gov; robinsos@bloomington.in.gov; beth.cate@bloomington.in.gov; Jacqueline Scanlan
Subject: Re: Appealable administrative decision on sidewalk issue for 2028 E 1st Street

Mr. Pilachowski:

As we have mentioned several times, the City does not use the Barrett Law as a funding source for public improvements. The decision not to use the Barrett Law as a funding source for public improvements is not a decision made under our zoning ordinance and is not appealable to the Board of Zoning Appeals.

If you have questions about the validity of the Certificate of Occupancy you received from the County and how that relates to the City's zoning requirements, you may reach out to the City's Planning and Transportation Department.

On Thu, Feb 16, 2023 at 12:14 PM Leo Pilachowski <leop@lyradev.com> wrote:

Gentlemen,

I received an email and message from Misty Deckard of the Monroe County Building Department last Tuesday asking me to call the City Planning Department as soon as possible. On Wednesday, I spoke to Ms. Deckard by phone to find out why she sent the message. Ms. Deckard informed me that the City asked that the Certificate of Occupancy not be issued for our new home on E 1st Street. When told the COO was issued last April, there was some discussion about the validity of the COO and there being no sidewalk on S High Street. The City asked Ms. Deckard to notify me that I should call the City Planning Department as soon as possible. I find it odd that the City would not contact me directly by email or phone. We have made the new house our official residence last August after the driveway apron was completed and cured.

For over two years we have been trying to come to some resolution about the sidewalk on S High Street. It has been our contention that any offsite sidewalk construction is not governed by the City UDO but rather by the Barrett Law section of the Indiana Code and the specific Home Rule exceptions in the Indiana Code. We have not been as yet received any appealable administrative decision from the City on this issue. The closest we have come is an email from the City Attorney saying that the City has "no intention" of using the Barrett Law for right of way improvements. However, the City Attorney specifically wrote that his statement was not appealable to the BZA. I immediately replied to that email again asking for an appealable decision. This was on July 26, 2022. Since that time I have no reply from the City concerning this request.

I ask again for an administrative decision on the sidewalk construction requirement so that we can file an appeal petition to the BZA under the UDO section 20.06.080 (d)(2)(A). Upon receiving such an administrative decision on our request for an interpretation on the controlling provision between UDO and Indiana Code, we will file a petition to the BZA forthwith.

We have wanted to have the City grant us our due process rights to start any necessary appeal process for some time. Below is the complete email thread with the City on this matter. I ask the City to respond with an appealable administrative decision in a prompt and timely manner.

Leo Pilachowski

2028 E 1st St

Bloomington IN 47401-5218

812-272-6874

From: Leo Pilachowski [mailto:leop@lyradev.com]

Sent: Tuesday, July 26, 2022 6:07 PM

To: 'Mike Rouker'

Cc: 'greulice@bloomington.in.gov'

Subject: RE: Sidewalk - RE: Garage issue for new house at 1st and High?

Mr Rouker and Eric Greulice,

I have looked over all my email correspondence with Eric Greulice since May of last year searching for any references to the sidewalk on High Street. The only email (5/14/2021) about the High St sidewalk says that I must show the installation of the sidewalk on the site plan submitted with the building permit. I did that with a note on the site plan stating "High Street sidewalk, details TBD when built." I replied to the 5/14/2021 email the same day stating that I expected the City to go through the Barrett Law process. This email reply of May 14, 2021, was never answered. This email chain is part of the current email chain and the exact messages are below.

I subsequently submitted the site plan showing the High Street sidewalk with the note: "High Street sidewalk, details TBD when built." The City approved the site plan and the building permit was issued. Having not heard back from the City in over a year, I emailed Eric Greulice this past Monday, 7/25/2022, to resolve the sidewalk building issue. At all times I have acted in a timely manner with respect to this matter and requesting a response to the issue of who will build the sidewalk. It is not explicit just to say the City will not follow the Barrett Law procedure as the City could still build the sidewalk and not me.

I need an explicit administrative decision on what party is to build the sidewalk. Please have Eric Greulice (or some other official) email me a clear and explicit statement that I need to build the sidewalk if that is the City's position.

Leo Pilachowski

812-272-6874

From: Mike Rouker [mailto:roukerm@bloomington.in.gov]
Sent: Tuesday, July 26, 2022 12:44 PM
To: leop@lyradev.com
Cc: greulice@bloomington.in.gov
Subject: Re: Sidewalk - RE: Garage issue for new house at 1st and High?

Mr. Pilachowski:

We have never used the Barrett law as a mechanism for funding right of way improvements, and we have no intention of doing so. This is not appealable to the BZA.

On Tue, Jul 26, 2022 at 11:34 AM Leo Pilachowski <leop@lyradev.com> wrote:

Mr. Rouker,

Thank you for the reply. My question was more than just using the IC's Barrett Law for the sidewalk construction as I contend the City is required under the Indiana Home Rule Statute to do so. I need a direct answer to that contention so that I can appeal any decision to the BZA if the City does not think that the Home Rule Statute applies. The IC, supported by case law, says that I must first appeal to the BZA if I contend that a section of the UDO is null and void as a matter of law. I contend that the City cannot invoke any of the enforcement mechanisms in the UDO (or even as a common nuisance) if I do not build the sidewalk. I am not contending that I do not have to pay for the sidewalk. That I will do if the correct procedures are followed.

Thus, please state explicitly that the City has decided that the IC's Home Rule section does not compel the City to use the Barrett Law to have the abutting sidewalk built. An email from Eric Greulice will be sufficient to start the BZA appeal process.

By the way, the City exclusively uses the Barrett Law procedure to compel abutting property owners to repair sidewalks. The Home Rule Statute just says that the IC procedure must be used. This is satisfied if the City Code has the same procedure.

Finally, if the City views that your email on not using the Barrett Law is an administrative decision appealable to the BZA, please state so explicitly so that I can file an appeal to the BZA.

Leo Pilachowski

812-272-6874

From: Mike Rouker [mailto:roukerm@bloomington.in.gov]
Sent: Tuesday, July 26, 2022 11:03 AM
To: leop@lyradev.com
Cc: Eric Greulich
Subject: Re: Sidewalk - RE: Garage issue for new house at 1st and High?

Mr. Pilachowski:

We have never used the Barrett law as a mechanism for funding right of way improvements, and we have no intention of doing so.

On Mon, Jul 25, 2022 at 9:53 AM Leo Pilachowski <leop@lyradev.com> wrote:

Eric,

It is time to resolve the sidewalk issue for the new house at 2028 E 1st Street. You have not replied to my email (below) of more than a year ago where I said that the sidewalk issue/zoning requirement is handled under the Barrett's Law section of the Indiana Code: IC 36-9-36-17. This section of the Indiana Code explicitly specifies the manner for the City to exercise the power to have a property owner construct a sidewalk on an abutting right-of-way. The Indiana Code section on Home Rule, IC 36-1-3-6(a), states that the City must follow the manner of exercising a power required under the Indiana Code. This is backed up by the case law.

I would have presented this argument about the required curb for the 1st Street alleged second drive had I been allowed to speak on the issues rather than just on standing. Given the City's position, I do not see any way to further negotiate about the sidewalk without having the City argue that I have given up any right to contest the validity of the UDO requirement that I build the sidewalk.

Thus, I will again ask that the City follow the procedure as specified in the Indiana Code if the City wishes to have a sidewalk built on High Street abutting my property. I do not want a notice of violation so an answer need be given so that this issue can be resolved or so that I can take action to resolve the matter of the validity of the relevant section of the UDO.

Leo

Leo Pilachowski

812-272-6874

From: Leo Pilachowski [mailto:leop@lyradev.com]
Sent: Friday, May 14, 2021 4:35 PM
To: 'Eric Greulich'
Cc: roukerm@bloomington.in.gov
Subject: RE: Garage issue for new house at 1st and High?

Eric Greulich,

Thank you for the prompt response and answers. I will assume that everything with respect to zoning except for the South High Street sidewalk is okay with the site plan and that any City Planning approval needed for the building permits would be given except for the South High Street sidewalk. Your email will allow us to proceed with our house building decision process.

With respect to the sidewalk, we could easily add one to the site plan. As you may recall there is only 9' between the pavement edge and the right of way line. The topology and the wall extending into the right of way at the south property line of our lots means a pedestrian easement is not feasible. The Department could approve a 6' sidewalk with a 6" curb, UDO 20.04.05(d)(10)(C)iv.2.[b]. Or, assigning a multipath designation, the Department could approve a 5' wide asphalt path with a 4' vegetative plot UDO 20.04.05(d)(10)(D)iv.2. However, we would expect the City to go through the Barrett Law process of the Indiana Code to have the sidewalk and curb or path constructed and funded. We would just label the sidewalk and curb or path "To be constructed by the City."

UDO 20.04.05(d)(9) does permit the Planning and Transportation Director to modify or alter the standards in UDO 20.04.05(d)(10). The need to follow the Barret Law process of the Indiana Code is ample reason to modify or alter the standards so that the current site plan (without the sidewalk) could be approved. Then, if the City still desires the sidewalk, the Barret Law process could be followed.

I would argue against a sidewalk that has been labeled as unsafe in an earlier City proceeding, has no logical terminus, does not provide a path to any place except a wall, and is a potential injury causing attractive nuisance to children from the nearby schools. But, it would be the City's sole choice to have such a sidewalk constructed and funded.

It would be helpful if you could please tell me if the Department continues to want a sidewalk and curb or path added to the site plan that is part of a building permit submittal.

Leo Pilachowski

812-331-9858

From: Eric Greulich [mailto:greulice@bloomington.in.gov]

Sent: Friday, May 14, 2021 2:50 PM

To: Leo Pilachowski

Subject: Re: Garage issue for new house at 1st and High?

Thank you for checking back, we discussed this yesterday afternoon and determined that there is not a problem with the location of the driveway or the garage. Both of those aspects meet the UDO standards.

In regards to the sidewalk, we could not approve a building permit that does not show the installation of a sidewalk. That is a requirement of the UDO and therefore we could not approve a building permit that does not show it.

On Fri, May 14, 2021 at 2:41 PM Leo Pilachowski <leop@lyradev.com> wrote:

Eric Greulich,

I had hoped to hear back this week about the possible drive and garage issues. You pointed out the UDO section relating to the possible drive issue but you did not do so for the front-loading garage issue. I have no idea at all concerning the possible front-loading garage issue. Could you please enlighten me about the section of the UDO where their might be possible issue? It might be an easy fix on my part if there is something non-conforming but time is running out as I meet with the design people for final changes tomorrow.

Leo Pilachowski

812-331-9858

--

Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department

812-349-3526

--

Michael Rouker
City Attorney
City of Bloomington
(812) 349-3556

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Michael Rouker
City Attorney
City of Bloomington
(812) 349-3556

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Michael Rouker
City Attorney
City of Bloomington
(812) 349-3556

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--

Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department
812-349-3526

Leo Pilachowski

From: Leo Pilachowski <leop@lyradev.com>
Sent: Monday, March 13, 2023 11:14 AM
To: 'Eric Greulich'
Subject: RE: Appeal and Petition to the BZA

Eric,

Thank you for speaking with me by phone today and for emailing the public hearing notice.

I do have one request that I only mentioned peripherally during the phone call. I would like to have access to all of the records related to the discussions, meetings, plans, and other material for the Clifton sidepath that was construction from E 1st Street to E Maxwell Lane. In particular, my understanding, from speaking with neighbors in the area, was that the sidepath was constructed at additional expense instead of a sidewalk on the west side of S High Street and would take the place of a west sidewalk. The discussions were influenced by two pedestrian related deaths on S High Street in the area.

Please have someone let me know how to get access to the Clifton sidepath records.

Leo

Leo Pilachowski
2020 E 1st St
Bloomington IN 47401
812-272-6874

From: Eric Greulich [<mailto:greulice@bloomington.in.gov>]
Sent: Monday, March 13, 2023 9:57 AM
To: leop@lyradev.com
Subject: Re: Appeal and Petition to the BZA

I just wanted to let you know that I mailed the public notice letters on Friday (see attached) and would be posting the public notice sign on the property later today. You should be receiving the formal notice of violation either today or tomorrow as it was mailed on Friday. This is on the agenda for the March 23 Board of Zoning Appeals meeting.

On Tue, Feb 21, 2023 at 9:19 AM Leo Pilachowski <leop@lyradev.com> wrote:

Eric,

I am confused about a violation letter being sent out. I understand that once an appeal is filed, all action on the matter is stayed until the appeal is heard and decided. Since I successfully submitted, on 2/20/2023, an appeal of your determination of an alleged zoning violation in the email of 2/17/2023, all action in this matter should be held in abeyance.

I have tried for over two years to get to a point in this matter where I could bring the matter to the BZA. I wanted this to happen before the construction was completed so we would not have the added complication of any formal zoning violation.

Leo

Leo Pilachowski

2028 E 1st St

Bloomington IN 47401-5218

812-272-6874

From: Eric Greulich [mailto:greulice@bloomington.in.gov]

Sent: Tuesday, February 21, 2023 9:08 AM

To: leop@lyradev.com

Subject: Re: Appeal and Petition to the BZA

This is the standard pre-application checklist that we give people before they file. For an Administrative Appeal though all that we need is the application form and petitioner statement, which you provided. Your Appeal will be entered in as soon as the actual violation letter is sent. Please let me know if there is something else that you are looking for.

On Tue, Feb 21, 2023 at 9:02 AM Leo Pilachowski <leop@lyradev.com> wrote:

Eric,

I thought there was a checklist or other document for the BZA process but I have been unable to find one. If there is one, will you please point me toward it?

Leo

Leo Pilachowski

2028 E 1st St

Bloomington IN 47401-5218

812-272-6874

From: Leo Pilachowski [mailto:leop@lyradev.com]
Sent: Monday, February 20, 2023 3:57 AM
To: greulice@bloomington.in.gov
Subject: Appeal and Petition to the BZA

Eric Greulich,

Thank you for your email and determination of last Friday, 2/17/2023. We appreciate getting your determination with sufficient time for us to submit an appeal before a formal notice of violation is issued. I have attached the appeal application and petition to this email. In addition, I have attached the submitted site plan as approved.

Regards,

Leo Pilachowski

2028 E 1st St

Bloomington IN 47401-5218

812-272-6874

--

Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department

812-349-3526

--

Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department
812-349-3526

Leo Pilachowski - Petition for Appeal of the 3/10/2023 Notice of Violation Alleges Failure to Comply with the UDO and CZC 21-309

On 3/13/2023, we received a Notice of Violation, dated and sent on 3/10/2023, for the property and improvements we own at 2028 E 1st Street in the City of Bloomington. The house was newly built on a vacant lot and we moved into our new home on 8/20/2023. Monroe County issued the Certificate of Occupancy on 4/8/2022 and the City's UDO does not require an occupancy permit for detached single family residences.

We have filed, on 2/20/2023, an appeal petition for the BZA review of a 2/17/2023 determination by Eric Greulich alleging violations of the UDO. This appeal does not apply to the alleged UDO violations in that determination. This appeal consists of two major issues: that the Notice of Violation cannot be issued during the stay of all proceedings initiated by the previous appeal and that we had no specific knowledge of the Certificate of Zoning Compliance C21-309 having neither received or had access to the CZC.

(1) The UDO 20.06(d)(3)(A)iii. states:

“Stay of Proceedings

An appeal stays all proceedings from further action unless the Planning and Transportation Director determines that a stay would create adverse impacts to the health, safety, or welfare of the city or neighborhood.”

I mentioned this to Eric Greulich, in person, on Monday afternoon, 3/13/2023, when Eric was setting the appeal notice sign on our property. Eric said that the stay only applied to fines. However, the clear text of the UDO says that all proceedings are stayed. Thus, the Notice of Violation, a clear proceeding defined in the Administrative & Procedures chapter of the UDO, is invalid and should not have been issued.

(2) The UDO 20.06.050(f)(3)(B) states that a Certificate of Zoning Compliance (CZC) reviewed and decided in accordance with UDO 20.06.040(d). Although the UDO 20.06.040(d)(5)(A) only says that the decision shall be in writing and appears not to mandate that the petitioner for a be given a notice or copy of any approval, approval with conditions, or denial, it is required by due process that the petitioner get or have access to the approved CZC and any conditions of approval. Although I sent the initial site plan and revised site plan to Eric Greulich (and submitted both to the Monroe County Building Department), Eric Greulich told me, in person, on Monday afternoon, 3/13/2023, that he did not send me the CZC 21-309. He said that the Monroe County building Department should have provided me with a copy of the CZC. The CZC 21-309 was not available to me on the Monroe County Building Department website until the morning of Tuesday, 3/14/2023.

Additionally, the first reference to any CZC was in a 6/8/2022 email from Paul Kerhberg. The email, in part, says “I've attached the plans which Planning approved when they issued your Certificate of Zoning Compliance.” I had assumed previously and after this email that the submitted and approved site plans were approved without conditions since no conditions were mentioned. The only other reference to a CZC was in Eric Greulich's determination of 2/17/2023, a determination which has been appealed. After the Kerhberg email, I reexamined the conditions I received with the building permit and saw no conditions relating to zoning. I also looked at all documents and attachments in our building permit file on the Monroe County Building Department website. I saw no CZC. After the receipt of the Gruelich determination, I again looked at the Building Department website and still saw no CZC. After receipt of the Notice of Violation, I looked again at the Building Department website and my email and saw no CZC. I mentioned that we did not have the CZC C21-309 in an email of 3/13/2023 to Jennifer Burrell

(and to planning.bloomington.in.gov), the signer of the notice. I asked that a copy of CZC C21-309 be immediately emailed to me. I have received neither a reply nor copy of CZC C21-309.

After speaking in person on Monday, 3/13/2023, afternoon with Eric Greulich, in person, I was more concerned about not having the CZC (as was Eric). On Tuesday morning I called the Monroe County Building Department. The person, Misty Deckard, with whom I usually worked, was no longer employed there but I spoke with another lady (Jamie?) and asked about any CZC for our building permit (R-21-547). She said that the office often does not get a CZC and she was initially unable to find a CZC for my account. She said she needed to look elsewhere. After a few minutes she came back and told me to look in the attachments page of my account. I had that page open and did not see a CZC attachment. I then opened a second, separate window the attachments page of my account. The CZC was now listed at the new, separate web page at the end of the list. I was then able to finally download and examine a copy of CZC C21-309. The Monroe County permit website system sends me an email when documents and attachments are uploaded to my account. I received such an email when I uploaded the revise site plan for Eric Greulich on 7/7/2022 but I have no such notification email for any CZC upload (and, specifically, none on the 7/8/2021 date that Eric approved the site plan). So I did not have any knowledge that the CZC was uploaded. I had to pay for and pick up the building permit in person. I was not given a copy of the CZC when I picked up the building permit and related materials on 7/12/2021.

For the past two years I have been trying to get an appealable decision from the Planning Department on the sidewalk issue. The City Attorney and the Planning Department have said that none of their emails were appealable until the Gruelich determination of 2/27/2023. However, the conditions in CZC C21-309, and in particular the condition that the house could not be occupied until the S High Street sidewalk was completed, were appealable. Had I seen CZC C21-309, I would have immediately appealed and not spent two years trying to get an appealable determination. This whole sidewalk issue could have been settled long before the house was completed and able to be occupied. We are concerned that an appealable determination or document was not available until the City wanted to issue a violation notice and start the accumulation of hefty fines.

We ask the BZA to:

- 1.) Void the 3/10/2023 Notice of Violation that was issued after we appealed the 2/17/2023 determination that concerned the alleged violations. A stay was in effect before the notice was issued.**
- 2.) To render void the CZC C21-309 condition that “A 6’ sidewalk and tree plot is required along the entire property frontage and must be installed prior to occupancy.” The house was occupied, with a valid occupancy permit, prior to our knowing of the condition.**

Leo Pilachowski

From: Leo Pilachowski <leop@lyradev.com>
Sent: Wednesday, March 15, 2023 8:32 PM
To: planning@bloomington.in.gov; greulice@bloomington.in.gov
Cc: 'Mike Rouker' (roukerm@bloomington.in.gov); beth.cate@bloomington.in.gov
Subject: Appeal and petition to the BZA of a Notice of Violation
Attachments: city_zoning_approval_Thu_Jul_8_2021_12-37-04.pdf; petition_violation_notice.docx; Application form_2028_1st_violation_notice.pdf; violation_notice_2028_1st_3-10-2023.pdf

Gentleman and Ladies,

The email is the submission of an appeal and petition of a Notice of Violation we received for our newly built residence at 2028 E 1st Street in Bloomington, Indiana. This appeal is separate and different from the appeal of the determination that alleges similar violations on the property. This appeal is an appeal that the notice violates a stay of proceedings and the CZC C21-309 violation involves a CZC and CZC conditions of which we had no knowledge before violation notice was received. This appeal is made just to be complete and to forestall any enforcement until the matter of the sidewalk can be settled.

For well over two years now we have been trying in good faith to settle the issue of the S High Street sidewalk. We realize that this issue will probably take a court decision to be settled and we have been trying to get an appeal decision from the City that we could appeal to the BZA. The notice of violation, with the due process errors and possible hefty fines, greatly complicates what we have attempted to make a single issue appeal process. There is no question that we have been trying to resolve the issue and it appears that the City, in not replying to requests for an appealable decision, has stalled the matter until the pressure of a violation and hefty fines may force us to drop the issue. Unfortunately, personal liability concerns make it impossible for us to live in and own the house if we have to be responsible to the design and construction of the of what some consider to be an unsafe and uncompliant sidewalk.

We are not trying to get out of paying the cost sidewalk. We have offered to pay for the cost of the sidewalk if the City has it built or to pay the cost of the sidewalk into the sidewalk fund. In fact, we bought the lot in 2004 having been told by the then current City administration that paying into the sidewalk fund was preferable to building an orphan sidewalk that would go nowhere when the City was building the parallel Clifton sidepath (instead of the S High Street sidewalk) to provide a safer, especially for school children, route parallel to S High Street.

The issue of the lack of the notice and the lack of providing of the CZC C21-309 to us would reasonably needed to be settled before the BZA appeal of the 2/17/2023 determination could be heard. Any continuance would further delay the settling of the main sidewalk issue. Thus, I would like to make a proposal.

The City has discretion when issuing violation notices. The UDO says the City “may” issue a violation notice or could issue even just warning notice. Eric Greulich’s determination was enough to start the process to resolving this issue.

1.) For now and until we have a final decision on the sidewalk and Barrett Law issue, the Notice of Violation should be withdrawn. The violation notice can be reissued after a final decision is made or we do not appeal any decision adverse to us.

2.) We will not contest the due process issues concerning the lack of the City providing us with the CZC C21-309 and the conditions therein. This and 1.) above will moot this second appeal and we will get to continue occupying our new home without the possible hefty fines while this process plays out.

3.) We will continue with the appeal scheduled for 3/23/2023 contesting only the sidewalk/Barrett Law issue and the street tree substitution issue as shown and noted on the approved site plan. As we told Eric Greulich, we have always intended to plant trees in both front yards. The substitution for existing large trees was just to give us time to do the

landscaping is a much less rushed and possibly stricter manner. If we plant the trees now, the City will argue that the tree issue is moot.

This appeal and petition is copied to the City Attorney and Corporation Counsel because of the lack of notice for the CZC C21-309 and its conditions.

Leo Pilachowski
2028 E 1st St
Bloomington IN 47401
812-272-6874

Leo Pilachowski

From: Leo Pilachowski <leop@lyradev.com>
Sent: Monday, March 13, 2023 4:29 PM
To: 'jennifer.burrell@bloomington.in.gov'
Cc: greulice@bloomington.in.gov; planning@bloomington.in.gov
Subject: Notice of Violation for 2028 E 1st Street

Ms. Burrell,

We received the notice of violation of the UDO for our new home at 2028 E 1st Street today. We may answer back to you with issues we see with the notice of violation process in a day or so. However, we are confused about the violation of the certificate of zoning compliance. We assume this is the referenced CZC C21-306. We have never received by USPS mail or email any certificate of zoning compliance. We have not received any correspondence until just in the past few days that mention a certificate of zoning compliance. I just looked at my Monroe County Building Services account and that document is not there either.

We cannot be in violation of the terms of a document that we do not have or to which we do not have access. We had a Monroe County building permit for the house and we were told by numerous people in both the County and City that the submitted site plan was approved by the City. The home, as built, complies completely with all aspects of the site plan except for the shown sidewalk along S High Street. That sidewalk was required, by Eric Greulice, to be shown on the site plan. However, all details for the sidewalk were specifically noted on the site plan to be determined at a later date. We have been trying for well over a year to determine those details including just who is responsible for the actual design and building if the sidewalk. We have not disputed that we may be required to pay for the sidewalk.

We would like to see the certificate of zoning compliance to determine if there were any conditions or site plan changes in the certificate. Please email a copy of the certificate to me immediately.

Finally, the notice of violation notes that we have disputed that there are zoning violations. To be exact, on 2/20/2023 we filed an appeal to the BZA of Eric Greulice's administrative determination that the new home was not in compliance with the UDO. Please note that the UDO 20.06(d)(3)(A)iii. states:

“Stay of Proceedings

An appeal stays all proceedings from further action unless the Planning and Transportation Director determines that a stay would create adverse impacts to the health, safety, or welfare of the city or neighborhood.”

We contend that the 3/10/2023 notice of violation should not have been issued during a stay of all proceedings and that such a notice cannot now be issued until after the BZA published its written decision.

Sincerely,

Leo Pilachowski
2028 E 1st St
Bloomington IN 47401
812-272-6874

Leo Pilachowski

From: Leo Pilachowski <leop@lyradev.com>
Sent: Tuesday, March 21, 2023 9:26 PM
To: 'Eric Greulich'
Cc: 'Mike Rouker'; 'beth.cate@bloomington.in.gov'; 'Jacqueline Scanlan'; 'Jennifer Burrell'
Subject: RE: Appeal and petition to the BZA of a Notice of Violation

Mr. Greulich,

Thank you for your reply and the link to the Administrative Manual. I had downloaded a copy of the CZC on Tuesday, 3/14/2023 from the Monroe County Building Department permit website. Thank you for confirming that neither you nor the Planning Department sent me a copy of the CZC and the seven conditions listed therein.

First, I want to state again that I did not receive a copy of the Certificate of Zoning Compliance when I personally paid for and picked up the building permit from the Monroe County Building Department on 7/12/2021. I was not told that there was such a certificate. After our in person conversation on the afternoon of Monday, 3/13/2023, I checked the County website and did not see a link to any Certificate of Zoning Compliance in my account. I called the Building Department the next morning to ask about the CZC. My account webpage listing all attachments and documents was visible on my computer monitor at the time. The lady that spoke with me initially said that she could not find a CZC and said she needed to look elsewhere. After a minute or two, she came back and told me that the CZC was now listed on the attachments webpage. At that point, I opened a new window to my account webpage and the CZC attachment was now listed there. The two views of the same webpage were different and I commented on that fact to the lady who spoke with me.

When an attachment is uploaded to a permit account, the account holder is sent an email to that effect. I have looked back over my emails and I see the email notice after I uploaded the revised site plan on 7/7/2021. I also see two notices for 7/8/2021. One notice was about the required payment for the building permit and the other was a comment from Misty Deckard on how the permit fees were to be paid. There is no email about an upload or message concerning the CZC. I understand that you sent by some means the CZC to the County Building Department on 7/7/2021 or 7/8/2021. I do not dispute that as the CZC was issued and sent. I am saying that I was not notified that the CZC was received and then uploaded to my account. And, I am saying that until the morning of 3/14/2023, the CZC was not available for download from my account on the County permit website.

The BZA packet for Thursday's meeting contains a page, at 65, listing the attachments and documents for my County permit account. That page appears to have been generated on 3/14/2023. That page is not a screen shot of the publically accessible attachment list in my County permit account. And, that page does not show what was and is available on my accessible permit account attachments webpage.

You were aware at the time you sent the CZC to the County that the Building Department had made an error four weeks previously when the City was not sent a copy of the site plan. After the time we spent correcting that error and my getting you the revised site plan while I was on travel, I am somewhat puzzled that you did not email me a copy of the CZC when you sent the CZC to the County. This is especially so given that the CZC was approved with seven conditions. The puzzlement is only amplified by the fact that you did not contact me directly when you noticed the site plan was missing from the permit documents the County had emailed you. And, finally, instead of contacting me directly when you had concerns about the occupancy of the new house, you contacted the County to ask about suspending the County occupancy permit and asked the County to contact me to ask that I contact the City Planning Department. These were three important issues to which I should have been notified directly by the City instead of going through the County Building Department.

Of the seven CZC conditions, the first five are just restatements of sections of the BMC which have all been met. The sixth says that the yard must be seeded and stabilized. The UDO says that the yard must be seeded or mulched. I did both

but the CZC condition is in excess of the UDO requirement and I would have disputed that condition. It is the seventh and last condition that is of the most concern:

“A 6' concrete sidewalk and tree plot is required along the entire property frontage and must be installed prior to occupancy.”

I do not dispute that the UDO requires a sidewalk with a tree plot along S High Street. There are two points I want to make about the seventh condition.

First, the seventh condition only speaks toward a sidewalk and a tree plot. No trees are mentioned. Your first email of 7/7/2021 says;

“Looking at the site plan everything looks good except that the sidewalk width needs to be adjusted to 6' wide. If you can make that change I can get the permit finished today.”

Your second email of 7/7/2021 says:

“The sidewalk still needs to be one foot inside the right-of-way and it is fine if the tree plot only becomes 2' wide. Obviously trees could not be planted in a 2' wide tree plot, so no trees are required in that instance.”

The revised site plan showed a 6' sidewalk with a 2' tree plot along S High Street. The site plan, and every version of the plan I emailed to you, clearly state that existing large trees will substitute for the required street trees:

“Existing west walnut, honeylocust, and hickory trees to count toward, the street tree requirement (4 on 1st St and 5 on High St).”

In addition, starting with my email of 5/9/2021, I have stated to you our intention “to substitute the tree credits of three existing qualified deciduous trees for the required street trees along East 1st and South High Streets.” You never, at any time, said that this would not be allowed. And, you approved the site plan with such a substitution and with no related restrictive statements (or even a condition in the CZC). Furthermore, the UDO has no restriction or limit on what required landscape may be substituted by existing vegetation. There is no question that street trees are required landscaping.

Second, as I stated in my email of 7/8/2021, the issue of the sidewalk needed to be resolved during the construction phase and before preferably occupancy. The issue with the CZC condition is that the condition says that the sidewalk must be installed prior to occupancy. I have been aware for many years that the UDO specifically exempts detached single-family dwellings from needing a City issued Certificate of Occupancy and from needing such a certificate before being occupied. Given that I have continued to argue that under the Barrett Law the City must give me the option of having the City building the sidewalk on the S High Street frontage instead of me (with the cost paid by me), why would I have agreed to a condition which allows the City to prevent occupancy by just not building the sidewalk. This condition (along with the seeding and stabilizing condition) are clearly appealable to the BZA. Since 5/14/2021, I have continued to ask for an such a determination that would allow me to start the Barrett law related appeal process. Given this, I would most certainly have appealed the CZC to the BZA. And this whole issue would have been resolved during the construction process rather than needing to be started after we moved into the house.

Of course we moved into our new home before the S High Street sidewalk was built. For nearly two years now I have asked the City for a determination on the conflict between the UDO and the Barrett Law section of the Indiana Code. On 7/26/2022, the City Attorney Mike Rouker finally responded for this request with an email that said the City had no intention of following the Barrett Law process. And, in a subsequent email, Mike Rouker stated that I could not appeal his response. This was after having argued to the BZA that my appeal of a requirement to build a curb on E 1st Street was mute. I would have used that BZA hearing to argue that the Barret Law also applied. I again asked for an appealable determination. After waiting well over a year for an appealable City response, we moved in on 8/20/2022. After failing to have the County suspend the County occupancy permit, the City finally responded on 2/17/2023 with an appealable determination and then with a Notice of Violation three weeks after the determination was appealed to the BZA. The City's inaction would caused us irreparable harm had we not moved into the completed new home.

In closing, I would like to reiterate that the issue of sending the CZC and conditions to the Monroe County Building Department and then putting the responsibility on the County to notify me of any conditions is not resolved by saying that it is the usual practice for the City and County to do so. And, there is no resolution by claiming that the County did so in this particular case. My claim that the County never gave to me or provided access to the CZC and conditions before 3/14/2023 does not dispose of the issue. The real issue is that my due process rights require that the City give me direct notice of the CZC and the conditions contained in them or that the City have direct knowledge that I was provided the required notice by the County at the time I obtained the building permit. The City did neither. Had I been given notice of the CZC and conditions, the issue of the S High Street sidewalk would have been resolved before we could even move into the house. This is what is causing real harm to all.

Leo Pilachowski
2028 E 1st St
Bloomington IN 47401
812-272-6874

From: Eric Greulich [mailto:greulice@bloomington.in.gov]
Sent: Tuesday, March 21, 2023 2:08 PM
To: leop@lyradev.com
Cc: Mike Rouker; beth.cate@bloomington.in.gov; Jacqueline Scanlan; Jennifer Burrell
Subject: Re: Appeal and petition to the BZA of a Notice of Violation

Leo-

A link to the department's internal administrative manual can be found [here](#), and I have attached a copy of the Certificate of Zoning Compliance (CZC) issued by the Planning and Transportation Department for the construction of the residence. You attached a copy to your email and the City provided a copy to the Monroe County Building Department when we reviewed and approved the building permit. The Building Department provided a copy to you with your building permit.

The City does not typically send a CZC to applicants. Rather, the County sends a copy of the CZC with the Building Permit. However, there was no new information contained in the CZC that you were not already aware of. Your assertion that the condition of approval and requirement to install a sidewalk and street trees was the first time you were aware of the requirement is incorrect. You were aware of the requirement to construct a sidewalk and install street trees on High Street, as reflected on the site plan you submitted with the building permit. In fact, during our conversations about the construction of the residence when I informed you that a sidewalk and street trees were required, you attempted to file for a variance from that requirement in February 2019, but you decided not to pursue a variance. The inclusion of these requirements as a condition on the Certificate of Zoning Compliance was merely re-stating the requirement from the UDO and re-stating what you showed on your approved site plan. Again, this was not new information to you that was only contained within the CZC, but something that you and I discussed multiple times.

The Section of the UDO that you referenced under 20.06.080(d)(3)(A)(iii) in regards to "Stay of Proceedings" is inapplicable. There is no proceeding pending before any body that would need to be stayed, and the issuance of an NOV is not a proceeding. Your pending appeal provides a complete opportunity for the BZA to adjudicate your concerns.

On Wed, Mar 15, 2023 at 8:32 PM Leo Pilachowski <leop@lyradev.com> wrote:

Gentleman and Ladies,

The email is the submission of an appeal and petition of a Notice of Violation we received for our newly built residence at 2028 E 1st Street in Bloomington, Indiana. This appeal is separate and different from the appeal of the determination that alleges similar violations on the property. This appeal is an appeal that the notice violates a stay of proceedings and the CZC C21-309 violation involves a CZC and CZC conditions of which we had no knowledge before violation notice was received. This appeal is made just to be complete and to forestall any enforcement until the matter of the sidewalk can be settled.

For well over two years now we have been trying in good faith to settle the issue of the S High Street sidewalk. We realize that this issue will probably take a court decision to be settled and we have been trying to get an appeal decision from the City that we could appeal to the BZA. The notice of violation, with the due process errors and possible hefty fines, greatly complicates what we have attempted to make a single issue appeal process. There is no question that we have been trying to resolve the issue and it appears that the City, in not replying to requests for an appealable decision, has stalled the matter until the pressure of a violation and hefty fines may force us to drop the issue. Unfortunately, personal liability concerns make it impossible for us to live in and own the house if we have to be responsible to the design and construction of the of what some consider to be an unsafe and uncompliant sidewalk.

We are not trying to get out of paying the cost sidewalk. We have offered to pay for the cost of the sidewalk if the City has it built or to pay the cost of the sidewalk into the sidewalk fund. In fact, we bought the lot in 2004 having been told by the then current City administration that paying into the sidewalk fund was preferable to building an orphan sidewalk that would go nowhere when the City was building the parallel Clifton sidepath (instead of the S High Street sidewalk) to provide a safer, especially for school children, route parallel to S High Street.

The issue of the lack of the notice and the lack of providing of the CZC C21-309 to us would reasonably needed to be settled before the BZA appeal of the 2/17/2023 determination could be heard. Any continuance would further delay the settling of the main sidewalk issue. Thus, I would like to make a proposal.

The City has discretion when issuing violation notices. The UDO says the City “may” issue a violation notice or could issue even just warning notice. Eric Greulich’s determination was enough to start the process to resolving this issue.

1.) For now and until we have a final decision on the sidewalk and Barrett Law issue, the Notice of Violation should be withdrawn. The violation notice can be reissued after a final decision is made or we do not appeal any decision adverse to us.

2.) We will not contest the due process issues concerning the lack of the City providing us with the CZC C21-309 and the conditions therein. This and 1.) above will moot this second appeal and we will get to continue occupying our new home without the possible hefty fines while this process plays out.

3.) We will continue with the appeal scheduled for 3/23/2023 contesting only the sidewalk/Barrett Law issue and the street tree substitution issue as shown and noted on the approved site plan. As we told Eric Greulich, we have always intended to plant trees in both front yards. The substitution for existing large trees was just to give us time to do the landscaping in a much less rushed and possibly stricter manner. If we plant the trees now, the City will argue that the tree issue is moot.

This appeal and petition is copied to the City Attorney and Corporation Counsel because of the lack of notice for the CZC C21-309 and its conditions.

Leo Pilachowski

2028 E 1st St

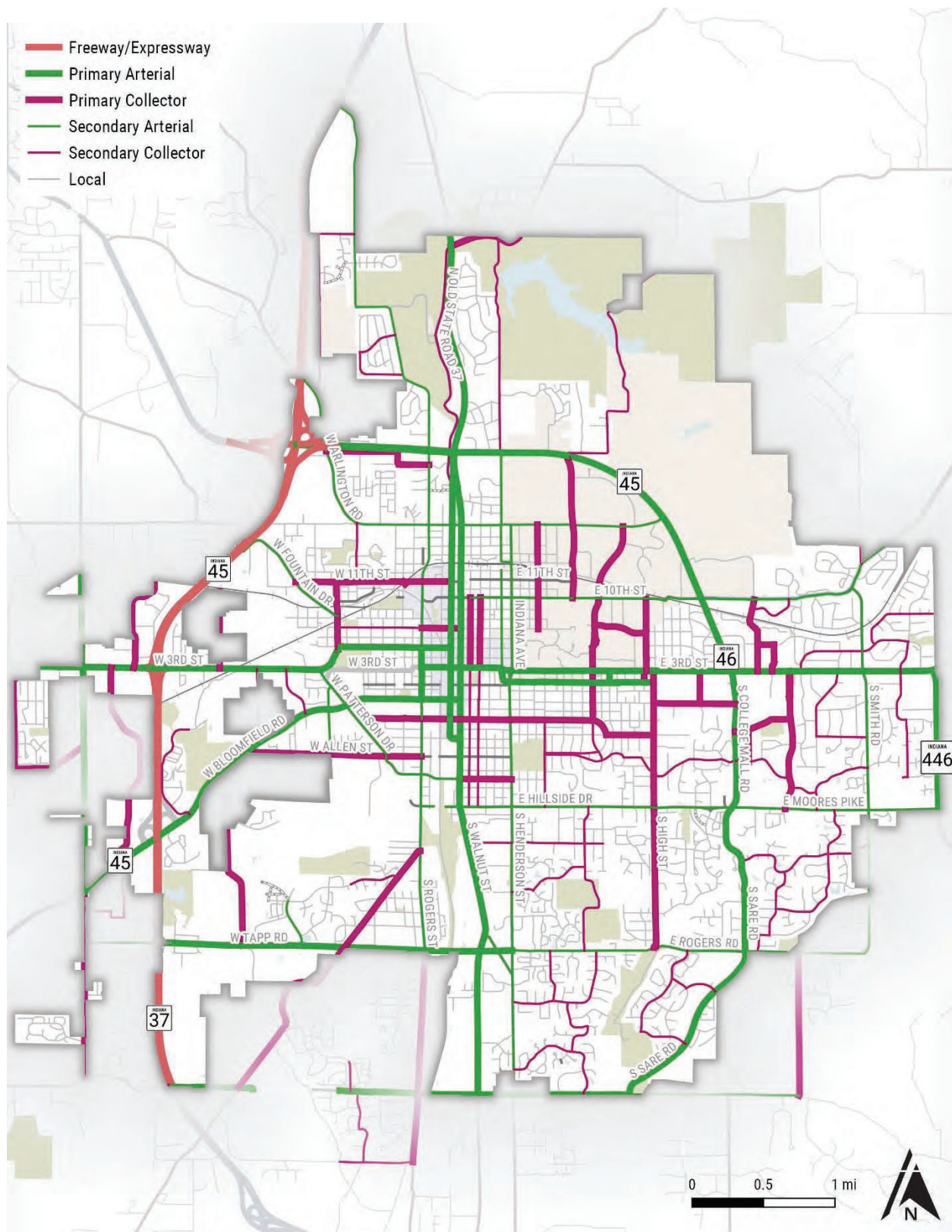
Bloomington IN 47401

812-272-6874

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Eric Greulich
Senior Zoning Planner
City of Bloomington Planning and Transportation Department
812-349-3526

Figure 4. Roadway Functional Classifications



Appendix F: Available online only

Appendix F: Proposed Right-of-Way Widths for All Street Segments

Appendix G outlines the proposed right-of-way widths for all street segments in the City of Bloomington based on the Street Typology and bicycle facility recommendation. Each street typology has a default width based on the proposed typical section. Each of the street segments has been refined by editing the proposed width based on the actual bicycle facility recommendation.

Explanation of columns:

- **ID:** The segment ID number used in the City's mapping software.
- **Street Direction:** East (E), West (W), North (N), or South (S)
- **Street Name:** The name of the street.
- **Street Suffix:** Street (ST), Avenue (Ave), Road (Rd), Lane (LN), etc.
- **Address Block:** The address number by the hundred, corresponding to that street segment.
- **Bicycle Facility Recommendation:** The bicycle facility recommendation from Figure 19 in the Plan.
- **Street Typology:** One of the six street typologies as defined in Section 3.2: Neighborhood Residential (NR), Neighborhood Connector (NC), General Urban (GU), Main Street (MS), Suburban Connector (SC), Shared Street (SS).
- **Default Right-of-Way (ROW) Width:** This is the default width for the particular Street Typology as defined in Section 3.2. This figure is used for planning purposes such as building setbacks, build-to lines, and subdivision regulations; it does not necessarily reflect the existing right-of-way width.
- **Proposed ROW Width:** This figure was determined by adjusting the Default ROW Width based on the Bicycle Facility Recommendation. Additionally, for Suburban Connector street segments only, the Proposed ROW Width may have been reduced based on its existing number of travel lanes, so as not to imply that the segment should be expanded to the maximum allowed under the description of the Typology.
- **Are Proposed and Default the Same?:** this category just helps to quickly see if the proposed width is the same as the default. It is intended to aid in mapping.
- **Reason for Change in Proposed ROW Width:** this category documents the reason for changing the proposed ROW width from the default. Due to character limitations in the mapping software, the reasons are brief.

| | | | | | | | | | | |
|------|---|-------------|------|------|------------------------------|----|----|----|-----|------------------------------|
| 3240 | W | Countryside | LN | 1400 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 3264 | W | Countryside | LN | 800 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 3248 | W | Countryside | LN | 1231 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 3033 | W | Countryside | LN | 1100 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 3262 | W | Countryside | LN | 900 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 3034 | W | Countryside | LN | 1200 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 2461 | W | Countryside | LN | 1000 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 742 | E | Covenanter | DR | 2650 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 728 | S | Covenanter | DR | 1000 | Neighborhood Greenway | NR | 74 | 60 | No | No change in width |
| 704 | S | Covenanter | DR | 1100 | Neighborhood Greenway | NR | 74 | 60 | No | No change in width |
| 725 | E | Covenanter | CT | 2600 | | NR | 60 | 60 | Yes | No change in width |
| 682 | E | Covenanter | DR | 2200 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 672 | E | Covenanter | DR | 2100 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 759 | E | Covenanter | DR | 2450 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 741 | E | Covenanter | DR | 2212 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 744 | E | Covenanter | DR | 2600 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 3238 | E | Covenanter | DR | 3200 | Protected Bike Lane | NC | 74 | 74 | Yes | No change in width |
| 2421 | E | Covenanter | DR | 3540 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 743 | E | Covenanter | DR | 2671 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 747 | E | Covenanter | DR | 2700 | Protected Bike Lane | NC | 74 | 74 | Yes | No change in width |
| 3239 | E | Covenanter | DR | 2900 | Protected Bike Lane | NC | 74 | 74 | Yes | No change in width |
| 3169 | S | Covey | LN | 1700 | | NR | 60 | 60 | Yes | No change in width |
| 433 | S | Covey | LN | 1800 | | NR | 60 | 60 | Yes | No change in width |
| 522 | S | Grandall | CT | 2000 | | NR | 60 | 60 | Yes | No change in width |
| 3155 | E | Creeks Edge | DR | 2500 | | NC | 74 | 60 | No | Change due to no bike rec |
| 7130 | E | Creeks Edge | DR | 2500 | | NR | 60 | 60 | Yes | No change in width |
| 2333 | S | Creekside | CT | 2700 | | NR | 60 | 60 | Yes | No change in width |
| 3246 | N | Crescent | RD | 1320 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 3245 | N | Crescent | RD | 1060 | Multi-use Path | NC | 74 | 62 | No | Change due to MUP rec |
| 723 | S | Cricket | KNL | 1100 | | NR | 60 | 60 | Yes | No change in width |
| 681 | S | Cricket | KNL | 1116 | | NR | 60 | 60 | Yes | No change in width |
| 670 | E | Cricket | KNL | 4300 | | NR | 60 | 60 | Yes | No change in width |
| 669 | E | Cricket | KNL | 4280 | | NR | 60 | 60 | Yes | No change in width |
| 392 | S | Curry | PIKE | 2300 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 358 | S | Curry | PIKE | 2430 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 7233 | S | Curry | PIKE | 1822 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 404 | S | Curry | PIKE | 2200 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 447 | S | Curry | PIKE | 2140 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 7232 | S | Curry | PIKE | 2166 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 2991 | S | Curry | PIKE | 2030 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 5712 | S | Curry | PIKE | 200 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 2993 | S | Curry | PIKE | 300 | Bike Lane and Multi-use Path | NR | 60 | 79 | No | Change due to BL and MUP rec |
| 2460 | S | Cutter | CT | 2300 | | NR | 60 | 60 | Yes | No change in width |
| 2414 | S | Dale | CT | 2800 | | NR | 60 | 60 | Yes | No change in width |
| 2307 | S | Daniel | CT | 3300 | | NR | 60 | 60 | Yes | No change in width |
| 2410 | E | Daniel | ST | 2900 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 2408 | E | Daniel | ST | 2800 | Neighborhood Greenway | NC | 60 | 60 | Yes | No change in width |
| 2413 | E | Daniel | ST | 3000 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 2412 | S | Daniel | ST | 3100 | Neighborhood Greenway | NC | 74 | 60 | No | Change due to NG rec |
| 2519 | E | David | DR | 2800 | | NR | 60 | 60 | Yes | No change in width |

| | | | | | | | | | | | |
|------|---|---------------|-----|------|------------------------------|----|----|----|----|-----|----------------------------|
| 1033 | S | Henderson | ST | 600 | Protected Bike Lane | NC | 74 | 74 | 74 | Yes | No change in width |
| 932 | S | Henderson | ST | 800 | Protected Bike Lane | NC | 74 | 74 | 74 | Yes | No change in width |
| 223 | S | Henderson | ST | 2480 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2735 | S | Henderson | ST | 1640 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2740 | S | Henderson | ST | 1616 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 3313 | S | Henderson | ST | 300 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 1233 | S | Heritage | RD | 200 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 3181 | W | Hickory | LN | 1300 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 3011 | S | Hickory | DR | 300 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 5709 | S | Hickory | DR | 380 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 2204 | E | Hickory Stick | DR | 534 | Neighborhood Greenway | NC | 74 | 74 | 60 | No | Change due to NG rec |
| 2203 | E | Hickory Stick | DR | 500 | Neighborhood Greenway | NC | 74 | 60 | 60 | No | Change due to NG rec |
| 2282 | E | Hickory Stick | CT | 500 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 518 | S | High | ST | 1650 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2584 | S | High | ST | | | NC | 74 | 60 | 60 | No | Change due to no bike rec |
| 2585 | S | High | ST | 2300 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2894 | S | High | ST | 2208 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 578 | S | High | ST | 1410 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 839 | S | High | ST | 900 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 677 | S | High | ST | 1298 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 642 | S | High | ST | 1300 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2906 | S | High | ST | 2110 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 482 | S | High | ST | 1800 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 413 | S | High | ST | 1960 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 381 | S | High | ST | 2100 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 678 | S | High | ST | 1226 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 757 | S | High | ST | 1020 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 705 | S | High | ST | 1100 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 1173 | S | High | ST | 300 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 1115 | S | High | ST | 400 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 1050 | S | High | ST | 500 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 968 | S | High | ST | 700 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 915 | S | High | ST | 800 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 499 | S | Highland | AVE | 1700 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 764 | S | Highland | AVE | 998 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 714 | S | Highland | AVE | 1000 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 795 | S | Highland | AVE | 900 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 2347 | S | Highland | AVE | 1834 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2349 | S | Highland | AVE | 2400 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2218 | S | Highland | AVE | 2900 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 2518 | S | Highland | AVE | 1800 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 564 | S | Highland | AVE | 1514 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 570 | S | Highland | AVE | 1500 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 561 | S | Highland | AVE | 1522 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 540 | S | Highland | AVE | 1620 | Bike Lane and Multi-use Path | NC | 74 | 74 | 74 | Yes | No change in width |
| 1185 | S | Highland | AVE | 300 | | GU | 90 | 72 | 72 | No | Changed due to no Bike Rec |
| 926 | S | Highland | AVE | 800 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 898 | S | Highland | AVE | 850 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 1013 | S | Highland | AVE | 600 | | NR | 60 | 60 | 60 | Yes | No change in width |
| 1070 | S | Highland | AVE | 500 | | NR | 60 | 60 | 60 | Yes | No change in width |

CHAPTER 51

SPECIAL DESIGN ELEMENTS**51-1.0 ACCESSIBILITY [Rev Mar. 2016]**

The *Americans with Disabilities Act* of 1990 (ADA) prohibits discrimination and ensures equal opportunity and access for persons with disabilities. Title II of the ADA prohibits discrimination on the basis of disability in the provision of services, programs, and activities by State and local governments. The Department, along with each local public agency, under ADA Title II, is required to provide ADA-compliant, otherwise known as accessible, facilities within the public right of way. Buildings within the public right of way, sidewalks, curb ramps, transit stops, on-street parking, parking lots, overpasses and underpasses are just a few examples of programs covered by Title II. Each private business which is considered to be a place of public accommodation, such as a retail business, restaurant, doctor's office, law office, etc., is required under ADA Title III to provide an accessible facility on its private property.

The *2010 ADA Standards for Accessible Design* (2010 Standards) is the current standard for providing facilities that are readily accessible and usable by persons with disabilities. However, the guidelines were developed primarily for buildings and facilities outside the right of way. Pedestrian facilities within the public right of way contain elements to which the 2010 Standards cannot be readily applied. For this reason, the U.S. Access Board proposed guidelines specifically for pedestrian facilities in the public right of way - The *Public Rights-of-Way Accessibility Guidelines* (PROWAG). These guidelines are recommended as best practice by the Federal Highway Administration and are currently being evaluated as part of the federal rulemaking process. Once adopted as a regulation, with or without modifications, the guidelines will be mandatory.

The Department's accessibility criteria meet the requirements of the ADA and seek to ensure that persons with disabilities may access the public right of way without discrimination. Unless otherwise noted, the Department's accessibility criteria are based on the PROWAG, dated July 26, 2011. The applicable sections of the PROWAG are noted in brackets next to each section heading below. If local public agencies or local codes require standards which exceed the PROWAG, the stricter criteria should be used.

51-1.01 Transition Plan [Added Mar. 2016]

Under ADA Title II and Section 504 of the Rehabilitation Act of 1973, public agencies with more than 50 employees are required to complete a self-evaluation to identify services, policies and practices that are not accessible for persons with disabilities. A transition plan to correct the deficiencies is also required. The transition plan includes the following.

1. Identification of physical obstacles that limit the accessibility of facilities
2. Description of the methods to be used to make the facilities accessible
3. A schedule for implementing access modifications, and
4. Identification of the public official responsible for implementation of the transition plan

The transition plan must be updated and maintained until all barriers to accessibility are removed or documented to be technically infeasible to construct compliantly. See Section 40-8.04(01) Item 3 for submitting a determination of technical infeasibility or technical inquiry.

51-1.02 Pedestrian Access Route (PAR) [R302] [Added Mar. 2016]

A pedestrian access route or PAR is a continuous and unobstructed path of travel provided for pedestrians with disabilities within or coinciding with the pedestrian circulation path. The pedestrian circulation path is any prepared interior or exterior surface provided for pedestrian travel in the public right of way. Within the public right of way, the PAR typically includes sidewalks, pedestrian street crossings, and curb ramps, as well as overpasses and underpasses. Where the PAR is within a wider pedestrian circulation path, the accessibility criteria in this section apply only to the PAR.

The Department is responsible for ensuring the PAR is accessible within Department right of way. A business that serves the public and has a building with the building face on or nearly on the right of way or property line is responsible for ensuring that each building entrance or walk, etc., is accessible and compatible with the adjacent public right-of-way sidewalk.

51-1.03 Sidewalk [Rev. Mar. 2016]

A sidewalk provides a continuous path for pedestrians just as streets provide a continuous network to the motoring public. A sidewalk is part of a PAR and must meet the requirements of the ADA.

51-1.03(01) Location

The following should be considered when locating a sidewalk.

1. Sidewalk Continuity. Where a small section of the sidewalk must be rebuilt, for example to construct a compliant curb ramp, it is recommended to address the non-compliant aspects for the length of the sidewalk between logical termini. Logical termini may be the nearest intersection, drive, or other intersecting location.
2. Sidewalk Placement. Where new sidewalk is being considered, placement and setback along streets should take into account worn paths and buffer zones. A worn path where no sidewalk exists typically demonstrates the natural path pedestrians will take. Additional space should be provided for snow storage.

The placement of a sidewalk should not require an exception to other Level One design criteria, such as shoulder or lane width.

3. Meandering sidewalks. Sidewalks that weave back and forth within the right-of-way are generally discouraged. While they may seem visually appealing, pedestrians prefer a direct, non-sinuous route. Meandering sidewalks may cause navigational difficulties for pedestrians with vision impairments.
4. Separation. It is desirable to provide a buffer space of 4 to 6 ft between the traveled way and the sidewalk. A buffer space provides for pedestrian comfort as well as facilitates installation of an accessible curb ramp.

Where the speed limit of the adjacent roadway is 45 mph or less, a vertical curb should be used in conjunction with the sidewalk section to separate pedestrians from adjacent traffic.

Where the speed limit of the adjacent roadway is greater than 45 mph, a barrier should be considered between the sidewalk and adjacent traffic if a sufficient separation cannot be provided.

5. Vertical drop off. Vertical drop offs are not addressed as part of the PROWAG. To address safety concerns, slopes adjacent to sidewalks should be as flat as practical. Consideration should be given to providing pedestrian railing where side slopes adjacent a sidewalk are 1:1 or steeper with a drop off greater than 24 in.

South end of R-O-W on west side of 800 block of S High Street

2' tree plot, 6' sidewalk, 1' buffer to R-O-W edge shown





City of Bloomington
Planning and Transportation Department

March 10, 2023

Leo Pilachowski
2326 E Woodbine Avenue
Bloomington, IN 47401

Leo B & Catherine A Pilachowski
2028 E 1st Street
Bloomington, IN 47401

Re: Notice of Violation

Failure to Comply with Development Standards, Access and Connectivity
Failure to Comply with CZC C21-309

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.04.050 [Development Standards & Incentives; Access and Connectivity]** and **Section 20.06.100(b) [Administration & Procedure; Enforcement and Penalties; Penalties and Remedies for Violations]** at 2028 E 1st Street. Records show that you are the owner or Building Permit applicant of this property.

The City of Bloomington Planning and Transportation Department observed the status of the project located at 2028 E 1st Street on 02/14/2023. The Monroe County Building Department communicated to Planning and Transportation that the project at 2028 E 1st Street received a Certificate of Use and Occupancy from Monroe County on 04/08/2022. However, there are required improvements that have not been built. Specifically, a sidewalk and tree plot with street trees were required to be built along S. High Street. This property is in the R2 Zoning District (Residential Medium Lot).

A requirement of CZC C21-309 is as follows: "A 6' concrete sidewalk and tree plot is required along the entire property frontage and must be installed prior to occupancy."

According to UDO **Section 20.06.100(b) [Administration & Procedure; Enforcement and Penalties; Penalties and Remedies for Violations]**;

- (1) For the purposes of this UDO, a violation shall be defined as violation of or failure to comply with :
- (B) Any condition, requirement or commitment established with the approval of a variance, conditional use, site plan, Planned Unit Development, subdivision, certificate of zoning compliance, or other development approval under this UDO

According to Unified Development Ordinance (UDO) **Section 20.04.050(d) [Development Standards & Incentives; Access and Connectivity; Pedestrian and Bicycle Circulation]**;

(2) **Applicability**

Pedestrian facilities shall be required on both sides of all streets, with the exception of new single-family, duplex, and triplex residences built on existing legal lots of record on non-classified (neighborhood) streets with no adjacent pedestrian facilities, and additions to existing residential

structures; and except that culs-de-sac less than 300 feet in length and providing access to less than 10 residential units shall be required to provide pedestrian facilities on one side of the street. All required trails and connector paths shall be provided. Where there are conflicting standards in this UDO and the most recently adopted Transportation Plan, the Planning and Transportation Director shall determine which standard governs.

In accordance with UDO Section 20.06.100, a violation of Failure to Comply with CZC may result in a two hundred and fifty-dollar (\$250) fine. In accordance with UDO Section 20.06.100, a violation of Failure to Comply with Development Standards may result in a one-hundred dollar (\$100) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

If the violation remains unresolved, fines will begin to accrue daily on 03/25/2023 in accordance with above referenced UDO Section 20.06.100 [Enforcement and Penalties] until such a time as the violation is remedied. You have the following options to remedy the situation.

1. Submit a sidewalk completion timeline for review and approval by the Planning and Transportation Department in conjunction with the Engineering Department on or before 03/24/2023.

You have already disputed the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance by filing an administrative appeal on February 20, 2023. Said appeal is scheduled to be heard in the coming weeks by the Board of Zoning Appeals.

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Jennifer Burrell
Zoning Compliance Planner, Planning and Transportation

Enclosure: (2) Photographs

CC: Scott Robinson, AICP, Director, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation Department
Andrew Cibor, P.E., Director, Engineering Department



Photo 1: The portion of the 2028 E 1st Street site adjacent to High Street where a sidewalk and tree plot have not yet been built on 02/14/2023.



Photo 2: The portion of the 2028 E 1st Street site adjacent to High Street where a sidewalk and tree plot have not yet been built on 02/14/2023.



City of Bloomington
Planning and Transportation Department
Certificate of Zoning Compliance

| | | | |
|------------------|-----------|-------------------|------------------------------------|
| Application #: | C21-309 | Property Address: | 2028 E 1st Street |
| Date Received: | 6/16/2021 | Date Issued: | 7/8/2021 |
| Zoning District: | R2 | Proposed Use: | Dwelling, single-family (Detached) |

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning and Transportation Department finds the plans to be in compliance. The following terms and conditions apply:

- This permit authorizes the proposed New Construction as shown on the Certificate of Zoning Compliance application only; no other construction is permitted.
- Occupancy of each dwelling unit is limited to not more than 3 unrelated adults, or as defined by the definition of "Family." [BMC 20.07.10 (Family)]
- This permit does not allow for work in a city right-of-way. An excavation permit is required for any work done within a public right-of-way
- All new driveway aprons onto a street shall be surfaced with concrete. [BMC 20.04.060(i)(7)(B)]
- Siding material must extend from roofline to within six (6) inches of finished grade. [BMC 20.04.070(d)(3)(C)]
- Appropriate erosion control measures must be installed and maintained. Yard must be seeded and stabilized after final grade is established. [BMC 20.04.030(d)(3)(I)]
- A 6' concrete sidewalk and tree plot is required along the entire property frontage and must be installed prior to occupancy.

This Certificate of Zoning Compliance pertains only to the attached plans and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any additional required permits nor exempt the property from compliance with any requirements of other governmental entities.

Eric Greulich
 Senior Zoning Planner
 City of Bloomington
 Planning and Transportation Department

**BLOOMINGTON BOARD OF ZONING APPEALS CASE #: V-09-23 / VAR2023-03-0003
STAFF REPORT**

DATE: April 20, 2023

Location: Northwest corner of South Rogers Street and West 1st Street (address of current parcel: 601 West 2nd Street)

PETITIONER: Brinshore Development
1603 Orrington Avenue, Suite 450
Evanston, IL

OWNER: Bloomington Redevelopment Commission
P.O. Box 1000
Bloomington, IN

CONSULTANTS: Rottman Collier Architects
155 East Market Street, Suite 200
Indianapolis, IN

Springpoint Architects
522 West 2nd Street
Bloomington, IN

REQUEST: Variances from dimensional standards for build-to ranges and setbacks, use-specific standards for multifamily dwellings, building design standards, and vehicle parking design standards to allow a reuse of the historic Kohr building and a proposed building addition for multifamily dwelling use in the Mixed-Use Medium Scale (MM) zoning district within the Transform Redevelopment Overlay (TRO) district

REPORT: The requested variances are for the redevelopment of the Kohr building, which is located near the northwest corner of South Rogers Street and West 1st Street. The Kohr building and the property surrounding it are a portion of the former site of the IU Health Bloomington Hospital, in the area recently given the name Hopewell. The Kohr building was formerly part of the hospital complex and has been vacant since the hospital moved to its new location on the northeast side of Bloomington in December 2021. As of the date of this report, the property is part of a larger parcel with an address of 601 West 2nd Street, although the land involved in this petition does not have frontage on 2nd Street. The owner of record of the parcel, as of the date of this report, is Indiana University Health. The City of Bloomington and the Bloomington Redevelopment Commission (RDC) hold a purchase agreement for the entirety of the parcel as well as several adjacent parcels in Hopewell. The petitioner, Brinshore Development, has been engaged by the RDC to redevelop the Kohr building as affordable housing.

As part of the redevelopment of Hopewell, the RDC intends to subdivide the block that contains the Kohr building so that the Kohr building, including a proposed addition to the existing building, will be on its own parcel. Although the new parcel has not been legally created, the petitioner has submitted plans showing a development site bounded by South Rogers Street to the east, West 1st Street to the south, a new proposed extension of South Jackson Street to the west, and a new proposed public alley to the north. The site is zoned Mixed-Use Medium Scale (MM) within the Transform Redevelopment Overlay (TRO). The Kohr building itself is a one-building locally designated historic district. Surrounding properties to the west and north are also in the MM zoning district and the TRO. Properties to the east across Rogers Street are located in

the Mixed-Use Neighborhood Scale (MN) zoning district and the TRO. Property directly to the south across 1st Street is located in the Residential Multifamily (RM) zoning district and the TRO, while property to the southwest on the south side of 1st Street is located in the Residential Urban Lot (R4) zoning district and the TRO. Property to the southeast, south of 1st Street and east of Rogers Street, is located in the MN zoning district but outside the TRO.

The petitioner proposes an adaptive reuse of the Kohr building and the construction of a new addition on the west side of the existing building. The project will contain 38 affordable dwelling units. The proposed use is multifamily dwelling, which is an allowed use in the MM district. Because the Kohr building is a locally designated historic district, the project requires a Certificate of Appropriateness from the Bloomington Historic Preservation Commission (HPC), which was granted on April 13.

Due to the existing design and location of the Kohr building and the topography of the site, the petitioner is requesting several variances from standards in the Unified Development Ordinance (UDO). The variances are numbered below for convenience, listed in the order of the UDO sections that they are seeking relief from.

1. UDO section 20.02.020(c)(2) Table 02-11 and UDO section 20.04.020(c)(2) Table 04-3: Front parking setback (minimum) in the MM district
 Required: *20 feet behind the primary structure's front building wall*
 Proposed: 3 feet behind the proposed front building wall adjacent to Jackson Street

The proposed site plan provides eight parking spaces on the site, including four accessible parking spaces. The parking spaces are located in the northwest portion of the site and utilize the adjacent proposed public alley as a drive aisle to access the parking spaces. There is no minimum parking requirement for the multifamily dwelling use in the MM district. However, the proposed use is required by regulations outside of the UDO to include at least four accessible units (10 percent), creating a need for at least four accessible parking spaces. The easternmost space of the parking row is shown at 3 feet west of the proposed front building wall adjacent to Jackson Street.

2. UDO section 20.02.020(b)(4) Table 02-29: Build-to range in mixed-use and nonresidential zoning districts in the TRO
 Required: *0 to 15 feet*
 Proposed: Approximately 92 feet from east front property line; 16 feet 3 1/8 inches from south front property line

The existing east front building wall of the Kohr building is located 92 feet 9 inches from the existing east front property line along Rogers Street. This east front property line is expected to be moved west, closer to the existing Kohr building, when the block is subdivided, due to required dedication of additional public right-of-way width for Rogers Street. However, even with additional dedicated right-of-way, the existing front building wall of the Kohr building will remain farther than 15 feet from the front property line. Staff recommends a condition to confirm that the variances related to distance from the right-of-way are valid for the existing distances, as well as those distances that will occur once the property has been subdivided, in order to accommodate any possible uncertainty about where the front property lines / edge of public right-of-way will end up.

The existing south front building wall of the Kohr building is located 16 feet 3 ⅛ inches from the south front property line along 1st Street, as shown on the proposed site plan submitted by the petitioner. The proposed south front building wall of the new addition is also shown located 16 feet 3 ⅛ inches from the south front property line to match the existing historic building. This south front property line may move north due to required right-of-way dedication when the block is subdivided, which may bring the building into compliance with this standard. Staff recommends a condition in order to accommodate any possible uncertainty about where the front property lines / edge of public right-of-way will end up.

The proposed west front building wall of the new addition is located 2 feet ⅛ inch from the west front property line along the proposed extension of Jackson Street. The west frontage is compliant with this standard.

3. UDO section 20.02.050(b)(6)(A)i.: Use-specific standards for multifamily dwelling – Ground-floor units location

Required: *For structures with frontage along a street, identified in the Transportation Plan as Main Street, Shared Street, or General Urban, and structures along the B-Line Trail, each dwelling unit located on the ground floor shall be located at least 20 feet behind each building façade facing a public street, or the B-Line Trail*

Proposed: Ground-floor units located 0 feet behind the building facade facing Rogers Street

The petitioner proposes to utilize the entire building for dwelling units, including the portions of the ground floor facing all three adjacent streets. Rogers Street is identified as a General Urban street, so this standard applies to the existing east building facade of the Kohr building. 1st Street and the proposed extension of Jackson Street are identified as Neighborhood Residential streets, so this standard does not apply to the south and west ground-floor building facades.

4. UDO section 20.02.050(b)(6)(A)ii.: Use-specific standards for multifamily dwelling – floor elevation

Required: *Ground floor dwelling units with a front building wall facing a street shall be raised 2 to 5 feet above the sidewalk level*

Proposed: 16 feet above Rogers Street; 13 ½ feet above 1st Street; 0 feet above the proposed sidewalk level on the new extension of Jackson Street.

For accessibility throughout the entire proposed building, the ground-floor floor level for both the reuse of the Kohr building and the proposed addition is set by the existing floor level of the Kohr building. This variance goes hand-in-hand with variance 2 (build-to range) because the greater building setback and existing grade is what requires a grade difference for the ground-floor of significantly more than five feet from the sidewalk level on Rogers Street to the ground-floor floor level of the Kohr building.

5. UDO section 20.02.050(b)(6)(A)iii.: Use-specific standards for multifamily dwelling – outdoor access

Required: *Each dwelling unit shall have direct access to a covered balcony, patio, or porch with an average depth of at least 5 feet located adjacent to or overlooking a common open space, right-of-way, or B-Line Trail*

Proposed: No direct access from dwelling units to covered balconies, patios, or porches

The architecture of the existing Kohr building does not include balconies, patios, or porches, and the addition is also proposed without these elements in order to be architecturally compatible with the historic building. The petitioner proposes communal courtyards on the north and south sides of the building which exceed the gross minimum area of outdoor space required by this standard.

6. UDO section 20.02.050(b)(9)(B)v.1.[a]: Exterior facades in the TRO – upper story windows
 Required: *A minimum of 20% of the total wall/facade area of all upper floor facades shall contain transparent glass or framed facade openings*
 Proposed: 16.4 percent on west facade; 20.2 percent on east facade; 9.8 percent on north facade; 9.6 percent on south facade

Pursuant to UDO section 20.02.050(b)(9)(B)i.2., the existing Kohr building itself is not subject to building design standards in the TRO because it is in a local historic district. The petitioner has designed the proposed building facades to be architecturally compatible with the existing facades of the historic building, resulting in less than the required percentage of windows on the west, north, and south upper story facades. The upper story facade on the east facing the proposed Jackson Street extension, which is the only facade consisting entirely of new construction, is compliant with this standard.

7. UDO section 20.02.050(b)(9)(B)v.3.[a]: Exterior facades in the TRO – windows on ground-floor residential facades
 Required: *A minimum of 20% of the total wall/facade area of all ground floor residential facades shall contain transparent glass or framed facade open areas consisting of entries and doors*
 Proposed: 27 percent on west facade; 16.7 on east facade; 26 on north facade; 18.8 on south facade

The existing Kohr building itself is not subject to building design standards in the TRO because it is in a local historic district. The petitioner has designed the proposed building facades to be architecturally compatible with the existing facades of the historic building, resulting in less than the required percentage of windows on the east and south ground-floor facades. The west and north ground-floor facades are compliant with this standard.

UDO section 20.02.050(b)(9)(B)v.3.[b]: Exterior facades in the TRO – canopies/awnings on ground-floor residential facades
 Required: *A canopy, awning, or other roof-like cover intended to protect from the weather with an average depth of at least 5 feet is required along at least 20% of the first floor of all primary facades*
 Proposed: 9 percent on west facade; 39 on east facade; 36 on north facade; 14 on south facade

The existing Kohr building itself is not subject to building design standards in the TRO because it is in a local historic district. The petitioner has designed the proposed building facades to be architecturally compatible with the existing facades of the historic building, resulting in less than the required amount of canopies or awnings on the west and south facades. The east and north facades are compliant with this standard.

8. UDO section 20.02.050(b)(9)(B)vi.1.: Building floor plate maximum
 Required: 5,000 square feet without incentives; 10,000 square feet with either the affordable housing incentive or the sustainable development incentive; 15,000 square feet with both incentives
 Proposed: 12,711 square feet with the affordable housing incentive

The floor plate of the existing Kohr building is 5,954 square feet and the floor plate of the proposed addition is 6,757 square feet, for a total building floor plate of 12,711 square feet. The project expects to earn the affordable housing incentive, as all of the dwelling units will be permanently income-restricted. With one incentive, the proposed building floor plate is not compliant with this standard.

9. UDO section 20.04.060(i)(5)(C)i: Maximum lot area to allow back-out parking into an alley
 Required: 20,000 square feet
 Proposed: 37,450 square feet of lot area with back-out parking into an alley

The proposed site plan provides eight parking spaces on the site, including four accessible parking spaces. The parking spaces are located in the northwest portion of the site adjacent to a proposed public alley. Vehicles need to back out into the alley when exiting the parking spaces, or need to back up into the space from the alley. The UDO generally does not allow back-out parking, except when certain listed conditions are met. One of those conditions is that the lot with the back-out parking does not exceed 20,000 square feet in area. The site plan shows that the site area is 37,450 square feet. The lot area may be reduced when the block is re-subdivided, due to required dedication of additional public right-of-way width for Rogers Street. However, even with reduced area, the total lot area will remain significantly greater than 20,000 square feet.

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 requested variances will not be injurious to the public health, safety, morals, and general welfare of the community. For each of the UDO standards that the petition is requesting relief from, the proposed project achieves or addresses the goals and purpose of the UDO standard by other means, ensuring that the intent of the UDO to protect public health, safety, morals, and general welfare is upheld.

For variance 1 (front parking setback minimum), the parking area is located in the least-conspicuous rear corner of the site, allowing the building and primary uses of the site to engage uninterrupted with the street frontage along all three of the adjacent streets.

For variance 2 (build-to range), preserving the Kohr building, with its existing sloping lawn and trees between the building and the street, is preserving an established urban streetscape particular to its position in Hopewell. It is not allowing the kind of suburban streetscape, where buildings and uses do not engage with the public street, that the build-to standard for the TRO is designed to prevent.

For variance 3 (ground-floor dwelling units location), the UDO standard is intended to provide privacy for dwelling units from busy roads and at the same time provide space for retail and other public-facing uses that can activate the street. The grade difference and setback distance to the existing Kohr building ensure that the ground-floor dwelling units have adequate privacy from Rogers Street. At the same time, the existing grade difference and setback distance prevent the building from directly activating the street even if it contained public-facing uses.

For variance 4 (floor elevation), the existing grade difference from sidewalk level already provides the privacy for the dwelling units that this standard intends to achieve.

For variance 5 (outdoor access), the proposal provides communal courtyards on the north and south sides of the center of the building which exceed the minimum area of outdoor space required by this standard.

For variances 6 and 7 (exterior facades), the proposed facade design honors the historic facade design of the existing Kohr building and provides other details and design elements that avoid blank, uninterrupted walls.

For variance 8 (building floor plate maximum), the design of the building into two identifiable wings (the historic Kohr building and the new addition) with two central courtyards breaks up the massing of the building and avoids creating the impression of an imposing monolith beyond human scale.

For variance 9 (maximum lot area for back-out parking), the proposed site plan uses significant portions of the available lot area to preserve the particular established urban streetscape, with a sloping lawn and trees, resulting in less lot area available for parking on the site.

(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 requested variance will not result in substantial adverse impacts to the use and value of surrounding properties. None of the requested variances will limit the current use or future redevelopment of any surrounding properties.

- (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 existing Kohr building on the site and its designation as a local historic district, including the requirement that any addition or modification to the building be appropriate to the historic context, result in practical difficulty in the use of the property. The layout, configuration, and location of the existing historic building and topography of the site place practical limits on what uses and designs are feasible. Strict application of the UDO results in practical difficulties in the use of the property, including practical difficulties for the specific use and site design that the petitioner has proposed.

For variances 1 and 9 (front parking setback minimum and maximum lot area for back-out parking), practical difficulty is found in the topography peculiar to the site. The northwest corner of the site, including the portion less than 20 feet behind the west front building wall, is the only location on the site that can be made flat enough and close enough in height to the building floor level to accommodate required ADA-compliant accessible parking spaces. This practical difficulty is related to the feasible grade of the site, as well as the adjacent alley.

For variance 2 (build-to range), practical difficulty is found in location of the existing Kohr building on the site and its designation as a local historic district, which requires the proposed new addition to be appropriate and compatible with the existing historic building. Moving the Kohr building or adding an addition in front of its existing east or south facades would not be appropriate to the historic context.

For variance 3 (ground-floor dwelling units location), practical difficulty is found in the existing width of the Kohr building and the proposed width of the proposed addition, which is designed to be compatible with the existing historic building. There would not be room for any ground-floor dwelling units if this standard were strictly applied. Effectively losing one entire floor for residential use would result in the entire project become infeasible.

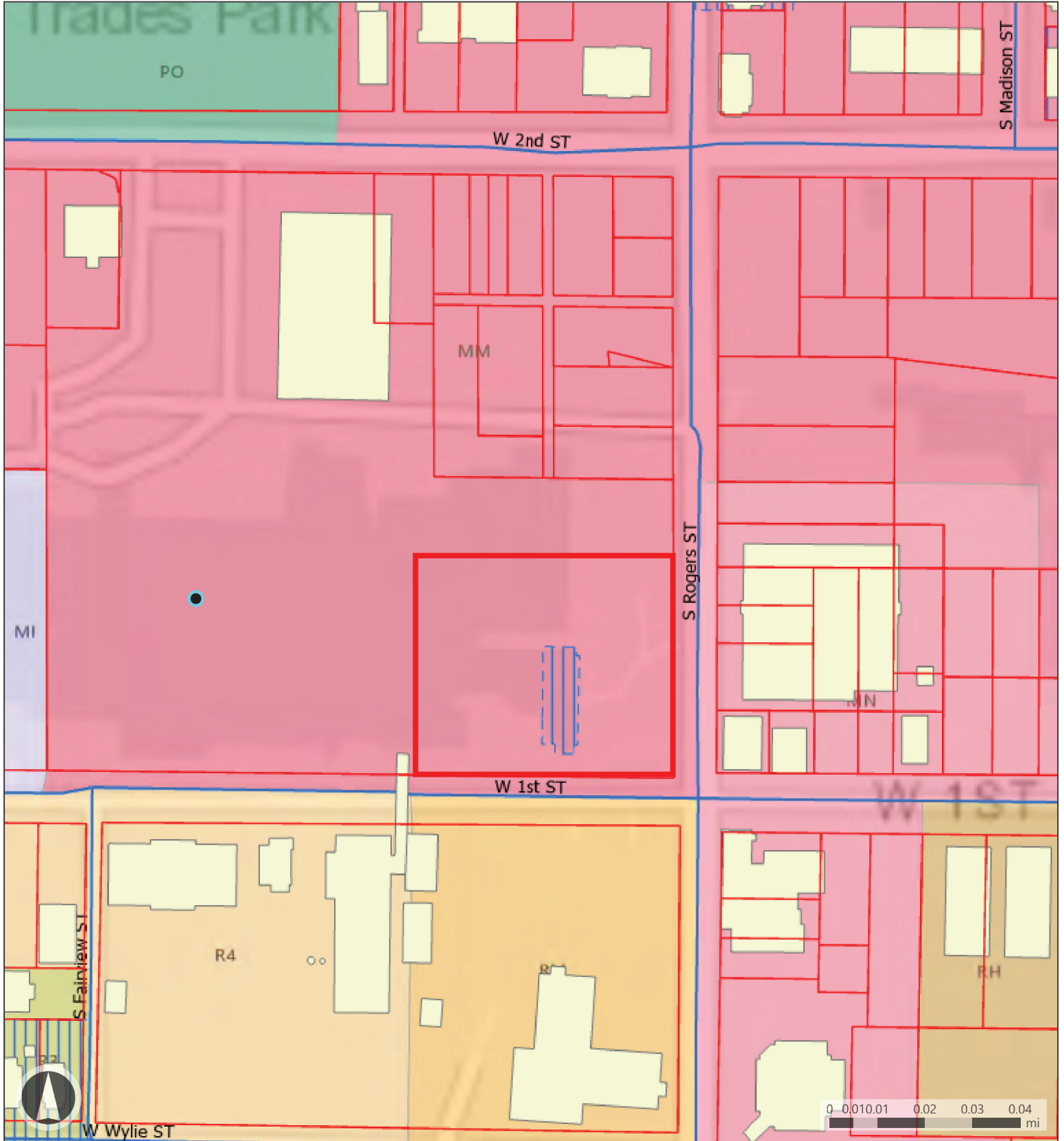
For variance 4 (floor elevation), practical difficulty is found in the existing ground-floor floor level of the Kohr building that does not currently meet this standard. For accessibility throughout the entire proposed building, the ground-floor floor level for both the reuse of the Kohr building and the proposed addition is set by the existing floor level.

For variances 5, 6, and 7 (outdoor access and exterior facades), practical difficulty is found in the existing facade design of the Kohr building and its designation as a local historic district, which requires the proposed new addition to be appropriate and compatible with the existing historic building. Modifications to the historic facade or alternate designs for adjacent new facades that incorporated additional windows, canopies, and balconies would not be appropriate to the historic context.

For variance 8 (building floor plate maximum), practical difficulty is found in the layout, configuration, and location of the existing historic building and topography of the site. In theory, the addition to the building could be achieved with a smaller floor plate, however that would require that the building be taller and out of scale with the existing historic structure. In deference to the historic structure, the addition is less stories, but has a larger floor plate.

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-09-23 / VAR2023-03-0003 and approve the requested variances with the following condition:

1. The project shall earn the affordable housing incentive established in UDO section 20.04.110(c), as demonstrated in an approved site plan.
2. The variances related to distance from the right-of-way are valid for the existing distances, as well as those distances that will occur once the property has been subdivided.



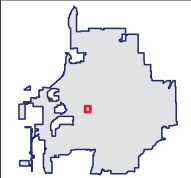
Map Legend

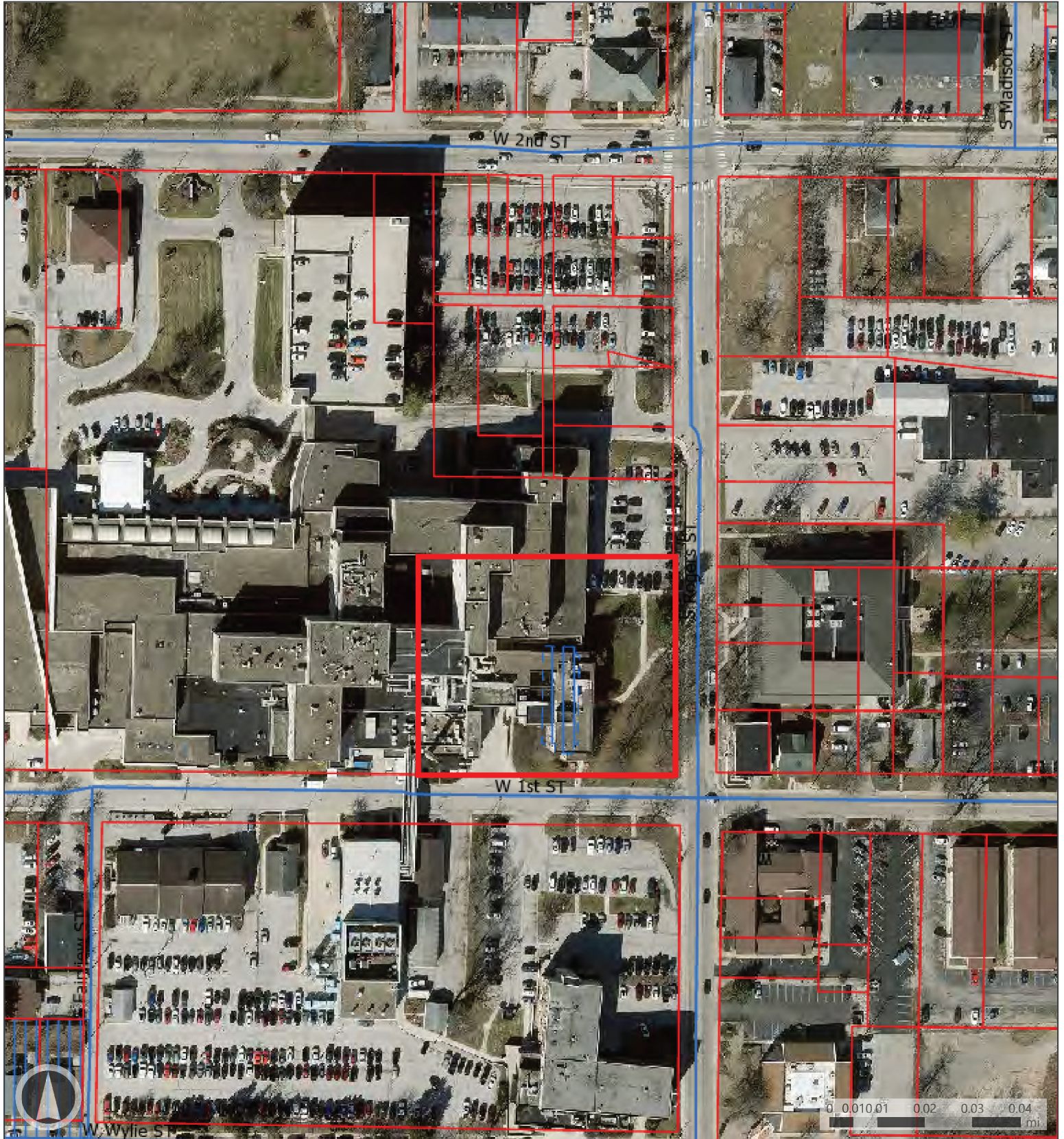
- Parcels
- Local Historic Districts
- City Maintained Streets

Code : Description




- R3 : Residential Small Lot
- R4 : Residential Urban

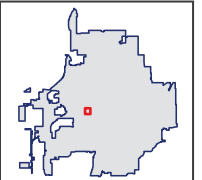
- RH : Residential High-Density Multifamily
- RM : Residential Multifamily
- MI : Mixed-Use Institutional





Map Legend

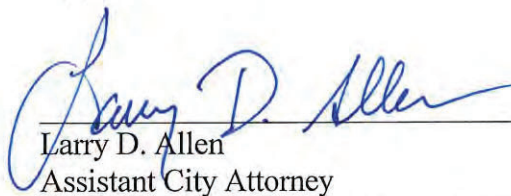
-  Parcels
-  Local Historic Districts
-  City Maintained Streets



AFFIDAVIT

I, Larry D. Allen, Assistant City Attorney, certify that the Bloomington Redevelopment Commission has entered into a purchase agreement with IU Health and will be the owner of the property formerly known as the Kohr Administration Building located at: 601 W. 2nd Street and depicted in the attached Exhibit A and do hereby designate authority to act on its behalf for the matter pending before the City of Bloomington Planning Department and/or the City of Bloomington Historic Preservation Commission to Brinshore Development, Springpoint Architects, and Rottman Collier Architecture.

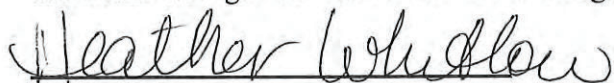
Signed,

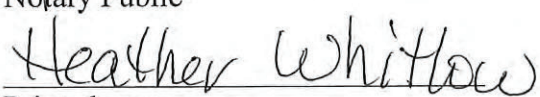


Larry D. Allen
Assistant City Attorney
Counsel for the Redevelopment Commission

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said County and State, personally appeared Larry D. Allen and acknowledged the execution of the foregoing this 5th day of April, 2023.



Notary Public


Printed name

My Commission Expires: 5-29-25
County of Residence: Monroe
Commission Number: 700934





April 6, 2023

Gabriel Holbrow
 Zoning Planner
 City of Bloomington
 401 N. Morton Street
 Bloomington, IN 47404

Re: Kohr Building Apartments - Variances

Dear Mr. Holbrow and Board of Zoning Appeals Members,

Brinshore Development seeks to redevelop the Kohr Building (c. 1945) which was part of the former IU Health Bloomington Hospital complex. This building is protected through the creation of the local Kohr Building Historic District in February 2021. Built as an extension of the original hospital building, the Kohr Building was later used to house administrative offices. The project will consist of the adaptive reuse of the Kohr Building and the construction of a new, 4-story, 27,028 square foot addition. The project will contain (38) affordable apartments, comprised of (35) 1-bedroom apartments and three (3) 2-bedroom apartments. It will also contain resident-serving uses on the ground floor of the new addition.

Located at the northwest corner of 1st and Rogers Streets, the Kohr Building site encompasses a half block area. The new Jackson Street runs along the west side of the project and an alley along the north side will allow access to eight (8) parking spaces and a service area. There is a large, landscaped area in front of the Kohr building that is part of the historic property and is bounded by low, retaining walls on the east and south. The new addition will be located to the west of the Kohr building, roughly in the footprint of the first hospital building, recreating the dumbbell shape of the original plan arrangement.

The Kohr Building is a 3-story, Art Deco style, limestone clad building. The design of the addition, while clearly distinct from the Kohr Building, will relate to the massing, fenestration and architectural language of the historic building. The project is currently undergoing review by the City of Bloomington Historic Preservation Commission to receive a Certificate of Appropriateness. Brinshore Development is in the process of nominating the building to the National Register of Historic Places. Once designated, the project will pursue Historic Tax Credits.

The underlying City of Bloomington Unified Development Ordinance zoning classification for the property is Mixed-Use Medium Scale with the Transform Redevelopment Overlay. Due to the existing, historic Kohr building and the topography of the site, the project will require nine (9) variances. Each of the variances listed below includes an explanation of the peculiar conditions which do not allow the project to meet UDO requirements:

1. **20.02 (c) Mixed-Use Medium Scale Table 02-11: MM Dimensional Standards, 'C. Front parking setback (minimum) 20 feet behind the primary structure's front building wall.'**

The apartment project will contain 10% fully accessible apartments which will need to have ADA compliant parking spaces. The project site has significant topography changes where the surrounding streets -- Rogers Street, 1st Street and Jackson Street -- sit lower than the first-floor



elevation of the building and do not allow an on-grade entry. The alley to the north of the building is the only place where the location of ADA compliant spaces is possible. In order to achieve the cross slopes required to meet ADA, the spaces must be located less than 20' behind the front of the building.

2. 20.02 (4) TRO District Dimensional Standards Table 02-29, 'C. Build-to-range 0 – 15 feet.'

The existing Kohr building is located 92'-9" from the east property line and 17'-7" from the south property line. The new addition will be located a similar distance to the south property line creating a strong relationship with the Kohr.

3. 20.02.050 (6)(A) Use Specific Standards for Multifamily Dwellings, 'i. For structure with frontage along a street, identified in the Transportation Plan as Main Street, Shared Street, or General Urban...each dwelling unit located on the ground floor shall be located at least 20 feet behind each building façade facing a public street...'

With the adaptive reuse of the Kohr building into a multifamily use, the entire building will be utilized for apartments. Since the first floor elevation of the building sits 16 feet above Rogers Street and 13-1/2 feet above 1st Street, the building has no direct relationship with pedestrians or vehicular traffic along those streets.

4. 20.02.050 (6)(A) Use Specific Standards for Multifamily Dwellings, 'ii. Ground floor dwelling units with a front building wall facing a street shall be raised 2 to 5 feet above the sidewalk level.'

The first-floor elevation of the existing Kohr building exceeds a 2 to 5 foot location above the sidewalk. Since the first-floor elevation of the building sits 16 feet above Rogers Street and 13-1/2 feet above 1st Street, there are no privacy issues related to views from the street into the building. The floor elevations of the new addition will match the existing Kohr building floor elevations.

5. 20.02.050 (6)(A) Use Specific Standards for Multifamily Dwellings, 'iii. Each dwelling unit shall have direct access to a covered balcony, patio or porch with an average depth of at least 5 feet located adjacent to or overlooking a common open space, right-of-way or B-line Trail.'

The architecture of the existing Kohr building does not include balconies or patios. The architecture of the new addition seeks to be compatible with the historic building and will not include these elements. The project will provide communal courtyards for use by residents on the north and south of the building which exceed required courtyard sizes.

6. 20.02.050 (9)(B) v. Exterior Facades '1. All facades of a primary building shall incorporate the following design elements to avoid blank, uninterrupted walls (a) A minimum of 20% of the total wall/façade area of all upper floor facades shall contain transparent glass or frame façade openings...'



The upper floors of the Kohr building facades do not contain 20% of transparent glass. In relating to the historic building, the fenestration pattern of the new addition elevations will not contain 20% of transparent glass except at the east elevation.

| Elevation | Percentage of Transparent Glass at Upper Floors(%) |
|-----------|--|
| West | 16.4 |
| East | 20.2 |
| North | 9.8 |
| South | 9.6 |

7. **20.02.050 (9)(B) v. Exterior Facades** ‘3. All other facades of a primary building shall incorporate the following design elements to avoid blank, uninterrupted walls (a) A minimum of 20% of the total wall/façade area of all ground floor facades shall contain transparent glass or framed façade openings areas consisting of entries and doors.. (b) A canopy, awning or other roof-like cover intended to protect from the weather with an average depth of at least 5 feet is required along at least 20% of the first floor of all primary facades...’

The ground floor of the Kohr building facade does not contain 20% of transparent glass or framed façade openings and there are no canopy elements. In relating to the historic building, the ground floor fenestration pattern of the new addition will not contain 20% of transparent glass or framed façade openings at the east and south elevations. The new addition will include canopies on the west and north elevations at the entry locations and covered bike parking. There will also be a covered patio area at the entry at the south elevation. However, these canopy elements are designed to be minimal while relating to the need of their specific locations and will not meet the 20% requirement on the west and south elevations.

| Elevation | Percentage of Transparent Glass at First Floor (%) | Percentage of Canopy/Awning at First Floor (%) |
|-----------|--|--|
| West | 27 | 9 |
| East | 16.7 | 39 |
| North | 26 | 36 |
| South | 18.8 | 14 |

8. **20.02.050 (9)(B) vi. 1. Building Size Minimum – Building Floor Plate** ‘The maximum building floor plate for a structure in the TRO shall be 5,000 square feet per building...However, if either the affordable housing incentive or the sustainable development incentive has been earned, the maximum building floor plate shall be 10,000 square foot per building...’

The floor plate of the existing Kohr building is 5,954 square feet. The new addition will add a floor plate of 6,757 square feet which results in a total building floor plate of 12,711 square feet. The project will far exceed the Tier 1 affordable housing incentive of 15% of dwelling units to be permanently income restricted with 100% of the units in the project meeting this requirement. This incentive will allow a floor plate up to 10,000 square feet. The floor plate of the new addition which will exceed the limit by 2,711 square feet is generated by the size and massing of the original hospital building on which the new construction is based. This building form follows



the original, historic plan configuration. The size of the new addition is also a response to the desired build-to range of 0-15 feet defined in the TRO overlay. This building-to-street relationship is a critical character defining element of the new Hopewell neighborhood streetscape.

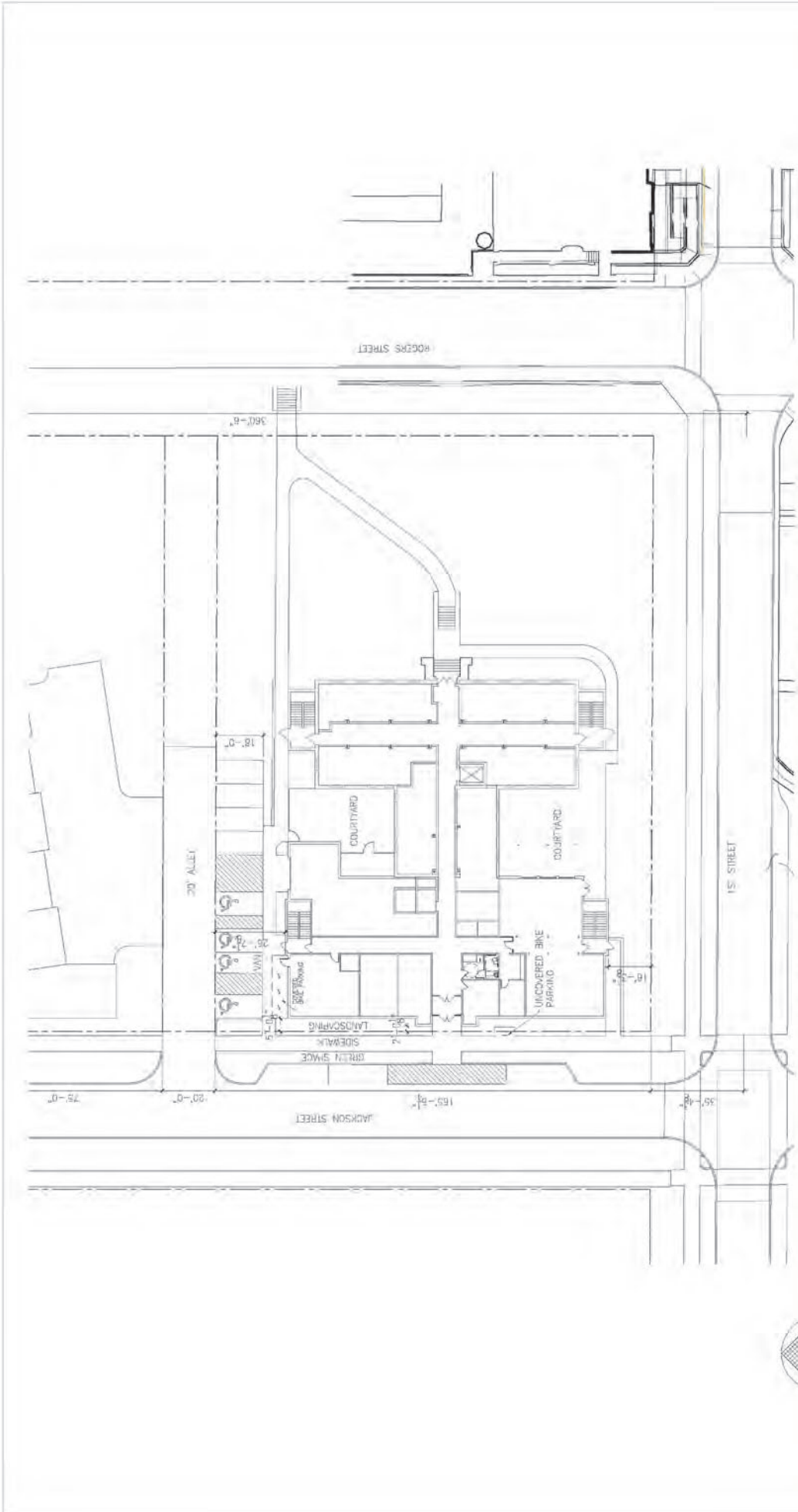
9. **20.04.060 (i)(5)(c) Back-out Parking Waiver** *'Back-out parking within the required side or rear setback may be allowed onto adjacent alleys subject to the following standards: i. The lot in question does not exceed 20,000 feet in area; ii. A maximum of eight back-out parking spaces are permitted per site; and iii. Parking shall directly access an improved alley.'*

The project site contains 37,450 square feet therefore exceeding the lot size for a back-out parking waiver. As described above in item no. 1, the particular topography of the site and location of the historic Kohr building precludes locating parking in any other location on the property.

Thank you for your consideration,

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

Barre Klapper, AIA
Springpoint Architects, pc

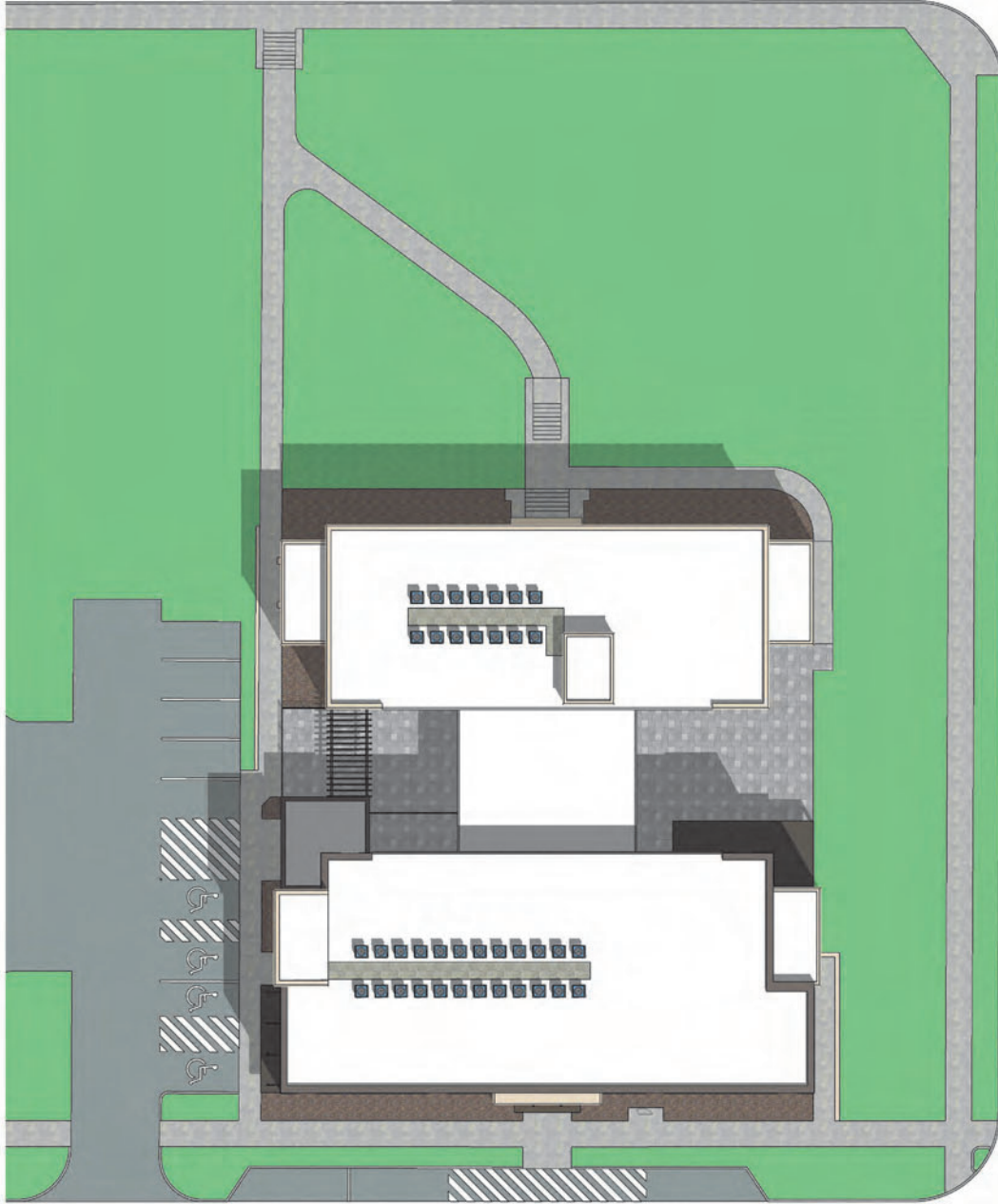


KOHR BUILDING - PROPOSED SITE PLAN



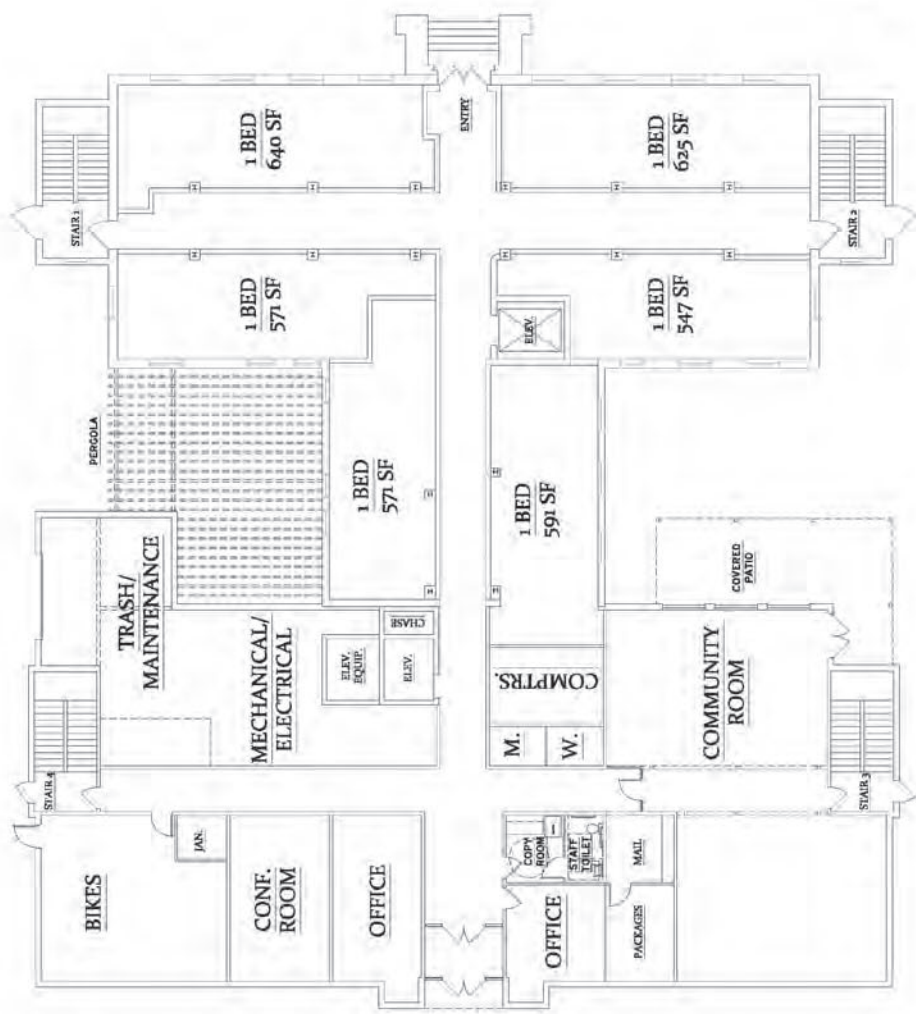
SITE PLAN

**KOHR BUILDING
BLOOMINGTON, IN**



SITE PLAN

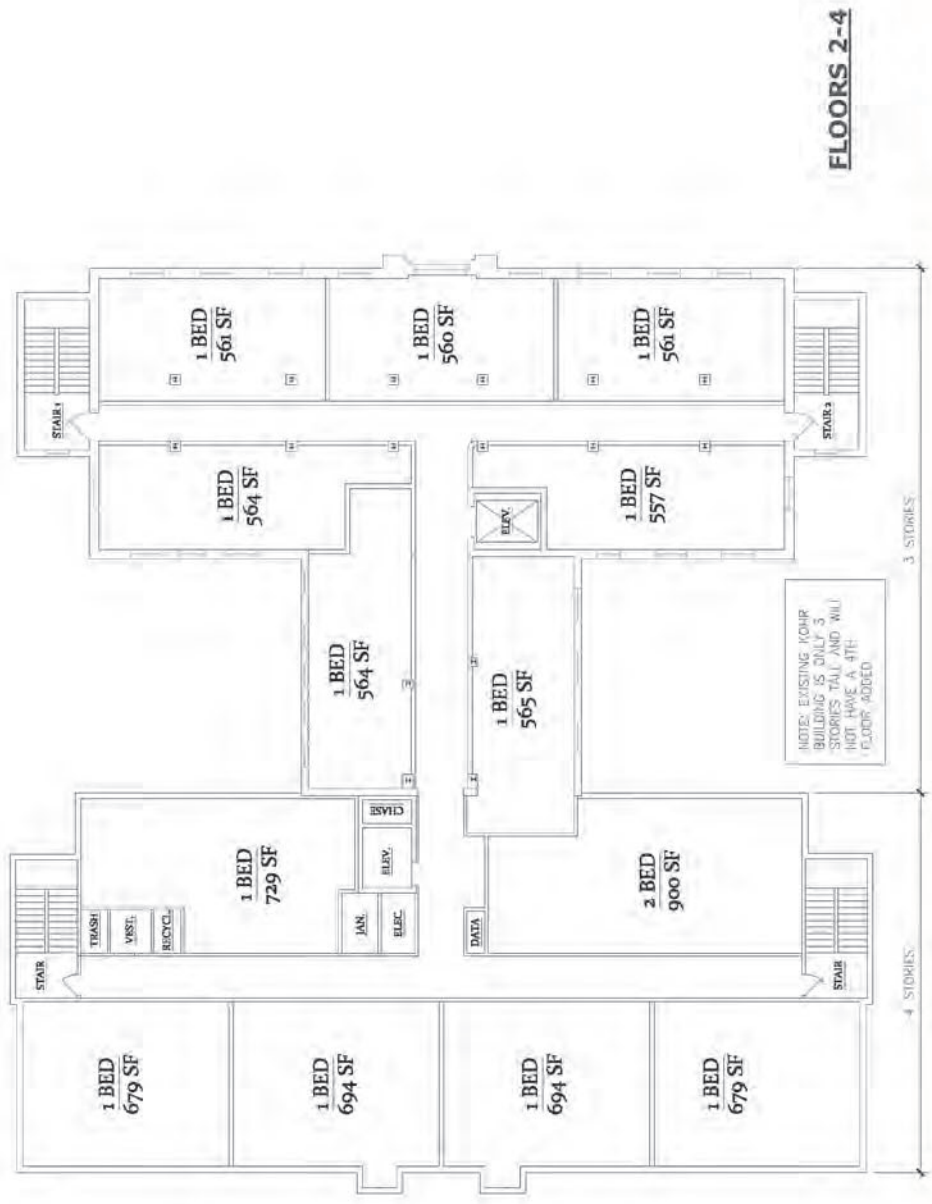
KOHR BUILDING
BLOOMINGTON, IN



FLOOR 1

PLAN

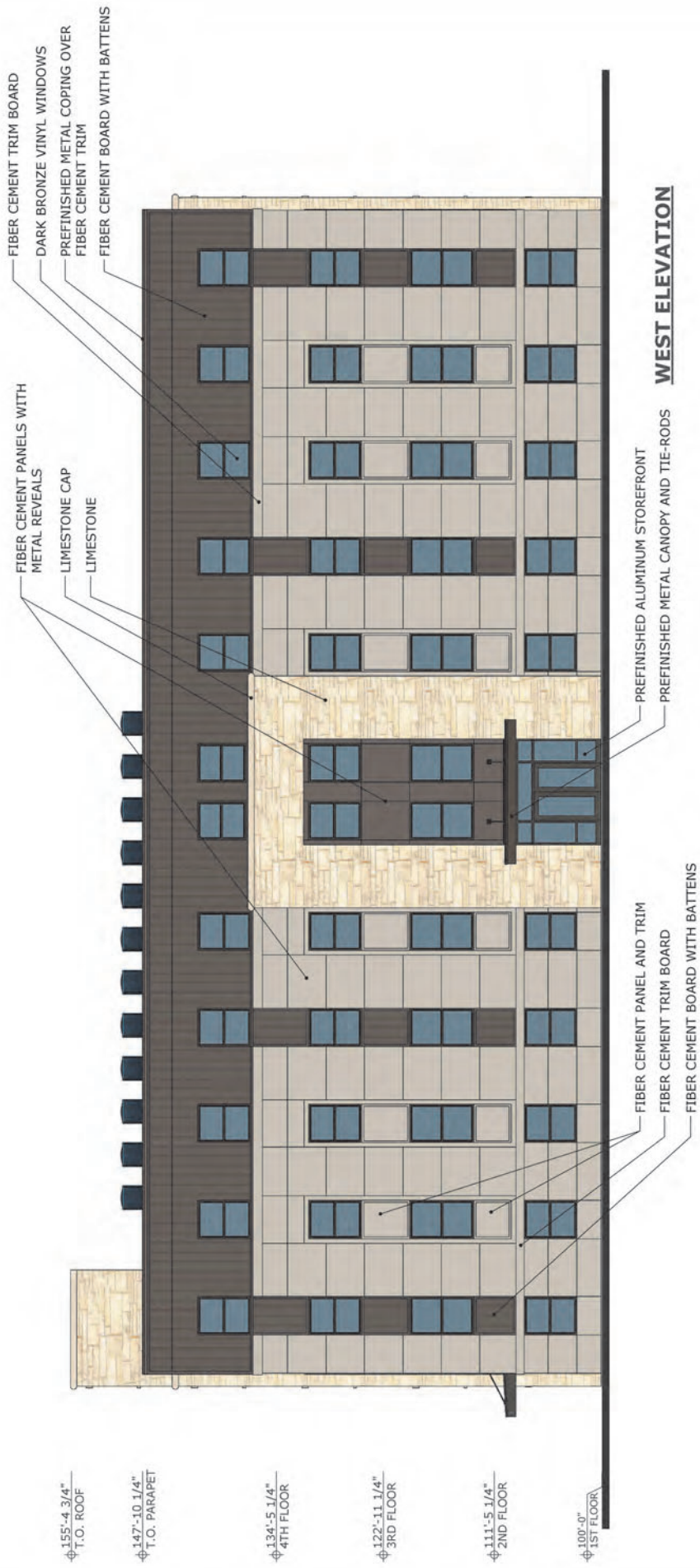
**KOHR BUILDING
BLOOMINGTON, IN**



4 STORIES

3 STORIES

FLOORS 2-4



FIBER CEMENT TRIM BOARD
 DARK BRONZE VINYL WINDOWS
 PREFINISHED METAL COPING OVER
 FIBER CEMENT TRIM
 FIBER CEMENT BOARD WITH BATTENS

FIBER CEMENT PANELS WITH
 METAL REVEALS
 LIMESTONE CAP
 LIMESTONE

WEST ELEVATION

PREFINISHED ALUMINUM STOREFRONT
 PREFINISHED METAL CANOPY AND TIE-RODS

FIBER CEMENT PANEL AND TRIM
 FIBER CEMENT TRIM BOARD
 FIBER CEMENT BOARD WITH BATTENS

±155'-4 3/4"
 T.O. ROOF

±147'-10 1/4"
 T.O. PARAPET

±134'-5 1/4"
 4TH FLOOR

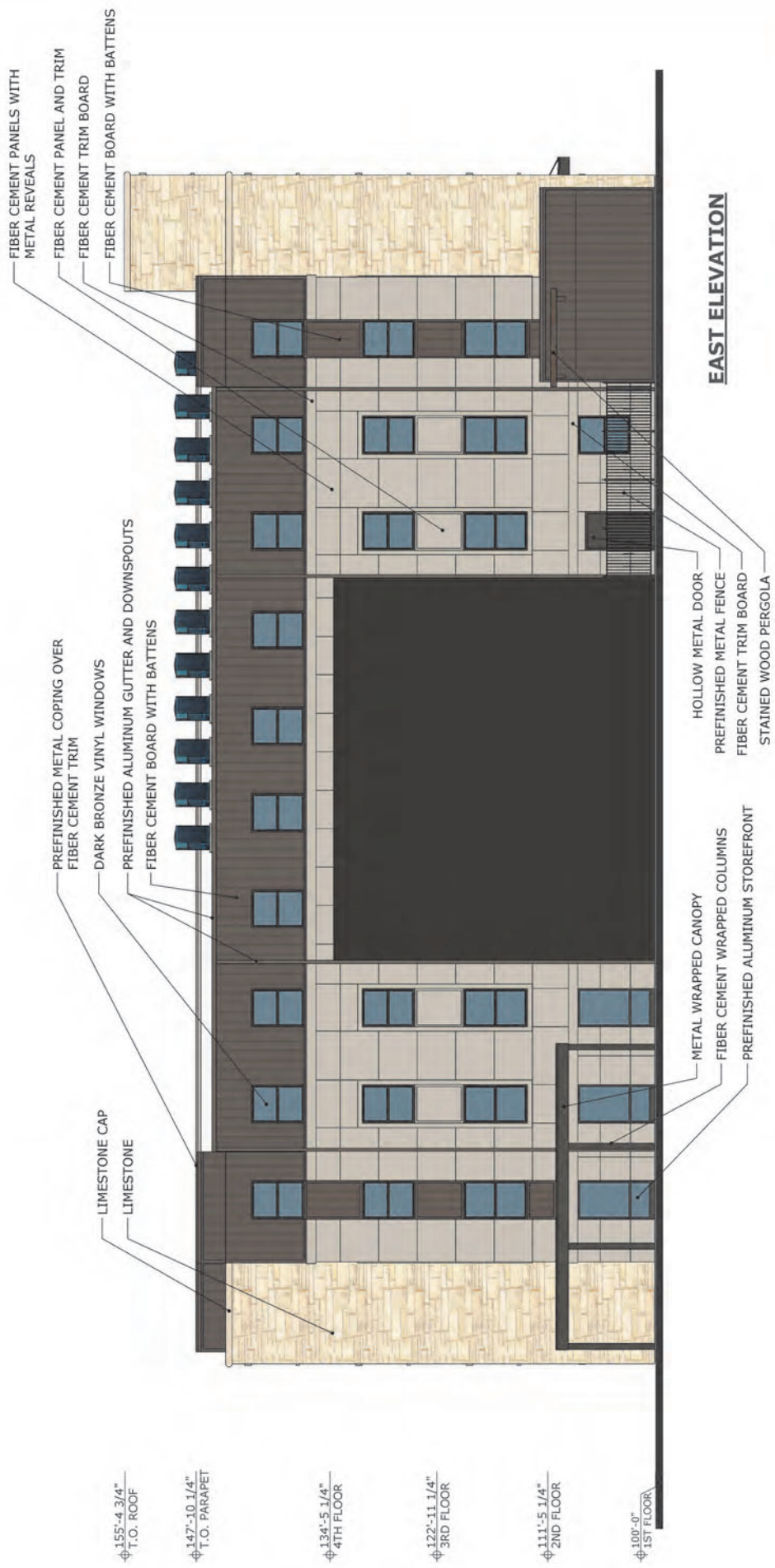
±122'-11 1/4"
 3RD FLOOR

±111'-5 1/4"
 2ND FLOOR

±100'-0"
 1ST FLOOR

ELEVATION

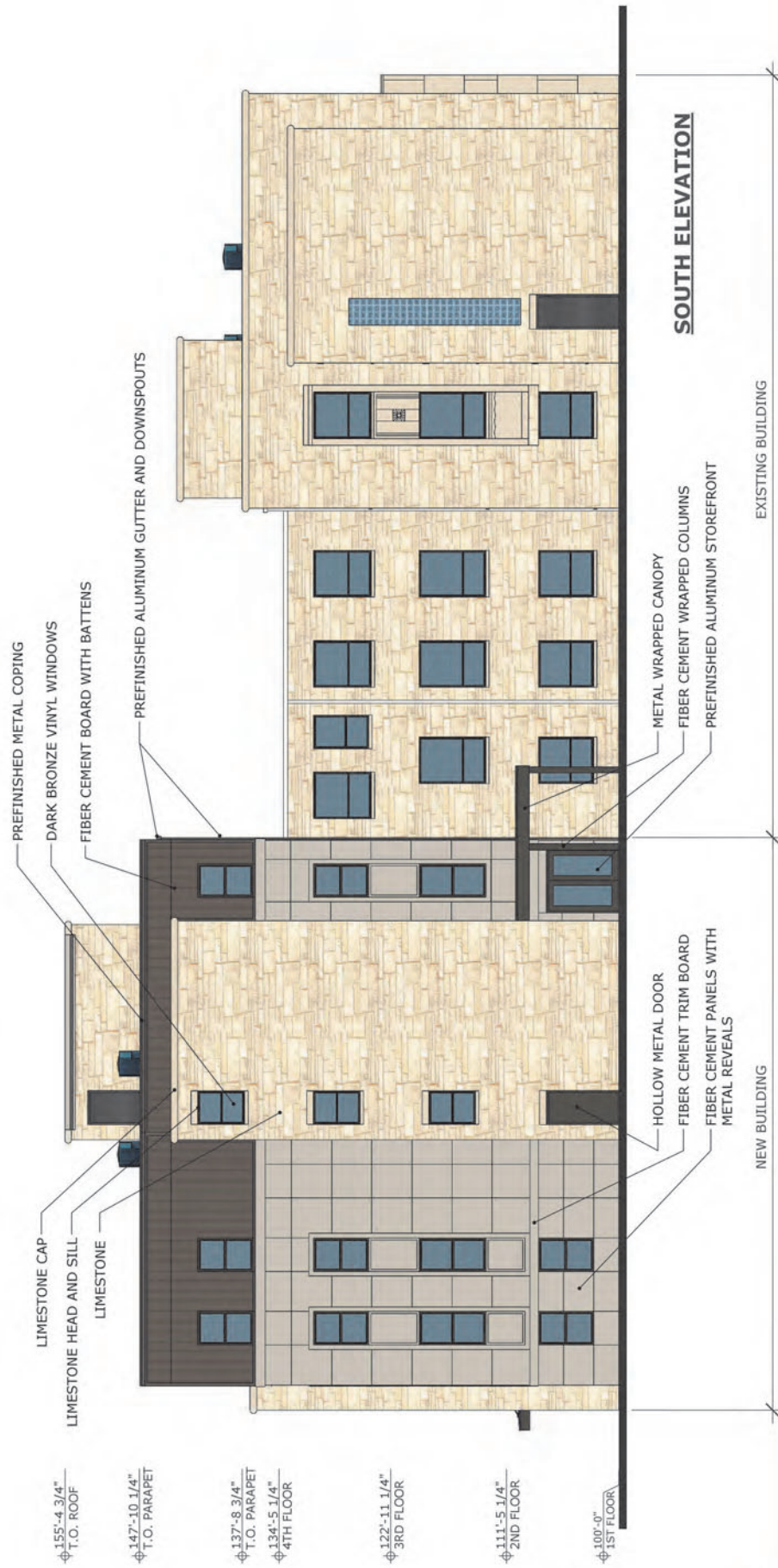
KOHR BUILDING
BLOOMINGTON, IN



EAST ELEVATION

ELEVATION

**KOHR BUILDING
BLOOMINGTON, IN**



ELEVATION

KOHR BUILDING
BLOOMINGTON, IN



LIMESTONE CAP
 LIMESTONE HEAD AND SILL
 LIMESTONE
 DARK BRONZE VINYL WINDOWS
 PREFINISHED METAL COPING
 FIBER CEMENT BOARD WITH BATTENS
 FIBER CEMENT TRIM BOARD

FIBER CEMENT PANELS WITH METAL REVEALS
 FIBER CEMENT PANELS AND TRIM

HOLLOW METAL DOOR
 ALUMINUM STOREFRONT
 METAL WRAPPED CANOPY AND TIE-RODS
 FIBER CEMENT TRIM BOARD

STAINED WOOD PERGOLA
 PREFINISHED METAL FENCE
 PREFINISHED GARAGE DOOR

NORTH ELEVATION

NEW BUILDING

EXISTING BUILDING

ϕ 155'-4 3/4" T.O. ROOF
 ϕ 147'-10 1/4" T.O. PARAPET
 ϕ 137'-8 3/4" T.O. PARAPET
 ϕ 134'-5 1/4" 4TH FLOOR
 ϕ 122'-11 1/4" 3RD FLOOR
 ϕ 111'-5 1/4" 2ND FLOOR
 ϕ 100'-0" 1ST FLOOR



PERSPECTIVE

KOHR BUILDING
BLOOMINGTON, IN



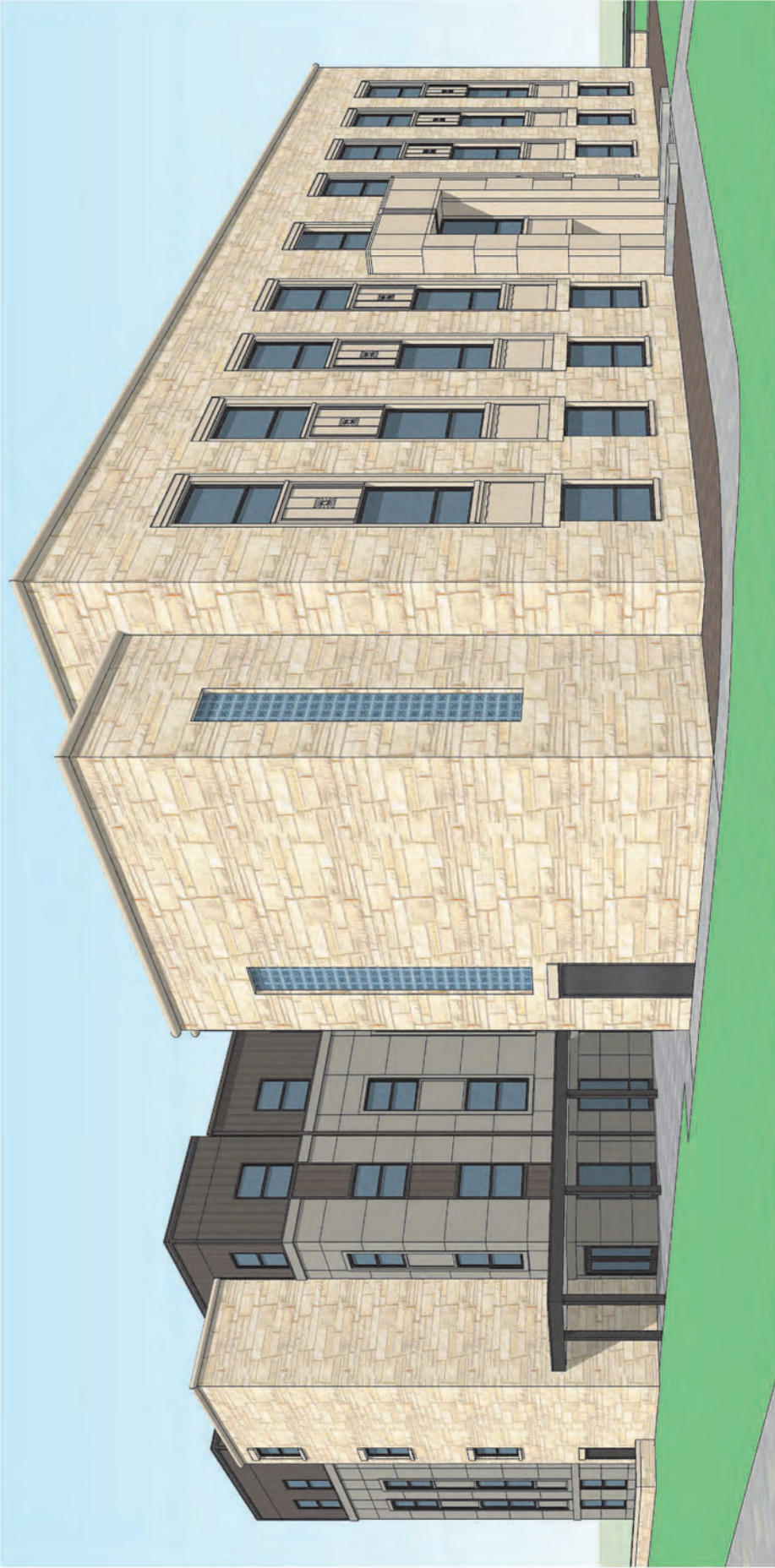
PERSPECTIVE

KOHR BUILDING
BLOOMINGTON, IN



PERSPECTIVE

KOHR BUILDING
BLOOMINGTON, IN



PERSPECTIVE

KOHR BUILDING
BLOOMINGTON, IN



PERSPECTIVE

KOHR BUILDING
BLOOMINGTON, IN



PERSPECTIVE

KOHR BUILDING
BLOOMINGTON, IN

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 2028 E 1st Street

CASE #: AA-12-23
DATE: April 20, 2023

PETITIONER: Leo Pilachowski
 2028 E. 1st Street, Bloomington

REQUEST: The petitioner is requesting an administrative appeal of the staff issuance of a Notice of Violation.

STAFF REPORT: The applicant applied for a building permit (C21-309) to construct a new single family residence on a vacant lot at 2028 E. 1st Street. The petitioner showed the required 6' wide concrete sidewalk and tree plot on the site plan that was approved with the Certification of Zoning Compliance (CZC) issued for the building permit to build the new dwelling, single-family (detached). The Certificate of Zoning Compliance also included the condition that a 6' wide concrete sidewalk and tree plot is required along the High Street property frontage. The petitioner has constructed the residence and has not installed the required sidewalk or tree plot with street trees. A final occupancy was given by the Monroe County Building Department, though the Certificate of Zoning Compliance conditions were not met.

A visual inspection of the property on February 14, 2023 confirmed that the sidewalk and tree plot with street trees had not been installed. The petitioner was alerted to contact the Department by the Monroe County Building Department. The Department emailed the petitioner on February 17, 2023 and informed him that a Notice of Violation would be forthcoming regarding the lack of sidewalk and street trees. He appealed the pending issuance of the Notice of Violation on February 20, 2023 even though a formal Notice of Violation had not been issued yet. The formal Notice of Violation was issued on March 10, 2023.

The petitioner is appealing that under Section 20.06.080(d)(3)(A)(iii) since the petitioner filed the appeal before the formal Notice of Violation was issued, that the Department was not allowed to issue the Notice of Violation.

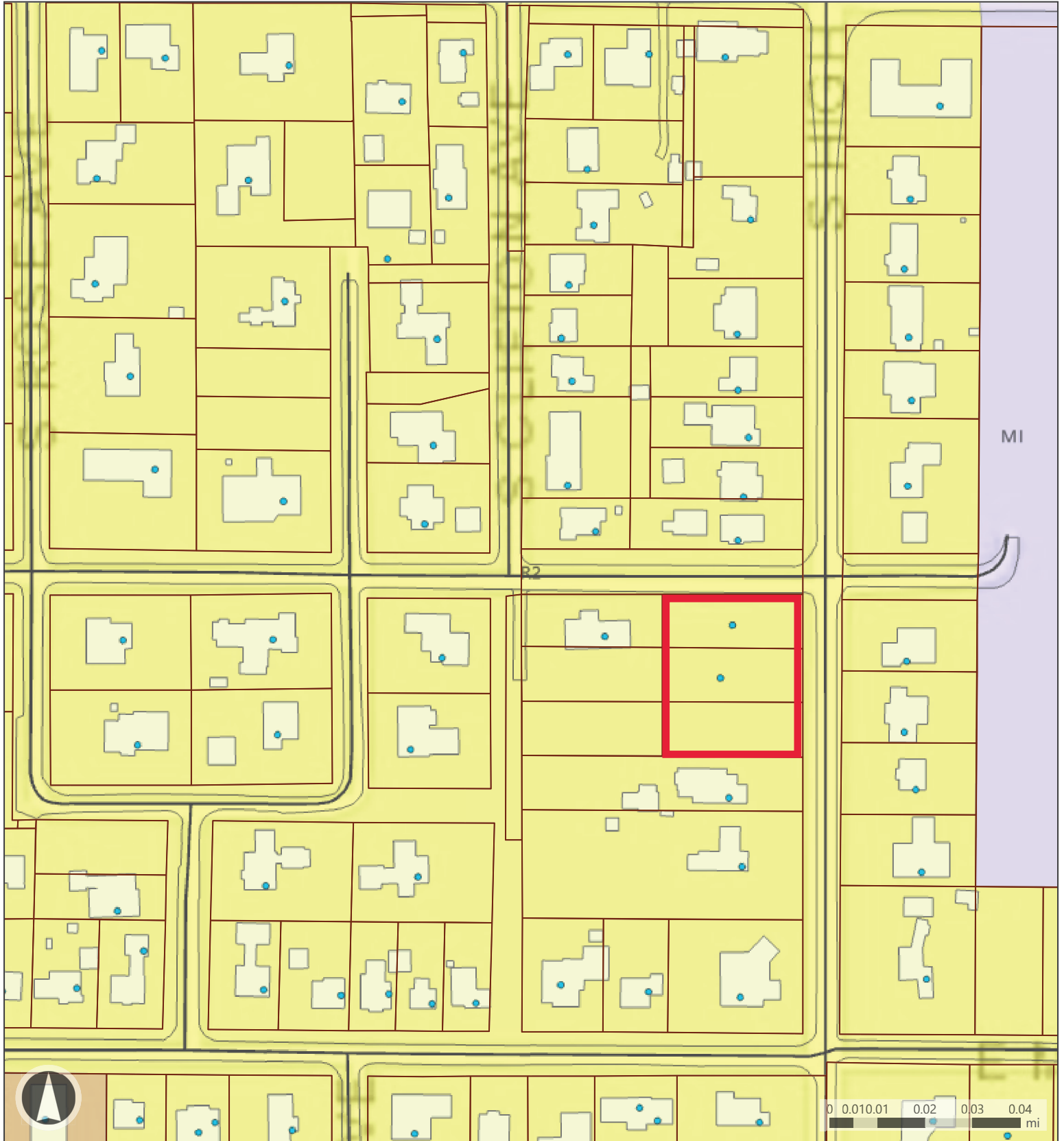
Specifically the UDO states-

iii. Stay of Proceedings

An appeal stays all proceedings from further action unless the Planning and Transportation Director determines that a stay would create adverse impacts to the health, safety, or welfare of the city or neighborhood.

This section of the UDO is in regards to the City assessing fines during the time that the Appeal is being decided. The intent is that the time period from when an appeal is filed to when it is decided is not counted toward the daily accrual of fines for a violation. It does not prohibit the City from issuing a formal Notice of Violation and is therefore not a "proceeding" that is stayed.

RECOMMENDATION: In accordance with UDO Section 20.06.080(d)(3)(B)(ii), because this petition is an administrative appeal, the staff report shall not make a formal recommendation.



Map Legend

Parcels

Address Points

Status

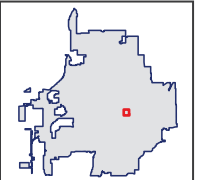
Current

Edge of Pavement

Code : Description

R2 : Residential Medium Lot

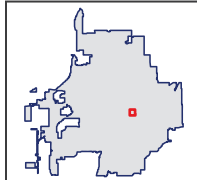
RH : Residential High-Density Multifamily





Map Legend

- Parcels
- Status
- Edge of Pavement
- Address Points
- Current



Leo Pilachowski - Petition for Appeal of the 3/10/2023 Notice of Violation Alleges Failure to Comply with the UDO and CZC 21-309

On 3/13/2023, we received a Notice of Violation, dated and sent on 3/10/2023, for the property and improvements we own at 2028 E 1st Street in the City of Bloomington. The house was newly built on a vacant lot and we moved into our new home on 8/20/2023. Monroe County issued the Certificate of Occupancy on 4/8/2022 and the City's UDO does not require an occupancy permit for detached single family residences.

We have filed, on 2/20/2023, an appeal petition for the BZA review of a 2/17/2023 determination by Eric Greulich alleging violations of the UDO. This appeal does not apply to the alleged UDO violations in that determination. This appeal consists of two major issues: that the Notice of Violation cannot be issued during the stay of all proceedings initiated by the previous appeal and that we had no specific knowledge of the Certificate of Zoning Compliance C21-309 having neither received or had access to the CZC.

(1) The UDO 20.06(d)(3)(A)iii. states:

“Stay of Proceedings

An appeal stays all proceedings from further action unless the Planning and Transportation Director determines that a stay would create adverse impacts to the health, safety, or welfare of the city or neighborhood.”

I mentioned this to Eric Greulich, in person, on Monday afternoon, 3/13/2023, when Eric was setting the appeal notice sign on our property. Eric said that the stay only applied to fines. However, the clear text of the UDO says that all proceedings are stayed. Thus, the Notice of Violation, a clear proceeding defined in the Administrative & Procedures chapter of the UDO, is invalid and should not have been issued.

(2) The UDO 20.06.050(f)(3)(B) states that a Certificate of Zoning Compliance (CZC) reviewed and decided in accordance with UDO 20.06.040(d). Although the UDO 20.06.040(d)(5)(A) only says that the decision shall be in writing and appears not to mandate that the petitioner for a be given a notice or copy of any approval, approval with conditions, or denial, it is required by due process that the petitioner get or have access to the approved CZC and any conditions of approval. Although I sent the initial site plan and revised site plan to Eric Greulich (and submitted both to the Monroe County Building Department), Eric Greulich told me, in person, on Monday afternoon, 3/13/2023, that he did not send me the CZC 21-309. He said that the Monroe County building Department should have provided me with a copy of the CZC. The CZC 21-309 was not available to me on the Monroe County Building Department website until the morning of Tuesday, 3/14/2023.

Additionally, the first reference to any CZC was in a 6/8/2022 email from Paul Kerhberg. The email, in part, says “I've attached the plans which Planning approved when they issued your Certificate of Zoning Compliance.” I had assumed previously and after this email that the submitted and approved site plans were approved without conditions since no conditions were mentioned. The only other reference to a CZC was in Eric Greulich's determination of 2/17/2023, a determination which has been appealed. After the Kerhberg email, I reexamined the conditions I received with the building permit and saw no conditions relating to zoning. I also looked at all documents and attachments in our building permit file on the Monroe County Building Department website. I saw no CZC. After the receipt of the Gruelich determination, I again looked at the Building Department website and still saw no CZC. After receipt of the Notice of Violation, I looked again at the Building Department website and my email and saw no CZC. I mentioned that we did not have the CZC C21-309 in an email of 3/13/2023 to Jennifer Burrell

(and to planning.bloomington.in.gov), the signer of the notice. I asked that a copy of CZC C21-309 be immediately emailed to me. I have received neither a reply nor copy of CZC C21-309.

After speaking in person on Monday, 3/13/2023, afternoon with Eric Greulich, in person, I was more concerned about not having the CZC (as was Eric). On Tuesday morning I called the Monroe County Building Department. The person, Misty Deckard, with whom I usually worked, was no longer employed there but I spoke with another lady (Jamie?) and asked about any CZC for our building permit (R-21-547). She said that the office often does not get a CZC and she was initially unable to find a CZC for my account. She said she needed to look elsewhere. After a few minutes she came back and told me to look in the attachments page of my account. I had that page open and did not see a CZC attachment. I then opened a second, separate window the attachments page of my account. The CZC was now listed at the new, separate web page at the end of the list. I was then able to finally download and examine a copy of CZC C21-309. The Monroe County permit website system sends me an email when documents and attachments are uploaded to my account. I received such an email when I uploaded the revise site plan for Eric Greulich on 7/7/2022 but I have no such notification email for any CZC upload (and, specifically, none on the 7/8/2021 date that Eric approved the site plan). So I did not have any knowledge that the CZC was uploaded. I had to pay for and pick up the building permit in person. I was not given a copy of the CZC when I picked up the building permit and related materials on 7/12/2021.

For the past two years I have been trying to get an appealable decision from the Planning Department on the sidewalk issue. The City Attorney and the Planning Department have said that none of their emails were appealable until the Gruelich determination of 2/27/2023. However, the conditions in CZC C21-309, and in particular the condition that the house could not be occupied until the S High Street sidewalk was completed, were appealable. Had I seen CZC C21-309, I would have immediately appealed and not spent two years trying to get an appealable determination. This whole sidewalk issue could have been settled long before the house was completed and able to be occupied. We are concerned that an appealable determination or document was not available until the City wanted to issue a violation notice and start the accumulation of hefty fines.

We ask the BZA to:

- 1.) Void the 3/10/2023 Notice of Violation that was issued after we appealed the 2/17/2023 determination that concerned the alleged violations. A stay was in effect before the notice was issued.**
- 2.) To render void the CZC C21-309 condition that “A 6’ sidewalk and tree plot is required along the entire property frontage and must be installed prior to occupancy.” The house was occupied, with a valid occupancy permit, prior to our knowing of the condition.**

Leo Pilachowski – Addendum to petition for Appeal of the 3/10/2023 Notice of Violation Alleges Failure to Comply with the UDO and CZC 21-309

- 1.) After an appeal of the related determination was filed to the BZA was filed, the Notice of violation process was not stayed and a Notice of Violation was issued.
- 2.) The Notice of Violation is, in part, for a failure to comply with a certificate of zoning compliance. The UDO 20.06.040(d)(5)(A) requires that “The decision shall be in writing and shall clearly state reasons for a denial, conditions of approval, or commitments.”, I was not given or emailed the written decision. Furthermore, I never received any notification that a Certificate of Zoning Compliance with conditions was issued or notice of where to find it and there was no listing, at the time, of the Certificate on any website available to me. One cannot fail to comply with a certificate or conditions of which one has no notice or knowledge.



City of Bloomington
Planning and Transportation Department
Certificate of Zoning Compliance

| | | | |
|------------------|-----------|-------------------|------------------------------------|
| Application #: | C21-309 | Property Address: | 2028 E 1st Street |
| Date Received: | 6/16/2021 | Date Issued: | 7/8/2021 |
| Zoning District: | R2 | Proposed Use: | Dwelling, single-family (Detached) |

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning and Transportation Department finds the plans to be in compliance. The following terms and conditions apply:

- This permit authorizes the proposed New Construction as shown on the Certificate of Zoning Compliance application only; no other construction is permitted.
- Occupancy of each dwelling unit is limited to not more than 3 unrelated adults, or as defined by the definition of "Family." [BMC 20.07.10 (Family)]
- This permit does not allow for work in a city right-of-way. An excavation permit is required for any work done within a public right-of-way
- All new driveway aprons onto a street shall be surfaced with concrete. [BMC 20.04.060(i)(7)(B)]
- Siding material must extend from roofline to within six (6) inches of finished grade. [BMC 20.04.070(d)(3)(C)]
- Appropriate erosion control measures must be installed and maintained. Yard must be seeded and stabilized after final grade is established. [BMC 20.04.030(d)(3)(I)]
- A 6' concrete sidewalk and tree plot is required along the entire property frontage and must be installed prior to occupancy.

This Certificate of Zoning Compliance pertains only to the attached plans and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any additional required permits nor exempt the property from compliance with any requirements of other governmental entities.

Eric Greulich
 Senior Zoning Planner
 City of Bloomington
 Planning and Transportation Department



March 10, 2023

Leo Pilachowski
2326 E Woodbine Avenue
Bloomington, IN 47401

Leo B & Catherine A Pilachowski
2028 E 1st Street
Bloomington, IN 47401

Re: Notice of Violation

Failure to Comply with Development Standards, Access and Connectivity
Failure to Comply with CZC C21-309

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.04.050 [Development Standards & Incentives; Access and Connectivity]** and **Section 20.06.100(b) [Administration & Procedure; Enforcement and Penalties; Penalties and Remedies for Violations]** at 2028 E 1st Street. Records show that you are the owner or Building Permit applicant of this property.

The City of Bloomington Planning and Transportation Department observed the status of the project located at 2028 E 1st Street on 02/14/2023. The Monroe County Building Department communicated to Planning and Transportation that the project at 2028 E 1st Street received a Certificate of Use and Occupancy from Monroe County on 04/08/2022. However, there are required improvements that have not been built. Specifically, a sidewalk and tree plot with street trees were required to be built along S. High Street. This property is in the R2 Zoning District (Residential Medium Lot).

A requirement of CZC C21-309 is as follows: "A 6' concrete sidewalk and tree plot is required along the entire property frontage and must be installed prior to occupancy."

According to UDO **Section 20.06.100(b) [Administration & Procedure; Enforcement and Penalties; Penalties and Remedies for Violations];**

- (1) For the purposes of this UDO, a violation shall be defined as violation of or failure to comply with :
- (B) Any condition, requirement or commitment established with the approval of a variance, conditional use, site plan, Planned Unit Development, subdivision, certificate of zoning compliance, or other development approval under this UDO

According to Unified Development Ordinance (UDO) **Section 20.04.050(d) [Development Standards & Incentives; Access and Connectivity; Pedestrian and Bicycle Circulation];**

- (2) **Applicability**
Pedestrian facilities shall be required on both sides of all streets, with the exception of new single-family, duplex, and triplex residences built on existing legal lots of record on non-classified (neighborhood) streets with no adjacent pedestrian facilities, and additions to existing residential

structures; and except that culs-de-sac less than 300 feet in length and providing access to less than 10 residential units shall be required to provide pedestrian facilities on one side of the street. All required trails and connector paths shall be provided. Where there are conflicting standards in this UDO and the most recently adopted Transportation Plan, the Planning and Transportation Director shall determine which standard governs.

In accordance with UDO Section 20.06.100, a violation of Failure to Comply with CZC may result in a two hundred and fifty-dollar (\$250) fine. In accordance with UDO Section 20.06.100, a violation of Failure to Comply with Development Standards may result in a one-hundred dollar (\$100) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

If the violation remains unresolved, fines will begin to accrue daily on 03/25/2023 in accordance with above referenced UDO Section 20.06.100 [Enforcement and Penalties] until such a time as the violation is remedied. You have the following options to remedy the situation.

1. Submit a sidewalk completion timeline for review and approval by the Planning and Transportation Department in conjunction with the Engineering Department on or before 03/24/2023.

You have already disputed the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance by filing an administrative appeal on February 20, 2023. Said appeal is scheduled to be heard in the coming weeks by the Board of Zoning Appeals.

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Jennifer Burrell
Zoning Compliance Planner, Planning and Transportation

Enclosure: (2) Photographs

CC: Scott Robinson, AICP, Director, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation Department
Andrew Cibor, P.E., Director, Engineering Department



Photo 1: The portion of the 2028 E 1st Street site adjacent to High Street where a sidewalk and tree plot have not yet been built on 02/14/2023.



Photo 2: The portion of the 2028 E 1st Street site adjacent to High Street where a sidewalk and tree plot have not yet been built on 02/14/2023.

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 2028 E 1st Street

CASE #: V-13-23
DATE: April 20, 2023

PETITIONER: Leo Pilachowski
2028 E. 1st Street, Bloomington

REQUEST: The petitioner is requesting a determinate variance from sidewalk requirements.

SITE DESCRIPTION: The property is located at the southwest corner of E. 1st Street and S. High Street and is zoned Residential Medium Lot (R2). Surrounding properties are all zoned Residential Medium Lot (R2) and have been developed with single family residences.

The petitioner received a building permit (C21-309) to construct a new “dwelling, single-family” residence on this lot and the house has been constructed. Under Section 20.04.050(d) of the Unified Development Ordinance, sidewalks are not required on existing legal lots of record on non-classified (local) streets at the time of new development of a dwelling, single-family use. The property has frontage on both 1st Street and High Street. Since High Street has a roadway functional classification of “Primary Collector”, that frontage is not exempt from the required pedestrian facility. No sidewalk is required along 1st Street since that is a non-classified (local) street.

High Street has a “Neighborhood Connector” typology and the Transportation Plan identifies High Street as requiring either a 7’ wide concrete sidewalk or a 12’ multiuse path. The petitioner showed a 6’ wide sidewalk along High Street with the approved site plan with the building permit. The sidewalk was shown as only 6’ wide and would need to be modified to be compliant with the Transportation Plan depending on what type of facility is determined to be needed along the west side of High Street. There will be public meetings this month to discuss pedestrian improvements along High Street which will determine what type of pedestrian facilities will be installed along the High Street corridor. However, a pedestrian facility of some type is and will be required along the petitioner’s property frontage on High Street.

The petitioner is requesting a determinate sidewalk variance to not require any pedestrian facility along the High Street frontage.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards:

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

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

PROPOSED FINDING: The granting of the variance will be injurious to the public health, safety, morals, or general welfare of the community since one of the primary

reasons for the installation of sidewalks is to provide a safe location for pedestrians to walk along higher volume streets rather than walking in unimproved area along a road or within a road. The UDO standards for when a sidewalk is required were specifically written and revised to outline what situations sidewalks should be installed. Classified streets with higher traffic volumes are more dangerous situations for pedestrians and therefore have a higher priority to provide alternative transportation facilities, which is why these roads were chosen to not be exempt from requiring pedestrian facilities. There is a school campus, Binford-Rogers School, less than 200 feet from the petition site.

- (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 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 since there is not currently a sidewalk system further to the south in need of connection. If a variance is granted and a sidewalk is installed further south and a connection is possible, then this portion of the sidewalk will be installed to complete the system at a later time.

- (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; and*

Determinate Sidewalk Variance Approval Criteria:

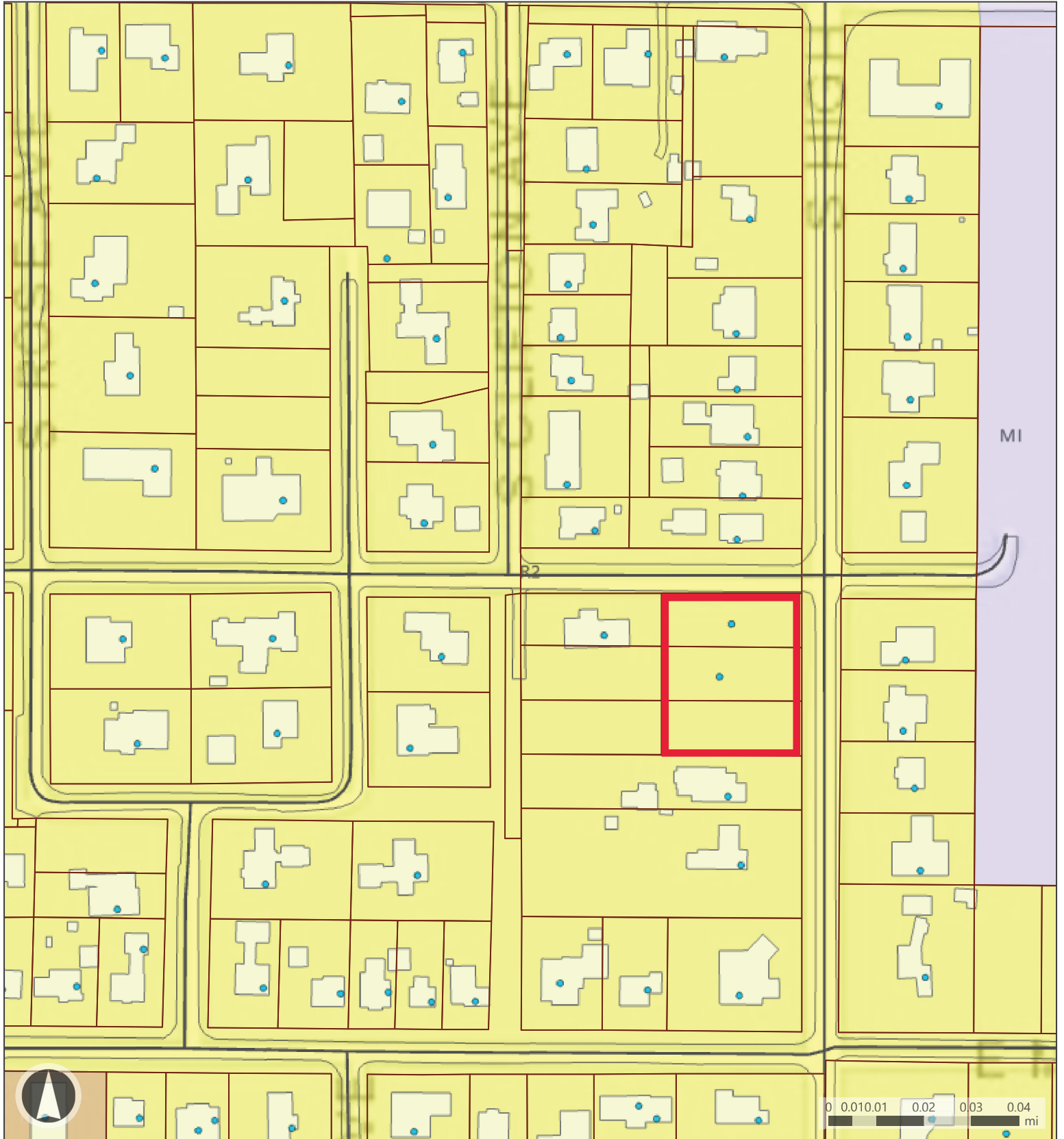
20.06.080(b)(3)(E)(i)(3): While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

- a) That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or*
- b) That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or*
- c) The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or*
- d) The location of the lot or tract is such that a complete pedestrian network is present on the other of the street on the same block; or*
- e) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.*

PROPOSED FINDING: The Department does not find any practical difficulties in the use of the property as a result of requiring pedestrian facilities to be installed. The property will still be able to be used with the recently constructed single family residence as are many properties throughout the City with sidewalks. In addition, the Department

has not identified any practical difficulties that are peculiar to the property in question that would not allow for the required pedestrian facilities to be installed. The property frontage is relatively flat with no topographic or environmental constraints that would prevent the required pedestrian facilities from being installed. The Department has stated that we can work with the property owner to locate any required facilities in a location that would allow existing trees to be preserved. There are not any practical difficulties associated with the use of the property for the single family residence that would be alleviated by not requiring the pedestrian facilities to be installed.

RECOMMENDATION: Based upon the written report, the Department recommends the Board of Zoning Appeals adopt the proposed findings and recommends denial of the variance.



Map Legend

Parcels

Address Points

Status

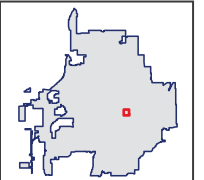
Current

Edge of Pavement

Code : Description

R2 : Residential Medium Lot

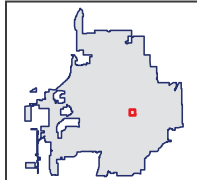
RH : Residential High-Density Multifamily





Map Legend

- Parcels
- Address Points
- Status**
- Current
- Edge of Pavement



Leo Pilachowski - Petition for a determinate sidewalk variance

Section 20.04.050(d) of the Unified Development Ordinance (UDO) requires a 6' wide to be constructed along the S High Street frontage of our new home at 2028 E 1st Street. Specifically, section 20.04.050(d)(2) of the UDO states that-

Pedestrian facilities shall be required on both sides of all streets, with the exception of new single-family, duplex, and triplex residences built on existing legal lots of record on non-classified (neighborhood) streets with no adjacent pedestrian facilities, and additions to existing residential structures; and except that cul-de-sacs less than 300 feet in length and providing access to less than 10 residential units shall be required to provide pedestrian facilities on one side of the street. All required trails and connector paths shall be provided. Where there are conflicting standards in this UDO and the most recently adopted Transportation Plan, the Planning and Transportation Director shall determine which standard governs.

In the specific case of a sidewalk along the west side of S High Street traversing 180' south from the E 1st Street intersection, the sidewalk will stop midblock. From that point there is no sidewalk going south on the west side of S High Street until just south of Viva Drive, for a distance of about 2400'. There is also no sidewalk on the west side of S High Street going north from E 1st street until just south of E 2nd Street (about 450'). Since the required sidewalk will stop midblock at short wall that blocks half of the right of way, the required sidewalk will have little or no pedestrian use. In addition, the sidewalk will not continuously connect the logical termini at the E 1st Street and E Maxwell lane intersects. Such a sidewalk section would not meet the sidewalk recommendations of the INDOT Design Manual that concern the ADA standards and the PROWAG. The midblock sidewalk break would have the school children in the area either walk in or close to the street or cross the street midblock rather than turning around at the break.

The particular conditions associated with the area include:

- 1.) The adjacent lots to the south are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; and
- 2.) The adjacent lots to the north are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on that block in the near future; and
- 3.) The location of the lot is such that a complete pedestrian network is present on the other side of S High Street on the same block and on the north and south adjacent blocks; and
- 4.) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot until some future date when a continuous sidewalk can be constructed from E 1st Street to S Maxwell Lane so that there is no midblock break; and
- 5) The Clifton sidepath 300' to the west was constructed to take the place of a sidewalk on the west side of S High Street. The Clifton sidepath provides a continuous pedestrian path and connection between E 1st Street and S Maxwell Lane.

Thus, the requested variance satisfies several of the conditions that are suggested for consideration when granting a determinate sidewalk variance. Therefore I ask for consideration of a variance from the above mentioned UDO section.

South end of R-O-W on west side of 800 block of S High Street

2' tree plot, 6' sidewalk, 1' buffer to R-O-W edge shown



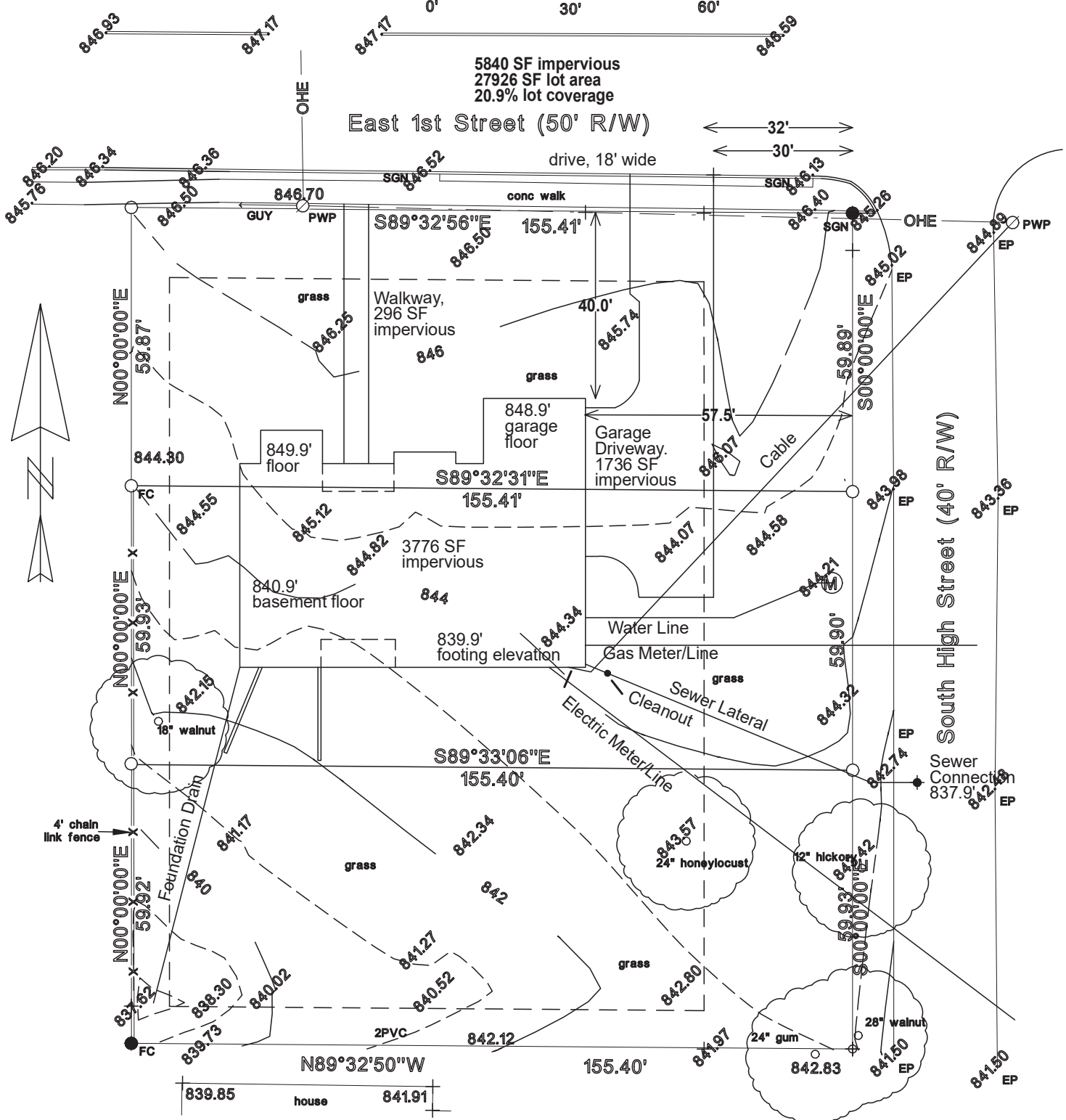
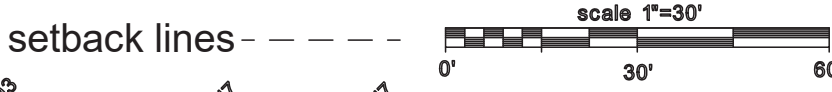
South end of R-O-W on west side of 800 block of S High Street

2' tree plot, 6' sidewalk, 1' buffer to R-O-W edge shown



Site Plan, Pilachowski, 2028 E 1st St, Bloomington IN SW corner of E 1st St. and S High St, 3/27/2023

Single story, with 3 car side-load garage





**City of Bloomington
Engineering Department**

April 6, 2023

Dear City of Bloomington Resident/Property Owner,

The City of Bloomington Engineering Department would like to invite you to a public input meeting for the High Street Intersection Modernizations and Multiuse Path project. The project will install multiuse path along High Street from Arden Drive to 3rd Street and replace/modernize the traffic signals at the Hillside Drive/Moores Pike, 2nd Street, and 3rd Street intersections. The project will also evaluate intersection realignment at the 3rd Street intersection as well as additional intersection improvements at other locations within the corridor. Project goals include improving safety, accessibility, and mobility for all modes of transportation in this important corridor.

This public meeting will provide high level details about the project and gather input regarding design. The design phase of the project is beginning now and construction is expected to begin in 2026.

Public Meeting Details:

DATE: April 20th, 2023

TIME: 6:00pm – 7:30pm

LOCATION: Christ Community Church, 503 S High Street

Additional information and future updates will be posted on the project website at:

<https://bloomington.in.gov/engineering/projects/highstreet>

If you are unable to attend this meeting and would like to provide input, then please use the comment form on the project website which will be available April 20th, 2023 through May 4th, 2023.

Thank you,
Neil Kopper

Neil Kopper, PE
Senior Project Engineer
City of Bloomington
(812) 349-3593 | koppenn@bloomington.in.gov

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT**

**CASE #: AA-14-23
DATE: April 20, 2023**

Location: West of the corner of E. 7th Street and E. Longview Avenue

PETITIONER: Chris Junken, Shiel Sexton Co.
902 N. Capitol Avenue Indianapolis, IN

REQUEST: The petitioner is requesting an administrative appeal of the issuance of a Notice of Violation issued March 14, 2023.

REPORT:

The petitioner was issued a temporary use permit (C22-137) for the use ‘construction support activities’ on March 24, 2022. The petitioner is currently working as a contractor for a mixed-use building under construction at the northwest corner of Longview Avenue and Pete Ellis Drive, which is directly across 7th Street from the petition site. The grading permit for the construction site (C21-479) was amended to include the construction support activities parcel, so that it will be inspected and reviewed in conjunction with the grading permit during construction and at the time of occupancy inspection.

Construction support activities has the following use-specific standards listed in 20.04.010 (h)(3):

(3) Construction Support Activities

Contractor's offices, equipment storage, and portable lavatories are permitted on or adjacent to construction sites on property owned or controlled by the owner of the property on which the construction is taking place, subject to the following conditions:

- A. The use shall only occur between 15 days before and 15 days after the construction activity. All temporary facilities shall be removed within 15 days after completion of construction;
- B. The structures shall not contain sleeping or cooking facilities; and
- C. Portable lavatories shall be located as to minimize impacts to adjacent residential uses.

Grading permit C21-479, as amended, lists the following condition:

- 17. Amendment #2: This grading permit approves the off-site disturbance to create an area for construction trailer(s), parking serving the construction trailer(s) only, and infrequent short-term material staging.**

Temporary Use permit C22-137 includes a site plan showing one construction trailer and gravel for an area of 22 parking spaces with an aisle with no additional area shown as material staging.

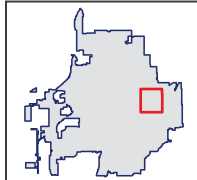
This appeal request is the result of the issuance of a Notice of Violation issued on March 14, 2023 for parking on this site. While incidental parking for the construction trailer is allowed through the grading permit condition, staff has observed parking that is outside of the area approved for parking with the temporary use permit, as well as which appears to be non-incidental to the trailer at the site. Both are outside of the scope of use allowed by the temporary use permit, the grading permit, as well as the use-specific standards for construction support activities.

RECOMMENDATION: In accordance with UDO Section 20.06.080(d)(3)(B)(ii), because this petition is an administrative appeal, the staff report shall not make a formal recommendation.



Map Legend

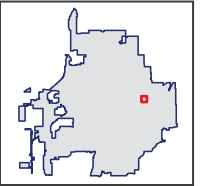
- Parcels
- Bloomington Municipal Boundary





Map Legend

- Parcels
- Address Points
- Bloomington Municipal Boundary





March 24, 2023

Jackie Scanlan
City of Bloomington
401 North Morton Street
Bloomington, IN 47404

RE: Scannell Properties – Bloomington Multi-Family
Shiel Sexton Project #21126
Notice of Violation – Illegal Land Use – Appeal Response

Jackie:

As mentioned in my email on March 17th, Shiel Sexton received a **Notice of Violation – Illegal Land Use** from your office. My initial understanding from the language in the notice is that NO parking was allowed at the site trailer at all. Based on your email and my conversation with Jennifer I now understand that this violation is more specifically that we have excessive parking on the property. My goal below will be to outline for you who we allow to park in the lot and why.

First, I would like to note one of our goals on this project is to be respectful neighbors to the local community we are operating in and around. Having a project of this size and scale can certainly put a strain on these neighbors. Our goal is to minimize any impacts to those folks and maintain good relationships.

One approach to minimize these impacts has been to allow select trade partners to park in the trailer lot. Over the past year we have allowed only trade supervisors to park in the lot; no general labor allowed. We allowed these supervisors to park in the lot because they are all required to start their day in the trailer with our team. Every morning the Shiel Sexton team along with supervisors from every active trade onsite have a morning huddle where we discuss the upcoming day, manpower, roadblocks to work etc. These supervisors are routinely in and out of the trailer doing coordination work with our team throughout the day. We also routinely have members of the design team, ownership, and consultants making site visits who attend meetings in the trailer.

Currently there are 6 full-time Shiel Sexton employees. Daily we will have 10-15 other visitors such as manufacturer reps, Shiel Sexton Executive Employees and safety managers, the project Owner, Architects, Engineers, and others that need to meet with us to coordinate the project. Lastly, we're running roughly 15 to 20 contractors. This adds up to the maximum number of vehicles the lot has capacity for. Ultimately our thoughts were that allowing these vehicles to park at the trailer would ease the burden of them parking in the local area.

SSC is respectfully requesting the ability for these supervisors and all site visitors to continue parking here in the trailer lot. SSC will continue to police the lot for any general labor and ensure that no parking takes place off the construction mats. Do not hesitate to contact me at 317-557-2915 or cjunken@shielsexton.com with any questions that you may have.

Sincerely,

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

Chris Junken
Sr. Project Manager



City of Bloomington
Planning and Transportation Department

March 14, 2023

Mph Property LLC
 3803 E Commodore Trail
 Bloomington, IN 47408

Shiel Sexton
 902 N Capital Avenue
 Indianapolis, IN 46204

Curry Urban Properties LLC
 3579 E Saddlebrook Lane
 Bloomington, IN 47401

Re: Notice of Violation
 Illegal Land Use

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.03.030 [Use-Specific Standards]** at the East Longview Avenue - Deckard East 3rd Street Lot 5. Records show that you are the owner of this site, an applicant for the temporary use permit at this site, or an interested party of the construction activity this site is supporting.

The Planning and Transportation Department staff observed the parking of vehicles in a gravel lot at East Longview Avenue - Deckard East 3rd Street Lot 5 on 11/29/2022 and 02/24/2023. Staff previously issued a temporary use permit (#C22-137, see attached) for construction support activities on 03/24/2022, however this does not permit the parking of vehicles at this site. The property is located in the Mixed-Use Neighborhood-Scale (MN) zoning district.

According to Unified Development Ordinance (UDO) **Section 20.03.030(h) [Use Regulations; Temporary Uses];**

(3) Construction Support Activities

Contractor's offices, equipment storage, and portable lavatories are permitted on or adjacent to construction sites on property owned or controlled by the owner of the property on which the construction is taking place, subject to the following conditions:

- (A) The use shall only occur between 15 days before and 15 days after the construction activity. All temporary facilities shall be removed within 15 days after completion of construction;
- (B) The structures shall not contain sleeping or cooking facilities; and
- (C) Portable lavatories shall be located as to minimize impacts to adjacent residential uses.

In accordance with UDO Section 20.06, a violation of this nature may result in a two-thousand-five-hundred dollar (\$2500) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

No fines have been issued at this time. You have the following options to remedy the situation.

1. Cease the non-permitted use of the parking of vehicles at East Longview Avenue - Deckard East 3rd Street Lot 5 on or before 03/28/2023.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.100(f).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Jennifer Burrell
Zoning Compliance Planner, Planning and Transportation Department

Enclosures (4): (3) Photographs, (1) Temporary Use Permit Copy

CC: Scott Robinson, AICP, Director, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation Department



Photo 1: Prohibited use at the East Longview Avenue - Deckard East 3rd Street Lot 5 on 11/29/2022.



Photo 2: Prohibited use at the East Longview Avenue - Deckard East 3rd Street Lot 5 on 11/29/2022.



Photo 3: Prohibited use at the East Longview Avenue - Deckard East 3rd Street Lot 5 on 02/24/2023.



City of Bloomington
Planning and Transportation Department
Temporary Use Permit

| | | | |
|------------------|-----------|-------------------|--|
| Application #: | C22-137 | Property Address: | E. 3rd St/Parcel Number 53-05-35-300-044.000-005 |
| Date Received: | 3/21/2022 | Date Issued: | 3/24/2022 |
| Zoning District: | MN | Proposed Use: | Construction Support Activities |

This permit approves:

| | |
|-------------------------|---------------------------------|
| Timeframe Defined Below | Construction Support Activities |
|-------------------------|---------------------------------|

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning and Transportation Department finds the plans to be in compliance. The following terms and conditions apply:

- Temporary uses shall be permitted 1 banner sign with an area of up to 16 square feet. Temporary banner signs shall be located on a structure (not freestanding). [BMC 20.03.030(h)(1)(D)]
- Construction support activities shall only occur between 15 days before and 15 days after the construction activity. All temporary facilities shall be removed within 15 days after completion of construction. [BMC 20.03.030(h)(3)(A)]
- Construction support activities temporary uses shall not contain sleeping or cooking facilities. Portable lavatories shall be located as to minimize impacts to adjacent residential uses. [BMC 20.03.030(h)(3)(B)(C)]

This permit does not constitute the issuance of any additional required permits nor exempt the property from compliance with any requirements of other governmental entities.

Elizabeth Carter
 Senior Zoning Compliance Planner
 City of Bloomington
 Planning and Transportation Department



City of Bloomington
Planning and Transportation Department

Certificate of Zoning Compliance

| | | |
|-------------------|--|---|
| Application #: | C21-479 | PROPOSED WORK IN FLOODPLAIN |
| Amend #2 Date: | March 21, 2022 | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Property Address: | Northwest corner of N. Pete Ellis Drive and E. Longview Avenue | FEMA MAP PANEL 18105C0161D |
| Zoning: | PUD | <small>Effective Date December 17, 2010</small> |
| Proposed Use: | Grading – New Construction of Mixed-Use Development Amended to include additional area to be graveled and used for site construction trailer, parking serving the trailer, and infrequent material staging. | |

The submitted plans have been reviewed for compliance with applicable provisions of Bloomington Municipal Code and conformance with the terms of any approvals which have been granted under authority of the Municipal Code. The Planning and Transportation Department finds the plans to be in compliance:

- As submitted

- With modifications or conditions as follows:

1. Project will comply with all current ADA (Americans with Disabilities Act) requirements and anything in the public right-of-way must comply with the proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-way (PROWAG).
2. Public improvements shall be in accordance with the current edition of the Indiana Department of Transportation Standards and Specifications.
3. All utility work shall be in accordance with the current City of Bloomington Utility Specifications.
4. An Erosion Control Plan complying with Bloomington Municipal Code 20.04.030 (d) is required to be in place during the period of any earth disturbing activities, and until the site is stabilized. The City of Bloomington may require erosion control measures in addition to or different from those approved on the Erosion Control Plan.
5. This Approval is only for the City of Bloomington Planning and Transportation Department and does not constitute approval from any other required Public Agency/Entities.
6. All bonding must remain current until a written release of such bonding is given by a representative of the City of Bloomington Planning and Transportation Department.
7. An onsite pre-construction meeting shall be held prior to any earth disturbing activities to inspect the installation of all erosion control measures as per approved plan. Please contact the MS4 coordinator at 812-606-0803 or stormwater@bloomington.in.gov to schedule an onsite inspection. Please make the request 48 hours in advance.
8. Any infrastructure in the public right-of-way that is damaged must be restored to previous or improved conditions and be in compliance with all applicable standards and regulations.
9. It is the responsibility of the permit holder to call at least 24 hours in advance for any and all inspections required by the City of Bloomington, failure to do so may result in the City of Bloomington not accepting future intended public improvements or the requirements of a warranty on any uninspected improvements. Inspections required include backfill utilities in the right-of-way, subgrade treatment, base and sub-base (proof roll), ramp and sidewalk forms, and final punch/acceptance. Please contact the Public Improvements Manager at 812-349-3423 to schedule the public improvement inspections for this site.
10. Unless otherwise approved, final occupancy must be scheduled within 30 business days of temporary occupancy.
11. No work in the public right-of-way may commence until a ROW Use Permit is approved.
12. Approved per terms and conditions of Plan Commission case PUD-16-21 and staff-level final plan case PUD-31-21.
13. The O&M currently being reviewed by City of Bloomington Utilities shall be approved on or before 01/21/2022.



City of Bloomington
Planning and Transportation Department

14. Final bicycle parking locations shall be coordinated with Planning and Transportation staff either once the retail tenant design is finalized, or before final occupancy is issued, whichever comes first. The bicycle parking locations shall be approved by Planning and Transportation staff prior to installation. Pedestrian easements for sidewalks which are outside of right-of-way as well as for parking areas along N. Pete Ellis Drive which are outside of right-of-way shall be submitted, reviewed and approved by staff, as well as recorded at the Monroe County Recorder's Office prior to final occupancy.
15. The proposed permeable paver system in the parking spaces along N. Pete Ellis Drive is contingent upon an agreement between City of Bloomington Utilities, City of Bloomington Public Works Department, City of Bloomington Engineering Department, and the developer as to the maintenance and responsibility of the paver system. Additionally, any agreement(s) related to said system deemed necessary by the aforementioned City departments shall be secured prior to installation of the permeable paver system.
16. **Amendment #1: This grading permit approves the removal and subsequent replanting of trees along the northern property line. These trees were previously shown as being preserved. The trees furthest to the west will still be protected and preserved.**
17. **Amendment #2: This grading permit approves the off-site disturbance to create an area for the construction trailer(s), parking serving the construction trailer(s) only, and infrequent short-term material staging.**
18. **A Temporary Use Permit shall be obtained prior to Construction Support Activities taking place off-site.**

This Certificate of Zoning Compliance pertains only to the civil plans dated November 22, 2021 sealed by Jeffrey Fanyo, landscape plans dated November 22, 2021 sealed by Jayne York, and sheets L.401, C401, C501, and C502 most recently revised on 12/21/2021 for Bulletin 02 and sheets C503 and C504 most recently revised on 03/04/2022 and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any additional required permits nor exempt the property from compliance with any requirements of other governmental entities.

Elizabeth Carter
Senior Zoning Compliance Planner
City of Bloomington
Planning and Transportation Department

Neil Kopper, PE
Senior Project Engineer
City of Bloomington
Engineering Department



City of Bloomington
Planning and Transportation Department
Temporary Use Permit

| | | | |
|------------------|-----------|-------------------|--|
| Application #: | C22-137 | Property Address: | E. 3rd St/Parcel Number 53-05-35-300-044.000-005 |
| Date Received: | 3/21/2022 | Date Issued: | 3/24/2022 |
| Zoning District: | MN | Proposed Use: | Construction Support Activities |

This permit approves:

| | |
|-------------------------|---------------------------------|
| Timeframe Defined Below | Construction Support Activities |
|-------------------------|---------------------------------|

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning and Transportation Department finds the plans to be in compliance. The following terms and conditions apply:

- Temporary uses shall be permitted 1 banner sign with an area of up to 16 square feet. Temporary banner signs shall be located on a structure (not freestanding). [BMC 20.03.030(h)(1)(D)]
- Construction support activities shall only occur between 15 days before and 15 days after the construction activity. All temporary facilities shall be removed within 15 days after completion of construction. [BMC 20.03.030(h)(3)(A)]
- Construction support activities temporary uses shall not contain sleeping or cooking facilities. Portable lavatories shall be located as to minimize impacts to adjacent residential uses. [BMC 20.03.030(h)(3)(B)(C)]

This permit does not constitute the issuance of any additional required permits nor exempt the property from compliance with any requirements of other governmental entities.

Elizabeth Carter
 Senior Zoning Compliance Planner
 City of Bloomington
 Planning and Transportation Department



CITY OF BLOOMINGTON
Planning and Transportation Department
401 N. Morton St., Bloomington, Indiana 47404



Phone: 812-349-3423

Fax: 812-349-3520

Email: planning@bloomington.in.gov

APPLICATION FOR TEMPORARY USE PERMIT

*** MAKE CHECKS PAYABLE TO THE CITY OF BLOOMINGTON**

Date Applied: 3/21/2022
 Temporary Use Address: 013-11531-05 DECKARD EAST 3RD STREET LOT 5
 Name of Business: Shiel Sexton Company
 Address of Parent Business (if applicable): _____
902 N. Capitol Ave, Indianapolis, IN
 Business Phone: (317) 557-2915
 Alternative Phone/Fax: (317) 423-6000
 Name of Applicant: Chris Junken

| |
|----------------------------------|
| <small>(OFFICE USE ONLY)</small> |
| Application #: <u>C22-137</u> |
| Permit Fee: <u>\$250.00</u> |
| Date Issued: <u>03/24/2022</u> |
| Permit Reviewer: <u>EMC</u> |

A SCALED SITE PLAN IS REQUIRED WITH YOUR APPLICATION.

In order to receive a **temporary use permit**, the applicant shall submit a site plan containing the following elements:

1. Scale and North arrow;
2. Location of existing building(s), driveway(s), and parking area(s);
3. Location of temporary use activity;
4. Location and name of adjacent street frontage(s), if applicable; and
5. All proposed signage including size, location, and type.

CERTIFICATION

I am the owner or authorized agent responsible for compliance, and hereby acknowledge the following:

1. I have read this application and all related documentation and I represent that the information furnished is correct.
2. I agree to comply with all City ordinances and State statutes, which regulate construction, land use, and occupancy.
3. If any misrepresentation is made in this application, the City may revoke any Certificate issued based upon this misinformation.
4. No temporary use can be operated until a permit has been issued from the Planning and Transportation Department.

Owner or Authorized Agent Signature: _____

Date: _____

If you have questions about temporary use requirements, please call the **Bloomington Planning and Transportation Department @ 812-349-3423.**

Indiana Department of Transportation Permit Section Traffic Control Quick Reference Guide

Work on Paved Shoulders 2ft. or Paving Lanes

Notes:

- Work on paved shoulders requires a 2ft. shoulder width.
- Work on paving lanes requires a 10ft. shoulder width.
- Work on paving lanes requires a 2ft. shoulder width.
- Work on paving lanes requires a 2ft. shoulder width.

Work on Paved Shoulders 2ft. Closed on Divided Roadway

Notes:

- Work on paved shoulders requires a 2ft. shoulder width.
- Work on paved shoulders requires a 2ft. shoulder width.
- Work on paved shoulders requires a 2ft. shoulder width.
- Work on paved shoulders requires a 2ft. shoulder width.

Work on Paved Shoulders 2ft. Closed on a Two-Lane Road

Notes:

- Work on paved shoulders requires a 2ft. shoulder width.
- Work on paved shoulders requires a 2ft. shoulder width.
- Work on paved shoulders requires a 2ft. shoulder width.
- Work on paved shoulders requires a 2ft. shoulder width.

Work on Paved Shoulders 2ft. Closed on a Two-Lane Road

Notes:

- Work on paved shoulders requires a 2ft. shoulder width.
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| Speed (mph) | MUTCD Sign Length (ft) | | | | MUTCD Sign Spacing (ft) | MUTCD Sign Spacing (ft) | MUTCD Sign Spacing (ft) | MUTCD Sign Spacing (ft) |
|-------------|------------------------|----|----|----|-------------------------|-------------------------|-------------------------|-------------------------|
| | A | B | C | D | | | | |
| 20 | 20 | 15 | 15 | 15 | 150 | 150 | 150 | 150 |
| 30 | 30 | 20 | 20 | 20 | 200 | 200 | 200 | 200 |
| 40 | 40 | 30 | 30 | 30 | 300 | 300 | 300 | 300 |
| 50 | 50 | 40 | 40 | 40 | 400 | 400 | 400 | 400 |
| 60 | 60 | 50 | 50 | 50 | 500 | 500 | 500 | 500 |
| 70 | 70 | 60 | 60 | 60 | 600 | 600 | 600 | 600 |
| 80 | 80 | 70 | 70 | 70 | 700 | 700 | 700 | 700 |
| 90 | 90 | 80 | 80 | 80 | 800 | 800 | 800 | 800 |
| 100 | 100 | 90 | 90 | 90 | 900 | 900 | 900 | 900 |

Flagger Standards and Procedures

Flaggers are used to control traffic through work zones. They are trained and equipped with flashing lights and reflective vests. They must follow specific standards and procedures to ensure safety.

Advanced Communication Devices

Advanced communication devices include portable signalers, variable message signs, and dynamic message signs. These devices provide real-time information to drivers about work zone conditions and traffic control measures.

Sign Spacing Table

| Sign Type | 20-30 mph | 30-40 mph | 40-50 mph | 50-60 mph | 60-70 mph | 70-80 mph | 80-90 mph | 90-100 mph |
|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|
| A | 100 | 150 | 200 | 250 | 300 | 350 | 400 | 450 |
| B | 100 | 150 | 200 | 250 | 300 | 350 | 400 | 450 |
| C | 100 | 150 | 200 | 250 | 300 | 350 | 400 | 450 |

Disclaimers

This document is for informational purposes only and does not constitute a contract or warranty. The user assumes all responsibility for the use of this information. The Indiana Department of Transportation is not liable for any damages, including consequential damages, arising from the use of this information.

Any changes or additions of traffic control of practices can be requested for the MUTCD District Permit Section. This document MUST accompany the Right-of-Way Permit Application.

www.in.gov/indot