

CITY OF BLOOMINGTON



May 10, 2023 @ 2:00 p.m.
Kelley Conference Room #155 and Zoom

Virtual Link:

<https://bloomington.zoom.us/j/83902332448?pwd=WWdMTUhueHZscW1hdGh4RlVuVm pLUT09>

Meeting ID: 839 0233 2448
Passcode: 176578

**CITY OF BLOOMINGTON
HEARING OFFICER (Hybrid Meeting)
May 10, 2023 at 2:00 p.m.**

**City Hall, 401 N. Morton Street
Kelly Conference Room #155**

❖ **Virtual Link:**

<https://bloomington.zoom.us/j/83902332448?pwd=WWdMTUhueHZscW1hdGh4RlVuVmpLUT09>

Meeting ID: 839 0233 2448

Passcode: 176578

PETITION MAP: <https://arcg.is/bWi5H0>

PETITIONS:

- CU-02-23 **Steven Wilkos (Rita's Ice)**
430 East Kirkwood Ave
Request: Conditional use approval a standardized business in the Mixed-Use Downtown zoning district within the University Village downtown character overlay (MD-UV)
Case Manager: Gabriel Holbrow
- CU-10-23 **Omega Properties (Springpoint Architects)**
505 N. Walnut Street, Bloomington, IN 47404
Request: Conditional use approval to allow a student housing or dormitory use in existing buildings in the Mixed-Use Downtown zoning district within the Downtown Core downtown character overlay (MD-DC).
Case Manager: Gabriel Holbrow

****Next Meeting: May 24, 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.

**BLOOMINGTON HEARING OFFICER
STAFF REPORT
Location: 430 East Kirkwood Avenue**

**CASE #: CU-02-23 / USE2023-02-0003
DATE: May 10, 2023**

PETITIONER: Steven Wilkos
16520 Vintage Ct N
Westfield, IN

OWNER: Bryan Rental Inc
1440 South Liberty Drive
Bloomington, IN

REQUEST: Conditional use approval to allow a standardized business in the Mixed-Use Downtown zoning district within the University Village downtown character overlay (MD-UV).

REPORT: The property, known as Dunnkirk Square, is located at the southwest corner of East Kirkwood Avenue and South Dunn Street in the University Village downtown character overlay of the Mixed-Use Downtown zoning district (MD-UV). All surrounding properties are also in the MD-UV district. The uses of the surrounding properties reflect the diversely mixed-use character of downtown Bloomington, including small retail, restaurant, park, and surface parking lot uses. The property of the petition contains an existing building with multiple tenant spaces that currently include restaurant uses.

The petitioner is proposing to use a ground-floor tenant space in the southeast corner of the existing building, units 4 and 5, as a Rita's Italian Ice location. The proposal involves an interior remodel and exterior modifications including new order and pick-up windows on the Dunn Street side of the tenant space. Rita's Italian Ice is a chain business, and the proposed Bloomington location will be a restaurant use. The proposed use meets the UDO definition of a standardized business, which is allowed by conditional use approval and is subject to specific standards. Because the property, Dunnkirk Square, is an existing multi-tenant center, establishment of the standardized business use does not trigger any compliance for other parts of the property.

The Unified Development Ordinance (UDO) standards for first floor facades in the Kirkwood Corridor of the University Village downtown character overlay district require large display windows or other frame open areas comprising a minimum of 60 percent of the facade. The existing ground-floor facade facing Dunn Street has approximately 56 square feet of window area, including two windows towards the right (north) end of the facade totaling 40.33 square feet and one glass door towards the left (south) end of the facade totaling approximately 16 square feet, for a total window coverage of less than 13 percent. The petitioner proposes to reduce the size of two existing windows by converting them into order and pick-up windows, but proposes new window areas equal to the reduced window area. Although the proposed facade is still not compliant with the window standards in the MD-UV, the proposal is not increasing the nonconformity and can therefore be recognized as lawful nonconforming.

The petitioner has proposed extensive signage which is compliant with all signage standards for this location.

A proposed new pavement area in front of the proposed order and pick-up windows is located in the public right-of-way of Dunn Street. The petitioner has begun the process of obtaining an encroachment agreement with the City of Bloomington Board of Public Works for the new pavement in the public right-of-way.

STANDARDIZED BUSINESS STANDARDS: UDO 20.03.010(e)(2) lists the following use specific standards for standardized businesses.

In the MD-CS and MD-UV character areas a standardized business shall require conditional use permit review in accordance with Section 20.06.050(b) (Conditional Use Permit), and shall comply with the following standards:

- (A) *The proposed standardized business shall be designed and constructed in a style that visually complements its surroundings, especially the existing buildings on both sides of the same block the business is to be located, as well as the character of the particular overlay district. Visual complementation shall include, but may not be limited to:*
 - i. *Architecture;*
 - ii. *Scale;*
 - iii. *Façade; and*
 - iv. *Signage.*
- (B) *If the use is proposed for a site that contains an existing building of special historical, cultural, or architectural significance, with or without official historic designation, the proposed use shall seek to preserve and reuse as much of the existing building as possible, particularly the building's façade.*
- (C) *Visual complementation may also include interior décor. Elements of interior décor such as displays of public art, photos or memorabilia of Bloomington or Indiana University, may be considered.*

STAFF COMMENT: This petition meets the criteria for a standardized business, as detailed below in the proposed finding for 20.06.040(d)(6)(B) General Compliance Criteria.

CRITERIA AND FINDINGS FOR CONDITIONAL USE PERMIT

20.06.040(d)(6) Approval Criteria

(B) General Compliance Criteria: All petitions shall be subject to review and pursuant to the following criteria and shall only be approved if they comply with these criteria.

- i. *Compliance with this UDO*
- ii. *Compliance with other applicable regulations*
- iii. *Compliance with Utility, Service, and Improvement Standards*
- iv. *Compliance with prior approvals*

PROPOSED FINDING: The petition complies with the UDO, including the criteria for a standardized business. The proposed awnings, walk-up windows, and signage are consistent with other similar uses in the Kirkwood Corridor and adjacent blocks of Dunn Street. The existing lawful nonconforming percentage of window area on the Dunn Street facade is not being reduced. The existing building is not of special historic, cultural, or architectural significance. The proposal does not include any elements of interior décor. The petition is utilizing an existing building with existing utilities and services and will comply with utility, service, and improvement standards. The petitioner will comply with City of Bloomington Utilities (CBU)

regulations for this use. There are no prior approvals for this site that this petition must comply with.

(C) Additional Criteria Applicable to Conditional Uses

- i. *Consistency with Comprehensive Plan and Other Applicable Plans*
The proposed use and development shall be consistent with and shall not interfere with the achievement of the goals and objectives of the Comprehensive Plan and any other applicable adopted plans and policies.

PROPOSED FINDING: This proposal is in line with the goals of the Comprehensive Plan. The Comprehensive Plan identifies this area as “Downtown.” The Downtown district is meant to be a commercial hub that offers a variety of businesses and uses. The proposed retail store is located near other retail and commercial uses, in a building that has historically contained restaurants, retail stores, and customer-oriented office uses. The MD-UV district and standardized business criteria ensures that businesses in this district will maintain the character of the district while still allowing for new growth and development.

- ii. *Provides Adequate Public Services and Facilities*
Adequate public service and facility capacity shall exist to accommodate uses permitted under the proposed development at the time the needs or demands arise, while maintaining adequate levels of service to existing development. Public services and facilities include, but are not limited to, streets, potable water, sewer, stormwater management structures, schools, public safety, fire protection, libraries, and vehicle/pedestrian connections and access within the site and to adjacent properties.

PROPOSED FINDING: Adequate public service capacity exists. Approval from CBU is required before issuance of a building permit for the proposed interior remodel work.

- iii. *Minimizes or Mitigate Adverse Impacts*
1. *The proposed use and development shall not result in the excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance.*
 2. *The proposed development shall not cause significant adverse impacts on surrounding properties nor create a nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights.*
 3. *The hours of operation, outside lighting, and trash and waste collection shall not pose a hazard, hardship, or nuisance to the neighborhood.*
 4. *The petitioner shall make a good-faith effort to address concerns of the adjoining property owners in the immediate neighborhood as defined in the pre-submittal neighborhood meeting for the specific proposal, if such a meeting is required.*

PROPOSED FINDING: Minor exterior changes are being proposed with this conditional use. Proposed lighting is compliant with UDO standards and is typical of a restaurant use in the downtown area. No nuisance regarding noise, smoke, odors, vibrations, lighting, or hours of operation is found. The proposed signage will be required to meet lighting requirements and sign regulations. No pre-submittal neighborhood meeting is required.

iv. *Rational Phasing Plan*

If the petition involves phases, each phase of the proposed development shall contain all of the required streets, utilities, landscaping, open space, and other improvements that are required to comply with the project's cumulative development to date and shall not depend upon subsequent phases for those improvements.

PROPOSED FINDING: There is no phasing plan for this proposal.

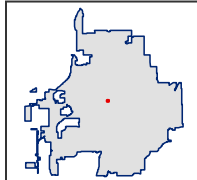
RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Hearing Officer adopt the proposed findings and approve CU-02-23 / USE2023-02-0003 with the following conditions:

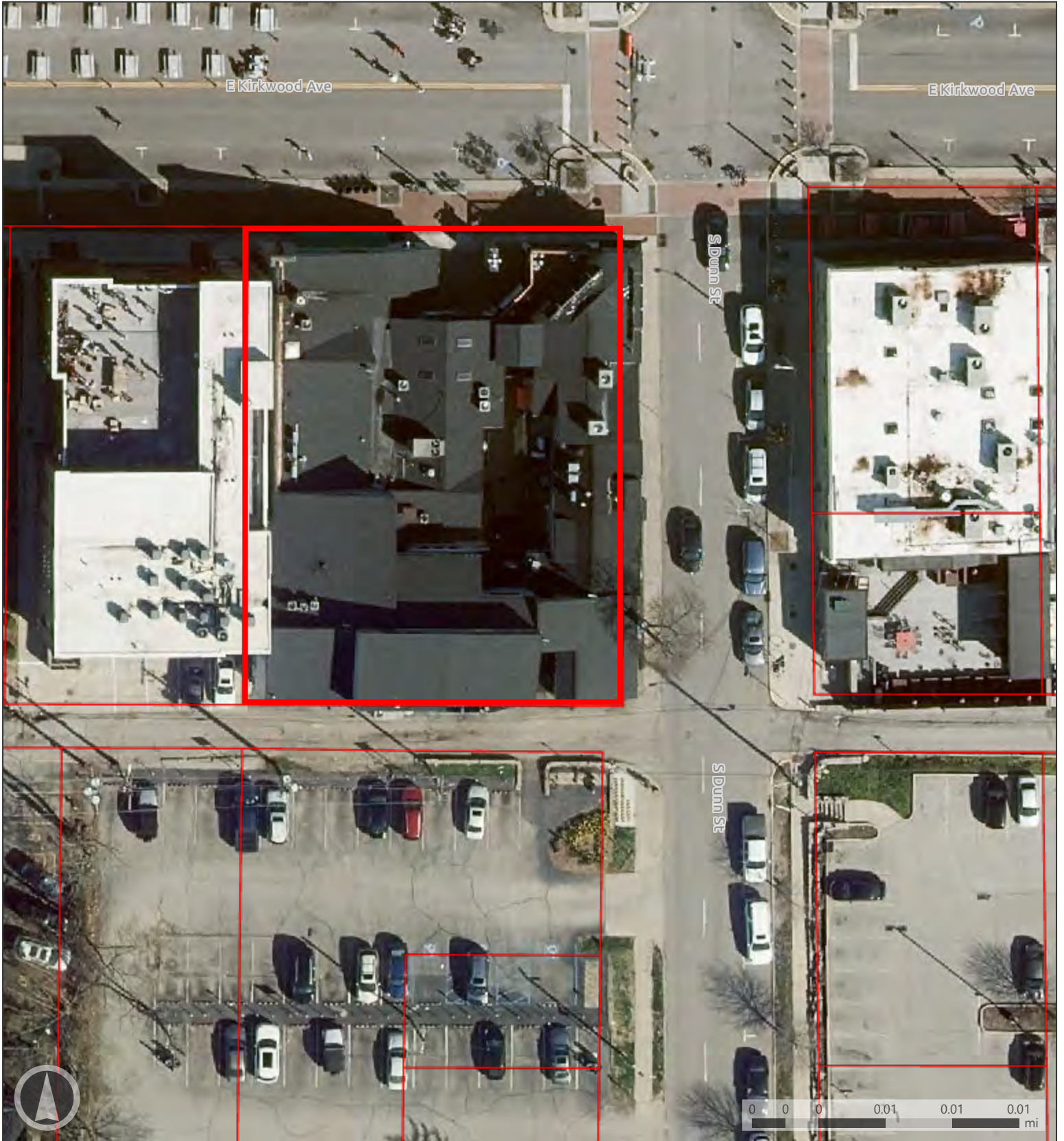
1. This conditional use approval is limited to the proposed design and use as a standardized business that also meets the definition of a restaurant use. No other facade design or use is approved. Minor changes to the facade design, such as refacing of signs or change of sign graphics within the allowed signage area, can be approved as consistent with this conditional use approval, subject to sign standards and other relevant regulations.
2. A sign permit is required, and the design of all exterior signage shall substantially conform to the designs shown in this approval.



Map Legend

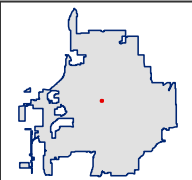
- Parcels
- |||| Local Historic Districts
- City or Town
- Address Points
- City Maintained Streets
- Zoning District Boundary





Map Legend

 Parcels





Mar 1, 2023

To whom it may concern,

I am seeking approval for a conditional use permit for 430 East Kirkwood Avenue, Units #4 and #5. This is commonly known as Dunkirk Square shopping center.

Currently, myself and family, operator Rita's Ice in Carmel Indiana and it is our desire to expand to Bloomington. We are looking to be a part of both the Bloomington community as well as Indiana University. This will continue to be a family owned and operated business, run by myself and my son, Steven, who is a full time resident and student at Indiana University, studying business.

The business will sell made fresh daily Italian Ice, award winning soft serve frozen custard, hot dogs, pretzels, soft drinks and other typical soft serve treats such as milkshakes, sundaes, concrete's, etc.

We are looking to create a fun environment, offering treats through streetside serve windows for the speed and safety of our guests. Other than adding serve windows and awning, we do not anticipate altering the physical building as it currently is. The look and feel of the business will align with the look of Indiana University through its use of like colors, specifically on the awning over our service windows.

Dunn street currently has multiple business' with an outward looking presentation of awnings and blade signing. Both of these concepts are consistent with our intended design and will offer consistency of facade appearance along the street.

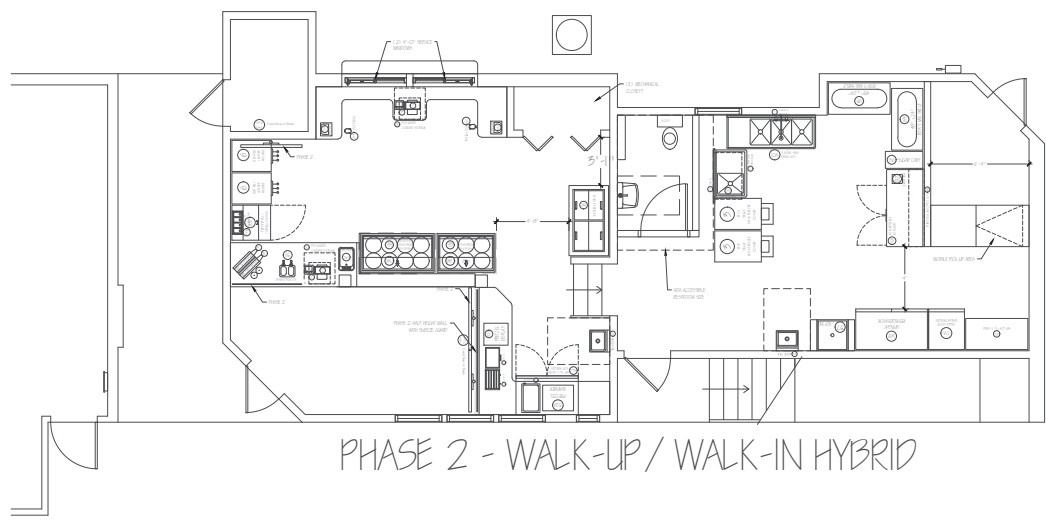
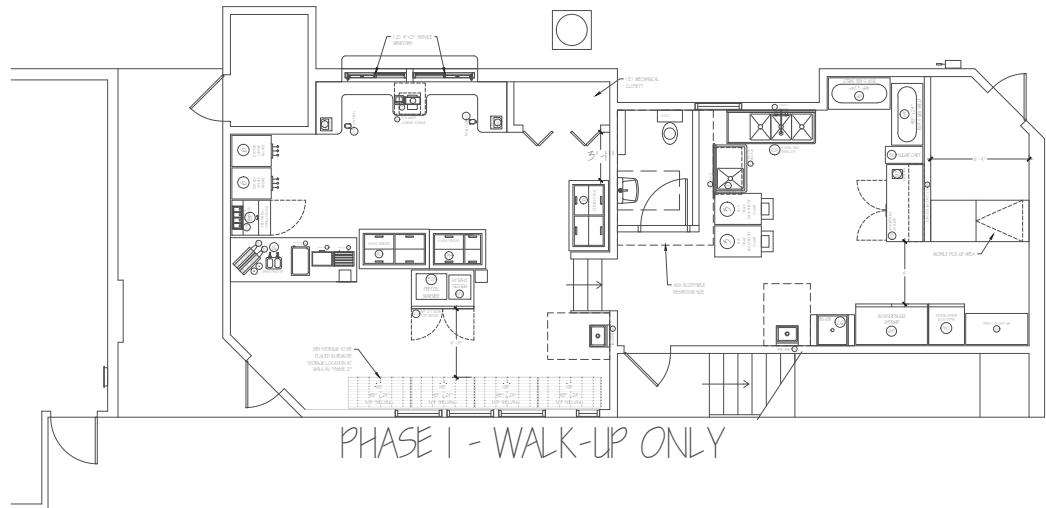
Our facade will complement the existing designs of the other nearby business'. As examples, both Jimmy John's next door and Hartzel's up the block utilize exact signing and awning installations.

See examples attached.

We will also offer all delivery platforms as well as ordering through our Rita's app. This will encourage and facilitate the entire Bloomington community at large to try our treats.

Steve Wilkos
Wilki Boyz Treats II, llc
Dba, Rita's Ice





PRELIMINARY EQUIPMENT LAYOUT ONLY - NOT FOR CONSTRUCTION



RITA'S FRANCHISE COMPANY, LLC
 1210 NORTHBROOK DRIVE, SUITE 310
 TREVOSE, PA 19053

Shop Name: Bloomington IN	No. 1517
Address: 430 East Kirkwood Avenue	
NOT TO SCALE	
Designed by: MAS	Date: 2/2/23

THIS LAYOUT IS BASED ON THE DIMENSIONS PROVIDED BY LANDLORD AND HAS NOT BEEN FIELD VERIFIED. WE RECOMMEND A FIELD SURVEY CONDUCTED BY THE ARCHITECT PRIOR TO DRAWING PLANS.

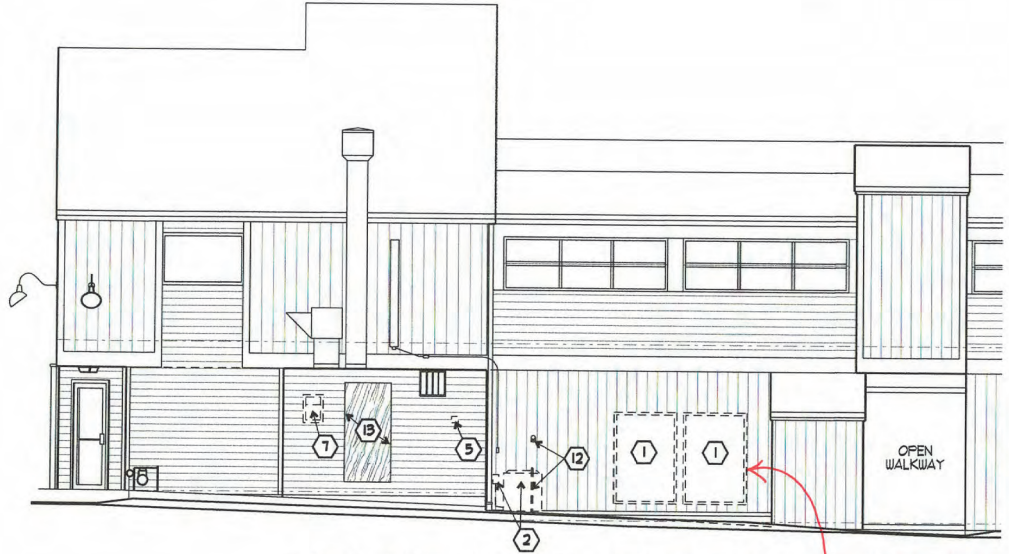
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SHEET
 R I



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



EAST ELEVATION

SCALE: 1/8" = 1'-0"

3'-8" x 5'-6" x 2 = 40.33 sq glass

DEMOLITION NOTES EXISTING

- ① REMOVE EXISTING WINDOWS & PREPARE FOR NEW (2) SERVICE WINDOWS & SERVICE COUNTER. PATCH TO MATCH ADJACENT SURFACES
- ② REMOVE EXISTING A/C CONDENSING UNIT & DISCONNECT. SEE FLOOR PLAN FOR NEW A/C CONDENSING UNIT LOCATION
- ③ NOT USED
- ④ REMOVE EXISTING WINDOW & PATCH TO MATCH ADJACENT SURFACES
- ⑤ REMOVE EXISTING ABANDONED ELECTRICAL BOX & PATCH TO MATCH ADJACENT SURFACES
- ⑥ REMOVE EXISTING KITCHEN HOOD, FIRE SUPPRESSION SYSTEM & DUCT WORK & PATCH TO MATCH ADJACENT SURFACES
- ⑦ REMOVE EXISTING WALL VENT & PATCH TO MATCH ADJACENT SURFACES
- ⑧ REMOVE EXISTING 3 COMPARTMENT SINK, HAND SINK & PLUMBING LINES AS REQUIRED FOR NEW CONSTRUCTION
- ⑨ REMOVE EXISTING WALLS & DOOR & FRAME & PATCH TO MATCH ADJACENT SURFACES
- ⑩ REMOVE EXISTING COUNTER & LOW WALLS & PATCH TO MATCH ADJACENT SURFACES
- ⑪ REMOVE EXISTING 5' HIGH WALL & PATCH TO MATCH ADJACENT SURFACES
- ⑫ REMOVE & RELOCATE EXISTING PVC VENT & CONDENSATE DRAIN & PATCH TO MATCH ADJACENT SURFACES
- ⑬ REMOVE EXISTING OSB PANEL & PREPARE FOR NEW WINDOW & PATCH TO MATCH ADJACENT SURFACES
- ⑭ REMOVE EXISTING A/C EQUIPMENT & PREPARE FOR NEW 1/2 TON A/C UNIT

MICHAEL CHAMBLEE
ARCHITECT ◊

1833 COUNTRY CLUB ROAD
NASHVILLE, INDIANA 47448
812-345-2842
michaelchambleearchitect@gmail.com

INTERIOR REMODEL FOR
RITA'S ICE INDIANA
430 E. KIRKWOOD AVE.
BLOOMINGTON, INDIANA

D2

Date: 4/03/23



EAST ELEVATION

SCALE: 1/8" = 1'-0"

new window
 $2'-8" \times 4'-1\frac{1}{2}" =$
 11 ϕ

$3'-8" \times 1'-2" \phi$
 $3'-8" \times 2'-10"$
 $\times 2 = 29.33 \phi$ glass
 11 ϕ LESS THAN 40.33 ϕ EX.



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

MICHAEL CHAMBLEE
ARCHITECT

1833 COUNTRY CLUB ROAD
 NASHVILLE, INDIANA 47448
 812-345-2942
 michaelchambleearchitect@gmail.com

INTERIOR REMODEL FOR
RITA'S ICE INDIANA

BLOOMINGTON, INDIANA
 430 E. KIRKWOOD AVE.

A2

Date: 4/03/23



Rita's #1517
430 E. Kirkwood Ave.
Bloomington, IN 47408
March 21, 2023

Allen Industries

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1-800-967-2553
www.allenindustries.com

Customer Approval / Signature

Signature: _____ Date: _____

Site Plan
Proposed



- 1 36" Illuminated Brand Mark / D/F Flag Sign
- 2 36" Illuminated Awning
- 3 36" Illuminated Awning
- 4 36" Illuminated Brand Mark



Elevations

Proposed



South Elevation
Scale: 1/8"=1'-0"

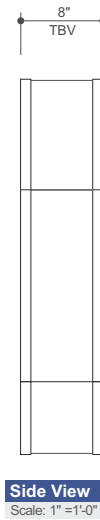
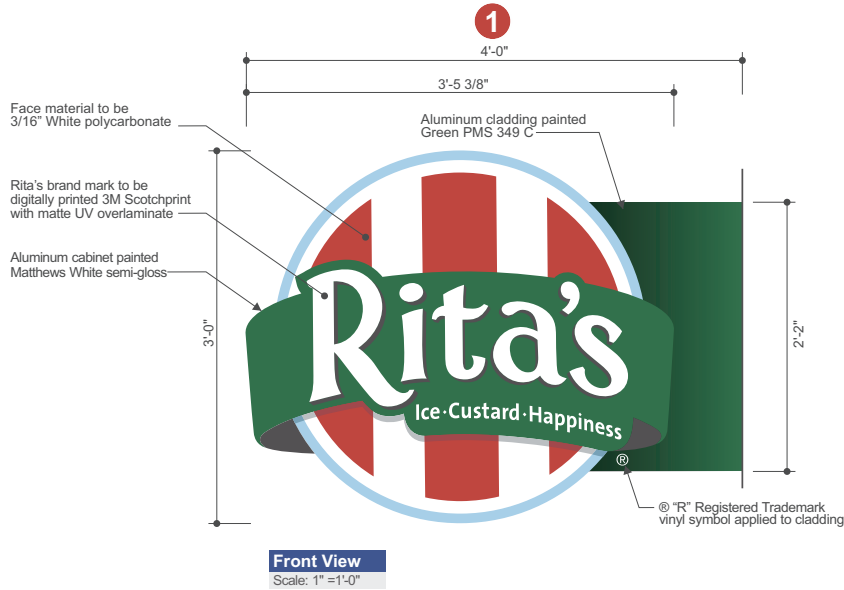


East Elevation
Scale: 1/8"=1'-0"

1 Rita's - 36" Illuminated Brand Mark D/F Flag Sign

Proposed

DESIGN INTENT ONLY
Engineering Required to
Determine Actual Production
& Installation Requirements



Hardware Mounting Chart			
Note: Threaded Rod will be Provided Standard for All. Other Hardware Is to be Provided by the Installer As Req.	Masonry	Wood	Metal
Signs and Raceways			
3/8" Zinc Plated Steel Threaded Rod Thru Wall	•	•	•
3/8" Lags with Shields	•		
3/8" Lag Bolts		•	
3/8" Toggle Bolts			•

Vinyl Specifications

- Digital Printed Match PMS 349 C
- Digital Printed Match PMS 200 C
- White ®

Paint Specifications

- Matthews Semi-Gloss Match PMS 349 C
- Matthews Semi-Gloss White

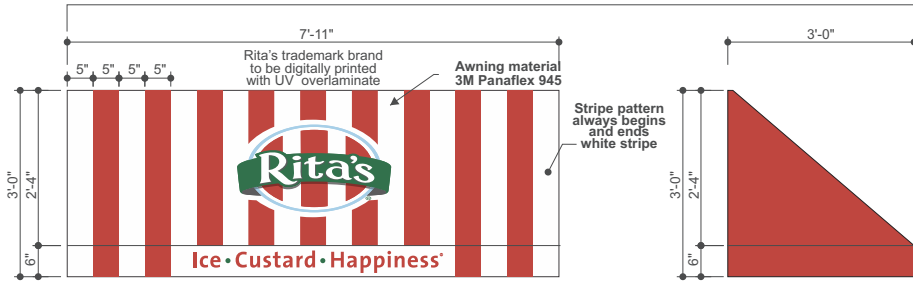
General Specifications	
Face:	.150" White Polycarbonate w/ Printed Vinyl Graphic & 1" White Trim Cap
Cabinet:	Frame - Frame - 1" x 1" x 1/8" Alum. Angle Back - .080" Alum.; Inside Painted White Return - .040" Alum. Painted Matthews White semi-gloss Support - 1 1/2" Alum. Tube with Alum. cladding painted Green PMS 349 C
Illum:	White LEDs as required by manufacturer; Self Contained Power Supplies
Wall Type:	TBD
Install:	Sign Anchored as Required Per Wall Construction
Electrical:	Actual # of Circuits to be determined by Licensed Electrical Contractor, (1) 20 AMP Circuit, 120 Volts
Quantity:	1

Allen Industries MET E212503 Electric Sign Complies with UL48 THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN. **GROUNDING ELECTRICAL CONNECTIONS**

2 Rita's - Illuminated Awnings

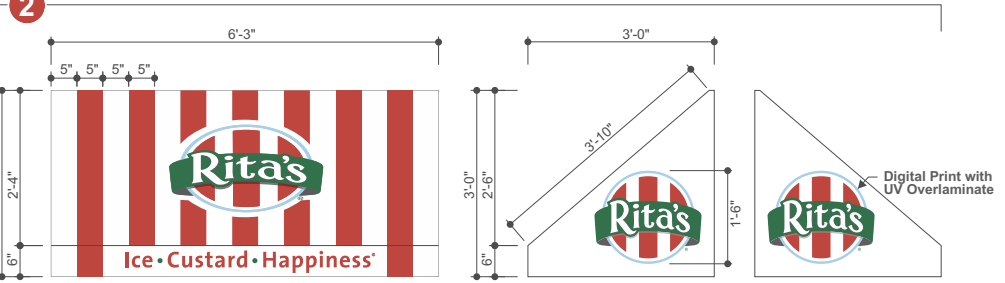
Proposed

DESIGN INTENT ONLY
Engineering Required to
Determine Actual Production
& Installation Requirements



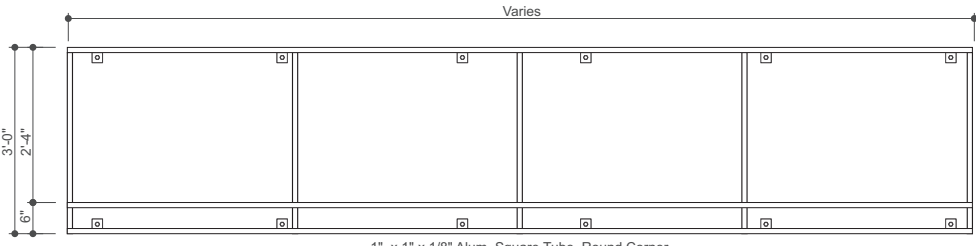
South Elevation
Scale: 1/2" = 1'-0"

Corner Section
Scale: 1/2" = 1'-0"



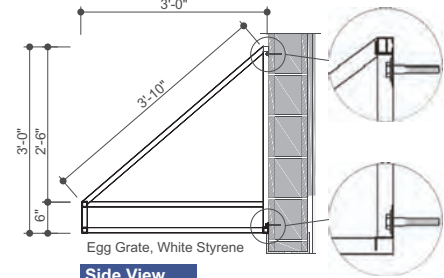
East Elevation
Scale: 1/2" = 1'-0"

End Views
Scale: 1/2" = 1'-0"

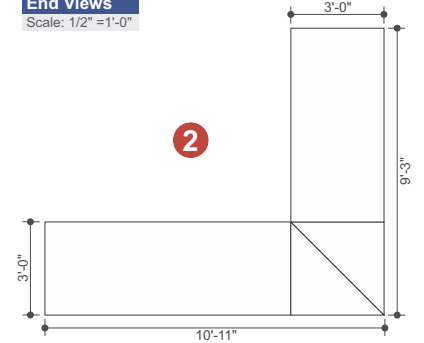


Typical Framing Detail
Scale: 1/2" = 1'-0"

OPTIONAL LED FIXTURES AVAILABLE



Side View
Scale: 1/2" = 1'-0"



Corner Awning Plan View
Scale: 1/4" = 1'-0"

Vinyl Specifications

- Digital Printed Match PMS 349 C
- Digital Printed Match PMS 200 C
- 3M 3630-33 Red

General Specifications

Awning: Awning frame to be constructed of 1" x 1" x 1/8" aluminum tube Milliken profile M1/M2 stapling extrusion. All framing and radius supports must fall behind red strips. Awning to have aluminum backing when exposed due to field conditions. Awning material to be 3M Panaflex 945. Egg Grate, White Styrene

Graphics: All decoration to be first surface vinyl film

Illumination: To Be Verified

Install: Lag bolts with Z-Clips or other approved method

Allen Industries MET E212503 Electric Sign Complies with UL48

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GROUNDING ELECTRICAL CONNECTIONS

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Client: Rita's #1517
Address: 430 E. Kirkwood Ave. Bloomington, IN 47408

Date: 03/08/23	Estimate #: E6780	Job #: -	Page #: 5 of 6
File Name: RTA_E6872_Bloomington, IN_103			
Sales: House	Design: DE	PM: EW	

#	Date	Description
1	03/13/23	Revision
2	03/17/23	Revision
3	03/21/23	Revision
4	-	-
5	-	-
6	-	-

Client Review Status

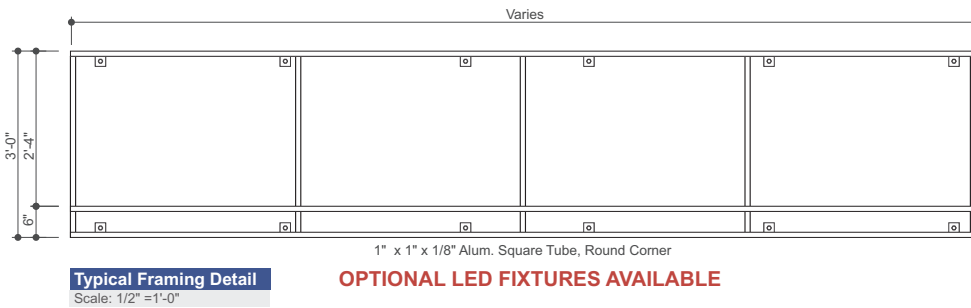
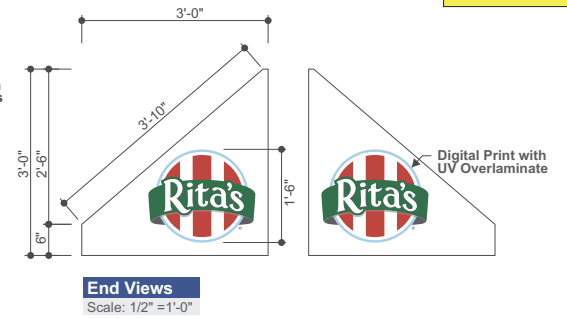
Allen Industries, Inc. requires that an approved drawing be obtained from the client prior to any production release or production release revision.

Initial	
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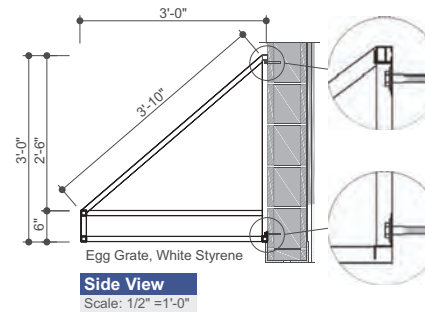
Client Signature: _____ **Approval Date:** _____

3 Rita's - Illuminated Awning
Proposed

DESIGN INTENT ONLY
Engineering Required to
Determine Actual Production
& Installation Requirements



OPTIONAL LED FIXTURES AVAILABLE



Vinyl Specifications

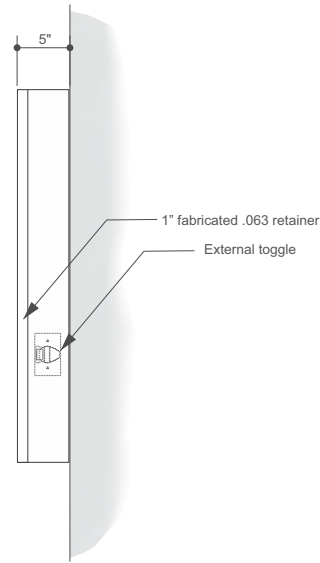
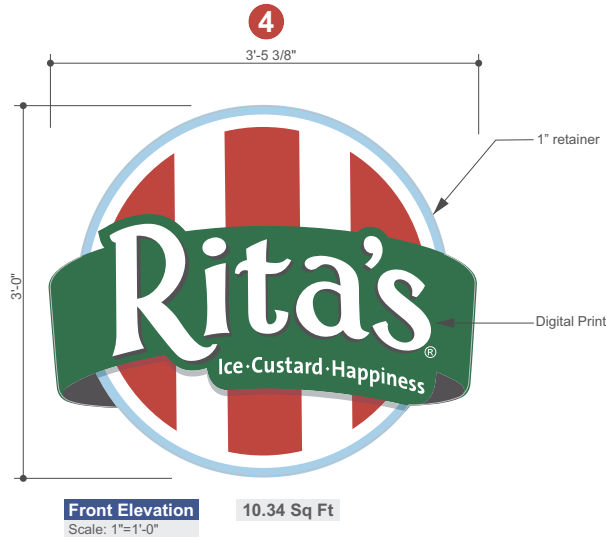
	Digital Printed Match PMS 349 C
	Digital Printed Match PMS 200 C
	3M 3630-33 Red

General Specifications

Awning:	Awning frame to be constructed of 1" x 1" x 1/8" aluminum tube Milliken profile M1/M2 stapling extrusion. All framing and radius supports must fall behind red strips. Awning to have aluminum backing when exposed due to field conditions. Awning material to be 3M Panaflex 945. Egg Grate, White Styrene
Graphics:	All decoration to be first surface vinyl film
Illumination:	To Be Verified
Install:	Lag bolts with Z-Clips or other approved method

Allen Industries FILE NUMBER E212503 **Label MET E212503** **Electric Sign Complies with UL48** THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN. **GROUNDING ELECTRICAL CONNECTIONS**

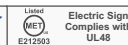
4 Rita's - 36" Illuminated Brand Mark / Channel



- Vinyl Specifications**
- Digital Printed Match PMS 349 C
 - Digital Printed Match PMS 200 C
- Paint Specifications**
- Matthews Semi-Gloss White

General Specifications:

Faces:	.177" White Acrylic w/ 1st Surface Vinyl Graphics w/ 1" Trim Cap
Returns:	.040" Aluminum Attached to Back
Backs:	3mm ACM Backs - Pre-Finished White
Illum:	White LEDs as required by manufacturer; Self Contained Power Supplies
Wall Type:	TBD
Install:	Sign Anchored as Required Per Wall Construction
Electrical:	Actual # of Circuits to be determined by Licensed Electrical Contractor, (1) 20 AMP Circuit, 120 Volts



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**BLOOMINGTON HEARING OFFICER
STAFF REPORT
Location: 505 North Walnut Street**

**CASE #: CU-10-23 / USE2023-03-0008
DATE: May 10, 2023**

PETITIONER/OWNER: Omega Properties
115 East 6th Street #1
Bloomington, IN

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

REQUEST: Conditional use approval to allow a student housing or dormitory use in existing buildings in the Mixed-Use Downtown zoning district within the Downtown Core downtown character overlay (MD-DC).

REPORT: This petition was heard by the Hearing Officer on April 26, 2023. During that hearing, the petition was continued to the next hearing date of May 10.

Background information that remains unchanged from April 26

The property is located on the west side of North Walnut Street in the Downtown Core downtown character overlay of the Mixed-Use Downtown zoning district (MD-DC). All surrounding properties are also zoned MD-DC and contain multifamily dwelling uses and office uses. The property contains an existing house which is rated as “notable” on the 2018 City of Bloomington Historic Sites and Structures Survey. The house appears to have been built as a single-family dwelling more than a hundred years ago, but has most recently been used as an office for several decades. The property also contains a second existing structure in the rear southwest corner of the site that has most recently been used as part of the office use.

The petitioner proposes to create two residential dwelling units on the property by converting the existing house into one dwelling unit with five bedrooms and converting the existing rear structure into another dwelling unit with one room in a studio or efficiency layout. Because the proposed dwelling unit in the existing house contains five bedrooms, the proposed use meets the UDO definition of the student housing or dormitory use, which is allowed in the MD zoning district by conditional use approval. Despite classification as the student housing or dormitory use, the dwelling units could be occupied by any class of resident and would not be limited to students.

As an establishment of a new use, the proposed project triggers limited compliance for the site and will require staff-level minor site plan approval. Because the existing house is rated as “notable” on the Historic Sites and Structures Survey, exterior modifications that meet the UDO definition of partial demolition would be subject to demolition delay and would require action by the City of Bloomington Historic Preservation Commission; however, the petitioner is not proposing an exterior modifications to the structure at this time. The petition must obtain a rental occupancy permit from the City of Bloomington Department of Housing and Neighborhood Development (HAND) before the dwelling units are occupied.

Revised information and continued discussion, new for May 10

1. Status of the rear structure

In the previous staff report and during the public hearing on April 26, staff stated that the existing rear structure is currently an accessory structure. The issue was raised during the hearing whether the structure would require variances because using the structure as a dwelling unit would make it a primary structure, which would mean any building features that were compliant as an accessory structure but would not be compliant as a primary structure would not be allowed to continue except by variance. Providing time to address or resolve this issue was the primary reason why the petition was continued to the next hearing date.

During the public hearing on April 26 and afterward, information came to light that the rear structure has been used as office space specifically, rather than file storage or parking or other use that was accessory to the primary office use of the property. As such, the existing rear structure is already a primary structure. Any building features that are not in compliance with the UDO for a primary structure are lawful nonconforming and are allowed to continue, subject to the limited compliance standards for the change in use. No variances are required for the proposed change in use.

2. Possible residential uses of the site

The petitioner contends that the student housing or dormitory use is the best and most desirable use for the property. Staff agrees that the student housing or dormitory use according to the proposed site plan is consistent with the Comprehensive Plan. Details on possible residential uses are as follows.

Single-family dwelling (detached): This is not an allowed use in the MD district. Because this use is not allowed, a single-family dwelling with an accessory dwelling unit (ADU) is also not allowed.

Single-family dwelling (attached): This is an allowed use in the MD district, but would require a subdivision because each attached dwelling must be on its own lot. Development of the property with attached single-family dwellings would require alterations to the existing house or full demolition and rebuilding of new structures.

Duplex dwelling: This is an allowed use in the MD district, but would require alterations to the existing house. Such alterations are not what the petitioner intends for this property. Staff agrees that preservation of the existing house without such alterations is more consistent with the goals of the Comprehensive Plan. An ADU is allowed to be accessory to a duplex dwelling, but because the duplex dwelling is not the petitioner's desired use, the petitioner has chosen not to develop the property as a duplex with or without an ADU.

Triplex dwelling or fourplex dwelling: These are allowed uses in the MD district, but as with duplex dwelling, they would require alterations to the existing house that are not desirable for the petitioner. An ADU is not allowed to be accessory to a triplex or fourplex.

Multifamily dwelling: This is an allowed use in the MD district. A multifamily dwelling use can consist of a property with more than four dwelling units in one building, or with dwelling

units in more than one primary building on the lot, or with more than one primary use (such as a mixed-use property with dwelling units and retail space). In this case, one dwelling unit in the house and a second dwelling unit in the rear structure means that the property has dwelling units in more than one primary building. However, the multifamily dwelling use cannot have any dwelling units that contain four or more bedrooms because that meets the definition of the student housing or dormitory use. The petition proposes a five-bedroom unit in the existing house, which means the use as proposed is not the multifamily dwelling use. Although it may be possible to develop the existing house as a dwelling unit with three or fewer bedrooms, this would require enlarging and combining existing rooms in a way that the petitioner contends would be an inappropriate adaptation of the existing architecture of the house. In addition, the use-specific standards for the multifamily dwelling use in the MD district include that each dwelling unit located on the ground floor must be located at least 20 feet behind the building facade facing the public street. This would require the existing house to have some other use besides a dwelling unit in the first floor of the house, or seek a variance. Developing the existing house as a mixed-use building is not desirable for the petitioner and would be less consistent with the architectural character of the existing structure, and therefore less consistent with the goals of the Comprehensive Plan.

Student housing or dormitory: This use is allowed in the MD district by conditional use approval. Because the proposed use of the property includes dwelling units in more than one primary building and includes a dwelling unit with five bedrooms, the proposed use meets the UDO definition of the student housing or dormitory use. Of the possible residential uses that retain the existing house, staff recommends that the student housing or dormitory use is the most consistent with the Comprehensive Plans guidance that “[s]pecial attention must be given to the protection, restoration, and/or reuse of historic structures” (page 8) in the downtown area.

3. UDO compliance

The petitioner has not yet submitted a site plan that shows full UDO compliance. Relevant standards, the status of compliance with those standards, and recommended conditions to ensure compliance are detailed below.

UDO Standard	Required	Provided	Compliant?
Dimensional Standards, MD-DC zoning district			
Building setbacks and height standards			Compliant per limited compliance: Section 20.06.090(f)(2)(B)i. “Existing buildings shall not be subject to current setback or height standards and shall remain lawful nonconforming”.
Front parking setback behind the primary structure’s front building wall	20 ft.	53 ft.	Compliant
Side parking setback to the north	5 ft.	0 ft.	Not compliant. Condition recommended.

UDO Standard	Required	Provided	Compliant?
Side parking setback to the west	5 ft.	0 ft.	Not compliant. Condition recommended.
Impervious surface coverage (maximum)	100%	90%	Compliant
Use-Specific Standards, Student Housing or Dormitory			
Maximum building floor plate per building, without incentive, in the MD district	3,000 s.f.	House: 2,091 s.f. Rear structure: 490 s.f.	Compliant
Maximum building height in the MD-DC district	40 ft.	House: 24 ft. Rear structure: 16 ft.	Compliant
Parking			
Maximum vehicle parking allowance for student parking or dormitory: 0.75 parking spaces per bedroom × 6 bedrooms (round down)	4	8	Not compliant. Condition recommended.
Any substandard parking surfaces shall be brought into compliance with Section 20.04.060(i)(7) (Surface Material)		No substandard parking surfaces	Compliant
Minimum number of accessible spaces for the proposed residential use	0	0	Compliant
Minimum bicycle parking spaces	6	6	Compliant
Landscaping			
Street Trees			
Minimum one canopy tree per 40 ft. × 62 ft. (round up)	2	1	Not compliant. Condition recommended.
Parking Lot Landscaping			
Parking lot perimeter trees (minimum): 1 tree per 4 parking spaces × 4 spaces <ul style="list-style-type: none"> Minimum 75 percent shall be large canopy trees 	1 large canopy tree	0	Not compliant. Condition recommended.
Parking lot perimeter shrubs (minimum): three shrubs per one parking space × 4 spaces	12	12	Compliant, but will require revisions due to parking lot redesign to reduce the number of spaces. Condition recommended.

UDO Standard	Required	Provided	Compliant?
MD District Interior Plantings			
Canopy trees (minimum): 1 per 500 s.f. of landscaped area × 811 s.f.	2	1	Compliant per limited compliance section 20.06.090(f)(2)(B)viii. "...all yard areas must be landscaped to the maximum practicable density", but will require revisions due to parking lot redesign to reduce the number of spaces. Condition recommended.
Shrubs (minimum): 8 per 500 s.f. of landscaped area × 811 s.f.	8	10	Compliant per limited compliance section 20.06.090(f)(2)(B)viii. "...all yard areas must be landscaped to the maximum practicable density", but will require revisions due to parking lot redesign to reduce the number of spaces. Condition recommended.
Pedestrian Facilities			
Standards for pedestrian facilities in the public right-of-way			Compliant per limited compliance section 20.06.090(f)(2)(B)viii. "...new facilities shall not be required if existing facilities are in functional condition".
Dumpster Enclosure			
All outdoor waste collection facilities must be brought into compliance with Section 20.04.080(m) (Screening)		No outdoor waste area shown	Not compliant. Condition recommended.
Lighting			
No exterior lighting proposed.			Compliant
Entrance and Drives			
Number of drives (maximum)	2	1	Compliant
Driveway pavement width (maximum)	24 ft.	21 ft.	Compliant
Surface material	Asphalt, concrete, or other material approved by the city	Asphalt	Compliant

4. Concerns about noise, trash, illegal parking, and illegal over-occupancy

During the public hearing on April 26, commenters raised concerns about potential nuisances related to the proposed use, including noise, trash, illegal parking, and illegal over-occupancy.

Staff recommends that all of these potential nuisances can be adequately mitigated by limiting the scale of the approval to what is proposed. A condition is recommended that limits the approval to a maximum of one five-bedroom dwelling unit in the existing house and one studio dwelling unit in the existing rear structure.

In addition, for trash specifically staff recommends that a refuse area compliant with screening requirements in the UDO be provided, to be shown on a limited compliance site plan.

For illegal parking on other properties, staff recommends that the existing rights of other property owners to allow or restrict who can park on their property is sufficient to address any potential issues with illegal parking. Inclusion of a minimum five-foot landscaped area along the parking lot perimeter of this site may help distinguish the parking area of this property from other parking areas and may help discourage illegal parking on other property.

For illegal over-occupancy, staff recommends that existing procedures for monitoring and enforcing dwelling unit occupancy, including the HAND's rental registry program, is sufficient to address any potential issues with over-occupancy. The UDO allows occupancy of each dwelling unit by one family, which in the MD zoning district can include up to five unrelated adults.

In the proposed findings below, the first proposed finding for the general compliance criteria and the fourth proposed finding for adverse impacts have been revised since the previous staff report. The other proposed findings are the same as the previous staff report. Additional recommended conditions have been added since the previous staff report.

CRITERIA AND FINDINGS FOR CONDITIONAL USE PERMIT

20.06.040(d)(6) Approval Criteria

(B) General Compliance Criteria: All petitions shall be subject to review and pursuant to the following criteria and shall only be approved if they comply with these criteria.

- i. *Compliance with this UDO*
- ii. *Compliance with other applicable regulations*
- iii. *Compliance with Utility, Service, and Improvement Standards*
- iv. *Compliance with prior approvals*

PROPOSED FINDING: The petition with the conditions of approval will comply with the UDO. The proposal does not include any work that is subject to demolition delay. The petition is utilizing existing buildings with existing utilities and services and shall comply with utility, service, and improvement standards. There are no prior approvals for this site that this petition must comply with.

(C) Additional Criteria Applicable to Conditional Uses*i. Consistency with Comprehensive Plan and Other Applicable Plans*

The proposed use and development shall be consistent with and shall not interfere with the achievement of the goals and objectives of the Comprehensive Plan and any other applicable adopted plans and policies.

PROPOSED FINDING: This proposal is consistent with the goals of the Comprehensive Plan for the downtown area, particularly the recommendation to give special attention to the protection, restoration, and/or reuse of historic structures. Recognizing that classification as the student housing or dormitory use does not limit the possible tenants to students, the proposal does not unnecessarily unbalance the downtown housing market toward students but does allow the protection, restoration, and reuse of the historic residential structure on the property.

ii. Provides Adequate Public Services and Facilities

Adequate public service and facility capacity shall exist to accommodate uses permitted under the proposed development at the time the needs or demands arise, while maintaining adequate levels of service to existing development. Public services and facilities include, but are not limited to, streets, potable water, sewer, stormwater management structures, schools, public safety, fire protection, libraries, and vehicle/pedestrian connections and access within the site and to adjacent properties.

PROPOSED FINDING: Adequate public service capacity exists. Approval from CBU is required before issuance of a building permit for any interior remodel work. The property is adjacent to Bloomington Transit bus route 6, is in close proximity to the 7-line bicycle route, and connects to the extensive sidewalk network in the downtown area. The existing public streets are adequate to manage the vehicle, bicycle, and pedestrian traffic associated with the proposed use.

iii. Minimizes or Mitigate Adverse Impacts

- 1. The proposed use and development shall not result in the excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance.*
- 2. The proposed development shall not cause significant adverse impacts on surrounding properties nor create a nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights.*
- 3. The hours of operation, outside lighting, and trash and waste collection shall not pose a hazard, hardship, or nuisance to the neighborhood.*
- 4. The petitioner shall make a good-faith effort to address concerns of the adjoining property owners in the immediate neighborhood as defined in the pre-submittal neighborhood meeting for the specific proposal, if such a meeting is required.*

PROPOSED FINDING: The proposed use does not result in any damage to natural, scenic, and historic feature and in fact preserves the existing historic house. The anticipated noise and waste generation from the proposed use is expected to be typical for two dwelling units and consistent with other residential dwelling units on surrounding properties and the downtown area generally. In the case that nuisance issues related to noise or waste do arise, the conditions of approval are adequate to address the potential issues. No pre-submittal neighborhood meeting is required.

iv. Rational Phasing Plan

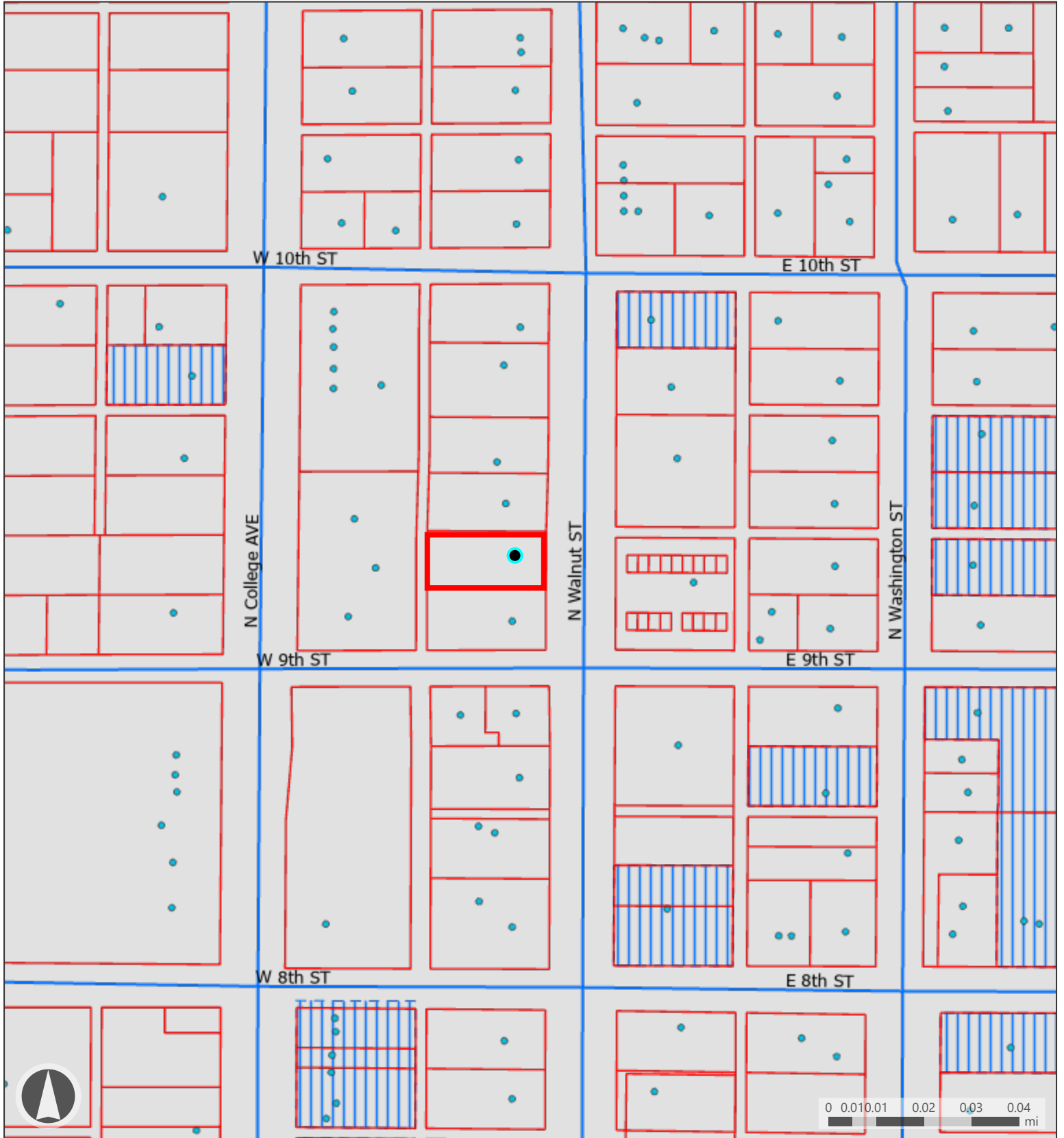
If the petition involves phases, each phase of the proposed development shall contain all of the required streets, utilities, landscaping, open space, and other improvements

that are required to comply with the project's cumulative development to date and shall not depend upon subsequent phases for those improvements.

PROPOSED FINDING: There is no phasing plan for this proposal.

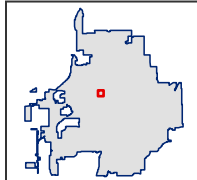
RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Hearing Officer adopt the proposed findings and approve CU-10-23 / USE2023-03-0008 with the following conditions:

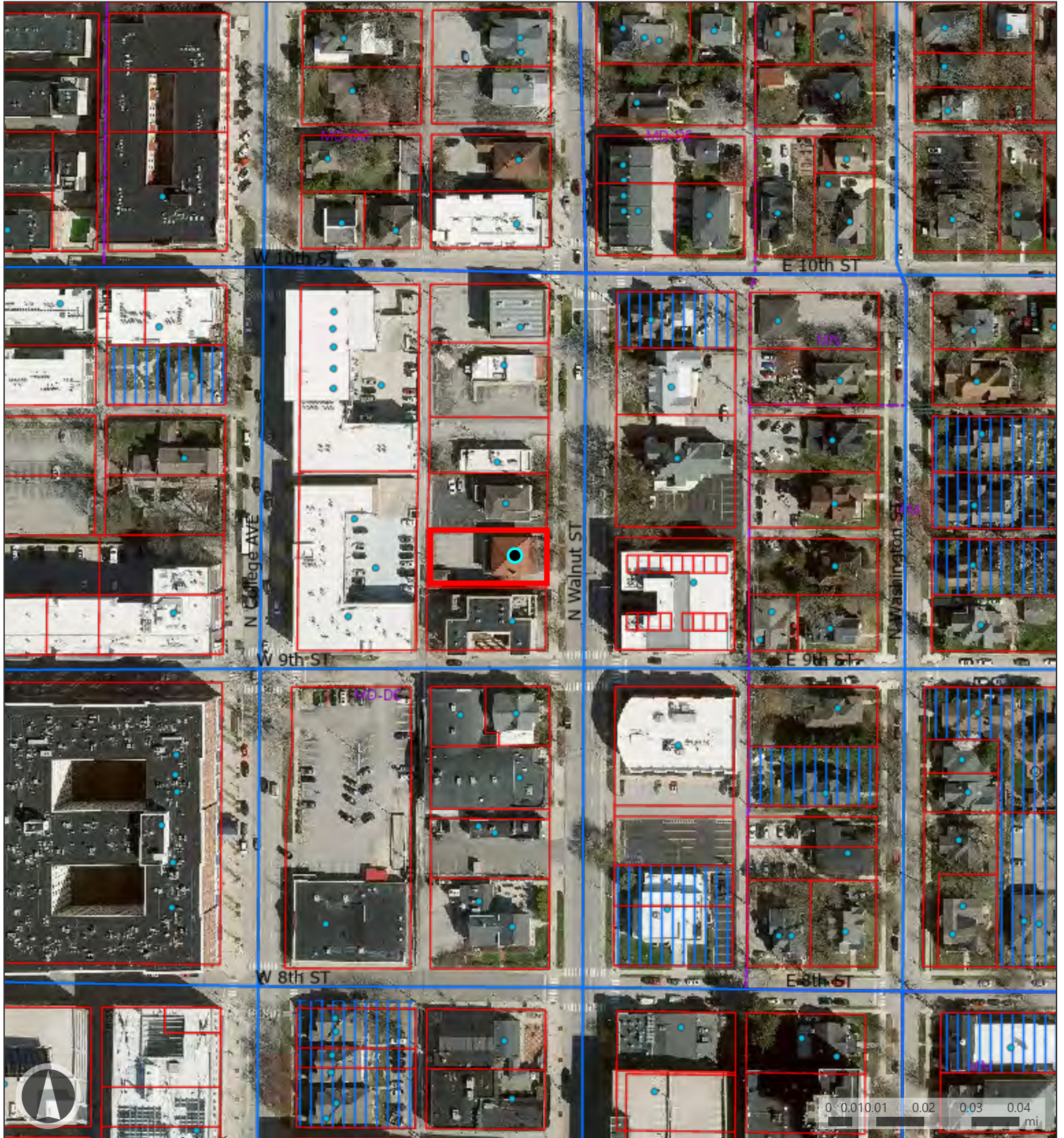
1. This conditional use approval is limited to a maximum of one five-bedroom dwelling unit in the existing house and one studio dwelling unit in the existing rear structure, as proposed in the filing documents.
2. The Planning and Transportation Department shall issue a recommendation for final occupancy of both dwelling units at the same time, and shall not issue a recommendation for final occupancy for either dwelling unit before the other.
3. Prior to issuance of a building permit, the petitioner shall obtain minor site plan approval with a site plan that demonstrates compliance with the UDO per limited compliance including providing: a minimum five-foot landscaped parking lot perimeter on the north and west sides of the rear parking lot, or as wide a landscaped perimeter as is possible for a parking lot of four spaces per limited compliance; no more than four parking spaces, not including any required ADA accessible spaces; a minimum of two large street trees or planting to the maximum practicable density per limited compliance; a minimum of one large canopy tree and a minimum of 12 shrubs in the parking lot perimeter or planting to the maximum practicable density per limited compliance; and trees and shrubs that comply with MD interior landscaping standards or planting to the maximum practicable density per limited compliance.
4. The petitioner shall provide a refuse area that that compiles with screening standards in UDO section 20.04.080(m)(3), as shown on an approved site plan.



Map Legend

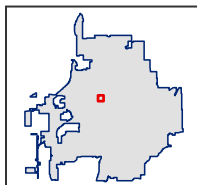
- Parcels
- Address Points
- City Maintained Streets
- Zoning District Boundary
- City or Town
- Local Historic Districts





Map Legend

- Parcels
- City Maintained Streets
- Zoning District Boundary
- Address Points
- Local Historic Districts





April 3, 2023

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

Re: Omega Properties 505 N Walnut Street – Conditional Use Approval

Dear Gabriel,

Our client, Omega Properties, has purchased 505 N. Walnut Street which contains a 2,794 square foot, Arts and Crafts style, single-family home, a 353 square foot garage dating from 1980 and a surface parking lot containing eight (8) parking spaces. The house and garage have been used as offices. This project proposes to use the house as a rental home and the garage as a studio apartment. The renovation work will not result in any changes to the exterior of the existing house or garage.

Due to the historic nature of the large house and in the interest of minimizing changes to the architecture, the owner is petitioning for a Conditional Use Approval to utilize the house as one 5-bedroom unit which falls under the use category of ‘Student Housing.’ The lot is zoned Mixed Use Downtown – Downtown Core Character Overlay (MD-DC) and ‘Student Housing’ is a conditional use in this district.

20.060.040 (B) General Compliance Criteria

The petition will comply with all applicable standards in the UDO and any other applicable regulations as well as utility, service, and improvement standards. There are no prior approvals of which we are aware that would require further compliance.

20.060.040 (C) Additional Criteria Applicable to Conditional Uses

i. Consistency with Comprehensive Plan and Other Applicable Plans

The Comprehensive Plan, Chapter 2: Culture & Identity, Goal 2.2 Preservation: ‘Preserve the assets of historical, architectural, archaeological, or social significance,’ speaks to the value of maintaining buildings of architectural significance. 505 N. Walnut is designated as a ‘Notable Structure’ on the SHAARD survey. Notable is defined as having above average importance and, with further research, could be eligible for listing in the National Register of Historic Places.

ii. Provides Adequate Public Services and Facilities

The existing downtown property contains a house and garage that are adequately served by utilities and infrastructure. The change in use is not anticipated to create any issues with services or facilities.

iii. Minimizes or Mitigates Adverse Impacts

1. **The proposed use and development shall not result in the excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance.** The proposed use and development would minimize damage to the historic character of the house.



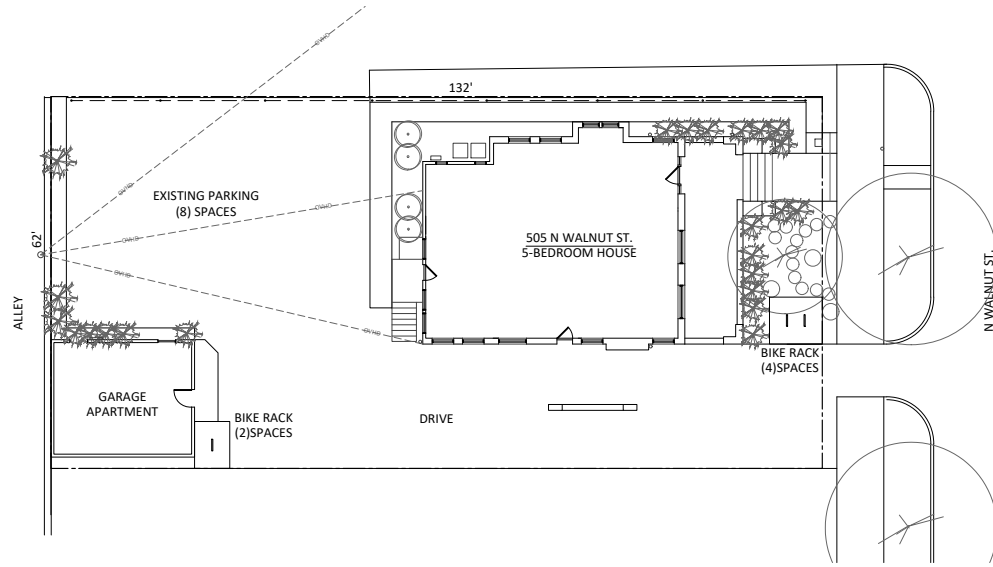
2. **The proposed use and development shall not cause significant adverse impacts on surrounding properties nor create a nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights.** The proposed use and development of 2 units on the property would not create adverse impacts.
 3. **The hours of operation, outside lighting, trash and waste removal shall not pose a hazard, hardship or nuisance to the neighborhood.** There are no hazards, hardships or nuisances to the neighborhood resulting from this use.
 4. **The petitioner shall make a good-faith effort to address concerns of the adjoining property owners in the immediate neighborhood as defined in the pre-submittal neighborhood meeting for the specific proposal, if such a meeting is required.** No meeting was required.
- iv. **Rational Phasing Plan.** The petition does not involve phases.

Please don't hesitate to let us know if any further information is needed.

Thank you for your consideration,

A handwritten signature in black ink that reads "Barre Klapper".

Barre Klapper, AIA
Springpoint Architects, pc



OVERALL
A PLANTING PLAN
SCALE: 1"=10'-0"
0 2.5 5 10'

EXISTING PLANT LIST

KEY	COMMON NAME	QNTY	SIZE
TREES			
	Maple	1	12" CAL
	Dogwood	1	12"H
SHRUBS			
	Arborsvitae	3	
	Boxwood	20	
	Dogwood	4	
PERENNIALS			
	Hosta	1	
	Daylily	10	
	Fern	3	
	Kort Forester Grass	2	

GENERAL PLANTING NOTES

- CONTRACTOR IS RESPONSIBLE FOR VERIFYING UTILITY LOCATIONS PRIOR TO CONSTRUCTION. CALL 811 FOR UTILITY LOCATES.
- CONTRACTOR SHALL VERIFY DIMENSIONS AND LOCATIONS IN FIELD PRIOR TO CONSTRUCTION.
- DAMAGE OCCURRING DURING CONSTRUCTION THAT FALLS BEYOND THE LIMITS OF CONSTRUCTION SHALL BE REPAIRED BY CONTRACTOR TO ARCHITECT APPROVAL.
- EXISTING TREES NOTED ON PLANS TO REMAIN SHALL BE PROTECTED DURING CONSTRUCTION. TREE PROTECTION FENCING SHALL BE LOCATED AT A THREE-FOOT MINIMUM RADIUS SURROUNDING THE DRILLPIE OF THE TREE. NO EQUIPMENT OR SUPPLY STORAGE, EQUIPMENT MOVEMENT, REST OR PICNICKING AREA, OR ANY LAND DISTURBING ACTIVITIES SHALL BE ALLOWED IN THE TREE PROTECTION ZONE.
- MULCH: PROVIDE 2-3" LAYER OF ORGANIC SHREDDED BARK MULCH THROUGHOUT PLANT BEDS UNLESS OTHERWISE NOTED ON PLAN.
- EDGING: BED EDGES SHALL BE SPADED UNLESS OTHERWISE NOTED ON PLAN.
- CONTAINER OR BALL AND BURLAP ARE ACCEPTABLE
- PLANT MATERIALS SHALL CONFORM TO THE REQUIREMENTS DESCRIBED IN THE LATEST EDITION OF THE AMERICAN STANDARD FOR NURSERY STOCK, WHICH IS PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERMEN. PLANTS SHALL BE NURSERY GROWN.
- THE CONTRACTOR IS RESPONSIBLE FOR FULLY MAINTAINING ALL PLANTING AND LAWN AREAS INCLUDING, BUT NOT LIMITED TO: WATERING, SPRAYING, MULCHING, PRUNING, FERTILIZING, ETC., UNTIL WORK IS ACCEPTED IN FULL BY THE OWNER.
- THE CONTRACTOR SHALL COMPLETELY GUARANTEE ALL PLANT MATERIAL FOR A PERIOD OF ONE (1) YEAR BEGINNING ON THE DATE OF TOTAL ACCEPTANCE. THE CONTRACTOR SHALL PROMPTLY MAKE ALL REPLACEMENTS BEFORE OR AT THE END OF THE GUARANTEE PERIOD.
- THE OWNER/ARCHITECT SHALL APPROVE THE STAGING LOCATION OF ALL PLANT MATERIAL PRIOR TO INSTALLATION.
- ALL DISTURBED AREAS NOT INCLUDED IN LANDSCAPE MULCH BEDS ARE TO BE DEBRIS RAKED AND FINED-GRADED AS NEEDED, THEN MULCH SEEDED (OR SOODED, PER PLAN) AND WATERED UNTIL A HEALTHY STAND OF TURF IS ESTABLISHED.
- ANY PLANT OR OTHER LANDSCAPE MATERIAL SUBSTITUTIONS INSTALLED WITHOUT DESIGNER AND/OR OWNER APPROVAL SHALL BE REPLACED AT CONTRACTOR'S EXPENSE. ALL PLANTS ARE SUBJECT TO THE APPROVAL OF THE OWNER/ARCHITECT BEFORE, DURING AND AFTER INSTALLATION.
- TREES SHALL BE PLANTED TO MAINTAIN A MINIMUM 10' DISTANCE BETWEEN TREE TRUNK AND UTILITY MAINS SUCH AS WATER, SANITARY SEWER, GAS, AND STORM. TREES SHALL ALSO MAINTAIN AN 8' CLEARANCE BETWEEN TREE TRUNK AND STRUCTURES, BUILDING OVERHANGS, WALLS, FENCES, AND OTHER TREES.
- SOIL IN LANDSCAPE AREAS MUST BE A MINIMUM OF 18" DEPTH OF A MIX APPROPRIATE FOR PLANTING AND DRAINAGE.

MD-DC LANDSCAPE REQUIREMENTS:

TOTAL SITE AREA = 8,184 SF = .19 AC
IMP. SURFACING = 7,373 SF = .17 AC
OPEN SPACE = 811 SF = .02 AC

STREET TREES:

- 1 LARGE DEC. TREE PER 40 LF @ 62 LF = 2 TREES
- 1 HAVE = 1 MAPLE, TREE #2 N/A (POSSIBLE UTILITIES IN STREETSCAPE AND LACK OF OPEN SPACE ON SITE)

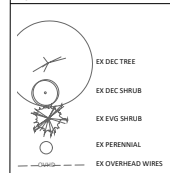
INTERIOR LANDSCAPE:

- 1 DECIDUOUS TREE PER 500 SF = 2 DEC. TREES ON SITE
- 1 HAVE = 1 SM DEC TREE, TREE #2 N/A (LACK OF OPEN SPACE ON SITE)
- 8 SHRUBS PER 500 SF = 13 SHRUBS (15% PER/GRASS)
- 1 HAVE = 27 SHRUBS, 16 PERENNIALS/GRASSES

PARKING REQUIREMENTS: (8 TOTAL SPACES) N/A

BUFFERYARD REQUIREMENTS: N/A

LEGEND



certified

project title

OMEGA PROPERTIES
505 N WALNUT
RENOVATION

INDIANA

BLOOMINGTON

project information

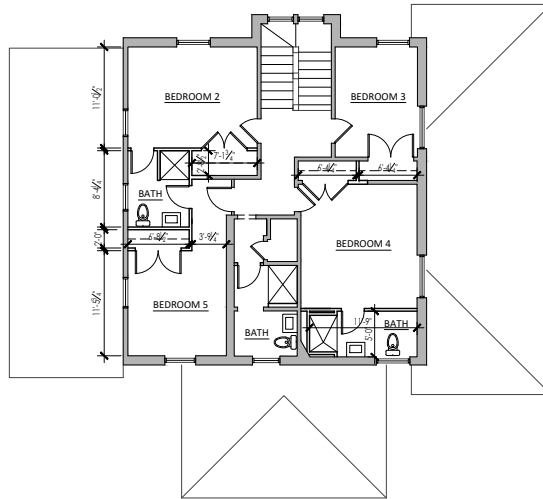
PROJECT NUMBER: 23-11
ISSUE DATE: 04.12.23
REVISION DATE: --

sheet title

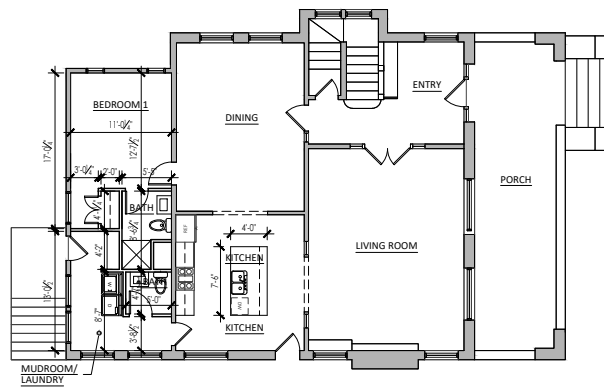
PLANTING PLAN

sheet number

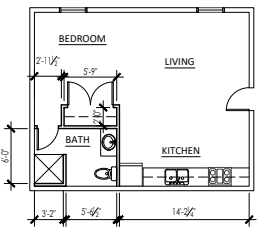
L101



B SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"



A FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"



C GARAGE APARTMENT FLOOR PLAN
SCALE: 1/8" = 1'-0"

certified

project title

OMEGA PROPERTIES
505 N WALNUT ST
RENOVATION

INDIANA

BLOOMINGTON

project information

PROJECT NUMBER: 23-11
ISSUE DATE: 03.31.23
REVISION DATE:

sheet title

FLOOR PLANS

sheet number

A1