

# CITY OF BLOOMINGTON



April 10, 2024 @ 2:00 p.m.

**In-Person Location:** Kelly Conference Room #155

**Virtual Link:** <https://bloomington.zoom.us/j/88225451589?pwd=SkQxQmQvTnBXc202M0ZPano1eW9rdz09>

**Meeting ID:** 882 2545 1589

**Passcode:** 897298

CITY OF BLOOMINGTON  
HEARING OFFICER (Hybrid Meeting)  
April 10, 2024 at 2:00 p.m.

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

❖Virtual Link:

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Meeting ID: 882 2545 1589

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

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**PETITIONS:**

**CU-07-24 Shelby Gil**  
3954 E. Fenbrook Lane  
Parcel: 53-08-01-300-005.033-009  
Request: Conditional Use approval to allow a Home Occupation Use in the Residential Medium Lot (R2) zoning district.  
*Case Manager: Katie Gandhi*

**CU-11-24 Jonathan Brandt Badger & Kaitlin King**  
815 S. Grant Street  
Parcel: 53-08-04-301-063.000-009, 015-49480-00  
Request: Conditional use approval for a home occupation in the Residential Small Lot (R3) zoning district.  
*Case Manager: Katie Gandhi*  
**\*\*CU 11-24 has been moved to the April 18, 2024 Board of Zoning Appeals meeting\*\***

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**BLOOMINGTON HEARING OFFICER  
STAFF REPORT**

**CASE #: CU-07-24 / USE2024-03-0041  
DATE: April 10, 2024**

**LOCATION: 3954 E Fenbrook Lane (parcel 53-08-01-300-005.033-009)**

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**PETITIONER/OWNER:** Shelby Gil  
3954 E Fenbrook Lane  
Bloomington, IN 47401

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**REQUEST:** Conditional Use approval to allow a Home Occupation Use within the Residential ~~Small Lot (R3)~~ zoning district.  
Medium Lot (R2)

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**REPORT:** This .42-acre property is located at 3954 E Fenbrook Lane and is zoned Residential Medium Lot (R2) zoning district. This property contains a residential home and the use of this property is Dwelling, Single Family (detached). All adjacent properties are also zoned R2 and adjacent land uses are also all Dwelling, Single Family (detached).

The owner of 3954 E Fenbrook Lane is petitioning for conditional use approval to operate a Home Occupation at this property. The owner of this property utilizes a small pool in the basement of her home to teach water/swimming skills to infants, children and toddlers. No new interior or exterior remodel, structural or aesthetic alteration are required as part of this Home Occupation proposal. The Home Occupation will be conducted in approximately 20% of the home and will involve visitors to the site a maximum of four hours per day, on week-days only. Visitors will park on the property - on the owner's driveway. The operator of this Home Occupation resides in the dwelling unit and is the only staff/employee of this Home Occupation. Staff received two phone calls inquiring about this petition; however, neither calls explicitly expressed objection or approval for this proposal. The petitioner has provided three letters of support from neighbors as part of the petitioner statement.

The Home Occupation Use is permitted by Title 20 of the Bloomington Municipal Code as an Accessory Use, which is defined as: *"An activity that is conducted or located on the same zoning lot as the primary building or use served, except as may be specifically provided elsewhere in this UDO; is clearly and customarily incidental to, subordinate in purpose to, and serving the primary use; and is either in the same ownership as the primary use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of the primary use."*

Conditional Use approval for this Home Occupation proposal is required because it is not an exempted Home Occupation use. It is not exempted from the conditional use approval process because this Home Occupation proposal involves customers visiting and parking vehicles on the premises.

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**HOME OCCUPATION STANDARDS:** BMC 20.03.030(6) lists requirements, as follows:

1. Operator Residency Required: The operator of the proposed Home Occupation will continue to reside in the dwelling unit.

2. Maximum Number of Nonresident Employees: The proposed Home Occupation will not have a nonresident employee.
3. Maximum Floor Area: The proposed Home Occupation is conducted inside the home in a portion of the basement that constitutes approximately 20% of the home.
4. Multiple Home Occupations: There is no other existing Home Occupation at this dwelling unit.
5. Residential Character: There will not be any exterior changes. Any interior changes needed will be made within a portion of the home and will not change the residential character of the dwelling unit.
6. Location and Entrance: The proposed use in the basement will not interfere with the provision of any off-street parking.
7. Outdoor Display and Storage: The proposed Home Occupation will not include outdoor display of goods, materials, supplies, or equipment.
8. Sales and Rentals Prohibited: The proposed Home Occupation will not include any sales or rentals.
9. Off-street Parking and Loading: No additional driveway is required to serve the Home Occupation. The proposed Home Occupation will not alter the existing driveway or site in any way.
10. Hours of Operation: The proposed Home Occupation will not have client visits outside of the permitted hours of 8:00 am and 8:00 pm.
11. Commercially Licensed Vehicles: The proposed Home Occupation will not require the operator to have a commercial driver's license.
12. Deliveries: The proposed Home Occupation will not require deliveries.
13. Signage: The proposed Home Occupation will not display signage outside the home.

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## CRITERIA AND FINDINGS

The Hearing Officer or Board of Zoning Appeals shall review the conditional use permit petition and approve, approve with conditions, or deny the petition in accordance with Section 20.06.040(d)(7)), based on the general approval criteria in Section 20.06.040(d)(6), and the additional criteria applicable to conditional uses in Section 20.06.040(d)(6).

### **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:** This petition complies with the UDO, including the use-specific standards for the Home Occupation use in [Section 20.03.030\(g\)\(6\)](#). The petition is utilizing existing buildings with existing utilities and services and shall comply with utility, service, and improvement standards. No other applicable regulations nor prior approvals are known.

## 20.06.040(d)(6) Approval Criteria

### (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*

**PROPOSED FINDING:** This proposal supports the local entrepreneurship and public health and safety goals of the Comprehensive Plan. It provides a service that is only offered at a limited number of locations in this community. Additionally, because this proposed Home Occupation runs on part-time hours it also leaves space for respecting the residential land use and character of this neighborhood.

- 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. Sufficient parking for this Home Occupation is available on the owner's property. The property is located .25 miles from an arterial road. The road in front of the property and leading to the arterial road are 22 feet wide and can easily accommodate two way traffic to and from this property. The Home Occupation will not operate during school bus pickup or drop-off times, so it will not pose increased danger to students waiting at the bus stop.

- 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:** This proposed use does not result in any damage to natural, scenic, or historic features. Some minimal nuisance related to noise, smoke, odors, vibrations, lighting, or hours of operation may occur – since lessons are short, all three spaces in the driveway will often be used simultaneously for

clients attending subsequent appointments. No pre-submittal neighborhood meeting is required.

5. *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.

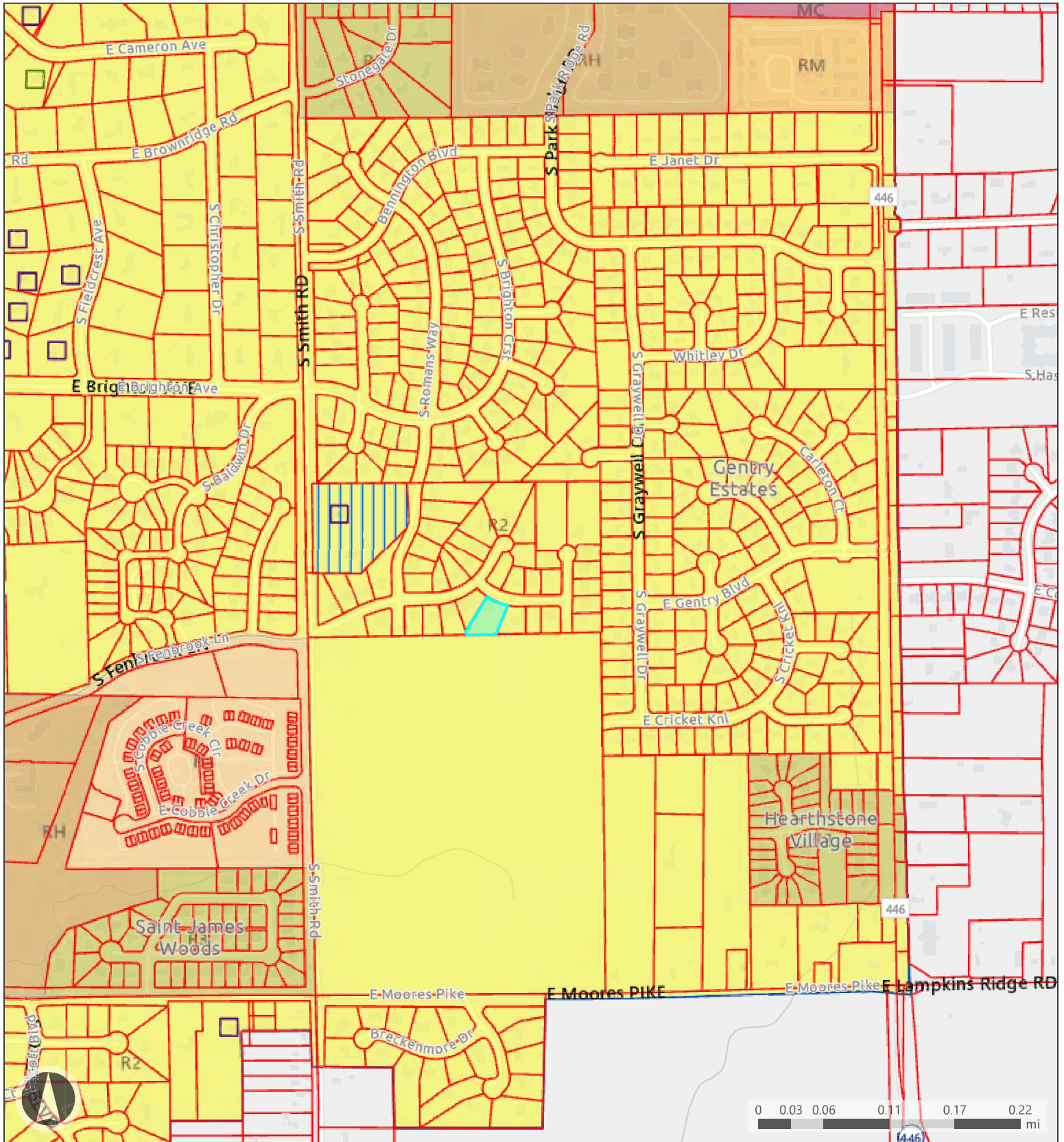
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**CONCLUSION:** The Home Occupation rules are intended to allow small businesses to be run on residential properties as accessory to the primary residential purposes. These businesses should not detract from the residential character of the property, and should not have detrimental effects on the surrounding properties. This proposed use meets the requirements for a Home Occupation, the general approval criteria and the conditional use criteria, as described in the Unified Development Ordinance.

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**RECOMMENDATION:** Based upon the report and written findings of fact above, the Department recommends that the Hearing Officer adopt the proposed findings and recommends approve CU-07-24/USE2024-03-0041, with the following conditions:

1. A Certificate of Zoning Compliance is required for the installation of the pool area being used for the Home Occupation.
2. This approval is for the specific conditional use requested as described in the petitioner's statement and hearing.



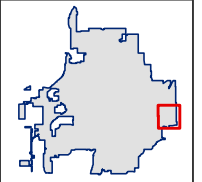
**Map Legend**

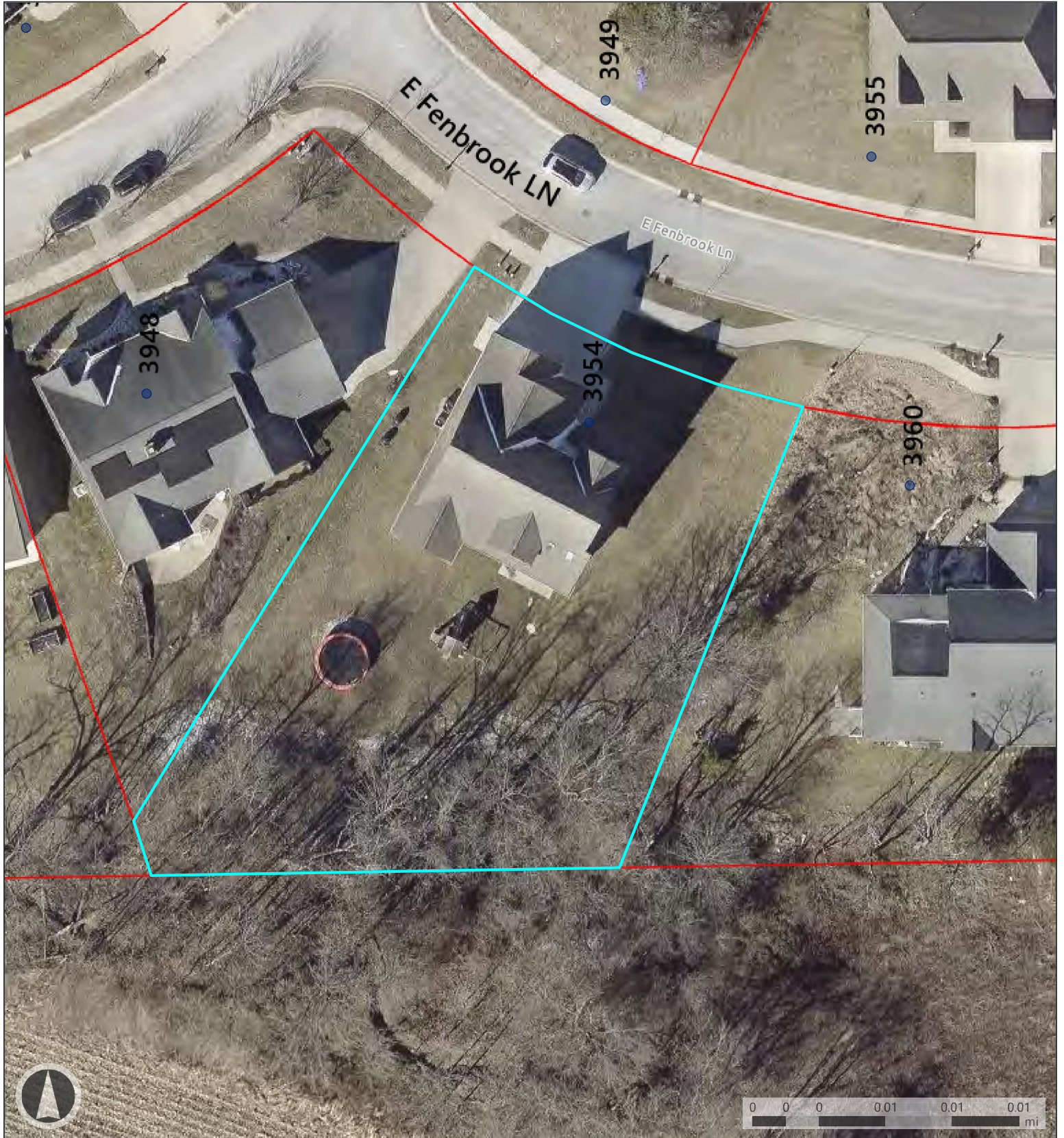
- 446
- Parcels

- Rating**
- Notable
  - Contributing

- Local Historic Districts
- Bloomington Municipal Boundary
- Mixed-Use Corridor

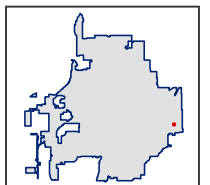
- Residential
- Residential Small
- Residential Urban





### Map Legend

- Addresses
- ▭ Parcels
- ▭ Bloomington Municipal Boundary





Hello, my name is Shelby Gil and I am writing this petition in regards to my small business. I teach young children starting at 6 months old & up, age appropriate water skills. Infants, toddlers and children will learn appropriate swimming postures to allow them to swim facedown in the water, rotate onto their back to a floating position that enables them to rest and breathe, then return to a facedown swimming posture. This sequence of swim-float-swim can be continued until a desired location is reached. This important skill will prepare your child should he/she accidentally fall into the water.

I believe my business provides a very valuable service to our community and keeping our smallest community members safe. Drowning is the #1 accidental cause of death in children ages 1-4. In the United States we lose the equivalent of 13 full school buses of children to drowning each year. And inevitably, each of those families lives are forever altered. My lessons are one on one. No group classes. Therefore each child has their very own scheduled time for their lesson. Very much similar to someone teaching piano lessons out of their home, as has been done for decades.

- My business is located inside of my home of residence.
- There is no signage outside my home.
- I have no employees, I am the only swim instructor with my business.
- No business related deliveries to my home.
- All business is conducted inside the home in a very small portion of the basement area.

Business is conducted in less than 20% of the home.

- There are no interior, exterior, structural or aesthetic changes to the residential character.
- No use of attached or detached garage or parking.
- We have no outdoor display of good, materials, supplies or equipment.
- No direct sales and/or rental products coming from the property.
- We have no additional driveway. Families are instructed to park 3 cars across the 3 car driveway at the home. Therefore our road has always been easily accessible to drive through regards to my home business.
- Hours of operation are 2-4 hours a day (no weekends) within in the 8am-8pm time frame. I do not operate during our neighborhood school bus pickup or drop off times. Posing no additional dangers to students waiting at the bus stop.
- Additionally- all children are being brought to this water SAFETY class by parents & grandparents who clearly view safety of all children being paramount. Therefore any unsafe driving through the neighborhood is highly unlikely.
- No vehicles requiring myself to have a commercial driver's license are in conjunction with the Home Occupation.
- No business deliveries are made outside of typical residential deliveries.
- There is no outdoor display of merchandise of any kind.
- No trash or recyclable receptacles outside of residential use.
- No screened outdoor storage facilities.
- Swimming Pool is located inside the home therefore it is adequately secured to code.

- Pool indoors but not closer to 35 feet of front property line. And more than 5 feet from side and rear property lines.

All neighbors that I am familiar with, which is most of them, are 100% supportive of my water safety mission. Many of them have even had their children in my very own lessons. I have included letters of support from a few.

Thank you for your time in hearing my petition.

Shelby Gil

To Whom it May Concern,

I just wanted to express my most sincere support and gratefulness for Shelby Gil and the Little Gil's Swim program. We started lessons with Shelby in 2021 for my oldest daughter. She was only a year old at that time. Shelby was our first experience for an instruction type setting of any kind. Fast forward three years, and our family still sees Shelby on a weekly basis. My second child completed her survival swim course around 7 months old and both kids have continued with a weekly maintenance lesson with her this entire time just to stay fresh on their skills.

The gift Shelby has provided my family with is irreplaceable. To have the peace of mind that my small children are equipped with the skill set to save their own lives should they fall into water without an adult close by means so much! No one thinks their child will drown, but drowning is the leading cause of death in children. And in the event an accident occurs, my kids are going to have a chance at the best possible outcome thanks to her.

Allowing her to continue serving our Bloomington community is allowing more families with small children the opportunity to keep their kids safe. Please consider supporting her as well and allow her to continue making a difference in our city.

Best regards,  
Megan Hasselbring

Dear Shelby,

I hope this letter finds you swimmingly well! As your neighbor, I am writing to express my enthusiastic support for your application for a home occupation permit to teach swim lessons. Your dedication to helping others learn the valuable skill of swimming is commendable, and I believe it is a wonderful addition to our neighborhood.

Despite the occasional ripples caused by certain individuals, I don't get the sense anyone is else is taken aback. I drive by your house every day and have never had an issue. Your passion for teaching and creating a safe environment for learning is evident, and I have no doubt that your students not only become proficient swimmers but also gain confidence and valuable life skills.

Wishing you smooth sailing through the permit process and many successful swim lessons ahead!

Warm regards,  
Megan Rexing

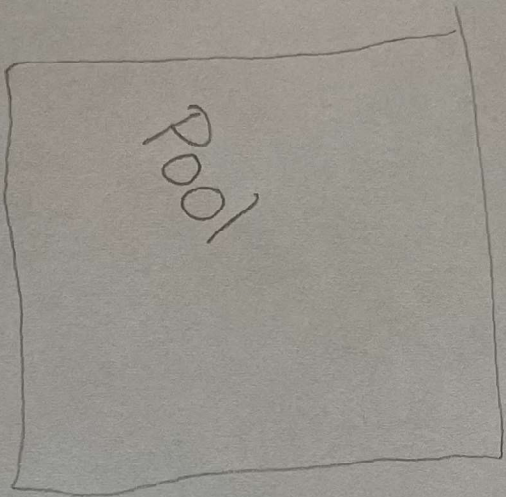
To whom it may concern,

Our Gentry South neighborhood has been a place where for the last eight years living here, my family has grown from babies and toddlers, into being busy, loud, and silly - as well as deeply connected supported, loved, and encouraged by the close-knit community of so many neighbors of all ages and stages in life who have become confidants and friends.

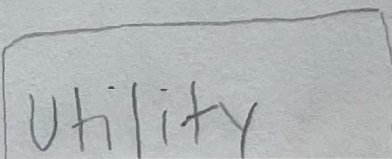
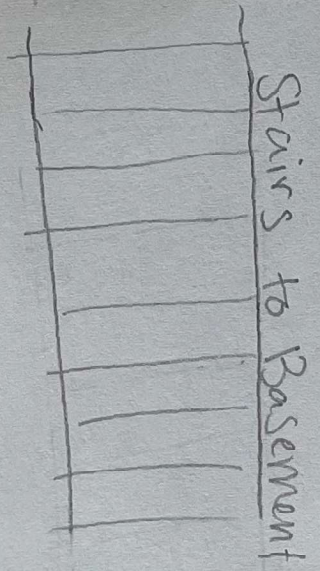
Shelby Gil and her family are the kinds of people who would do just about anything for anyone. Our families' relationship started off, though, with Little Gils Swim. I really didn't know what to expect as my youngest, a daughter, at about 2 years old began lessons from Shelby. I was quickly blown away by the life-changing work that Shelby does each time a child steps into her pool. The idea that in our very own Bloomington community this service exists gives me yet another reason to feel grateful to live and raise my family here.

I am a 15 year veteran teacher for MCCSC, so I am lucky enough to have time at home each summer. My kids and I, while playing and gardening outside much of our summer break, are absolutely unbothered by any increased traffic as a result of Little Gil's Swim. Truly, we don't really even notice. As this is busy and thriving neighborhood, that is increasingly made up of younger families and kids, there is a regular, steady stream of traffic of people simply living their lives.

In summary, I do hope that you consider the invaluable service Little Gil's Swim provides and know that the vast majority of our neighbors and Gentry community fully support Little Gil's Swim, Shelby, and her family, and feel privileged to call her a neighbor and friend.

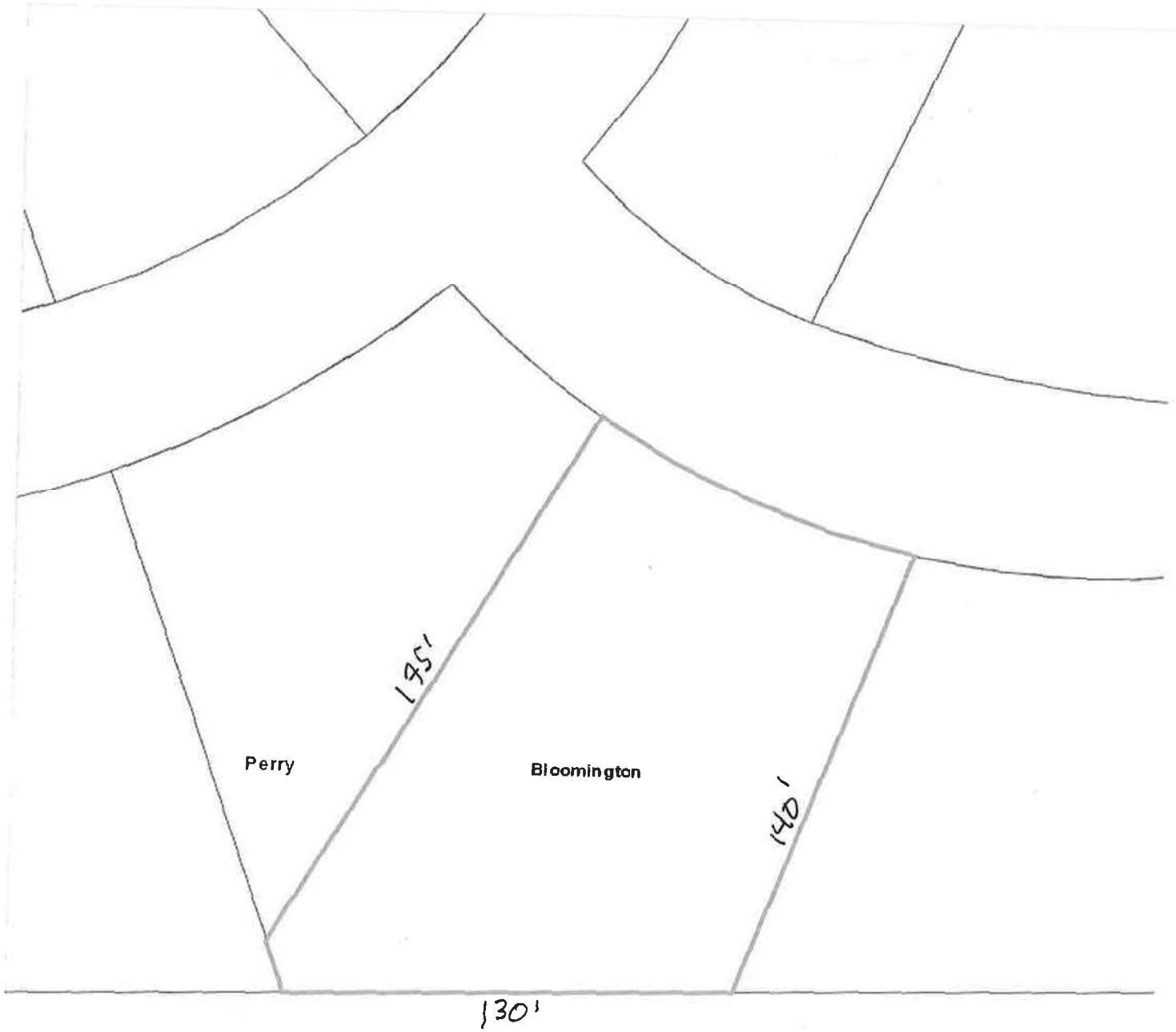


Storage









Perry

Bloomington

195'

140'

130'



I understand that Mrs. Shelby Gil will try her best to reduce disruption to her neighbors. However, her customers and their parents will likely arrive before their lesson times and may hang around afterward. She will have minimal control over their behaviors and cannot take responsibility for any damage that occurs to our neighborhood (e.g., theft of online delivery goods at nearby houses or general bothersome activities).

In summary, I strongly oppose this petition.

Sincerely,

A handwritten signature in blue ink that reads "Hui-Chen Lu". The signature is written in a cursive, flowing style.

Hui-Chen Lu,  
Resident in 954 S. Sara Ct. Bloomington, IN 47401.