

# CITY OF BLOOMINGTON



February 15, 2018 @ 5:30 p.m.  
COUNCIL CHAMBERS #115  
CITY HALL

CITY OF BLOOMINGTON  
BOARD OF ZONING APPEALS  
February 15, 2018 at 5:30 p.m.

\*Council Chambers - Room #115

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ROLL CALL

**MINUTES TO BE APPROVED:** 10/19/17

**REPORTS, RESOLUTIONS, AND COMMUNICATIONS:**

- Conflict of Interest Questionnaire
- 

**PETITIONS:**

- V-37-17 **Dwellings, LLC**  
1353 W. Allen St.  
Request: Variance from maximum parking standards to allow 67 parking spaces for a multi-family complex.  
Case Manager: Eric Greulich
- CU/V-01-18 **Carole and David MacKay**  
506 S. High St.  
Request: Conditional use approval for an accessory dwelling unit (ADU) in the Residential Core (RC) zoning district. Also requested is a variance from side yard setback standards.  
Case Manager: Jackie Scanlan

## CITY OF BLOOMINGTON CONFLICT OF INTEREST QUESTIONNAIRE

Under Indiana Code 35-44.1-1-4, a public servant who knowingly or intentionally has a pecuniary interest in or derives a profit from a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Level 6 Felony. A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of the public servant or a dependent of the public servant who is under the direct or indirect administrative control of the public servant; or receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant. “Dependent” means any of the following: a spouse; a child, stepchild, or adoptee who is unemancipated and less than eighteen (18) years of age; and any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

The City’s personnel policy states that “The City strives to avoid situations that have the potential for impropriety or the appearance of impropriety even where not expressly prohibited by state law.”

Therefore, the City of Bloomington requests commissioners, board members and committee members to disclose certain interests as follows to ensure compliance with applicable State and local law.

### 1. Business Affiliations

Please list, and briefly explain, all affiliations which you, any member of your immediate family or any dependent (as defined above) has as a director, officer, partner, member, employee, consultant, agent or advisor of any entity or organization which transacts business with the City of Bloomington.

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### 2. Outside Interests

Please identify all material financial interest or investment which you, any member of your immediate family or any dependent has in any entity which transacts business with the City of Bloomington. Exclude any equity or stock ownership by way of mutual fund, index fund, retirement account, pension account or similar brokerage based financial account.

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### 3. Outside or Community Activities

Please list all affiliations you, any member of your immediate family or any dependent has as a volunteer in any capacity with any entity or organization which transacts business with the City of Bloomington. Please describe the individual's role by title or duties.

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### 4. Other

Please list any other activities in which you, any member of your immediate family or any dependent (as defined above) are engaged that might be regarded as constituting a potential conflict of interest.

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I agree to promptly report any material situation or transaction that may arise during the forthcoming calendar year that to my belief or knowledge constitutes a potential conflict of interest consistent with the above questions.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
E-mail address

\_\_\_\_\_  
Title or Position with Governmental Entity

Please complete and return to Barbara E. McKinney, Assistant City Attorney, within two weeks. Email [mckinneb@bloomington.in.gov](mailto:mckinneb@bloomington.in.gov), fax 812-349-3441. Thank you.

Updated 4/13/15

**BLOOMINGTON BOARD OF ZONING APPEALS**  
**STAFF REPORT**  
 Location: 1353 W. Allen Street

**CASE #: V-37-17**  
**DATE: February 15, 2018**

**PETITIONER:** Mark Lauchli (Dwellings, LLC)  
 PO Box 5204, Bloomington

**CONSULTANT:** Bynum Fanyo and Associates, Inc.  
 528 N. Walnut Street, Bloomington

**REQUEST:** The petitioner is requesting a variance from maximum parking standards to allow 67 parking spaces for a 60 bedroom multi-family apartment complex.

**STAFF REPORT:** This 2.98 acre property is located at 1353 W. Allen Street and is zoned Residential Multifamily (RM). Surrounding land uses include multi-family residences to the east and west, single family residences to the north, and the Thomson PUD and Cook Pharmica to the south. The property has been developed with several multi-family dwelling units and surface parking lots. A grading permit (C14-GRD-011) and building permit were issued in 2014 to allow the construction of several new buildings and parking areas.

A total of 60 bedrooms are on the property and the UDO allows a maximum of one parking space per bedroom or 60 spaces. With the recent construction, there were 7 additional parking spaces built that were not approved with the plans.

The petitioner is requesting a variance from maximum parking standards to allow the 7 extra parking spaces to remain. A parking study was performed and has been included in the packet.

A parking study was performed that shows the amount of parking spaces used over an approximately 3 week time period. The study shows that at any one maximum time the total number of spaces used did not exceed 63 and the average was around 60. If the additional parking spaces are approved, additional landscaping is required to correspond with the additional spaces. This location is also on a Bloomington Transit bus route.

## **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.*

**RECOMMENDED FINDING:** The granting of the variance from the standards will not be injurious to the public health, safety, or morals. The granting of a variance to allow additional parking spaces would better serve the needs of the tenants

and guests which would limit impacts to adjacent properties.

- 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.*

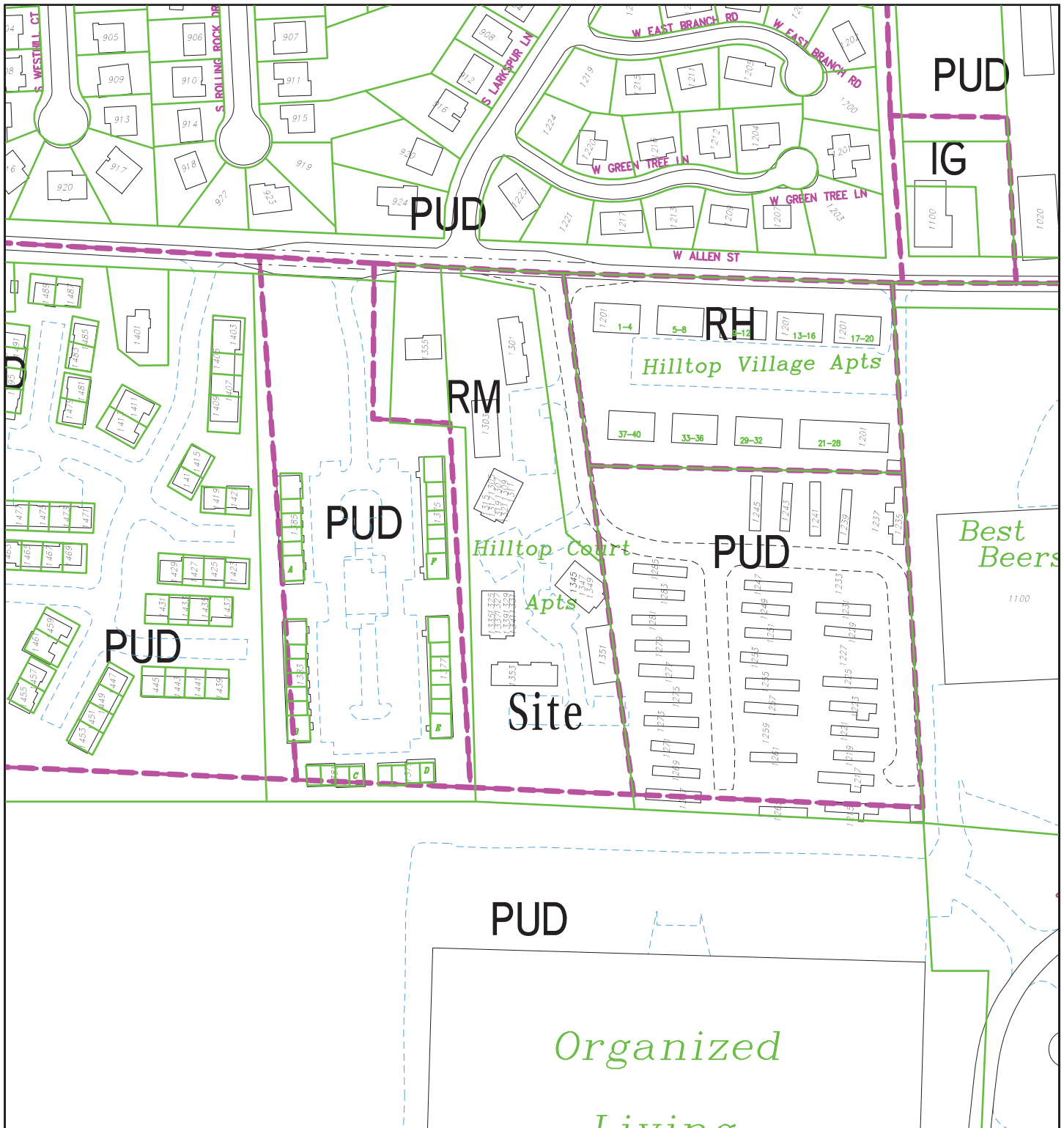
**RECOMMENDED FINDINGS:** No negative effects from either the denial or approval of this proposal are found on the use and value of the areas adjacent to the property.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

**RECOMMENDED FINDING:** The strict application of the UDO will not result in practical difficulty in the use of property. The parking study shows only a negligible need for additional spaces and the additional need is something that depends on the fluctuation of tenants in the rental units and actual number of tenants. There are no peculiar conditions on this property that is different than other multi-family residential properties that does not allow them to meet the maximum parking requirements of the UDO.

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**RECOMMENDATION:** The Department recommends that the Board of Zoning Appeals adopt the recommended findings and deny the variance.



V-37-17 Marc Lauchli (Dwellings, LLC)

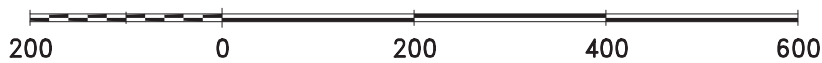
1353 W Allen Street

Board of Zoning Appeals

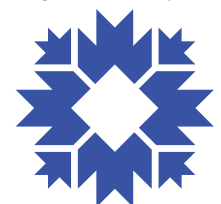
Site Location, Zoning, Parcels

By: greulice

16 Jan 18



City of Bloomington  
Planning & Transportation



Scale: 1" = 200'

For reference only; map information NOT warranted.



V-37-17 Marc Lauchli (Dwellings, LLC)

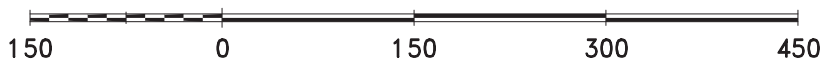
1353 W Allen Street

Board of Zoning Appeals

2016 Aerial Photograph

By: greulice

16 Jan 18



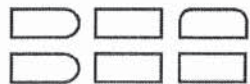
For reference only; map information NOT warranted.

City of Bloomington  
Planning & Transportation



Scale: 1" = 150'





BYNUM FANYO & ASSOCIATES, INC.

ARCHITECTURE  
CIVIL ENGINEERING  
PLANNING

December 12, 2017  
Bloomington Board of Zoning Appeals  
401 N Morton Street  
Bloomington, Indiana 47403

Re: Hilltop Court Apartments Parking Variance

Dear BZA Members:

Our client respectfully requests variance from the Maximum Parking Spaces allowed under the UDO.

The property is located at 1305 W. Allen Street. Allen Street at this location is a narrow hilly two-lane road with no ability for parking along either side of the street. Hilltop Court Apartments consist of 60 bed multi-family units configured in one and two-bedroom units. Access to the property is by a narrow private drive that also serves a 50 lot mobile home park. There are currently 67 parking spaces, 3 ADA spaces and 64 regular spaces. The UDO allows one parking space per bedroom or 60 spaces.

My clients have owned and operated the mobile home park and apartments since 1998. The tenants are not student oriented, rather professionals that work at Crane, IU, the hospital and other businesses in Bloomington. Many of the apartments have two tenants and two vehicles. An example of a typical unit may have one individual working at Crane and the other working in Bloomington, both of which must drive to work. As a result, one space per bedroom is not enough.

We have performed a parking study that is attached along with a summary of the findings. The study clearly shows the 60-space maximum does not work for the development. We are asking that the 67 parking spaces that currently exist be allowed to remain to better accommodate the needs of our tenants.

Finding:

- 1) The approval will not be injurious to the public health, safety, morals, and general welfare of this community.  
**Finding:** The request is not injurious to the public health, safety, morals, or general welfare of the community.
- 2) The use and value of the area adjacent to the property included in the Development standards variance will not be affected in a substantially adverse manner.  
**Finding:** No adverse impacts to the use and value of the surrounding area associated with the proposed variance are found. The surrounding the property is developed and additional parking on site will keep our tenants from tempting to park on adjoining land.
- 3) The strict application of the terms of the UDO will result in practical difficulties in the use of the property: that the practical difficulties are peculiar to the property in question; that the development Standards Variance will relieve the practical difficulties.

**Finding:** If sufficient parking is not provided to the tenants and their guest the practical difficulty in the use of the property stems from the fact that these vehicles will be parking on the narrow common entrance drive, partially blocking access to both the apartments and trailer park. This obstruction will also impede emergency vehicle access.

Practical difficulties that are peculiar to the property in question; that the development Standards Variance will relieve the practical difficulties is the location of this property in relation to goods and services and alternative means of transportation. As an older outlying property there are no groceries, restaurants, convenience stores, etc. within reasonable walking distance. With the vertical geometry narrowness of Allen Street as it is, using a bicycle would not be a good idea either.

After you have reviewed our petition please feel free to contact us at any time to discuss or answer questions you may have.

Sincerely,



Jeffrey S. Fanyo, P.E. CFM  
Bynum Fanyo and Associates, Inc.

DATE & TIME: 8/30/17 - 7:00am						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	16	4		
Hilltop Court I + Guest Spots	20	24	22	2		
Hilltop Court III (incl. 7 under Variance)	20	20	20	0		
Parking on the Street				1		
Total Handicapped Parking for Entire Complex			3	1		
<b>Total</b>		64	60	4		
DATE & TIME: 8/30/17 - 9:00pm						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	15	5		
Hilltop Court I + Guest Spots	20	24	21	3		
Hilltop Court III (incl. 7 under Variance)	20	20	20	0		
Parking on the Street				1		
Total Handicapped Parking for Entire Complex			3	1		
<b>Total</b>		64	58	8		
DATE & TIME: 9/2/17 - 7:00am						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	17	3		
Hilltop Court I + Guest Spots	20	24	22	2		
Hilltop Court III (incl. 7 under Variance)	20	20	20	0		
Parking on the Street				1		
Total Handicapped Parking for Entire Complex			3	1		
<b>Total</b>		64	61	5		
DATE & TIME: 9/2/17 - 9:00pm						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	15	5		
Hilltop Court I + Guest Spots	20	24	22	2		
Hilltop Court III (incl. 7 under Variance)	20	20	19	1		
Parking on the Street				2		
Total Handicapped Parking for Entire Complex			3	2		
<b>Total</b>		64	60	8		
DATE & TIME: 9/3/17 - 9:00pm						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	14	6		
Hilltop Court I + Guest Spots	20	24	21	3		
Hilltop Court III (incl. 7 under Variance)	20	20	18	2		
Parking on the Street				1		
Total Handicapped Parking for Entire Complex			3	2		
<b>Total</b>		64	56	11		
DATE & TIME: 9/9/17 - 9:00pm						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	16	4		
Hilltop Court I + Guest Spots	20	24	22	2		
Hilltop Court III (incl. 7 under Variance)	20	20	20	0		
Parking on the Street				2		
Total Handicapped Parking for Entire Complex			3	0		
<b>Total</b>		64	60	6		
DATE & TIME: 9/10/17 - 7:00am						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	17	3		
Hilltop Court I + Guest Spots	20	24	22	2		
Hilltop Court III (incl. 7 under Variance)	20	20	20	0		
Parking on the Street				2		
Total Handicapped Parking for Entire Complex			3	0		
<b>Total</b>		64	61	5		
DATE & TIME: 9/16/17 - 9:00pm						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	16	4		
Hilltop Court I + Guest Spots	20	24	22	2		
Hilltop Court III (incl. 7 under Variance)	20	20	20	0		
Parking on the Street				0		
Total Handicapped Parking for Entire Complex			3	2		
<b>Total</b>		64	60	6		
DATE & TIME: 9/17/17 - 9:00pm						
Parking Lot	Total # of Beds Per Phase	# of Spaces	Occupied	Vacant		
Hilltop Court II	20	20	17	3		
Hilltop Court I + Guest Spots	20	24	22	2		
Hilltop Court III (incl. 7 under Variance)	20	20	20	0		
Parking on the Street				2		
Total Handicapped Parking for Entire Complex			3	2		
<b>Total</b>		64	63	5		

Hilltop Court Apartments Parking Study Summary

<u>Date</u>	<u>Day of week</u>	<u>Regular spaces</u>	<u>ADA Spaces</u>	<u>Total Spaces</u>	<u>Street Parking</u>	<u>Spaces occupied</u>
<b>onsite spaces</b>		<b>64</b>	<b>3</b>	<b>67</b>		
8/30/2017 am	Wednesday	60	1	61	1	62
8/30 pm	Wednesday	56	1	57	1	58
9/2 am	Saturday	59	1	60	1	61
9/2 pm	Saturday	56	2	58	2	60
9/3 pm	Sunday	53	2	55	1	56
9/9 pm	Saturday	58	0	58	2	60
9/10 am	Sunday	59	2	61	0	61
9/16 pm	Saturday	58	2	0	0	60
9/17 pm	Sunday	59	2	61	2	63



revisions:

(11)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(10)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(9)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(8)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(7)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(6)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(5)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(4)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(3)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(2)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE
(1)	10/15/2020	ADD 10' BUFFER TO WEST ALLEN STREET SIDE OF PROPOSED DRIVE

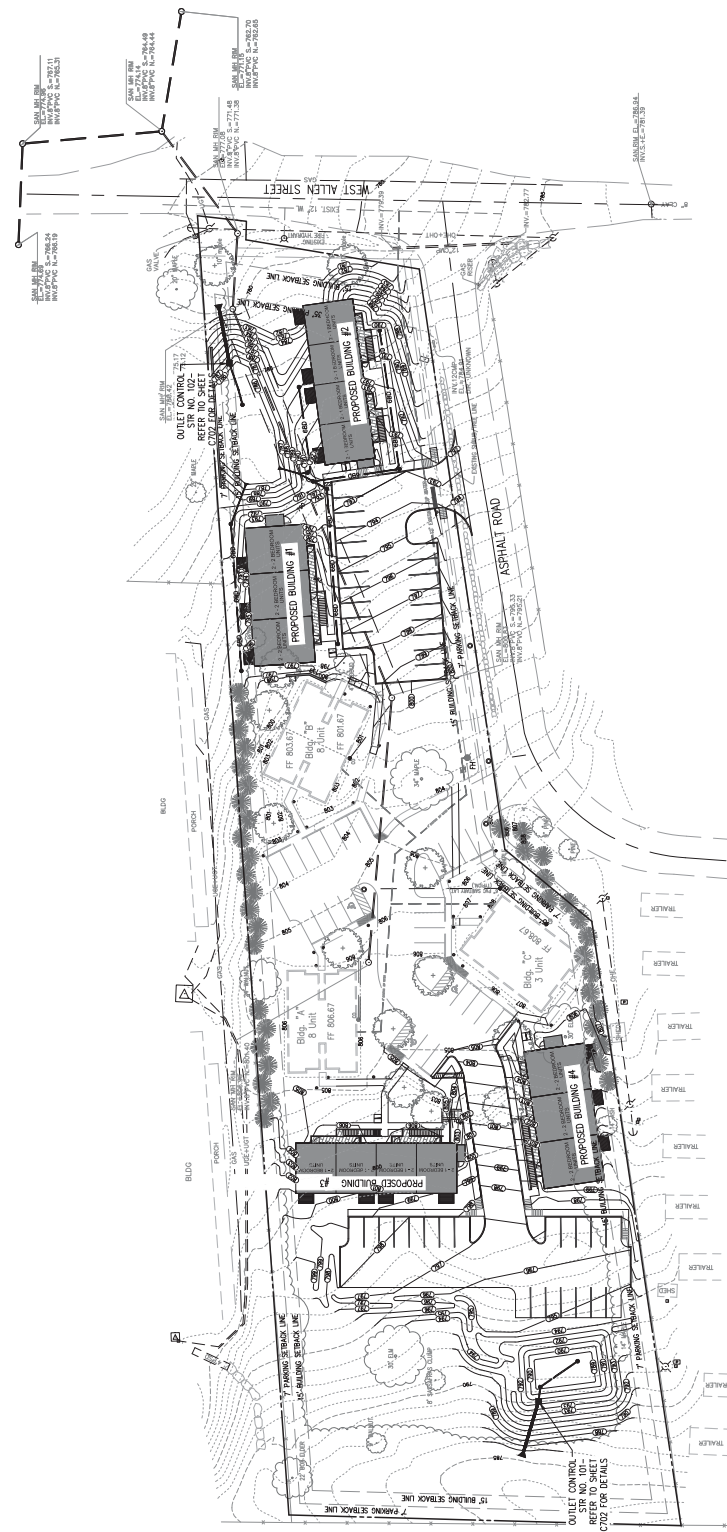
BBB  
BRYNLA FAYND & ASSOCIATES, INC.  
1528 NORTH WINDMILL STREET  
(812) 332-8030

PROPOSED  
HILLTOP COURT APARTMENTS  
EXPANSION  
1305 W ALLEN ST  
BLOOMINGTON, INDIANA

FILE: OVERALL SITE PLAN  
designed by: DUB  
checked by: SF  
drawn by: SF  
sheet no: C401  
project no: 201414

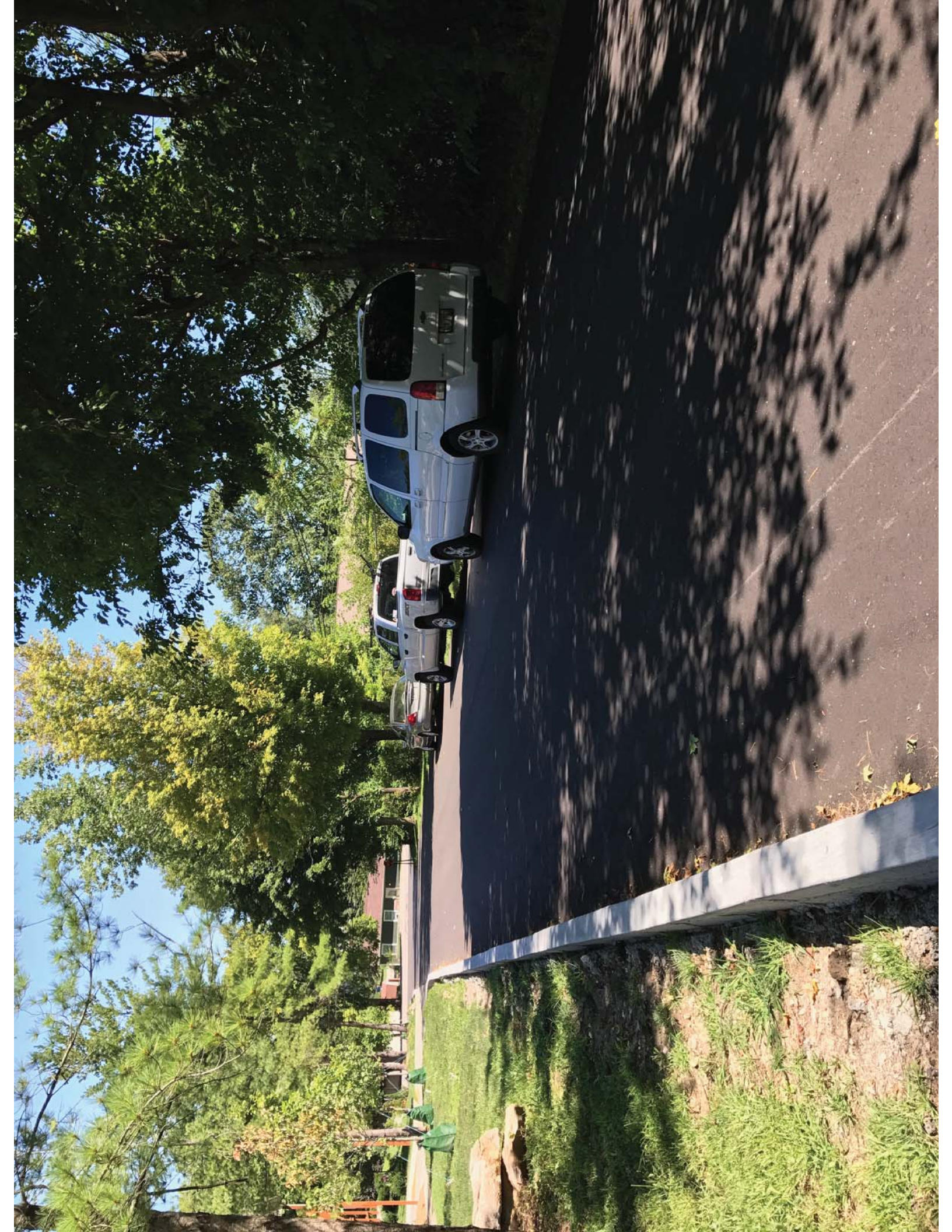
**EXISTING LEGEND**

EXISTING FENCE	EXISTING WATER LINE	EXISTING UNDERGROUND ELECTRIC LINES	EXISTING UNDERGROUND TELEPHONE LINES	EXISTING GAS LINE	EXISTING SANITARY SEWER AND MANHOLE	EXISTING STORM SEWER AND INLET	PROPERTY LINE
EXISTING UNDERGROUND ELECTRIC LINES	EXISTING UNDERGROUND TELEPHONE LINES	EXISTING GAS LINE	EXISTING SANITARY SEWER AND MANHOLE	EXISTING STORM SEWER AND INLET	PROPERTY LINE		



HILLTOP COURT APARTMENTS PROPERTY - 3.6 ACRES	PARKING COUNT	IMPERVIOUS SURFACE AREA	SEEDING/LANDSCAPING	1 BED UNITS LESS THAN 700 SQ. FT.	2 BED UNITS LESS THAN 700 SQ. FT.	UNIT DENSITY
EXISTING	29	29	0	0	0	0
PROPOSED	67	67	0	16	16	16

**NOTE TO CONTRACTOR**  
CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND LOCATIONS OF ANY UTILITIES IN LOCATION OF ELEVATION OR ANY OTHER INFORMATION IN THIS PLAN. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LOCATIONS OF ANY UTILITIES IN LOCATION OF ELEVATION OR ANY OTHER INFORMATION IN THIS PLAN. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LOCATIONS OF ANY UTILITIES IN LOCATION OF ELEVATION OR ANY OTHER INFORMATION IN THIS PLAN.











**BLOOMINGTON BOARD OF ZONING APPEALS**  
**STAFF REPORT**  
Location: 506 S. High Street

**CASE #: CU/V-01-18**  
**DATE: February 15, 2018**

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**PETITIONER:** Carole and David MacKay  
506 S. High Street, Bloomington

**CONSULTANT:** Jim Rosenbarger, Architect  
1303 E. University Street, Bloomington

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**REQUEST:** The petitioner is requesting conditional use approval to allow an accessory dwelling unit in the Residential Core (RC) zoning district and a side yard setback variance.

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**REPORT:** This 0.77 acre site is located on the southwest corner of South High and East Hunter Streets. The property is zoned Residential Core (RC). The site currently contains one house and one detached garage with a legal nonconforming apartment on the second floor. The petitioner seeks the conditional use approval in order for the apartment to become compliant with the current accessory dwelling unit (ADU) regulations in the Unified Development Ordinance (UDO). The petitioner is proposing no physical changes to the existing garage unit.

In September 2017, the City Council adopted Conditional Use standards into the UDO to allow for ADUs in single-family residential neighborhoods, which were signed into law in October 2017. Particular design criteria were identified for desirable ADU development. It was acknowledged that existing ADUs may have issues with some of the standards and would have to be assessed on a case-by-case basis.

The apartment was present when the current owners bought the property in 1989, and has been continuously used since that time. The unit is located on the second floor of the existing garage behind the home. The existing unit meets all of the standards listed in the UDO excepting the side yard setback, as the garage appears to be right on the western property line.

The petitioner reached out to the Eastside Neighborhood Association, and staff spoke with a representative, as well. No issues or complaints with the petition were submitted. The petitioner is requesting an ADU conditional use approval for the existing legal nonconforming apartment and a side yard setback variance for the existing accessory building.

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**ACCESSORY DWELLING UNIT ISSUES:**

Section 20.05.0333 outline the particular standards required for Accessory Dwelling Units in single-family residential zoning districts in Bloomington.

The petition meets all of the standard of Section 20.05.0333, except the side yard setback standard.

**Setbacks:** The existing structure is located near the southwest corner of the lot. The

UDO requires that the building be 5 feet from the side property line. Because the parcel has frontage on both High Street and Hunter Avenue, both the western and southern line are considered side yards. The building meets the setback to the south, but does not meet the setback to the north. The code allows for existing one-story buildings to be exempted from the setback standards if they are converted to ADUs. However, it does not exempt existing legal nonconforming ADUs in one or two-story buildings that do not meet the code.

Site Standards	Allowed	Proposed
Maximum Number	1 per lot	1
Number of Residents	One Family	One Family
Minimum Lot Size	7,200 square feet	33,715 square feet
Proximity	At least 300 feet from approved ADU	N/A First ADU request
Owner Occupancy	Required on Lot	Owner in House

Design Standards	Allowed	Proposed
Maximum Square Footage	440 square feet	440 square feet
Maximum Bedrooms	1	1
<b>Minimum Setbacks</b>		
Front	Same as Dwelling	Located behind Dwelling
Side	5 feet	0 feet
Rear	5 feet	N/A Corner Lot
Maximum Height	25 feet	18 feet 4 inches

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## Criteria and Findings for Conditional Use Permits

### 20.05.023 Standards for Conditional Use Permits

No Conditional Use approval shall be granted unless the petitioner shall establish that the standards for the specific Conditional Use are met and that the following general standards are met.

- The proposed use and development must be consistent with the Growth Policies Plan and may not interfere with the achievement of the goals and objectives of the Growth Policies Plan;*

**Proposed Finding:** This site is designated as Core Residential in the Growth Policies Plan. The GPP envisions some neighborhood-serving commercial in the Core Residential areas, with the main focus of the district being protection of existing single-family housing stock. The proposal does not interfere with the goals and objectives of the GPP. This project involves reuse of an existing non-residential structure, does not permit the conversion of a single family home to multi-family or

commercial, and it is located along an arterial roadway. Continued preservation of this structure is consistent with GPP goals.

2. *The proposed use and development will not create nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights;*

**Proposed Finding:** The proposed use will not create a nuisance. The use currently exists on the site and no known nuisance exists or has been reported. The use on the site will take place completely indoors. No smoke, odors, vibrations, or objectionable lights are typically associated with a residential use.

3. *The proposed use and development will not have an undue adverse impact upon the adjacent property, the character of the area, or the public health, safety and general welfare;*

**Proposed Finding:** No adverse impacts to the adjacent properties or character of the area will occur as a result of this petition. The use on the property will continue to take place within the accessory structure on the site. No additional buildings are proposed.

4. *The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, stormwater management structures, and other services, or that the applicant will provide adequately for such services;*

**Proposed Finding:** The site is adequately served by all public utilities. No additional development is proposed.

5. *The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;*

**Proposed Finding:** The proposed use exists on the site as a legal nonconformity. There is ample parking on site for both the house and accessory dwelling unit, and not significant amounts of traffic will be generated by the one-bedroom unit.

6. *The proposed use and development will not result in the excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance;*

**Proposed Finding:** The ADU will have no significant effect on the natural, scenic, or historic features of the parcel or area. Conversely, staff finds that this petition will increase the ability of the petitioner to continue to preserve and maintain this Notably-rated historic structure by allowing the continuance a source of income for the property.

7. *The hours of operation, outside lighting, and trash and waste collection must not pose a hazard, hardship, or nuisance to the neighborhood.*

**Proposed Finding:** There will be no nuisance to the neighborhood from the continued ADU operation.

8. *Signage shall be appropriate to both the property under consideration and to the surrounding area. Signage that is out of character, in the Board of Zoning Appeal's determination, shall not be approved.*

**Proposed Finding:** No signage is proposed or planned for the ADU.

9. *The proposed use and development complies with any additional standards imposed upon the particular use by Chapter 20.05; CU: Conditional Use Standards.*

**Proposed Finding:** The proposed use does not comply with 20.05.033(i)(4)(B)(ii), but a variance has been sought from that standard in conjunction with the conditional use request.

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## CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

### Side Yard Setback

**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.*

**PROPOSED FINDING:** No injury is found. The building is existing and no addition to the garage structure is proposed. Additionally, the encroachment is immediately adjacent to a 12 foot wide unimproved platted alley. The use of the property will remain as a single family house with an existing accessory dwelling unit.

- 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.*

**PROPOSED FINDING:** No negative effects are found from this proposal on the areas adjacent to the property. The existing setback encroachment is not increasing. No addition is proposed. The use of the property will remain as a single family house with an existing accessory dwelling unit.

- 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 question; that the Development Standards Variance will relieve the practical difficulties.*

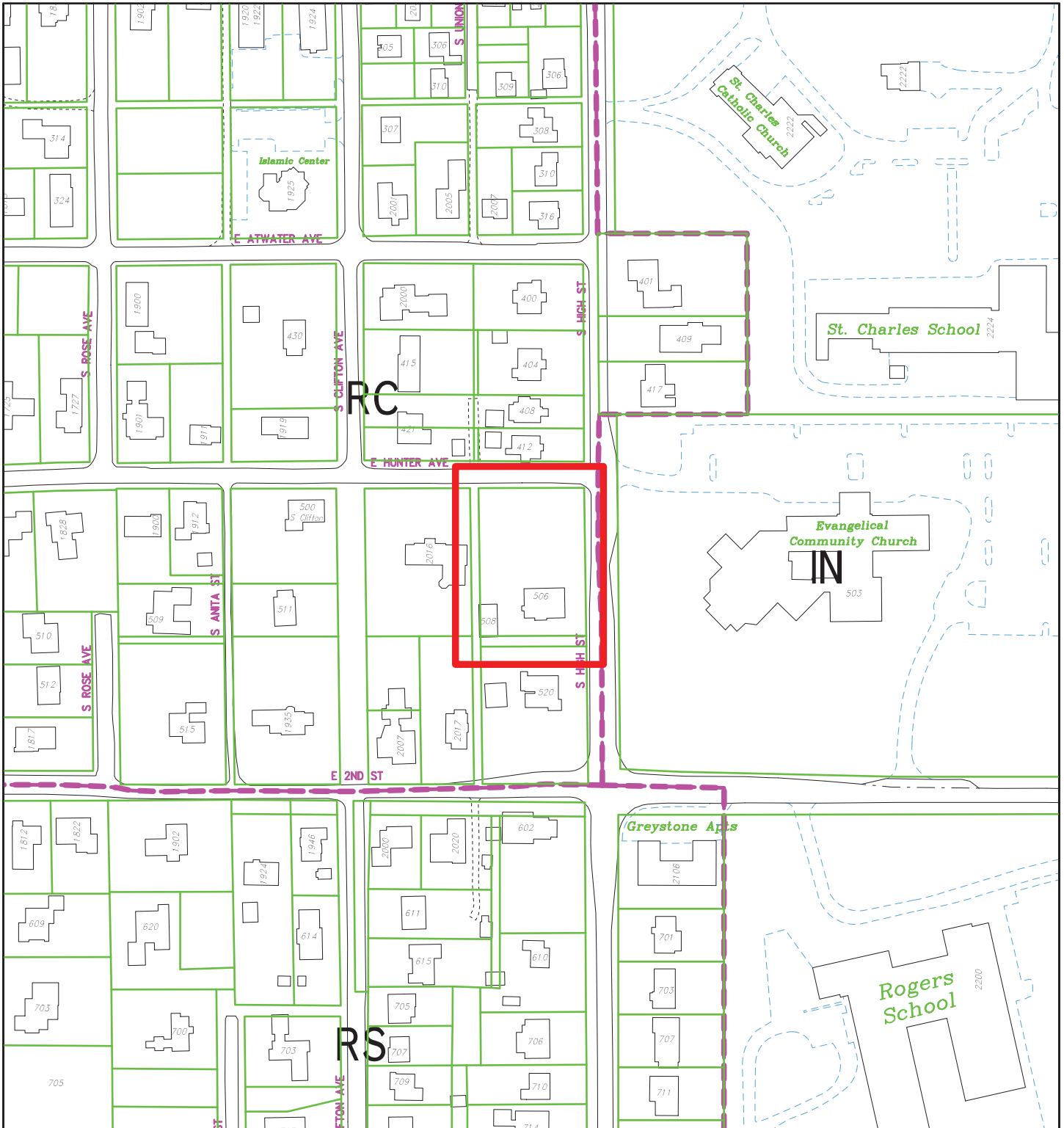
**PROPOSED FINDING:** Practical difficulty is found in the location of the existing building. The garage has been in its current configuration and location since at least 1928. The legal nonconforming accessory dwelling unit has been in continuous operation since at least 1989. The parcel far exceeds the minimum lot size for the RC zoning district and could, theoretically, be subdivided into multiple lots. The historic pattern of development on the lot resulted in the garage being located

directly behind and adjacent to the house. The petitioner is requesting to legitimize an existing accessory dwelling unit, and is not proposing a new structure that does not meet setback requirements. Peculiar condition is found in the age and configuration of the existing development and use. The side yard setback requirement is intended to provide separation of uses for neighboring properties. The garage structure is immediately adjacent to a 12 foot unimproved alley. Holding the addition to the side yard setback standard does not meet the intended purpose of the UDO regulation, as there is existing separation from the closest neighbor and no increase in setback encroachment with this proposal.

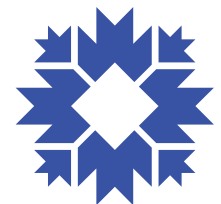
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**RECOMMENDATION:** The Department recommends that the Board of Zoning Appeals adopts the proposed findings and approve CU/V-01-18 with the following conditions:

1. The Conditional Use is approved for the existing Accessory Dwelling Unit with existing dimensions.
2. Petitioner shall record a commitment to satisfy 20.05.0333(I), indicating that the ADU cannot be sold separately from the primary unit and that the conditional use approval shall only be in effect as long as the owner(s) of record occupies either the house or the ADU as his or her primary residence. If the ADU approval is revoked at any time, the ADU must be removed from the property.
3. Petitioner shall submit a copy of the property tax homestead exemption for the property.



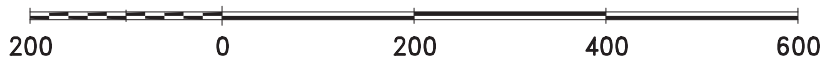
City of Bloomington  
 Planning & Transportation



Scale: 1" = 200'

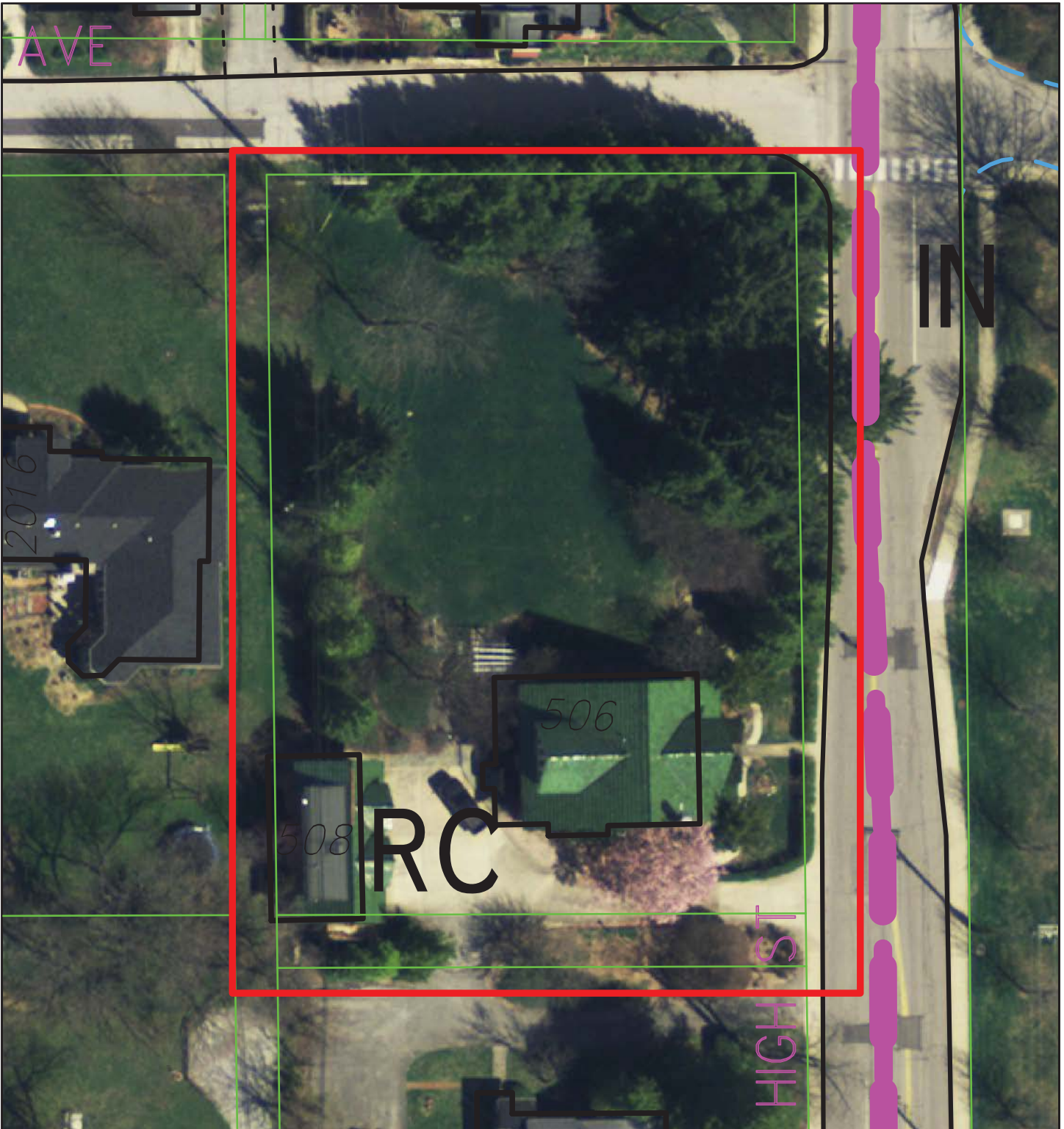


By: scanlanj  
 8 Feb 18

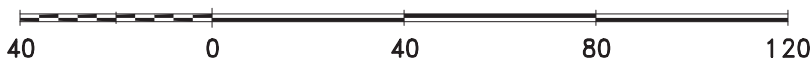


For reference only; map information NOT warranted.





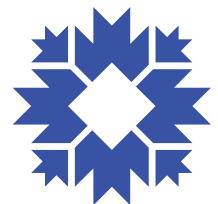
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For reference only; map information NOT warranted.



City of Bloomington  
Planning & Transportation



Scale: 1" = 40'

## PETITIONER'S STATEMENT

ACCESSORY DWELLING CONDITIONAL USE

CAROLE AND DAVID MACKAY

506 S. HIGH STREET, BLOOMINGTON, INDIANA

JANUARY 12, 2018

Owners: David and Carole MacKay

Representative: Jim Rosenbarger, Architect

The purpose of this request is to change the property's zoning classification from a 'Legal Nonconforming Use' to a 'Conditional Use with a Detached Accessory Dwelling Unit.'

## HISTORY

The ADU was in existence when the current owners bought the property in 1989 and it has been occupied continuously since then. The ADU occupies the second floor of the property's detached garage and is located just behind the house. Original construction occurred in 1917. Ralph Rogers bought the house in 1918 and initiated extensive remodeling and expansion. He lived in the house until 1976. The garage was enlarged in 1928, and its construction with its accessory dwelling matches the interior and exterior materials of the house.

The house is listed as 'The Ralph Rogers House' and rated 'Notable' in The City of Bloomington Interim Report of Indiana Historic Sites. The garage with its upper floor accessory dwelling is an integral component that adds to the site's historic importance. The long term use of the accessory dwelling demonstrates the enduring value of this pattern

The existing ADU has a current 'Residential Rental Occupancy Permit' issued by the City's Housing and Neighborhood Development Department. The current single resident has occupied the ADU for five years. Previous occupants include one of the owner's mother.

## CONTEXT

The property is located on the eastern edge of a Residential Core (RC) zoning district on the northwest corner of High and Hunter. Adjacent properties west of High are residential, single family.

The owners of 506 S. High also own the neighboring house to the south and currently rent it. The drives of the two properties share a connection which helps with egress in and out from High St.

The zoning east of High St., just opposite this property, is Institutional (IN) and is occupied by a large church.

## DEVELOPMENT STANDARDS VARIANCE CRITERIA

### 1. Public health, safety, morals, and general welfare

The ADU offers a stable, private, quiet, and relatively affordable option without the costs of home ownership. The home owners appreciate having a close neighbor. The

two households have a relationship where they can look out for each other and keep an eye on things while the other neighbor is away.

The ADU also provided a semi-autonomous residence for one of the owner's mother.

In this case it hasn't been necessary, but in general, on-site owners will tend to provide some 'policing' of an ADU's tenant.

2. Use and value

See 3. below

3. Practical difficulties

The property's current classification as a 'Legal But Nonconforming' use has effectively prevented the owners from having the option of expanding their existing house.

CONDITIONAL USE CRITERIA

1. Compliance with the Growth Policy Plan

The Unified Development Ordinance, based on the Growth Policies Plan, supports ADU's.

RC Zoning, Conditional Uses, includes Accessory Dwelling Uses.

RC Intent:

"Increase the viability of owner-occupied and affordable dwelling units through the use of small lot subdivisions, accessory dwelling units, and compatible property improvements."

RC Plan Commission Guidance:

"Explore multifamily redevelopment along designated arterial streets, ...."

The subject property is located on a busy, designated Primary Collector, and is two blocks from E. Third, an Arterial street.

2. Nuisance

The property will have no additional occupancy, and has no record of disturbances.

3. Undue Adverse Impact

Continued use of the ADU will help to stabilize and the historic property.

The property's assessed tax value exceeds its immediate, residential neighbors and seems to indicate that the ADU may add value rather than reduce it.

4. Served by Public Facilities

No additional impact on public facilities is anticipated.

5. Traffic

Since the proposed Conditional Use won't increase occupancy no additional traffic on streets is anticipated. Note that High Street is shown as a Primary Collector on Bloomington's Master Thoroughfare Plan map. Conditional Use Criteria calls for no "undue traffic....through residential streets"

6. Damage to natural, scenic, or historic features

No exterior changes are included with this application. The property's historic designation will continue to required compliance with local historic guidelines.

7 Hours of operation

No change is anticipated.

8 Signage

No signs are to be installed.

9 Additional standards per 20.05

#### LOT SIZE

Lot Size: 225 ft (High St.) x 150 ft (Hunter) = 33,750 s.f.

The Minimum lot size for RC zoning: 7,200s.f., with 55ft frontage.

This property's size is 4.7 times larger than the RC minimum.

#### SETBACKS

Based on Monroe County's G.I.S. map, the Garage/ADU structure appears to meet setback requirements except for the rear, i.e. west 'side'. Since the property is on a corner, the west property line is considered a side for zoning purposes. The lack of a compliant setback along the west is mitigated by an existing, unimproved right-of-way approximately 12 feet which serves to buffer adjacent neighbors.

#### ADU LAYOUT, AREA, & HEIGHT

The layout of the ADU is one large room with two small alcoves,. One alcove contains the kitchen.

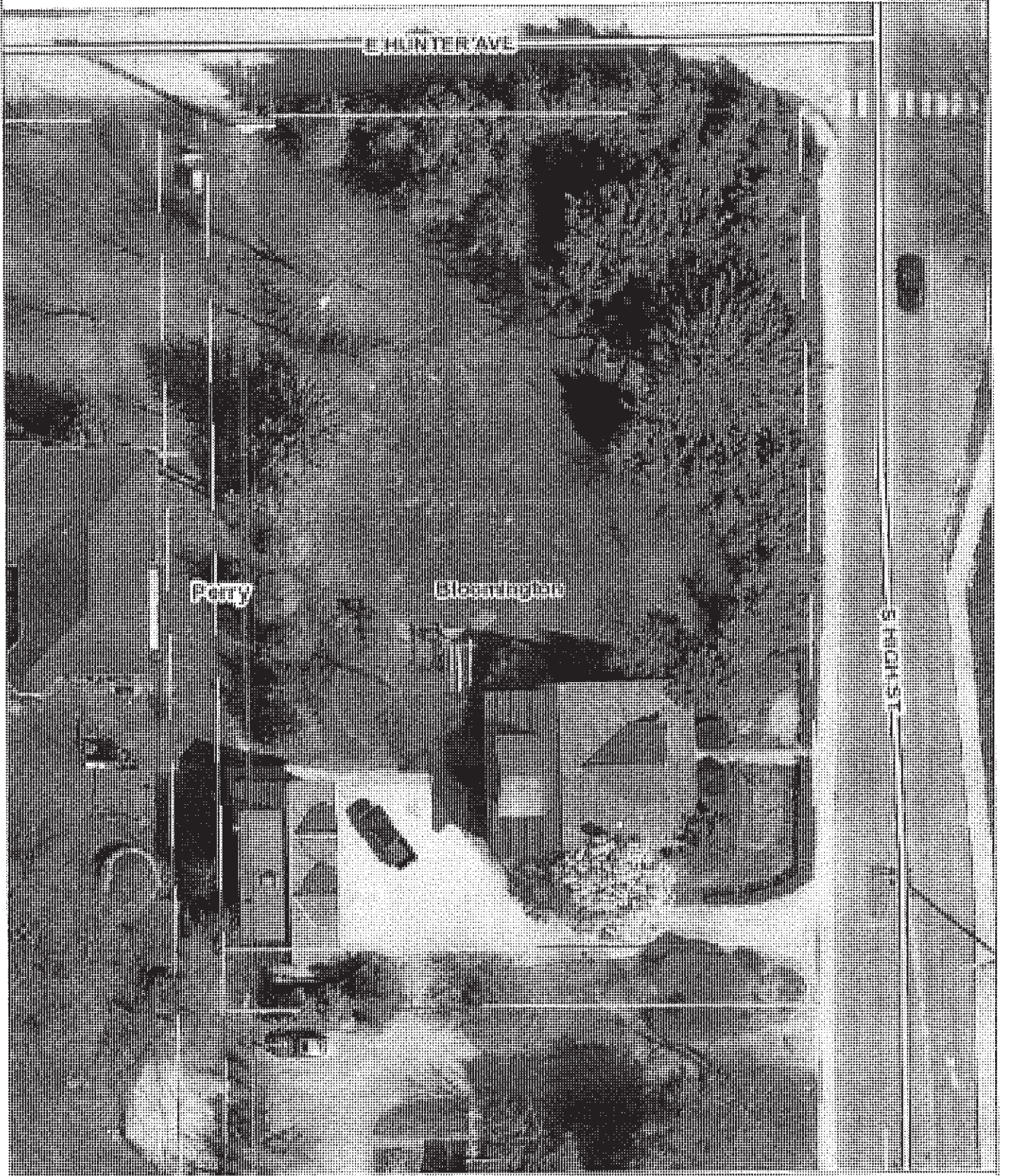
The maximum area for a detached ADU is 440 square feet of habitable space. Exclusive of the bath, interior stair, and closets (All closets have less than 7ft. ceilings.) the interior area is, coincidentally, 440 square feet. A floor plan drawn to scale is available for review.

The 440 square feet area includes two alcoves, each approximately 50 square feet. One alcove doesn't meet Indiana's Residential Code for One and Two Family Dwellings (IRC304.2&3) minimum area of 70s.f. and minimum dimension of 7 ft. for a habitable room. The IRC grants a minimum size exception for a kitchen. If one of the alcoves is not included in the ADU maximum area, the total area would be 393 square feet.

Height: The roof ridge of the garage/ADU structure 18 feet 4" above grade

#### NEIGHBORHOOD MEETING

The property is located on the eastern edge of the Eastside Neighborhood Association.





View of House and Garage from High Street. Facing Northwest.