

# CITY OF BLOOMINGTON



November 19, 2020 @ 5:30 p.m.

Zoom Meeting:

<https://bloomington.zoom.us/j/92202399398?pwd=K1JYdjdlTDJlcDBwMWhudzFGQzgwQT09>

**CITY OF BLOOMINGTON  
BOARD OF ZONING APPEALS  
November 19, 2020 at 5:30 p.m.**

❖ **Virtual Meeting:**

<https://bloomington.zoom.us/j/92202399398?pwd=K1JYdjd1TDJlcDBwMWhudzFGQzgwQT09>

**ROLL CALL**

**APPROVAL OF MINUTES:** June 18, 2020

**REPORTS, RESOLUTIONS, AND COMMUNICATIONS:**

**PETITIONS CONTINUED TO December 17, 2020:**

CU/V-19-20    **Robert Iatarola**  
1504 W. Arlington Rd.  
Request: Conditional Use approval for a Home Occupation in the R2 zoning district. Also requested are variances to allow a Home Occupation to be located within an accessory structure and to allow deliveries (of pallets) to the property.  
*Case Manager: Ryan Robling*

**PETITIONS:**

AA-08-20    **The Annex Group**  
1100 N. Crescent Rd.  
Request: Administrative Appeal of decision to enforce fines from 1/13/20 through 1/23/20  
*Case Manager: Jackie Scanlan*

AA-17-20    **WDG Construction (Rob Tolle)**  
916 & 910 N. College Ave. and 913 N. Walnut St.  
Request: Administrative Appeal from a Notice of Violation (NOV) issued by staff.  
*Case Manager: Jackie Scanlan*

V-24-20    **Catalent Indiana, LLC**  
1300 S. Patterson Dr.  
Request: Variance from fence height standards to allow the installation of a 6-foot high security fence with 7-foot columns.  
*Case Manager: Eric Greulich*

V-25-20    **Mark Hood and Christine Haack**  
2420 E. Maxwell Ln.  
Request: Variance from front yard building setback standards to allow for a front loaded garage.  
*Case Manager: Eric Greulich*

**\*\*Next Meeting: December 17, 2020**

*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](mailto:human.rights@bloomington.in.gov).*



V-26-20

**ACE 318, LLC (Cedarview Management)**

318 E. 3<sup>rd</sup> St.

Request: Variance to allow ground floor dwelling units to not be located 20 ft. behind the front building façade.

Case Manager: Ryan Robling

PETITIONS LOCATION MAP: <https://arcg.is/m9Tyy>

**\*\*Next Meeting: December 17, 2020**

*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](mailto:human.rights@bloomington.in.gov).*

**BLOOMINGTON BOARD OF ZONING APPEALS**  
**STAFF REPORT**  
**Location: 1100 N Crescent Road**

**CASE #: AA-08-20**  
**DATE: November 19, 2020**

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**PETITIONER:** WDG Construction Group Inc.  
5520 Kopetsky Drive Suite A Indianapolis, IN

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**REQUEST:** The petitioner is requesting an administrative appeal from a Notice of Violation issued by staff.

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**REPORT:** This appeal request is the result of issuance of a Notice of Violation related to environmental protection compliance at 1100 N Crescent Road. The property is located on the east side of N Crescent Road, south of Marquis Drive. This property is zoned Planned Unit Development (PUD). The properties to the north, east, and south are zoned Residential Medium Lot (R2). Property to the west across Crescent is zoned PUD and Mixed-Use Employment (ME). The violation is a result of missing compliance deadlines for environmental standards violations.

On December 30, 2019, a Notice of Violation was issued for the site listing three sections of *20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention]* that were being violated. Those sections are: *Tracking, Waste and Material*, and *Soil Stockpiles*. By re-inspection on January 6, 2020, the site was still non-compliant. A second NOV was sent on January 7, 2020 with a deadline for compliance of January 13, 2020. The violations were not remedied by the January 13<sup>th</sup> re-inspection. As a result, a third NOV was sent on January 13, 2020 listing the same three code references that were still being violated, as well as the addition of *Drain Inlet Protection*. Fines began to accrue on January 13, 2020, as the January 7, 2020 NOV stated would be the case if compliance was not achieved. The violation was not remedied until January 24, 2020.

The Department fined the site per BMC 20.10.040, which allows \$2500.00 per environmental violation per day. While the code allows each violation on each day to count as a separate fine, the Department fined a total of \$2,500.00 a day.

The owner has requested an appeal of the decision to enforce fines from January 13<sup>th</sup> through January 23<sup>rd</sup>. The site was out of compliance from at least December 13, 2019 when staff performed a requested occupancy inspection.

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**RECOMMENDATION:** Based on the findings in this report, the Department recommends denial of Case # AA-08-20.



**City of Bloomington**  
**Planning and Transportation Department**

December 30, 2019

Union at Crescent, LP  
 409 Massachusetts Ave.  
 Suite 300  
 Indianapolis, IN 46204

**Re: Notice of Violation (Warning)**  
 Violation of Environmental Standards – 1100 N. Crescent Drive (Union at Crescent)

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) Section 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention] at 1100 N. Crescent Drive. Records show that you are the owner of this property.

While on-site for occupancy inspections on 12/13/19 and 12/23/19 staff observed drives and parking areas throughout the construction site that were muddy. Staff did not observe any attempt to create crushed stone access drives or parking areas.

According to Unified Development Ordinance (UDO) **Section 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention];**

- (a)(4)(C) Tracking. Each site shall have crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Any sediment reaching a public or private street shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.
- (a)(4)(B) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of and shall be prevented from going off-site or into storm sewers.
- (a)(4)(J) Soil Stockpiles. All soil stockpile areas that remain inactive for seven days or more shall be seeded, covered, or protected by erosion control barriers.

In accordance with UDO Section 20.10, a violation of this nature may result in a two thousand five hundred dollar (\$2,500) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

**No fines have been issued at this time. You have the following options to remedy the situation by January 6, 2020 and avoid further enforcement.**

1. Create crushed stone streets and drives throughout the site where vehicles that leave the site may drive **AND;**
2. Create crushed stone on-site parking areas if construction vehicles will continue to park on the site **AND;**

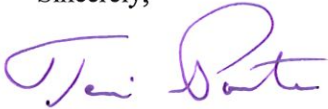
3. **Notify the City of Bloomington Planning and Transportation Department when the above criteria have been met so that an on-site inspection may be completed.**

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.09.350.

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

Please contact the City of Bloomington Planning and Transportation Department with any questions or concerns at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423.

Sincerely,



Terri Porter, AICP  
Director, Planning and Transportation

CC: Jackie Scanlan, AICP  
Scott Robinson, AICP





Figure 1: Semi-trailer parked in muddy drive.



Figure 2: Muddy access drive.





Figure 3: Muddy access drive.





Figure 4: Muddy access drive and parking area.





Figure 5: Muddy parking area. Subcontractors are improvising so that they do not unload tools/equipment into the mud.



Figure 6: Aggregate and evidence of concrete disposed of in a storm inlet.





Figure 7: Bucket was used to mix some kind of substance. The substance was not properly disposed of. The bucket was left uncovered to fill with rain water.



Figure 8: Unprotected stockpile that has been on site at least 10 days.





Figure 9: Tracking onto Oolitic.





Figure 10: Concrete washed out onto the ground.



Figure 11: Gas tank on site was not labeled.







**City of Bloomington**  
**Planning and Transportation Department**

January 7, 2020

Union at Crescent, LP  
 409 Massachusetts Ave.  
 Suite 300  
 Indianapolis, IN 46204

The Annex Group  
 409 Massachusetts Ave.  
 Suite 300  
 Indianapolis, IN 46204

**Re: Notice of Violation and Fines for Violation of Title 20 of the Bloomington Municipal Code**  
 Violation of Environmental Standards – 1100 N. Crescent Drive (Union at Crescent)

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) Section 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention] at 1100 N. Crescent Drive. Records show that you are the owner of this property.

On 12/30/2019, the responsible parties for this site received an NOV warning outlining environmental violations as well as steps to remedy these violations. The steps were not taken, including contacting the Planning and Transportation Department. On 1/6/2020 staff observed, during a re-inspection per an early NOV warning, Environmental Standards violations at 1100 N. Crescent Drive. The site remains non-compliant.

According to Unified Development Ordinance (UDO) **Section 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention];**

(a)(4)(C) Tracking. Each site shall have crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Any sediment reaching a public or private street shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.

- Figures 3, 5, 7, and 9 are examples of violations of this section. Jersey barriers have been used to keep vehicular traffic out of the worst of the mud, but the parking area and drives off of Oolitic are not compliant. As a result, tracking out onto Oolitic is still happening.

(a)(4)(B) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of and shall be prevented from going off-site or into storm sewers.

- Figures 1, 2, 6, and 10 are examples of violations of this section. Any construction-related garbage or debris should be disposed of properly, including any sand, mortar, or concrete. Additionally, there has been some kind of a spill on site that has a pink sheen to it; this is an immediate concern.

(a)(4)(J) Soil Stockpiles. All soil stockpile areas that remain inactive for seven days or more shall be seeded, covered, or protected by erosion control barriers.

- Figure 4 shows a large stock pile that has been on site, unchanged for at least the past 3 ½ weeks. This needs to be protected.

In accordance with UDO Section 20.10, a violation of this nature may result in a \$2,500 fine per violation. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

**No fines have been issued at this time. If the violations remain unresolved, fines will being to accrue daily on 01/13/2020 in accordance with above referenced UDO Section 20.10 [Enforcement and Penalties] until such a time as the violations are remedied. You have the following options to remedy the situation.**

1. Bring all erosion control measures into compliance by 1/13//20, **AND**;
2. Clean up or properly store all construction materials, **AND**;
3. Contact the Planning and Transportation Department for an inspection on or before 01/13/2020.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.09.350.

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

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,



Terri Porter, AICP  
Director, Planning and Transportation

Enclosure: (10)

CC: Jackie Scanlan, AICP  
Scott Robinson, AICP  
Mike Rouker, City Attorney





Figure 1: Improperly disposed of materials.





Figure 2: Improperly disposed of materials.





Figure 3: Muddy access drive.



Figure 4: Unprotected soil stockpile has remained for over 3 weeks at least.





Figure 5: Muddy parking area.





Figure 6: Improperly disposed of/contained materials immediately adjacent to a failing silt fence.





Figure 7: Tracking onto Oolitic.





Figure 8: Failed section of silt fence needs to be repaired or replaced.





Figure 9: Muddy construction entrance.



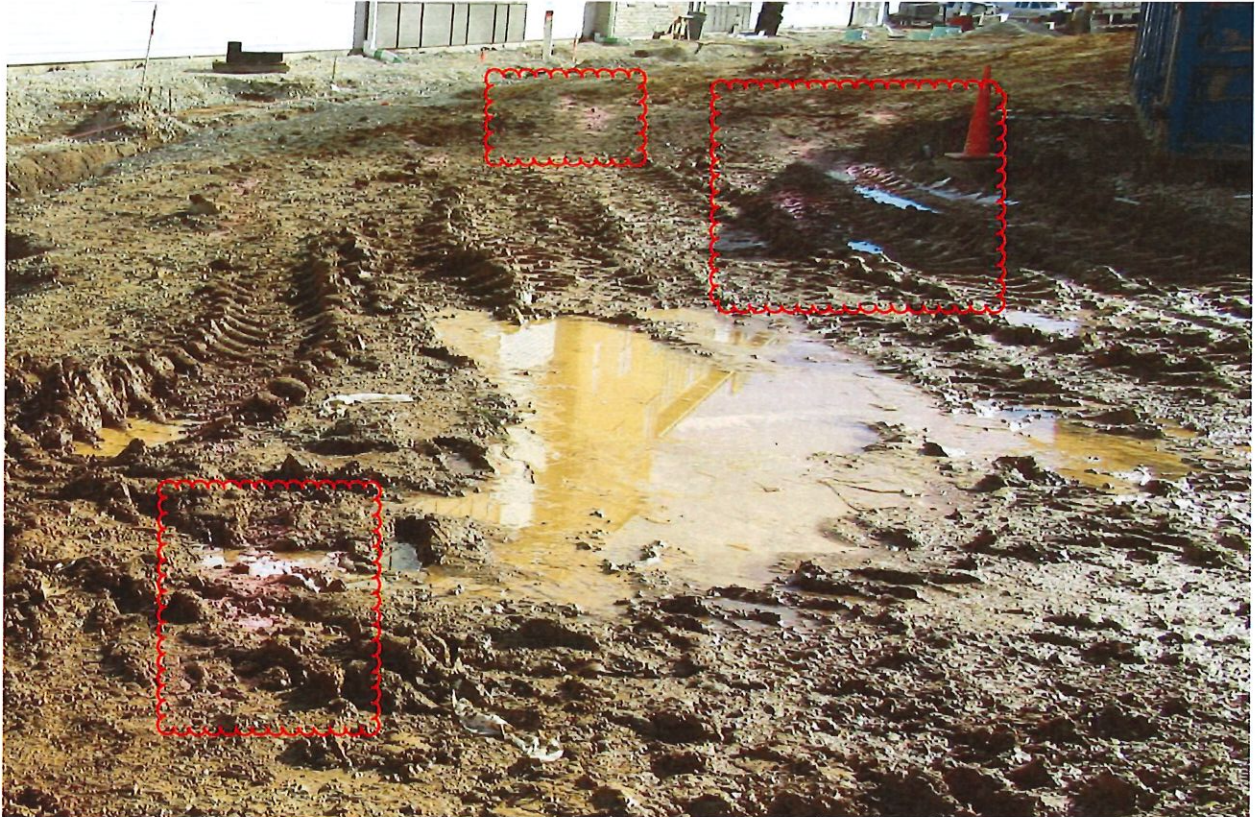


Figure 10: Improperly disposed of chemical of some kind is creating a pink sheen in the mud.



**City of Bloomington**  
**Planning and Transportation Department**

January 15, 2020

Union at Crescent, LP  
409 Massachusetts Ave.  
Suite 300  
Indianapolis, IN 46204

The Annex Group  
409 Massachusetts Ave.  
Suite 300  
Indianapolis, IN 46204

**Re: Notice of Violation and Fines for Violation of Title 20 of the Bloomington Municipal Code**  
Violation of Environmental Standards – 1100 N. Crescent Drive (Union at Crescent)

Dear Sir or Madam:

This letter serves as a Notice of Violation and Fines for a violation of 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention] of the Bloomington Municipal Code (“BMC”) at 1100 N. Crescent Drive. Records show you are the owner of this property.

On 12/30/2019, the responsible parties for this site received a NOV warning outlining environmental violations as well as steps to remedy these violations. The steps were not taken, including contacting the Planning and Transportation Department. On 1/6/2020 staff observed, during a re-inspection per an earlier NOV warning, Environmental Standards violations at 1100 N. Crescent Drive. A NOV was issued on 1/7/2020 stating that the site was still in violation of sections of 20.05.040. A deadline of 1/13/2020, by which the site must be compliant, was specified. Staff completed a re-inspection on 1/13/2020; the site remains non-compliant. Issues described below:

According to Unified Development Ordinance (UDO) **Section 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention];**

- (a)(4)(C) Tracking. Each site shall have crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Any sediment reaching a public or private street shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.
- Figures 1 - 8 are examples of violations of this section. Jersey barriers had been used to keep vehicular traffic out of the worst of the mud, but they have been moved to allow traffic through the site. The parking areas and drives off of both Oolitic and Crescent are not compliant. Tracking is occurring onto Crescent and Oolitic, even with a very small number of construction vehicles on the site.
- (a)(4)(B) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of and shall be prevented from going off-site or into storm sewers.



- Figures 9 - 15 are examples of violations of this section. Any construction-related garbage or debris should be disposed of properly. The paint cans and trays that were left in the rain are particularly concerning based on the toxic materials contained in paint. The opaque white fluid flowing from the dumpster area directly into the storm drains also must be addressed. The diesel fuel tank is not properly installed on site and does not have a spill kit nearby.
- (a)(4)(D) Drain Inlet Protection. All storm inlets shall be protected with best management practices (BMPs) meeting accepted design criteria, standards and specifications.
- Figures 16 – 20 are examples of storm drains that are not/have not been properly protected.
- (a)(4)(E) Sediment Control. Sediment shall be controlled and contained on-site and control measures shall prevent damage to existing vegetation or pavement.
- Figures 21 and 22 show the sediment control structure that has failed.

In accordance with UDO Section 20.10, a violation of this nature may result in a \$2,500 fine per violation. Each day a violation is allowed to continue is considered to be a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500). **As a result of these violations, pursuant to BMC Section 20.10.040, responsible parties are hereby assessed a fine of \$2,500 for 1/13/2020 for violations of BMC 20.05.040. The fine for 1/14/2020 is assessed at \$5,000, as fine amounts double each day until they reach \$7,500 per day.**

**If the violations remain unresolved, fines will continue to accrue daily in accordance with above referenced UDO Section 20.10 [Enforcement and Penalties] until such a time as the violation is remedied. You have the following options to remedy the situation:**

1. Bring all erosion control measures into compliance **AND**;
2. Clean up or properly store all construction materials, **AND**;
3. Contact the Planning and Transportation Department for an inspection once all violations have been remedied, no later than 1/17/2020.

You may appeal this Notice of Violation to the City of Bloomington Board of Zoning Appeals, provided that the appeal is in writing and is filed with the Board of Zoning Appeals no later than five (5) days from the date of this NOV. Fines levied for violation of this title may be contested in the Monroe County Circuit Court.

If the site is not brought into compliance and the assessed fine is not paid by 02/14/2020, the City of Bloomington ("City") reserves the right to initiate suit against you in the Monroe County Circuit Court in order to reduce the fines to a judgment.

Sincerely,



Terri Porter, AICP  
Director, Planning and Transportation

Enclosure: (22)

CC: Jackie Scanlan, AICP  
Scott Robinson, AICP  
Mike Rouker, City Attorney





Figure 1: Tracking of sediment onto Crescent Drive.



Figure 2: Tracking of sediment onto Oolitic Drive.





Figure 3: Muddy access drive.



Figure 4: Muddy access drive.





Figure 5: Muddy access drive.



Figure 6: Muddy parking area and drive.





Figure 7: Muddy access drive.



Figure 8: Muddy access drive.





Figure 9: Inappropriately disposed of construction material.



Figure 10: Inappropriately disposed of paint products. These items were left outdoors to collect rainwater.





Figure 11: Inappropriately disposed of construction materials.



Figure 12: Inappropriately disposed of construction materials.





Figure 13: Inappropriately stored fuel tank. This tank should not be sitting, on a slant, on a pallet. There was also no spill kit available.



Figure 14: Leaking/spilled fuel running down the sides of the fuel tank and collecting on the pallet.





Figure 15: Unknown opaque white liquid seeping from dumpster area directly into the storm drains.



Figure 16: Sediment erosion around the storm inlet is causing sediment to flow directly into the inlet.





Figure 17: Filter fabric is in place, but needs maintenance.





Figure 18: Sediment inside a storm inlet.



Figure 19: Unprotected storm inlets.



Figure 20: Sediment inside a storm inlet.





Figure 21: This measure to control sediment is not working; sediment has flowed through it and onto nearby vegetation/property.



Figure 22: The upper basin of the structure is full of sediment and not working effectively.





**City of Bloomington**  
**Planning and Transportation Department**

February 11, 2020

Union at Crescent, LP  
409 Massachusetts Ave.  
Suite 300  
Indianapolis, IN 46204

The Annex Group  
409 Massachusetts Ave.  
Suite 300  
Indianapolis, IN 46204

**Re: Notice of Violation and Fines for Violation of Title 20 of the Bloomington Municipal Code**  
Violation of Environmental Standards – 1100 N. Crescent Drive (Union at Crescent)

Dear Sir or Madam:

This letter serves as a Notice of Violation and Fines for a violation of 20.05.040 EN-03 [Environmental Standards: Siltation and Erosion Prevention] of the Bloomington Municipal Code (“BMC”) at 1100 N. Crescent Drive. Records show you are the owner or contractor of this property.

On 12/30/2019, the responsible parties for this site received an NOV warning outlining Environmental Standards violations as well as steps to remedy those violations. A deadline for compliance by 01/06/2020 was specified. No steps were taken to address the violations. On 1/6/2020, staff again observed Environmental Standards violations at 1100 N. Crescent Drive. An NOV was issued on 1/7/2020 stating that the site was still in violation of sections of 20.05.040. A deadline for compliance by 1/13/2020 was specified. Staff completed a re-inspection on 1/13/2020; the site was not in compliance. Staff re-inspected the site again on 01/23/2020 at the contractor’s request. Significant improvements were observed at the 01/23/2020 inspection, but the site was not in compliance. When staff completed a follow-up inspection on 01/24/2020, the site was in compliance.

The issues that persisted on the site from 01/13/2020 until compliance on 01/24/2020 are described below:

According to Unified Development Ordinance (UDO) **Section 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention]**;

- (a)(4)(C) Tracking. Each site shall have crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Any sediment reaching a public or private street shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.
- Figures 1 - 8 are examples of violations of this section. Jersey barriers were previously used to keep vehicular traffic out of the worst of the mud, but they had been moved to allow traffic through the site. The parking areas and drives off of both Oolitic and Crescent were not compliant. Tracking was occurring



onto Crescent and Oolitic, even with a very small number of construction vehicles on the site.

(a)(4)(B) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of and shall be prevented from going off-site or into storm sewers.

- Figures 9 - 15 are examples of violations of this section. Any construction-related garbage or debris should be disposed of properly. Paint cans and trays were left in the rain; opaque white fluid was flowing from the dumpster area directly into the storm drains; and the diesel fuel tank was not properly installed on site and did not have a spill kit nearby.

(a)(4)(D) Drain Inlet Protection. All storm inlets shall be protected with best management practices (BMPs) meeting accepted design criteria, standards and specifications.

- Figures 16 – 20 are examples of violations of this section. Storm drains were not properly protected.

(a)(4)(E) Sediment Control. Sediment shall be controlled and contained on-site and control measures shall prevent damage to existing vegetation or pavement.

- Figures 21 and 22 are examples of violations of this section. The sediment control structure failed.

Again, the items listed above have been corrected, but were left unaddressed from the extended completion deadline of 01/13/2020 through 01/23/2020.

In accordance with UDO Section 20.10, a violation of this nature may result in a \$2,500 fine per violation. Each day a violation is allowed to continue is considered to be a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500). **As a result of these violations, pursuant to BMC Section 20.10.040, responsible parties are hereby assessed a fine as outlined in the table below:**

<b>Date</b>	<b>Daily Fine for violations of Section 20.05.040 EN-03</b>
01/13/2020	\$2,500
01/14/2020	\$2,500
01/15/2020	\$2,500
01/16/2020	\$2,500
01/17/2020	\$2,500
01/18/2020	\$2,500
01/19/2020	\$2,500
01/20/2020	\$2,500
01/21/2020	\$2,500
01/22/2020	\$2,500
01/23/2020	\$2,500
<b>TOTAL</b>	<b>\$27,500</b>

In accordance with UDO Chapter 20.10, Union at Crescent, LP and/or The Annex Group are hereby assessed a civil penalty of \$27,500. Payment of the full amount of \$27,500 shall be made to City of Bloomington Planning and Transportation, 401 N. Morton Street, Suite 130, Bloomington, IN 47404 no later than 02/26/2020.

You may appeal this Notice of Violation to the City of Bloomington Board of Zoning Appeals, provided that the appeal is in writing and is filed with the Board of Zoning Appeals no later than five (5) days from the date of this NOV. Fines levied for violation of this title may be contested in the Monroe County Circuit Court.

If the assessed fine is not paid by 02/26/2020, the City of Bloomington ("City") reserves the right to initiate suit against you in the Monroe County Circuit Court in order to reduce the fines to a judgment.

Sincerely,



Terri Porter, AICP  
Director, Planning and Transportation

Enclosure: (22)

CC: Jackie Scanlan, AICP  
Scott Robinson, AICP  
Mike Rouker, City Attorney





Figure 1: Tracking of sediment onto Crescent Drive.



Figure 2: Tracking of sediment onto Oolitic Drive.





Figure 3: Muddy access drive.



Figure 4: Muddy access drive.





Figure 5: Muddy access drive.



Figure 6: Muddy parking area and drive.





Figure 7: Muddy access drive.



Figure 8: Muddy access drive.





Figure 9: Inappropriately disposed of construction material.



Figure 10: Inappropriately disposed of paint products. These items were left outdoors to collect rainwater.





Figure 11: Inappropriately disposed of construction materials.



Figure 12: Inappropriately disposed of construction materials.



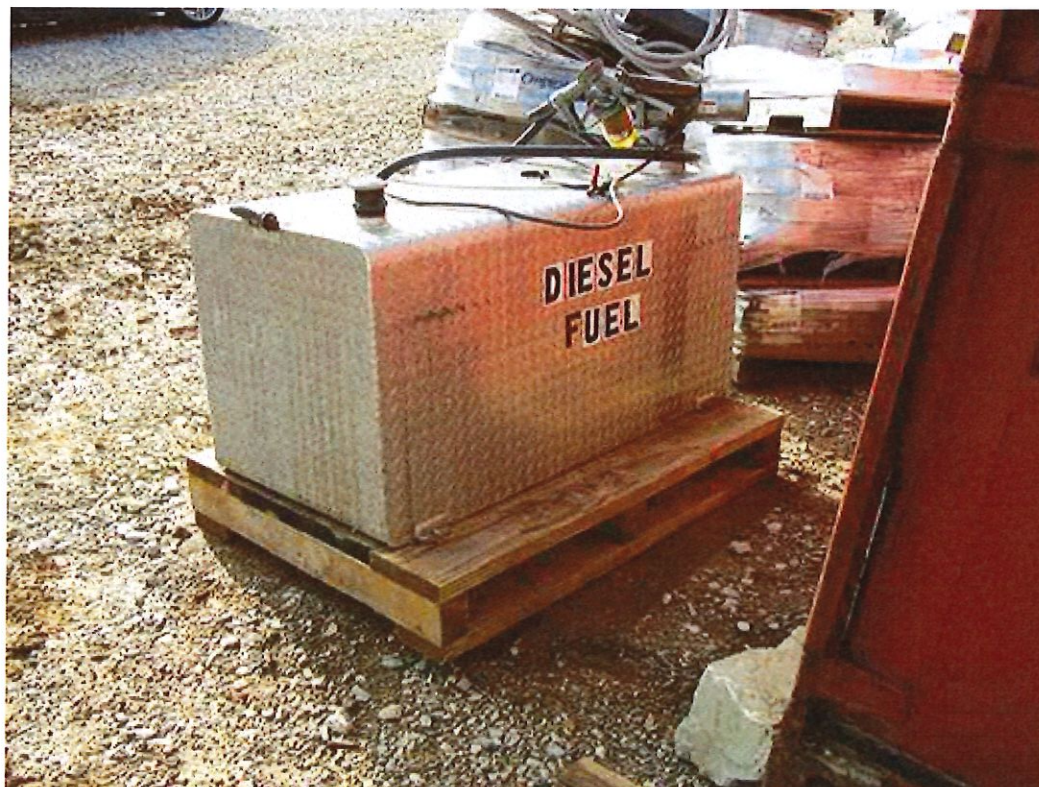


Figure 13: Inappropriately stored fuel tank. This tank should not be sitting, on a slant, on a pallet. There was also no spill kit available.



Figure 14: Leaking/spilled fuel running down the sides of the fuel tank and collecting on the pallet.





Figure 15: Unknown opaque white liquid seeping from dumpster area directly into the storm drains.



Figure 16: Sediment erosion around the storm inlet is causing sediment to flow directly into the inlet.





Figure 17: Filter fabric is in place, but needs maintenance.





Figure 18: Sediment inside a storm inlet.





Figure 19: Unprotected storm inlets.



Figure 20: Sediment inside a storm inlet.





Figure 21: This measure to control sediment is not working; sediment has flowed through it and onto nearby vegetation/property.

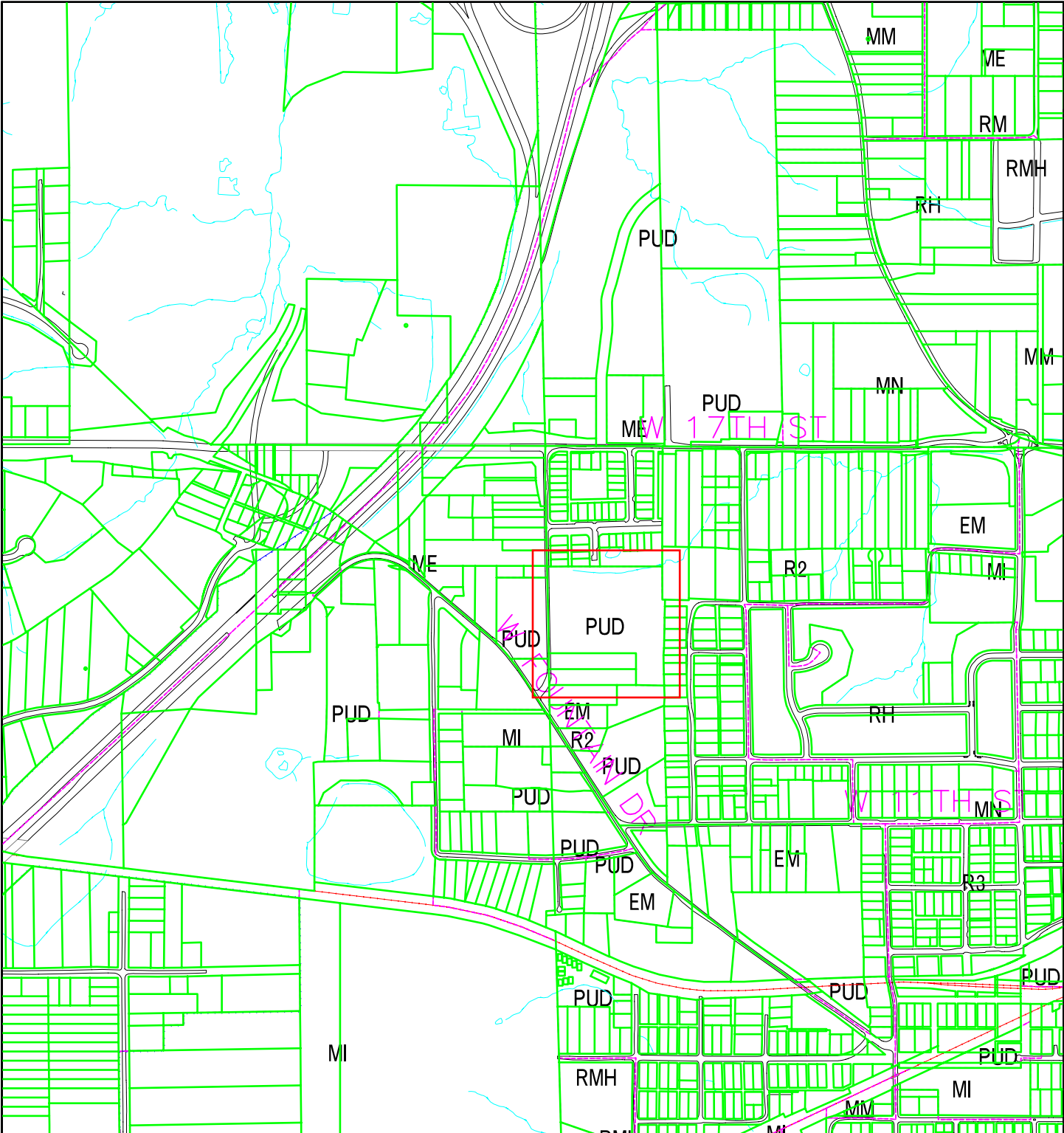


Figure 22: The upper basin of the structure is full of sediment and not working effectively.

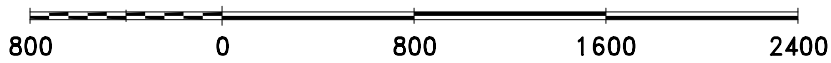




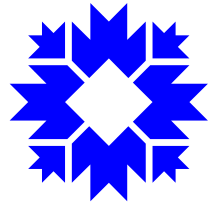




By: roblingr  
13 Nov 20



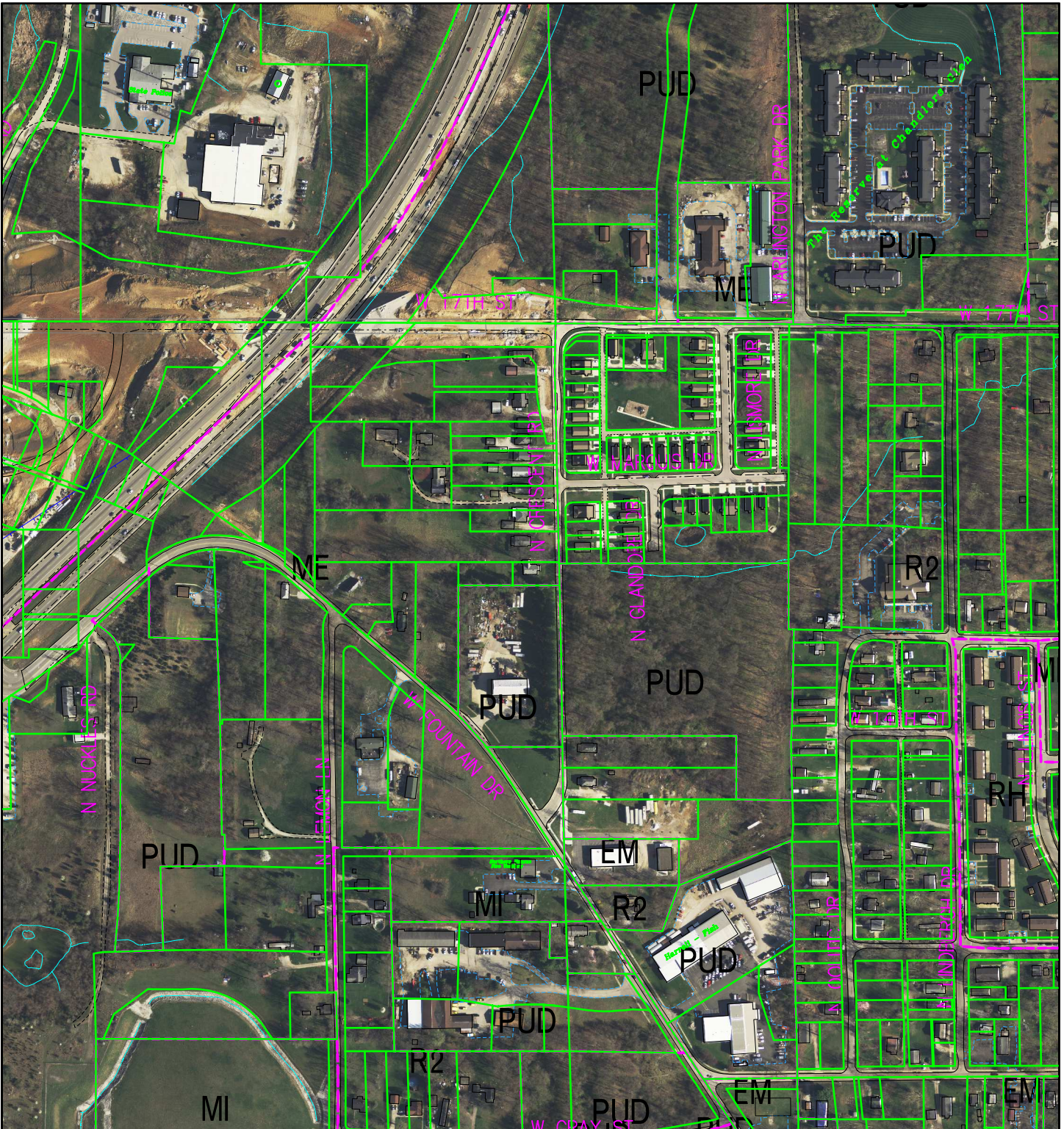
City of Bloomington  
Planning & Transportation



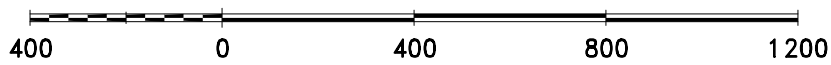
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For reference only; map information NOT warranted.

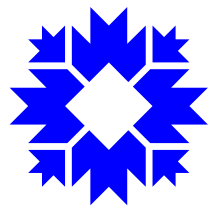




By: roblingr  
13 Nov 20



City of Bloomington  
Planning & Transportation



Scale: 1" = 400'

For reference only; map information NOT warranted.





February 14, 2020

Board of Zoning Appeals  
City of Bloomington, Indiana  
401 N Morton Street, Suite 130  
Bloomington, IN 47404

RE: Union of Crescent, LP **Appeal of Notice of Violation** and Fine: 1100 North Crescent Dr.,  
Bloomington, IN (“Project”)

Dear Members of the Board,

Union at Crescent, LP, is in receipt of various Notices of Violations from the Planning and Transportation Department dated December 30, 2019, January 15, 2020, and February 11, 2020 regarding non-compliance with UDO Section 20.05.040 EN-03 [Environmental Standards: Siltation and erosion prevention] at 1100 N. Crescent Drive (each a “Notice” and together “the Notices”). Each of the Notices are attached to this appeal.

We are writing to hereby respectfully appeal the decision to enforce daily fines in the amount of \$2500 starting on January 13, 2020, and extending through January 23, 2020. While we accept that there were violations spotted during Staff occupancy inspections on 12/13/19 and 12/23/19, the intent of levying fines against parties in this scenario is to promote remediation. Union at Crescent, LP, and its General Contractor, Annex Construction of Bloomington, LLC, began remediation shortly after the original notice dated December 30, 2019, and continued working on the remediation of the issues until January 24, 2020, when the Department of Planning and Transportation determined the site was back in compliance with the UDO. This fact is borne out by the photos attached to the various Notices which provide a picture of a site coming into compliance, albeit slower than desired.

In addition, the fines began to accrue on January 13, 2020, but the Notice of Violation AND FINE received in our office is not dated until January 15, 2020, some 2 days later. It would be our contention, respectfully, that at the very least 3-days of fines should be removed (Jan 13 – Jan 15) as Notice of such was not even received in our office until late afternoon of January 16, 2020.



OFFICE: 409 MASSACHUSETTS AVE., SUITE 300, INDIANAPOLIS, INDIANA 46204

PHONE: 317.584.8442

WEBSITE: WWW.THEANNEXGRP.COM




February 14, 2020

Page 2

For these reasons we respectfully appeal the decision to enforce a fine totaling \$27,500 as stated in the Notice dated February 11 and at the very least an amount equal to three days of fines should be removed from the total (\$2500\*3) such that the total amount of fines is \$20,000.

Respectfully,



Christopher J Lukeart  
CSO + General Counsel



**BLOOMINGTON BOARD OF ZONING APPEALS  
STAFF REPORT****CASE #: AA-17-20  
DATE: November 19, 2020****Location: 910 & 916 N. College Avenue / 913 N. Walnut Street**

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**PETITIONER:** WDG Construction Group Inc.  
5520 Kopetsky Drive Suite A Indianapolis, IN

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**REQUEST:** The petitioner is requesting an administrative appeal from a Notice of Violation issued by staff.

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**REPORT:** This appeal request is the result of issuance of a Notice of Violation related to environmental protection compliance and non-compliance with a Certificate of Zoning Compliance at 910 & 916 N. College Avenue and 913 N. Walnut Street. The College Avenue properties are located on the east side of College between 14<sup>th</sup> Street and the Indiana Railroad tracks. The Walnut Street property is adjacent to the College Avenue properties on the west side of Walnut, just north of the Indiana Railroad tracks. This property is zoned Mixed-Use Medium (MM). Surrounding properties to the west, north, and east are also zoned MM. Property immediately to the south is also MM, with the Downtown zoning district beyond the railroad tracks. The violation is a result of missing compliance deadlines for environmental violations.

On May 29, 2020 a Notice of Violation was issued for the site listing three sections of *20.04.030(d) Environment – Siltation and Erosion Prevention* that were being violated. Those sections are: *Tracking; Drain Inlet Protection, and Sediment Control*. That violation was sent to WDG Construction Group Inc., as well as the registered property owner via U.S. Mail. Additionally, the NOV was emailed to two contacts from WDG Construction Group Inc. that were involved with the project. The violations were not remedied. As a result, a second NOV was sent on June 26, 2020 listing the same three code references that were still being violated, as well as the addition of *Waste and Material Disposal* and non-compliance with the grading permit (CZC #C19-153) because sidewalks were consistently being blocked in non-compliance with PROWAG standards. A compliance deadline of July 3, 2020 was given. This NOV was distributed to the responsible parties as defined by the BMC via U.S. Mail, as well as to four individuals who had been communicating with the Department on behalf of the project, two from WDG Construction and two from Goodman Contractors. The violation was not fully remedied until July 11, 2020.

Two additional NOVs were previously issued at the site for the same environmental violations. The first was issued on November 22, 2019 for violation of sections *Waste and Material, Tracking, Drain Inlet Protection, Sediment Control, and Inspection*. That NOV also contained two CZC violations. The second NOV was issued on January 7, 2020 for the same four violations that were subsequently listed in the June 26, 2020 NOV. Both previous NOVs were remedied.

To summarize, on (1) November 22, 2019, (2) January 7, 2020, (3) May 29, 2020, and (4) June 26, 2020, WDG was notified that it was not compliant with the UDO's standards on tracking and sediment control, and WDG was fully educated and informed about the requirements of the UDO.

Compliance was not achieved after the May 2020 NOV was issued, and the site remained in non-

compliance after the June 2020 NOV for seven days. The violations and their remedies listed in the May and June NOVs were not foreign to the petitioner, as they had been discussed previously, via direct contact and in two NOVs. Indeed the petitioner was repeatedly informed of the UDO's requirements related to tracking, inlet protection, and sediment control. The Department fined the site per BMC 20.06.100, which allows \$2,500.00 per environmental violation per day. While the code allows each violation on each day to count as a separate fine and allows fines to double up to a total amount of \$7,500 per day, the Department opted to only issue a total fine of \$2,500.00 per day.

The owner has requested an appeal of the City's Notice of Violation fine letter issued August 7, 2020 stipulating that they did not have enough time to come into compliance. The violations at the site were persistent and needed immediate attention. And, as demonstrated by the repeated communication between staff and the petitioner, the petitioner was informed of the UDO's standards for tracking, inlet protection, and sediment control on multiple occasions for a period of more than eight months preceding the issuance of the present fines. Petitioner's claim that the timing of the June NOV was "unfair" and staff afforded petitioner inadequate time to bring the site into compliance is disingenuous. Petitioner and its contractors were repeatedly educated on the UDO's requirements and nonetheless continued to flout them.

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**RECOMMENDATION:** Based on the findings in this report, the Department recommends denial of Case # AA-17-20.





**City of Bloomington**  
**Planning and Transportation Department**

November 22, 2019

Goodman Construction  
403 W. Main St.  
Worthington, IN 47471

WDG Construction Group  
5520 Kopetsky Dr.  
Bloomington, IN 46217

Re: **Notice of Violation (warning)**  
Environmental Standards

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with CZC C19-153 as well as with Unified Development Ordinance (UDO) Section 20.05.040 – EN-03 [Environmental Standards – Siltation and erosion prevention] at 910 and 916 N. College Avenue and 913 N. Walnut Street. Records show that you are the responsible parties for this property.

On 11/12/19 and 11/19/19 staff observed Environmental Standards violations at 910 and 916 N. College Avenue and 913 N. Walnut Street. On 11/19/19 staff contacted the responsible parties to inform them of the deficiencies and ask that an inspection be scheduled. On 11/21/19 the inspection was completed. The violations observed prior to the inspection were on-going at the time of the inspection.

According to Conditions 4 and 7 of Grading Permit C19-153;

4. An Erosion Control Plan complying with Bloomington Municipal Code 20.06.05.03 is required to be in place during the period of any earth disturbing activities, and until the site is stabilized. City inspectors may require erosion control measures in addition to or different from those approved on the Erosion Control Plan.
7. An onsite pre-construction meeting shall be held prior to any earth disturbing activities to inspect the installation of all erosion control measures as per approved plan. Please contact Liz Carter at (812) 349-3423 to schedule an onsite inspection. Please make the request 48 hours in advance.

According to Unified Development Ordinance (UDO) **Section 20.05.040- EN-03** [Environmental Standards – Siltation and erosion prevention];

(a)(4)(B) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of and shall be prevented from going off-site or into storm sewers.

(a)(4)(C) Tracking. Each site shall have crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Any sediment reaching a public or private street shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.

(a)(4)(D) Drain Inlet Protection. All storm inlets shall be protected with best management practices (BMPs) meeting accepted design criteria, standards and specifications.

(a)(4)(E) Sediment Control. Sediment shall be controlled and contained on-site and control measures shall prevent damage to existing vegetation or pavement.

(a)(4)(G) Inspection. All erosion control measures shall be installed by the developer, and inspected and approved by the planning and transportation department before land-disturbing activity may take place. Developers shall follow their self monitoring inspection program throughout construction as outlined in Bloomington Municipal Code [Section 10.21.070](#).

In accordance with UDO Section 20.10, a violation of this nature may result in a \$2,500.00 fine for each environmental violation. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

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

1. Bring all erosion control measures into compliance by 11/27/2019.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.09.350.

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

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,



Scott Robinson, AICP  
Assistant Director, Planning and Transportation

Enclosure: (5)

CC: Terri Porter, AICP  
Jackie Scanlan, AICP





*Figure 1: Improperly disposed of construction materials.*





*Figure 2: Improperly disposed of construction materials.*





Figure 3: Tracking and unprotected storm drain inlet.





Figure 4: Improperly disposed of construction materials.





Figure 5: Sediment tracking, College Avenue.







**City of Bloomington**  
**Planning and Transportation Department**

January 7, 2020

Goodman Construction  
403 W. Main St.  
Worthington, IN 47471

14<sup>th</sup> Street Partners LLC  
5520 Kopetsky Drive  
Indianapolis, IN 46217

**Re: Notice of Violation of Title 20 of the Bloomington Municipal Code**

Property located at 910 and 916 N. College Avenue & 913 N. Walnut Street, Bloomington, IN  
Environmental Standards

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) Section 20 Section 20.05.040 – EN-03 [Environmental Standards – Siltation and erosion prevention] at 910 and 916 N. College Avenue and 913 N. Walnut Street. Records show that you are responsible parties for this property.

On 11/22/2019, you received an NOV warning letter listing deficiencies on site. These deficiencies had been addressed at the time of the re-inspection on 11/27/2019. However, the site has returned to a state of non-compliance. On 1/3/2020 staff again observed Environmental Standards violations at 910 and 916 N. College Avenue and 913 N. Walnut Street.

According to Unified Development Ordinance (UDO) **Section 20.05.040- EN-03 [Environmental Standards – Siltation and erosion prevention]**;

(a)(4)(B) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of and shall be prevented from going off-site or into storm sewers.

- Figures 3, 4, and 7 are examples of violations of this section. Any construction-related garbage or debris should be disposed of properly, including any sand, mortar, or concrete.

(a)(4)(C) Tracking. Each site shall have crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Any sediment reaching a public or private street shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.

- Figures 2 and 8 are examples of violations of this section. The construction drive should be installed per the plans and maintained in such a manner as

to prevent tracking into N. College Ave. Vehicles are also to be parked on crushed stone surfaces if they are to be parked on site.

(a)(4)(E) Sediment Control. Sediment shall be controlled and contained on-site and control measures shall prevent damage to existing vegetation or pavement.

- Figures 1, 2, 5, 6, and 8 are examples of sediment not being controlled on site. Any failing portions of silt fence are to be repaired or replaced. Alongside the east/west alley, where it intersects N. Walnut, there are portions of earth that were meant to be stabilized; they have been driven upon by equipment and are no long stabilized. There is sediment from this site collecting in the parking lot of a neighboring business, 933 N. Walnut St.

In accordance with UDO Section 20.10, a violation of this nature may result in a \$2,500 fine per violation. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

**No fines have been issued at this time. If the violations remain unresolved, fines will being to accrue daily on 01/10/2020 in accordance with above referenced UDO Section 20.10 [Enforcement and Penalties] until such a time as the violations are remedied. You have the following options to remedy the situation:**

1. Bring all erosion control measures into compliance by 01/10/2020, **AND**;
2. Contact the Planning and Transportation Department for an inspection on or before 01/10/2020.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.09.350.

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

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,

Terri Porter, AICP  
Director, Planning and Transportation

Enclosure: (8)

CC: Scott Robinson, AICP

Jackie Scanlan, AICP

Mike Rouker, City Attorney





Figure 1: Improperly installed silt fence.





Figure 2: Mud tracked onto the sidewalk and into the street.





*Figure 3: Improperly contained/disposed of construction materials.*





Figure 4: Improperly disposed of construction materials.





*Figure 5: Sediment washed onto neighboring property.*





*Figure 6: Disturbed area not properly stabilized.*





*Figure 7: Improperly disposed of construction materials.*





*Figure 8: Construction drive is muddy and causing tracking out onto College.*





**City of Bloomington**  
**Planning and Transportation Department**

May 29, 2020

14<sup>th</sup> Street Partners, LLC  
5520 Kopetsky Dr.  
Bloomington, IN 46217

WDG Construction Group  
5520 Kopetsky Dr.  
Bloomington, IN 46217

**Re: Notice of Violation (warning)**  
Environmental Standards

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) Section 20.04.030 (d) Environment: Siltation and erosion prevention at 910 and 916 N. College Avenue and 913 N. Walnut Street. Records show that you are the responsible parties for this property.

On 5/21/2020 staff observed Environmental Standards violations at 910 and 916 N. College Avenue and 913 N. Walnut Street. Previous violations for this property were issued on 11/22/2019 and 1/7/2020.

**The Unified Development Ordinance (UDO) was recently updated; the code references in this letter are reflective of the current UDO, which was adopted April 18, 2020.**

According to the Unified Development Ordinance (UDO) **Section 20.04.030 (d)** Environment - Siltation and Erosion Prevention;

(3)(D) Tracking. Each site shall have sediment control devices or crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Such areas shall be maintained at sufficient size and thickness throughout the duration of the construction activity on site. Any sediment that leaves the site is a violation of this UDO.

- Figures 1, 2, 6, and 7 are examples of violations of this section. Sediment in the road should be cleaned up and construction entrances maintained so that no sediment is tracked into the roadway.

(3)(E) Drain Inlet Protection. All storm inlets shall be protected with best management practices meeting accepted design criteria, standards and specifications.

- Figure 7 is an example of a violation of this section. This inlet should be protected.

(3)(F) Sediment Control. Sediment shall be controlled and contained on site, and control measures shall prevent damage to existing vegetation or pavement.

- Figures 3, 4, and 5 are examples of violations of this section. The control measures, or silt fence, should be properly maintained. Any measures that have fallen into disrepair should be immediately repaired or replaced.

In accordance with UDO Section 20.06, a violation of this nature may result in a \$2,500.00 fine for each environmental violation. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

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

1. Bring all erosion control measures into compliance by 6/5/2020 **AND**;
2. Contact the Planning and Transportation Department for an inspection on or before 6/5/2020.

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

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

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,



Elizabeth Carter  
Senior Zoning Compliance Planner, Planning and Transportation

Enclosure: (7)

CC: Terri Porter, AICP  
Scott Robinson, AICP  
Jackie Scanlan, AICP





Figure 1: Tracking of sediment onto N. College Ave.



*Figure 2: Tracking of sediment onto N. College Ave.*





Figure 3: Silt fence collapsed and sediment tracked onto sidewalk.



*Figure 4: Silt fence collapsed and sediment tracked onto sidewalk.*





Figure 5: Silt fence failed; tracking onto the sidewalk.



Figure 6: Tracking onto 14th St.





*Figure 7: Tracking onto N. Walnut St and inlet without protection.*



**City of Bloomington**  
**Planning and Transportation Department**

June 26, 2020

14<sup>th</sup> Street Partners, LLC  
 5520 Kopetsky Dr.  
 Indianapolis, IN 46217

WDG Construction Group  
 5520 Kopetsky Dr.  
 Indianapolis, IN 46217

Goodman Construction  
 403 W. Main St.  
 Worthington, IN 47471

**Re: Notice of Violation**

Environmental Standards; Failure to Comply with CZC

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) Section 20.04.030 (d) Environment: Siltation and erosion prevention as well as CZC C19-153 at 910 and 916 N. College Avenue and 913 N. Walnut Street. Records show that you are the responsible parties for this property.

On 5/21/2020, 6/8/2020, and 6/18/2020 staff observed Environmental Standards violations at 910 and 916 N. College Avenue and 913 N. Walnut Street. Previous violations for this property were issued on 5/29/2020, 11/22/2019, and 1/7/2020.

On Friday, June 19<sup>th</sup>, 2020 extremely unsafe conditions were created by crews onsite who were utilizing a large lift for painting. The lift extended over half way into the northbound travel lanes of Walnut Street just north of the rail trestle. There were no pre-warning signs, and no maintenance of traffic, to the extent that northbound vehicles in the westernmost lane of Walnut were having to quickly brake and change lanes to avoid hitting the lift. Numerous close calls were observed by staff before the crew was able to move the lift out of the traffic lane.

Additionally, staff have received complaints and observed violations concerning use of right-of-way over the past couple of months. These issues include:

- City staff received complaints from the public regarding the sidewalk being closed numerous times. These closures were in place without approval from City staff or the Board of Public Works and did not comply with MUTCD guidelines
- City staff observed sidewalks being closed due to construction equipment and impassable due to temporary patches from utility installations not being maintained. These closures were not requested/applied for by the developer/contractor or approved by City staff or the Board of Public Works. The closures did not comply with MUTCD guidelines which created unsafe situations for the public



- City staff observed lane closures on N. Walnut St. The closures were not requested/applied for by the developer/contractor or approved by City staff or the Board of Public Works. The lane closures city staff observed did not comply with MUTCD guidelines making unsafe situations for the public.

According to the Unified Development Ordinance (UDO) **Section 20.04.030 (d)** Environment - Siltation and Erosion Prevention;

(3)(D) Tracking. Each site shall have sediment control devices or crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Such areas shall be maintained at sufficient size and thickness throughout the duration of the construction activity on site. Any sediment that leaves the site is a violation of this UDO.

- Figures 1, 6, 7, and 8 are examples of violations of this section. Sediment in the road or on the sidewalk should be cleaned up and construction entrances maintained so that no sediment is tracked into the roadway.

(3)(E) Drain Inlet Protection. All storm inlets shall be protected with best management practices meeting accepted design criteria, standards and specifications.

- Figure 6 is an example of a violation of this section. This inlet should be protected.

(3)(F) Sediment Control. Sediment shall be controlled and contained on site, and control measures shall prevent damage to existing vegetation or pavement.

- Figures 2, 3, 4, and 5 are examples of violations of this section. The control measures, or silt fence, should be properly maintained. Any measures that have fallen into disrepair should be immediately repaired or replaced.

(3)(C) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of in facilities labeled and designed for the containment of those materials while minimizing air, soil, and water pollution to the maximum degree practicable.

- Figures 6 and 7 are examples of concrete waste being disposed of inappropriately.

Condition #1 of the grading permit CZC (C19-153) issued for this site states;

Project will comply with all current ADA (Americans with Disabilities Act) requirements and anything in the public right-of-way must comply with the proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-way (PROWAG).

- Figure 2 shows a sidewalk patch that is not ADA or PROWAG-compliant. Figure 9 shows a non-compliant sidewalk panel.

In accordance with UDO Section 20.06, a violation of this nature may result in a \$2,500.00 fine for each environmental violation and a \$250 fine for each failure to comply with CZC violation. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent

violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

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

1. Bring all erosion control measures into compliance by 7/3/2020 **AND**;
2. Bring all portions of the right-of-way into compliance with City, State, and Federal standards by 7/3/2020 **AND**;
3. Contact the Planning and Transportation Department for an inspection on or before 7/3/2020.

**If the above remedies are not met, the Planning and Transportation Department may seek to stop work on the site until such time that it is in full compliance.**

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

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

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,



Elizabeth Carter  
Senior Zoning Compliance Planner, Planning and Transportation

Enclosure: (9)

CC: Terri Porter, AICP  
Scott Robinson, AICP  
Jackie Scanlan, AICP





*Figure 1: Tracking of sediment onto sidewalk along N. College Ave.*



Figure 2: Silt fence collapsed along N. College Ave.





*Figure 3: Sediment in the tree plot along N. College Ave.*



*Figure 4: Silt fence collapsed; tracking onto the sidewalk.*





*Figure 5: Silt fence collapsed into 14<sup>th</sup> Street sidewalk.*



*Figure 6: Tracking and concrete going into N. Walnut St inlet without protection.*





*Figure 7: Concrete debris tracked into N. Walnut Street.*



Figure 8: Construction entrance not being maintained with clean crushed stone.





*Figure 9: Damaged sidewalk panel along Walnut Street.*



**City of Bloomington**  
**Planning and Transportation Department**

August 7, 2020

14<sup>th</sup> Street Partners, LLC  
5520 Kopetsky Dr.  
Indianapolis, IN 46217

WDG Construction Group  
5520 Kopetsky Dr.  
Indianapolis, IN 46217

Goodman Construction  
403 W. Main St.  
Worthington, IN 47471

Re: Notice of Violation and Fines for Violations of Titles 20 of the Bloomington Municipal Code  
Property located at 910 and 916 N. College Avenue and 913 N. Walnut Street,  
Bloomington, Indiana  
Environmental Standards

Dear Sir or Madam:

This letter serves as a Notice of Violation and Fines for a violation of 20.04.030 (d) [Development Standards & Incentives; Environment; Siltation and Erosion Prevention] of the Bloomington Municipal Code (“BMC”) at 910 and 916 N. College Avenue and 913 N. Walnut Street (“Property”). Records show you are the responsible parties for this property.

It has come to the attention of the City of Bloomington Planning and Transportation Department (“Department”) that violations of environmental standards occurred beginning on 5/21/2020. Pursuant to BMC Section 20.06.100 [Administration & Procedures; Enforcement and Penalties; Enforcement Procedures – Notices of Violation] a Notice of Violation warning letter dated 05/29/2020 and Notice of Violation letter dated 6/26/2020 were sent to the responsible parties establishing compliance deadlines. The violation remained unresolved.

As a result of this violation, pursuant to BMC Section 20.06.100 (d), 14<sup>th</sup> Street Partners, LLC is hereby assessed a fine of \$12,500 as outlined in the table below. Payment of the full amount of \$12,500 shall be made to City of Bloomington Planning and Transportation, 401 N. Morton St., Suite 130, Bloomington, IN 47404, no later than 08/21/2020.

Date	Fine
7/6/2020	\$2,500
7/7/2020	\$2,500
7/8/2020	\$2,500
7/9/2020	\$2,500
7/10/2020	\$2,500
<b>Total</b>	<b>\$12,500</b>



You may appeal this Notice of Violation to the City of Bloomington Board of Zoning Appeals, provided that the appeal is in writing and is filed with the Board of Zoning Appeals no later than five (5) days from the date of this NOV. Fines levied for violation of this title may be contested in the Monroe County Circuit Court.

If the assessed fine is not paid by 08/19/2020 the City of Bloomington ("City") reserves the right to initiate suit against you in the Monroe County Circuit Court in order to reduce the fines to a judgment.

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,



Elizabeth Carter  
Senior Zoning Compliance Planner, Planning and Transportation

Enclosure: (10)

CC: Terri Porter, AICP, Director, Planning and Transportation  
Mike Rouker, City Attorney  
Scott Robinson, AICP, Assistant Director, Planning and Transportation  
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation



Figure 1:7/6/2020 - Inlet north of the alley along Walnut Street not protected and with sediment/unknown substance flowing into it.





*Figure 2: 7/6/2020 - Inlet south of the alley along Walnut Street not protected and with sediment immediately adjacent.*



*Figure 3: 7/6/2020 - Stockpile not properly protected along Walnut Street. Sediment on the sidewalk. This area of the project has been exposed for longer than 14 days.*





*Figure 4: 7/6/2020 - Construction drive/alley that crosses the property.*



*Figure 5: 7/6/2020 - Sediment tracked into sidewalk and into the street. This area of the site has been exposed for longer than 14 days.*





*Figure 6: 7/6/2020 - Silt fence improperly installed along College Avenue.*



*Figure 7: 7/6/2020 - Silt fence not installed properly along College Avenue. Sediment is not being contained to the site and has been tracked into the sidewalk.*





*Figure 8: 7/6/2020 - Inlet along College Avenue has not been maintained/properly protected.*





Figure 9: 7/6/2020 - Silt fence along 14<sup>th</sup> Street not properly installed, not containing sediment to the site.





*Figure 10: 8/2/2020 – Barricades moved to block pedestrian path adjacent to North Walnut Street.*



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

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## Erosion Control Notice of Violation - Co-Live

---

**Liz Carter** <cartere@bloomington.in.gov>

Fri, May 29, 2020 at 4:10 PM

To: Brian Hurrle <brian.hurrle@wdgcg.com>, Chris Deckert <chris.deckert@wdgcg.com>

Cc: Jackie Scanlan <scanlanj@bloomington.in.gov>, Emily Venesky <emily.venesky@bloomington.in.gov>

Good afternoon, gentlemen.

Attached is a Notice of Violation (NOV) warning for the Co-Live site at 14th/College/Walnut. Per the NOV, please have the violations remedied and an inspection scheduled by June 5th. The NOV will go out in the mail on Monday.

Please let me know if you have any questions.

Thank you.

--

	<p><b>Liz Carter</b>          Senior Zoning Compliance Planner          Planning and Transportation Dept.          City of Bloomington, IN  <a href="mailto:cartere@bloomington.in.gov">cartere@bloomington.in.gov</a>          812-349-3423  <a href="http://bloomington.in.gov">bloomington.in.gov</a></p>
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 **Co-Live NOV warning 5.21.2020.pdf**  
10813K





Jacqueline Scanlan <scanlanj@bloomington.in.gov>

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## NOV for Erosion Control and ROW Violations at Co-Live

---

**Liz Carter** <cartere@bloomington.in.gov>

Fri, Jun 26, 2020 at 4:51 PM

To: Brian Hurrle <brian.hurrle@wdgcg.com>, Chris Deckert <chris.deckert@wdgcg.com>, derrick@goodmanconstruction.com, dwayne@goodmanconstruction.com


Cc: Jackie Scanlan <scanlanj@bloomington.in.gov>, Emily Venesky <emily.venesky@bloomington.in.gov>, Paul Kehrberg <kehrberp@bloomington.in.gov>, Sara Gomez <gomezs@bloomington.in.gov>

Good afternoon, everyone.

Attached is a Notice of Violation for the Co-Live site. It will be sent via US Mail to the responsible parties listed early next week.

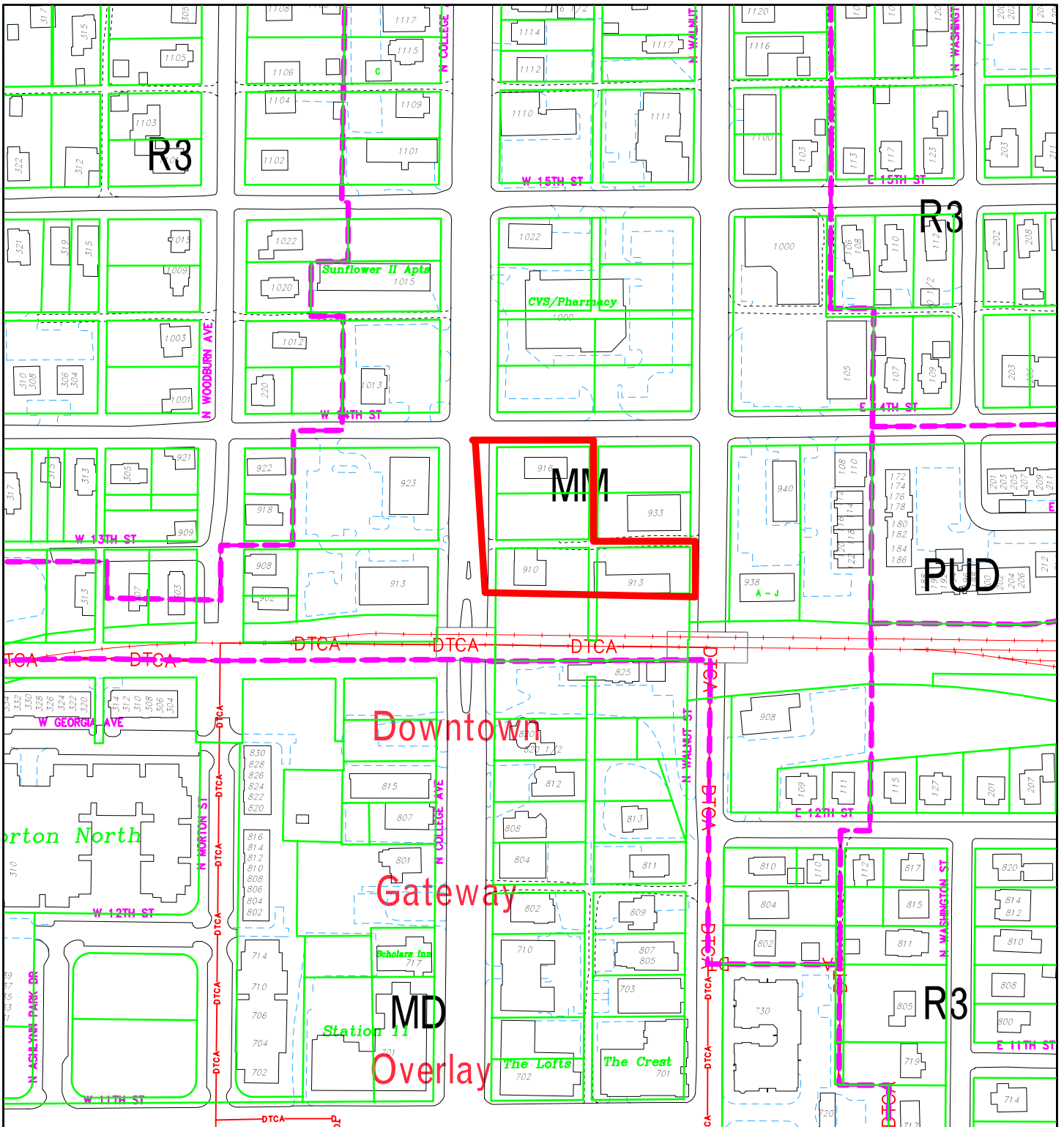
Thank you.

--

	<p><b>Liz Carter</b>          Senior Zoning Compliance Planner          Planning and Transportation Dept.          City of Bloomington, IN  <a href="mailto:cartere@bloomington.in.gov">cartere@bloomington.in.gov</a>          812-349-3423  <a href="http://bloomington.in.gov">bloomington.in.gov</a></p>
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 **Co-Live NOV 6.26.2020.pdf**  
798K



By: scanlanj  
13 Nov 20

200 0 200 400 600

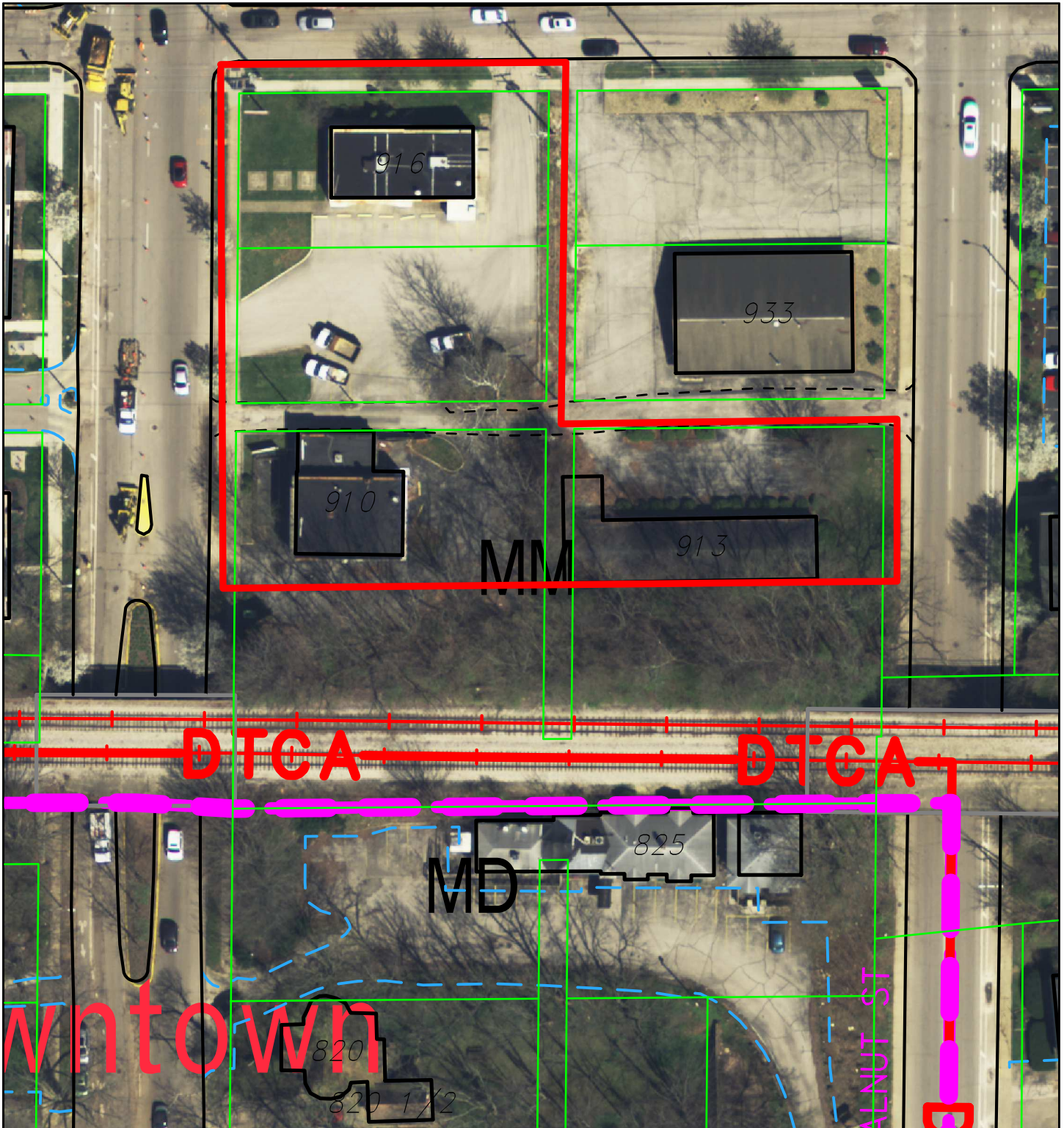
For reference only; map information NOT warranted.

City of Bloomington  
Planning & Transportation

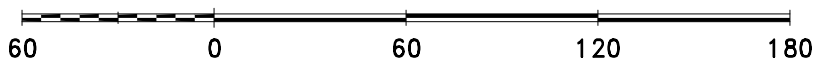
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Scale: 1" = 200'

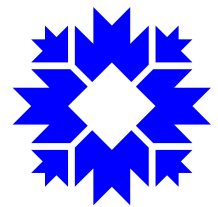




By: scanlanj  
13 Nov 20



City of Bloomington  
Planning & Transportation



Scale: 1" = 60'

For reference only; map information NOT warranted.



August 11, 2020

City of Bloomington  
Board of Zoning Appeals  
401 N Morton Street  
Bloomington IN 47404

Re: Notice of Violation and Fines for Violations of Titles 20 of the Bloomington Municipal Code Property Located at 910 and 916 N College Ave and 913 N Walnut Street, Bloomington, IN  
Environmental Standards

To the Board of Zoning Appeals,

We are in receipt of a letter dated August 7, 2020 for the City of Bloomington Planning and Transportation Department regarding a notice of fines for violations of 20.04.030(d). The letter indicates we received a notice of violation on 5/29/20 and 6/26/20. I am in possession of the letter dated 6/26/20.

I had previously communicated with Elizabeth Carter and Jackie Scanlan about this particular letter. In part, the letter dated June 26<sup>th</sup> was not received in our office until June 30<sup>th</sup> via mail. Our project manager on this project was traveling to another job site on June 29<sup>th</sup> and June 30<sup>th</sup>. Because the mail came late in the 30<sup>th</sup>, I spoke with our PM the next morning which was July 1<sup>st</sup>. Because we do not self-perform any work as a general contractor, we reached out to our site contractor, Goodman Construction, on 7/1 to get them to address these issues, particularly the silt fencing, the pile of soil along Walnut, and the protection on the inlets. Because of the when we received this and because it was so close to the July 4<sup>th</sup> holiday, they could not mobilize a crew until the week of July 6<sup>th</sup>. We were in communication with Elizabeth Carter and Jackie Scanlan and were working to remediate these issues as quickly as possible.

We find it unfair that due to the timing of when the letter was received via the US Postal Service, the timing being so close to the July 4<sup>th</sup> holiday, and the inability of the responsible subcontractor to mobilize in 2 days due to the amount of work they have going on that we would be fined so quickly. We moved as quickly as we could to get these items resolved.





We had all these addressed by end of day July 10<sup>th</sup>, and work was being performed on these items, particularly the silt fence starting on July 9<sup>th</sup>.

Because we began addressing these issues as quickly as possible based on the schedule of the responsible subcontractor, we do not feel these fines are justified and ask that they be removed in full.

Sincerely,



Rob Tolle

wdg Construction Group





**BLOOMINGTON BOARD OF ZONING APPEALS**  
**STAFF REPORT**  
**Location: 1300 S. Patterson Drive**

**CASE #: V-24-20**  
**DATE: November 19, 2020**

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**PETITIONER:** Catalent Indiana, LLC  
1300 S. Patterson Drive, Bloomington

**CONSULTANT:** Bledsoe, Riggert, Cooper, and James  
1043 Virginia Avenue, Indianapolis

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**REQUEST:** The petitioner is requesting a variance from fence height standards to allow the installation of a 6-foot high security fence with 7-foot columns.

---

**REPORT:** The property is located at 1300 S. Patterson Drive and is located on Tract B within the Thomson Area PUD. The site has public road frontage along three property lines- Strong Drive to the west, Allen Street to the north, and Patterson Drive to the east. The property has been developed with 2 large buildings that are at the far south of the property with a large surface parking area between the building and the 3 adjacent street frontages. The buildings were constructed as part of the Thomson/RCA manufacturing plant that was the former use on this site and were subsequently re-used by Cook Pharmica when they moved into the property in 2004 and now owned and used by Catalent. It should be noted Patterson Drive was constructed along this property's east frontage as part of the redevelopment of this building and was a former railroad line. In addition, Strong Drive was constructed as a public street in 2004 with the redevelopment of the adjacent property to the west by Best Beers (PUD-10-04). Surrounding land uses include a concrete production facility to the south, office uses to the east, an industrial warehouse to the west, and a mix of single and multi-family residences to the north.

As part of a recent government contract to start manufacturing a vaccine for the COVID-19 virus, the petitioner has been directed to secure the perimeter of their facility with a 6' tall fence. This is necessary for heightened security due to the sensitive nature of the work being conducted. It should be noted that due to a declared public health emergency, communities have been encouraged to allow more flexibility in local regulations in response to the global pandemic to promote public safety. To that end, during the pandemic and declared public health emergency, both local government agencies and state government agencies have been more relaxed in enforcing their regulations when it comes to matters that are directly related to the health emergency.

The petitioner is proposing a 6' tall fence, with 7' tall columns that will be spaced a minimum of 12' apart, around the perimeter of the property (including the area of parking between the building and the streets). The UDO prohibits fences that are taller than 4' forward of the front building wall of the primary structure. Since the property was previously developed with the building at the far south end of the property with a large parking area between the building and the surrounding street frontages, it is not possible for them to comply with the 4' tall fence allowance to install the recommended 6' tall fencing. The variance is for the frontage along Allen Street and Patterson Drive only since Strong Drive is considered a secondary front building wall and the 6' tall fence would be allowed along that frontage at the building setback line.



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**CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE**
**Fence height standards**
**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:** The granting of the variance to allow the fence to be 6' tall will greatly increase the security of the property to help with the production of a vaccine to address the global public health emergency. This directly promotes the public health, safety, and 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.*

**PROPOSED FINDING:** No adverse impacts to the use and value of surrounding properties as a result of the requested variance are found. The fence will be setback from Patterson Drive between 24' on the south side of the site to 40' on the north side of the site and will be setback 16'-24' from the sidewalk and therefore is not expected to have a negative effect on the adjacent area. In addition, the fence will have an open lattice design to decrease any visual impacts and increase pedestrian experience.

- 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.*

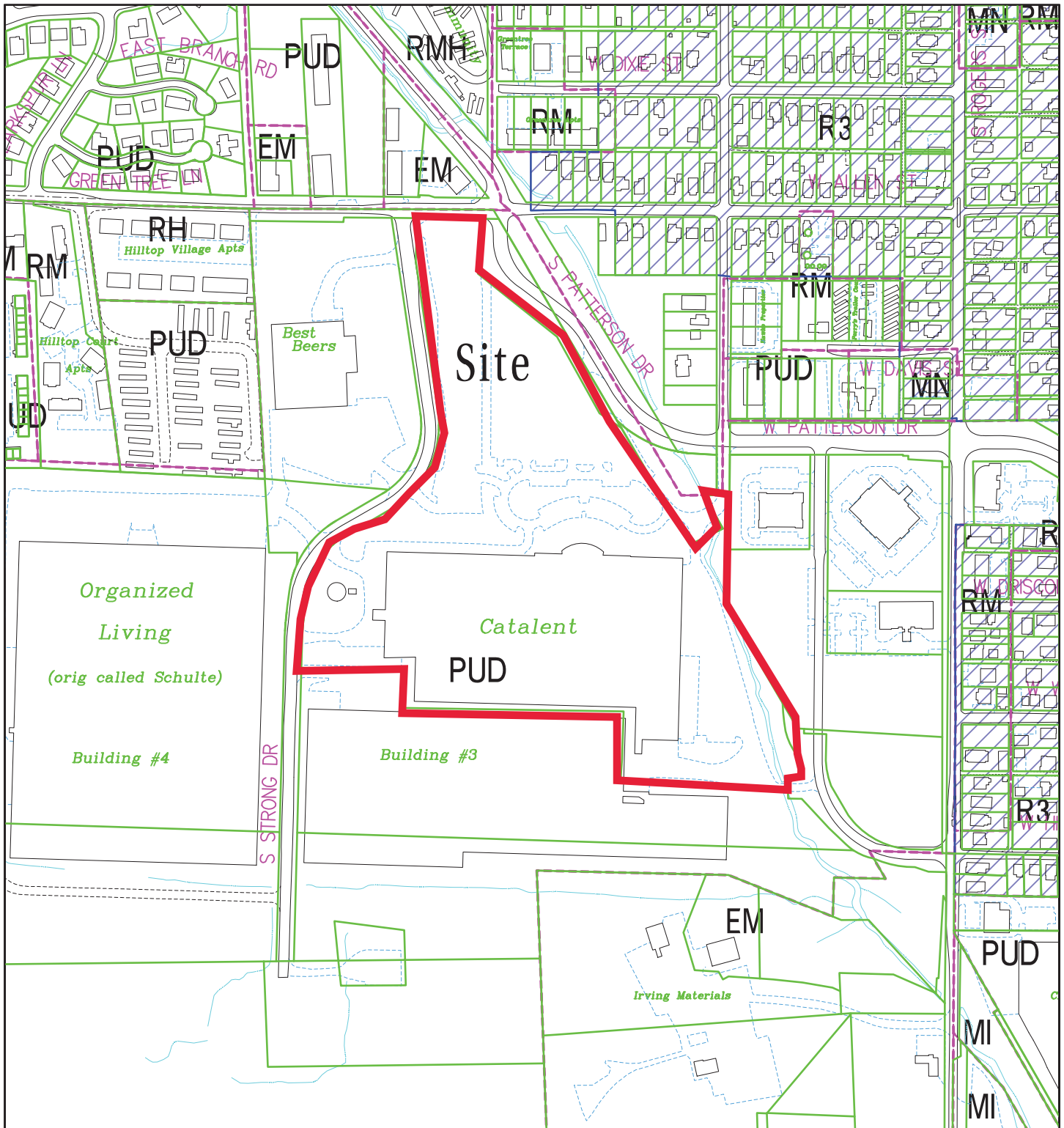
**PROPOSED FINDING:** The Department finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties of the use of the property because it would not allow the fencing needed to provide appropriate security for this property. The practical difficulties are peculiar condition to this property in that the site has street frontages along three property lines, the unique lot shape, and the location of the existing building and parking areas create difficulties with meeting the code in the use of the property. The granting of the development standards variance will allow the petitioner to meet the stated safety standards for this facility to address the public health emergency.

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**RECOMMENDATION:** The Department recommends that the Board of Zoning Appeals adopt the proposed findings and approve V-24-20 with the following condition:

1. The areas of the fence facing a public street must be landscaped with a minimum of 5 shrubs at each column.

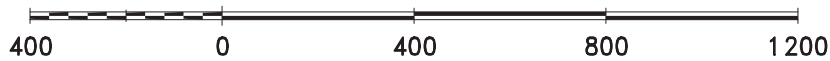




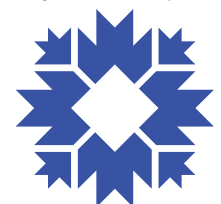
GIS Location map

By: greulice

13 Nov 20



City of Bloomington  
Planning & Transportation



Scale: 1" = 400'

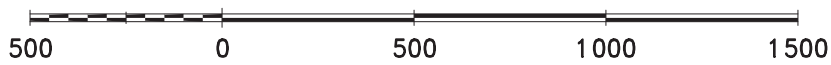
For reference only; map information NOT warranted.



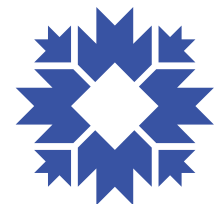


1998 Aerial Photograph

By: greulice  
13 Nov 20



City of Bloomington  
Planning & Transportation



Scale: 1" = 500'

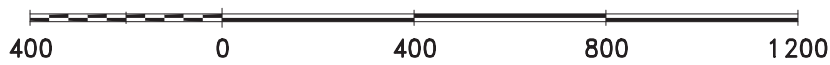
For reference only; map information NOT warranted.



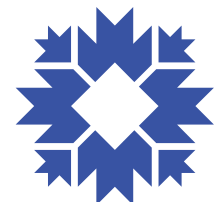


2016 Aerial Photograph

By: greulice  
13 Nov 20



City of Bloomington  
Planning & Transportation



Scale: 1" = 400'

For reference only; map information NOT warranted.



**Bledsoe Riggert Cooper James**  
LAND SURVEYING • CIVIL ENGINEERING • GIS

October 22, 2020

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

RE: City of Bloomington  
Catalent DP Expansion, 1300 S. Paterson Drive  
Variance from Development Standards & Incentives – Fences and Walls

Dear BZA Members:

On behalf of Catalent Biologics, we respectfully request your consideration of a variance from the Development Standards & Incentives Section 20.04.080(n), Fences and Walls of the Unified Development Ordinance (UDO) to allow for the installation of a six foot high perimeter security fence with seven foot high columns.

Catalent Biologics is the leading global provider of advanced delivery technologies, development, and manufacturing solutions for drugs, biologics, cell and gene therapies, and consumer health products. Catalent Biologics is part of Operation Warp Speed (OWS) a public-private partnership, initiated by the federal government to facilitate and accelerate the development, manufacturing, and distribution of COVID-19 vaccines.

Due to the nature of Catalent Biologics' operation and the consumer health products they process, it is essential that they are able to secure their entire campus. The UDO limits fences that are forward of the front building wall of the primary structure to a height of four feet. This limitation impacts the northern portion of the campus, including the frontages along Strong Drive, Allen Street, and Patterson Drive.

Per the U.S. Department of Health and Human Services, the Office of Security, Intelligence, and Information Management, and Operation Warp Speed, perimeter security fencing standards set the minimum fence height at six feet for facilities like Catalent Biologics.

Your positive consideration of this request is greatly appreciated.

Sincerely,



William S. Riggert, PE





William Riggert &lt;wriggert@brcjcivil.com&gt;

---

**FW: Memo request - for fence height per zoning**

1 message

---

**Ford, Brian** <Brian.Ford@catalent.com>  
To: William Riggert <wriggert@brcjcivil.com>  
Cc: "Abdelkader, Alissa" <Alissa.Abdelkader@catalent.com>

Thu, Oct 22, 2020 at 10:59 AM

Bill,

Below is an email from Arlene Joyner, Branch Chief from the Department of Health and Human Services. It outlines our requirement as part of Operation Warp Speed. Will this suffice for the variance request?

-Brian

---

**From:** Joyner, Arlene (OS/ASPR/BARDA) <Arlene.Joyner@hhs.gov>  
**Sent:** Wednesday, October 21, 2020 3:54 PM  
**To:** Abdelkader, Alissa <Alissa.Abdelkader@catalent.com>; Reed, Brian (OS/ASPR/SIIM) <Brian.Reed@hhs.gov>  
**Cc:** Ford, Brian <Brian.Ford@catalent.com>  
**Subject:** RE: Memo request - for fence height per zoning

**CAUTION: This email originated from outside the organization.  
Do not click or open attachments unless you recognize the sender.**

Hello Ali and Brian,

The email confirms that for security purposes, a perimeter fence intended to prevent human trespassing should not be less than 6 feet high with outriggers, and must be affixed firmly to posts not more than 6 feet apart. The ends must be staggered or fastened together, and the base wire should be picketed to the ground. Fence Fabric: Can be chain link, ornamental, welded wire mesh, or expanded metal.

This requirement is necessary to meet Operation Warp Speed security standards as indicated by Office of Security, Intelligence, and Information Management (SIIM) within the Office of Assistant Secretary for Preparedness and Response (ASPR) as part of Department of Health & Human Services (HHS).

Please let me know if you need additional information or clarification.

Regards,

Arlene

**Arlene Joyner, MS PMP CSSGB**

*Branch Chief CDMO Network*

*Pharmaceutical Countermeasures Infrastructure (PCI)*

*Biomedical Advanced Research and Development Authority (BARDA)*

*Office of the Assistant Secretary for Preparedness and Response (ASPR)*

*Department of Health and Human Services (HHS)*

*200 C Street, SW*

*Washington, DC 20024*

*Office Phone: 202-205-8691*

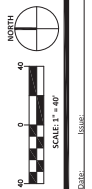
*Cell Phone: 301-938-4668*

*[Arlene.Joyner@hhs.gov](mailto:Arlene.Joyner@hhs.gov)*



Catalent Pharma Solutions e-mail is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you have received an e-mail in error, please notify the Catalent sender immediately and delete the original. Any other use of the e-mail by you is prohibited.





DATE: 04-22-2020  
CITY SITE PLAN REVIEW

REV. # REV. DESCRIPTION  
Issue Date

Drawn By: GRM  
Designed By: GRM & MSR  
Checked By: MSR

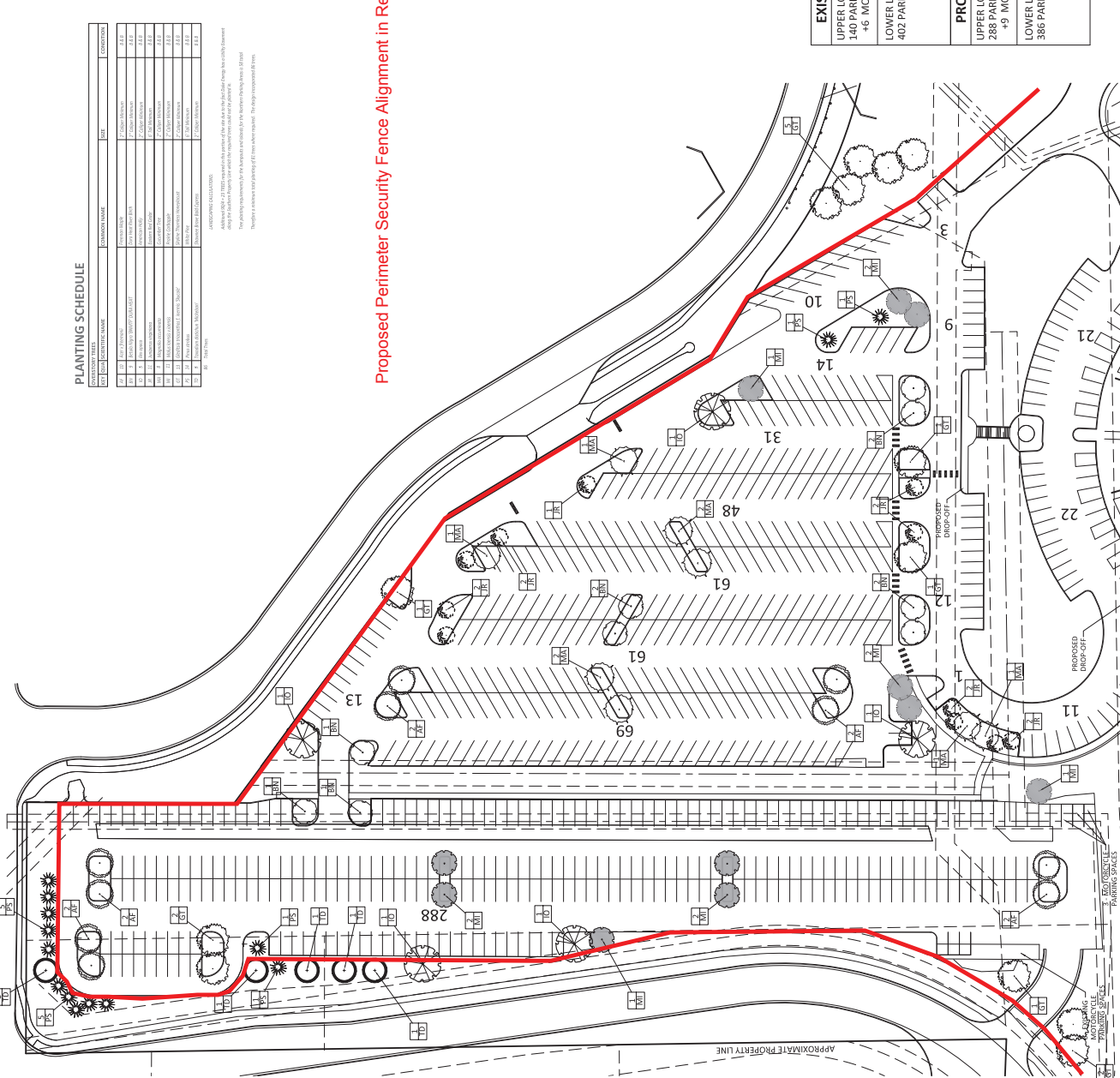
**GENERAL NOTES**

- A. THE CONTRACTOR SHALL LOCATE ALL UTILITIES AND OTHER UTILITIES, OR INFORMATION ON DRAWINGS PRIOR TO STARTING WORK AND SHALL PROTECT THEM BY SHIELDING THE PIPES BY THE CONCRETE AND CURBS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- B. THE CONTRACTOR SHALL SUPPLY ALL MATERIAL MATERIAL QUANTITIES AND CONDITIONS SUPPORTING TO COMPLETE THE PARKING ASSIGNMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- C. ALL PLANT MATERIAL SHALL BE CONFORM TO ANSI Z 60.2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- D. SPECIES AND SIZES INDICATED ON ANY SCHEDULE SHALL BE REPLACEMENT SPECIES AND SIZES UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- E. ALL PLANTING MATERIALS SHALL BE OBTAINED FROM THE SAME SOURCE AND SHALL BE REPLACEMENT SPECIES AND SIZES UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- F. ALL PLANTING MATERIALS SHALL BE OBTAINED FROM THE SAME SOURCE AND SHALL BE REPLACEMENT SPECIES AND SIZES UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- G. ALL PLANTING MATERIALS SHALL BE OBTAINED FROM THE SAME SOURCE AND SHALL BE REPLACEMENT SPECIES AND SIZES UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- H. ALL PLANTING MATERIALS SHALL BE OBTAINED FROM THE SAME SOURCE AND SHALL BE REPLACEMENT SPECIES AND SIZES UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.
- I. ALL PLANTING MATERIALS SHALL BE OBTAINED FROM THE SAME SOURCE AND SHALL BE REPLACEMENT SPECIES AND SIZES UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING WORK.

**LEGEND**

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**PROPOSED Perimeter Security Fence Alignment in Red**



**PLANTING SCHEDULE**

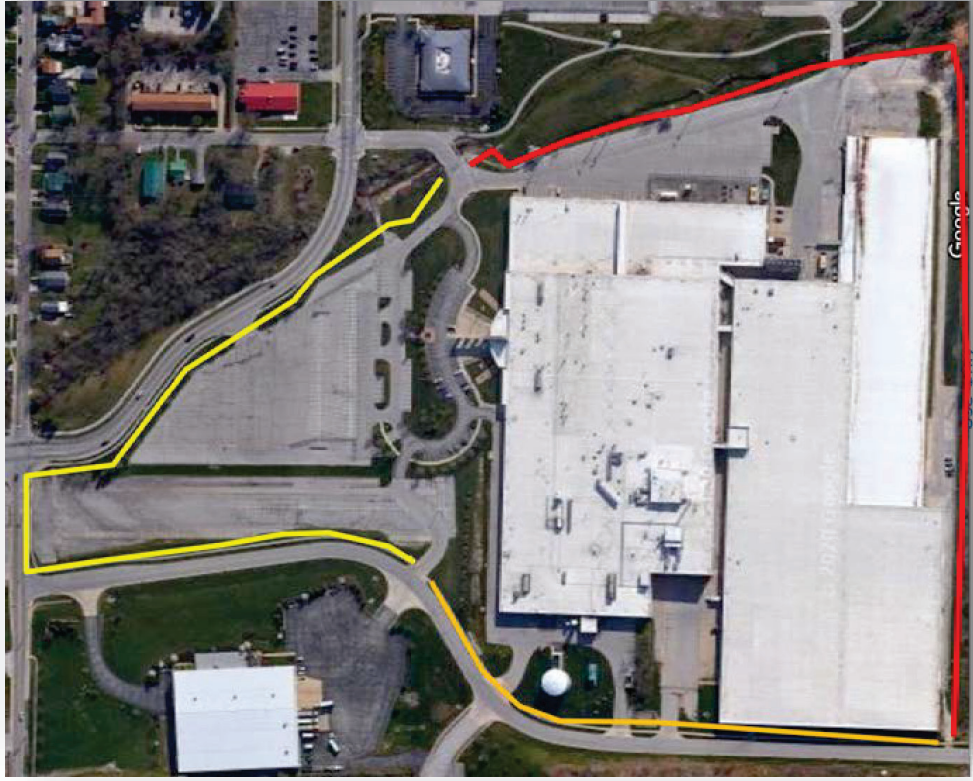
PLANT SPECIFIC NAME	QUANTITY	SIZE	COMMENTS
1	20	4"	...
2	15	4"	...
3	10	4"	...
4	10	4"	...
5	10	4"	...
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20	10	4"	...

**LANDSCAPE COLLECTION:**  
All plants are to be provided in the quantity and size indicated on the schedule. The plants are to be provided in the quantity and size indicated on the schedule. The plants are to be provided in the quantity and size indicated on the schedule. The plants are to be provided in the quantity and size indicated on the schedule. The plants are to be provided in the quantity and size indicated on the schedule.

# Overview



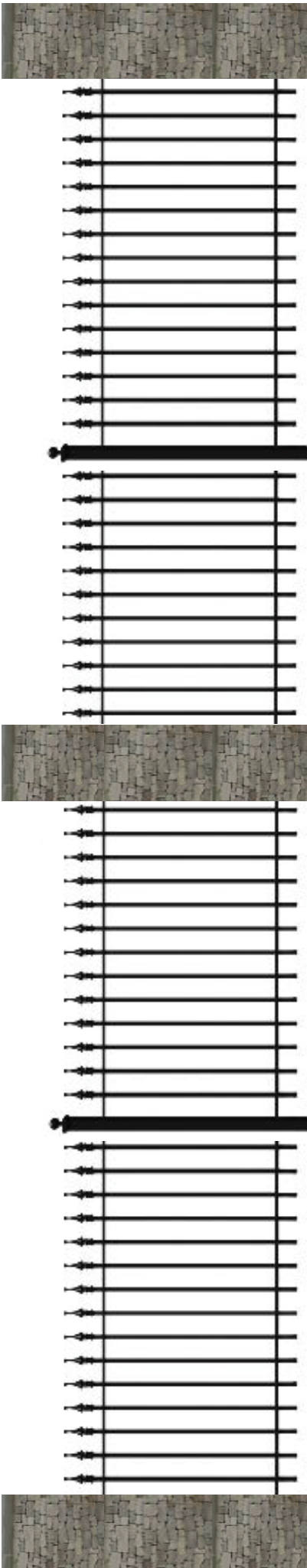
POE:  
Point of  
Entry



Existing Chain  
link  
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Ornamental  
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Ornamental  
steel Only



# Fence Section Concept



**BLOOMINGTON BOARD OF ZONING APPEALS**  
**STAFF REPORT**  
**Location: 2420 E. Maxwell Street**

**CASE #: V-25-20**  
**DATE: November 19, 2020**

**PETITIONER:** Mark Hood and Christine Haack  
 2420 E. Maxwell St, Bloomington

**REQUEST:** The petitioner is requesting a variance from front yard building setback standards to allow for a front loaded garage.

**REPORT:** This 0.78 acre property is zoned Residential Medium Lot (R2). The property has been developed with a single family residence and all surrounding land uses are single family detached dwelling units.

There is a carport on the east side of the house that faces Maxwell Street and extends approximately 15' forward of the house. The petitioner is proposing to enclose this space for an enclosed garage and extend the space an additional 2' closer to the road. The addition would meet the required 8' sideyard setback requirement, but not the front yard setback requirement.

The current UDO requires that attached front loaded garages must be setback 25' or equal to the setback of the primary structure, whichever is greater. Since the house is setback 50' from the property line, the front loaded garage would need to meet the 50' setback equal to the house. The existing building wall of the house is set back 15' from the front loaded garage and therefore the garage already encroaches into the required setback. The proposed addition is therefore not allowed since it increases the existing non-compliant setback.

The petitioner is requesting a variance from the front building setback requirements for a front loaded garage to allow the new garage to encroach an additional 2' further into the required setback.

**CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE**  
**Front Parking 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:** The granting of the variance to allow the proposed encroachment is not expected to be 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.*

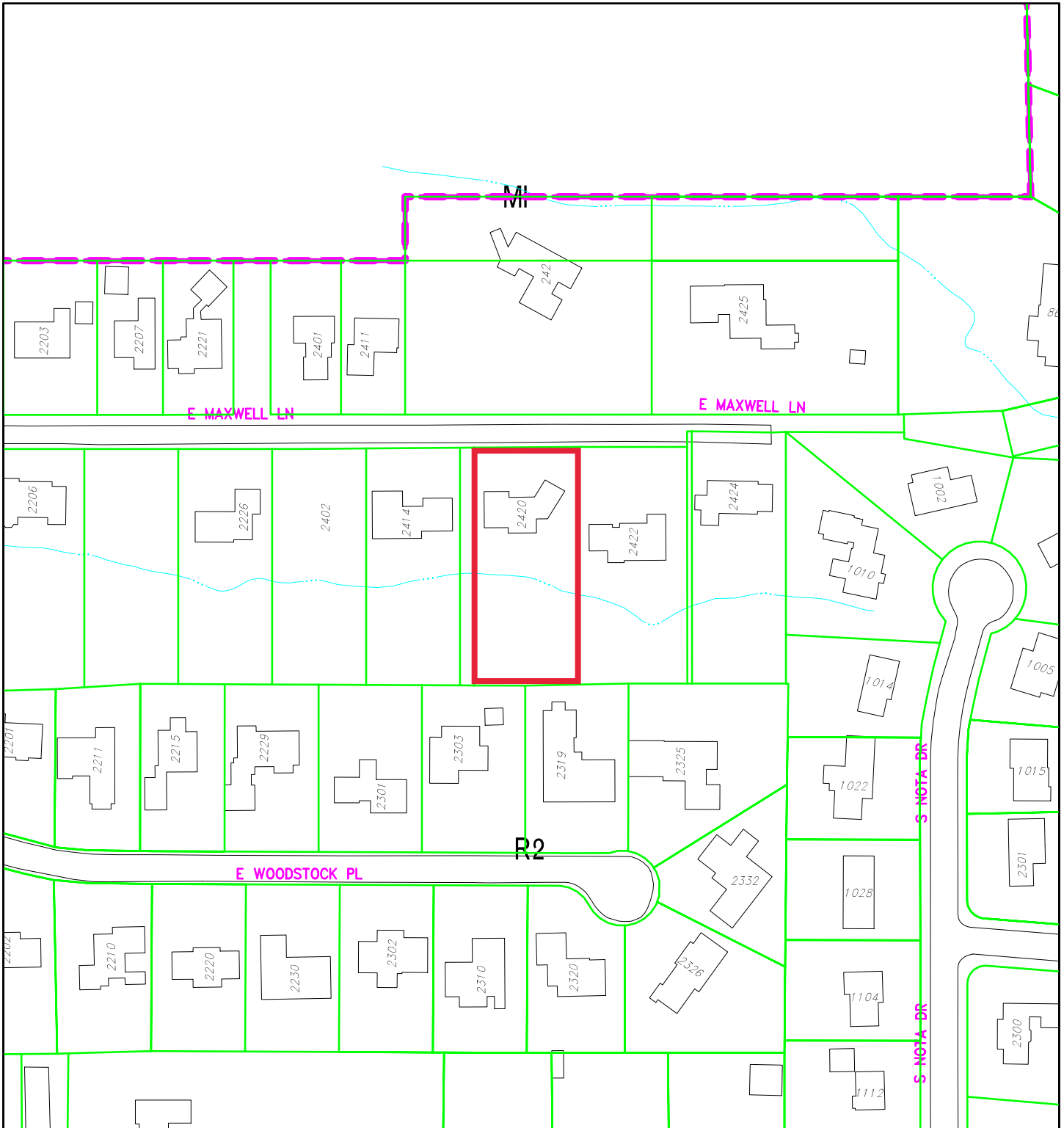
**PROPOSED FINDING:** The intent of this requirement was to not allow front loaded garages forward of the front building wall of the residence. The intent was to protect property values and provide a better appearance from the road and public right-of-way. The granting of the variance would allow a property to come further from compliance with possible negative impacts.

- 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.*

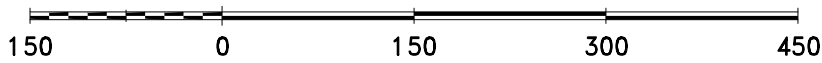
**PROPOSED FINDING:** The Department does not find any peculiar conditions about this property that result in practical difficulties with meeting the code in the use of the property. The property is more than four times the minimum lot size of this district and is 115' wide. The denial of this variance does not prevent the property from being used in a manner consistent with the UDO or surrounding uses. The intent of the regulation was to insure that front loaded garages did not extend closer to the street than the rest of the building and have an increased setback. The building is already not in compliance and the granting of the variance would result in the property getting further from compliance.

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**RECOMMENDATION:** The Department recommends that the Board of Zoning Appeals adopt the proposed findings and deny V-25-20.



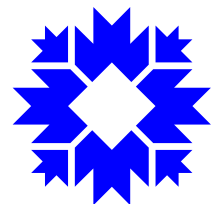
By: greulice  
13 Nov 20



For reference only; map information NOT warranted.

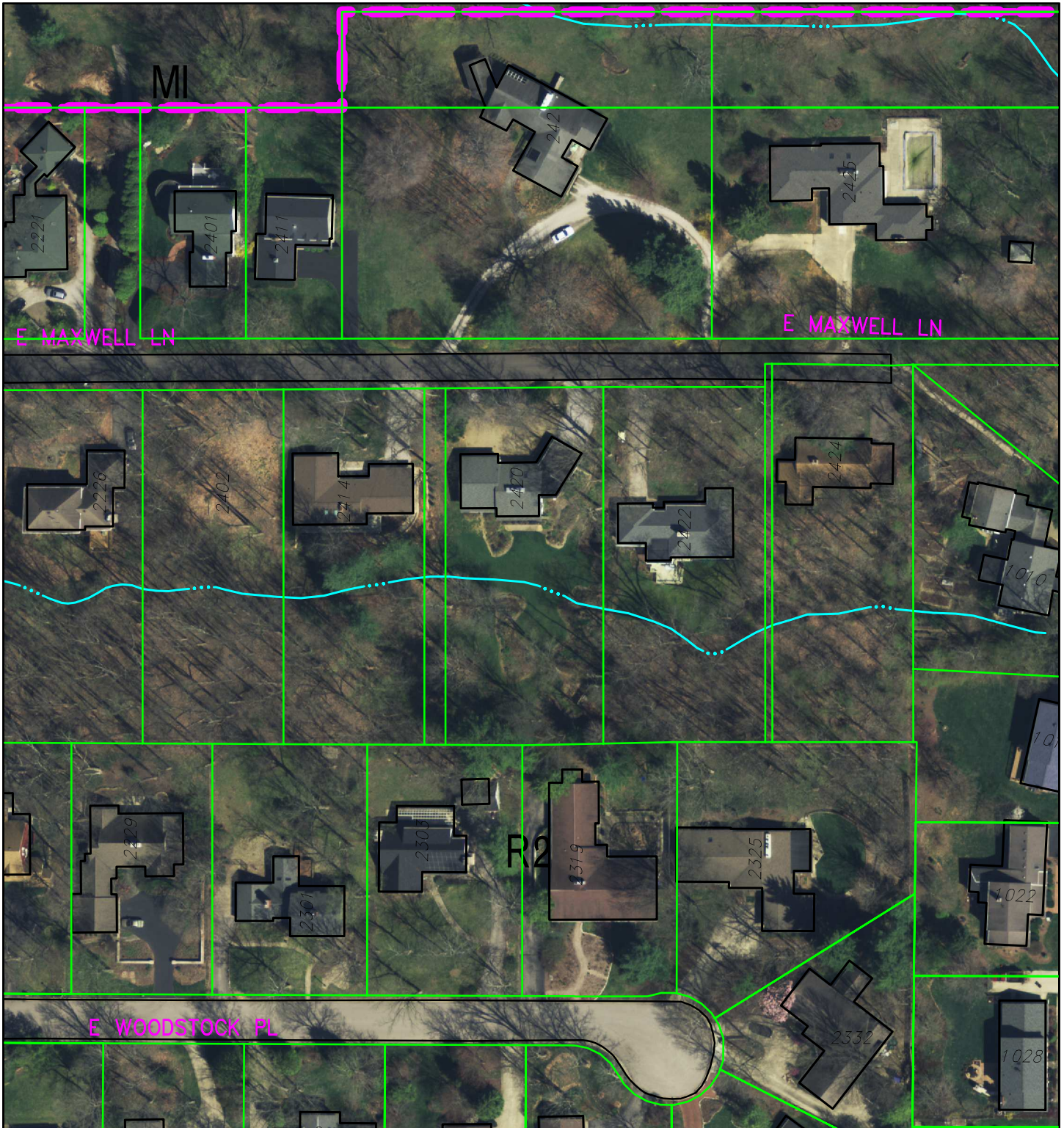


City of Bloomington  
Planning & Transportation



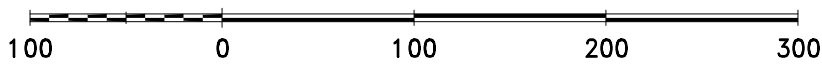
Scale: 1" = 150'



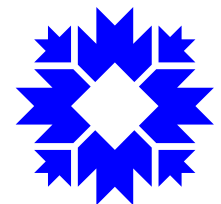


2016 Aerial Photograph

By: greulice  
13 Nov 20



City of Bloomington  
Planning & Transportation



Scale: 1" = 100'

For reference only; map information NOT warranted.



BZA Petitioners' Statement  
 2420 East Maxwell Lane  
 Mark Hood and Christine Haack



Our home is located at 2420 East Maxwell Lane in Bloomington, on the long dead-end block east of High Street. It is a mid-century modern style house, designed by noted Nashville architect A. Judson Rogers, a student of Frank Lloyd Wright, and built in 1953.



It features an original attached, partially-enclosed carport that angles forward from the front plane of the house at 60 degrees.

This seems to be a common characteristic element in houses of this historic style and period, and there are numerous examples of homes in our Covenanter Neighborhood that incorporate this non-rectangular, angled design geometry. Some examples are included in the Exhibits at the end of this petition.

We are zoned in an R2: Residential Medium Lot district.

We have developed renovation plans that include converting this carport to a slightly larger fully-enclosed garage. These plans call for extending the footprint of the current carport by approximately two feet to the northeast and four feet to the southeast.

Our goals for this design include increased home security, more storage and utility, improved accessibility options (a ramp) from the garage into the screened porch and house as we endeavor to age in place, improved "street-appeal" aesthetics and a better match to the prevailing "look" of our neighborhood (ours is currently the only house on our block that does not have an enclosed garage). We have employed the services of an architect to help us develop our plans to meet these goals while carefully preserving the unique style and character of the original design of the house and the surrounding neighborhood.



In preliminary conversations with the City Planning Department, the staff has informed us that they consider our existing carport to be “front-loading” in reference to the 2020 Unified Development Ordinance and hence already a non-compliant structure, as it extends further toward the front property line than the house proper (see Line D and Note 2 in the table below). Our plans therefore require a zoning variance application and appeal which they cannot support.

<b>Table 02-4: R2 District Dimensional Standards</b>		
<b>Lot Dimensions (Minimum, only for lots created after the effective date)</b>		
<b>A</b>	Lot area	7,200 square feet (0.165 acres)[1]
<b>B</b>	Lot width	60 feet [1]
<b>Building Setbacks (Minimum)</b>		
<b>C</b>	Front	15 feet or the median front setback of abutting residential structures, whichever is less.
<b>D</b>	Attached front-loading garage or carport	25 feet [2]
<b>E</b>	Side	First Floor: 8 feet Each story above the ground floor: 10 feet [1] [3]
<b>F</b>	Rear	25 feet [1]

**Notes:**

- [1] See Section 20.04.110 (Incentives) for alternative standards.
- [2] Or equal to the setback of the primary structure, whichever is greater.
- [3] Legally established lots of record that are less than the minimum lot width may reduce the required setback up to 2 feet.

Our appeal to the Planning Department and to the BZA is based on the following:

The term “front-loading” is not a defined term within the current UDO. Although it is used in Table 02-4 (page 20) and similar tables throughout the document that prescribe the setback requirements for an “attached front-loading garage or carport” in residential neighborhoods, the term “front-loading” is never specifically defined anywhere in the text of the document and does not appear among the hundreds of Defined Words found in Chapter 20:07.

The UDO does however provide several illustrations of attached garages (Figures 1 – 6 in Chapter 20.02.020). Without exception, these illustrations show only garage entrances that are parallel to the front property line and driveways that approach at a right angle from the street.



**Figure 3: Illustrative Scale and Character**

Absent any further clarification, it seems fair to infer that this is the definition of “front-loading” intended by the UDO: a perpendicular approach from the right of way to a garage entrance parallel to the street and front property line. No other orientation of an attached garage/carport is described, defined or depicted anywhere in the UDO.

We contend that the entrance to our garage/carport (angled 30 degrees south from a line parallel to the front property line) is not “front-loading” in the strict sense intended in the UDO.

We therefore request that the Planning Department and/or the BZA issue a finding that we are not out of compliance with the UDO or grant us a variance that would allow us to proceed with our renovations per the plans submitted.

We believe that the granting of this finding/variance would be consistent with a number of the goals and policies articulated in the 2018 Comprehensive Plan:

Goal 5.2 Housing Planning and Design: Guide growth, change, and preservation of residential and business areas through planning policies that create and sustain neighborhood character and green space, and that build a sense of community, civic involvement, and neighborhood pride.

Policy 5.2.3: In historic neighborhoods and districts, preserve or enhance authentic design characteristics, such as building form, by encouraging new or remodeled structures to be historically compatible with the neighborhood and adjacent structures. Design elements from the prevailing existing neighborhood fabric should be utilized in new building and renovation, even if the overall building design is more contemporary.

Policy 5.2.7: Encourage the addition of visitability and accessibility features, where practicable, and where not otherwise required, in all single family and multi-family residential new housing construction and modification.

Policy 5.3.2: Enable seniors to remain in their own homes to “age in place,” and consider locating a variety of housing options for seniors near gathering places such as the public library, parks, recreation or community centers, and other community resources.

Neighborhood Residential District – Background and Intent (page 87): The architectural building styles vary greatly within and between neighborhoods and/or subdivisions for this district. The wide range of architectural styles is a characteristic that should be maintained for this district.

There is a wide range of architecturally valid, historically significant attached garage orientations (30°, 60°, 90°, etc.) found throughout Bloomington neighborhoods that are not currently addressed in the UDO as it stands. We imagine that appropriate setbacks and other standards for these types of structures will be included in future amendments to the UDO so that preservation of examples of these unique design styles will be encouraged and maintained.



It might be useful to note that, despite not being referenced or defined anywhere in the UDO, “side-loading” attached garages (entrance oriented 90° from the front face of the main house) are routinely being approved by the Planning Department with the same minimum front setback as would apply to the main structure of the house (15 feet), even if the garage/carport extends much closer to the front property line than the rest of the house as a result.

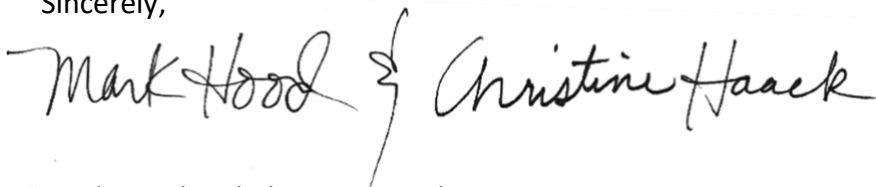
We believe our angled carport/garage has some of the same characteristics that may be considered attractive about 90° side-loading structures – reduction of the visual impact of the garage doors compared to 0° front-loading garages and the aesthetic illusion that the street-facing garage side wall is part of the house proper. Our proposed design for the garage renovation will enhance that illusion by adding windows that match the proportion and size of windows in the existing front faces of the main house. The proposed low-pitch, angled roofline will match well with many other houses of this era in our neighborhood.

We do not believe that the granting of a finding/variance in our particular situation would establish a misleading or ambiguous precedent for future zoning determinations or variances.

We have presented our plans to many of our neighbors on this block (particularly the abutters), and they are all supportive of our efforts and feel that this project would impact property values and neighborhood aesthetics in a positive way.

We respectfully request your consideration of this appeal for a finding and/or variance as described above.

Sincerely,

Handwritten signatures of Mark Hood and Christine Haack, joined by a large curly brace.

Mark Hood and Christine Haack  
October 21, 2020

## Exhibits



Current view of the house, photo taken from Maxwell Lane facing due South. Carport is on the left side (flat roof). Peaked roof and beige siding further left is the house adjoining to the east.



Very rough, amateur photo-shopped rendition of the same view after proposed renovation of carport/garage to illustrate enlarged footprint dimensions and design intention.

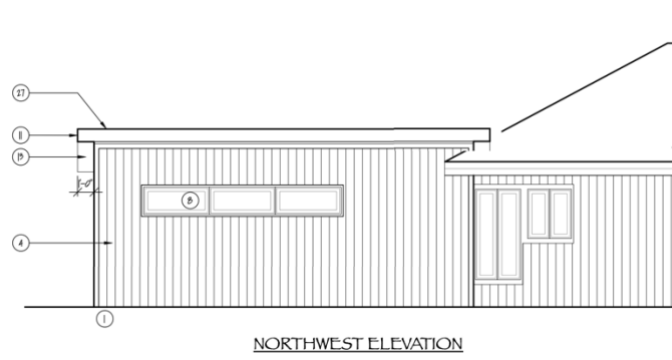




Setbacks of existing carport to front and side property lines



Setbacks of proposed garage to front and side property lines (amateur photoshop showing proposed roof proportions and corners)



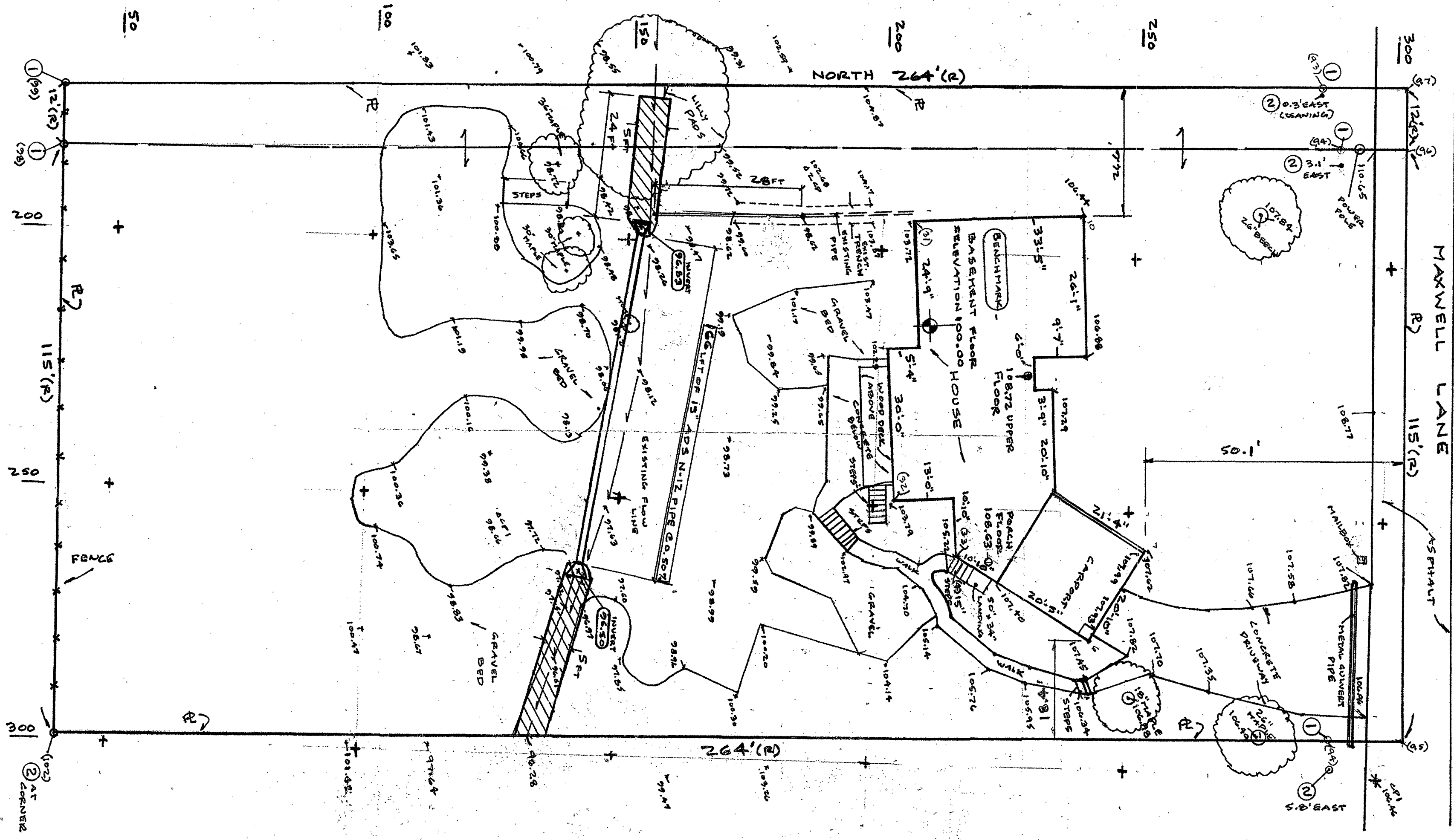


Examples of some other houses in the vicinity that incorporate garages that are not strictly front- or side-loading and illustrate other non-right-angle design features









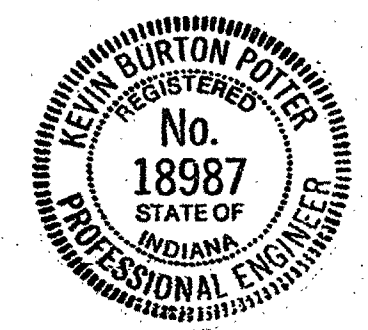
Scale: 1/16" = 1'-0"

2/10/2015

RE - DENOTES PROPERTY LINE  
 99.38 Existing spot elevation  
 96.83 Proposed spot elevation

- ① 5/8" x 24" REBAR SET THIS SURVEY
- ② IRON PIPE FOUND

*Kevin B. Potter*  
 Kevin B. Potter, P.E.  
 369 East Cunningham Street  
 Martinsville, Indiana 46151  
 Phone (812) 331-7981



# SITE PLAN

Mark Hood  
 2420 East Maxwell Lane  
 Bloomington, IN 47401

Robert C. Sipes, Registered Land Surveyor

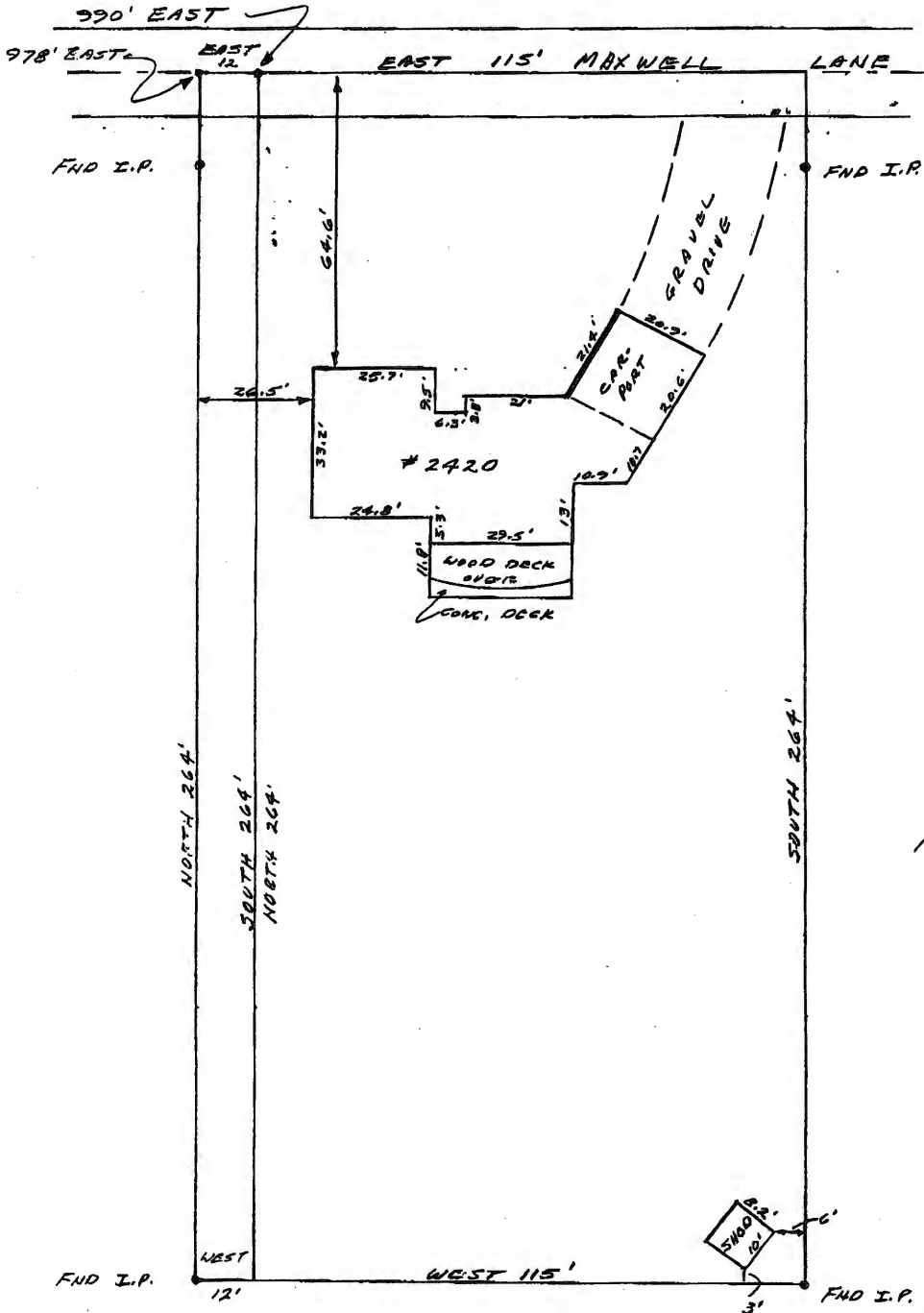
Ind. Reg. No. 9016  
P.O. Box 5311

152  
Phone (812) 333-2984  
Bloomington, IN 47402

PLAT OF SURVEY

November 22, 1991

Part of the Southeast quarter of Section 3, 8N-1W, Monroe County, IN



Recertified: August 18, 1992

Signed: *Robert C. Sipes*



Surveyors Job No. 91112205

Boundary Surveys, Subdivisions, Mortgage Surveys, Mapping



# HAACK - HOOD GARAGE & BATHROOM RENOVATION

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2420 EAST MAXWELL LANE  
BLOOMINGTON - INDIANA

CONSTRUCTION DOCUMENTS

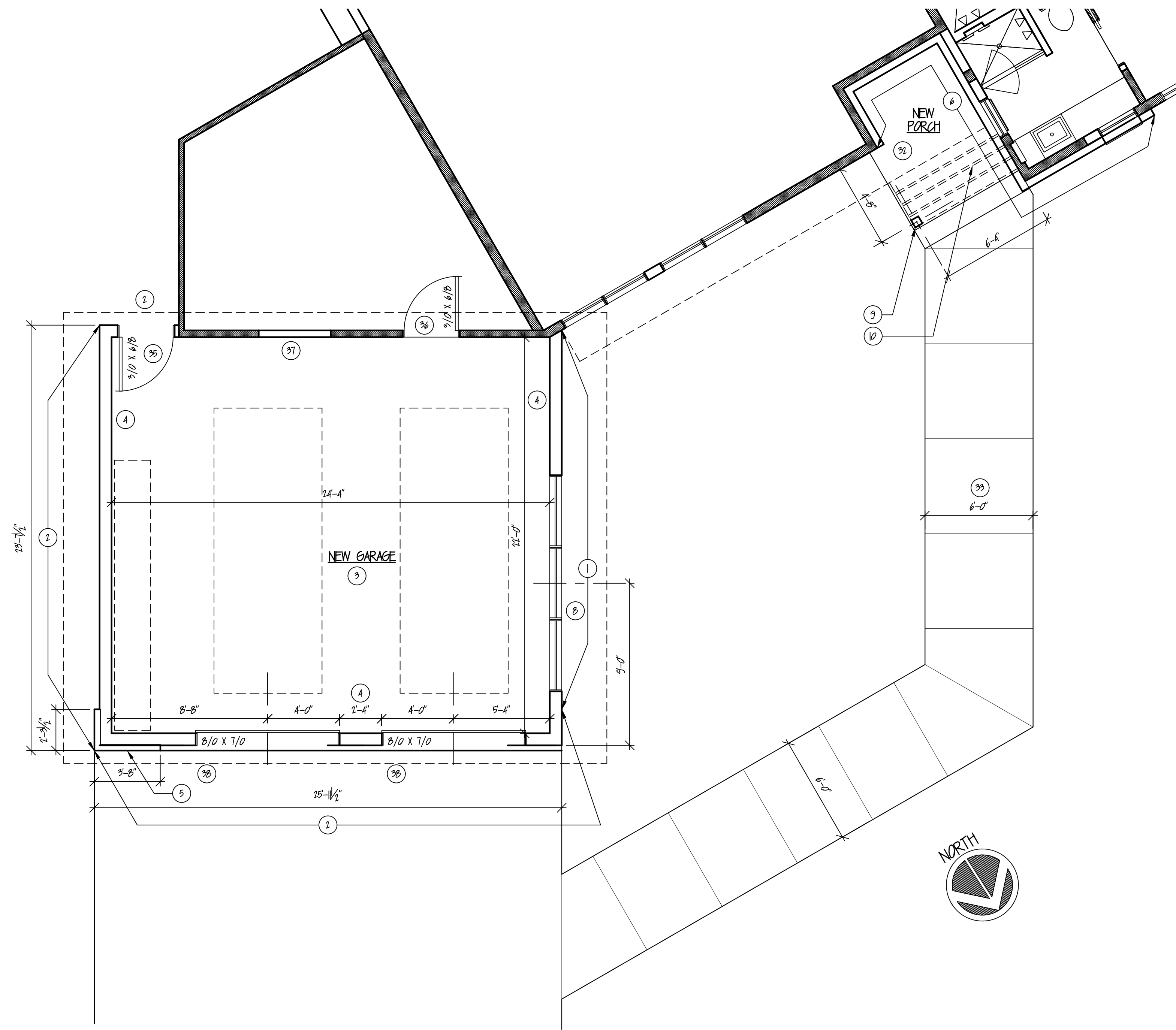
Architect's Project No. - 1918  
JUNE 17, 2020  
REV. JUNE 18, 2020

ARCHITECT

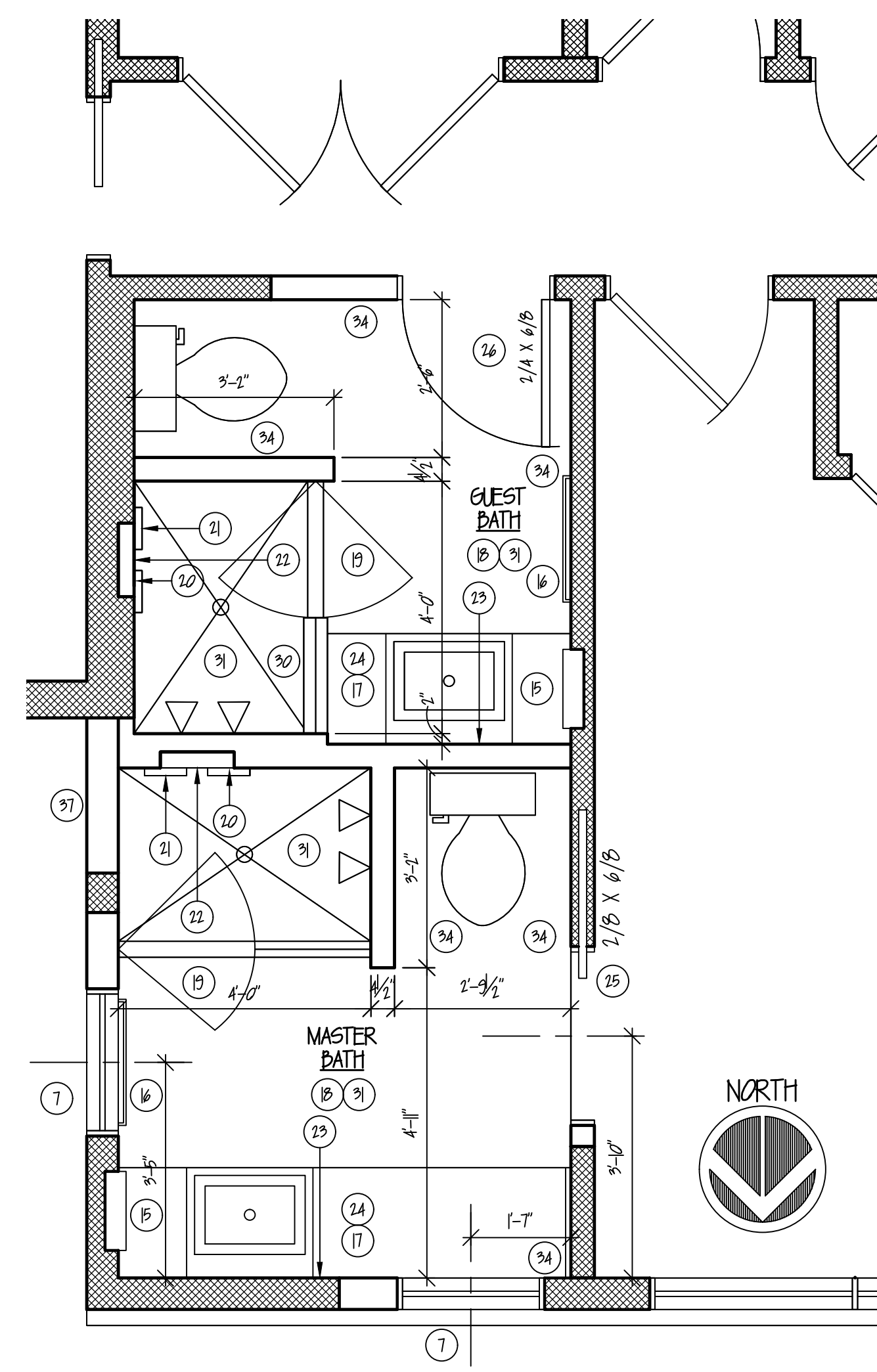


MATHEU ARCHITECTS, PC

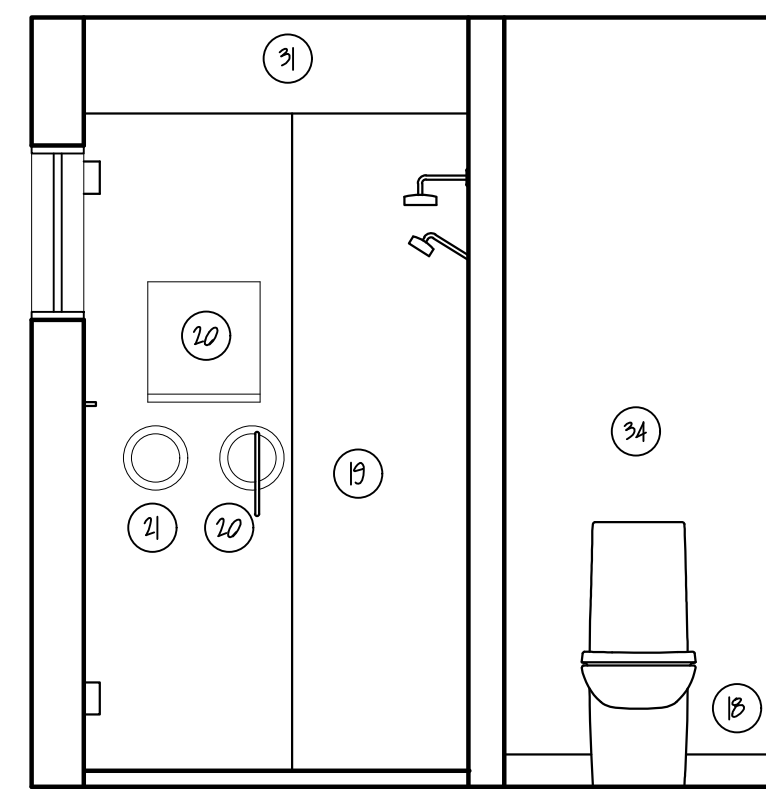
205 N. College Ave.  
Suite 010  
Bloomington, Indiana 47404  
Tel: 812.339.1235  
[www.cmatheuarchitect.com](http://www.cmatheuarchitect.com)



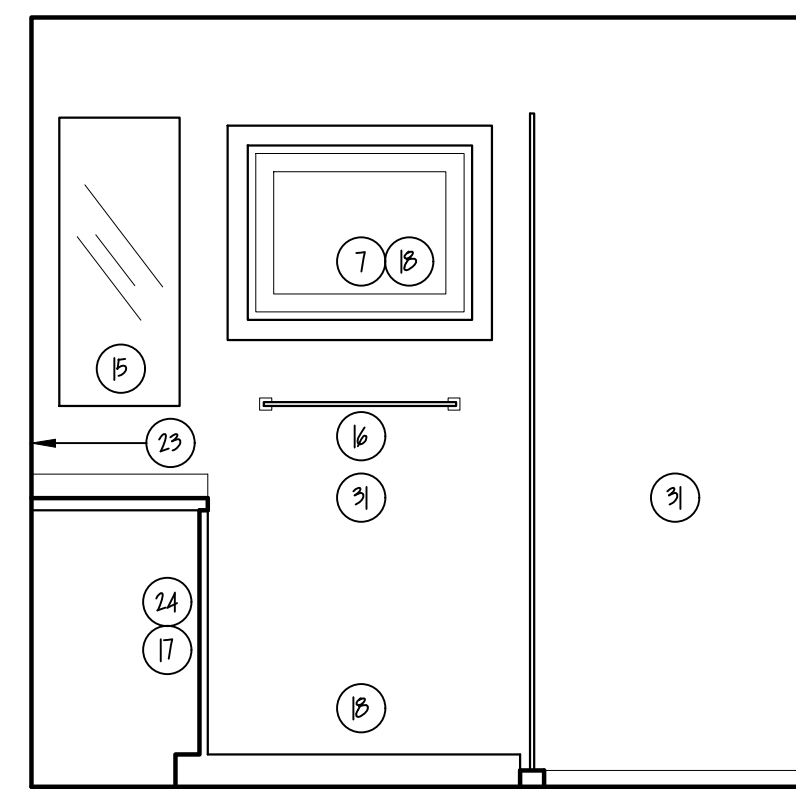
**GARAGE & PORCH ADDITION PLAN**  
SCALE 1/4" = 1'-0"



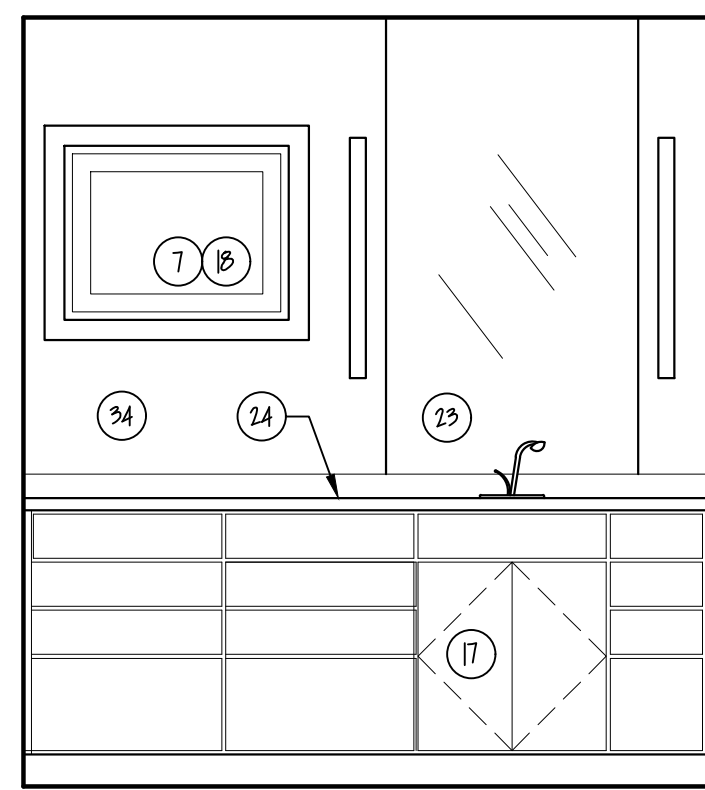
**MASTER BATH & GUEST BATH REMODEL PLAN**  
SCALE 1/4" = 1'-0"



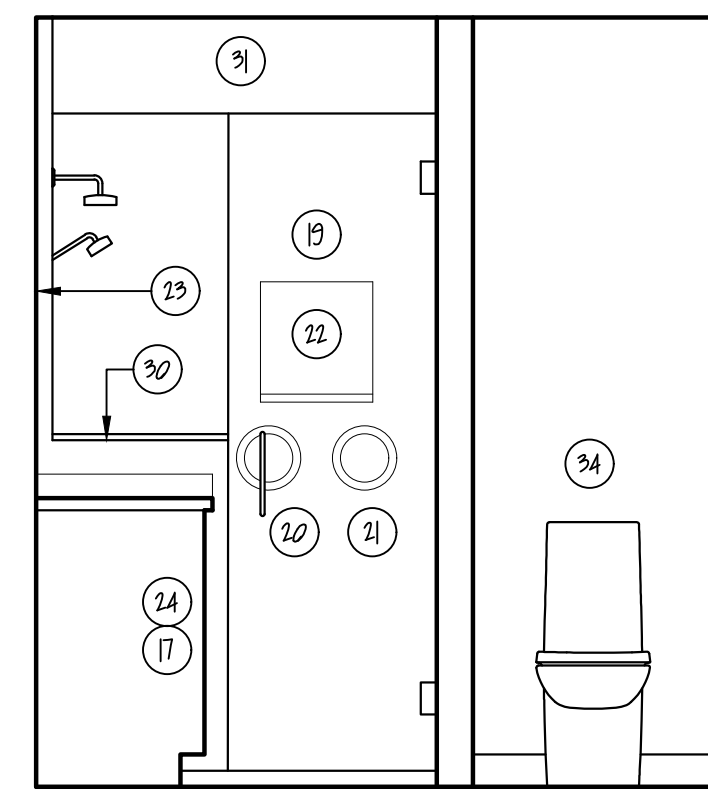
**MASTER BATH SOUTH WALL**  
SCALE 1/4" = 1'-0"



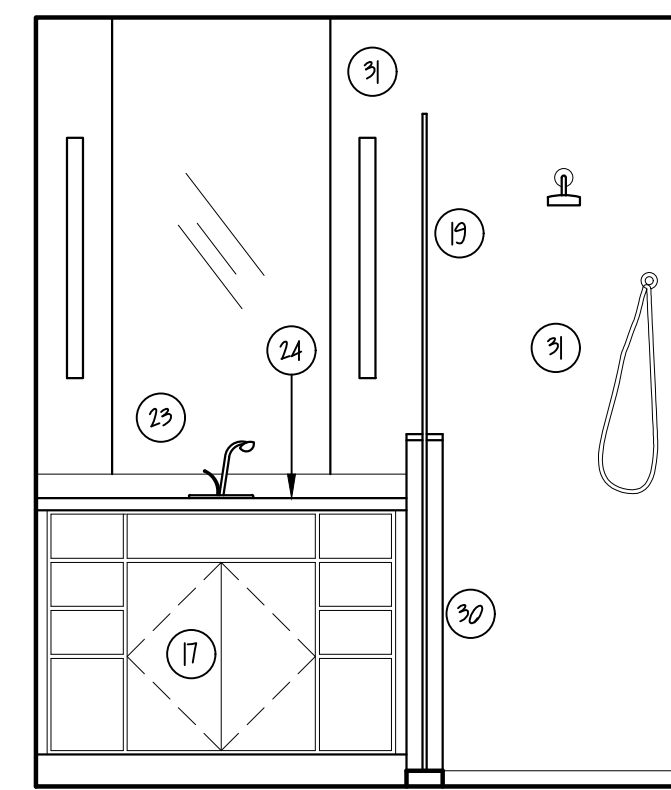
**MASTER BATH EAST WALL**  
SCALE 1/4" = 1'-0"



**MASTER BATH NORTH WALL**  
SCALE 1/4" = 1'-0"



**GUEST BATH EAST WALL**  
SCALE 1/4" = 1'-0"



**GUEST BATH NORTH WALL**  
SCALE 1/4" = 1'-0"

**GENERAL NOTES:**

- A. CONTRACTOR TO FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS PRIOR TO START OF WORK.
- B. ALL DIMENSIONS ARE NOMINAL.

**DEMO NOTES:**

- D1 REMOVE EXISTING FLOOR FINISH
- D2 REMOVE EXISTING TOILET FIXTURES
- D3 REMOVE EXISTING WALL
- D4 MODIFY EXISTING OPENING FOR NEW POCKET DOOR
- D5 MOVE EXISTING DOOR OPENING
- D6 REMOVE EXISTING WINDOW AND INFILL OPENING
- D7 REMOVE EXISTING WINDOW AND MODIFY OPENING FOR NEW WINDOW
- D8 REMOVE EXISTING GARAGE ROOF, WALLS, & SLAB

**PLAN NOTES:**

- 1. EXISTING CMU FOUNDATION WALL
- 2. NEW 4" CONCRETE SLAB
- 3. NEW 2x6 WOOD FRAME STUD WALL
- 4. W/ 1/2" EYP. BD. OPTIONAL INSULATION, 1/2" SHEATHING, BUILDING WRAP & VERTICAL FLUSH PANEL OR V GROOVE METAL SIDING
- 5. NEW 2x6 WOOD FRAME STUD WALL W/ 1/2" EYP. BD. OPTIONAL INSULATION, 1/2" SHEATHING, BUILDING WRAP, AIR SPACE, & 4" SPLIT FACE 2, 5, 8, 10 LIMESTONE VENEER
- 6. 4" SPLIT FACE 2, 5, 8, 10 LIMESTONE VENEER OVER EXISTING FRAMING. PROVIDE NEW BRICK LEDGE DOWNELED INTO EXISTING FOUNDATION WALL
- 7. 1'-8" x 2'-4" CLAD AWNING WINDOW TO MATCH EXISTING
- 8. (3) 1'-8" x 4'-0" FIXED WINDOW TO MATCH EXISTING
- 9. 4x6 POWDER COATED STEEL OR ALUMINUM POST W/ SUPPORT SHOE
- 10. 5" x 1 1/2" POWDER COATED STEEL OR ALUMINUM PERGOLA
- 11. METAL WRAPPED WOOD FASCIA
- 12. 6" METAL GUTTER W/ 4x6 METAL DOWNSPOUT
- 13. METAL SCOFFIT
- 14. 4" LIMESTONE CAP
- 15. 15" x 36" MIRRORED MEDICINE CABINET W/ MAGNIFYING VANITY MIRROR
- 16. 24" TOWEL BAR
- 17. 21" x 36" BASE CABINETS
- 18. WOOD TRIM TO MATCH EXISTING, PAINTED
- 19. FRAMELESS GLASS SHOWER DOOR
- 20. CONTROL FOR OVERHEAD SHOWER HEAD
- 21. CONTROL FOR HAND-HELD
- 22. SHAMPOO NICHE
- 23. ELLE-UP MIRROR
- 24. QUARTZ COUNTER TOP
- 25. NEW 2/8 x 6/8 STILE & RAIL POCKET DOOR W/ FROSTED OR TEXTURED GLASS
- 26. NEW 2/4 x 6/8 DOOR TO MATCH EXISTING
- 27. EPDM OR TPO ROOFING
- 28. BUILT-UP CRICKET TO DIVERT RAIN WATER
- 29. EXISTING MEMBRANE ROOFING. FLASH UP VERTICAL WALL OF THE NEW GARAGE
- 30. PARTIAL HEIGHT WALL
- 31. TILE
- 32. CONCRETE STOOP
- 33. CONCRETE SIDEWALK
- 34. PAINTED EYP. BD.
- 35. 3/2 x 6/8 HALF-LIGHT EXTERIOR DOOR
- 36. 3/2 x 6/8 V.I.F. FLUSH EXTERIOR DOOR
- 37. INFILL EXISTING WINDOW OPENING
- 38. 8/20 x 7/10 TRANSLUCENT GLASS ROLL-UP GARAGE DOOR
- 39. 4" SMOOTH LIMESTONE SILL

CERTIFIED

**MATHEU ARCHITECTS, P.C.**

205 N. College Ave.  
Suite 010  
Bloomington  
IN 47404  
Tele: 812.339.1235  
Fax: 812.339.1238

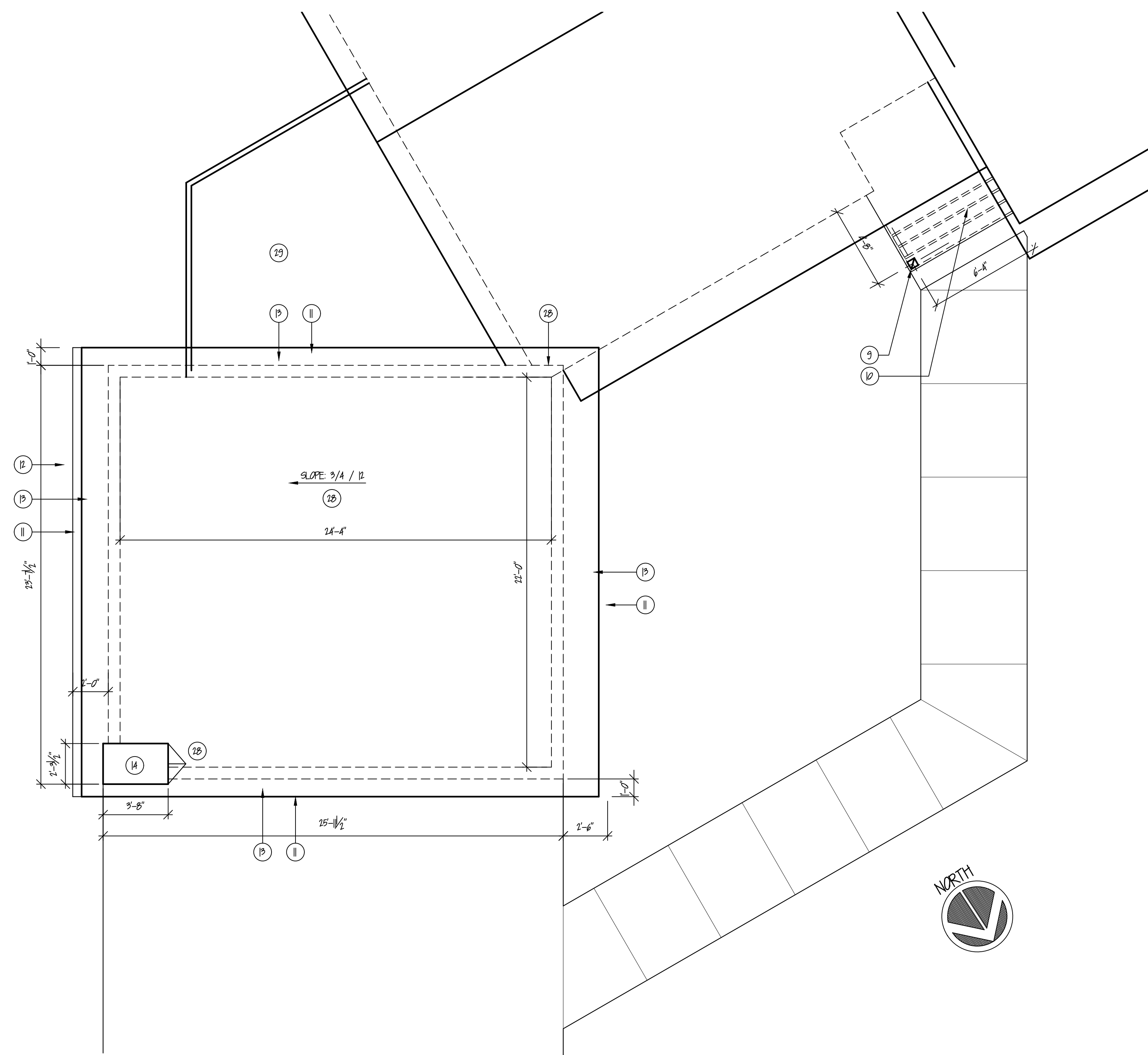
**HAACK - HOOD  
GARAGE & BATHROOM  
RENOVATION**  
2420 EAST MAXWELL LANE  
BLOOMINGTON - INDIANA

ARCHITECT'S PROJECT NO.: 1918  
DATE: JUNE 17, 2020  
REV. JUNE 18, 2020

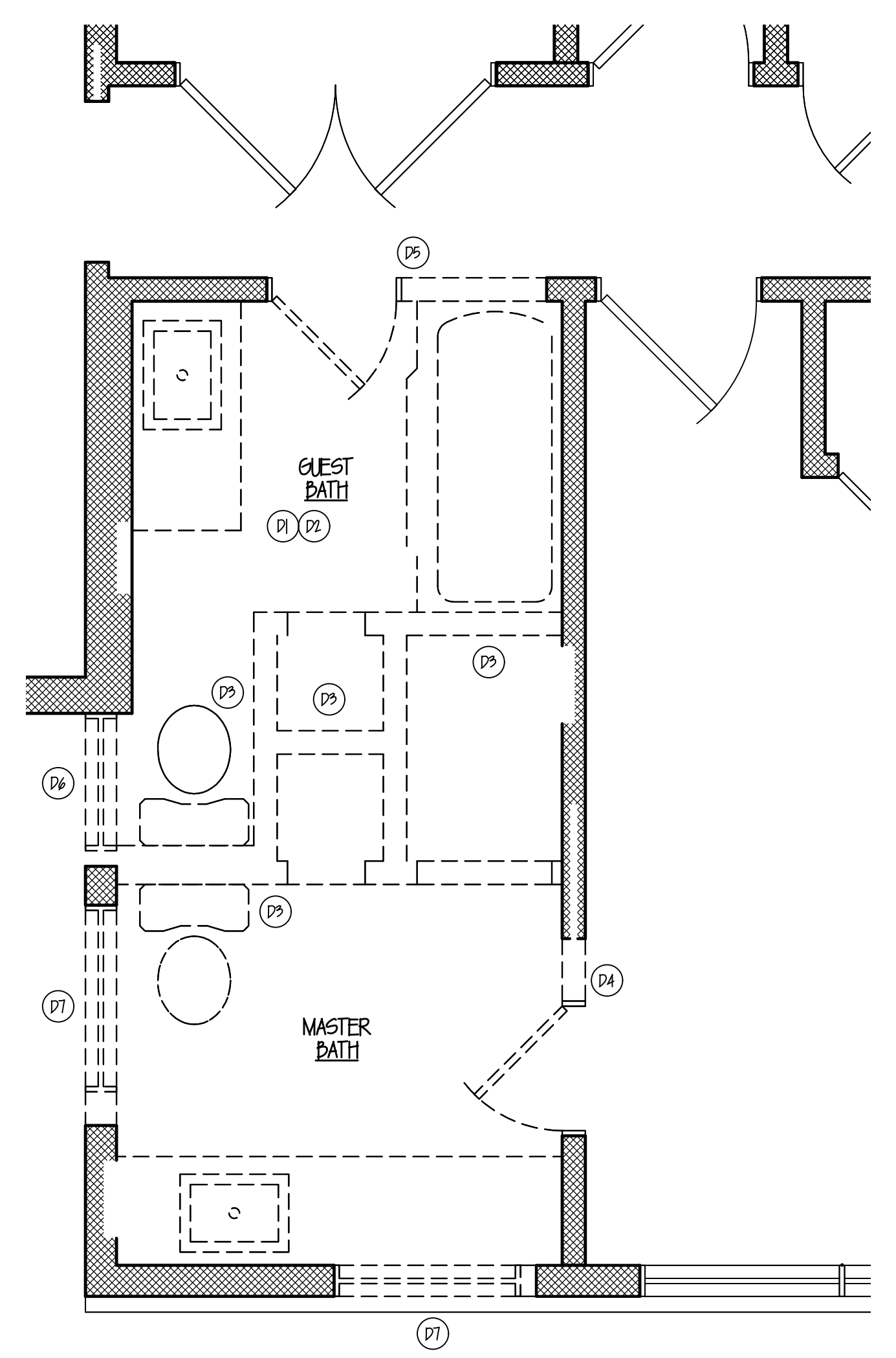
**GARAGE PLAN,  
MASTER BATH &  
GUEST BATH PLANS, &  
INTERIOR ELEVATIONS**

SHEET NO.  
**A200**





GARAGE & PORCH ADDITION ROOF PLAN  
SCALE 1/4" = 1'-0"



MASTER BATH & GUEST BATH REMODEL DEMOLITION PLAN  
SCALE 1/4" = 1'-0"

GENERAL NOTES:

- A. CONTRACTOR TO FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS PRIOR TO START OF WORK.
- B. ALL DIMENSIONS ARE NOMINAL.

DEMO NOTES:

- D1. REMOVE EXISTING FLOOR FINISH.
- D2. REMOVE EXISTING TOILET FIXTURES.
- D3. REMOVE EXISTING WALL.
- D4. MODIFY EXISTING OPENING FOR NEW POCKET DOOR.
- D5. MOVE EXISTING DOOR OPENING.
- D6. REMOVE EXISTING WINDOW AND INFILL OPENING.
- D7. REMOVE EXISTING WINDOW AND MODIFY OPENING FOR NEW WINDOW.
- D8. REMOVE EXISTING GARAGE ROOF, WALLS, & SLAB.

PLAN NOTES:

- 1. EXISTING CMU FOUNDATION WALL.
- 2. NEW FOUNDATION WALL.
- 3. NEW 4" CONCRETE SLAB.
- 4. NEW 2x6 WOOD FRAME STUD WALL W/ 1/2" EYP. BD. OPTIONAL INSULATION, 1/2" SHEATHING, BUILDING WRAP & VERTICAL FLUSH PANEL OR V GROOVE METAL SIDING.
- 5. NEW 2x6 WOOD FRAME STUD WALL W/ 1/2" EYP. BD. OPTIONAL INSULATION, 1/2" SHEATHING, BUILDING WRAP, AIR SPACE, & 4" SPLIT FACE 2, 5, 8, 12 Limestone VENEER.
- 6. 4" SPLIT FACE 2, 5, 8, 12 Limestone VENEER OVER EXISTING FRAMING. PROVIDE NEW BRICK LEDGE DOWNELED INTO EXISTING FOUNDATION WALL.
- 7. 1'-8" x 2'-4" CLAD AWNING WINDOW TO MATCH EXISTING.
- 8. (3) 1'-8" x 4'-0" FIXED WINDOW TO MATCH EXISTING.
- 9. 4x6 POWDER COATED STEEL OR ALUMINUM POST W/ SUPPORT SHOE.
- 10. 5" x 1 1/2" POWDER COATED STEEL OR ALUMINUM PERGOLA.
- 11. METAL WRAPPED WOOD FASCIA.
- 12. 6" METAL GUTTER W/ 4x6 METAL DOWNSPOUT.
- 13. METAL SCOFFIT.
- 14. 4" Limestone CAP.
- 15. 15" x 36" MIRRORRED MEDICINE CABINET W/ MASONRY VANIY MIRROR.
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- 18. WOOD TRIM TO MATCH EXISTING, PAINTED.
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- 20. CONTROL FOR OVERHEAD SHOWER HEAD.
- 21. CONTROL FOR HAND-HELD SHAMPOO NICHE.
- 22. SHAMPOO NICHE.
- 23. ELLE-UP MIRROR.
- 24. QUARTZ COUNTER TOP.
- 25. NEW 2/8 x 6/8 STILE & RAIL POCKET DOOR W/ FROSTED OR TEXTURED GLASS.
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CERTIFIED

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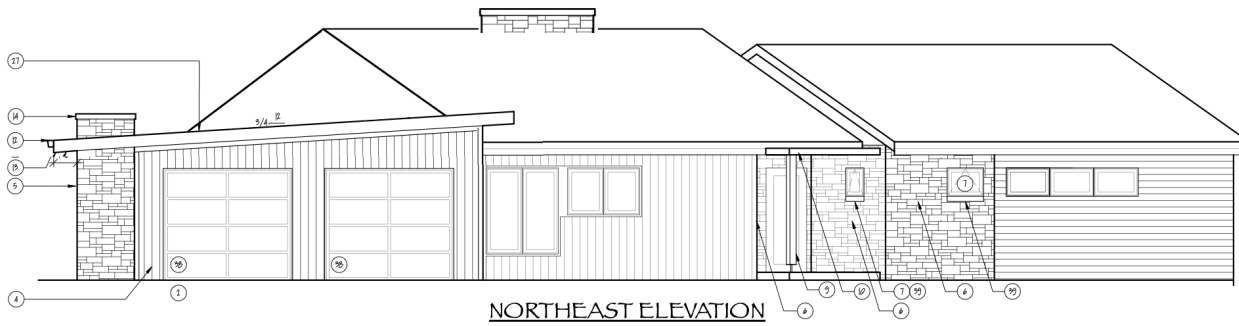
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HAACK - HOOD  
GARAGE & BATHROOM  
RENOVATION  
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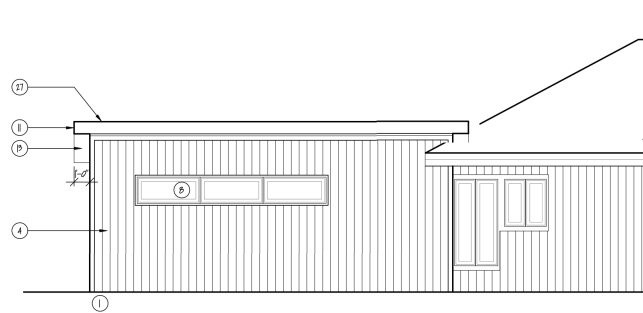
ROOF PLAN &  
DEMOLITION PLAN

SHEET NO.  
A202



**NORTHEAST ELEVATION**

SCALE 1/4" = 1'-0"



**NORTHWEST ELEVATION**

SCALE 1/4" = 1'-0"



**SOUTHEAST ELEVATION**

SCALE 1/4" = 1'-0"

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- D3. REMOVE EXISTING WALL.
- D4. MODIFY EXISTING OPENING FOR NEW PACKET DOOR.
- D5. MAKE EXISTING DOOR OPENING.
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- 7. 7'-0" x 2'-0" CLAD ANNING WINDOW TO MATCH EXISTING.
- 8. 19" 1'-0" x 4'-0" FIXED WINDOW TO MATCH EXISTING.
- 9. 4x4 POWDER COATED STEEL OR ALUMINUM POST W/ SUPPORT BRACE.
- 10. 6" x 1 1/2" POWDER COATED STEEL OR ALUMINUM FROSCOLA.
- 11. METAL WRAPPED WOOD PASCIA.
- 12. 6" METAL GUTTER W/ 4x6 METAL DOWNSPOUT.
- 13. METAL SOFFIT.
- 14. 4" LIMESTONE CAP.
- 15. 15" x 30" MEASURED MEDICINE CABINET W/ MAGNIFYING VANITY MIRROR.
- 16. 24" TOWEL BAR.
- 17. 12" x 30" BASE CABINETS.
- 18. WOOD TRIM TO MATCH EXISTING.
- 19. PAINTED.
- 20. CONTROL FOR OVERHEAD SHOWER HEAD.
- 21. CONTROL FOR HAND-HELD.
- 22. SHAMPOO NICHES.
- 23. SLIDE-UP MIRROR.
- 24. QUARTZ COUNTER TOP.
- 25. NEW 3/8" x 6/8" STILE & RAIL PACKET DOOR W/ PROTECTED OR TEXTURED GLASS.
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- 28. BULK-UP CONCRETE TO DIVERT RAIN WATER.
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- 39. 4" SMOOTH LIMESTONE SILL.

CERTIFIED

**MATHEU ARCHITECTS, P.C.**



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Fax: 812.339.1238

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**HAACK - HOOD  
GARAGE & BATHROOM  
RENOVATION**  
2420 EAST MAXWELL LANE  
BLOOMINGTON - INDIANA

ARCHITECT'S PROJECT NO.: 1918  
DATE: JUNE 17, 2020  
REV. JUNE 18, 2020

**NORTH, WEST, & EAST  
ELEVATIONS**

SHEET NO.  
**A301**



Mark Hood and Christine Haack  
BZA Case #V-25-20  
Email comments from neighbors

From Toivo Raun and Eva Epp  
2421 East Maxwell Lane  
Abutters to the North

“Hi Mark,

Thanks for keeping us in mind. Your plans sound and look great. Epp, as the architectural historian, especially approves.

In short, we have no objections whatsoever and wish you well in this project.

Toivo and Epp”

From Michael and Gwen White  
2414 East Maxwell Lane  
Abutters to the West

“Hi Mark & Chris,

Your plans look fine to us. Good luck with this.

Mike & Gwen”

From Sandra Clark  
2402 East Maxwell Lane

“Mark and Chris,

I've reviewed the photos, description, and drawings for the garage you'd like to build at 2420 E. Maxwell Lane and consider the change from a carport an enhancement not only to your house but also to the neighborhood. I am in support of the project .

*Sandi Clark*

2402 E. Maxwell Lane”

From Joe Tomain and Susie Mroz  
2411 East Maxwell Lane

“Dear Mark,

Thank you for letting us know about your garage plans. We have no issues with your plans for the garage addition. If anything, it will improve the aesthetics of our street and your property value. Please feel free to share this email in support of your zoning petition.

If you need anything else, please contact me.

Respectfully,  
Joe Tomain and Susie Mroz  
2411 E. Maxwell Lane”

From John and Amber Challifour  
2422 East Maxwell Lane  
Abutters to the East

“Greetings Chris and Mark,

Attached is a summary of our discussion yesterday. Let us know if there is anything else we need to do before the 19th.

Spectacular weather today - we need more leaves!

Best, Amber and John

Dear Chris and Mark,

Thank you for your notice regarding the City of Bloomington Board meeting about your request for a zoning variance on November 19, 2020, and for your e-mail with the BZA Appeal Statement. It gives everyone the chance to be included in the dialogue about the new structure.

We have looked at the proposal for the construction of your new garage at 2420 E. Maxwell. In the rough rendition of the old structure, we noticed that the roof of the garage is a flat roof whereas in the new structure there seems to be an inclined roof to replace the flat roof. As the incline is downward from west to east, this concerns us as to the run-off from the enlarged roof. As your property is to our west and at a higher elevation, we are concerned about additional runoff from rain and snow melt which could end down the driveway and at the front of our house. I am sure that you appreciate our concerns about such water drainage and hope that in the new garage construction there are plans to mitigate such a problem. Other than this, we have no other concerns.

Good talking with you both yesterday, best wishes,

Amber & John            812-334-2416.”



**BLOOMINGTON BOARD OF ZONING APPEALS**  
**STAFF REPORT**  
**Location: 318 E. 3<sup>rd</sup> St.**

**CASE #: V-26-20**  
**DATE: November 19, 2020**

**PETITIONER:** Ace 318 LLC (Cedarview Management)  
601 N. College Ave., Bloomington

**CONSULTANT:** Tim Cover  
8604 Allisonville Rd. Suite 330, Indianapolis

**REQUEST:** The petitioners are requesting a variance to allow ground floor dwelling units to not be located 20 feet behind the front building façade.

**SITE DESCRIPTION:** This 0.26 acre property is located at 318 E. 3<sup>rd</sup> St. and is zoned (MD-DE) Mixed-Use Downtown – Downtown Edges Downtown Character Overlay. The surrounding properties to the north, east, and west are all zoned MD-DE the properties to the east and west are developed with commercial businesses, and the property to the north recently received site plan approval for a mixed-use building. The property to the south is zoned (RH) Residential High Density and has been developed with a dwelling, multifamily structure. The property is fronted by E. 3<sup>rd</sup> St. to the north and S. Grant St. to the east.

The property is currently undergoing development of a 4 story mixed use structure which received site plan approval in 2017 (SP-06-17). When the development received site plan approval, the Unified Development Ordinance (UDO) required that a minimum of 50% of the first floor be utilized for non-residential uses. However, the Plan Commission was able to allow deviation from that standard and this development received site plan approval which allowed for a minimum of ~10% of the proposed 7,320 sq. ft. ground floor (757 sq. ft.) to be used for any permitted non-residential use.

In the new UDO, adopted in April 2020, percentage of ground floor use area can no longer be deviated from by granting of the Plan Commission. Per 20.03.030(b)(5)(B), the current UDO requires that within this portion of the Mixed-Use Downtown district, ground floor residential units must be 20 feet behind the front building façade. This requirement allows for commercial uses in the front of the building. The petition would like to convert the 757 sq. ft. of non-residential space that was allowed as a minimum by the Plan Commission into a residential unit. That would mean that entirety of the ground floor is residential and the ‘20’ behind’ rule would not be met. The petitioner is requesting a variance from the UDO requirements that ground floor residential units must be 20’ behind the building façade to allow the ground floor to be converted to entirely residential.

**CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE**

**20.09.130 e) Standards for Granting Variances from Development Standards:**

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

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

**PROPOSED FINDING:** No injury is found with the requested variance from the standard which requires dwelling units in the MD zoning district to be located at least 20 feet behind each building façade facing a public street.

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

**PROPOSED FINDING: Parking Setback:** The use and value of the area adjacent to the property are not expected to be substantially affected as a result of the requested variance.

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

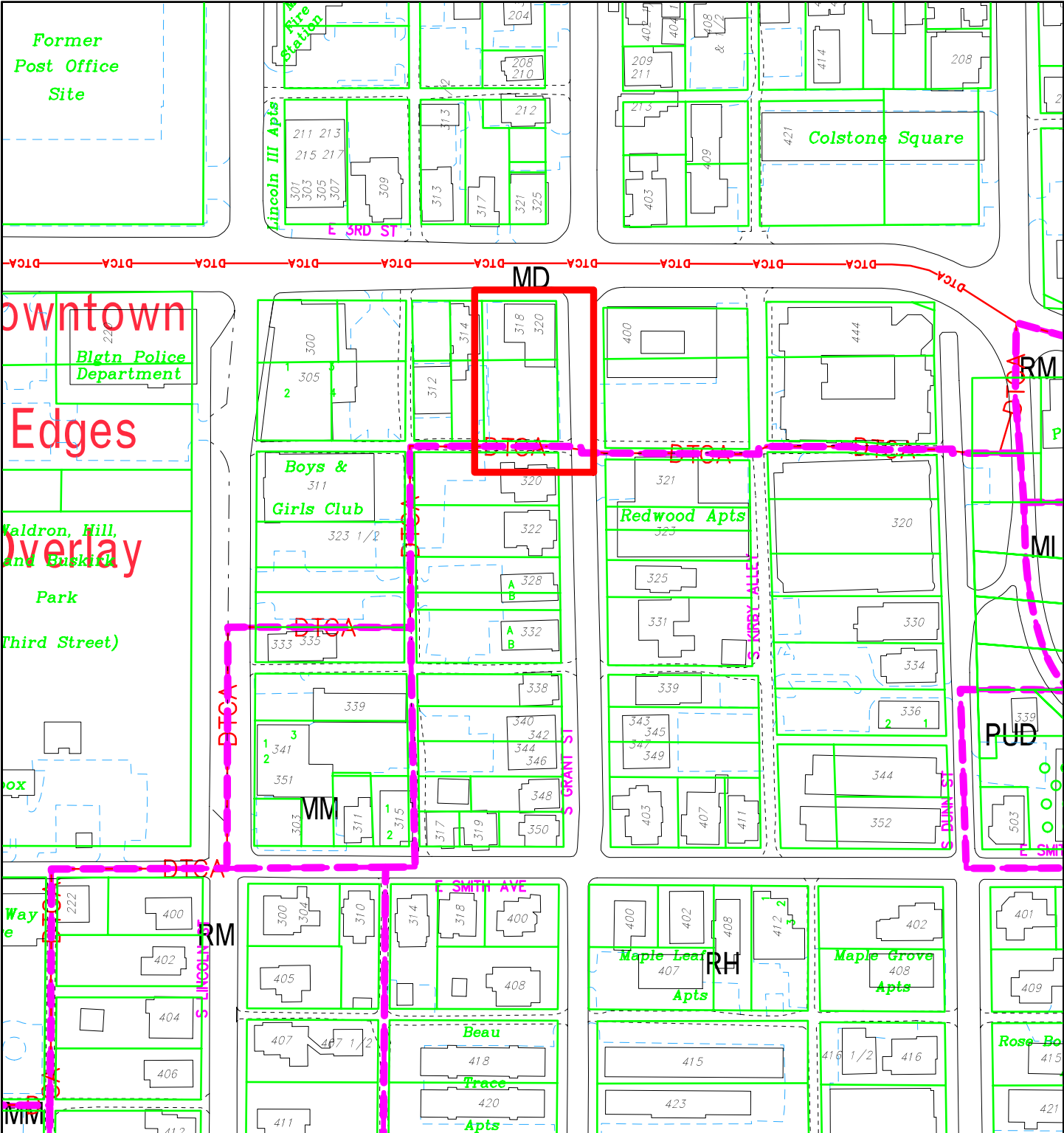
**PROPOSED FINDING:** No practical difficulty is found as the result of a peculiar condition on the property. The property underwent site plan approval in 2017 and the Plan Commission allowed for a reduction in nonresidential ground floor space from the required 50% to ~10%. Surrounding properties to the east and west support commercial uses, and this site previously supported commercial uses with no known difficulties. The intent of the regulation was to limit the presence of ground floor residential units in the front of buildings facing public spaces and to promote nonresidential uses along the ground floor of buildings facing public roads within this area of the downtown.

The Department is working on a text amendment that may allow flexibility of first floor space because of the strain on commercial spaces that the current COVID-19 pandemic presents. However, the pandemic is not unique to this property and the variance from the current UDO standards is not the appropriate remedy.

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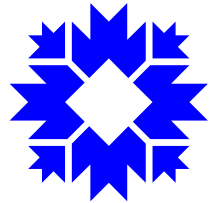
**RECOMMENDATION:** Based upon the written report, the Department recommends the Board of Zoning Appeals adopt the proposed findings and deny V-26-20.





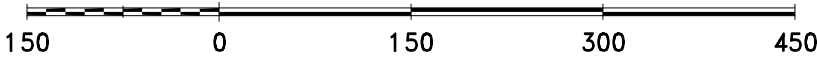
**Downtown Edges**  
 (Kaldron, Hill, and Burkitt Park  
 Third Street)

City of Bloomington  
 Planning & Transportation

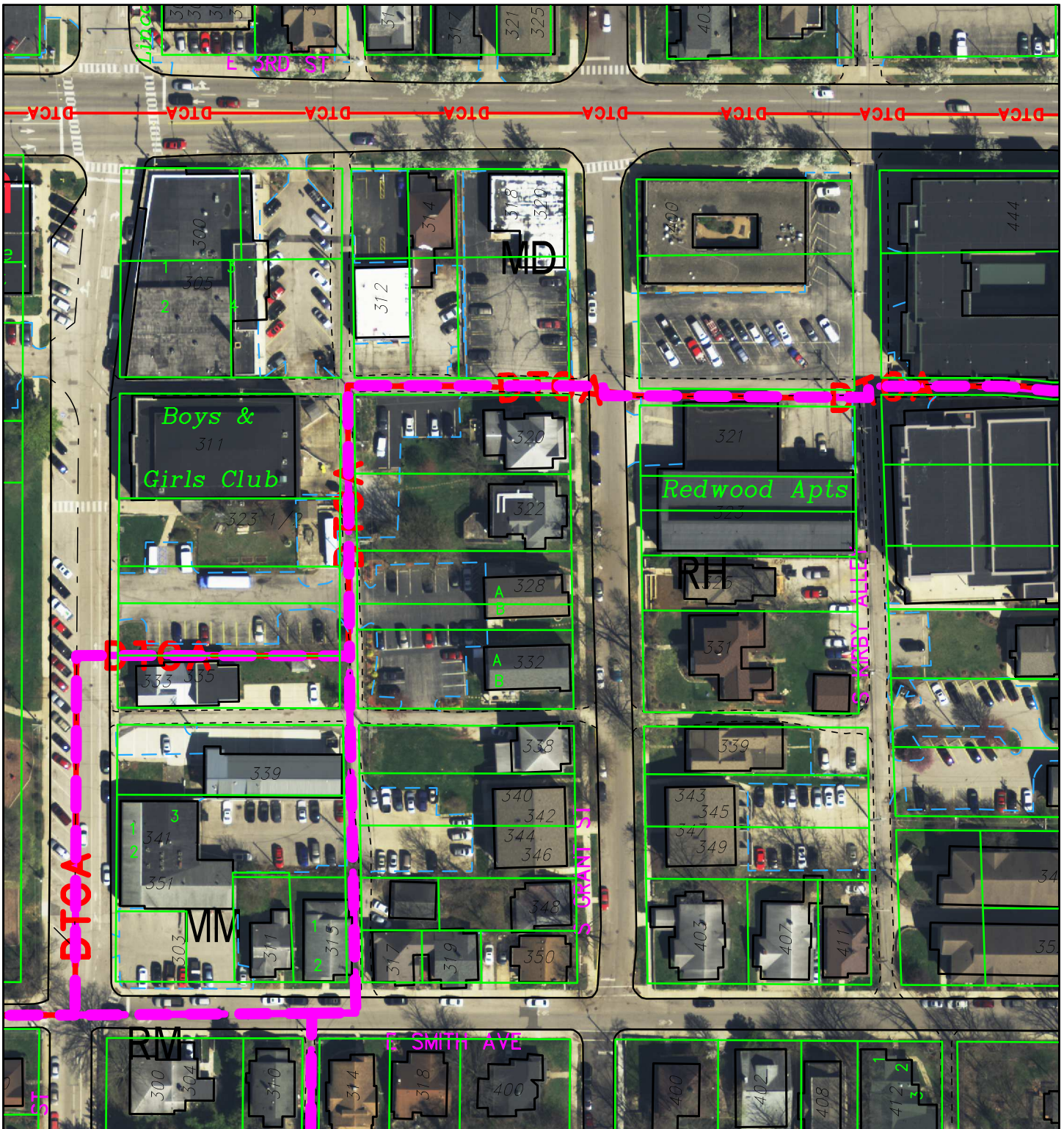


Scale: 1" = 150'

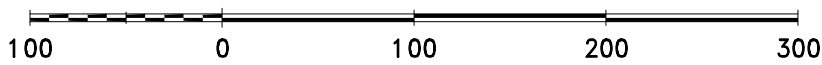
By: robtingr  
 13 Nov 20



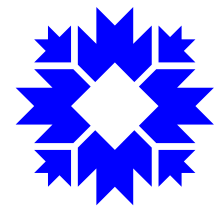
For reference only; map information NOT warranted.



By: roblingr  
13 Nov 20



City of Bloomington  
Planning & Transportation



Scale: 1" = 100'

For reference only; map information NOT warranted.





**October 28<sup>th</sup>, 2020**  
**Nov. 5<sup>th</sup>, 2020 Revised**

City of Bloomington Planning Department  
 P.O. Box 100  
 Bloomington, IN 47402

Attn: Mr. Ryan Robling

**RE: G3**  
**3<sup>rd</sup> and Grant Variance request – Petitioner’s statement**

### **PETITIONERS STATEMENT**

Dear Ryan;

Studio 3 Design is pleased to submit the attached variance request for the G3 apartment project located at 318 3<sup>rd</sup> street in Bloomington Indiana. The following document outlines the project scope. Please take time to review and contact us with any additional questions.

#### **Variance Request:**

##### **We are requesting a Development Standards Variance Criteria under BMC 20.09.130e**

Specific variance is under 20.03 Use Regulations,  
 20.03.030 (5) dwelling, multifamily, (B) ii. In the MD zoning district, each dwelling unit located on the ground floor shall be located at least 20 feet behind each building façade facing a public street.

#### **Project Location**

318 E. 3<sup>rd</sup> Street (SW Corner of Grant and 3<sup>rd</sup>)  
 35 studio units, 18 on-site parking spaces and 4 off-site parking spaces.

#### **Current Commitments**

Owner has committed to providing the below items previously as part of this development.

1. \$150,000 to the affordable housing fund. This is \$30,000 higher than the typical ask for the fund in similar situations.
2. Solar array on roof to power the common area exterior lighting
3. Bus passes provided to all residents
4. 100% of required bike parking in long term class 1 Bike Parking facilities or in covered class 2 bike parking.
5. On Site Bike parking

**Level 1 on-site residential- History on previous approval:**

The current approval of the G3 apartment building allowed for two ground floor apartment units to be provided off of 3<sup>rd</sup> street adjacent to a proposed 757 sf. Retail space (subject of this variance request and originally intended for the owner's office space).

The approval was based on the fact the previous owner had owned the building for over 10 years and had encountered significant problems in leasing the commercial space. **As such (2) ADA compliant apartments were approved (both of which are “ground Floor Dwelling Units that are Not located 20’ behind the building façade.** The small office space was approved and intended as the previous owner’s office space.

The project was sold to ACE 318 LLC and the previous owner no longer intends on providing office space on the ground level of the building.

**Criteria and Findings for Development Standards Variance:**  
**Ground Floor Residential 20’ Behind Front Building Façade**

**20.09.130e) Standards for granting Variances from Development Standards:**

Pursuant to IC 36-7-4-918.5, the Board of Zoning appeals or Hearing Officer may grant a variance from the development standards of the unified development Ordinance if, after public hearing, it makes findings of fact in writing on the following 3 items that:

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

**Response: Providing one additional ground floor unit, designed to be in compliance with Fair Housing guidelines and fully accessible from the street will not be injurious to the public health, safety, morals and general welfare of the community. It will provide a continuation of occupied level 1 space with residential units that can serve those with ambulatory disabilities as provided for under the Fair Housing guidelines. In fact, this is the exact opposite to injurious- this is a positive when it comes to public health, safety, morals and general welfare of the community. This will add a 2 bed-room accessible ground floor unit to compliment the studio accessible units previously approved as ground floor residential that is not 20’ behind the building facade.**

- (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:*

**Response: Providing a variance to allow one additional ground floor unit will not adversely impact the use or value of the surrounding properties. It will conversely improve the area by not creating a vacant storefront at the corner of 3<sup>rd</sup> and Grant. The additional ground floor accessible unit is consistent with the residential feel and fabric of Grant street and the surrounding residential neighborhood.**



- (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; the development Standards Variance will relieve the practical difficulties:*

**Response:**

**Practical Difficulties in use of the Property:**

The project contains a small retail space on the corner of 3<sup>rd</sup> and Grant street. No designated parking is provided or required for this retail space. While the space could arguably serve as a small office space, it is not likely to be filled as evidenced by the following:

- A. Currently, from 2<sup>nd</sup> street to 10<sup>th</sup> street and Rogers Street to Indiana Avenue, there is over 56,000 sf of vacant retail space publicly listed for lease. The two sources are LoopNet and the Bloomington MLS (Homefinder.org).  
**Report “Commercial Space for Lease” attached.**
- B. It is also known that many office tenants are down-sizing and choosing to work remotely instead of a centralized brick and mortar office location; thus, significantly lowering the demand for commercial office space. Restaurant tenants are also down-sizing the amount of dining room space and relying more heavily on delivery services and outdoor seating.
- C. In addition to an abundance of vacant space in the area, owners are also having to provide significant concessions to try and help their remaining tenants stay afloat to avoid creating even more vacant storefront.
- D. The owner has provided a broad range of rent waivers; rent reductions, rent deferrals, provided no rent increases, provided no rent charge on portions of the tenants leased premises, and provided revenue assistance to increase tenant sales by buying large amounts of gift certificates to hand out from 20 plus of his commercial tenants.

Other lease concessions given to commercial tenants were to remove parking fees from their Leases. Typically, a parking lease is for 12 months with no option to terminate early. We have now removed (terminated) multiple parking spaces for 2 commercial tenants - in an effort to help lower monthly expenses.

We are also hearing from our many downtown commercial tenants about lack of business and ability to pay rent. The impacts of lower seating density for our restaurant tenants, people not wanting (or able) to visit businesses, and Indiana University not having in-person classes from November 20 to Feb 7 are some of the major factors for our commercial tenants' inability to sustain their business, staffing and lease commitments.

Speaking with other commercial landlords, we know our situation of struggling tenants, and abated and deferred rent is **absolutely NOT** unique to our company in the downtown and the greater Bloomington area. The vacancies have continued to grow since the beginning of Covid-19 in March of 2020. These vacancies and other economic incentives made by landlords will continue to grow with not apparent end in sight. It is critical to note that the landscape of commercial leasing will not revert back once Covid-19 declines in the future. The impact of Covid-19 will be felt for years to come throughout the Commercial office and retail markets.

- E. The City recognizes the vast amount of vacant storefront in the MD and other downtown areas is a problem that has been impacted and made even worse by the current pandemic. The likelihood of a quick rebound, even if a cure is developed, is minimal. As a result, the City is working on a text amendment that may allow flexibility of first floor space to be used as residential (exact language is not yet available but we understand it to be forthcoming).
- F. Prior to Covid-19, there was already a large amount of vacant retail and office space on the market with more and more being piled into this surplus based on the existing UDO retail requirements.

**Practical Difficulties are peculiar to the property in question:**

The vast amount of available retail space in the area and pandemic are not unique or peculiar to this site, but they are indicative of a broader problem facing the downtown. What makes this site different than the others are three simple things:

1. The space available is under 1000 sf limiting the potential market for attracting a tenant to small shops or office space- there is 56,000 sf of commercial space available for lease in the area that affords more flexibility and pedestrian traffic and vehicular parking options for perspective tenants than this site.
2. The 2/3rds of the ground floor frontage is occupied with apartments currently that open out onto 3<sup>rd</sup> street. The last 1/3<sup>rd</sup> along 3<sup>rd</sup> street (**27'-6" long**) is the area we are requesting to convert to a 2 bed room unit. This will provide an accessible 2 bed-room ground floor unit to compliment the other two accessible studio units previously approved to sit along 3<sup>rd</sup> street (not 20' behind the face of the building).
3. Aside from a few spaces on Grant street (that are believed to be permit only parking), there is no public parking to support a business at the corner.

**The Development Standards Variance will relieve the practical difficulties:**

- A. The granting of a variance will take away the creation of a vacant storefront and add more life to the street front. Life and Activity that will discourage vandalism, crime and vagrants from hanging out at an empty corner.

**Executive Summary:**

1. Variance request is for ground floor residential 20' behind front of building façade. 2/3<sup>rd</sup>'s of the front of the building (ground level) was previously approved as ground floor units and provided as fully accessible units. This variance will impact the last 27'-6" of the 3<sup>rd</sup> street façade and provide a 3<sup>rd</sup> accessible unit that is a 2 bed room unit.
2. The developer has made a tremendous commitment to the the affordable housing initiative of \$150,000 dollars. This is \$30,000 greater than the what would normally be required for a development of this scale.



G3 – 3<sup>rd</sup> and Grant  
October 28<sup>th</sup>, 2020  
Page 5

3. The variance is not injurious to the surrounding area, it is in fact a benefit. The variance replaces a vacant storefront with a 2 bed room accessible unit that compliments the other two accessible units already opening onto 3<sup>rd</sup> street. The infill of residential will provide life and activity to the corner and fit in with the neighborhood fabric.
4. There is a surplus of retail office and commercial leasing space on the market with heavy concessions being made by landlords to hold onto existing tenants – adding more retail into this market is simply not practical or viable.
5. There is no public parking in the area to support office or retail.
6. The scale of the space, 1000 sf, caters to a limited market. With so much retail and office on the market, there are ample locations with parking, cross traffic created by other established retail and much greater pedestrian foot traffic.

Respectfully submitted,

STUDIO 3 DESIGN, INC

A handwritten signature in black ink that reads "Tim Cover". The signature is written in a cursive, flowing style with a large initial "T" and "C".

Tim Cover  
Architect

<b>2ND - 10TH &amp; ROGERS - INDIANA</b>		
<b>MLS #</b>	<b>Address</b>	<b>tll sf</b>
202025275	111 W 4th Street	550
201946251	112 N Walnut Street	179
201834218	113 E 6th Street	2455
202041657	116 S College Ave Units 11,12,16	1000
201948342	211 N Walnut	575
202029060	213 S Rogers Street	1310
201921988	222 N College Avenue	782
202022908	223 N Morton Street	2800
202015525	234 N Morton Street	1726
202005938	400 W 7th Street	900
202005864	400 W 7th Street	900
202005861	400 W 7th Street	1440
202005855	400 W 7th Street	2193
202021922	409 S Walnut Street	2400
201944749	410 W Kirkwood Avenue	2000
201944748	410 W Kirkwood Avenue	1000
201944747	410 W Kirkwood Avenue	900
202034010	416 E 4th Street	1386
202035375	422 E Kirkwood Avenue	2643
202035371	422 E Kirkwood Avenue	1817
202031681	425 N Walnut Street	900
Loopnet	430 E Kirkwood	3974
Loopnet	321 S Walnut	10594
Loopnet	210 E Kirkwood	1487
Loopnet	403 E Third St	2933
Loopnet	325 E Third St	4777
Loopnet	118-124 E Kirkwood	2635
<b>TOTAL FOR LEASE 10.2020</b>		<b>56,256</b>



DEVELOPER

CEDARVIEW  
MANAGEMENT

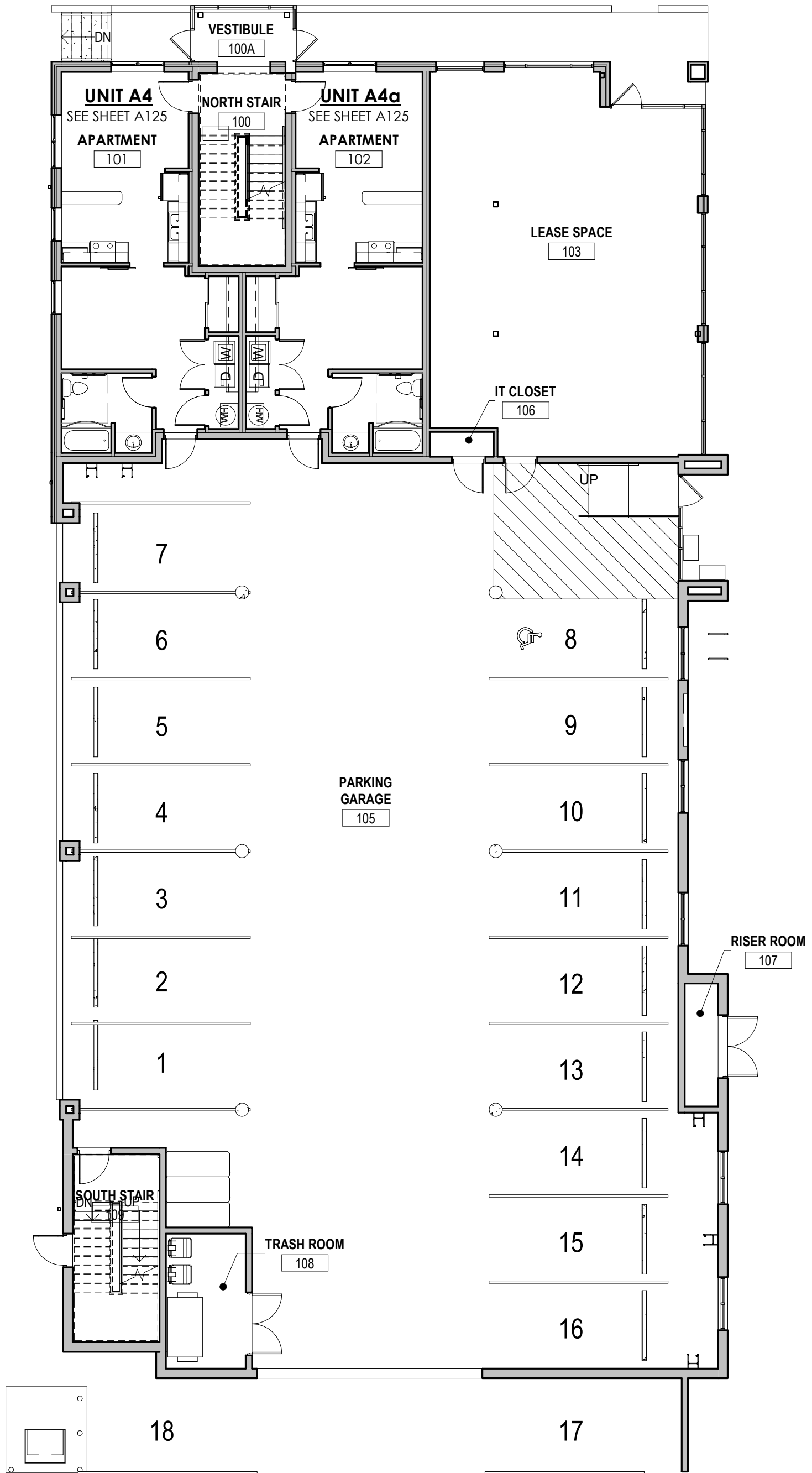
7/29/2020

# G3 DEVELOPMENT

318 E. 3RD STREET  
BLOOMINGTON, IN 47401

169...  
**STUDIO  
THREE  
DESIGN**

architecture — interior design  
www.studio3design.net  
317.595.1000 main 317.572.1236 fax  
8604 Allisonville Road, Suite 330 Indianapolis, IN 46250



## LEVEL 1 - OVERALL PLAN

3/32" = 1'-0"

DRAFT - "SUBJECT TO CHANGE"

DEVELOPER

CEDARVIEW  
MANAGEMENT

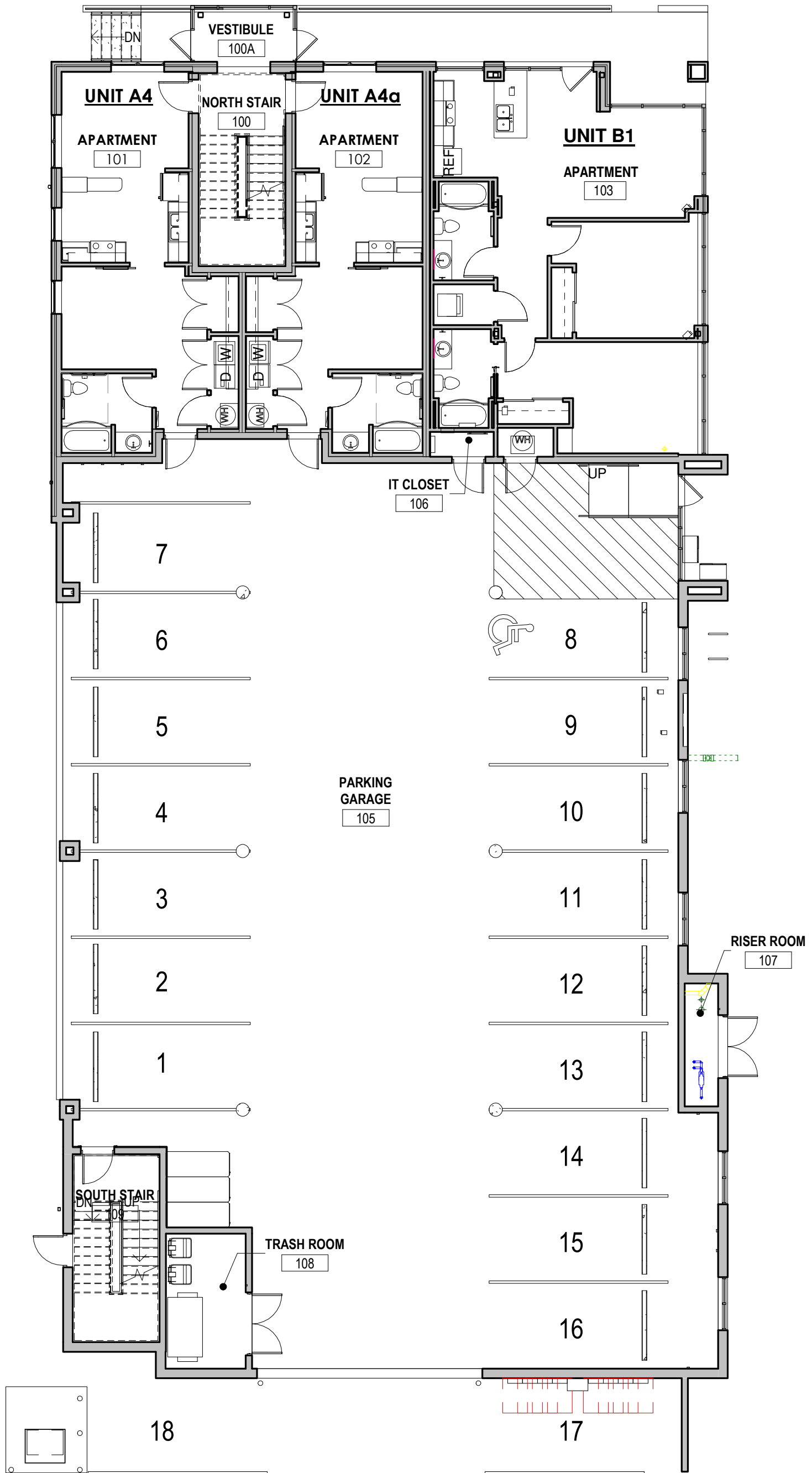
08/31/2020

# G3 DEVELOPMENT

318 E. 3RD STREET  
BLOOMINGTON, IN 47401

170..  
STUDIO  
THREE  
DESIGN

architecture interior design  
www.studio3design.net  
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## LEVEL 1 - OVERALL PLAN

3/32" = 1'-0"

DRAFT - "SUBJECT TO CHANGE"



DEVELOPER  
CEDARVIEW  
MANAGEMENT

08/31/2020

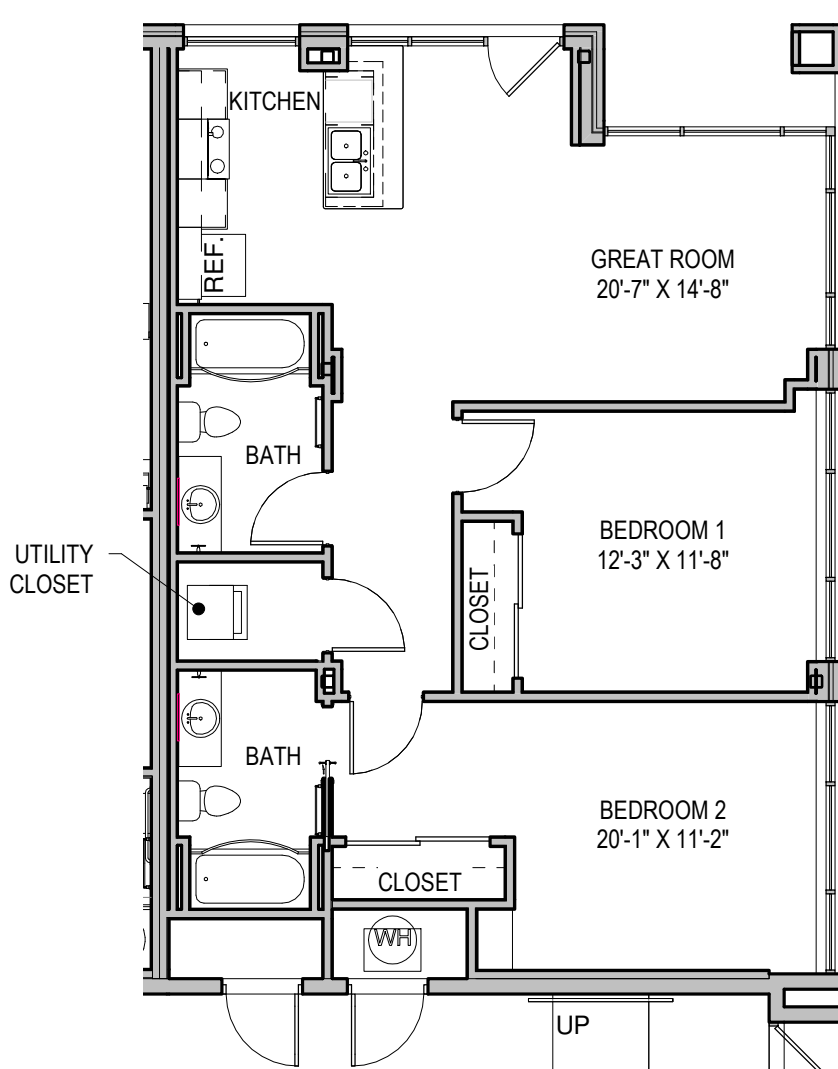
# G3 DEVELOPMENT

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171...  
STUDIO  
THREE  
DESIGN

architecture interior design  
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## UNIT B1

1/8" = 1'-0"

1,076 SF

DRAFT - "SUBJECT TO CHANGE"