

Agenda
GOSHEN BOARD OF ZONING APPEALS
Tuesday, April 26, 2022, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- I. Roll Call
- II. Approval of Minutes from 3/22/22
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- IV. Postponements/Withdrawals – any person having business to come before the Board may request postponement or withdrawal at this time.
- V. **Developmental Variances**– public hearing items
 - 22-08DV** – Leon J Bauman & Charlotte K Yutzy request developmental variances to allow a side (north) setback of 3’ and side (south) setback of 1’ where 5’ is required and building coverage of 45 percent where no more than 35 percent is allowed for the construction of a new 528 SF detached garage. The subject property is generally located at 505 S 6th Street and is zoned Residential R-1 District.
 - 22-09DV** – Stalter Holdings, LLC and Professional Permits request a developmental variance to replace a portion of a non-conforming freestanding sign with a 32 Sf electronic message center where electronic message centers are not permitted to be added to any non-conforming sign. The subject property is generally located at 2115 Lincolnway East and is zoned Industrial M-1 District.
 - 22-10DV** – Nathan Mateer Rempel and Sonya Mateer Rempel request a developmental variance to allow a fence 6’ in height in the front yard setback along 5th Street where fences cannot exceed 4’ in height. The subject property is generally located at 113 E Madison Street and is zoned Residential R-3 District.
 - 22-11DV** – Greenwood Rental Properties, LLC and Jones Petrie Rafinski request a developmental variance to allow a front building setback of 24’ along Plymouth Avenue where 35’ is required for the construction of an 8,908 SF multi-family residential building. The subject property is generally located at 1006 S Indiana Avenue and is zoned Residential R-3 District.
- VI. Audience Items
- VII. Staff/Board Items
- VIII. Adjournment

Minutes - Goshen Board of Zoning Appeals
Tuesday, March 22, 2022, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Lee Rohn, Bethany Campbell, Hesston Lauver, and Michael Potuck. Also present were Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus. Absent: Tom Holtzinger

II. Approval of Minutes from 2/22/22: Lauver/Potuck 4-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Lauver 4-0

IV. Postponements/Withdrawals - None

V. Developmental Variances – public hearing items

22-05DV – Heidi P McKee & Alton Brian McKee and Cut Cost Construction, Inc. request developmental variances to allow a front (east) building setback of 18’ along Winter Avenue where 25’ is required, a rear (north) setback of 23’ where 25’ is required, a lot area of 8,712 Sf where a minimum of 10,000 Sf is required, and 3 on-site parking spaces where 4 are required for the addition of a second dwelling unit to an existing single-family home. The subject property is generally located at 1301 Baker Avenue and is zoned Residential R-2 District.

Staff Report

Mr. Deegan explained this is a single-family home with an attached two-car garage, located on a corner lot. The petitioners propose a small addition to the north side of the garage for an aging parent. Included in the plans is an additional driveway, with one parking space that has been approved by the Board of Works. This property is located in the R-2 Zoning District, which permits two-family homes, provided they meet the developmental requirements of the district. Because this property cannot meet all of the requirements, developmental variances are required for an 18’ front setback where 25’ is required, a rear setback of 23’ where 25’ is required, 3 onsite parking spaces where 4 are required, and a lot area of 8,712 sf where a minimum of 10,000 sf is required. He provided the following reasons why Staff feels this request is justified:

- The addition meets the character of the area
- At 450 sq. ft. the addition is smaller than a typical dwelling unit
- 2 additional parking spaces seem unreasonable
- The requests are minimal

Mr. Deegan advised that the property is not currently connected to City water and that will be required if the Board grants approval of the request.

Mr. Deegan noted for the record that one inquiry was received from an adjacent property owner asking for clarification of the request. Once the request was explained, the caller indicated no support or concern regarding the project.

Petitioner Presentation:

Charles Hochstetler, 20100 CR 146, New Paris, spoke on behalf of the petitioner. He stated he is familiar with the Staff Report and has nothing to add.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

There was no discussion among Board members.

Action:

A motion was made and seconded, Rohn/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-05DV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

22-06DV – Gordon K Prieb & Mary M Metzler request a developmental variance to allow a front (south) building setback of 6’ along Adams Street where a minimum of 25’ is required for the installation of a 129 Sf shed. The subject property is generally located at 1108 S 14th Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property is located at the corner of 14th Street and Adams Street and the petitioner would like to install an approximate 129 sf shed for the storage of hobby materials. The petitioner would like the shed’s location close to the driveway on the south side of the property in order to allow quick access between the shed and vehicles. For this reason, a 6’ front yard setback is requested from the Adams Street property line where 25’ is required. Staff finds it difficult to support this request because the property has adequate size to meet the setback requirements and place a shed of this size. He went on to say the overhang of the existing home is approximately 16’ from the south property line so Planning’s recommendation is to amend the approval and allow the shed to be placed 16’ from the property line. This would allow closer access to the driveway than what is allowed by the zoning ordinance and maintain the open visual field of the front yard.

Mr. Deegan noted for the record that there was one inquiry from a neighboring property owner asking for clarification of the request. They did not voice support or opposition to the request.

Petitioner Presentation:

Gordon Prieb, 1108 S 14th Street spoke on behalf of the petitioner. He stated the proximity of the shed to the garage and driveway was the main reason for this requested setback. He stated he has a small bee farm outside Goshen and hauls equipment back and forth, and having the shed close to the driveway would be beneficial to him.

He stated they considered Mr. Deegan’s recommendation of lining it up with the south part of the garage, but placing the shed closer to the windows would block the view and potentially affect the resale value. It would also require them to make changes to the landscaping. Placing the shed in the backyard would also block the view and he would like to keep the backyard as open as possible

Mr. Prieb stated that the BZA filing instructions discussed items that the BZA considers and he had the following comments:

- The need for the variance arises from some condition peculiar to the property.
 - He stated what’s peculiar to this property is that there are a lot of little things that don’t fit together well. He pointed to the fact that this is a corner property, the positioning of the house, the location of the windows, and that there are very few places where the shed can go to meet the proximity requirements to the driveway.
- Adherence to the ordinance requiring a 25’ setback would cause unnecessary hardship.
 - The hardship to him would be hauling the materials back and forth. He stated he would like to avoid this if possible.
- He stated there are 3 other neighbors on the block with sheds, noting that 2 of them are 6’ or closer to the property line. He pointed out a precedent has already been set for this.

Mr. Lauver asked if the shed will be placed on a slab.

Mr. Prieb advised that it will be built on runners.

Mr. Rohn pointed out that the shed can be moved and have no effect on resale value.

Mr. Prieb agreed that the shed could be easily moved.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Deegan pointed out that the petitioner stated there are sheds on adjacent properties and that's one of the things the Planning Office looks at when reviewing requests. In this case, Planning could find no record of approval for any of the sheds. He went on to say if variances had been approved for these sheds, this could be looked at as meeting the character of the neighborhood, but if not, it's not appropriate to use these as reasons for approval.

Mr. Rohn stated he's looking at some sort of compromise; something between 6' and 16' that would still give the petitioner access to the driveway.

Attorney Kolbus noted the Board can grant approval for 6' or 16' or anything in between.

Action:

A motion was made and seconded, Rohn/Potuck, to adopt the Staff recommendations as the findings of the Board, amending condition #4 to allow the south side of the shed to be placed a minimum of 10' from the property line along Adams Street, and based on these findings, approve 22-06UV with the following 4 conditions:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. The leading edge of the south side of the shed shall be a minimum of 10' from the property line along Adams Street.

The motion passed unanimously by a vote of 4-0.

22-07DV – Christopher E Watkins, Bell Indiana, LLC, Standard Goshen, LLC, and Hamilton Designs, LLC request developmental variances to allow a 4' side (north) setback for a parking/driving aisle where 5' is required and parking spaces 18' in depth where a minimum of 20' is required for a new restaurant. The subject property is generally located at 1822 Lincolnway East and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan explained this property currently contains a 5,000 sf transmission shop with adjacent parking and storage areas. Today's request is to redevelop this property by demolishing the existing building and replacing with a new drive-thru restaurant. The development will include a 2,240 sf building, 28 parking spaces, a drive-thru aisle, and a driving aisle that circles the property. Developmental variances will be required in order to allow a north side setback of 4' to the driving aisle where 5' is required and to allow parking spaces 18' in depth, where 20' is required. Staff feels this request is reasonable, pointing out the 133' wide property is the reason variances are required. He stated the proposed design is consistent with the way other drive-thru restaurants in the City have been developed. He also pointed out the request for a 4' side setback is negligible.

Mr. Deegan noted that the BZA granted a request for 18' parking spaces for a new industrial parking lot at 2442 E Kercher Road last year. He also pointed out that only 104 of the 328 spaces were approved at 18' and the

remainder of the spaces were required to meet the ordinance requirement of 20', explaining that this provides spaces to park larger vehicles. Today's request is to allow all spaces to be 18'. He stated he was unable to find anything in Planning files showing where all parking spaces were approved at 18', but noted that the City of Elkhart allows 18' parking spaces. He also noted that there are popular vehicles that are less than 18' long, but also popular vehicles in excess of 18' in length.

Staff recommends approval because there is ample distance between the first parking space and the front line of the property along Lincolnway East and pointed out the 24' driving aisle meets the zoning ordinance requirements. After reviewing the proposed site plans, the Planning Office feels there should be sufficient room for maneuvering on the property without causing traffic issues. He noted there were no inquiries from the public regarding this request.

Petitioner Presentation:

Michael Thompson, Hamilton Designs, 11 Municipal Drive, Suite 300, Fishers, IN spoke on behalf of the petitioner. He stated they do site evaluations and explained the analysis that was done for this lot. He noted they have also been in contact with INDOT and advised the Board that the future road expansion has also been coordinated with INDOT. He acknowledged that this is a tight lot, and normally they would narrow the bypass lane around the driveway, but they need the full 12' to have ample room for delivery trucks to maneuver. He pointed out that there is a lot of pavement in the back which will allow the truck to swing out to come in. Deliveries are generally at night, so the rear section can be used the rest of the time to park larger vehicles. He stated that other communities allow 18' parking spaces and they generally have a 24' driving aisle. He also stated these are not head-to-head parking spaces, explaining that the spaces on the southeast side allow you to pull up until your wheels hit the curb which will allow an extra foot or two. He stated they would like to redevelop this property and feels this will be a good fit. He asked Mr. Deegan if the reduced 5' setback that's requested at 4' can be approved as plus or minus 4'.

Mr. Deegan stated that because it was advertised at 4', that's the minimum allowed setback.

Mr. Thompson stated he understood and will make sure that information is passed along.

Mr. Potuck asked if the space at the rear is not marked because of delivery trucks.

Mr. Thompson stated that Taco Bell will not allow delivery vehicles to drive over designated parking spaces so this area will be striped, but will not be labeled as "no parking".

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Rohn/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-07DV with the 3 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

VI. Audience Items
None

VII. Staff Board Items
None

VIII. Adjournment: 4:41 pm Rohn/Potuck

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Tom Holtzinger, Chair

Lee Rohn, Secretary

LOCATION: 505 S 6th Street
CASE NUMBER: 22-08DV

DATE: April 26, 2022
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Leon J. Bauman & Char Yutzy (owners)

REQUEST: The applicants request developmental variances to allow a side (north) setback of 3' and side (south) setback of 1' where 5' is required and building coverage of 45 percent where no more than 35 percent is allowed for the construction of a new 528 SF detached garage

LOT SIZE: ± 4,620 SF; ± 28' of frontage; ± 165' of depth

APPLICABLE ZONING: Residential R-1

NOTICES SENT: 64

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential

NEIGHBORHOOD: Historic Southside

THOROUGHFARES: 6th Street

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 4140.3*, Area, Width, and Yard Regulations of the R-1 District C. Side Yard. Each lot shall have two side yards measured from the building to the lot line and shall be as follows: On a corner lot...the interior side yard shall have a width of not less than eight feet.
- ◇ Goshen Zoning Ordinance, *Section 4140.4*, Building Coverage Regulations of the R-1 District No building shall hereafter be erected, reconstructed or altered so that more than 35 percent of the area of the lot is covered. This shall include a primary residential use and/or accessory buildings or structures, combined.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single family home located on 6th Street just a short distance south of Monroe Street and located in the Historic Southside neighborhood. The property is a narrow lot—just 28' in width—and is improved with an approximately 1,373SF home, 156 SF pergola, and 400 SF detached garage with access from the rear alley.

The petitioners state that the existing garage is subject to inundation during rain events and is in poor condition, so they are proposing to demolish it and replace it with a new detached garage. The proposed garage is 22' x 24' (528 SF) and will have a new concrete approach from the alley where the existing approach is gravel. Developmental variances are required because both the north and south side setbacks to the overhangs will be 3' and 1' respectively where accessory buildings in the R-1 District have a minimum 5' side yard. With the new

garage, building coverage for the property will be 45% and the R-1 District limits such coverage to 35%. Building coverage is based on the footprint (not including overhangs) of all structures on a property.

Approval is warranted based on the following:

- The current Zoning Ordinance requires two on-site parking spaces for new single family homes, so the proposed two car garage is reasonable use of the property.
- At 28' in width, this property is very narrow, and the size of the property makes it difficult to place a reasonably sized detached garage on the property without encroaching in side setbacks and exceeding building coverage.
- This property is the narrowest on the 500 Block of S 6th Street and is likely among the narrowest single family properties in the City. The current Zoning Ordinance requires all single family homes to be developed on lots with a minimum frontage of 66', which illustrates the difficulty of keeping this existing property up to date on a historically small lot.
- The new garage will represent very little change in the character of the property. The existing garage to be demolished also has an approximately 1' south side setback and encroaches in the rear setback adjacent to the alley. Current building coverage is already approximately 42%, and much of area of the new garage will be built closer to the home.
- The proposed garage is in keeping with the surrounding properties. On the 500 Block of S 6th Street, GIS measurements indicate that of the 16 properties on interior lots facing 6th Street, 12 of them have detached garages or carports that do not meet one or more side yard setback. Many of these homes are on similarly narrow lots.
- Approval will allow the petitioners to replace a garage that becomes inundated with rain water and is creating practical difficulties in the use of the property
- The petitioners have spoken with Staff in the Building Department and understand that the new garage will be built to current building code, which includes fire-rating several walls
- The BZA has routinely granted relief for reasonable residential development in the same area of town. In March 2021, for example, the BZA granted approval for developmental variances allowing a 2' side (south), a 4' rear (west) setback, and building coverage of 48% for a new two-stall garage at 507 S 5th Street, a property which is located one block directly west of the subject property.

FINDINGS OF FACT

Staff recommends **approval** of developmental variances to allow a side (north) setback of 3' and side (south) setback of 1' where 5' is required and building coverage of 45 percent where no more than 35 percent is allowed for the construction of a new 528 SF detached garage, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed garage will have very similar setbacks to the existing garage to be demolished, and it will be built to current building code. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The proposed garage is in keeping with the surrounding properties. On the 500 Block of S 6th Street, GIS measurements indicate that of the 16 properties on interior lots facing 6th Street, 12 of them have detached garages or carports that do not meet one or more current side yard setback requirements. Many of these homes are on similarly narrow lots. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** An existing garage on the property is in poor condition and subject to rainwater inundation. The proposed garage is similar in size and will allow parking for two vehicles. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.

2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. Building Department approval is required



Looking west across S 6th Street at front of home



Looking southeast from alley



Looking east along north property line



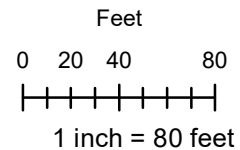
Looking east long south property line



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505 S 6th Street

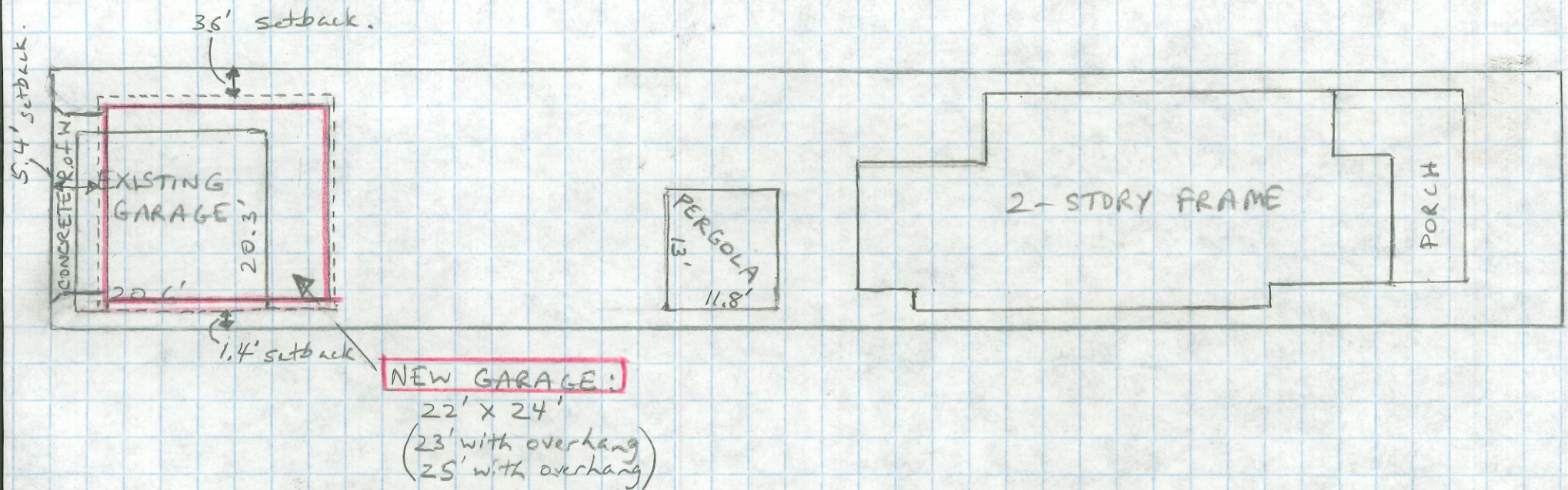
2021 Aerial
 Printed April 5, 2022



The City of Goshen
 Department of
 Planning & Zoning

204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-3600 Fax: 574-533-8626

25 in = 4 ft



- Existing Garage is 12' from center of alley.
- New Garage will be 15' from center of alley.
- New Garage will be approx. 61' from rear of house.

LOCATION: 2115 Lincolnway East
CASE NUMBER: 22-09DV

DATE: April 26, 2022
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Stalter Holdings, LLC (owner); Professional Permits (agent)

REQUEST: The applicants request a developmental variance to replace a portion of a non-conforming freestanding sign with a 32 Sf electronic message center where electronic message centers are not permitted to be added to any non-conforming sign

LOT SIZE: ± 1.38 acres; ± 135' of frontage; depth varies

APPLICABLE ZONING: Industrial M-1

NOTICES SENT: 9

SPECIAL INFORMATION

PUBLIC UTILITIES: Not connected - City water and sewer is available

AREA DEVELOPMENT: Commercial, industrial

NEIGHBORHOOD: None

THOROUGHFARES: Lincolnway East/U.S. 33

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 5100.2*, Permitted Sign Types
 - B. Changeable Copy and Electronic message Center Signs
 - 2.g. An electronic message center shall not be added to any non-conforming signs.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is an approximately 1.4 acre tract located in southeast Goshen on the Lincolnway East commercial corridor. Zoning is Industrial M-1 and adjacent uses and zoning are a mix of commercial and industrial. Improvements include an approximately 7,500 SF building and surrounding parking and driving aisle pavement. The property was annexed into the City in 2004, and since that time has been used for several different businesses, including automotive detailing, shed sales, and automotive sales.

The petitioner has purchased the property and is proposing to use the property as an auto repair. Details of the use are being reviewed by the City. As part of the new use, the petitioner is proposing to make changes to an existing freestanding sign, including refacing the top panels of the sign and replacing an existing manual changeable copy sign with an electronic message center (EMC).

The current Zoning Ordinance sign standards permit a freestanding sign on this property not exceeding 15' in height and 50 SF in area. The existing freestanding sign is approximately 20.08' in height with a total sign area of 108.25 SF (this includes the top face at 76.25 SF and the changeable copy sign at 32 SF). Because the sign is greater in height and area than what is currently permitted, it is non-conforming, and the Zoning Ordinance prohibits installing an EMC on a non-conforming sign. The proposed EMC matches the 32 SF area of the

changeable copy sign it will replace and will require a developmental variance. The petitioner is also refacing the top portion of the sign, and refacing a non-conforming sign in the M-1 District is permitted.

The petitioners have indicated that they are open to having a smaller EMC than the current changeable copy sign, and Staff recommends approval along those lines. Approval of a smaller EMC at 24 SF would allow the property the benefits of an EMC while reducing the non-conforming area of the sign. The petitioners have submitted a plan showing the leading edge of the sign setback 25' from the front property line, which far exceeds the minimum 5'. While the sign is located in a paved area, the bottom of the proposed EMC is 10' from grade, so there is adequate room to safely maneuver around the sign.

Similar requests to the BZA have included:

- August 2021 – BZA approved replacing the changeable copy price board with an approximately 4 SF EMC on the freestanding sign at 1000 S Main Street (7 Eleven)
- November 2014 – BZA gave an amended approval to a 48 SF EMC addition to the freestanding sign at 2015 Lincolnway East (Maple City Chapel) with the condition that the sign be reduced in height and area
- February 2013 – BZA denied an application to replace a changeable copy sign with an EMC on freestanding sign at 1914 Lincolnway East (The Car Company) that was non-conforming for both size and area

FINDINGS OF FACT

Staff recommends **an amended approval** of a developmental variance to replace a portion of a non-conforming freestanding sign with an electronic message center where electronic message centers are not permitted to be added to any non-conforming sign, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The amended approval will benefit the general welfare by reducing the overall area of a non-conforming sign. The sign will have a 10' ground clearance and 25' front setback and is unlikely to cause harm to health and safety. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The property is located on a busy commercial corridor where large signs are located. If the sign is approved as amended, it will be less non-conforming in area than the existing sign. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** Electronic message centers have become a common display type for businesses. By replacing a portion of the existing sign without replacing the entire sign and doing so while reducing the non-conforming area of the sign, the difficulty related to changing an entire sign will be relieved. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. Approval by the Building Department is required.
5. The electronic message center shall not exceed 24 SF in area.



Looking northeast



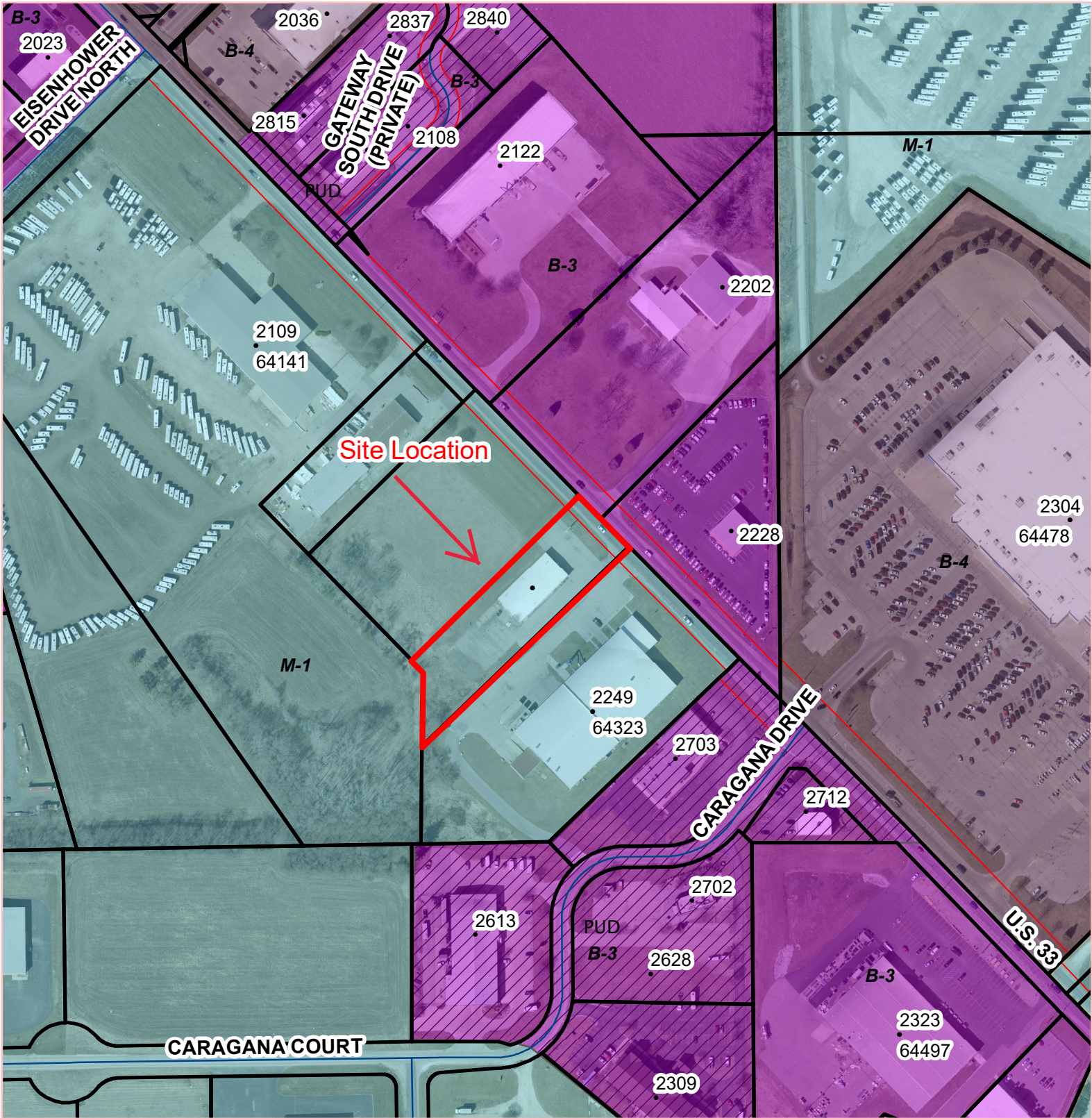
Looking southwest



Looking northeast



Looking north



Site Location

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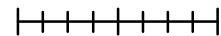
2115 Lincolnway East

2021 Aerial
Printed April 5, 2022



Feet

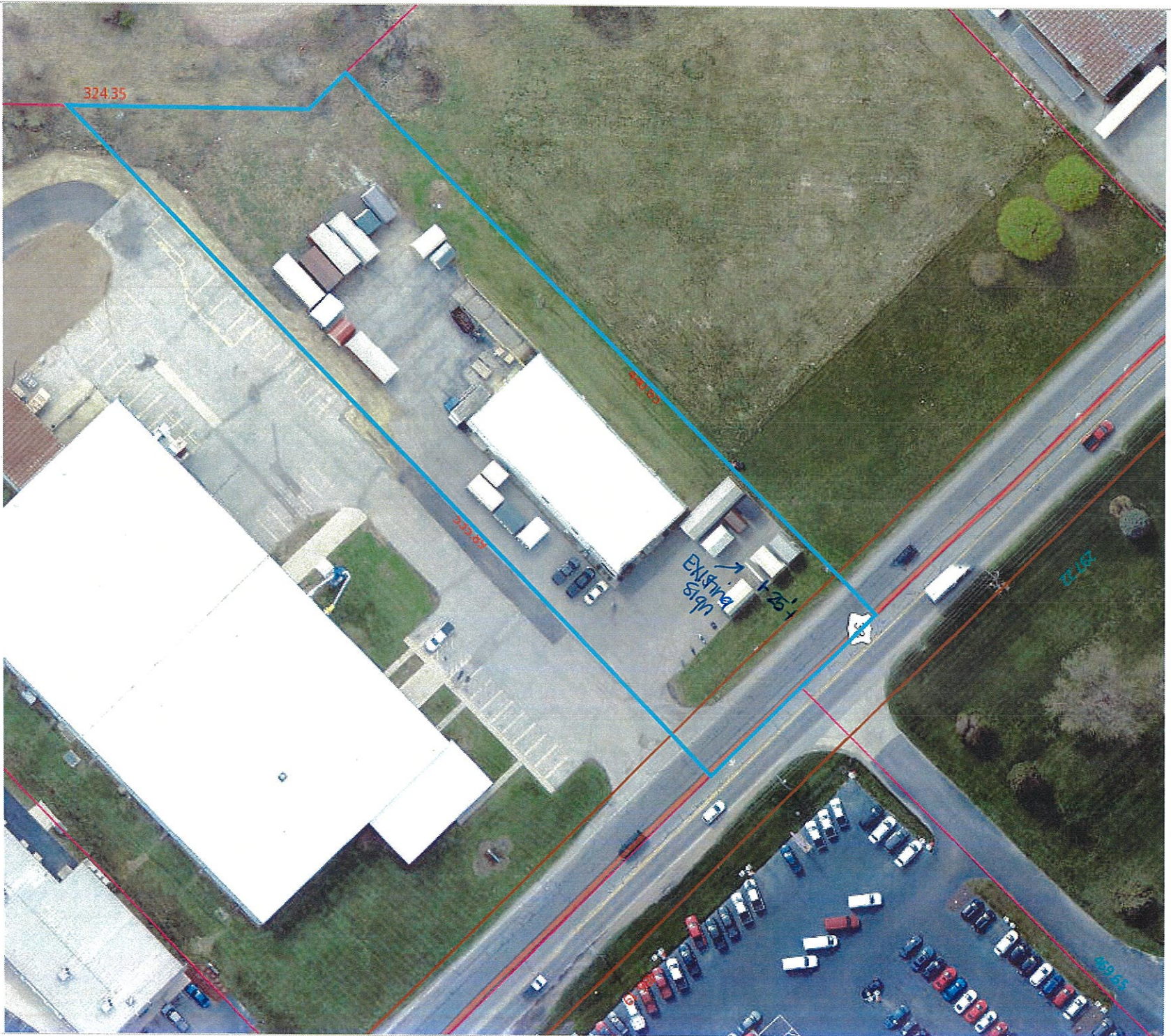
0 65 130 260



1 inch = 250 feet

The City of Goshen
Department of

Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



32435

EXISTING sign
25'



EXISTING



PROPOSED



LOCATION: 113 E Madison Street
CASE NUMBER: 22-10DV

DATE: April 26, 2022
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Nathan Mateer Rempel & Sonya Mateer Rempel (owners)

REQUEST: The applicants request a developmental variance to allow a fence 6' in height in the front yard setback along 5th Street where fences cannot exceed 4' in height

LOT SIZE: ± 11,340 SF; ± 220' of frontage (± 137' on Madison Street; 83' on 5th Street); ± 137' of depth

APPLICABLE ZONING: Residential R-3

NOTICES SENT: 38

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential, commercial

NEIGHBORHOOD: East Lincoln Crossroads

THOROUGHFARES: Madison Street, 5th Street

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 5130*, Fence Regulations
 - B. Fences Permitted in Residential and Business Districts
 - 1. Fences and walls not exceeding four feet in height shall be permitted in the front yard

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a two-story building located on the northwest corner of the intersection of 5th Street and Madison Street. The property is zoned Residential R-3, is a short distance from the central business district, and is surrounded by a variety of uses and zoning. Improvements include a primary building with an approximate footprint of 3,044 SF, an approximately 432 SF detached garage, and small accessory structure, and a driveway and parking area along the east property line with an approximately 70' curb cut.

The subject property has received approval for several use and developmental variances. In 1995, an approximately 80SF accessory structure was approved (95-33DV) to be installed in the front and side setbacks in the northeast corner of the property. An accessory structure (sauna) is still in that location. Several use variance approvals since 1996 have allowed a mixture of office, art gallery, and residential uses to occur on the property. The most recent BZA approval for the property amended previous variances to allow a total of 6 offices with 8 employees and 6 parking spaces where 10 are required. In September 2020, the petitioner indicated that only one office is in use while the remainder of the building serves as a residence.

The petitioner is now proposing to install a fence in the northeast corner of the property adjacent to the 5th Street right of way. The fence will be 6' in height and will be installed parallel to the 5th Street property line at a distance of 4'. The fence is intended to provide privacy and enclose a patio and yard area for the residential use. Fences on

residential properties cannot exceed 4' in height in the front yard, and 5th Street has a front yard of 35'. Because the fence will be located within that 35' front yard, a developmental variance is required. In 2007, in the same neighborhood as the subject property, the BZA also allowed a fence 6' in height at 302 S 6th Street. The petitioner argued that because the property is on a corner, it has two front yards, and the fence would only be in the front yard that serves as a side of the home (along Jefferson Street). Staff had recommended denial in that case.

An important consideration in this request is that the property has two front yards and both of them are 35', limiting space on the property to install a fence above 4' in height. The majority of the property's open yard area is in the front setback along Madison Street, and that area is particularly unsuitable for leisure and relaxation associated with residential use.

However, there is a point at which a property has been developed to such a degree that developmental restrictions are not practical difficulties. An enclosed, private patio and yard with a fence 6' in height may be possible elsewhere if the property didn't already have a large primary building with an attached garage, a detached garage, accessory structure, and large parking and driving aisle. The burden of choosing how to configure the features on such a property falls to the owner and should not be a consideration of the BZA.

Staff believes there is a basis upon which to warrant approval, however. First, the proposed fence is not within a vision clearance area, is completely on private property, and will not threaten the safety and welfare of others. Second, the fence comes close to matching the building line of other homes on the west side of the 300 Block of South 5th Street. A GIS measurement indicates that the front building overhang on the home directly to the north of the subject property is just 7.5' from the front property line. The BZA also approved the location of the existing accessory structure that the fence line will match, indicating that neighboring properties will not be substantially impacted by the location of the fence.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance to allow a fence 6' in height in the front yard setback along 5th Street where fences cannot exceed 4' in height, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed fence is located entirely on private property and outside the vision clearance area. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** Properties on the same block on the same side of south 5th Street have reduced front building setbacks, and the proposed fence will come close to matching the building line of those properties. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will not result in practical difficulties in the use of the subject property.** The footprint of the existing buildings and parking and driving areas is substantial enough that residential use of the property, including use of space for an enclosed patio and yard, is not hindered by the property area or front yards; practical difficulties for the residential use do not exist. *The standard is not confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. The fence shall be installed per the site plan "113 E Madison -fence layout (April 6, 2022)".



Looking north across Madison Street. Arrow shows approximate location of proposed fence.



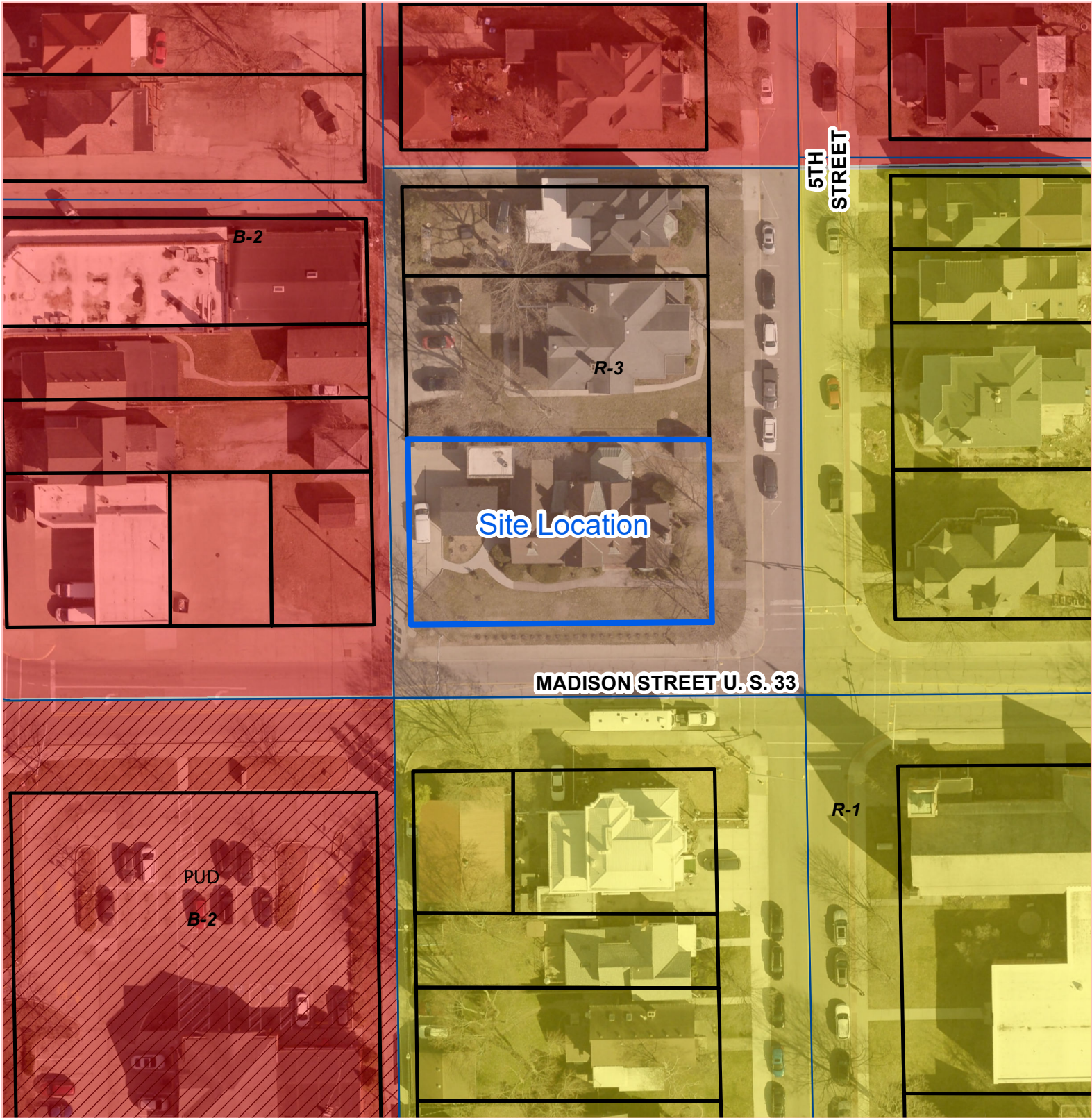
Looking south across front yard of 317 N 5th Street. Arrow shows approximate location of proposed fence.



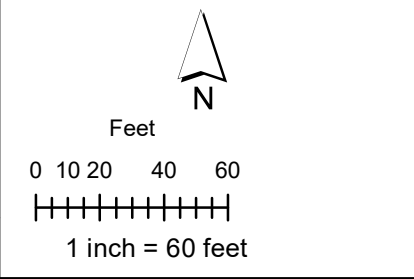
Looking southwest



Looking east across north property line



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113 E Madison

2021 Aerial
Printed April 7, 2022

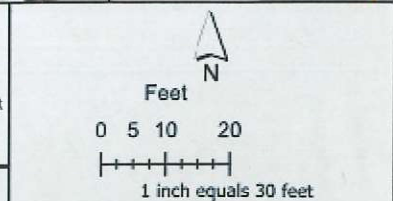
The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



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113 E Madison Street

2021 Aerial
Printed on 3/24/2022



The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

LOCATION: 1006 S Indiana Avenue
CASE NUMBER: 22-11DV

DATE: April 26, 2022
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Greenwood Properties, LLC (owners) & Jones Petrie Rafinski (agent)

REQUEST: The applicants request a developmental variance to allow a front building setback of 24' along Plymouth Avenue where 35' is required for the construction of an 8,908 SF multi-family residential building

LOT SIZE: ± 4.5 acres; ± 880' of frontage (± 399' on Plymouth Ave & ± 481' on Indiana Ave); ± 493' of depth

APPLICABLE ZONING: Residential R-3

NOTICES SENT: 13

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer available

AREA DEVELOPMENT: Residential, institutional, commercial

NEIGHBORHOOD: None

THOROUGHFARES: Plymouth Avenue & Indiana Avenue

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 4170.3*, Area, Width, and Yard Regulations of the R-3 District
B. Front Yard. Front yards shall be measured from the front property line and the building line and shall be as follows:
 3. On arterial streets, the front yard shall be a minimum distance of 35 feet.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is an approximately 4.5 acre site located on the northeast corner of Plymouth Avenue and Indiana Avenue. The property is two vacant tax parcels annexed in 1968. Surrounding land use and zoning is mixed: residential properties are located directly to the east, north, and northwest across Indiana Avenue; a church is located directly to the west across Indiana Avenue, and commercial use and B-3 zoning, including a gas station are located to the southwest. The subject parcels were rezoned separately in 2020 from A-1 to R-3.

The petitioners are proposing to develop the site as an apartment complex. Improvements include 5 apartment buildings with 60 units and paving for 95 parking spaces. The developer will also install a new sidewalk along Plymouth Avenue. The original submittal in 2020 was for 90 units. When the revised submittal for 60 units was received in March 2022, the Plymouth Avenue sidewalk was proposed to be located within an easement allowing public access and maintenance. After consultation with the State of Indiana and the City of Goshen, the developer agreed to dedicate the area where the sidewalk will be located as public right of way; this was the preference of both the State of Indiana, which owns the Plymouth Avenue right of way, and the City of Goshen.

The initial plans for the property met all developmental requirements, including setbacks. As a result of the dedication of right of way, however, the south property line has been moved northward, and the minimum 35' front building setback to the southern-most building in the complex cannot be met. The setback will be approximately 24' to the building overhang, creating the need for a developmental variance.

Approval is warranted. The need for the variance is created by a slight adjustment to the property resulting from a dedication of public right of way along Plymouth Avenue. The newly dedicated right of way will be the location of over 350' of new sidewalk adjacent to dense housing and a junior high school, benefiting the general welfare. Increasing connectivity with new sidewalks is a goal (Land Use – 3.5) of Goshen's Comprehensive Plan and will positively impact the value of residential, commercial, and institutional uses in the area. The proposed setback is only being requested because the area of new sidewalk will be dedicated as right of way; otherwise the minimum 35' setback to the new building could have been met.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance to allow a front building setback of 24' along Plymouth Avenue where 35' is required for the construction of an 8,908 SF multi-family residential building, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The need for the variance is created by a dedication of public right of way. The right of way will be the location of over 350' of new sidewalk adjacent to dense housing and a junior high school, benefiting the general welfare. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** Approval of the variance will allow installation of a new sidewalk to proceed, increasing connectivity to adjacent residential, commercial, and institutional uses and improving their values. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** The proposed setback is only being requested because the area of new sidewalk will be dedicated as right of way; otherwise the minimum 35' setback to the new building could have been met. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. Approval by the Engineering and Fire Departments through Technical Review is required.



Looking northeast across the intersection of Plymouth Avenue and Indiana Avenue



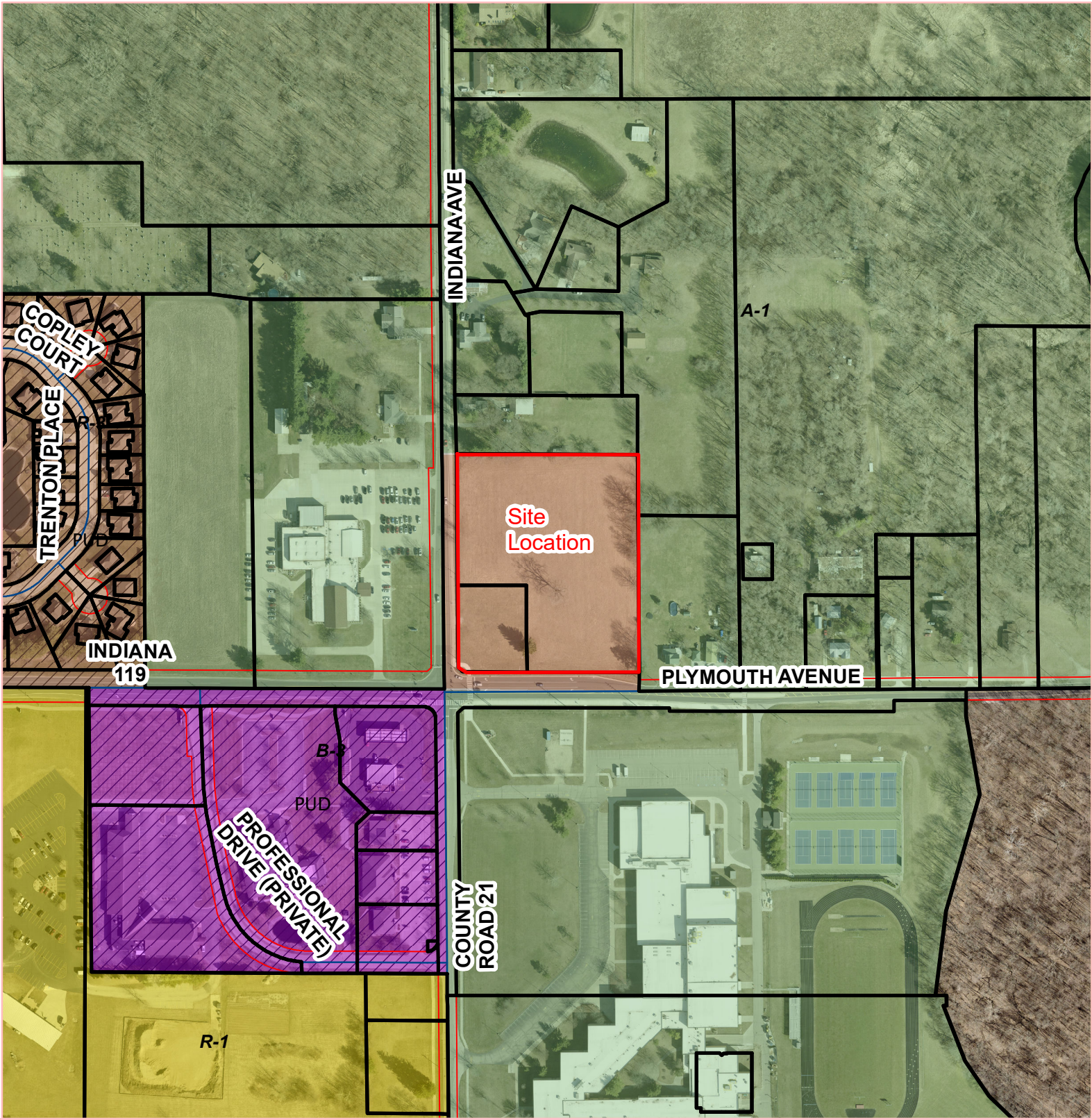
Looking east along Plymouth Avenue



Looking west



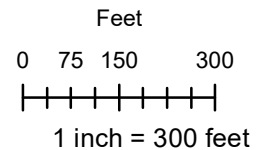
Looking north across Plymouth Avenue



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1006 S Indiana Avenue

2021 Aerial
 Printed April 7, 2022



The City of Goshen
 Department of
 Planning & Zoning
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-3600 Fax: 574-533-8626

Parcel No: 3 and 4
 Road: Indiana Ave.
 Sec: 16 Town: 36N Range: 6E

Right-of-Way Parcel Plat Exhibit "B"

Job No: 2020-0104
 Drawn: jsb
 Checked: jsb
 County: Elkhart

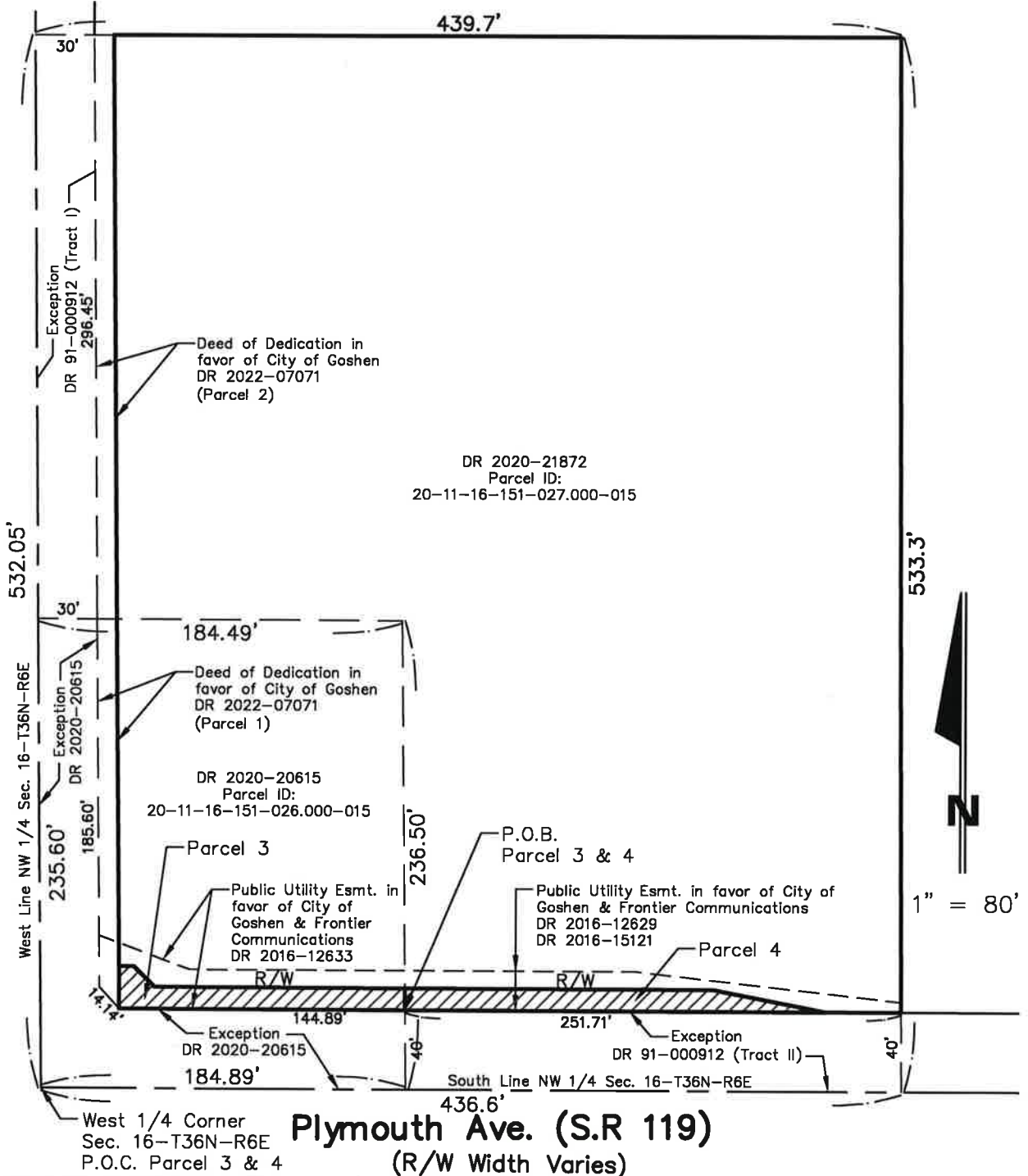


Hatched area is approximate acquisition.

Prepared for: City of Goshen
 Owner: Greenwood Rental Properties, LLC,
 an Indiana limited liability company
 Deed Rec.: See Below
 Key Number: See Below

This plat was prepared from information obtained from the recorder's office and other sources which were not necessarily checked by a field survey. Dimensions shown are from listed record documents.

Indiana Ave. (C.R. 21)
 (60' R/W)

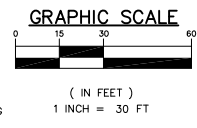
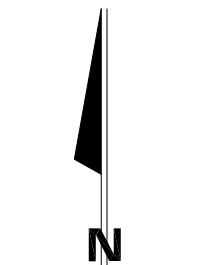
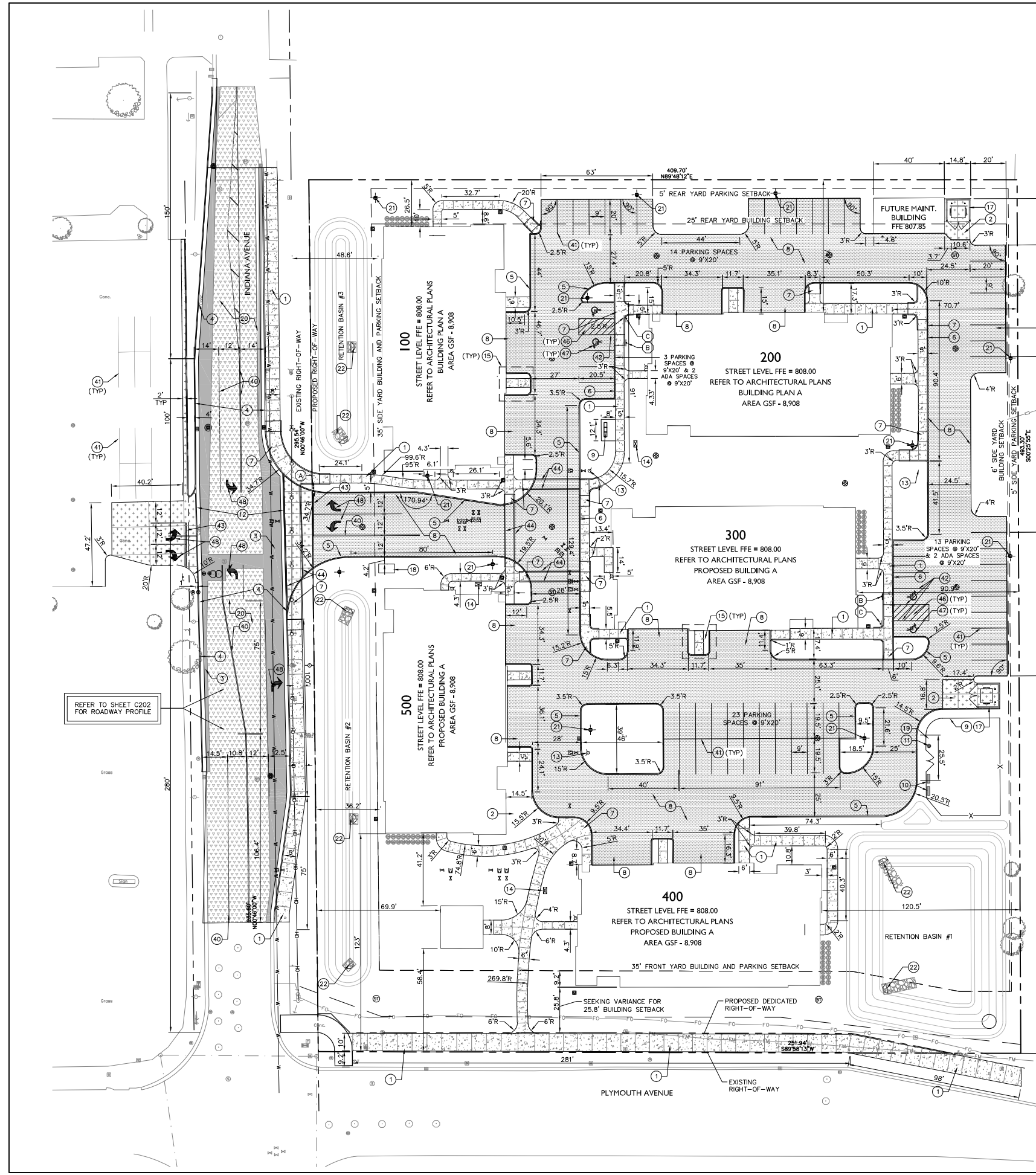


**JONES
 PETRIE
 RAFINSKI**

Elkhart, IN
 p: 574.293.7762
 South Bend, IN
 p: 574.232.4388
 Fort Wayne, IN
 p: 260.422.2522

JSB 04/06/2022

H:\2020 Projects\2020-0104\Surv\RW Dedication Exhibits\Greenwood Rentals LLC\Greenwood Plymouth Ave Dedication\2022-04-05 Greenwood Plymouth Ave Exhibit



- DETAILS LEGEND:**
- ① CONCRETE PAVEMENT, STANDARD 4" THICK, CONTROL JOINTS 10' O.C., MAXIMUM AND EXPANSION JOINTS 60' O.C., MAXIMUM. DETAIL 1 / SD101
 - ② CONCRETE PAVEMENT, STANDARD 8" THICK, CONTROL JOINTS 10' O.C., MAXIMUM AND EXPANSION JOINTS 60' O.C., MAXIMUM. DETAIL 2 / SD101
 - ③ ASPHALT PAVEMENT WITHIN RIGHT-OF-WAY, 1-1/2" HMA SURFACE TYPE B, (165#/SYD) ON TACK COAT OVER, 2-1/2" HMA INTERMEDIATE TYPE B, (275#/SYD) OVER, 8" HMA BASE TYPE B, (880#/SYD) OVER, 6" COMPACTED #53 AGGREGATE, OVER COMPACTED SUBGRADE. DETAIL 11 / SD101
 - ④ STANDARD CURB AND GUTTER. DETAIL 4 / SD101
 - ⑤ STANDARD CURB. DETAIL 5 / SD101
 - ⑥ INTEGRAL CURB WITH SIDEWALK. DETAIL 6 / SD101
 - ⑦ CURB RAMP. REFER TO C302
 - ⑧ STANDARD ASPHALT PAVEMENT, 1-1/2" HMA SURFACE TYPE B, (165#/SYD) ON TACK COAT OVER, 2" HMA BASE TYPE B, (330#/SYD) OVER, 6" COMPACTED #53 AGGREGATE, OVER COMPACTED SUBGRADE. DETAIL 3 / SD101
 - ⑨ MAILBOX (3) TOTAL. BY OWNER
 - ⑩ 4' BACKED BENCH. (2) TOTAL. BY OWNER
 - ⑪ TRASH RECEPTACLE (1) TOTAL. BY OWNER
 - ⑫ DEPRESSED CURB AND GUTTER. DETAIL 9 / SD101
 - ⑬ FIRE HYDRANT OR FIRE CONNECTION. REFER TO UTILITY PLANS
 - ⑭ ELECTRICAL TRANSFORMER. INSTALLED BY NIPSCO, CONTRACTOR SHALL COORDINATE
 - ⑮ CURBED PLANTER AND BUILDING ENTRANCE. DETAIL 9 / SD102
 - ⑯ INLET DRAIN. REFER TO UTILITY PLANS
 - ⑰ TRASH ENCLOSURE. DETAIL 8 / SD102
 - ⑱ ENTRANCE SIGN (BY OTHERS). DETAIL 10 / SD101
 - ⑲ DOG PARK STATION. DETAIL 12 / SD101
 - ⑳ 1-1/2" HMA SURFACE TYPE B, (165#/SYD) OVER MILLED ASPHALT BASE, PROVIDE VARIABLE DEPTH WEDGE AND LEVEL WHERE NOTED ON PLANS.
 - ㉑ POLE MOUNTED LIGHT FIXTURE. REFER TO LIGHTING PLAN
 - ㉒ PVC PIPE FOR STORM WATER WITH METAL END FLARES. DETAIL 4 / C502

- SIGN LEGEND:**
- (A) STOP SIGN. DETAIL 7 / SD101
 - (B) HANDICAP PARKING. DETAIL 8 / SD101
 - (C) ADA VAN ACCESSIBLE. DETAIL 8 / SD101

- PAVEMENT MARKINGS LEGEND:**
- ④① LINE, THERMOPLASTIC, SOLID, YELLOW, 4 IN.
 - ④② LINE, THERMOPLASTIC, SOLID, WHITE, 4 IN.
 - ④③ LINE, THERMOPLASTIC, SOLID, BLUE, 4 IN.
 - ④④ TRAVERSE MARKING, THERMOPLASTIC, WHITE, STOP LINE, 24 IN.
 - ④⑤ TRAVERSE MARKING, THERMOPLASTIC, WHITE, CROSSWALK, 6 IN.
 - ④⑥ TRAVERSE MARKING, THERMOPLASTIC, YELLOW, CROSSHATCH LINE, 8 IN.
 - ④⑦ TRAVERSE MARKING, THERMOPLASTIC, BLUE, ADA CROSSHATCH LINE, 8 IN.
 - ④⑧ PAVEMENT MESSAGE MARKING, THERMOPLASTIC, HANDICAP SYMBOL, BLUE
 - ④⑨ PAVEMENT MESSAGE MARKING, THERMOPLASTIC, LANE INDICATION ARROW, WHITE

ZONING & SETBACKS

- ZONING**
ZONING - R-3
- BUILDING SETBACKS**
FRONT YARD 35'
SIDE YARD (INDIANA AVE.) 35'
SIDE YARD (EAST) 6'
REAR YARD 25'
- PARKING & DRIVE SETBACKS**
FRONT YARD 35'
SIDE YARD (INDIANA AVE.) 35'
SIDE YARD (EAST) 5'
REAR YARD 5'

TABULATED SITE DATA

- ACREAGE OF SITE (196,005 SF) 4.50 AC
- PROPOSED LAND USE:
A. APARTMENT COMPLEX
3 BEDROOM - 10 UNITS
2 BEDROOM - 40 UNITS
1 BEDROOM - 10 UNITS
TOTAL - 60 UNITS
- PARKING RATIO REQUIRED BY ORDINANCE:
APARTMENT COMPLEX
A. 44,540 SF GROSS FLOOR AREA
B. 1 SPACE PER EFFICIENCY MULTI-FAMILY DWELLING UNIT
C. 1.5 SPACE PER ONE OR TWO BEDROOM MULTI-FAMILY DWELLING UNIT
D. 2 SPACES PER THREE OR MORE BEDROOM MULTI-FAMILY DWELLING UNIT
E. NUMBER OF SPACES REQUIRED - 95
F. NUMBER OF SPACES PROVIDED - 95 (INCLUDING GARAGES)
G. NUMBER OF A.D.A. SPACES PROVIDED - 4
- PROPOSED LAND COVERAGE:

	SQUARE FOOTAGE	% OF SITE
A. BUILDING(S)	45,964	23.45%
B. PARKING AND DRIVES	62,436	31.85%
C. OPEN SPACE	87,605	44.70%
TOTAL	196,005	100.00%
- SURFACE RUN-OFF AND DRAINAGE TO BE COLLECTED ON-SITE AND DISCHARGED IN PROVIDED RETENTION PONDS.
- PROPOSED BUILDINGS ARE TO BE TWO STORY AND HAVE A HEIGHT OF 35'-9".
- PROPOSED BUILDING PARKING GARAGE SPACES
BUILDING A - 6 GARAGES
TOTAL - 30 GARAGES
- BUILDINGS WILL BE CONNECTED TO THE CITY OF GOSHEN WATER SYSTEM & SANITARY SEWER.
- PARKING SPACES ARE TO MEET THE CITY OF GOSHEN STANDARDS.
- PROPOSED ACCESS DRIVE WILL UTILIZE INDIANA AVENUE.

INDIANA AVENUE APARTMENTS DEVELOPMENT	ANCON CONSTRUCTION	GOSHEN, IN 46526
SITE DIMENSIONAL PLAN		
DESIGNED BY:	CEE	
DRAWN BY:	CEE, ARB, NGD	
DATE:	MARCH 9, 2022	
JOB NUMBER:	2020-0104	
SCALE:	1"=30'	
C201		

JONES PETRIE RAFINSKI

South Bend, IN 46708
P: 374.231.4988

Fort Wayne, IN 46825
P: 366.422.2322