

# City of South Bend

## BOARD OF ZONING APPEALS

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### AGENDA

**Monday, June 5, 2023 - 4:00 p.m.**

County-City Building  
Fourth-Floor Council Chambers  
[www.tinyurl.com/sbbza](http://www.tinyurl.com/sbbza)

#### PUBLIC HEARING:

- Location:** 1225 and 1229 CORBY BLVD BZA#0198-23  
**Owner:** RICHARD & EMILY SPAULDING  
**Requested Action:**  
Variance(s):  
1) from the maximum lot width of 70' in the NNZO to 93.47'  
**Zoning:** U1 Urban Neighborhood 1
- Location:** 501 & 509 DUNDEE ST BZA#0199-23  
and the vacant lot north and adjacent to 509 Dundee  
**Owner:** RJ & L LANDSCAPING  
**Requested Action:**  
Variance(s):  
1) to allow an accessory structure without a primary  
**Zoning:** U1 Urban Neighborhood 1
- Location:** 1204 ALTGELD ST BZA#0201-23  
**Owner:** AARON W & JAMIE L DECOCKER  
**Requested Action:**  
Variance(s):  
1) From the 3' maximum fence height in the established corner yard to 6'  
**Zoning:** U1 Urban Neighborhood 1
- Location:** 1402 MICHIGAN ST BZA#0202-23  
**Owner:** LIFE TREATMENT CENTERS INC  
**Requested Action:**  
Variance(s):  
1) from the minimum 50% visible light transmittance to 48%  
**Zoning:** NC Neighborhood Center

City of South Bend **BOARD OF ZONING APPEALS**

5. **Location:** 324 and 328 OLIVE ST BZA#0204-23  
**Owner:** JOHN R MCCULLUM  
**Requested Action:**  
    Variance(s):  
        1) to allow parking in the established corner yard;  
        2) from the minimum 5' setback behind building facade to 6' from the property line on the south;  
        3) from the 24' minimum drive aisle width to 22'  
**Zoning:** NC Neighborhood Center
6. **Location:** 5448 Dylan Drive BZA#0205-23  
**Owner:** GLC PORTAGE PRAIRIE LLC  
**Requested Action:**  
    Variance(s):  
        1) to allow an accessory structure in the established front yard  
**Zoning:** I Industrial
7. **Location:** 851 MARIETTA ST BZA#0206-23  
**Owner:** HP MARIETTA STORAGE LLC  
**Requested Action:**  
    Variance(s):  
        1) to allow CMU where prohibited with the condition of a mural  
**Zoning:** I Industrial
8. **Location:** 1007 and 1011 HOWARD ST BZA#0207-23  
**Owner:** UNIVERSITY OF NOTRE DAME DU LAC  
**Requested Action:**  
    Variance(s):  
        1) from the 20' minimum rear yard setback to 10'  
**Zoning:** NC Neighborhood Center
9. **Location:** 1436 BOWMAN ST BZA#0200-23  
**Owner:** ROSE MWANGI  
**Requested Action:**  
    Variance(s):  
        1) to allow the keeping of chickens on a lot without a 1 unit or 2 unit dwelling  
    Special Exception: Urban Agriculture  
**Zoning:** U1 Urban Neighborhood 1
10. **Location:** 3003 LINCOLNWAY and the LOT WEST of 3003 LINCOLNWAY BZA#0196-23  
**Owner:** SALAMEH RAMADAN AND TAMI-LYN  
**Requested Action:**  
    Special Exception: Vehicle Sales or Rental  
**Zoning:** NC Neighborhood Center

City of South Bend **BOARD OF ZONING APPEALS**

11. **Location:** 1127, 1131 and 1135 WESTERN AVE BZA#0197-23  
**Owner:** FARGO LLC  
**Requested Action:**  
Special Exception: Major Vehicle Service  
**Zoning:** NC Neighborhood Center
12. **Location:** 2402 TWYCKENHAM DR BZA#0203-23  
**Owner:** CIVIL CITY OF SOUTH BEND  
**Requested Action:**  
Variance(s):  
1) from the 15' minimum corner setback to 10' along York Rd;  
2) from the 20' minimum side parking setback to 15' along the south and 0' on the east  
Special Exception: a Fire Station  
**Zoning:** S1 Suburban Neighborhood 1

**ITEMS NOT REQUIRING A PUBLIC HEARING:**

1. Findings of Fact – May 8, 2023
2. Minutes – May 8, 2023
3. Other Business
4. Adjournment

**NOTICE FOR HEARING AND SIGN IMPAIRED PERSONS**

Auxiliary Aid or other services may be available upon request at no charge. Please give reasonable advance request when possible.

**Property Information**

Location: 1225 and 1229 CORBY BLVD  
Owner: RICHARD & EMILY SPAULDING

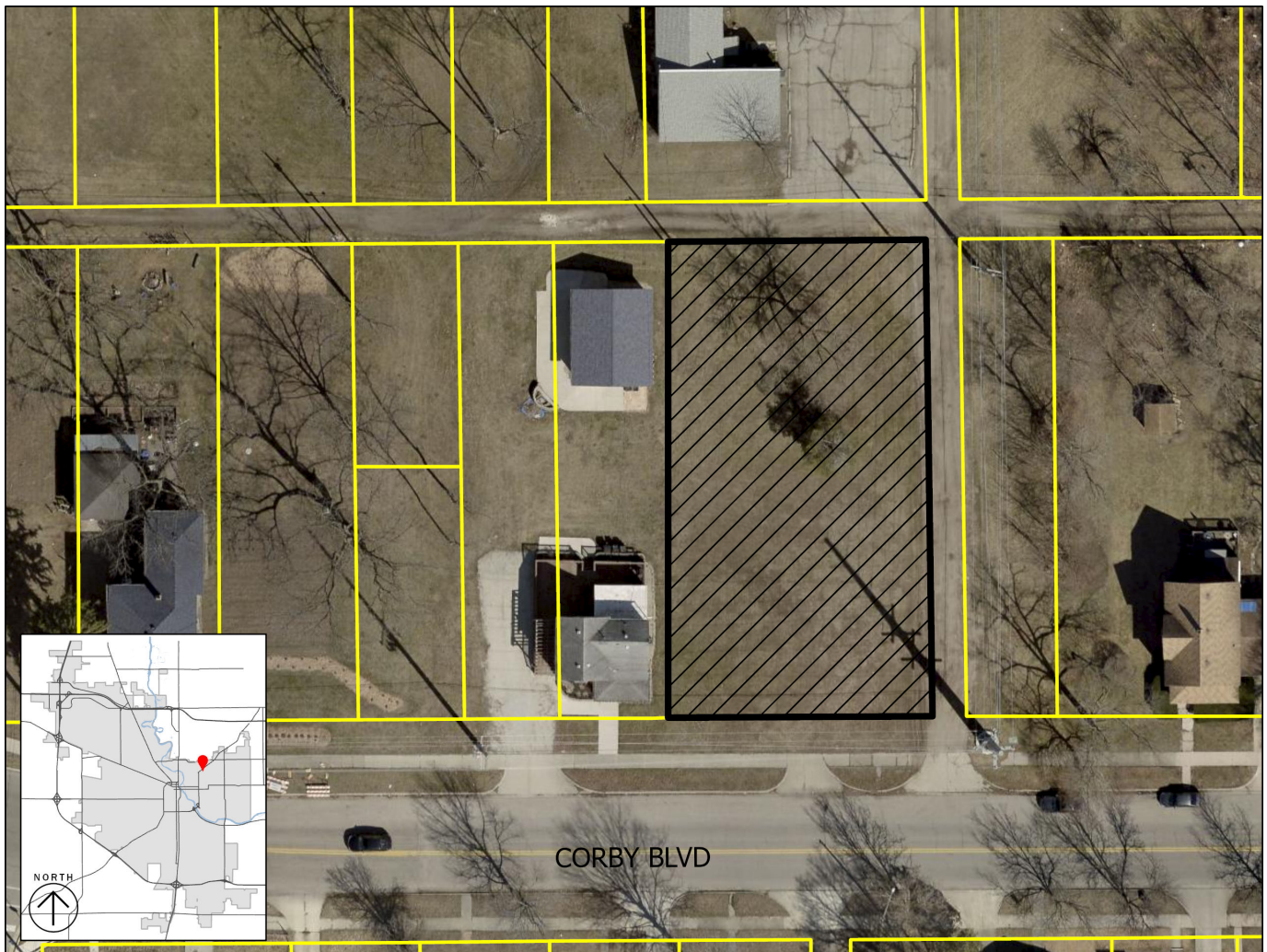
**Project Summary**

Install a 6' fence with the top 1' being 50% open across two adjacent lots.

**Requested Action**

Variance(s): 1) from the maximum lot width of 70' in the NNZO to 93.47'

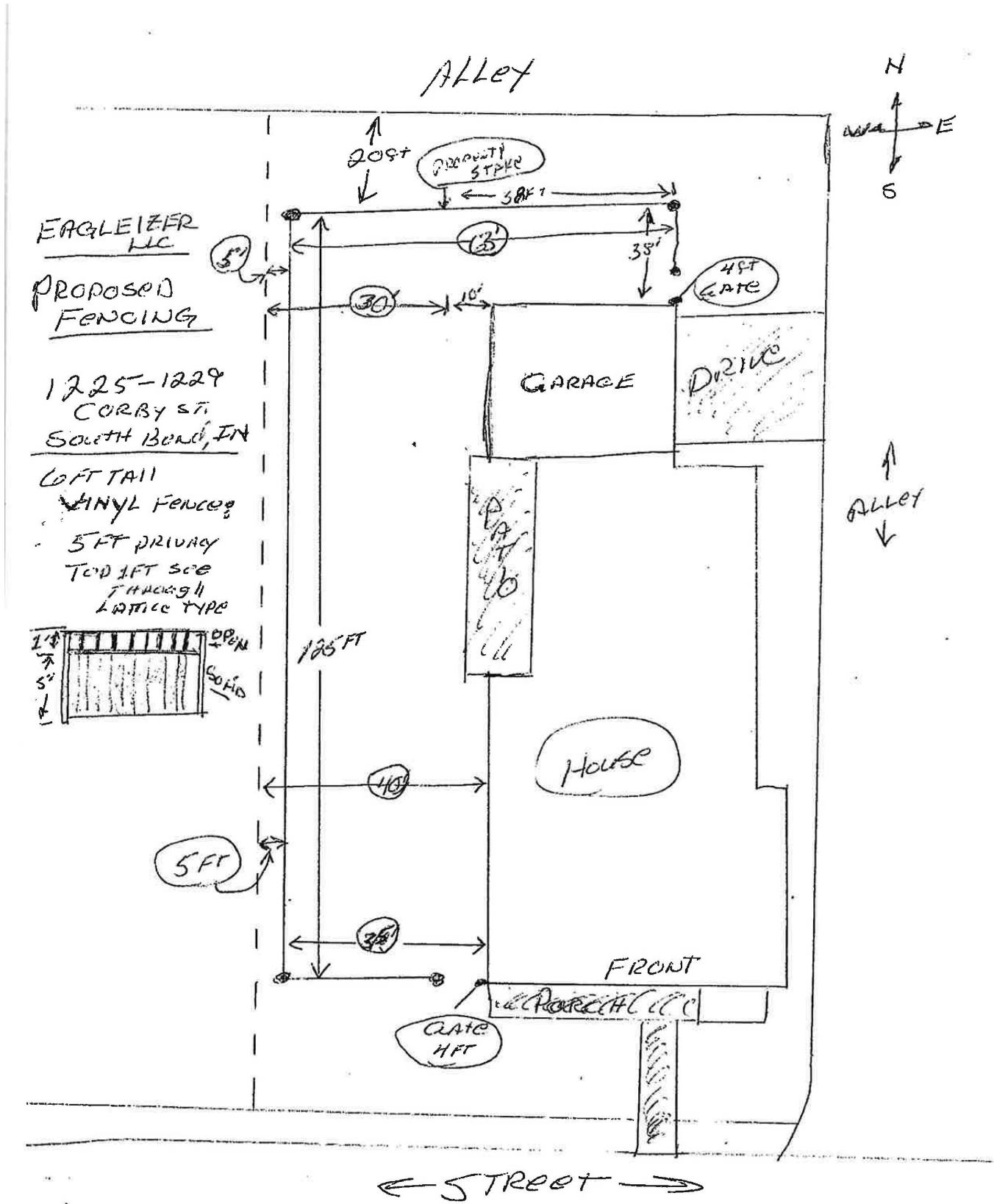
**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance, as requested.

Proposed Site Plan



## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

The proposed variance may be injurious to the general welfare of the community. The Northeast Neighborhood Zoning Overlay was created to create a strong, unique neighborhood identity using comprehensive design approach. In 2020, the neighborhood specifically updated the NNZO regulations to exclude building lots over 70' in order to discourage suburban style development in the neighborhood. Granting the variance would be out of character for the neighborhood and in contradiction to the intent of the overlay district.

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

The use and value of the adjacent properties could be adversely impacted by a suburban style development that is out of character for the area.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

Strict application of the Ordinance would not result in practical difficulties. The property was legally subdivided in 2022 to create a buildable lot for the construction of a new home. The subdivision included 2 lots so as to comply with the regulations of the Ordinance. There is no practical difficulty to support the requested variance.

**(4) The variance granted is the minimum necessary**

The variance requested is not the minimum necessary since there is no practical difficulty. The owner could fence in the existing lot on which the house was built.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

There is no hardship on the property. The variance requested is to correct a self created hardship. The owner divided the property with the sole intent of obtaining a building permit for a new home. Now that the permit has been issued, they are seeking to effectively undo the subdivision that allowed them to construct the house.

## Analysis & Recommendation

**Analysis:** There is no practical difficulty on the property that would warrant the variance request. The property is located in an overlay district which intentionally adopted a maximum lot width in order to avoid the suburbanization of their neighborhood. Approving a variance to allow a lot to be greater than the 70' maximum would be detrimental to future development of the area.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance, as requested.

**Property Information**

Location: 501 and 509 DUNDEE ST and the vacant lot north and adjacent to 509 Dundee  
Owner: RJ & L LANDSCAPING

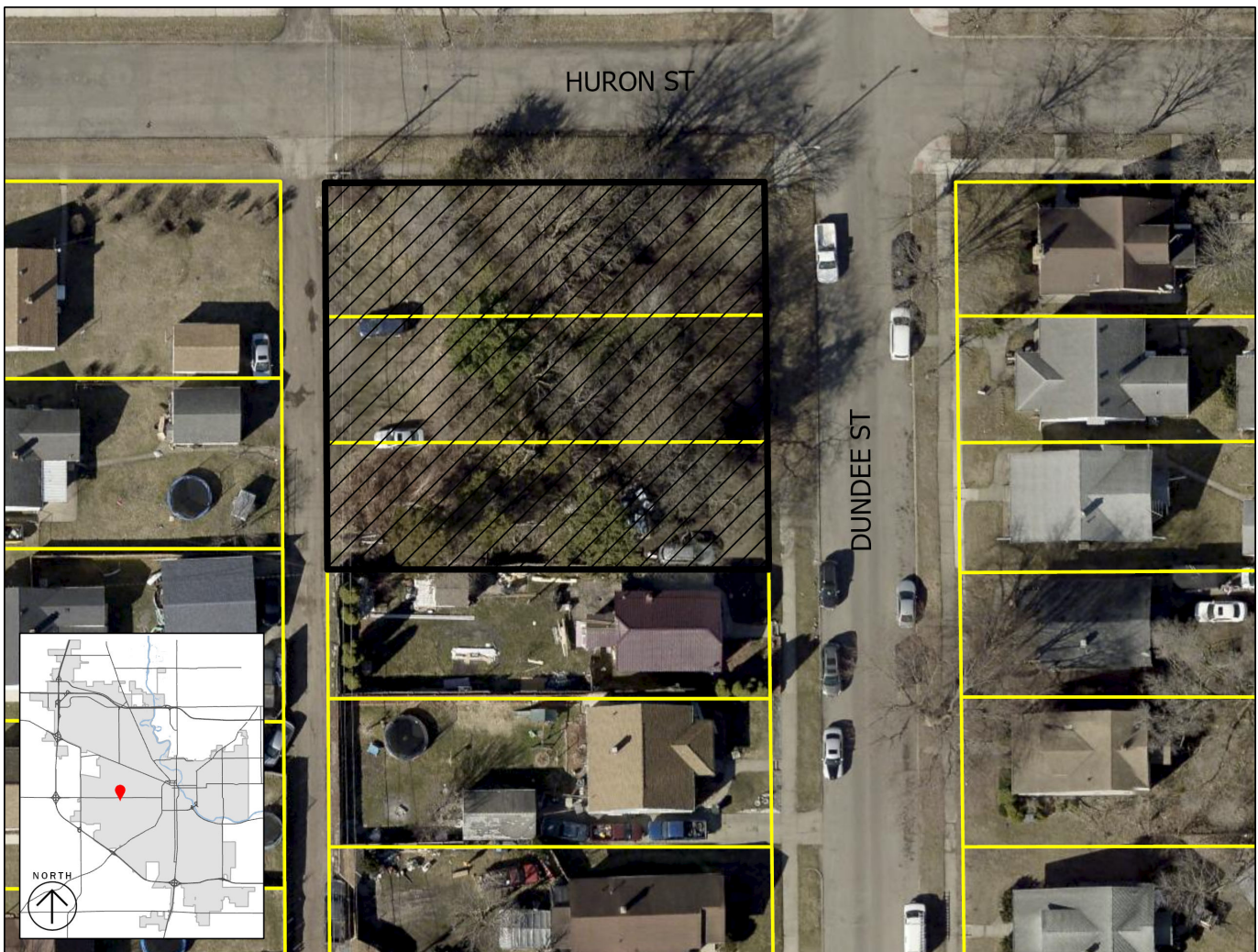
**Project Summary**

Install a 6' tall wooden privacy fence around three (3) vacant lots to secure company vehicles and equipment.

**Requested Action**

Variance(s): 1) to allow an accessory structure without a primary

**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance as requested.

Proposed Site Plan





### Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

Allowing a 6' privacy fence to enclose three vacant lots to park work vehicles could be injurious to the general welfare of the community because it will be out of character for the residential neighborhood and will not meet the intent of the Ordinance.

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

The use and value of the area adjacent to the property could be affected in an adverse manner if the variance was granted. Approving a fence encompassing a 120' X 142' area would have a negative impact on the surrounding properties.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the Ordinance would not result in practical difficulties in the use of the property. The proposed is zoned for residential uses. There is nothing unique about the property that would prevent it from being used in accordance with the Ordinance.

**(4) The variance granted is the minimum necessary**

Since there is no practical difficulty to overcome, the variance requested is not the minimum necessary. If the variance is granted, the likely outcome would be numerous violations with the Ordinance, including, but not limited to, the use of the property, parking on an unimproved surface, and failure to meet drainage requirements.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

There is no hardship on the property. The petitioner is requesting to fence in three vacant lots to park a company vehicle and equipment on property that is not zoned for such a use.

### Analysis & Recommendation

**Analysis:** There are no practical difficulties for the petitioner that would necessitate fencing at this location. The proposed fence is not consistent with the intent of the ordinance nor is parking of commercial vehicles in the U1 district. Fencing in residentially zoned property to park company vehicles is not an allowed nor appropriate use in the neighborhood.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance as requested.

**Property Information**

Location: 1204 ALTGELD ST  
Owner: AARON W & JAMIE L DECOCKER

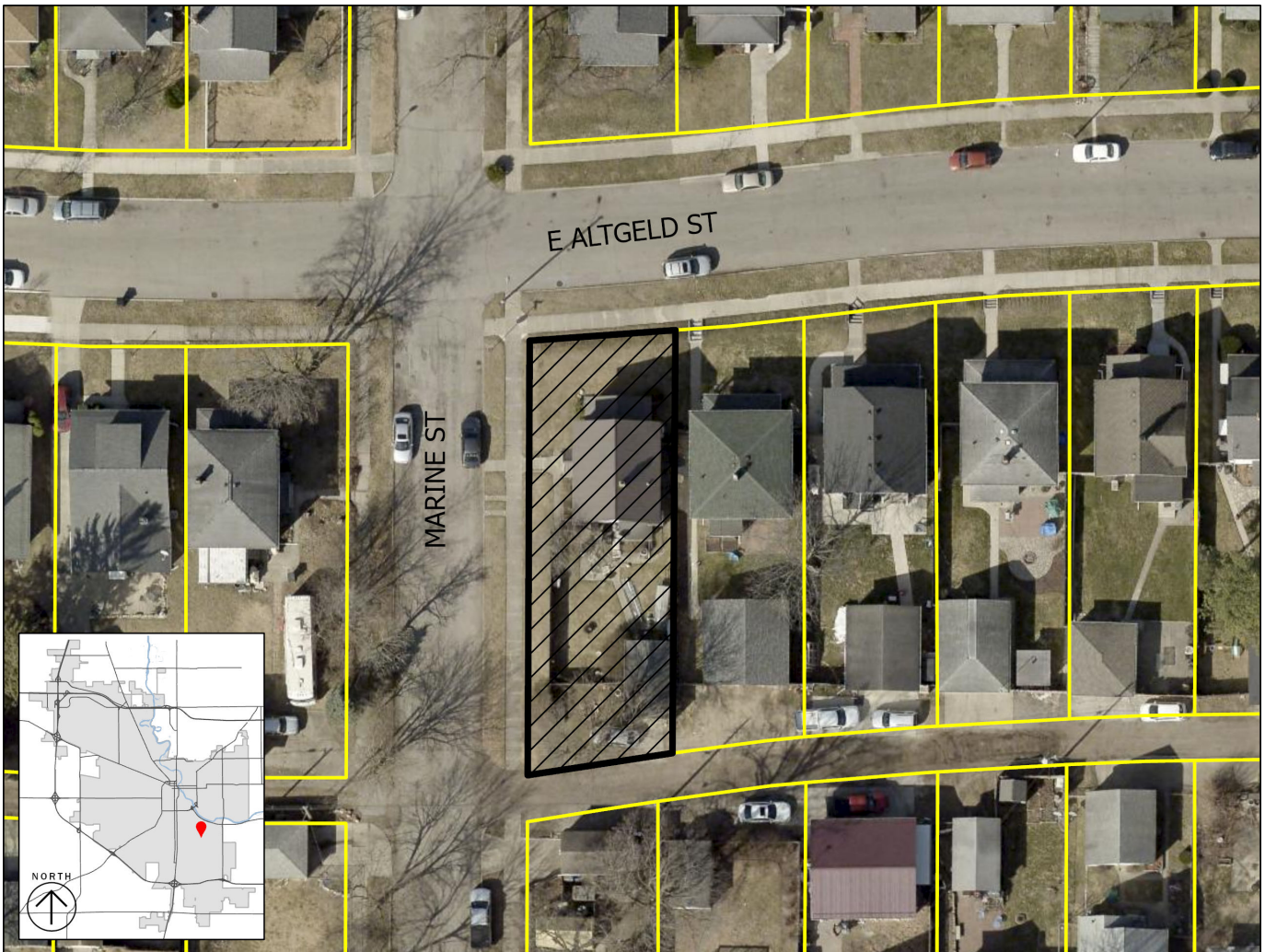
**Project Summary**

Installation of a privacy fence in the corner yard.

**Requested Action**

Variance(s): 1) From the 3' maximum fence height in the established corner yard to 6'

**Site Location**

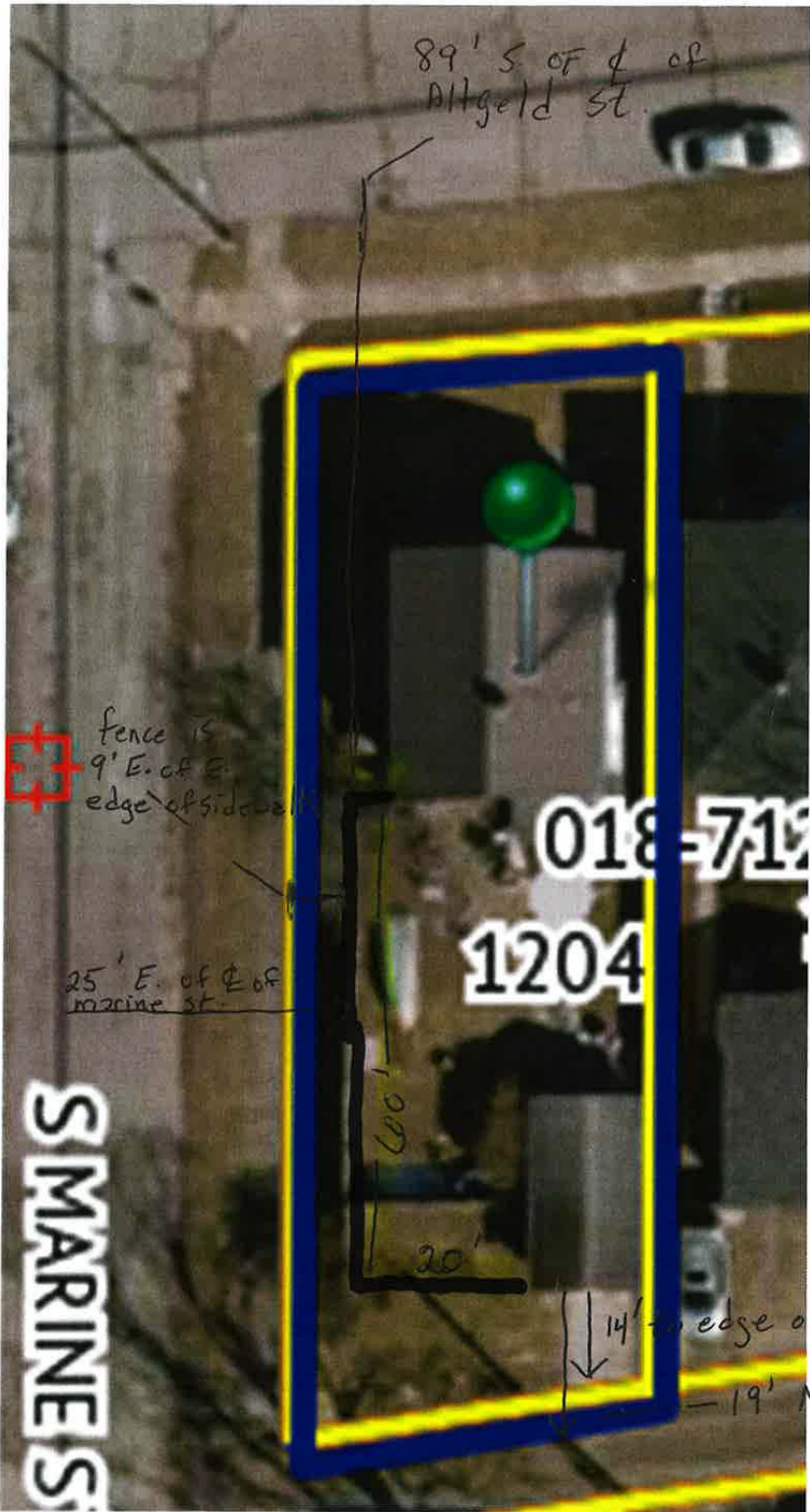


**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance as requested.

Proposed Site Plan

Property is 46' x 134'



1204 E. Altgeld St.

Proposed fence replacement

## Criteria for Decision Making: Variance(s)

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

Allowing a fence in an established corner yard at this height could be injurious to the general welfare of community because it will be out of character and will not meet the intent of the ordinance.

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

The use and value of the area adjacent to the property may be affected in an adverse manner if the variance was granted. Approving a fence that is 6' tall on top of a hill that is already above grade would create a large enclosed space. The fence would be out of character for the area and contrary to the intent of the ordinance, having an impact on surrounding properties.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the Ordinance would not result in practical difficulties in the use of the property. A shorter, code compliant fence can provide security and privacy of the property. Approving a fence that is 6' tall on top of a hill that is already above grade would create a large enclosed space that would be out of character for the area and contrary to the intent of the ordinance, having an impact on surrounding properties.

**(4) The variance granted is the minimum necessary**

Since there is no practical difficulty to overcome, the variance requested is not the minimum necessary. The petitioner could install the fence in compliance with the ordinance and still retain about the same amount of usable yard space with the desired privacy.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

There is no hardship on the property.

## Analysis & Recommendation

**Analysis:** There are no practical difficulties for the petitioner that would necessitate a 6' fence in this location. The proposed fence is not consistent with the intent of the ordinance. The site is already elevated above the street. A code compliant fence could provide the security and privacy desired by the applicant.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance as requested.

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**Property Information**

Location: 1402 MICHIGAN ST  
Owner: LIFE TREATMENT CENTERS INC

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**Project Summary**

Replace 75 existing windows with new vinyl double hung windows.

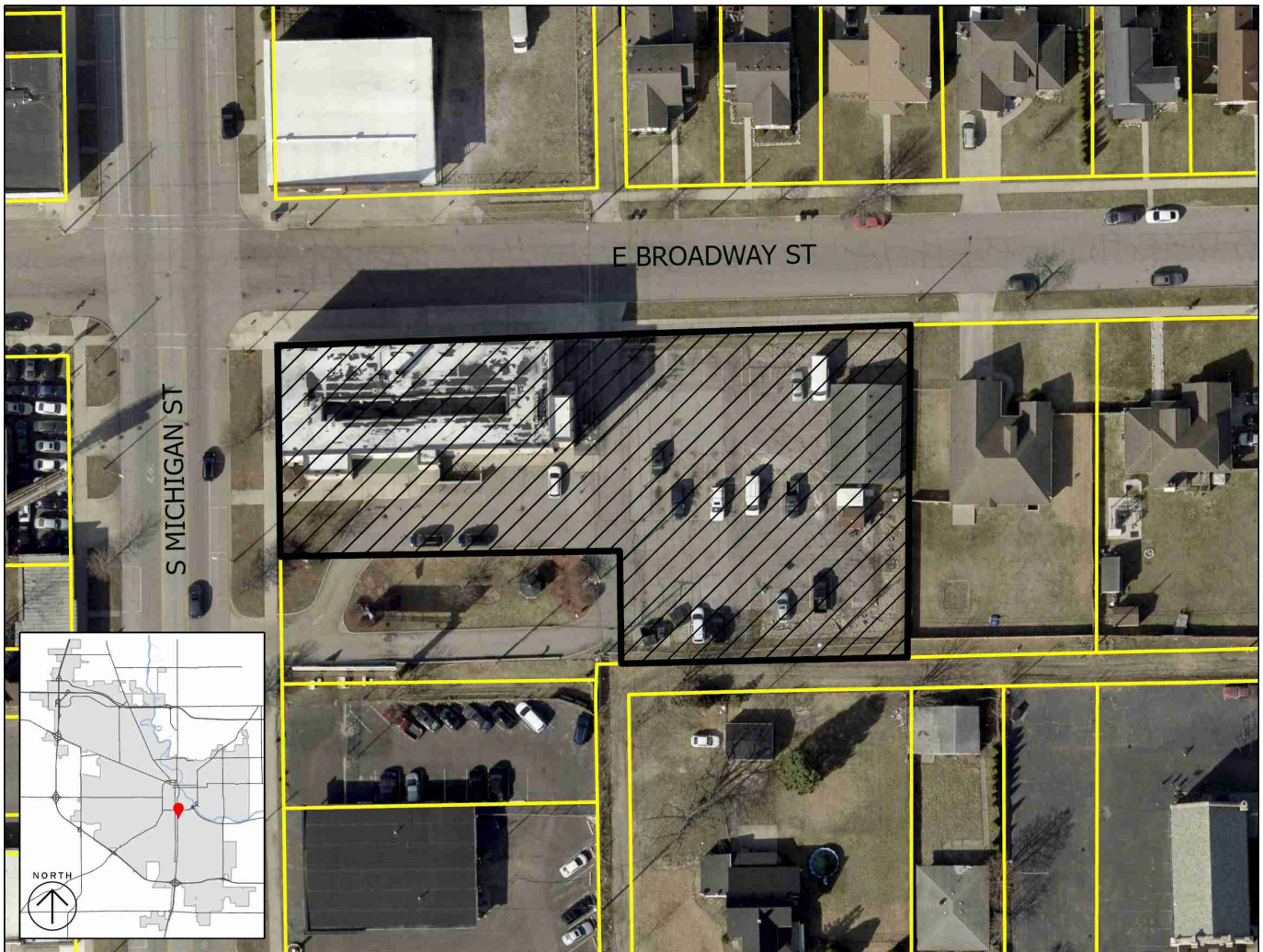
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**Requested Action**

Variance(s): 1) from the minimum 50% visible light transmittance to 48%

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**Site Location**

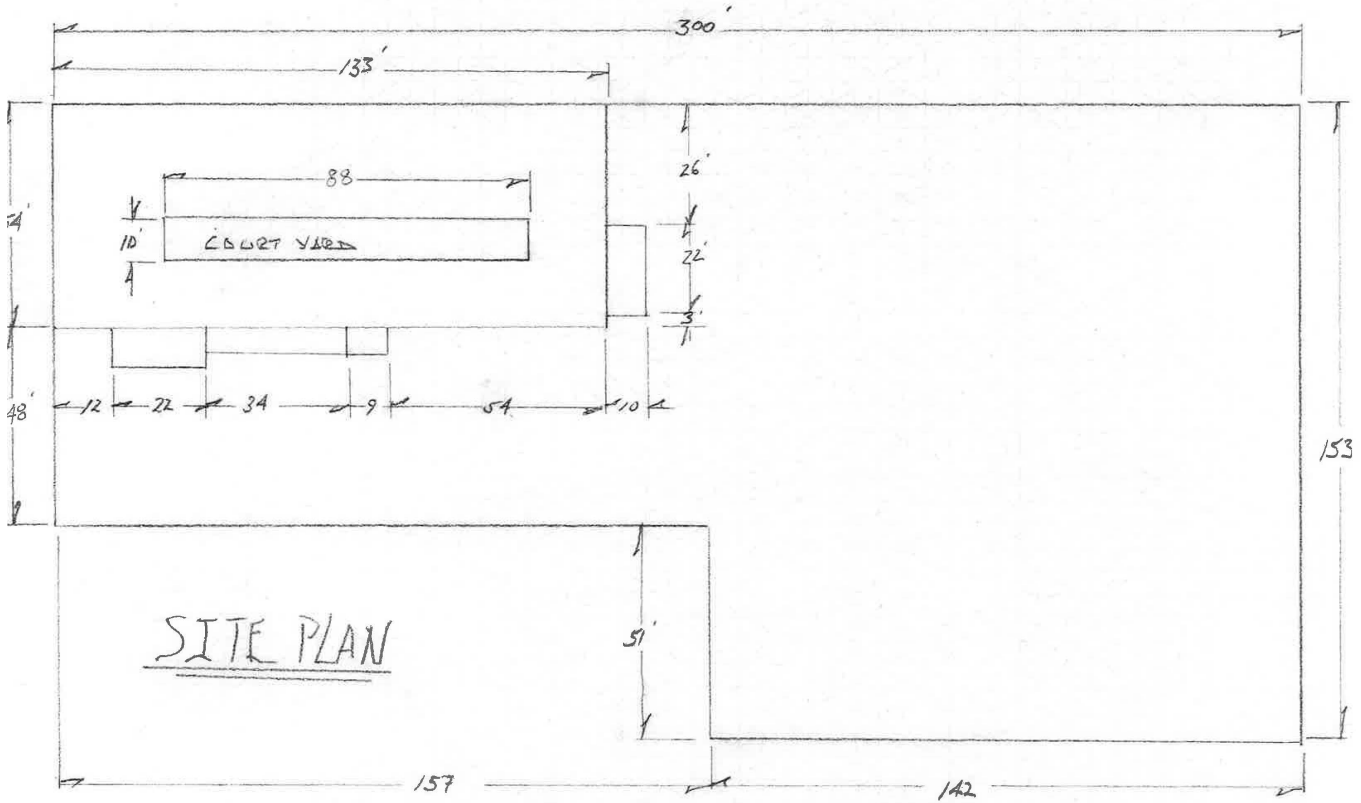


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**Staff Recommendation**

Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as requested.

Proposed Site Plan



SITE PLAN



LIFE TREATMENT CENTERS  
1402 S MICHIGAN ST  
SOUTH BEND IN 46613  
018-7026-1048  
SCALE = 1" = 30'

N = 25 WINDOWS 2<sup>ND</sup> FLOOR ONLY  
S = 5 WINDOWS 2<sup>ND</sup> FLOOR ONLY  
E = 4 WINDOWS 2<sup>ND</sup> FLOOR ONLY  
W = 11 WINDOWS 2<sup>ND</sup> FLOOR ONLY  
COURT YARD = 30 WINDOWS 2<sup>ND</sup> FLOOR ONLY

## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

The proposed variance should not be injurious to the public health, safety or general welfare of the community. The proposed variance is to allow for the replacement of windows on the upper floors of the building and generally meet the intent of the Ordinance.

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

The use and value of adjacent properties should not be adversely impacted. The proposed windows are located on the upper floor of the building. The site is located along a commercial corridor and there are no changes proposed for the site that will impact neighboring properties.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

There is no practical difficulty on the property, however the variance is for windows on the upper floors and is only slightly off from the required 50%VLT, keeping with the general intent of the Ordinance.

**(4) The variance granted is the minimum necessary**

The petitioner is seeking a variance of 2% difference in the visual light transmittance. The windows will still be relatively transparent and the variance is the minimum necessary to address building concerns.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The petitioner did order the windows before seeking the variance, however the variance is minimal for the overall project. If the property owner was replacing the ground floor windows, which were covered up for more than 20 years, there may be more of a concern.

## Analysis & Recommendation

**Analysis:** The windows being replaced are on the upper floor of the building. The variance requested is only slightly less than what is required by the Ordinance. The difference will be indistinguishable to the public and will still allow for sufficient light transmittance consistent with the intent of the Ordinance.

**Staff Recommendation:** Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as requested.

**Property Information**

Location: 324 and 328 OLIVE ST  
Owner: JOHN R MCCULLUM

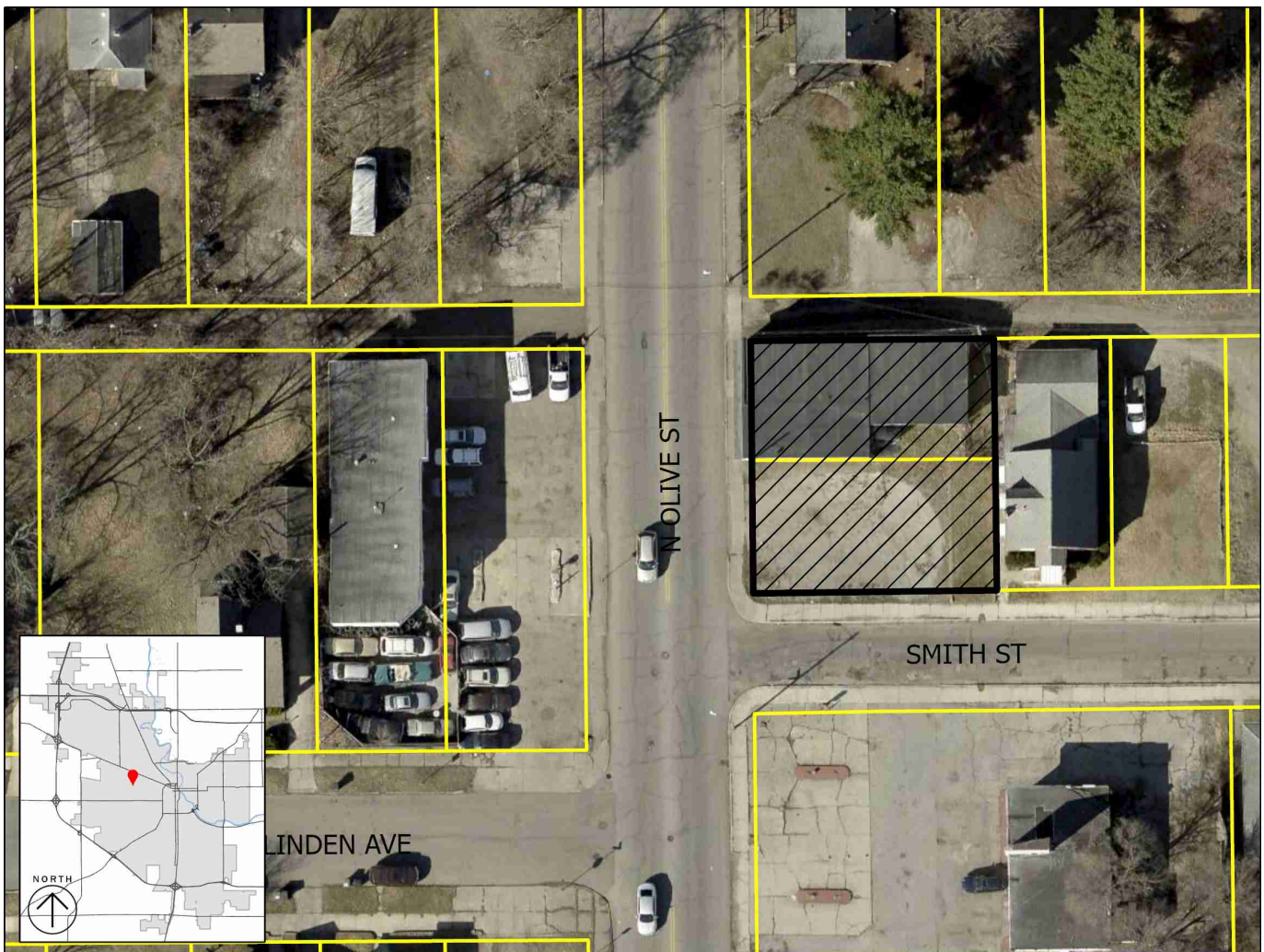
**Project Summary**

Provide a parking lot for the business.

**Requested Action**

Variance(s): 1) to allow parking in the established corner yard  
2) from the minimum 5' setback behind building facade to 6' from the property line on the south  
3) from the 24' minimum drive aisle width to 22'

**Site Location**

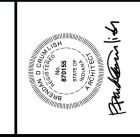
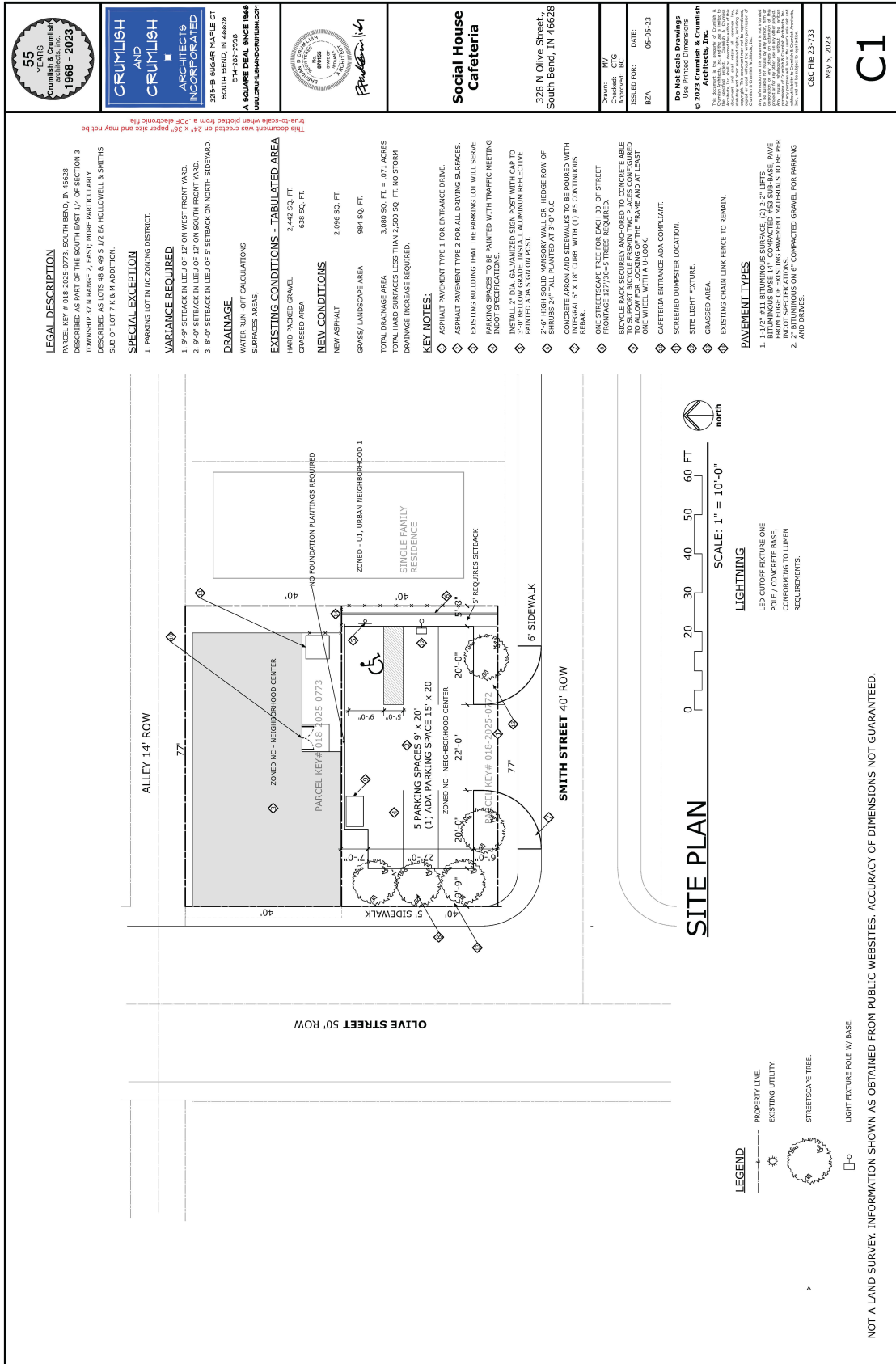


**Staff Recommendation**

Based on the information provided prior to the public hearing, Staff recommends the Board approve the variances as requested.



Proposed Site Plan



**Social House Cafeteria**  
 328 N Olive Street,  
 South Bend, IN 46628

Drawn: NV  
 Checked: CTC  
 Issued Date: DATE  
 BZA: 05-05-23

Do Not Scale Drawings  
 © 2023 Crumlish & Crumlish Architects, Inc.  
 C&C File 23-233  
 May 5, 2023

**C1**

## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

Approval of the requested variances should not be injurious to the public health, safety and general welfare of the community. These variances allow for the site to be appropriately upgraded to hard surface. To help mitigate any potential impact on the general community, proper parking area screening and site landscaping should be upheld.

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

The use and value of the area adjacent to the property included in the variance should not be affected in a substantially adverse manner. While parking in the established corner yard is not preferred, the proper site landscaping should reduce any negative impact on the surrounding properties use and value. The new paved parking lot will be an improvement over the old gravel lot.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the Zoning ordinance would not allow for the lot to be used for parking. With the position of the building, there is no other area on the lot for parking without tearing down and rebuilding the existing building.

**(4) The variance granted is the minimum necessary**

The variances for setback are the minimum necessary to use the parking lot in a reasonable manner. Though parking is not required, providing some off-street parking would be practical and beneficial for the business.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

This site has been in this configuration since at least the 1950's. The zoning regulations at the time did not prohibit parking in the corner yard.

## Analysis & Recommendation

**Analysis:** The variances will allow for the redevelopment of the site in a way that will benefit the neighborhood. Activation of a currently vacant building to a new use is consistent with the character of the district and surrounding area. Though parking is not required, providing some off-street parking would be practical for the business.

**Staff Recommendation:** Based on the information provided prior to the public hearing, Staff recommends the Board approve the variances as requested.

**Property Information**

Location: 5448 Dylan Drive  
Owner: GLC PORTAGE PRAIRIE LLC

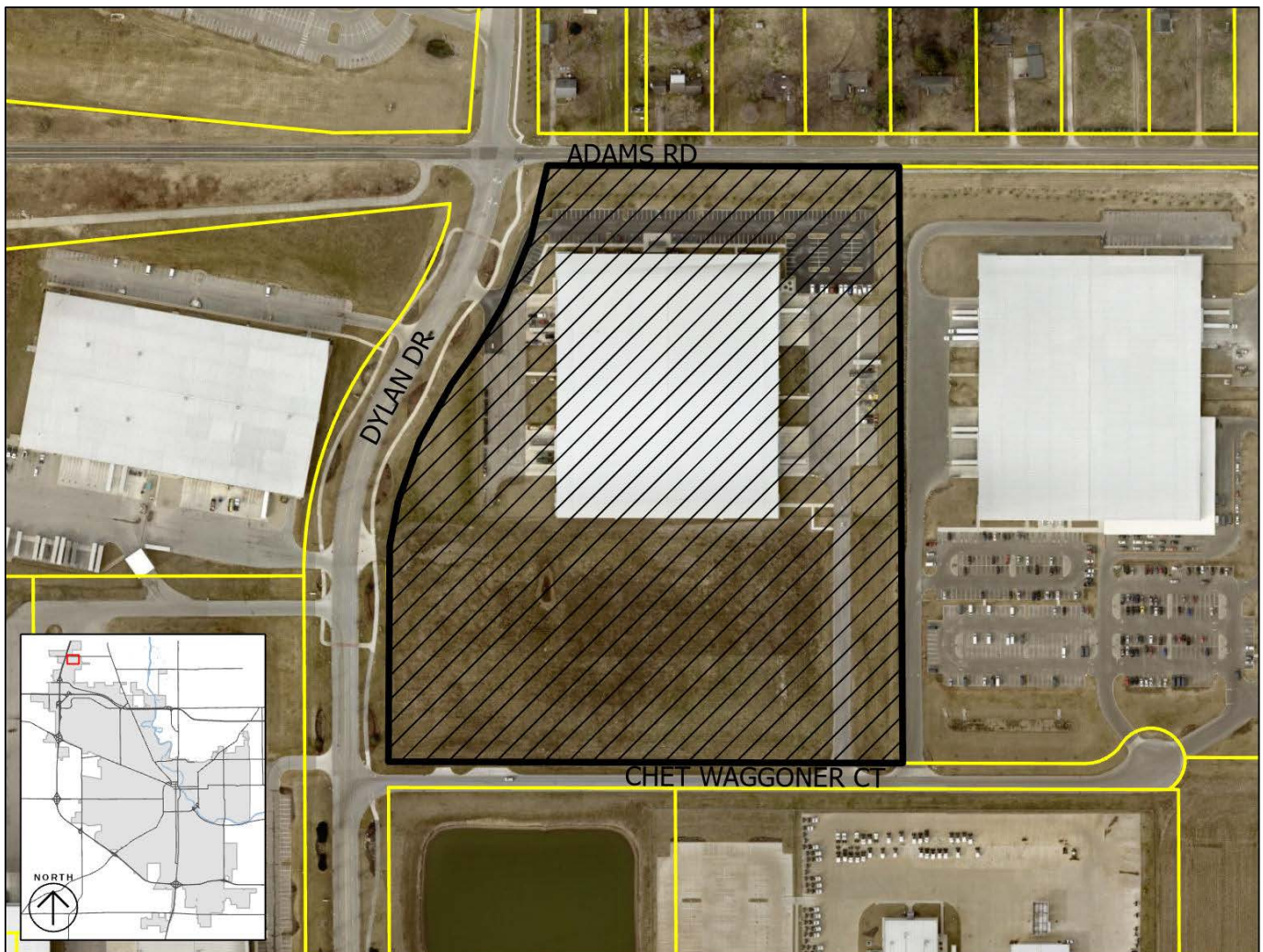
**Project Summary**

To allow an accessory structure (employee covered entry) in the established front yard.

**Requested Action**

Variance(s): 1) to allow an accessory structure in the established front yard

**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as requested.



## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

The approval should not be injurious to the public health, safety, morals and general welfare of the community. The covered employee entrance will provide safe entry into the facility and its presence will not impact nearby industrial uses.

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

The use and value of the area adjacent to the property should not be affected in a substantially adverse manner. The site is within an industrial park and will be located approximately 180' from the Dylan Drive right-of-way.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the Ordinance would not allow the addition of the covered employee entry at the front yard of the building. The secured entry is required by US Government for the federal contract obligations. The employee entrance cannot be located in the rear of the property due to that area being a restricted access area as well. The proposed accessory structure is unique in that it is technically a building because of the roof, but is open sided and not as obtrusive as a true accessory building.

**(4) The variance granted is the minimum necessary**

The proposed accessory structure is approximately 180' from the Dylan Drive right-of-way and designed in a way where it should not be very prominent. The structure is limited to the minimum specifications with some additional landscaping to minimize the impact of the request.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The variance does not correct a hardship by the current owner of the property. The secured covered employee entry is a requirement for the facility to comply with federal contract obligations.

## Analysis & Recommendation

**Analysis:** The proposed variance will allow for the construction of a secured employee entrance as required by the Federal Government contract. While technically a building, the structure is open sided and not out of character for the industrial area in which it is located.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as requested.

**Property Information**

Location: 851 MARIETTA ST  
Owner: HP MARIETTA STORAGE LLC

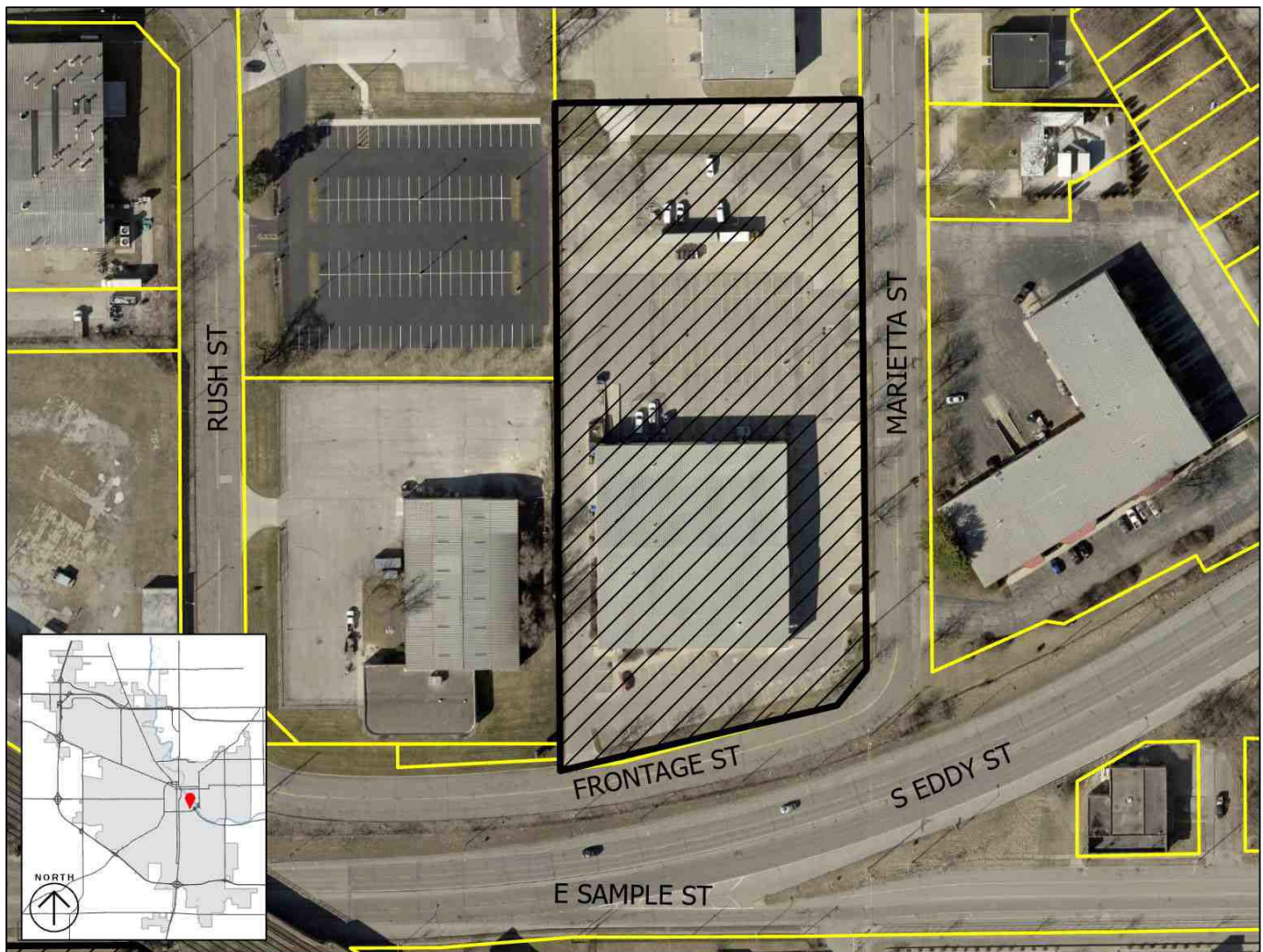
**Project Summary**

Paint a mural over CMU.

**Requested Action**

Variance(s): 1) to allow standard, fluted, or split face concrete masonry units (CMUs) where prohibited.

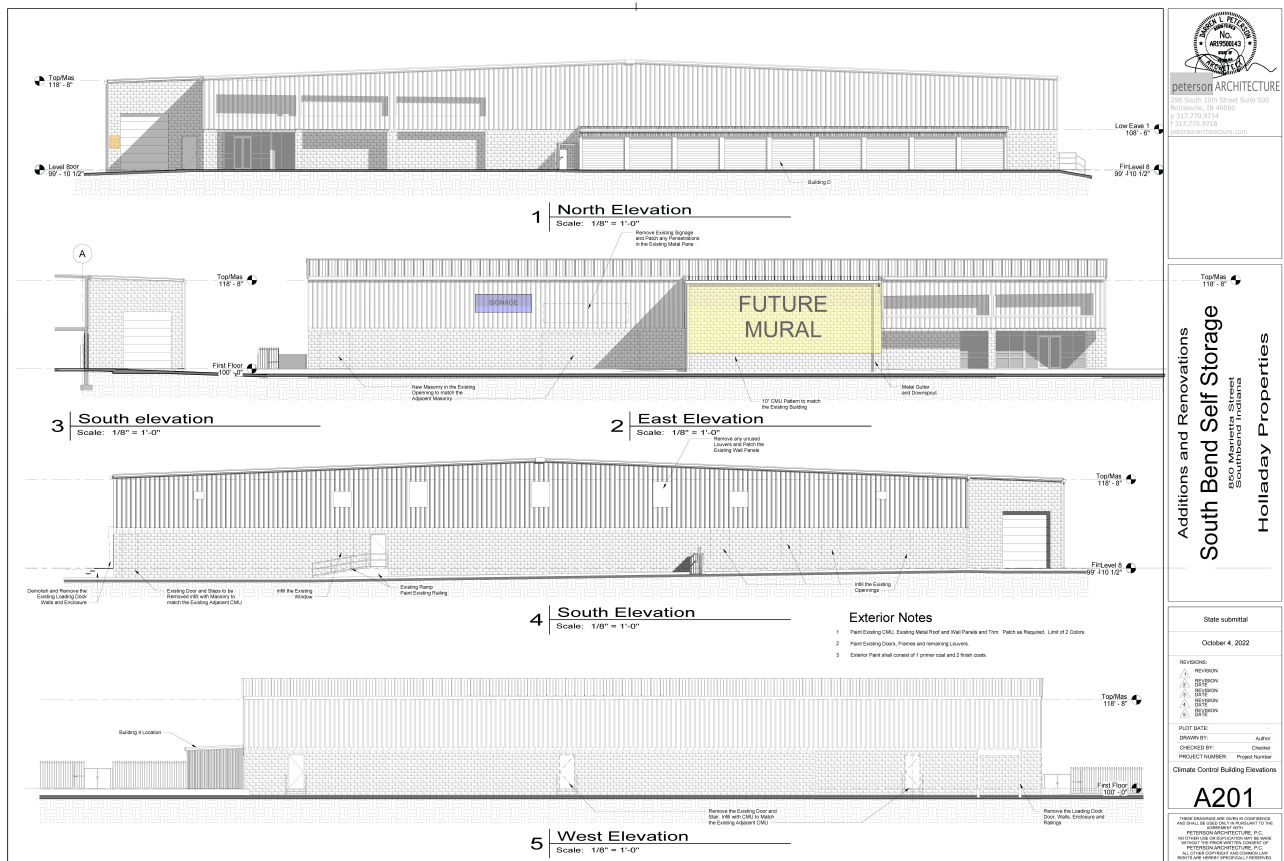
**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as requested, subject to a City approved mural being installed over the CMU.

Proposed Site Plan



## Criteria for Decision Making: Variance(s)

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

The approval should not be injurious to the public health, safety, morals and general welfare of the community. The request is reasonable and the mural would be more visually appealing than a blank EIFS or metal sided facade.

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

The use and value of the area adjacent to the property should not be affected in a substantially adverse manner. The building is located in an urban industrial area of the City. The mural would face Frontage Road and Sample Street, offering a more vibrant facade than a traditional industrial building.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the terms of this chapter should not result in practical difficulties in the use of the property, but adding EIFS or metal siding would result in a solid blank wall. The a mural would be an attractive addition.

**(4) The variance granted is the minimum necessary**

The variance is the minimum necessary. The Petitioner has committed to work with a local artist to paint a mural on the wall, which will provide a more visually appealing facade.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

While the variance does correct a hardship caused in part by the owner, the request is a reasonable remedy to a supply issue, and the mural will provide an appealing addition to an otherwise blank wall.

## Analysis & Recommendation

**Analysis:** The petitioner states that due to supply chain issues the specified designer block was not available. The variance would allow the masonry to be covered with a mural instead of a traditional material, creating a more vibrant facade.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as requested, subject to a City approved mural being installed over the CMU.



**Property Information**

Location: 1007 and 1011 HOWARD ST  
Owner: UNIVERSITY OF NOTRE DAME DU LAC

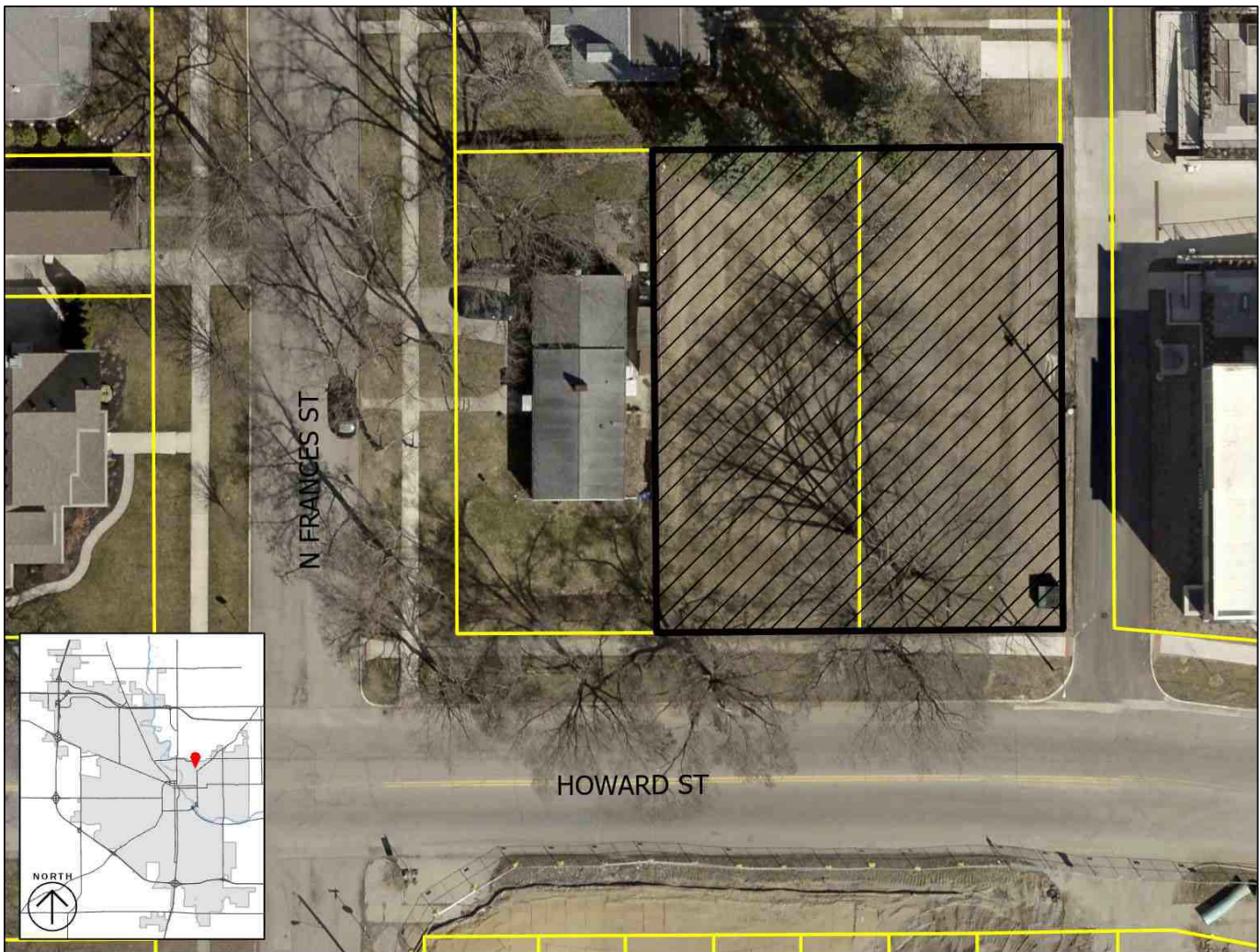
**Project Summary**

3-story office building with parking adjacent to the alley.

**Requested Action**

Variance(s): 1) from the 20' minimum rear yard setback to 10'

**Site Location**

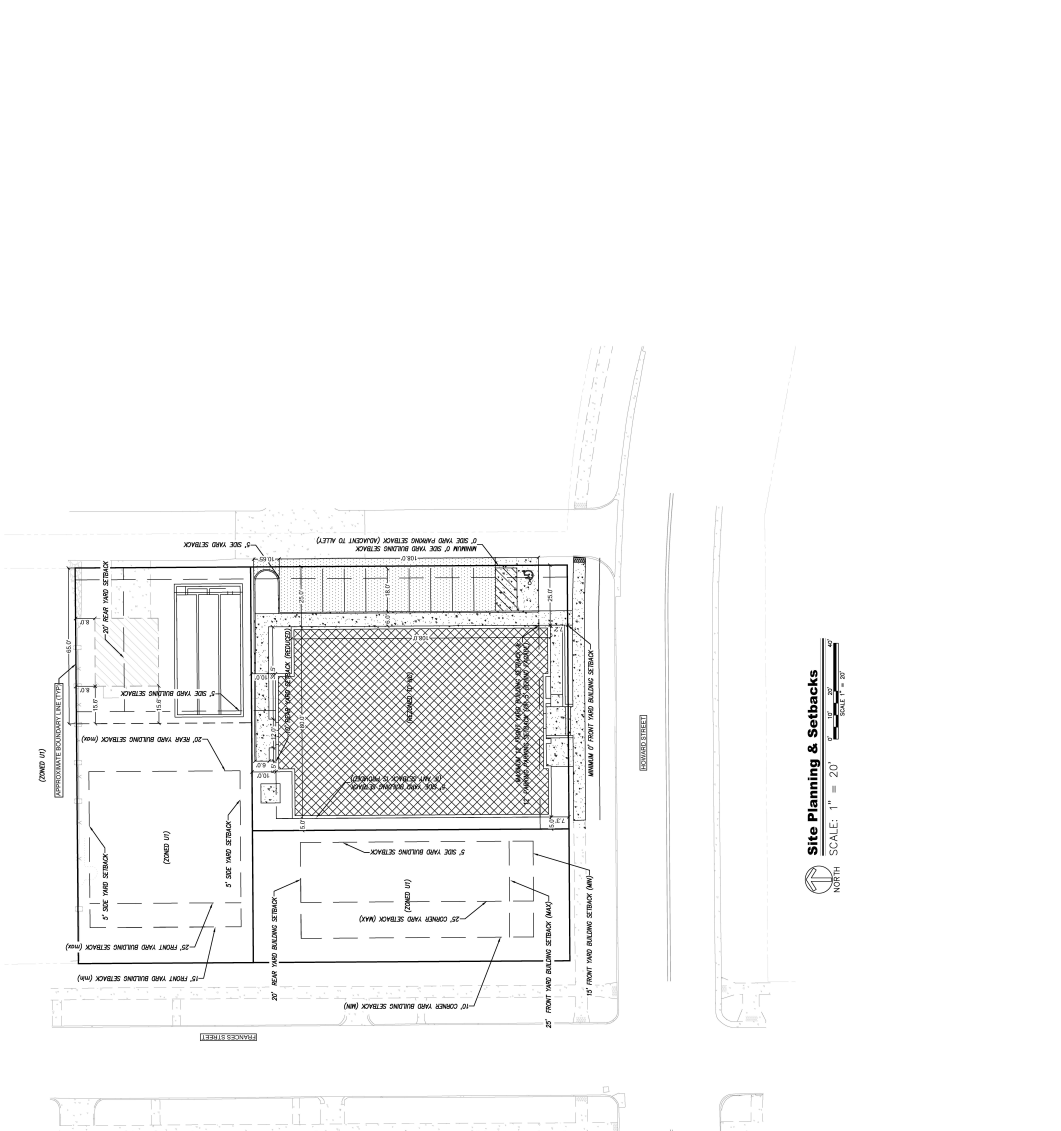


**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as requested.

Proposed Site Plan

BERTSCH-FRANK ASSOCIATES <b>BFA</b> LAND SURVEYING & CONSULTING LAND PLANNING & SURVEYING 4140 KENNEDY DRIVE FORT WAYNE, IN 46834 TELEPHONE: (317) 455-3000 FACSIMILE: (317) 459-8203		<b>Site Planning &amp; Setbacks</b> <b>1007 &amp; 1011 Howard St.</b> <b>South Bend, Indiana</b>	<b>C1.0</b>
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- GENERAL SHEET NOTES**
- UTILITIES ARE SHOWN BASED ON FIELD WARNINGS FROM A UTILITY PORTFOLIO. ADDITIONAL UNDERGROUND UTILITIES MAY EXIST.
  - EXAMINE EXISTING SITE CONDITIONS AND VERIFY CONDITIONS ARE DISCREPANCIES WITH THE INFORMATION SHOWN ON THESE PLANS PRIOR TO BEGINNING WORK OR ORDERING OF MATERIALS.
  - PROVIDE ANY NECESSARY SHORING AND STRUCTURAL SUPPORT TO TUNNELS AND/OR OTHER UTILITIES TO BE PROTECTED.
  - MAINTAIN POSITIVE DRAINAGE THROUGHOUT CONSTRUCTION AND POST CONSTRUCTION.
  - ALL DIMENSIONS SHOWN ARE TO FACE OF BUILDING AND EDGE OF DRIVEWAY OR SIDEWALK UNLESS OTHERWISE NOTED. SEE ARCHITECTURAL AND STRUCTURAL PLANS.
  - ALL AREAS DISTURBED BY CONSTRUCTION ACTIVITIES NOT SPECIFICALLY DESIGNATED TO RECEIVE PERMANENT MULCH OR SEED SHALL RECEIVE A MINIMUM OF SIX INCHES OF TOPSOIL CAPABLE OF RETAINING NUTRIENTS.
  - ANY AREAS TO BE REMOVED TO THE EXISTING AND REMOVAL OF EXISTING IMPROVEMENTS IN AREAS WHERE NEW CONSTRUCTION SHALL BE COMPLETELY REPAIRED AND COMPACTED ACCORDANCE WITH PROJECT SPECIFICATIONS. ALL CURB TILLS TO BE CLEAN AND FREE FROM DEBRIS.
  - REMOVE EXISTING TREES, SHRUBS, GRASS AND OTHER VEGETATION, INCLUDING ALL ROOTS AND STUMPS, AND ALL DIMENSIONS. SEE ARCHITECTURAL AND STRUCTURAL PLANS.
  - STRIP TOPSOIL TO MAINTAIN DEPTHS ARE ENCOUNTERED IN A ONE OR MORE EXISTING MATERIALS. STRIP SURFACE SOIL OF UNSUITABLE WASTE MATERIALS. STOCKPILE TOPSOIL ON SITE IN LOCATIONS TO BE DETERMINED BY THE SURVEYOR. TOPSOIL SHALL BE TRANSPORTED TO A UNIFORM SOIL MATERIALS YARD.
  - ONLY SATISFACTORY SOIL MATERIALS ACCEPTABLE TO, AND ENGINEER SHALL BE LISTED AS FULL MATERIALS. TYPICAL IN THE BENEATH STRUCTURES AND PARKING AREAS MAY BE USED FOR FILL.
  - 10.1. ASTM #200 SOIL CLASSIFICATIONS OF GW, GP, GM, SW, SP, AND SOILS COMPOSITION OF FINE SOIL GROUPS.
  - 10.2. SOILS SHALL BE TESTED AND REPORTED TO THE ENGINEER. SOILS SHALL BE TESTED AT NOTRE DAME STOOPLE, WITH AGREEMENT FROM THE ENGINEER.
  11. PLACE BACKFILL AND SOIL MATERIALS IN LAYERS NOT MORE THAN 18 INCHES IN LOOSE DEPTH OR MATERIAL COMPACTED BY HEAVY CONSTRUCTION EQUIPMENT.
  12. COMPACT BACKFILL TO MEET SPECIFICATIONS TO MEET EXISTING CONDITIONS.
  13. UNDER EXISTING BACKFILL, RECOMPACT THE TOP 6 INCHES OF THE EXISTING SURFACE AND EACH LAYER OF FILL UNDER LAYERS UNPAVED AREAS. SCARY AND RECOMPACT EACH LAYER OF FILL MATERIAL AT 95 PERCENT.
  14. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE EROSION CONTROL PLANS.

## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

The approval should not be injurious to the public health, safety, morals and general welfare of the community. The rear setback is not inconsistent with the recent development in the nearby NC Neighborhood Center District.

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

The use and value of the adjacent properties should not be affected in a substantially adverse manner as the adjacent properties are owned by the same entity.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the terms of this Ordinance may result in practical difficulties in the use of the property as the required 20' setback would limit the accessibility and office layout conducive to the proposed use of a legal clinic.

**(4) The variance granted is the minimum necessary**

The variance is the minimum necessary as the building has been located as far south on the property as feasible to provide a safe, accessible entrance to the building. The adjacent property is owned by the same entity. A lot line adjustment is planned, but a portion of the site will still need the variance until such time as the development plan is finalized.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

While the variance does correct a hardship, the petitioner owns the property to the north and plans to incorporate the parcel into this development. The variance will allow them to proceed with site development plans.

## Analysis & Recommendation

**Analysis:** The variance requested is appropriate for the area and is consistent with the intent of the Ordinance. The petitioner owns the adjacent property to the north and plans to incorporate the property into this development,

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as requested.

**Property Information**

Location: 1436 BOWMAN ST  
Owner: ROSE MWANGI

**Project Summary**

Growing fruits and/or vegetables for human consumption, and allow keeping chickens on a lot without a one or two unit dwelling.

**Requested Action**

Special Exception: Urban Agriculture  
Variance(s): 1) to allow the keeping of chickens on a lot without a 1 unit or 2 unit dwelling

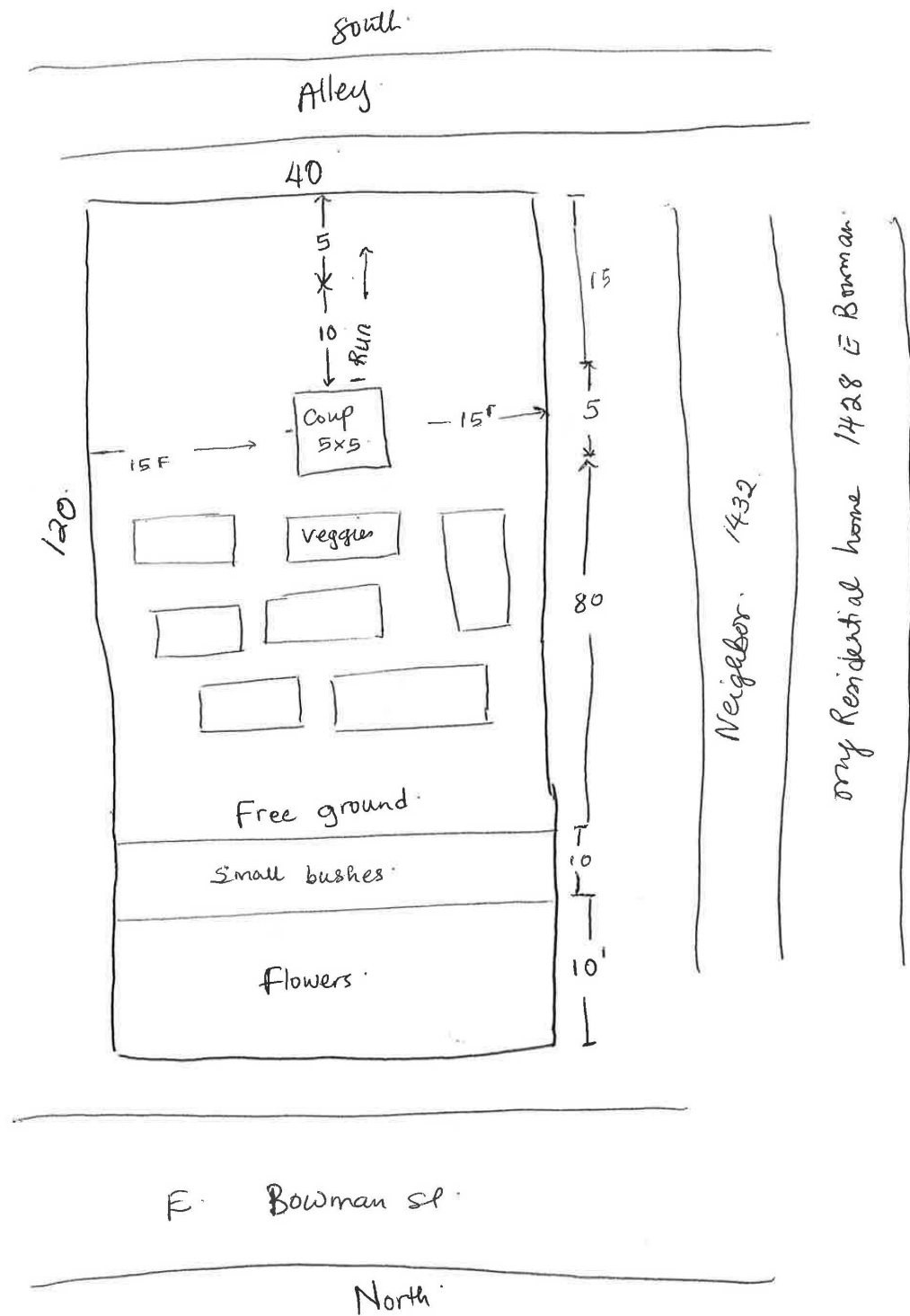
**Site Location**



**Staff Recommendation**

Based on the information provided prior to public hearing, the Staff recommends the Board send the Use Variance to the Common Council with a favorable recommendation subject to the site adhering to the required U1 Urban Neighborhood 1 building setbacks.

Proposed Site Plan



### Criteria for Decision Making: Use Variance

**A Use Variance may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

The parcel is currently vacant. The use would put the property back to a productive use, and should not be injurious to the public health, safety, or general welfare of the community

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

As the current land is vacant, the proposed use should not have any more adverse affects than the current situation. The site is large enough to provide adequate space for the desired use.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

The strict application of the terms of the zoning ordinance would not allow for the use to take place in any district except as a Special Exception in C Commercial and I Industrial. Neither zoning would be appropriate for the proposed property.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The approval of the desired Use Variance does not substantially interfere with the Comprehensive Plan. The use would help achieve Objective ED7 "Support neighborhood-based economic development" by allowing for the creative use of vacant lots within the neighborhood.

### Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

The proposed variance may impact the general welfare of the community by allowing chickens to be kept on a property without a one or two unit dwelling.

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

Allowing chickens on a lot without a dwelling could adversely affect the use and value of the adjacent properties. Granting the variance could set a precedent for more in the area, thus affecting the value of the adjacent properties.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the Ordinance would not result in practical difficulties in the use of the property. The urban agriculture use is not impacted by not having chickens on the site. In fact, the area required for the chicken coop and pen would reduce the amount of space that could be utilized for the urban agriculture use.

**(4) The variance granted is the minimum necessary**

Since there is no practical difficulty to overcome, the variance requested is not the minimum necessary.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

There is no hardship on the property to correct. The desire for chickens on a lot without a one or two unit dwelling is self-created.

## Analysis & Recommendation

**Analysis:** Granting the Use Variance for Urban Agriculture will allow for the adaptive reuse of the vacant lot at this location. Approving the variance for chickens on a lot without a one or two unit dwelling would set a precedent whereby allowing owners of chickens to not live on site and tend the chickens.

**Staff Recommendation:** Based on the information provided prior to public hearing, the Staff recommends the Board send the Use Variance to the Common Council with a favorable recommendation subject to the site adhering to the required U1 Urban Neighborhood 1 building setbacks.

**Property Information**

Location: 3003 LINCOLNWAY and the LOT WEST of 3003 LINCOLNWAY  
Owner: SALAMEH RAMADAN AND TAMI-LYN

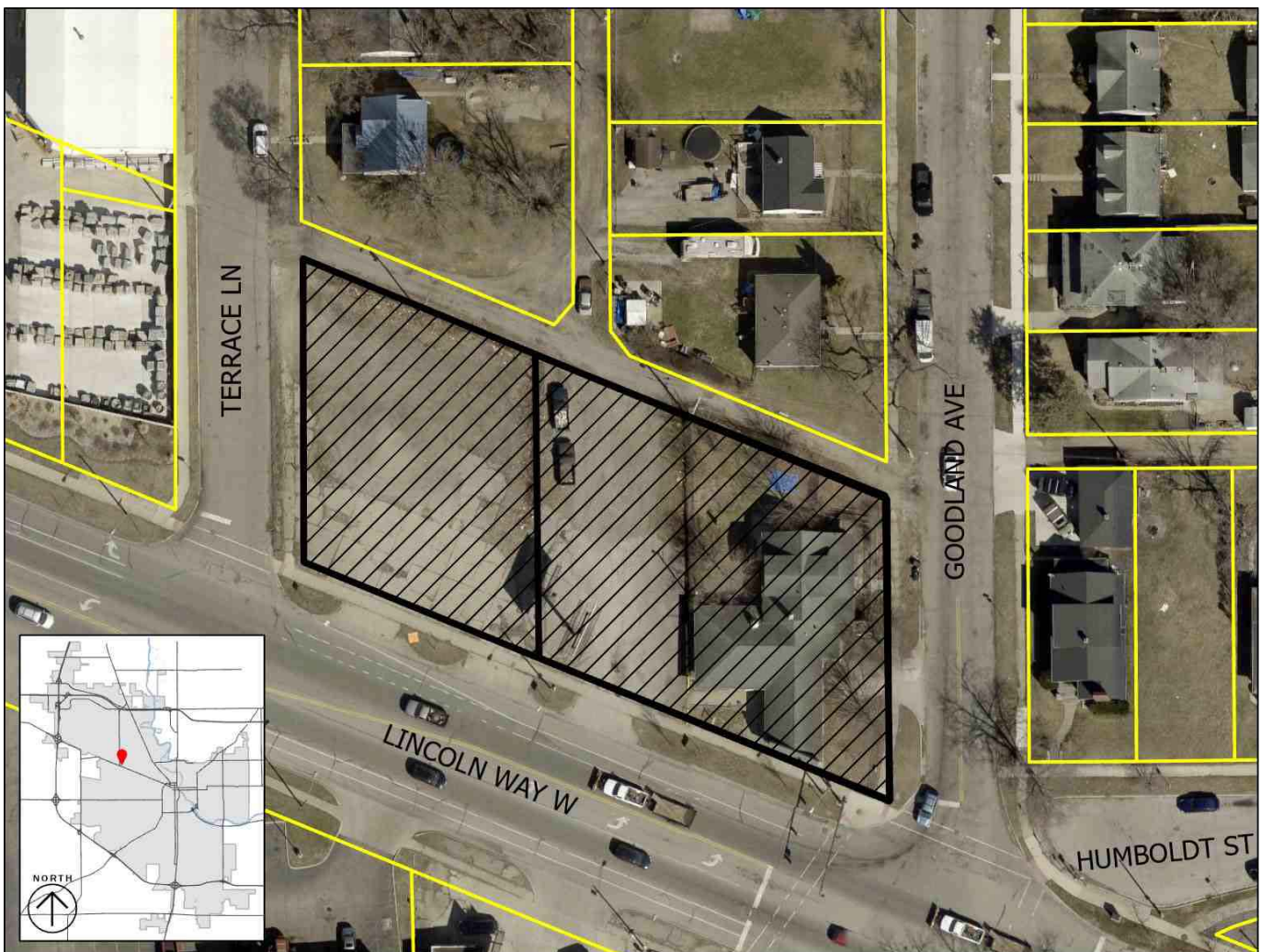
**Project Summary**

Have a U-haul rental lot. Use the Vibrant Places grant to assist with project.

**Requested Action**

Special Exception: Vehicle Sales or Rental

**Site Location**



**Staff Recommendation**

Based on the information available prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation.



Proposed Site Plan



## Criteria for Decision Making: Special Exception

**A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

The proposed use should not be injurious to the public health, safety, or general welfare of the community. The site is located along a commercial corridor. With proper buffering, the use is appropriate to the area.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

With proper landscaping and buffering, the proposed use should not adversely impact the use or value of the adjacent properties. The property will be brought up to the current development standards for the use and district.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

While auto-related uses are often not compatible with the NC Neighborhood Center District, this area is a heavily traveled commercial corridor. This property is in close proximity to properties zoned C Commercial and I Industrial.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The West Side Main Streets Plan (2015), an amendment to the Comprehensive Plan, encourages restoration of the historic walkable development pattern along Lincolnway West. This site, located at the Bendix Node, changes from urban to suburban and is less walkable due to the heavy traffic associated with the commercial and industrial uses.

## Analysis & Recommendation

**Analysis:** The proposed use as a vehicle rental facility is compatible with the surrounding area. The site is in close proximity to the Bendix node which is occupied by commercial and industrial uses. The site will be brought up to the current standards which will improve traffic safety, landscaping, and other site conditions.

**Staff Recommendation:** Based on the information available prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation.

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**Property Information**

Location: 1127, 1131 and 1135 WESTERN AVE  
Owner: FARGO LLC

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**Project Summary**

Continue fixing cars at the location.

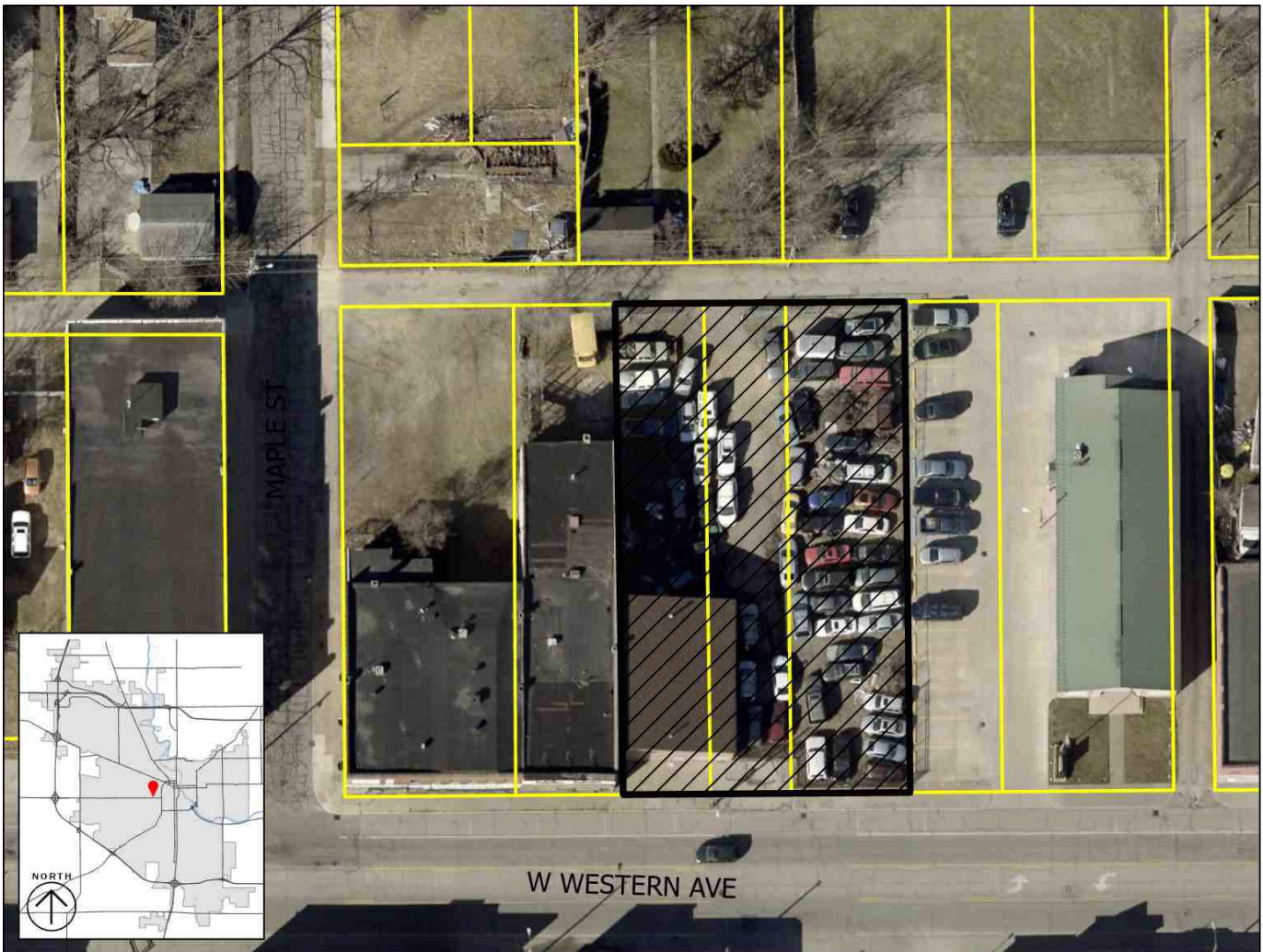
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**Requested Action**

Special Exception: Major Vehicle Service

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**Site Location**

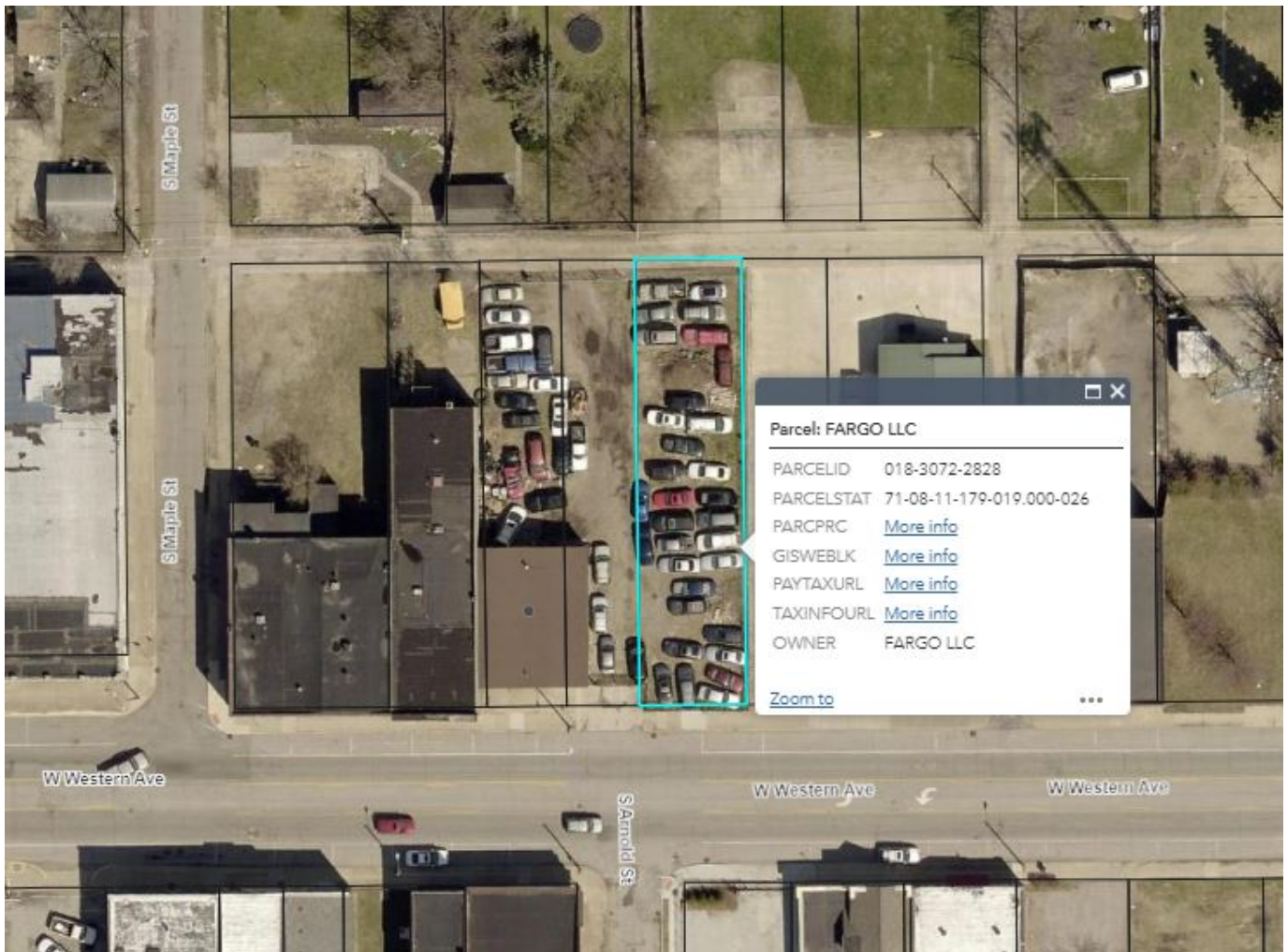


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**Staff Recommendation**

Based on the information available prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation subject to a Written Commitment for no outdoor storage of vehicles.

Proposed Site Plan



## Criteria for Decision Making: Special Exception

**A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

The proposed use may be injurious to the public health, safety, and general welfare of the community. Because the site is not properly developed and the vehicles are partially dismantled, the site is at risk of causing contamination to the ground water.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

The proposed use may adversely affect the use and value of the adjacent properties. The vehicles being stored on the site cause visual blight and would negatively impact the value of adjacent properties. If there was a commitment for no outdoor storage of

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

If the property is granted the Special Exception, the entire site will need to be brought into conformance with the Ordinance, including, but not limited to, access, fencing, transparency, surfacing of the lot, and landscaping. If the site is brought into co

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The West Side Main Streets Plan (2014) shows this site as being part of the Near West Arts and Design District Node. This area calls for a walkable urban character that is sensitive to the architectural history of the area. Parking should be behind the buildings and active facades with windows should face the street. The use, as proposed, is not consistent with the Comprehensive Plan.

## Analysis & Recommendation

**Analysis:** The use, as proposed, is not consistent with the intent or regulations of the Ordinances. If the site is brought up to the current development standards as required by the Ordinance and a commitment was placed on the property for no outdoor storage, the use and development of the property would be compatible with the surrounding area and intent of the Comprehensive Plan.

**Staff Recommendation:** Based on the information available prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation subject to a Written Commitment for no outdoor storage of vehicles.

**Property Information**

Location: 2402 TWYCKENHAM DR  
Owner: CIVIL CITY OF SOUTH BEND

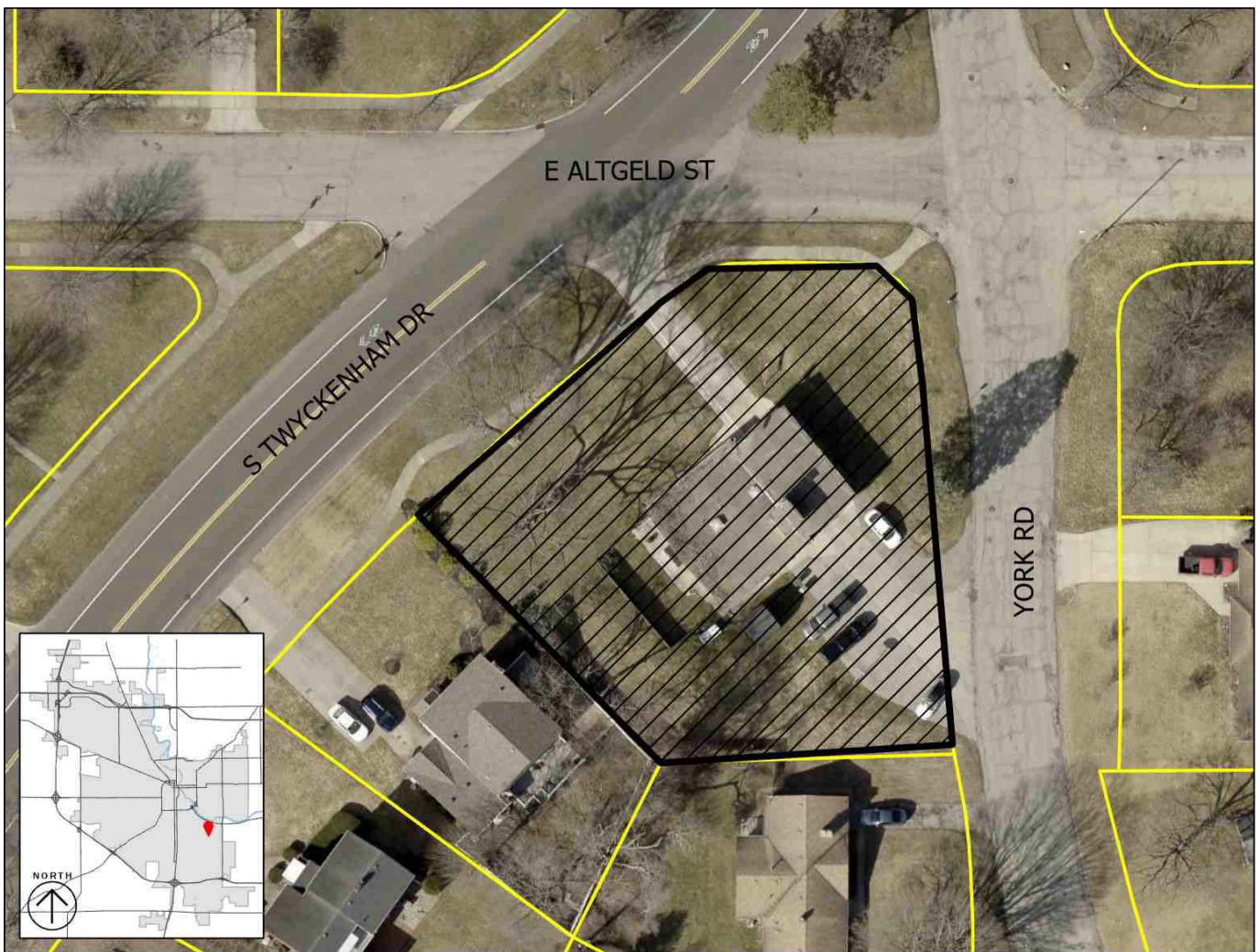
**Project Summary**

Build a new Fire Station.

**Requested Action**

Special Exception: a Fire Station  
Variance(s): 1) from the 15' minimum corner setback to 10' along York Rd  
2) from the 20' minimum side parking setback to 15' along the south and 0' on the east

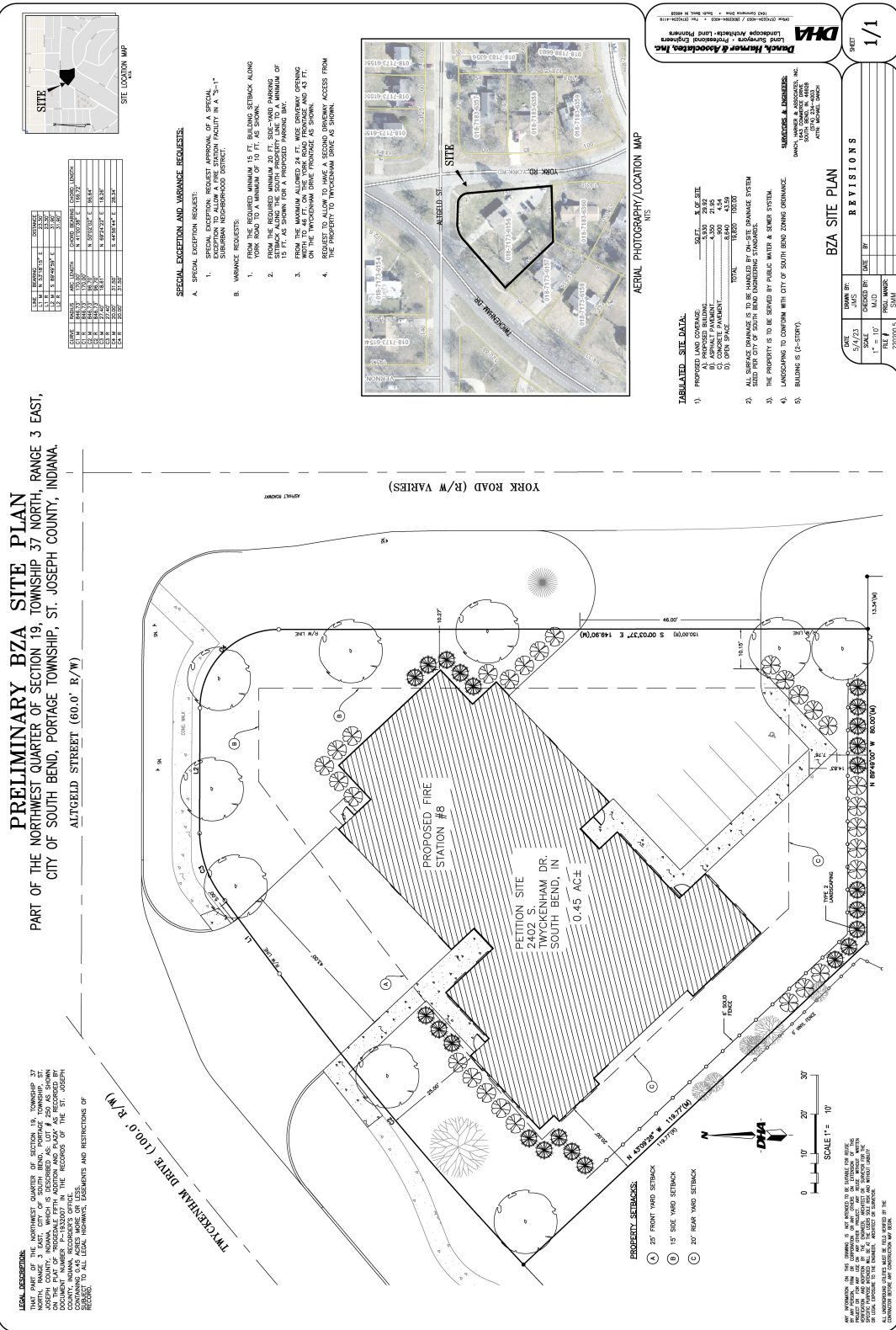
**Site Location**



**Staff Recommendation**

Based on the information available prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation. The Staff recommends the Board approve the variances as requested.

Proposed Site Plan



### Criteria for Decision Making: Special Exception

**A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

The requested Special Exception is to allow the construction of an upgraded fire station on the same property as it currently exists. The fire station was built in the 1950's along with the neighborhood to offer public safety to the surrounding neighborhood.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

The proposed use should not adversely affect the use or value of the adjacent properties. This site has been used for a fire station since the neighborhood was built. The apparatus bay is proposed for the east side of the building, away from the residents.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

The proposed use is consistent with the character of the S1 District and the surrounding neighborhood. The station is designed to fit the character of the area, which was developed with the station as an integrated part of the community.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The petition is consistent with South Bend City Plan (2006) policy PF1.1.1 Maintain and upgrade municipal buildings and facilities to provide the highest level of City services.

### Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

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

The proposed variances should not be injurious to the public health, safety or general welfare of the community. The variances are to allow for development consistent with the current development.

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

With proper buffering, the use and value of the adjacent properties should not be affected.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The oddly shaped lot with multiple frontages make it difficult to site the building based on strict application of the Ordinance. The building was designed to place the apparatus bay as



far from the adjacent neighbor as possible, which further complicates compliance with strict application of the Ordinance.

**(4) The variance granted is the minimum necessary**

The variance requested is the minimum necessary to meet the design and safety requirements of the fire station. Only a small portion of the parking space encroaches into the 20' residential buffer. Additional landscaping is provided to offset that impact. The encroachment on the York Road frontage for the parking is minimized by the extra wide right-of-way in the area.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The hardships were not created by the current or previous owners. The complex shape and relatively small size of the parcel was created when the original subdivision was designed.

## Analysis & Recommendation

**Analysis:** The proposed Special Exception and variances will allow for the reconstruction of the existing fire station, which offers a critical service to the neighborhood and larger community.

**Staff Recommendation:** Based on the information available prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation. The Staff recommends the Board approve the variances as requested.