

# City of South Bend

## BOARD OF ZONING APPEALS

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### AGENDA

**Monday, May 6, 2024 - 4:00 p.m.**  
County-City Building  
Seventh-Floor – County Commissioner’s Conference Room  
[www.tinyurl.com/sbbza](http://www.tinyurl.com/sbbza)

#### PUBLIC HEARING:

- 1. Location:** Vacant Lot at Southwest Corner of Dubail Ave and Phillipa St **BZA#0257-24**  
**Owner:** NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND  
**Requested Action:**  
Variance(s):  
1) to allow an accessory use and structure without a primary building  
**Zoning:** U1 Urban Neighborhood 1
- 2. Location:** 4143 SPRING HILL CT **BZA#0258-24**  
**Owner:** KATHLEEN M DELNAY  
**Requested Action:**  
Variance(s):  
1) from the minimum rear yard setback of 25' to 18' for a deck above 30"  
**Zoning:** S1 Suburban Neighborhood 1
- 3. Location:** 1403 PRAIRIE AVE **BZA#0259-24**  
**Owner:** CULTIVATE CULINARY SCHOOL AND CATERING INC  
**Requested Action:**  
Variance(s):  
1) from the minimum side yard setback of 10' to 6.5' for a solar energy system;  
2) from the maximum 1 accessory structure to 2 solar energy systems as accessory structures;  
3) to allow solar energy systems as accessory structures in the front yard;  
4) from the maximum height for a ground mounted solar energy system of 12' to 16'  
**Zoning:** I Industrial
- 4. Location:** 1345 MICHIGAN ST **BZA#0261-24**  
**Owner:** SHERMAN PARTNERS SB, LLC  
**Requested Action:**  
Variance(s):  
1) from the maximum stories for a Detached House building type of 2.5 to 3;  
2) to allow an accessory structure in the corner yard;  
3) to allow a 12' fence/wall in the corner yard  
**Zoning:** UF Urban Neighborhood Flex

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

- 5. Location:** 1421 WALNUT ST **BZA#0262-24**  
**Owner:** SOUTH BEND YOUTH HOCKEY INC & A&F REALTY  
**Requested Action:**  
Variance(s):  
1) from the requirement that a parking area be hard surfaced to gravel surfaced  
**Zoning:** I Industrial
- 6. Location:** 520 S LAFAYETTE BLVD **BZA#0264-24**  
**Owner:** REALAMERICA DEVELOPMENT, LP  
**Requested Action:**  
Variance(s):  
1) from the maximum length of a Stacked Flat building type in a DT district of 200' to 234'  
**Zoning:** DT Downtown

**ITEMS NOT REQUIRING A PUBLIC HEARING:**

- 1. Findings of Fact**  
April 1, 2024
- 2. Minutes**  
April 1, 2024
- 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: Vacant Lot at Southwest Corner of Dubail Ave and Phillipa St  
Owner: NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND

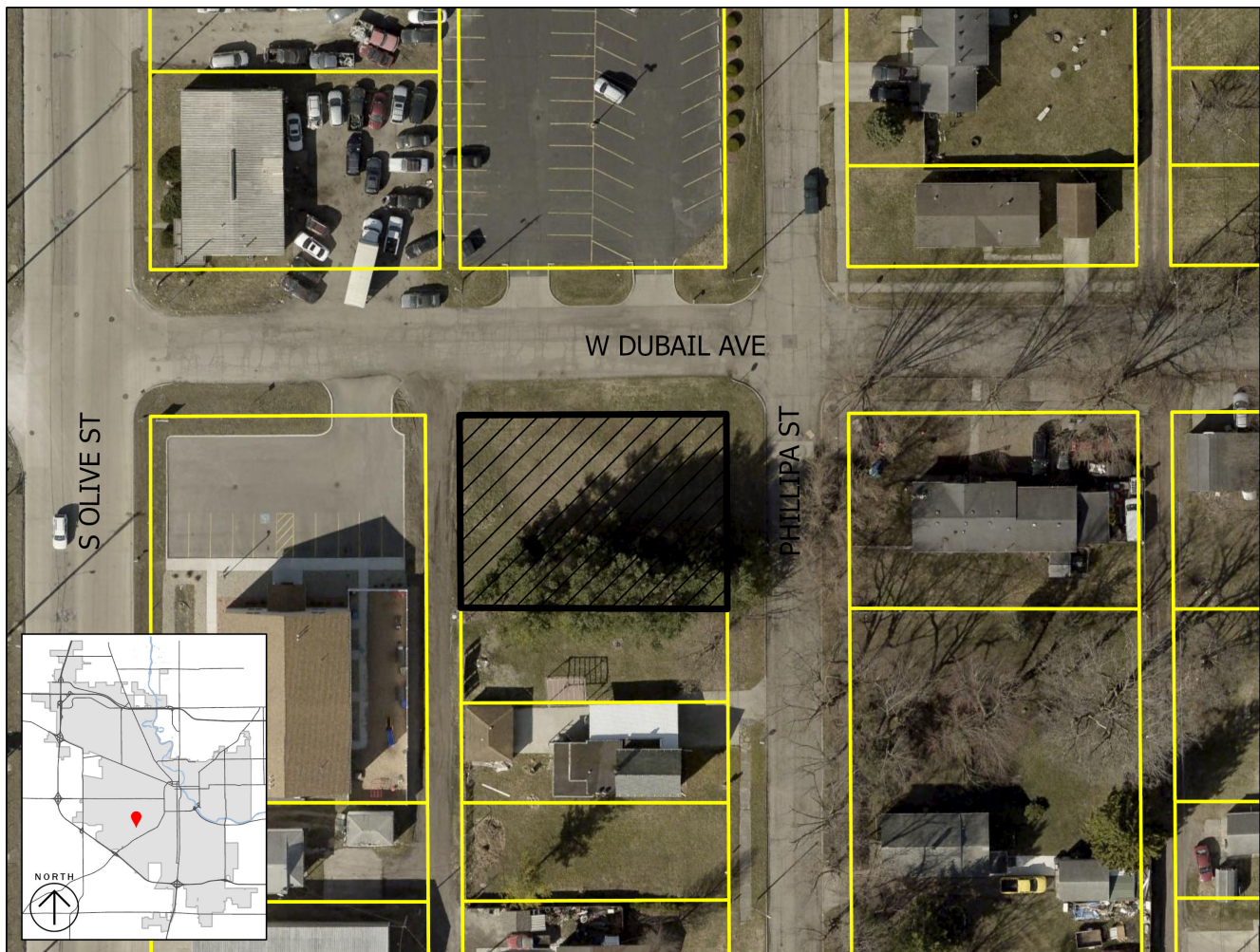
**Project Summary**

A fence to enclose the playground for Extended Love Child Care's Afterschool Program.

**Requested Action**

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

**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance to allow a 6' chain link fence around the playground area subject to the fence being an accessory use to the adjacent child care facility.

Proposed Site Plan

3



This is the preferred configuration



## 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 of the fence should not be injurious to the public health, safety or general welfare of the community. The fence is more than 50% open and unique to the after-school child care setting.

**(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 adversely affected. In addition to the child-care facility to the west across the alley, the petitioner also owns the church and parking lot north across Dubail Avenue. Approving the variance will allow for the children to have a secure playground area at this location which should have a positive impact on the surrounding 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 permit any accessory structures on this lot because the primary building is located across the alley that separates the child care center from the lot.

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

A fence that meets the minimum openness would be the minimum necessary to provide security for children using the playground associated with the child care facility.

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

The variance would not correct a hardship caused by a former or current owner of the property. The property has been a vacant, unused lot and the fence around the proposed playground will provide a transition of uses between the residential uses to the east and industrial uses to the west of the facility.

## Analysis & Recommendation

**Analysis:** While staff does not typically support a fence on a lot without a primary structure, the need to provide a secure environment for the future playground on the property not directly connected with the child care facility creates a practical difficulty.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance to allow a 6' chain link fence around the playground area subject to the fence being an accessory use to the adjacent child care facility.

**Property Information**

Location: 4143 SPRING HILL CT  
Owner: KATHLEEN M DELNAY

**Project Summary**

Replace 14'x14' raised deck in the back yard, same size and shape as existing.

**Requested Action**

Variance(s):  
1) from the minimum rear yard setback of 25' to 18' for a deck above 30"

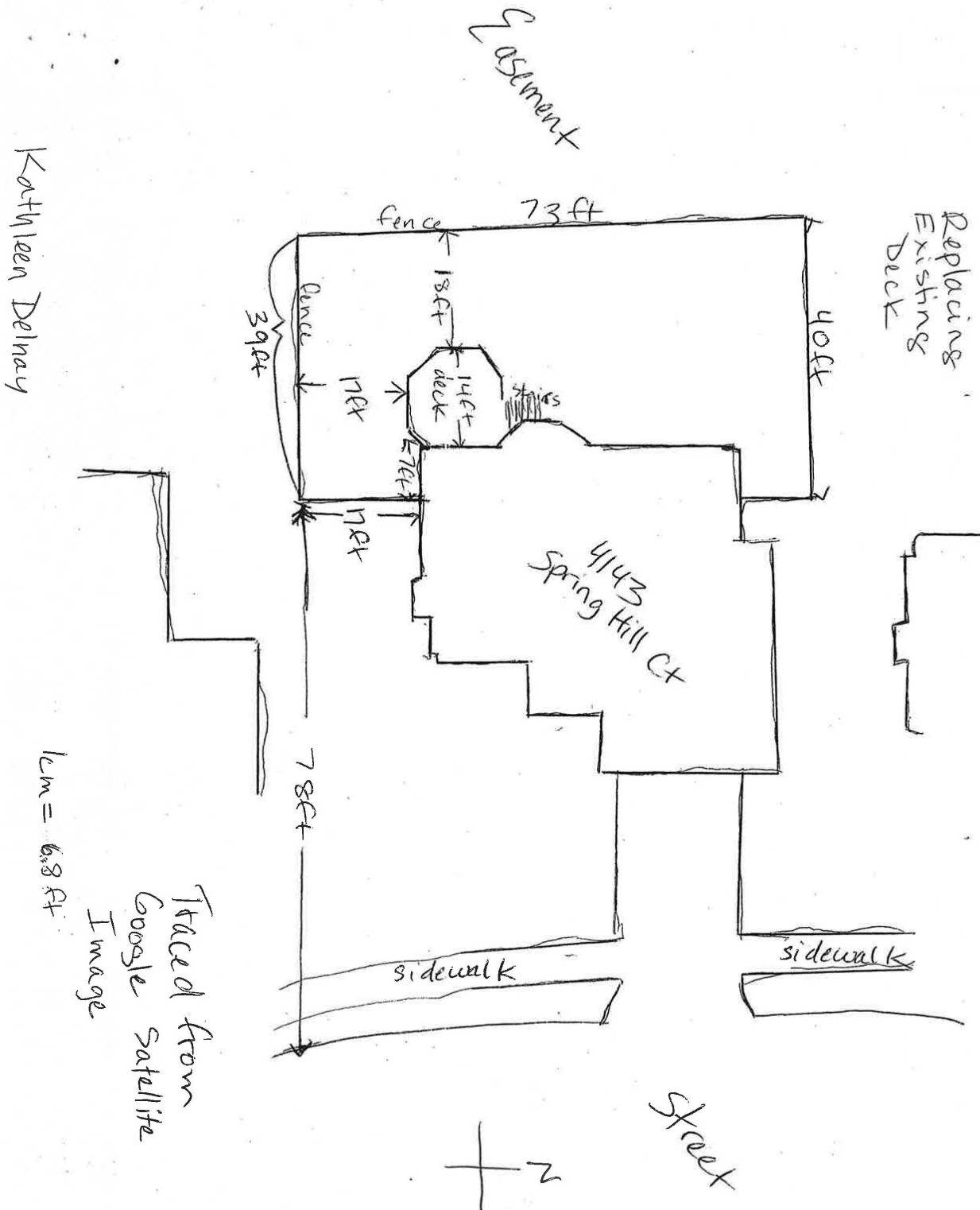
**Site Location**



**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



## 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 of the variance should not be injurious to the public health, safety, morals, and general welfare of the community as the deck will only be visible to the two adjacent neighbors. The new deck, built in the same configuration, will not encroach further into the setback meeting the general 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 included in the variance should not be affected in a substantially adverse manner as the deck would only impact two adjacent neighbors and is not visible from the street. Also, the property behind the house is heavily wooded and located within the County.

**(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 may result in practical difficulties in the use of the property as the split level house has a sliding glass door that requires the raised deck for safe ingress/egress. The new deck will be of the same size and in the same location as the existing deck.

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

The request is the minimum necessary to allow for the replacement of the deck as built. The deck has become unsafe and the replacement will not encroach further into the setback.

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

The hardship exists in that the deck provides safe ingress/egress from the split level house and building a deck 30" or less is not practical.

## Analysis & Recommendation

**Analysis:** The petitioner is requesting to replace an existing 14' X 14' deck that encroaches 7' into the rear setback. The Zoning Ordinance permits a deck 30" in height or less to encroach into the setback, however, a 30" deck is not practical in this situation as the deck provides ingress/egress from a sliding glass door on the split-level home.

**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: 1403 PRAIRIE AVE  
Owner: CULTIVATE CULINARY SCHOOL AND CATERING INC

**Project Summary**

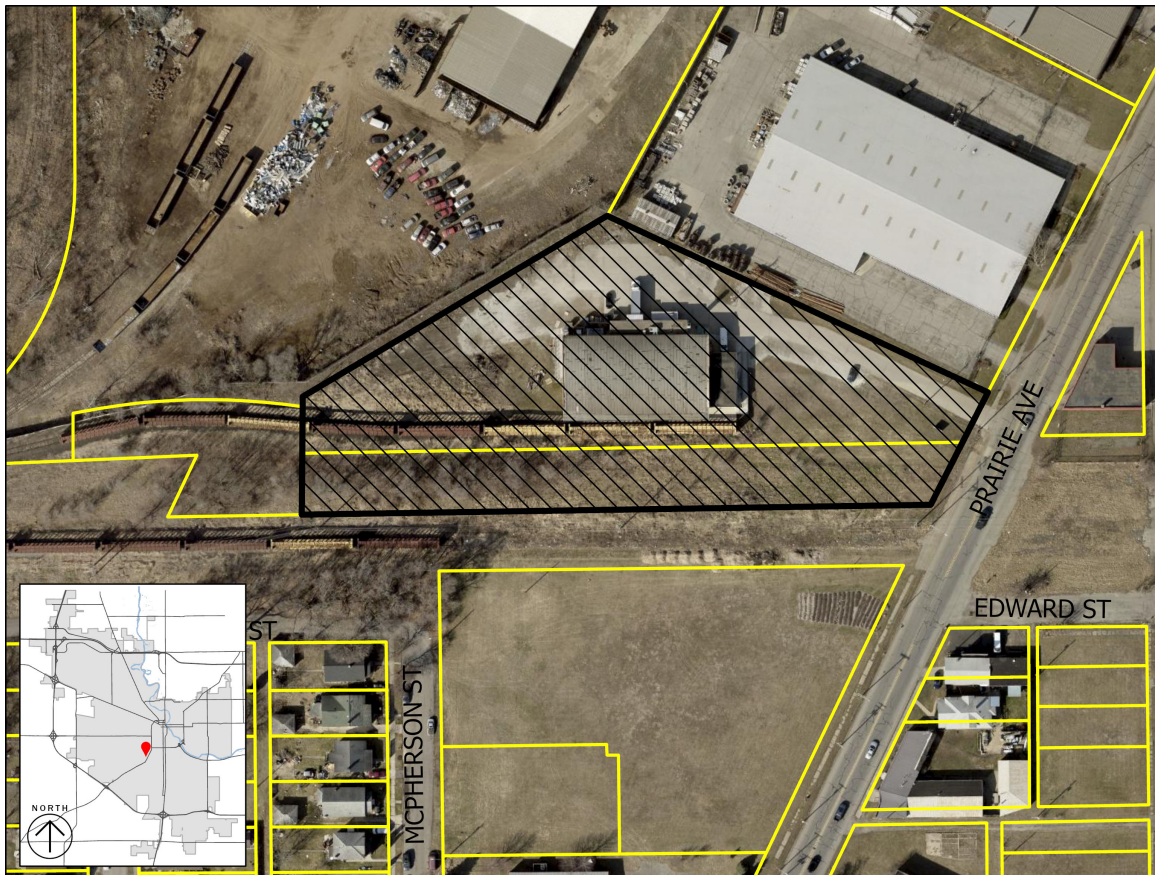
New installation of roof and ground-mounted solar energy systems above a surface parking lot in the front yard of an I Industrial zoned parcel on Prairie Avenue.

**Requested Action**

Variance(s):

- 1) from the minimum side yard setback of 10' to 6.5' for a solar energy system
- 2) from the maximum 1 accessory structure to 2 solar energy systems as accessory structures
- 3) to allow solar energy systems as accessory structures in the front yard
- 4) from the maximum height for a ground mounted solar energy system of 12' to 16'

**Site Location**



**Staff Recommendation**

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

Proposed Site Plan

## SITE DEVELOPMENT PLANS FOR CULTIVATE FOOD RESCUE

### 1403 PRAIRIE AVENUE, SOUTH BEND, INDIANA 46613

SECTION 14, TOWNSHIP 37 NORTH, RANGE 2 EAST, PORTAGE TOWNSHIP, SOUTH BEND, ST. JOSEPH COUNTY, INDIANA

VICINITY MAP

Use	UTILITY CONTACTS
Gas	WISCO 14000 W. Main Street, South Bend, IN 46601 Contact: (317) 289-2121
Electric	Anderson Electric Power 2000 W. Main Street, South Bend, IN 46609 Contact: (317) 277-2727
Water	City of South Bend Water Department 227 W. Adams St., South Bend, IN 46601 Contact: (317) 252-2526
Sewer	City of South Bend Sewer Department 227 W. Adams St., South Bend, IN 46601 Contact: (317) 252-2526

LOCATION MAP

**OWNER/DEVELOPER**  
Cultivate Food Rescue  
South Bend, IN 46613  
Contact: Jim Corbin  
(877) 252-5016

**CONTRACTOR**  
DJ Construction Co., Inc.  
3414 Elkhart Road  
Goshen, Indiana 46526  
Contact: Adam Tomiska

**SURVEYOR/CIVIL ENGINEER**  
Abonmarche Consultants, Inc.  
315 West Jefferson Blvd  
South Bend, IN 46601  
Contact: Jeff Schaefer

Sheet Number	Description	Latest Revision
CS0	Cover Sheet & Index	
CS1	Site Location & Reference Map	
CS2	Site Plan	
CS3	Site Plan	
CS4	Site Plan	
CS5	Site Plan	
CS6	Site Plan	
CS7	Site Plan	
CS8	Site Plan	
CS9	Site Plan	
CS10	Site Plan	
CS11	Site Plan	

**TITLE SHEET & INDEX**

PROJECT: CULTIVATE FOOD RESCUE  
1403 PRAIRIE AVENUE  
SOUTH BEND, INDIANA 46613

DATE: 05-06-2024  
SCALE: AS SHOWN

23-0736  
CS.0

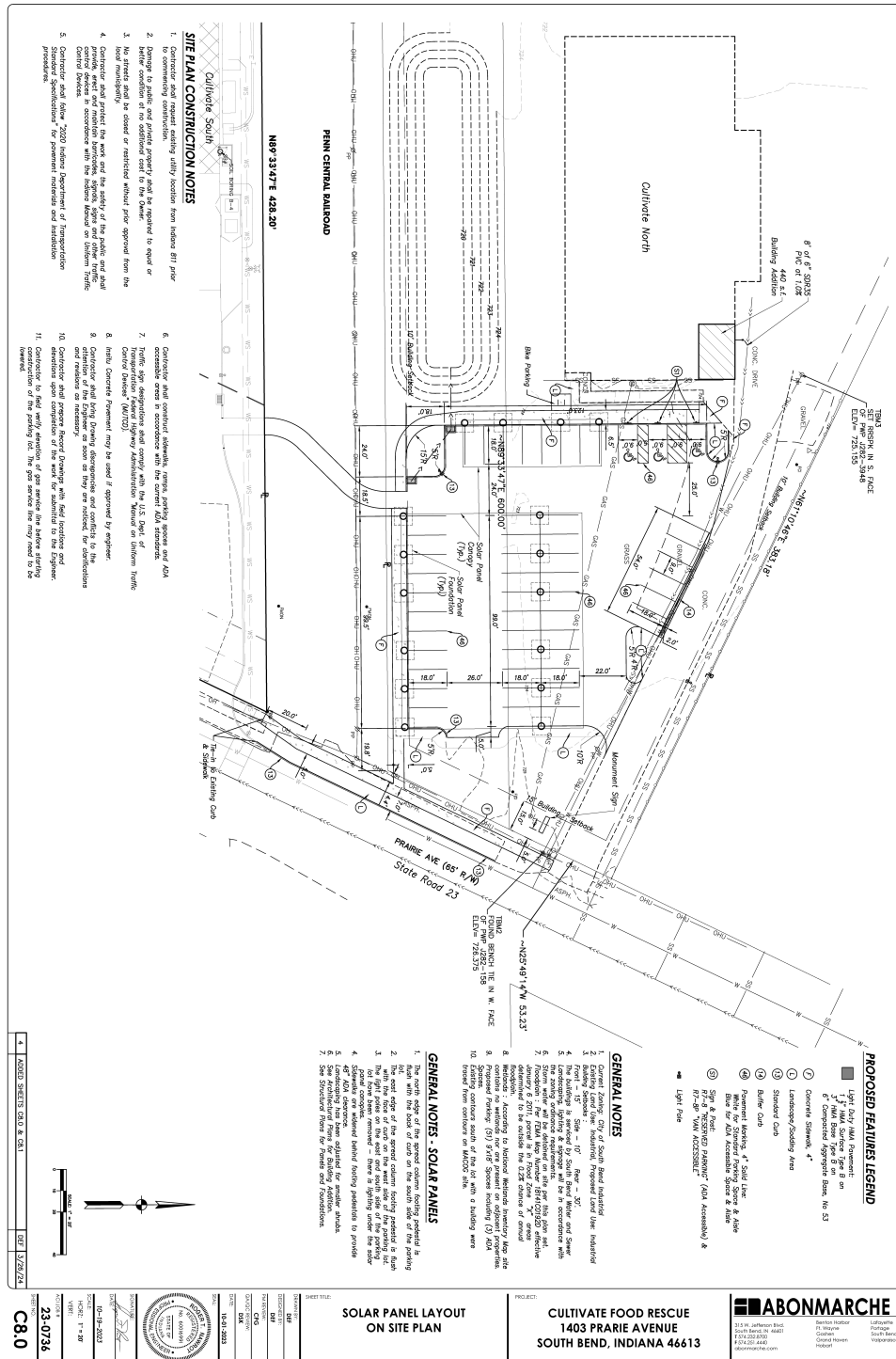
**ABONMARCHÉ**

315 West Jefferson Blvd  
South Bend, IN 46601  
812.252.5016  
www.abonmarche.com

Jeff Schaefer  
Civil Engineer  
Michael Hagan  
Professional

Professional Engineer License No. 12123  
Professional Surveyor License No. 12123

Proposed Site Plan



SITE PLAN CONSTRUCTION NOTES

- 1. Contractor shall request existing utility locations from Indiana 811 prior to commencing construction.
- 2. Damaging to public and private property shall be repaired to equal or better condition.
- 3. No streets shall be closed or restricted without prior approval from the local municipality.
- 4. Contractor shall protect the work and the safety of the public and shall control access in accordance with the Indiana Manual on Uniform Traffic Control Devices.
- 5. Contractor shall follow 2020 Indiana Department of Transportation Standard Specifications for pavement retention and installation procedures.
- 6. Contractor shall construct all utility lines, utility poles and ADA accessible ramps in accordance with the Indiana Department of Transportation Traffic Signs and Signals Manual on Uniform Traffic Control Devices.
- 7. Traffic sign depictions and comply with the U.S. Dept. of Transportation Federal Highway Administration Manual on Uniform Traffic Control Devices.
- 8. Traffic Control Plan may be used if approved by engineer.
- 9. Contractor shall provide the Engineer with the details of the retention and restoration of the site.
- 10. Retention and restoration shall be in accordance with the Indiana Department of Transportation Standard Specifications for pavement retention and installation procedures.
- 11. Contractor to field early sections of the work for the Engineer's inspection of the parking lot. The gas service may need to be installed.

PROPOSED FEATURES LEGEND

- Light Duty Main Footprint
- Medium Duty Main Footprint
- Concrete Slabwork, 4"
- Landscape/Scrubbing Area
- Stained Concrete
- Blower Curtains
- Fluorescent Lighting, 4" Solid Core
- Sign & Post
- 10' x 10' MONUMENT SIGNAGE (Data Assembly) & Light Poles

GENERAL NOTES

- 1. Current zoning of this site is Commercial District.
- 2. Building setback line - 10' from -50'.
- 3. The building is situated on a 20' wide alley and shall comply with the zoning ordinance requirements for this type of structure.
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- 11. The building is situated on a 20' wide alley and shall comply with the zoning ordinance requirements for this type of structure.

GENERAL NOTES - SOLAR PANELS

- 1. The north edge of the ground column mounting structure shall be placed in the center of the lot.
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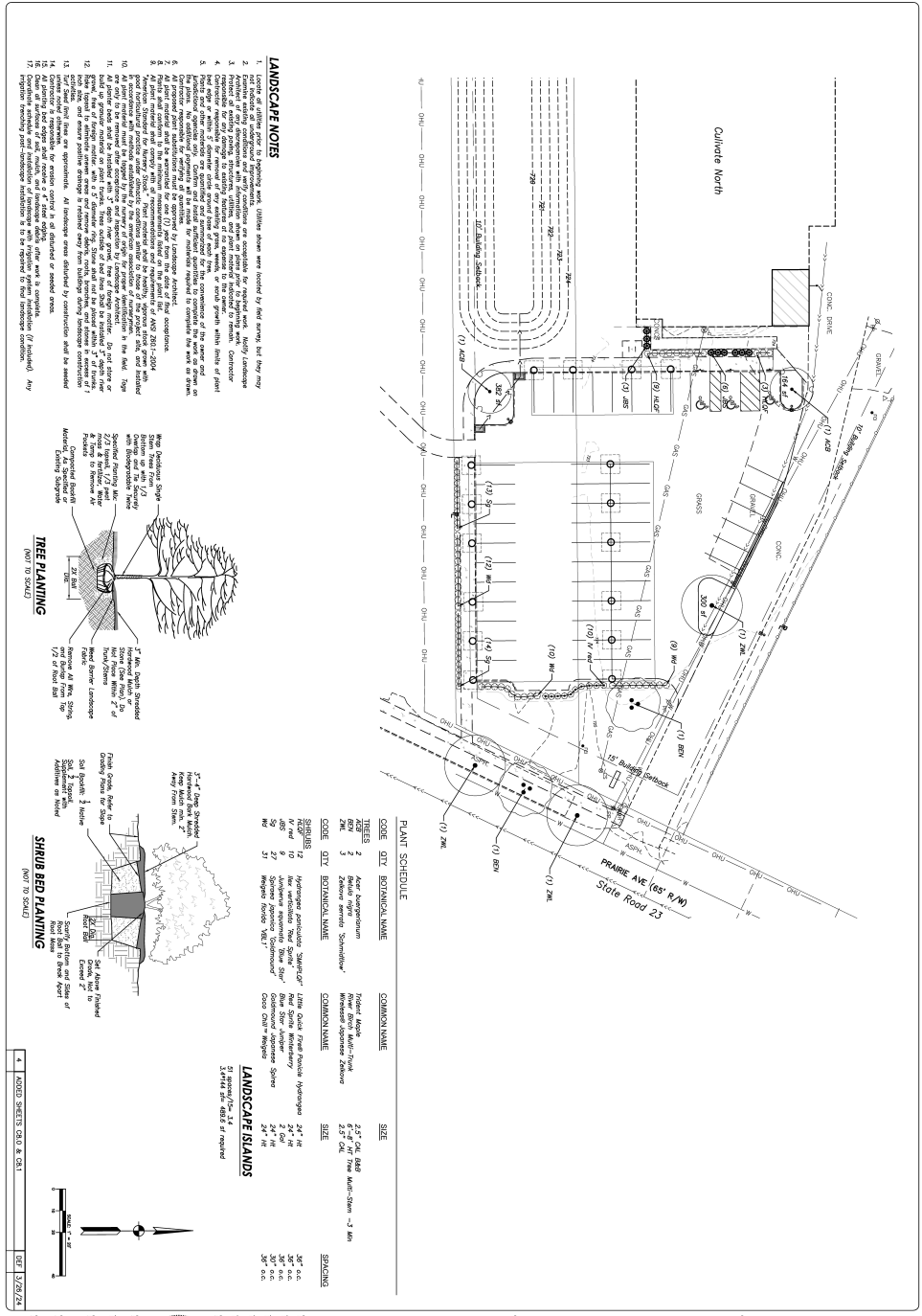


PROJECT: CULTIVATE FOOD RESCUE 1403 PRAIRIE AVENUE SOUTH BEND, INDIANA 46613

23-0736  
C8.0

23-0736  
C8.0

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 general welfare of the community. The variances will allow for the construction of solar energy systems above an off street surface parking lot that will enhance the interface between the parcel and the street, reduce heat island effects, produce sustainable energy, and shelter vehicles.

**(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 solar energy systems located in the front yard of the parcel will reduce heat island effects and provide visual interest and presence along Prairie Avenue beyond the proposed surface parking lot without adverse impacts on 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 allow for the construction of the solar energy systems in the proposed location above the parking lot.

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

The variances granted are the minimum necessary. Permitting the proposed location and height will allow for appropriate solar energy systems to be installed above the parking lot.

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

The variances respond to a request to cover a proposed surface parking lot in the front yard with solar energy systems. While the request requires a variance, the request meets the intent of the zoning ordinance, which does not speak specifically to a project of this nature.

## Analysis & Recommendation

**Analysis:** The variances will allow for the construction of solar energy systems above an off street surface parking lot that will enhance the interface between the parcel and the street, reduce heat island effects, produce sustainable energy, and shelter vehicles. While the proposed solar energy systems require variances, they do meet the intent of the zoning ordinance.

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

**Property Information**

Location: 1345 MICHIGAN ST  
Owner: SHERMAN PARTNERS SB, LLC

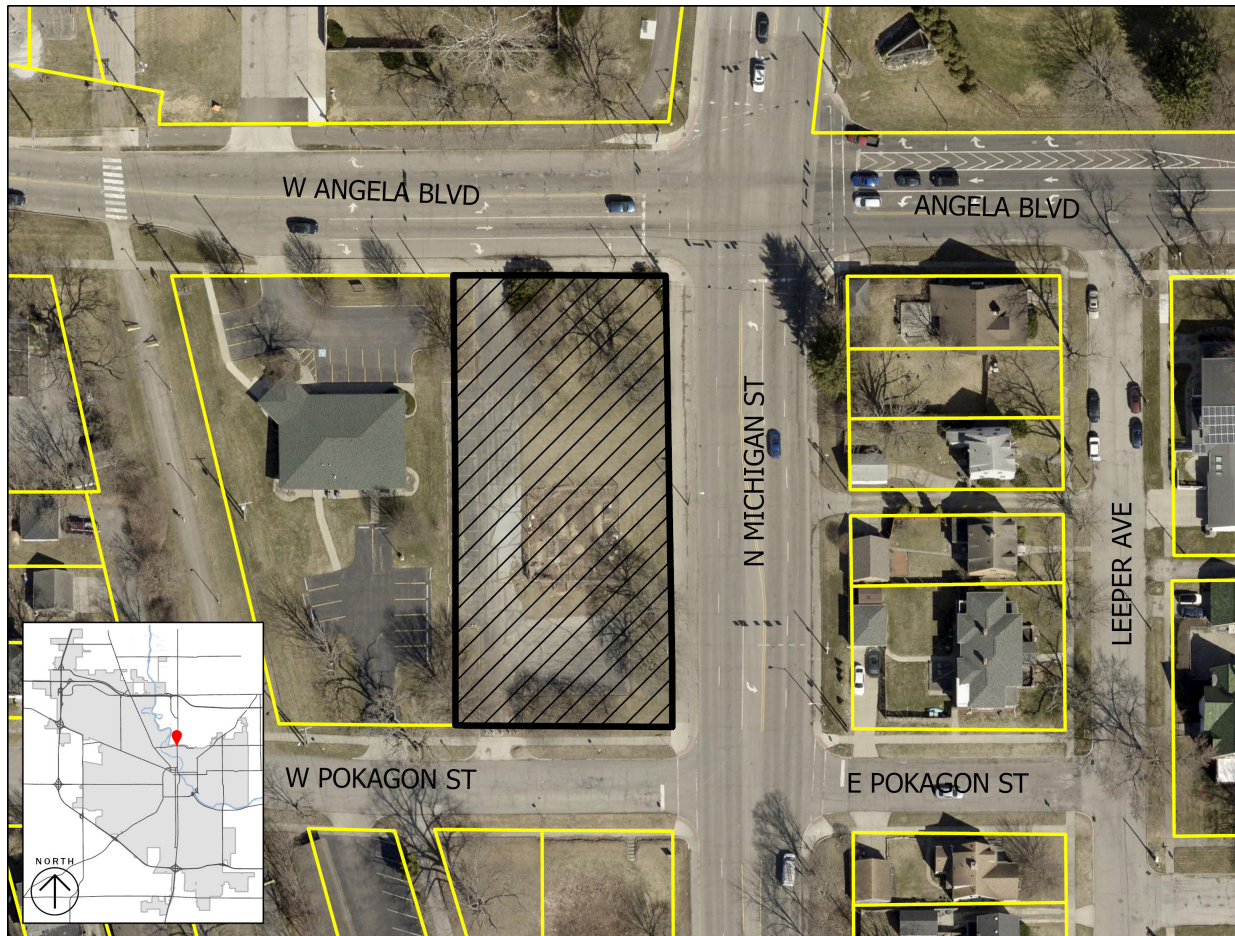
**Project Summary**

7 residential homes with garages and a common driveway.

**Requested Action**

- Variance(s):
- 1) from the maximum stories for a Detached House building type of 2.5 to 3
  - 2) to allow an accessory structure in the corner yard
  - 3) to allow a 12' fence/wall in the corner yard

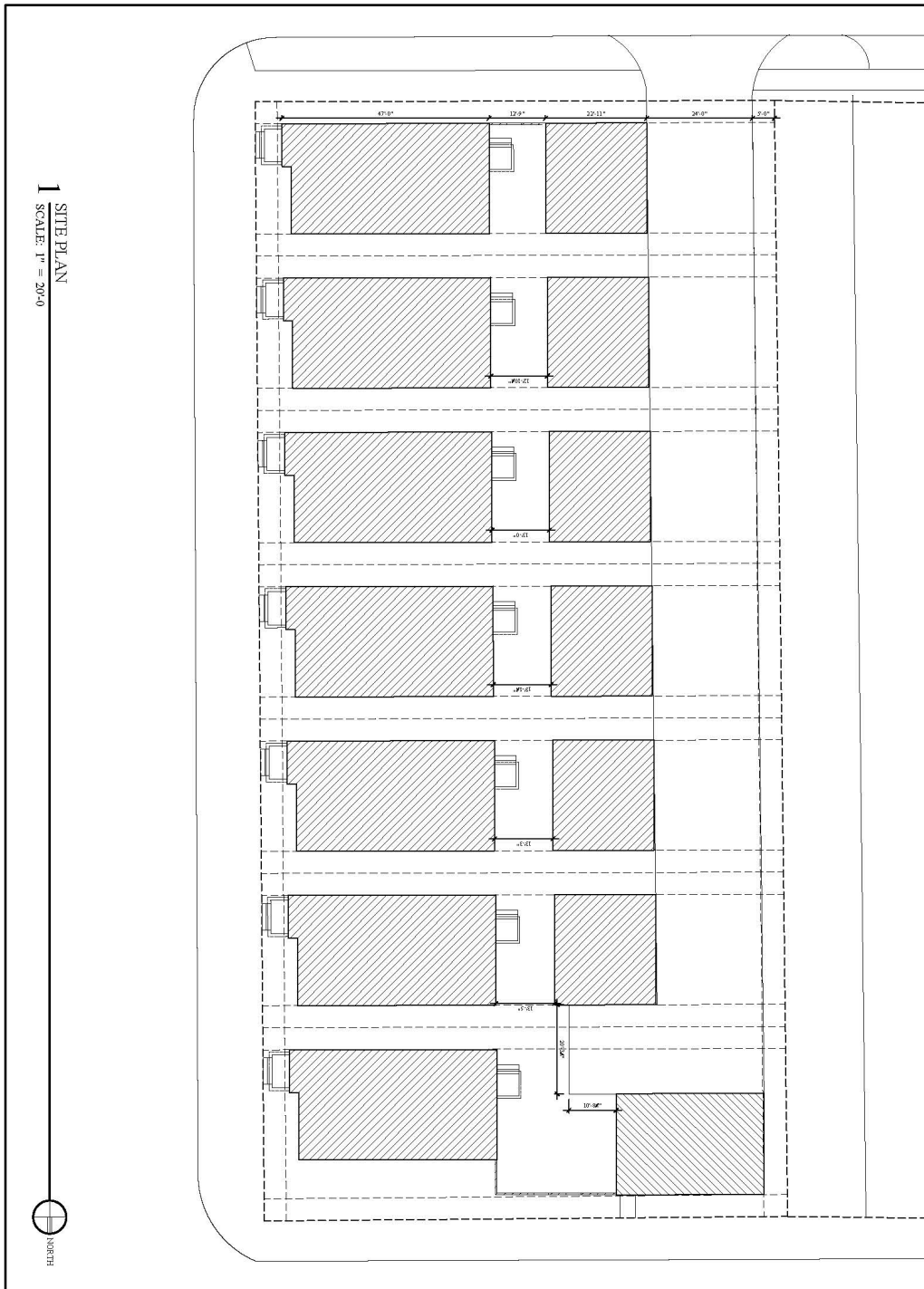
**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, Staff recommends the Board approve variances #1 and #2 as presented. Staff may support variance #3 if the fence/wall effectively wraps the corner and does not present an expansive blank surface.

Proposed Site Plan



#2313 **S1.1**

**TRADITIONS**  
CUSTOM BUILDERS

Traditions Custom Builders, LLC  
3640 Edison Lakes Pkw.  
Mishawaka, IN 46545  
TEL. (O): 574.229.6659

**23-2001-1345**  
N. Michigan Street  
Lot #XXX - 2850 SF  
(+640, sf Basement)  
South Bend, IN

DRAWING SYMBOL LEGEND	
NO.	SYMBOL
1	EXISTING
2	PROPOSED
3	CONSTRUCTION
4	EXISTING DRIVE
5	PROPOSED DRIVE
6	EXISTING SIDEWALK
7	PROPOSED SIDEWALK
8	EXISTING PAVEMENT
9	PROPOSED PAVEMENT
10	EXISTING CURB
11	PROPOSED CURB
12	EXISTING UTILITY
13	PROPOSED UTILITY
14	EXISTING FENCE
15	PROPOSED FENCE
16	EXISTING SIGNAGE
17	PROPOSED SIGNAGE
18	EXISTING LANDSCAPE
19	PROPOSED LANDSCAPE
20	EXISTING TREES
21	PROPOSED TREES
22	EXISTING LIGHTS
23	PROPOSED LIGHTS
24	EXISTING DRIVE
25	PROPOSED DRIVE
26	EXISTING SIDEWALK
27	PROPOSED SIDEWALK
28	EXISTING PAVEMENT
29	PROPOSED PAVEMENT
30	EXISTING CURB
31	PROPOSED CURB
32	EXISTING UTILITY
33	PROPOSED UTILITY
34	EXISTING FENCE
35	PROPOSED FENCE
36	EXISTING SIGNAGE
37	PROPOSED SIGNAGE
38	EXISTING LANDSCAPE
39	PROPOSED LANDSCAPE
40	EXISTING TREES
41	PROPOSED TREES
42	EXISTING LIGHTS
43	PROPOSED LIGHTS

**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 of the variances should not be injurious to the general welfare of the community. While the maximum height of a detached house is 2.5 stories, the proposed 3 story height is contextually appropriate as buildings are permitted up to a height of 4 stories and 55' in the UF zoning district. The accessory dwelling unit in the corner yard addresses Angela Boulevard in the same way a primary building would, with a frontage type and sidewalk connection facing north towards the street.

**(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 adversely affected. The variances will allow for a contextually appropriate development that introduces eight new residential units on the corner of Michigan Street and Angela Boulevard.

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

A strict application of the ordinance would not permit the buildings to exceed 2.5 stories because they are detached houses, although another building type in a UF zoned district would be permitted to reach 4 stories and 55' in height. A strict application on the accessory structure in the corner yard would limit the ability of the accessory dwelling unit to address Angela Boulevard like a primary building.

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

The variances granted are the minimum necessary to allow for a contextually appropriate development that appropriately addresses the street and introduces eight new residential units.

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

The requested variances allow for a development that more closely meets the intent of the ordinance, introducing eight new residential units that are contextually appropriate in scale and effectively address the street.



## Analysis & Recommendation

**Analysis:** The variances will allow for eight new residential units that are contextually appropriate in scale and effectively address the street. While the maximum height of a detached house is 2.5 stories, the proposed 3 story height is contextually appropriate as buildings are permitted up to a height of 4 stories and 55' in the UF zoning district. The accessory dwelling unit in the corner yard addresses Angela Boulevard in the same way a primary building would, with a frontage type and sidewalk connection facing north towards the street.

**Staff Recommendation:** Based on the information provided prior to the public hearing, Staff recommends the Board approve variances 1 and 2 as presented. Staff may support variance 3 if the fence/wall effectively wraps the corner and does not present an expansive blank surface.

**Property Information**

Location: 1421 WALNUT ST  
Owner: SOUTH BEND YOUTH HOCKEY INC & A&F REALTY

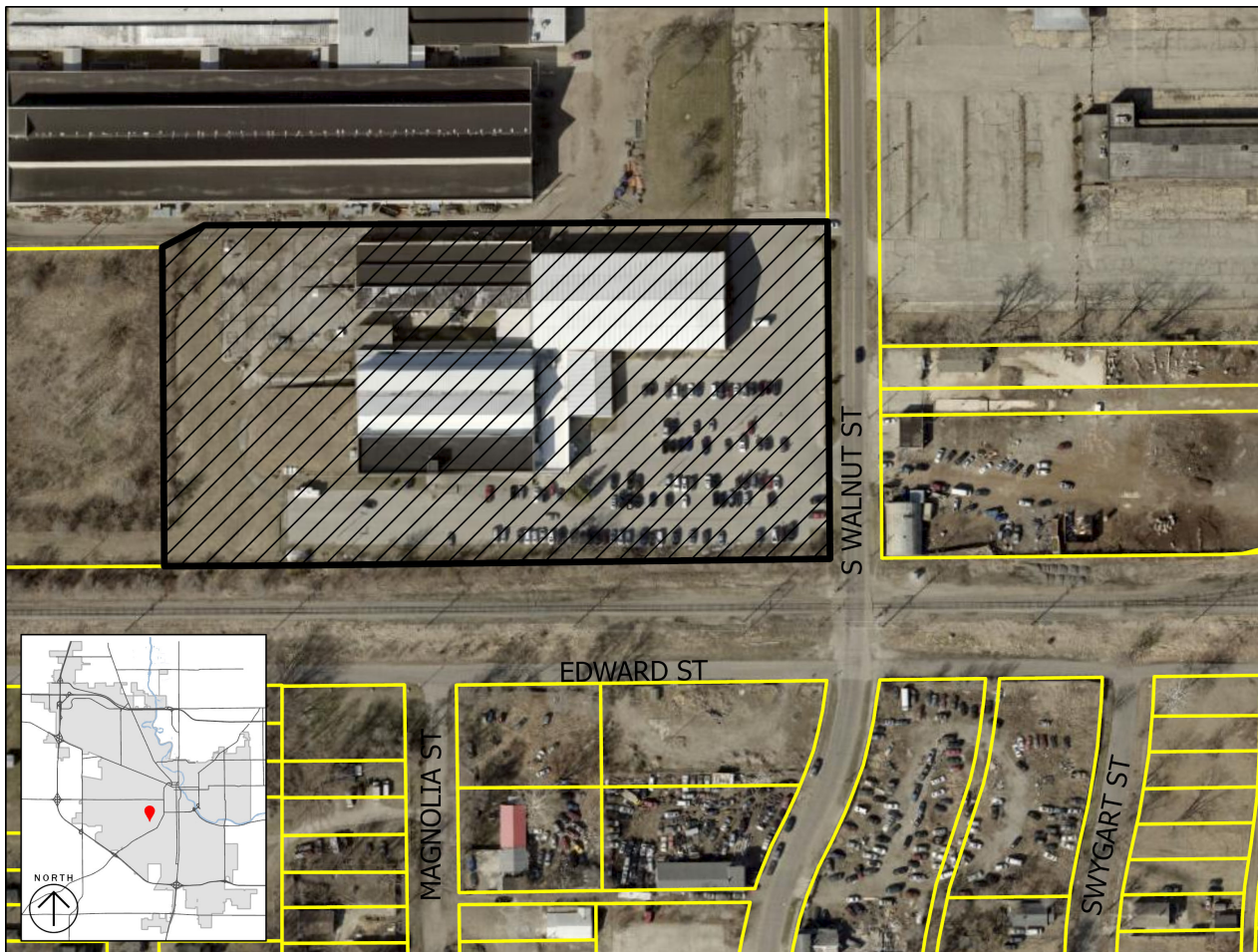
**Project Summary**

The Ice Box Skating Rink is looking to add a 3rd rink to the facility. This includes parking adjustments, including overflow parking in the rear, west of the building. The overflow area is proposed to be gravel parking.

**Requested Action**

Variance(s):  
1) from the requirement that a parking area be hard surfaced to gravel surfaced

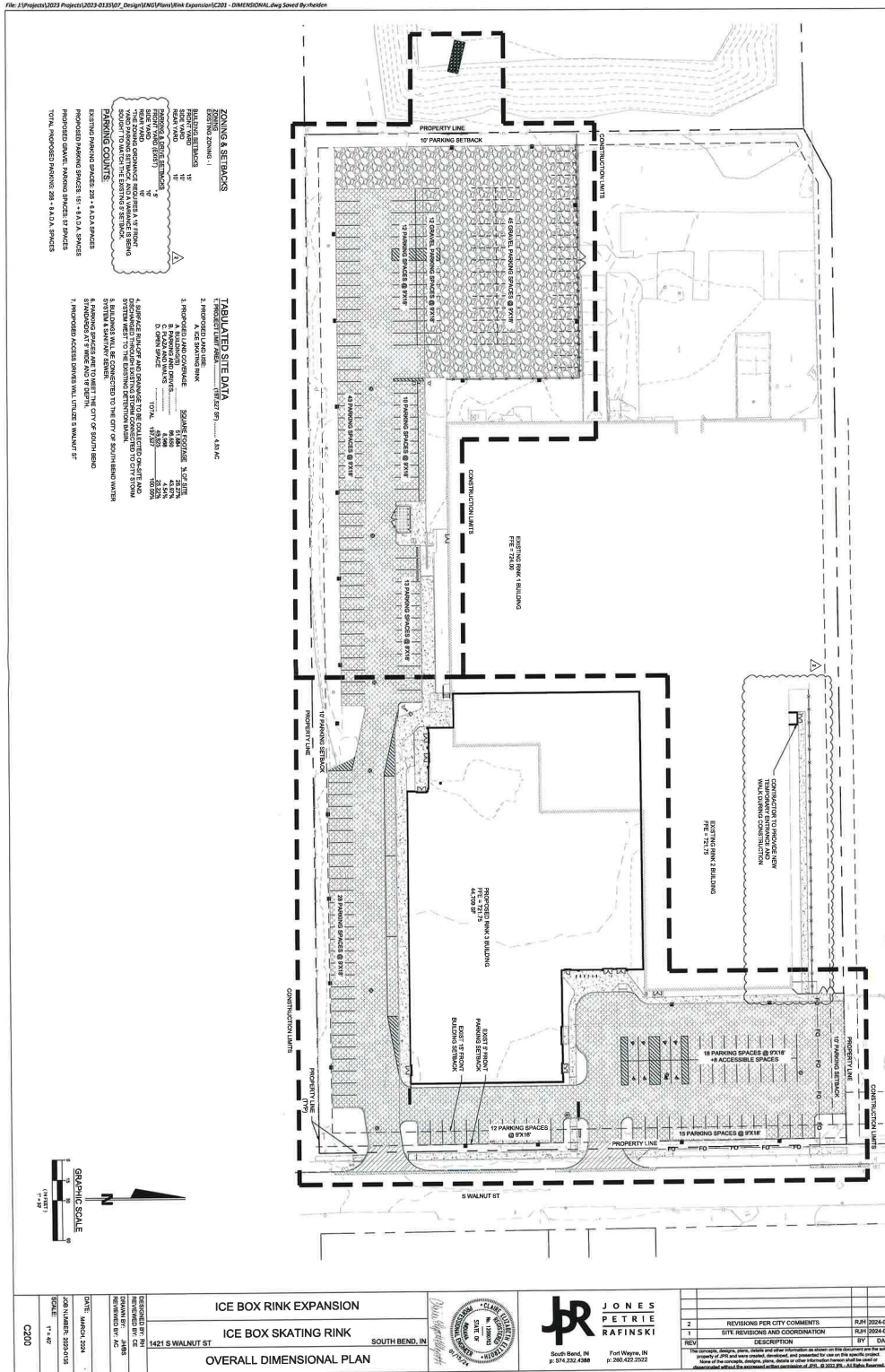
**Site Location**



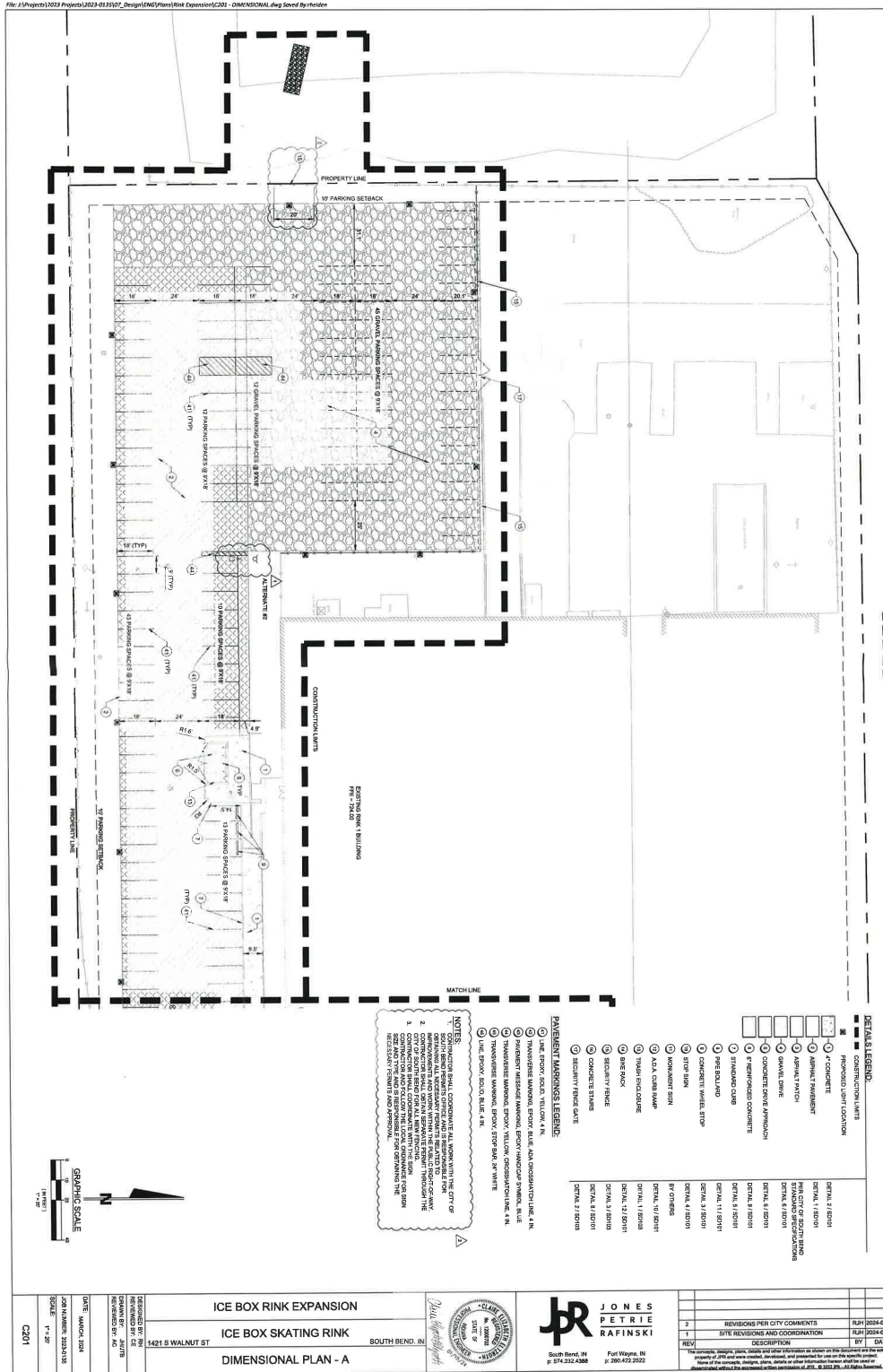
**Staff Recommendation**

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

Proposed Site Plan



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 general welfare of the community. Allowing for an overflow gravel surface parking lot in the proposed location over 500' from the public right of way limits the tracking of gravel onto public streets, and vehicles will not be parked on the lot for extended periods of time.

**(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 gravel parking will be located in the rear of the parcel which abuts the railroad right of way to the south, vacant Industrial zoned land to the west, and an industrial warehouse to the north. Over 500' from Walnut, the gravel lot will have minimal impact on the public 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 gravel lot will allow for greater use of the site with minimal impacts on abutting properties, while a strict application of the ordinance would result in practical difficulties in the use of the property.

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

The variance granted is the minimum necessary. Allowing an overflow parking in the proposed location will increase the use of the site while having minimal impacts on abutting properties or the public right of way.

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

Responding to the construction of a new ice rink on the site, the petitioner is proposing the use of an overflow gravel parking lot in the rear of the lot to increase the capacity of the site while meeting the intent of the ordinance.

## Analysis & Recommendation

**Analysis:** The petitioner is proposing an overflow gravel parking lot in the rear of the lot to support additional use of the site while meeting the intent of the ordinance. The parking will be located over 500' from the public right-of-way, limiting the tracking of gravel onto public streets, and vehicles will not be parked on the lot for extended periods of time.

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

**Property Information**

Location: 520 S LAFAYETTE BLVD  
Owner: REALAMERICA DEVELOPMENT, LP

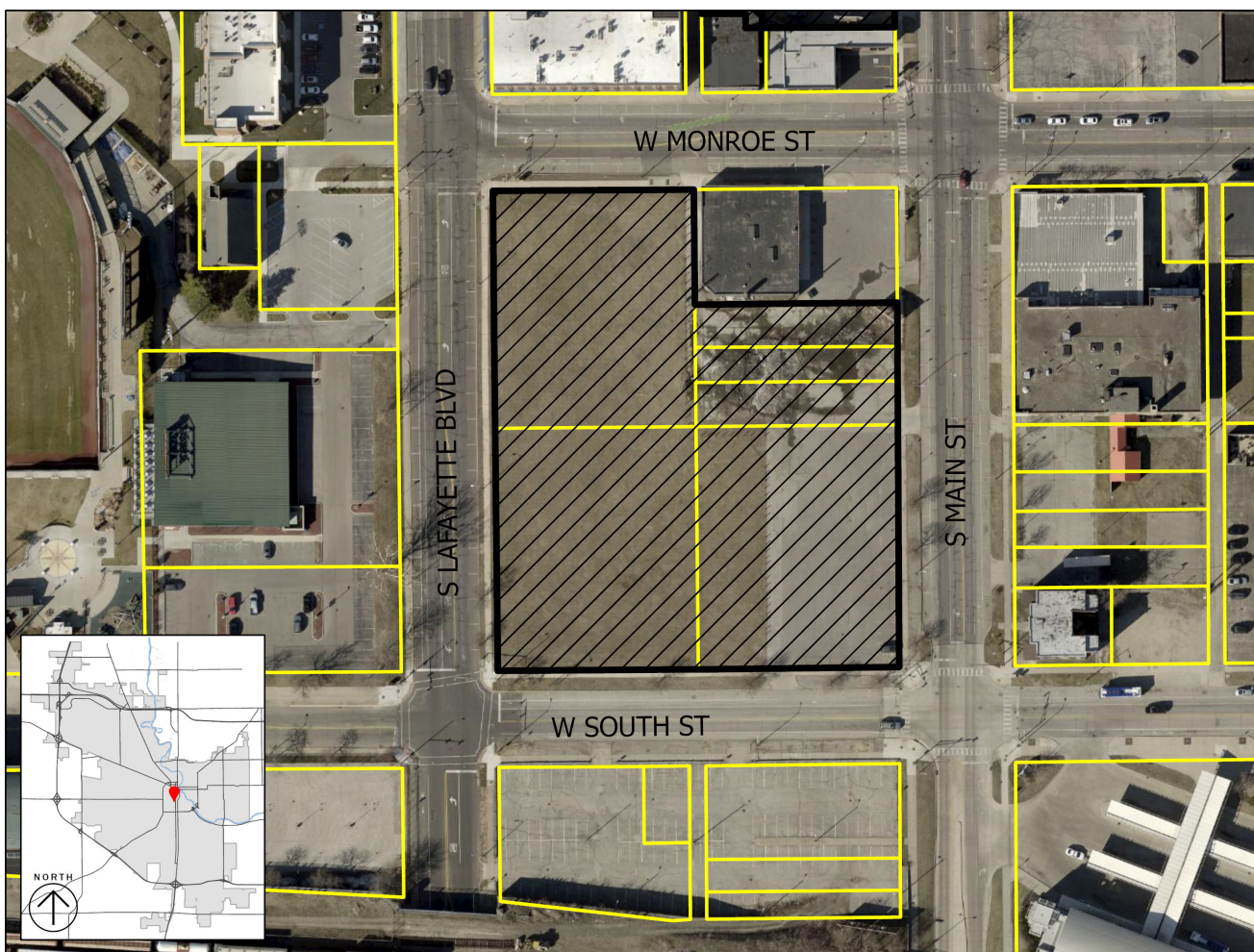
**Project Summary**

New construction of 60-unit apartment building to be called Diamond View Apartments. To accommodate an AT&T fiber duct running through the site, building size must be modified.

**Requested Action**

Variance(s):  
1) from the maximum length of a Stacked Flat building type in a DT district of 200' to 234'

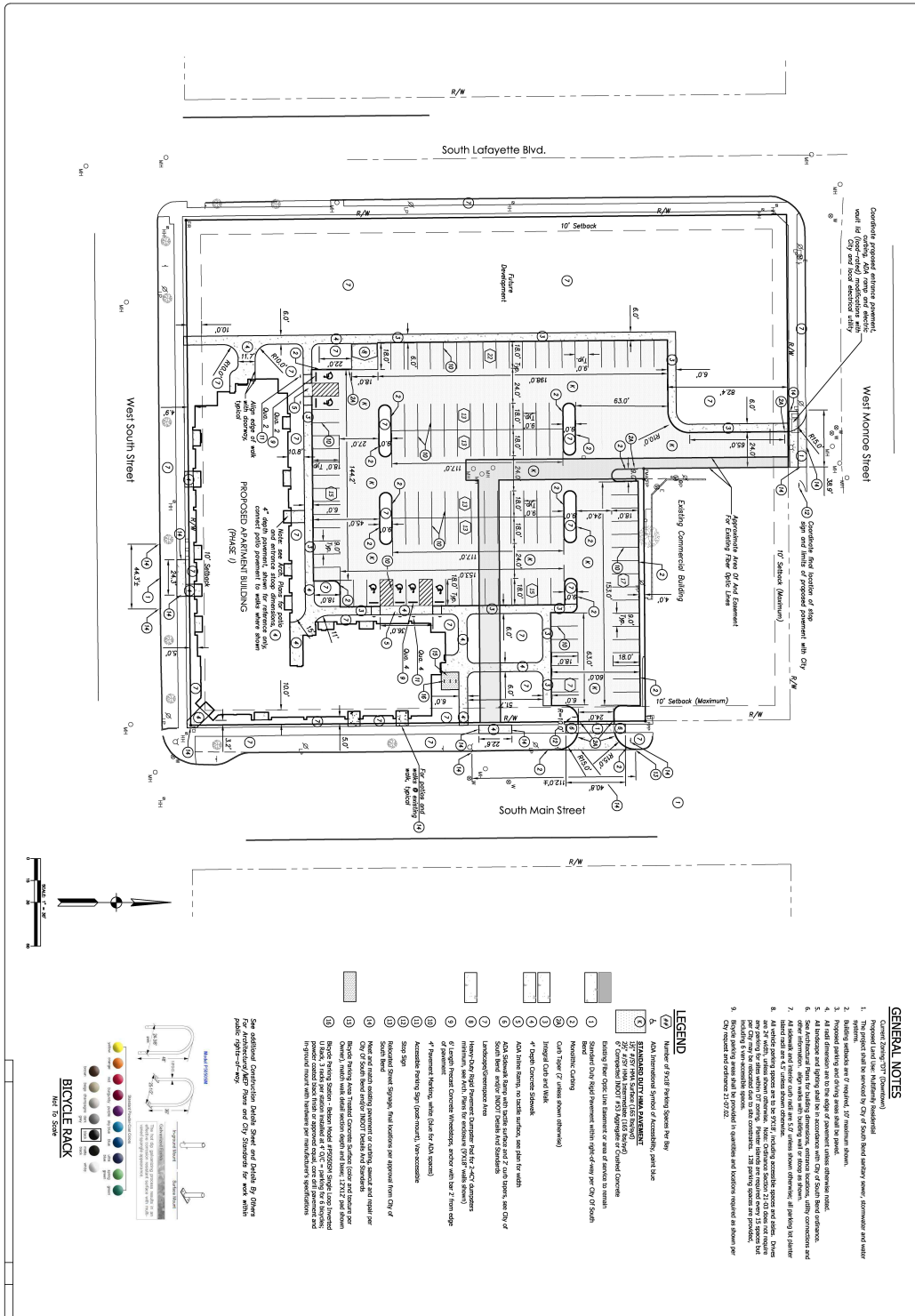
**Site Location**



**Staff Recommendation**

Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented.

Proposed Site Plan



- GENERAL NOTES**
1. The project shall be reviewed by City of South Bend and Indiana State Government and other agencies as required.
  2. Building setbacks are as required, 10' minimum.
  3. Proposed parking and driving areas shall be paved.
  4. All parking spaces shall be marked with 5' x 9' minimum.
  5. All outdoor seating shall be in accordance with City of South Bend ordinance.
  6. See Architectural Plans for building materials, finishes, fixtures, utility connections and other details.
  7. All setbacks and setbacks shall be 5.0' unless shown otherwise. All parking lot drive areas shall be 10' wide.
  8. All setbacks and setbacks shall be 5.0' unless shown otherwise. All parking lot drive areas shall be 10' wide.
  9. All setbacks and setbacks shall be 5.0' unless shown otherwise. All parking lot drive areas shall be 10' wide.

- LEGEND**
- 1. Number of 9x9' Parking Spaces Per Bay
  - 2. ADA International Symbol of Accessibility, 5' x 5' size
  - 3. ADA International Symbol of Accessibility, 5' x 5' size
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  - 99. ADA International Symbol of Accessibility, 5' x 5' size
  - 100. ADA International Symbol of Accessibility, 5' x 5' size

**SITE PLAN**

**DIAMOND VIEW APARTMENTS**  
520 S. LAFAYETTE BLVD.  
SOUTH BEND, INDIANA 46601

**ABONMARCHE**  
1000 N. State Street, Suite 200  
South Bend, IN 46601  
Phone: (574) 298-1111  
Fax: (574) 298-1112  
www.abonmarche.com

**CONTRACTOR:** [Name]  
**DATE:** [Date]  
**SCALE:** 1" = 40'  
**PROJECT:** [Project Name]  
**CLIENT:** [Client Name]  
**PROJECT #:** [Project Number]  
**DATE:** [Date]  
**SCALE:** [Scale]  
**PROJECT #:** [Project Number]

### 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 general welfare of the community. The length of the building will allow the petitioner to construct the minimum number of units required as part of a LIHTC funded project while accommodating an AT&T fiber duct running through the site.

**(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 variance will allow for the construction of an apartment building with affordable units in downtown South Bend.

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

The length of the building exceeds the maximum 200' length of a stacked flats building type in a DT zoned parcel to allow for the construction of sufficient affordable apartment units through a LIHTC funded project. The strict application of the terms of this Chapter would result in practical difficulties in the use of the property for the proposed residential spaces.

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

The variance granted is the minimum necessary. To accommodate for the location of AT&T fiber ducts, units have been shifted from the eastern portion of the building along Main Street to the southern portion of the building along South Street. The building is the minimum length necessary to reach the 60 required units.

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

When the east-west alley between Lafayette Boulevard and Main Street was vacated in 1951, AT&T maintained an easement that has allowed for the current location of the fiber ducts.

### Analysis & Recommendation

**Analysis:** As a LIHTC funded project, the apartment complex must provide a minimum of 60 units. The variance for the length of the building will allow for the construction of the 60 affordable apartment units while accommodating for an AT&T fiber duct running through the site.

**Staff Recommendation:** Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented.