

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, January 4, 2021 - 4:00 p.m.
www.tinyurl.com/sbbza

ADMINISTRATIVE ITEMS:

1. Election of Officers

PUBLIC HEARING:

1. **Location:** 903 MERRILL through 915 MERRILL BZA#0038-21
Owner: TDK DEVELOPMENT LLC
Requested Action: Variance(s): 1) From the 15' maximum front and corner setback to 25' on Merrill and 38' on Lindenwood ; and 2) From the 48' maximum width for a duplex to 50'
Zoning: U3 Urban Neighborhood 3
2. **Location:** 1915 BENDIX DR BZA#0039-21
Owner: APPLETREE ASSOCIATES LP % PEI GENESIS
Requested Action: Special Exception: a Heavy Industrial use
Zoning: I Industrial
3. **Location:** 1635 and 1643 PRAIRIE AVE BZA#0040-21
Owner: RICHARD D FOX
Requested Action: Special Exception: a Gas Station
Variance(s): 1) From the 12' maximum front building setback to 51'; 2) From the one maximum street curb cut to 2; and 3) From the requirement that parking be a minimum of 5' behind the front facade to 0'
Zoning: NC Neighborhood Center

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – November 2, 2020
2. Minutes – November 2, 2020
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: 903 MERRILL through 915 MERRILL
Owner: TDK DEVELOPMENT LLC

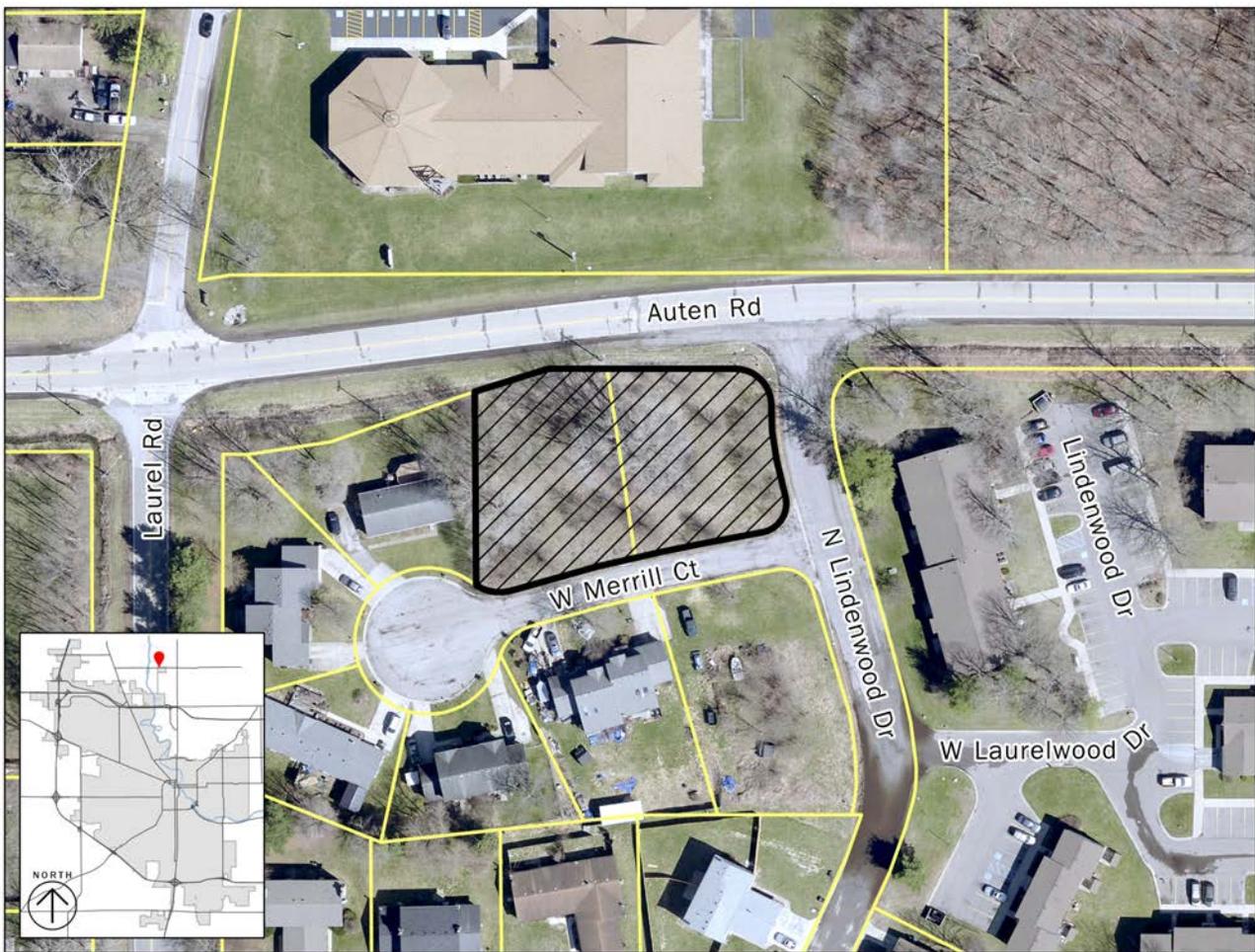
Project Summary

Two duplexes constructed on two separate lots.

Requested Action

Variance(s): 1) From the 15' maximum front and corner setback to 25' on Merrill and 38' on Lindenwood; and 2) From the 48' maximum width for a duplex to 50'

Site Location



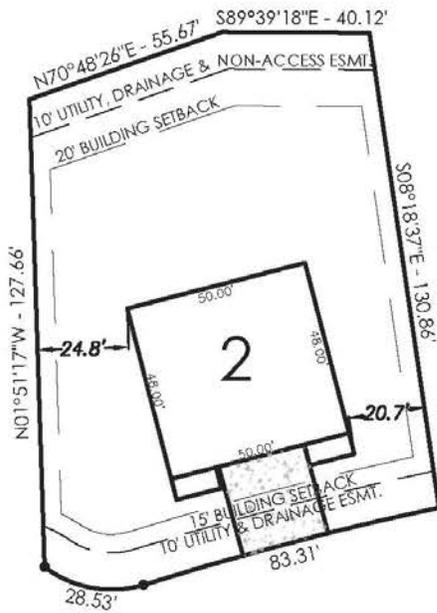
Staff Recommendation

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

Proposed Site Plan

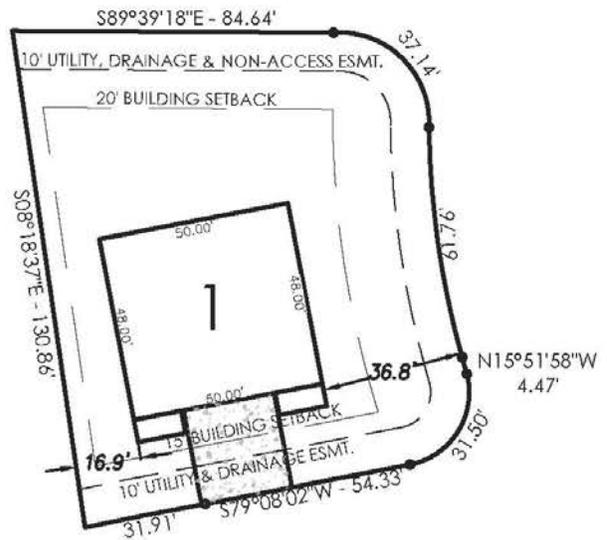
LOT 2, LAUREL WOODS SECTION 3

SE 1/4, SECTION 14, TOWNSHIP 38 NORTH, RANGE 2 EAST,
CLAY TOWNSHIP, CITY OF SOUTH BEND, ST. JOSEPH COUNTY,
INDIANA



LOT 1, LAUREL WOODS SECTION 3

SE 1/4, SECTION 14, TOWNSHIP 38 NORTH, RANGE 2 EAST,
CLAY TOWNSHIP, CITY OF SOUTH BEND, ST. JOSEPH COUNTY,
INDIANA



12,294 SQ. FT.
(0.28 ACRES)

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

A variance to increase the maximum width of a duplex should have no impact on the public health, safety, morals and general welfare of the community. Similarly the setback variance will ensure engineering standards are met for the safe development of the property.

(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 proposed duplexes have been designed with the intent to blend in with the current neighborhood context. The proposed variances allow the site to develop consistently with the existing built environment.

(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 result in the construction of buildings that are out of character for the area. The setback variance specifically allows the garage to be placed on the site in a way as to not conflict with engineering standards. The duplex variance allows for the structures to meet the minimum transparency requirements, especially without the presence of an alley.

(4) The variance granted is the minimum necessary

The corner setback variance is the minimum necessary to allow compliance with engineering standards. The proposed building width variance is nominal and the minimum necessary to allow the building to be designed in a way that is consistent with the intent of the ordinance.

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

The subdivision and layout of lots was developed under previous standards. Changes in the zoning ordinance since the establishment of the subdivision have created hardships in development of this property within the established neighborhood context.

Analysis & Recommendation

Analysis: The proposed variances are consistent with the character of the area and the intent of the ordinance. Approving the variance will allow for the construction of a multi-unit dwelling consistent in scale with the surrounding neighborhood.

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

Property Information

Location: 1915 BENDIX DR
Owner: APPLETREE ASSOCIATES LP % PEI GENESIS

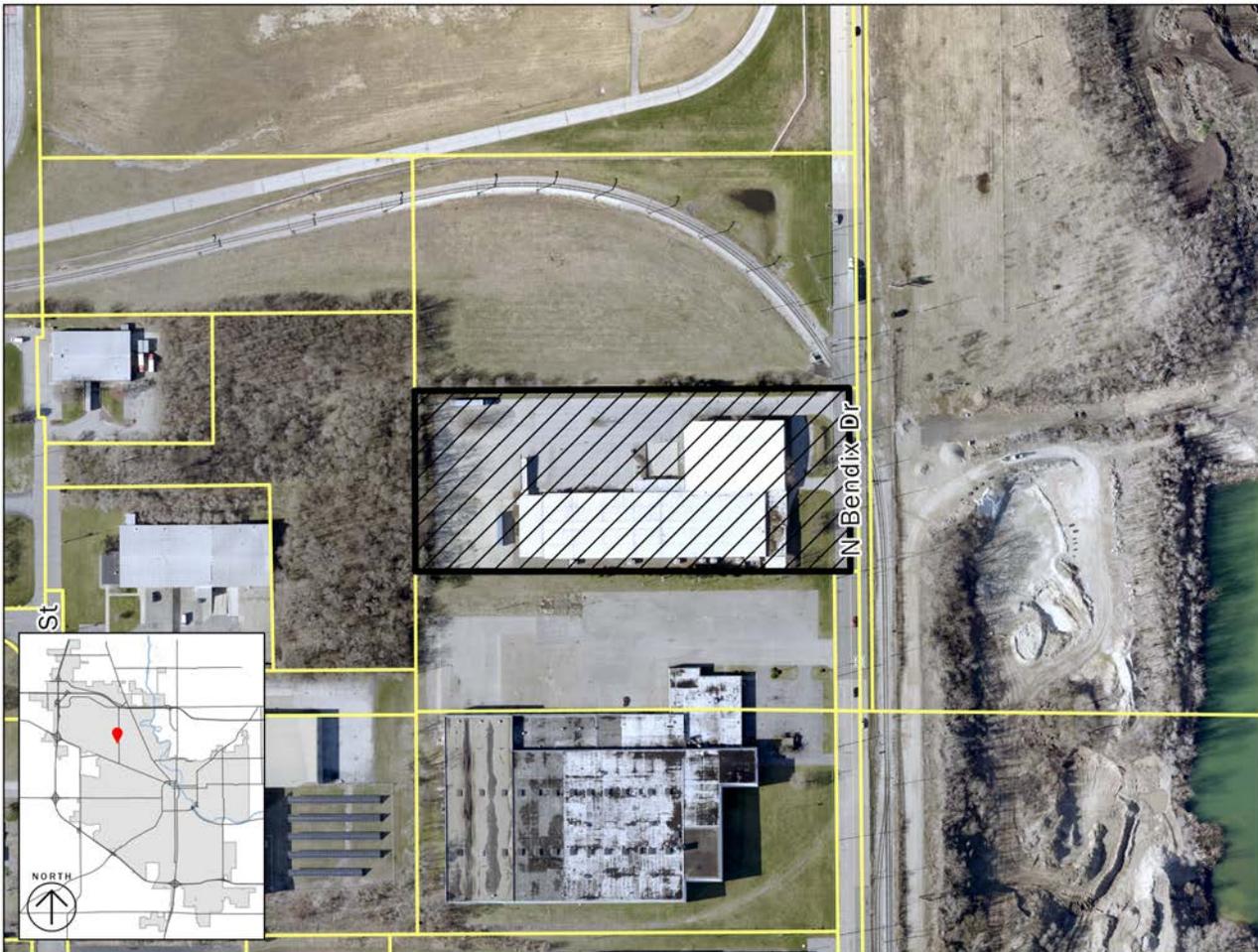
Project Summary

Install a Canister Filling/Pump House and Tank Farm on the west end of this building. The Canister filling/pump houses are small modular metal structures that set outside the existing building. A 4-hour fire wall will be installed next to the existing building far west wall.

Requested Action

Special Exception: a Heavy Industrial use

Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board send the petition to the Common Council with a favorable recommendation as presented.

Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Exception to allow:

a Heavy Industrial use

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;

As the proposed use is in an area comprised exclusively of industrial uses, a heavy industrial use should not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.

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

Because the property is located in an area that is exclusively industrially zoned and the proposed heavy industrial use is located in the established rear yard, the proposed heavy industrial uses should not adversely affect the use or value of surrounding properties.

(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 of heavy industry is consistent with the character of the district in which it is located and the surrounding land uses.

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

The petition is consistent with City Plan (2006) (Objective ED2) Retain existing businesses and recruit new ones to the city. Allowing heavy industry use on this site will help retain a business in the city in an appropriately located area.

Analysis & Recommendation

Analysis: The current zoning of all neighboring properties is I Industrial and the subject property is located in an industrial park. This is a suitable location for heavy industrial uses which should not negatively impact the broader community and should help retain a businesses in the city.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board send the petition to the Common Council with a favorable recommendation as presented.

Property Information

Location: 1635 and 1643 PRAIRIE AVE
Owner: RICHARD D FOX

Project Summary

A new gas station/convenience store with fuel pumps.

Requested Action

Special Exception: a Gas Station

Variance(s): 1) From the 12' maximum front building setback to 51'; 2) From the one maximum street curb cut to 2; and 3) From the requirement that parking be a minimum of 5' behind the front facade to 0'

Site Location

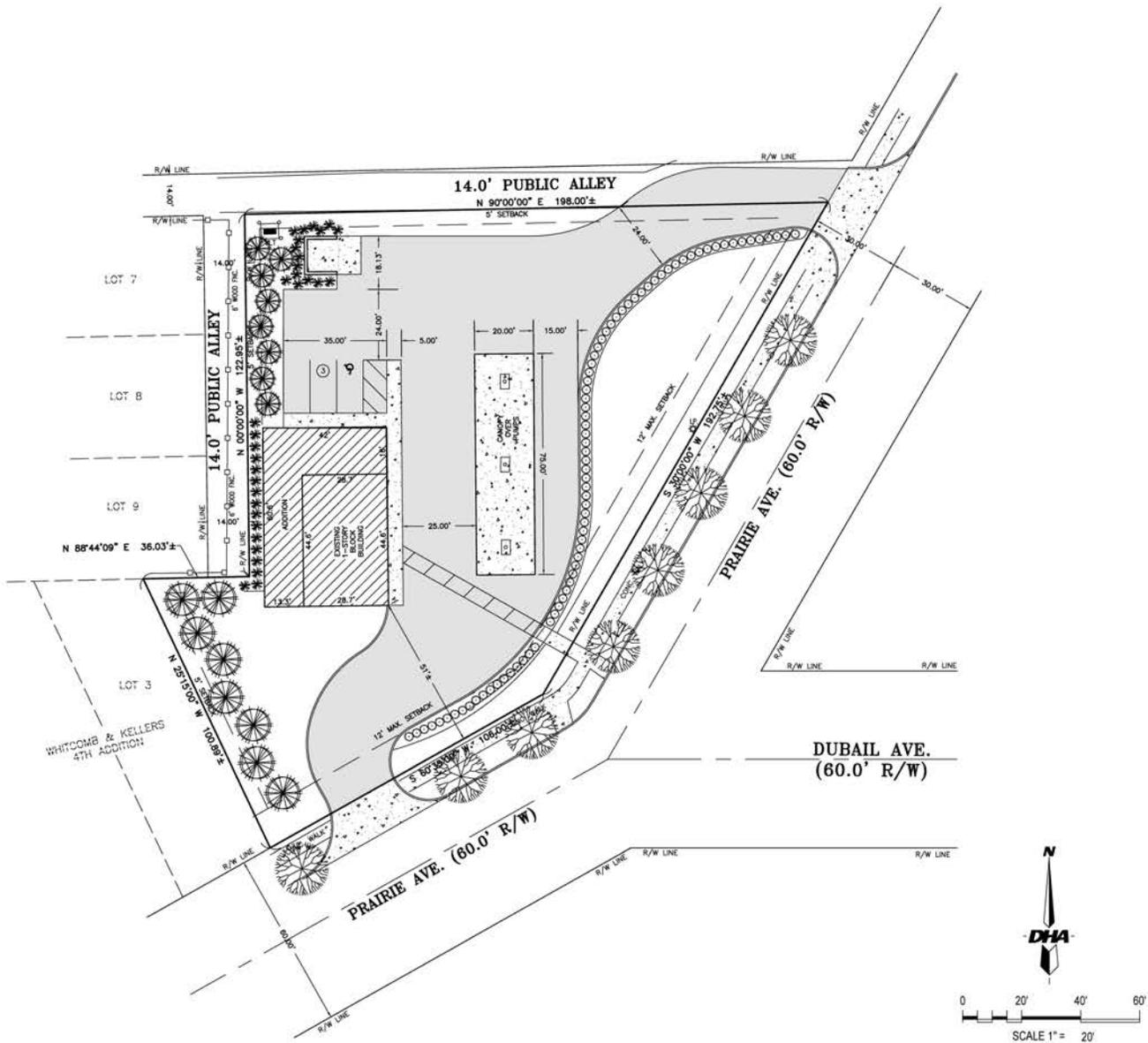
Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board deny the variances as presented. The staff recommends the Board send the special exception use to the Common Council with an unfavorable recommendation.

Proposed Site Plan

PRELIMINARY SITE PLAN

PART OF SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 37 NORTH, RANGE 2 EAST,
CITY OF SOUTH BEND, PORTAGE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Exception to allow:

a Gas Station

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;

Because of the site layout necessary for the proposed use, the special exception to allow a gas station would be injurious to the public safety of the community.

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

With the added complexity of traffic, general operations of the use, and proposed site layout, the use and value of the adjacent properties may be substantially impacted in an adverse manner. While located along a major corridor, the site is adjacent to and located within an area that is primarily residential.

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

In the layout proposed, the use is not consistent with either the NC Neighborhood District or the surrounding neighborhood.

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

The proposed use is inconsistent with City Plan (2006) Objective UD1: Enhance the aesthetic appeal of the built environment. More specifically policy UD 1.1 Require developments to utilize design techniques that create an attractive, urban character for the Central Business District, corridors and commercial areas; and policy UD 1.7 Promote urban design elements in new developments that are appropriately scaled and conducive to pedestrians, including pedestrian safety considerations.

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 site is located at a heavily traveled corridor at a point with non-regular street intersection and a curve in the main thoroughfare. The proposed variances, especially the variance to allow for an additional curb cut, will not comply with current engineering standards and create a significant traffic safety hazard at this location.

(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 safety concerns generated by the proposed curb cuts may adversely affect the use and value of surrounding properties. The setback variances encourage the survival of an already

non-conforming building and result in the use expanding even closer to the adjacent residential properties.

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

While the strict application of the Ordinance may result in the inability to be used as a gas station, it does not result in a practical difficulty for all use of the property. The property could reasonably develop under the current regulations with a multitude of uses. Furthermore, the fact that it is less expensive to develop the site using the buildings current location does not qualify as a practical difficulty.

(4) The variance granted is the minimum necessary

There are no practical difficulties that prevent the property from developing in a manner consistent with the NC Neighborhood Center District standards. The proposed variances are not the minimum necessary to allow reasonable use of the property.

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

While the physical layout and existing building location are not hardships created by the current owner, the variances requested are specific to a particular use desired. The turning movements created by the fuel tanker is what necessitates the second curb cut, which is a self created hardship.

Analysis & Recommendation

Agency Comments: City Engineering noted that they have concerns with the southern entrance. There is not enough separation from the intersection. Commercial approaches are not allowed within 100' of an intersection. Traffic backups on northbound Prairie by those trying to turn into the site, along with conflicts with Dubail, Oliver and southbound Prairie create a safety concern for the traveling public and visitors to the site. Sight distance is a concern due to the curve of Prairie for vehicles exiting the site via the south approach. Vehicles exiting at this approach will need to look out for northbound and southbound Prairie as well as Dubail and Oliver. This will create confusion in the intersection and could result in right angle accidents.

Analysis: The site is located at an already complex intersection along a heavily traveled corridor. The variances requested and the proposed special exception not only prolong and encourage the development of the site in a manner that is not consistent with the intent or standards of the NC Neighborhood District, but also does so in a manner that would create a significant traffic safety concern and would be out of character for the area.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board deny the variances as presented. The staff recommends the Board send the special exception use to the Common Council with an unfavorable recommendation.