

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, April 5, 2021 - 4:00 p.m.

Virtual

<https://tinyurl.com/sbbza>

PUBLIC HEARING:

- Location:** 1112 ST PETER ST BZA#0049-21
Owner: GREGORY W OLSON AND OR ASSIGNS
Requested Action: Variance(s): 1) From the 5' minimum side yard setback to 3'
Zoning: U1 Urban Neighborhood 1
- Location:** 1102 ST JOSEPH ST BZA#0050-21
Owner: JEFFREY A ZWART & MEGAN HALTEMAN-ZWART
Requested Action: Variance(s): 1) From the NNZO Overlay requirement that any portion of the fence that exceeds 5' in height consist of a decorative element that is at least 50% open
Zoning: U1 Urban Neighborhood 1
- Location:** 1119 LINCOLNWAY WEST BZA#0041-21
Owner: WADAD EL-AMMORI
Requested Action: Special Exception: Vehicle Sales or Rental and Vehicle Service, Major Variance(s): 1) from the requirement that all vehicle sales or rental shall be located within a fully enclosed building or in an established rear yard and not visible from public right-of-way to allow vehicle sales in the established front yard, corner yard, and visible from public right-of-way. ; 2) from the maximum 3' height for a solid fence in an established corner yard to 6'; and 3) From the 60% minimum front facade transparency to 20%, and from the 20% minimum corner facade transparency to 0%
Zoning: NC Neighborhood Center
- Location:** 2801 WESTERN AVE BZA#0048-21
Owner: CARL JR & JAYNE SUE WILLIAMS
Requested Action: Special Exception: Vehicle Sales or Rental
Zoning: NC Neighborhood Center

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – March 1, 2021
2. Minutes – March 1, 2021
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: 1112 ST PETER ST
Owner: GREGORY W OLSON AND OR ASSIGNS

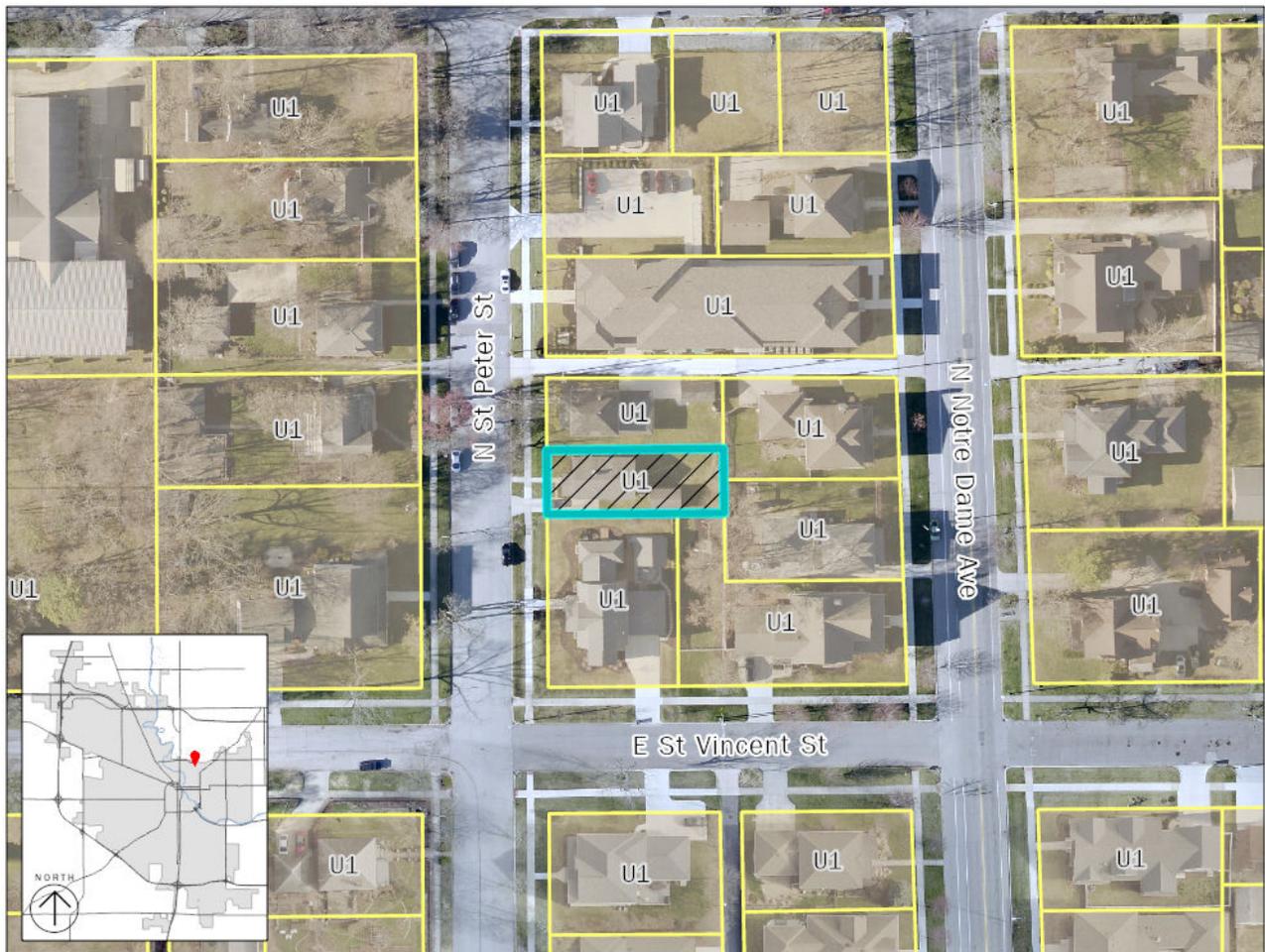
Project Summary

To allow the construction of a single family home with an ADU on an existing lot.

Requested Action

Variance(s): 1) From the 5' minimum side yard setback to 3'

Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the staff recommends the Board approve the variances as presented, subject to retaining all water run-off onsite.

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 variance should not affect the public health, safety, morals and general welfare of the community. Allowing the setback variance allows for the construction of a garage on a narrow lot without alley access.

(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

Provided the water runoff is properly addressed, the construction of a residential structure on this lot should not adversely impact the use or value of adjacent property owners.

(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 terms of the Zoning Ordinance results in practical difficulties in the use of the property as intended. The minimum 5' setback would place the garage in a location that would require challenging driving maneuvering for access.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary to allow the garage to be placed on the property in a reasonable manner consistent with historical urban development in the City.

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

The variance requested is due to the hardship created by the lot size and lack of alley access. There is no record of an alley vacation for this block, meaning the condition has existed for quite some time, and was not created by the former or current owner of the property.

Analysis & Recommendation

Analysis: Based on the width and depth of the lot, and the fact that it does not have alley access, construction of a single family home with a garage is challenging. Allowing the setback variance for the garage is consistent with the historic character of urban development in South Bend.

Staff Recommendation: Based on the information available prior to the public hearing, the staff recommends the Board approve the variances as presented, subject to retaining all water runoff onsite.

Property Information

Location: 1102 ST JOSEPH ST
Owner: JEFFREY A ZWART & MEGAN HALTEMAN-ZWART

Project Summary

To replace a 20 ft section of shadow box privacy fence along back alley, to match portion of alley-facing fence that was recently replaced.

Requested Action

Variance(s): 1) From the NNZO Overlay requirement that any portion of the fence that exceeds 5' in height consist of a decorative element that is at least 50% open

Site Location



Staff Recommendation

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

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

Because the fence will only be located along a rear property line, the addition of a taller fence without a decorative element should not be injurious to public health, safety, or general welfare of the community.

(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

Because the variance would allow for the replacement of a fence along an alley in a manner that is consistent with other fences, the use and value of 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

Because of the grade change along the rear property, strict application would result in a fence this is effectively much shorter as well as a fence which contained two different styles.

(4) The variance granted is the minimum necessary

The variance requested is for erecting a fence without the decorative element. This is the minimum necessary to provide consistency with the existing fence without affecting neighboring properties in an adverse manner.

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

The unique topography of the site was not caused by the current or any former owners.

Analysis & Recommendation

Analysis: Due to the unique circumstances of the property, the absence of decorative element is an appropriate response to keeping consistency with the existing fence.

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

Property Information

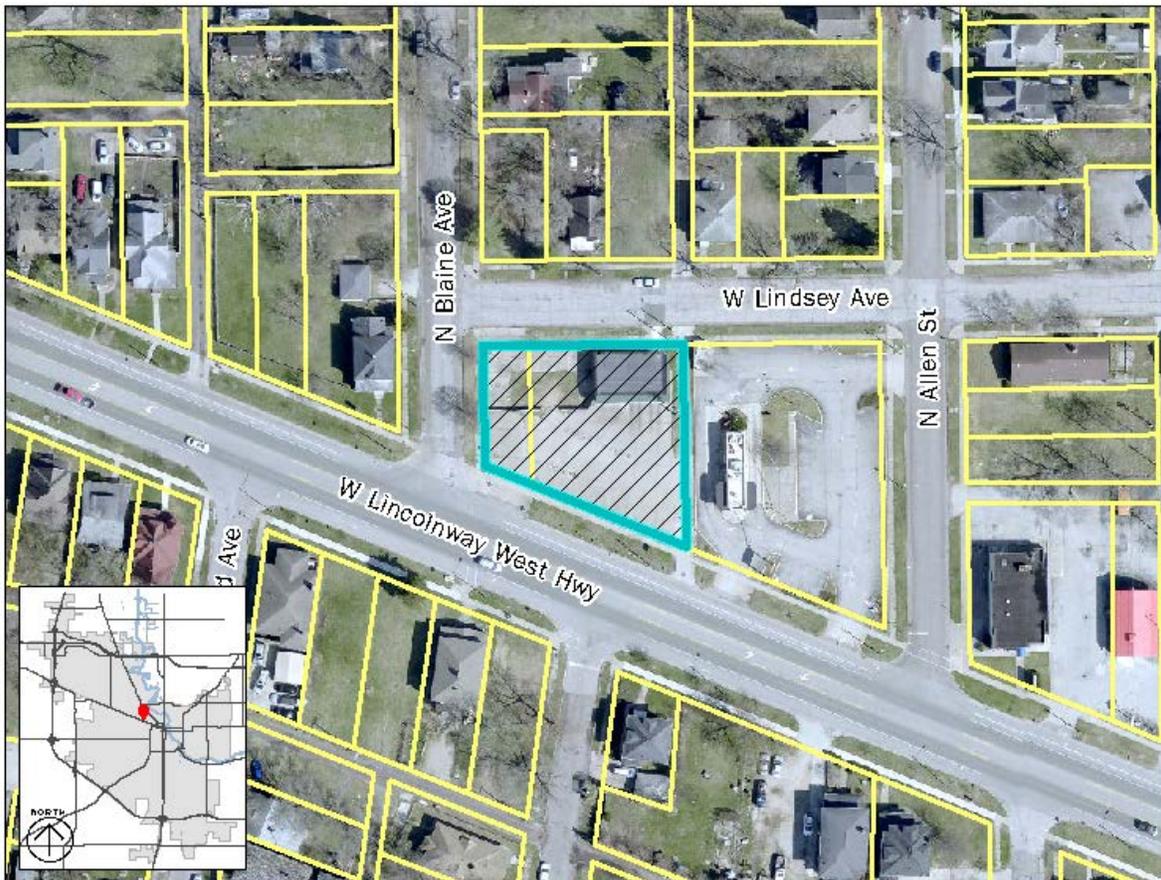
Location: 1119 LINCOLNWAY WEST
Owner: WADAD EL-AMMORI, Ali Elammori

Project Summary

A special exception to allow the use the site for vehicle sales and repair.

Requested Action

Special Exception: Vehicle Sales or Rental and Vehicle Service, Major
Variance(s): 1) from the requirement that all vehicle sales or rental shall be located within a fully enclosed building or in an established rear yard and not visible from public right-of-way to allow vehicle sales in the established front yard, corner yard, and visible from public right-of-way; 2) from the maximum 3' height for a solid fence in an established corner yard to 6'; and 3) From the 60% minimum front facade transparency to 20%, and from the 20% minimum corner facade transparency to 0%

Site Location

Staff Recommendation

Based on the information available to the public hearing, the Staff recommends the Board send the petition to the Common Council with an unfavorable recommendation. The Staff recommends the Board deny the variances, as presented.

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 uses could be injurious to the general welfare by degrading the urban environment developing along Lincoln Way West.

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

The proposed uses, both auto sales and auto repair, could adversely affect the use of the adjacent areas by further reinforcing the auto-centric nature of Lincoln Way West. There has been renewed interest, both from local neighborhood planning efforts and City initiatives, in restoring the pedestrian orientated nature of Lincoln Way West. Expanding the use of this property to two auto-centric uses would further degrade that progress.

(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 uses of auto sales and auto repair are not consistent with the character of the Neighborhood Center zoning district. The intent of the Neighborhood Center zoning district is to promote the development of higher intensity, urban neighborhood centers at a pedestrian orientated scale. The use of auto sales is not consistent with this intent.

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

The proposed uses are not compatible with the recommendations of the Comprehensive Plan. The West Side Main Streets Plan (2015), an amendment to the Comprehensive Plan, encouraged restoration of the historic walkable development pattern along Lincoln Way West. Allowing the proposed uses would be counter to that intention.

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 variances that substantially affect the character of the development in a manner that is not consistent with the district could be injurious to the general welfare of the community.

(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 affected by the variances being granted. By allowing car sales in the established front yard, it further degrades the pedestrian experience along Lincoln Way West while discouraging a walkable 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 Zoning Ordinance would not result in practical difficulties in the use of the property. The property could be used for any permitted use within the Ordinance. When a Special Exception is required, it is often because strict adherence to the development standards are the district are critical in ensuring the use is consistent with the intent of that district.

(4) The variance granted is the minimum necessary

The variances requested are not the minimum necessary. The standards for Auto Sales and Auto Repair in a Neighborhood Center District are intended to allow the uses while keeping to the traditional urban fabric of the district. The privacy fence is not a necessity of the proposed use. Improvements could be made to the building to increase transparency.

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

The variances proposed are directly linked to the use proposed on the property, therefore created by the owner of the property.

Analysis & Recommendation

Analysis: The variances requested are not consistent with the intent of the Neighborhood Center District. The standards for Auto Sales and Auto Repair in a Neighborhood Center District are intended to allow the uses while keeping to the traditional urban fabric of the district. By allowing broad variances from those standards, the zoning ordinance's ability to produce desired outcomes is weakened.

The proposed uses, both auto sales and auto repair, could adversely affect the use of the adjacent areas by further reinforcing the auto-centric nature of Lincoln Way West. There has been renewed interest, both from local neighborhood planning efforts and City initiatives, in restoring the pedestrian orientated nature of Lincoln Way West. Expanding the use of this property to two auto-centric uses would further degrade that progress.

Staff Recommendation: Based on the information available to the public hearing, the Staff recommends the Board send the petition to the Common Council with an unfavorable recommendation. The Staff recommends the Board deny the variances, as presented.

Property Information

Location: 2801 WESTERN AVE
Owner: CARL JR & JAYNE SUE WILLIAMS

Project Summary

Special exception for used auto sales at the existing building.

Requested Action

Special Exception: Vehicle Sales or Rental

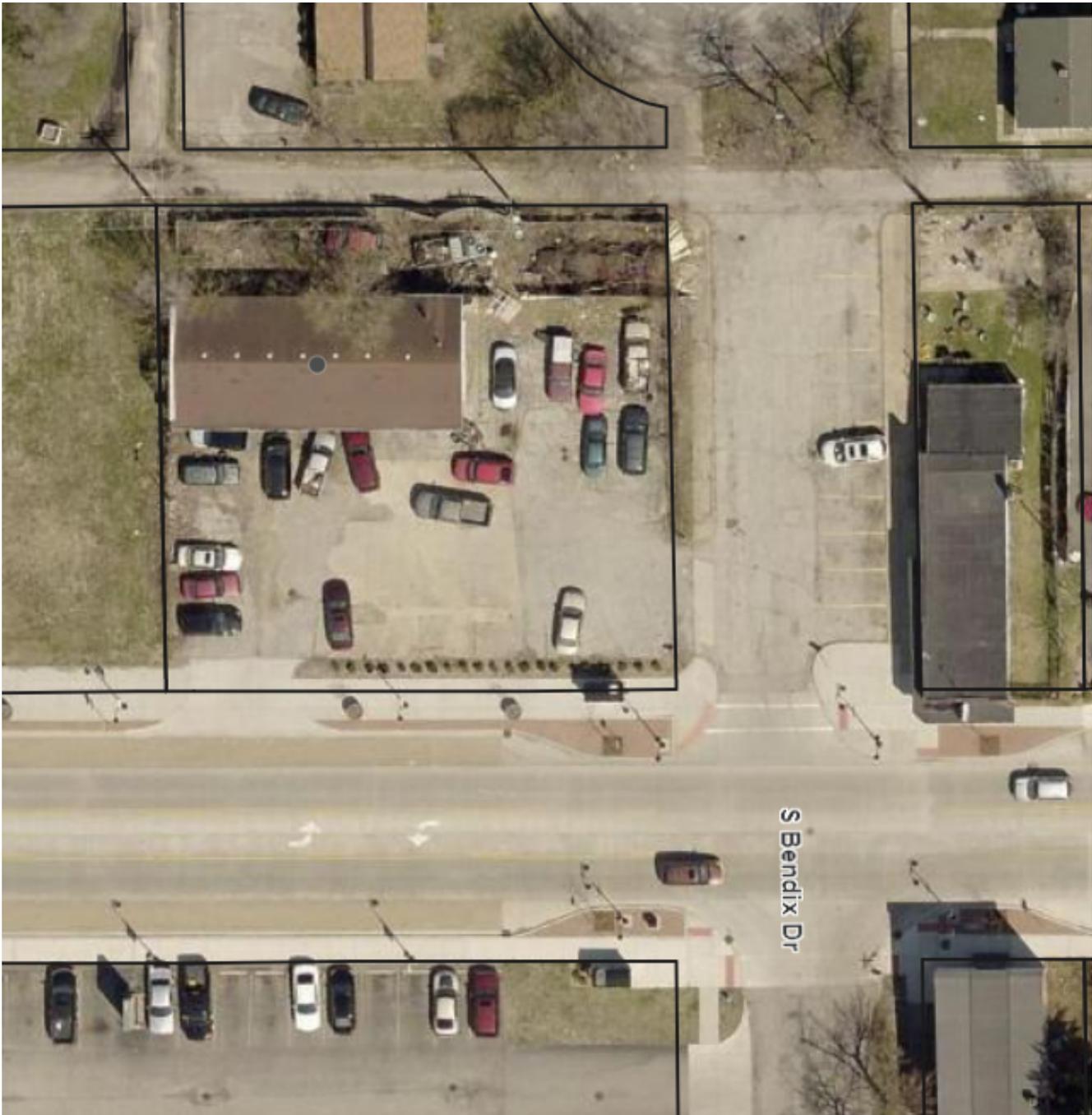
Site Location



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 an unfavorable 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;

Western Avenue has become a center of renewed investment, both private and public, with the intention of creating a walkable and primarily urban space. The proposed use could be injurious to the general welfare by degrading the urban environment developing along Western Avenue.

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

Over the past five years, the City in partnership with local neighborhood organizations, businesses, and residents have taken steps to improve the walkability, visual appeal, and usability of Western Avenue as a vital corridor through the western portion of South Bend. These steps have materialized into large public investment in improving Western Avenue as well as small scale investment from private actors. Approving the Special Exception and allowing for an auto-centric use pushes against the work done in improving Western Avenue. The use of the site for car sales may adversely affect the use of adjacent 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 auto sales is not consistent with the character of the Neighborhood Center zoning district nor of the section along Western Ave. where this proposed use would take place. The intent of the Neighborhood Center zoning district is to promote the development of higher intensity, urban neighborhood centers at a pedestrian orientated scale. The use of auto sales is not consistent with this intent.

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

The proposed use is not compatible with the recommendations of the Comprehensive Plan. The West Side Main Streets Plan (2015), an amendment to the Comprehensive Plan, encouraged restoration of the historic walkable development pattern along Western Avenue. Allowing the proposed use would be counter to that intention.

Analysis & Recommendation

Analysis: Over the past five years, the City has partnered with local neighborhood organizations, businesses, and residents to take steps to improve the walkability, visual appeal, and usability of Western Avenue as a vital corridor through the western portion of South Bend. The proposed use of auto sales is not consistent with the character of the Neighborhood Center

zoning district, nor the character of the section along Western Avenue where this proposed use would take place. If the use is approved, the site will need several variances in order to use the site as intended.

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 an unfavorable recommendation.