



City of South Bend PLAN COMMISSION

County-City Building
227 W. Jefferson Blvd. 1400S
South Bend, IN 46601
(574) 235-7627
www.southbendin.gov/zoning

AGENDA

Monday, September 20, 2021 - 4:00 P.M.

County-City Building

Fourth-Floor Council Chambers

Virtual Option: www.tinyurl.com/southbendplancommission

ADMINISTRATIVE ITEMS:

A. ELECTION OF OFFICERS

PUBLIC HEARING:

A. REZONINGS

1. **Location:** 906, 912, 914, and 918 DUBAIL AVE and 1703, 1705, 1711, 1715,
and 1717 DALE AVE PC#0065-21

Petitioner: 2010 INVESTMENT GROUP

Requested Action:

Rezoning: From U1 Urban Neighborhood 1 to U3 Urban Neighborhood 3

Request by petitioner to withdraw.

2. **Location:** Southwest corner of Adams Road & St. Joseph Valley Parkway
PC#0067-21

Petitioner: INDIANA MICHIGAN POWER COMPANY

Requested Action:

Rezoning: From NC Neighborhood Center to I Industrial

Variance(s): 1) from the required durable dust free surface for outdoor storage to gravel

B. MAJOR SUBDIVISIONS - None for consideration

C. TEXT AMENDMENTS

1. **Requested Action:** PC#0068-21

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE TO MAKE MISCELLANEOUS CHANGES FOR CLARIFICATION AND CONSISTENCY TO SIMPLIFY DEVELOPMENT PROCESS, City of South Bend

2. **Requested Action:** PC#0071-21

A PROPOSED ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE TO INCREASE THE MAXIMUM BUILDING HEIGHT IN THE U3 URBAN NEIGHBORHOOD 3 DISTRICT, UF URBAN NEIGHBORHOOD FLEX DISTRICT, NC NEIGHBORHOOD CENTER DISTRICT, AND C COMMERCIAL DISTRICT, City of South Bend



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D. DEVELOPMENT PLANS – None for consideration

ITEMS NOT REQUIRING A PUBLIC HEARING:

A. MINOR SUBDIVISIONS

1. **Name:** WALNUT STREET AND SAMPLE STREET MINOR SUBDIVISION
PC#0063-21
Location: SOUTHEAST CORNER OF SAMPLE STREET AND WALNUT STREET
2. **Name:** Hill Street Minor Subdivision
PC#0067-21
Location: 920 N HILL ST

B. FINDINGS OF FACT - None for consideration

C. UPDATES FROM STAFF

D. MINUTES – August 16, 2021

E. ADJOURNMENT

Property Information

Location: southwest corner of Adams Road and St. Joseph Valley Parkway
Owner: INDIANA MICHIGAN POWER COMPANY

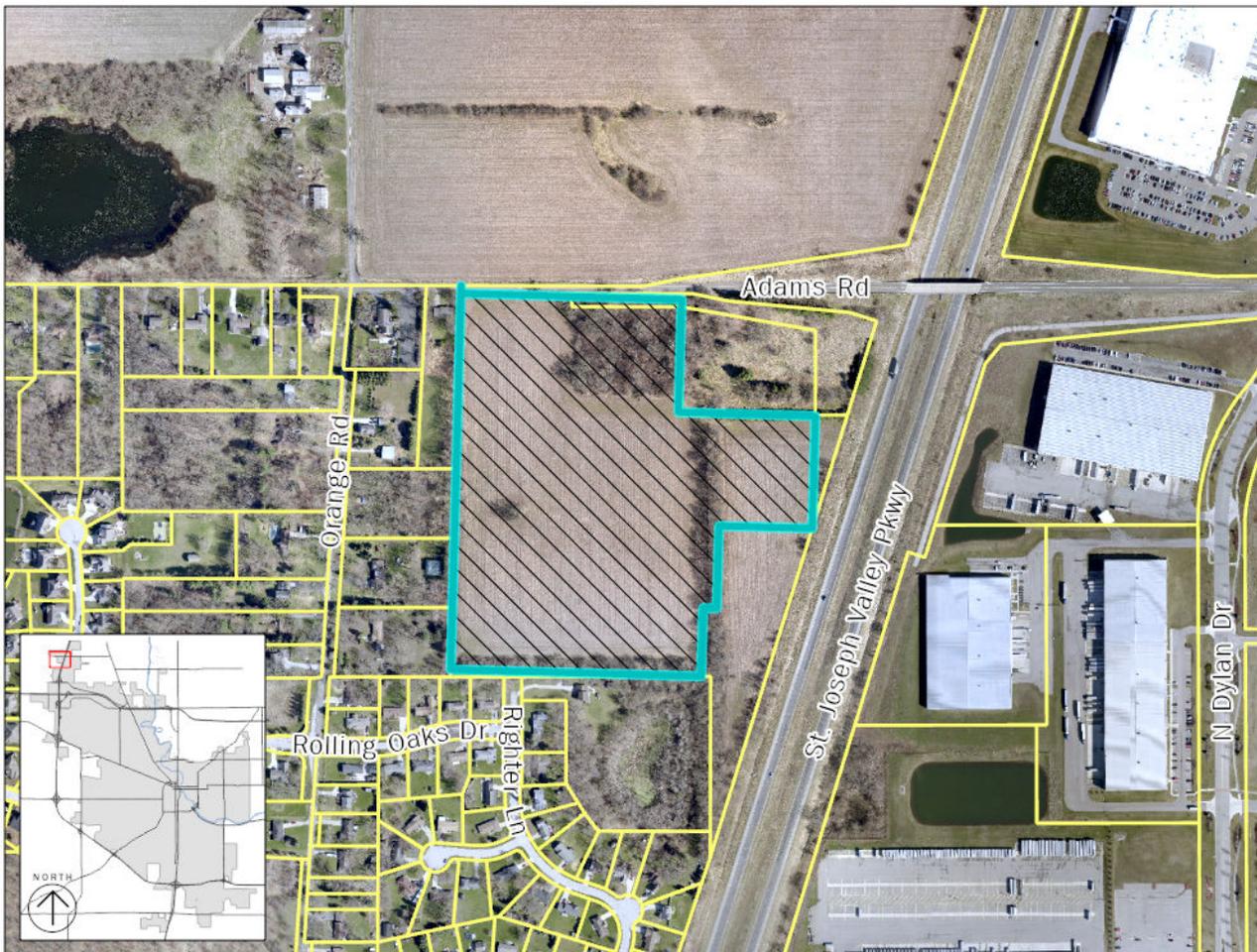
Requested Action

Rezone from NC Neighborhood Center to I Industrial
Variance(s): 1) from the required durable dust free surface for outdoor storage to gravel

Project Summary

AEP wishes to construct a new service center in South Bend, Indiana. This includes an approximately 98,000 SF office and garage building and 15,000 SF detached vehicle storage building. A substation will also be located on the NE corner of the site.

Location Map



Recommendation

Staff Recommendation: Based on information available prior to the public hearing, the staff recommends the Plan Commission send the rezoning petition to the Common Council with a favorable recommendation.

Site & Context

Land Uses and Zoning:

On site: The site is currently vacant and is heavily wooded in some sections while other sections have been used for agriculture purposes recently.

North: To the north, across Adams Road, is a tilled agriculture field zoned NC Neighborhood Center.

East: To the east, across the St. Joseph Valley Parkway (bypass), are industrial warehouses zoned I Industrial

South: To the south are residential properties zoned R Residential in the County.

West: To the west are residential properties zoned R Residential in the County.

District Intent:

The I District is established to provide a location for medium- to high intensity industrial uses, typically grouped along highways and major streets and separated from residential uses.

Site Plan Description:

The current site plan shows a new service center including approximately 98,000 SF office and garage building and 15,000 SF detached vehicle storage building. A substation will also be located on the NE corner of the site.

Zoning and Land Use History and Trends:

The property was initially annexed into South Bend in the early 2000s and included as part of the Portage Prairie PUD. The development was predicated on a proposed interchange at Adams Road and the the US-31 bypass with the intention of creating a mixed use development to support apartments and other mixed use growth west of the interchange. This development did not materialize leading to the property remaining agriculture in use despite being zoned mixed-use.

With the new Zoning Ordinance in 2020, any property zoned PUD was paired with the district most closely related to the intended uses and development standards. Because the area west of the bypass was intended to have a mix of uses, the properties were assigned to Neighborhood Center District. The surrounding area east of the bypass has become heavily industrial with a large increase in companies in the past decade.

Traffic and Transportation Considerations:

Adams Road is two lanes with no on-street parking. The St. Joseph Valley Parkway (bypass) is a limited access freeway. At this time, there seems to be little interest from INDOT in constructing the Adams Road interchange.

Agency Comments

Agency Comments:

There are no additional comments at this time.

Staff Comments:

While AEP does not need to rezone the property to operate the substation, the I Industrial District is appropriate for the adjacent service center. The property is centrally located for the AEP service area with easy access to major roads, allowing them to service the public in a more timely manner.

Criteria for Decision Making

Rezoning

Per State Law, the Plan Commission and Common Council shall pay reasonable regard to:

1. Comprehensive Plan:

Policy Plan:

The petition is consistent with the City Plan, South Bend Comprehensive Plan (2006), Objective ED 2: Retain existing businesses and recruit new ones to the city.

Land Use Plan:

The Future Land Use Plan identifies this area for Mixed Use.

Plan Implementation/Other Plans:

There are no other plans specific to this area.

2. Current Conditions and Character:

While the proposed development was annexed with the intent of being a mixed use area, the highway interchange needed to make that successful never materialized. The area is currently rural residential and agricultural.

3. Most Desirable Use:

The most desirable use, as this time, is a use more compatible with the growing industrial and distribution growth seen east of the bypass.

4. Conservation of Property Values:

The I Industrial District includes buffering requirements designed to mitigate the impact on surrounding property values.

5. Responsible Development and Growth:

It is responsible development and growth to allow for the site to be used in a similar manner to properties east of the bypass. As the land is already annexed into the City Limits, using the land to its highest and best use is responsible development for the City.

Variance(s)

The petitioner is seeking the following variance(s):

- 1) from the required durable dust free surface for outdoor storage to gravel

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 will not be injurious to the public health, safety, morals and general welfare of the community. Due to the distance of the parking lot from any accessible public right-of-way and being bounded by a limited access highway with no direct access from the site, the negative impacts of a gravel parking lot are mitigated and should not 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 parking lot will be a considerable distance and buffered from any privately owned adjacent property. This should limit any adverse affects of the gravel parking. The existence of the bypass to the east and large buffering on site should also limit any adverse affects.

(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 would require the developer to develop their site to unnecessary standards. The site is far removed from adjacent uses and bordered by a limited access highway.

(4) The variance granted is the minimum necessary.

The variance granted is the minimum necessary for the petitioner to develop the site in accordance with the I Industrial District standards and taking into account the unique conditions of the property.

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

The variance granted does not correct a hardship caused by a former or current owner of the property. Neither the current nor former owners are responsible for the bypass running alongside the property or the rural nature of the surrounding properties.

Analysis & Recommendation

Commitments: There are no written commitments proposed.

Analysis: While the NC Neighborhood Center District is the most closely related district to the original uses of the PUD, it is not well suited for this area. The NC District is typically pedestrian-orientated in scale and well connected to surrounding residential neighborhoods. The site will most likely never meet those characteristics, and the mixed use development originally proposed will likely never occur.

As a public utility regulation by the IURC, the AEP substation is permitted by right in any district. The zoning ordinance cannot restrict the location of the proposed substation and utility lines. Allowing the site be zoned to the I Industrial District will better suit the use and provide additional protections for adjacent property owners through increased buffering.

Recommendation: Based on information available prior to the public hearing, the staff recommends the Plan Commission send the rezoning petition to the Common Council with a favorable recommendation.

Requested Action

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE TO MAKE MISCELLANEOUS CHANGES FOR CLARIFICATION AND CONSISTENCY TO SIMPLIFY DEVELOPMENT PROCESS

Project Summary

Amend Chapter 21 of the South Bend Municipal Code to clarify, correct, or revise various sections to assist in development of a more vibrant and resilient community while improving the ease of use of the Zoning Ordinance.

Analysis & Recommendation

Analysis: Continuing to monitor and improve the Zoning Ordinance is vital to maintaining growth and development in a way that helps support economic growth and revitalizes neighborhoods.

Recommendation: Based on the information available prior to the public hearing, the staff recommends the text amendment be sent to the Common Council with a favorable recommendation.

Zoning Ordinance Amendments

Last updated September 13, 2021

Typographical, consistency, and cross reference errors are corrected in the following sections:

21-02.03(g), 21-08.01(g)(11), 21-09.04(j), 21-12.07(f)(3)(E), 21-12.07(f)(4)(E), 21-13.02(f)

Ordinance Sections	Item	Proposed Change	Rationale
21-02.02, 21-11.02(b), 21-11.04(b)	Subdivision Streets	Clarifies that coordination of new and old subdivisions may require the extension of existing streets, removes residential marginal access street (frontage road) and similar provisions, requires street coordination with building types	Encourages stronger urban design of new subdivision layouts, eliminates potential residential frontage road requirements in favor of more cost effective and attractive alternatives
21-02.03(f)	Façade Transparency	Revises façade transparency diagram to be consistent with text definition regarding measurement starting from finished floor level	Improves user understanding by more clearly showing existing rule
21-02.03(g), 21-03.01(i), 21-03.02(i), 21-03.03(i), 21-03.04(i), 21-03.05(i), 21-03.06(i), 21-03.07(i), 21-03.08(i), 21-04.01(h), 21-04.02(h), 21-04.03(h), 21-09.02(c)	Fence Open Percentage	Reduces required open percentage for 4' fences in front and corner yards from 70% to 50%	Allows for more 4' fence style options, such as traditional picket fences
21-03.01(f), 21-03.03(f), 21-03.04(f)	Ancillary Dwelling Unit Maximum Height	Changes maximum height of a detached ancillary dwelling unit in S1, U1, and U2 districts from 24' to 26'	Allows for more cost-effective construction of detached ancillary dwelling units; creates consistent maximum ancillary dwelling unit maximum height across all standard districts
21-03.03(e), 21-03.04(e)	Garage Access	Clarifies allowable setback of garage from streets and alleys in U1 and U2 districts	Improves user understanding by more clearly stating existing rule
21-04.03(d), 21-04.04(d)	Parking Lot Location	Clarifies required setback of parking lots in C and I districts	Improves user understanding by more clearly stating existing rule
21-04.04(h), 21-09.02(c)	Front/Corner Yard Fences in I District	Limits solid fences in front and corner yards in I districts to 4' (from 6')	Adds to pedestrian safety and comfort, makes rule more consistent with (though still not as restrictive as) other districts
21-05.02(f)	Garage Access	Eliminates setback requirements for townhouse garages from private drives in the NNZO	Eliminates rule that has no impact on use of public streets or alleys
21-05.02(g), 21-09.02(c), 21-09.02(e)	NNZO Privacy Fence Design	Adds diagram illustrating privacy fence decorative design requirement in the NNZO, adds cross references to frequently overlooked rule	Improves user understanding by more clearly showing existing rule
21-06.01(k)(6)	Day Care Center	Clarifies definition of day care centers based on state law on child care homes, permits Class I child care homes in all districts	Improves user understanding by more clearly stating rule; eliminates need for special exceptions for Class I child care homes
21-07.03(d)	Parking Area Access	Prohibits additional curb cuts for lots having street access via a cross-access agreement	Avoids creating additional curb cuts, promoting pedestrian safety
21-07.03(g), 21-08.01(c)	Parking Garages	Modifies rule requiring parking structures along streets to have active first-floor liner uses to allow more types of uses, expands rule to U3 and UF districts	Provides more use options when providing active street frontages at structured parking
21-07.03(h)	Parking of Vehicles	Clarifies that all types of vehicles may not be parked on a vacant lot	States rule more explicitly to meet ordinance intent
21-07.03(i)	Large Vehicle Parking	Prohibits large vehicle parking in standard districts, whether or not the vehicle is left overnight	Assists in enforcement of large vehicle parking rules by more closely matching pre-2020 rule
21-08.01(g)(2)	Awning or Canopy Clearance	Removes rule concerning awning or canopy clearance height over driveways	Eliminates rule that has no impact on use of public streets or sidewalks
21-08.01(g)(11)	Garage Capacity	Amends garage capacity limits to apply only to S1, U1, and U2 districts (not applying to larger multi-unit dwellings)	Clarifies application of rule to better meet its intent
21-08.02(c)	Number of Buildings Per Lot	Clarifies how to determine the maximum number of primary buildings on a lot	Improves user understanding by more clearly stating existing rule
21-08.02(i)	Apartment House	Adds required separation between apartment house building types on a lot, but removes limitation on number of apartment houses in all allowable districts except U2	Allows apartment house building types to be constructed in manner consistent with traditional development
21-09.01(k)	Alternate Landscape Plan	Clarifies how an alternate landscape plan may be used	Improves user understanding by more clearly stating existing rules
21-09.02(c)	Fence Height	Establishes maximum 3'-4' height of fences and walls on lots without primary buildings	Clarifies how to apply fence and wall height maximums on vacant lots
21-11.02(c)	Double Frontage Lots	More clearly states prohibition on double frontage lots, except along limited access highways	Improves user understanding by more clearly stating existing rule
21-11.02(e)	Subdivision Open Space and Trail Connections	Clarifies requirements for providing open space in large new subdivisions	Improves user understanding by more clearly stating existing rules
21-11.04(c)	Alleys	Allows alleys to be provided in all districts at the discretion of the Plan Commission and the Board of Public Works	Creates consistency in alley rules across districts, allows context appropriate design
21-13.02(f)	Zoning Violation Enforcement	Clarifies, updates enforcement authority regarding parking lot and trash container enclosures	Creates consistency with other ordinance terminology and rules

SECTION III. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 2 Definitions & Measurements, Section 21-02.03 Measurements, subsection (g) Site Development is hereby amended as follows:

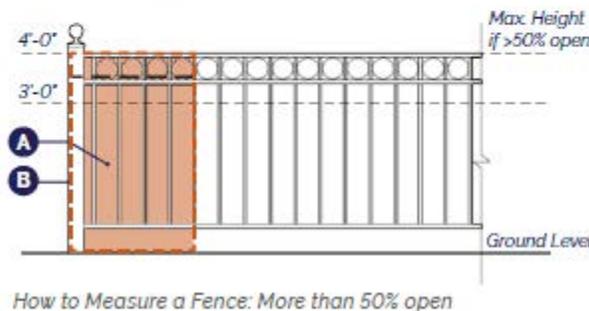
(2) **Fences and Freestanding Walls.**

- (A) The height of all fences and walls is measured from the average natural ground level within 2 feet of the base of the fence or wall.

SECTION IV. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 2 Definitions & Measurements, Section 21-02.03 Measurements, subsection (g) Site Development, How to Measure a Fence diagrams are hereby deleted and replaced with new How to Measure a Fence diagrams as follows:



$$\frac{\text{Sum of } \mathbf{A}}{\mathbf{B}} \times 100 = \% \text{ Open}$$



SECTION V. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Standard Districts, Section 21-03.01 S1 Suburban Neighborhood 1, subsection (f) Building Form; Section 21-03.03 U1 Urban Neighborhood 1, subsection (f) Building Form; and Section 21-03.04 U2 Urban Neighborhood 2, subsection (f) Building Form are hereby amended as follows:

- ¹ Ancillary dwelling units may be built to a maximum height of 24' 26' if located at least 5' from the rear lot line of a lot with a rear alley or at least 20' from the rear lot line of a lot without a rear alley.

SECTION VI. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Standard Districts, Section 21-03.01 S1 Suburban Neighborhood 1, subsection (i) Site Development; Section 21-03.02 S2 Suburban Neighborhood 2, subsection (i) Site Development; Section 21-03.03 U1 Urban Neighborhood 1, subsection (i) Site Development; Section 21-03.04 U2 Urban Neighborhood 2, subsection (i) Site Development; Section 21-03.05 U3 Urban Neighborhood 3, subsection (i) Site Development; Section 21-03.06 UF Urban Neighborhood Flex, subsection (i) Site Development; Section 21-03.07 NC Neighborhood Center, subsection (i) Site Development; and Section 21-03.08 DT Downtown, subsection (i) Site Development are hereby amended as follows:

Fence/Freestanding Walls

A fence up to 4' is allowed in an established front or corner yard if fence is greater than ~~70%~~ 50% open.

SECTION VII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Standard Districts, Section 21-03.03 U1 Urban Neighborhood 1, subsection (e) Access & Parking, and Section 21-03.04 U2 Urban Neighborhood 2, subsection (e) Access & Parking are hereby amended as follows:

Parking Access

~~Garage doors facing a street or alley shall be located directly at the minimum setback or be set back not less than 18'.~~

A garage facing a street shall be set back not less than 18'. A garage facing an alley shall be set back 5' from the lot line or not less than 18'.

SECTION VIII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 4 Special Districts, Section 21-04.01 OS Open Space, subsection (h) Site Development; Section 21-04.02 U University, subsection (h) Site Development; and Section 21-04.03 C Commercial, subsection (h) Site Development are hereby amended as follows:

Fence/Freestanding Walls

A fence up to 4' is allowed in an established front or corner yard if fence is greater than ~~70%~~ 50% open.

SECTION IX. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 4 Special Districts, Section 21-04.03 C Commercial, subsection (d) Access and Parking, and Section 21-04.04 I Industrial, subsection (d) Access and Parking are hereby amended as follows:

Parking Lot Location (Distance from Lot Line)

Parking is not allowed within any required building setback.

SECTION X. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 4 Special Districts, Section 21-04.04 I Industrial, subsection (h) Site Development is hereby amended as follows:

Fence/Freestanding Walls	Front	Corner
Height (max.)	6' <u>4'</u>	6' <u>4'</u>

A fence up to 6' is allowed in an established front or corner yard if fence is greater than 50% open.

SECTION XI. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 5 Overlay Districts, Section 21-05.02 NNZO Northeast Neighborhood Zoning Overlay, subsection (f) Building Standards is hereby amended as follows:

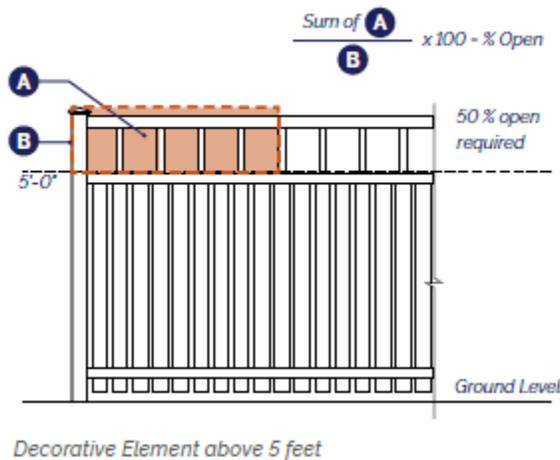
(4) Building Components

(A) Garage

~~iii. Specific to Townhouse Building Type. If oriented with garage doors facing a private drive, an attached garage for a townhouse shall have a setback (apron) of either 5 feet or not less than 18 feet from the drive, sufficient to accommodate the parking of an automobile without blocking the drive.~~

~~iv. iii.~~

SECTION XII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 5 Overlay Districts, Section 21-05.02 NNZO Northeast Neighborhood Zoning Overlay, subsection (g) Site Development is hereby amended by adding the Decorative Element above 5 feet diagram as follows:



SECTION XIII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 6 Uses, Section 21-06.01 Principal Uses, subsection (k) Retail & Service is hereby amended as follows:

(6) Day Care Center

A business that provides licensed care in a protective setting for children or elderly or disabled adults for less than 24 hours per day. Includes Class II child care homes as defined by IC 12-7-2. Excludes licensed Class I child care homes as defined by IC 12-7-2, which are permitted in all districts.

SECTION XIV. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 7 Access & Parking, Section 21-07.03 Vehicle Access & Parking, subsection (d) Off-Street Vehicle Parking Area Access is hereby amended as follows:

- (6)** A lot that may be accessed by way of a recorded cross-access agreement through an abutting lot shall not receive a separate curb cut from the same street frontage.

SECTION XV. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 7 Access & Parking, Section 21-07.03 Vehicle Access & Parking, subsection (g) Parking Structures is hereby amended as follows:

(g) Parking Structures

~~Parking structures shall be designed per the following standards.~~

- ~~(1) — In a NC or DT district, any parking structure fronting and within 50 feet of a public street shall be designed so that at least 75 percent of the linear width of the ground floor front and corner facades, measured from building corner to building corner and excluding pedestrian and vehicular entries, is comprised of commercial tenant spaces. Each commercial tenant space shall have a minimum depth of 15 feet measured from the front or corner facade.~~

~~(2)~~(1)

- (2) See Section 21-08.01(c)(4) for additional regulations related to parking structures.

SECTION XVI. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 7 Access & Parking, Section 21-07.03 Vehicle Access & Parking, subsection (h) Parking of Vehicles – General is hereby amended as follows:

- (1) Unless otherwise provided for in this Ordinance, the parking of ~~motor~~ vehicles on a lot without a primary building is prohibited.

SECTION XVII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 7 Access & Parking, Section 21-07.03 Vehicle Access & Parking, subsection (i) Commercial and Recreational Vehicles is hereby amended as follows:

- (1) **Large Vehicles.** No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of one and one half (1 ½) tons capacity, or which has a bed more than 8 feet long, may not be parked ~~overnight~~ on any land or premises except in a OS, U, C, or I district. However, the foregoing shall not apply to school buses used for the transportation of school children to and from school or to and from a school sponsored activity.

SECTION XVIII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 8 Building Standards, Section 21-08.01 Building Standards, subsection (c) Building Design is hereby amended as follows:

- (4) In a U3, UF, NC, or DT district, when fronting and within 50 feet of a public street, any parking structure or podium building having a ground-floor parking lot shall have at least 75 percent of the linear width of the ground floor front and corner facades be comprised of occupied liner spaces at least 15 feet deep. The measurement shall be made from building corner to building corner and exclude pedestrian and vehicular entries. The liner spaces may include permitted uses, such as retail areas, dwellings, leasing offices, or fitness centers.

SECTION XIX. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 8 Building Standards, Section 21-08.01 Building Standards, subsection (g) Building Components is hereby amended as follows:

(2) Awning or Canopy.

- (E) The bottom edge of the awning or canopy shall have a minimum clear height over a sidewalk or walkway of 8 feet ~~or 15 feet over a driveway.~~

(11) Garage.

- (D) If oriented with garage doors facing an alley, a garage shall be located ~~at the minimum required rear setback~~ 5 feet from the lot line or have a setback of not less than 18 feet from the right-of-way, sufficient to accommodate the parking of an automobile without blocking any public way.
- (E) In a S1, U1, or U2 district, ~~t~~The total capacity of a garage, garages, or carports, in combination, whether attached or detached, shall not exceed 4 ~~cars~~ vehicles.

SECTION XX. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 8 Building Standards, Section 21-08.02 Building Types, subsection (c) Number of Buildings is hereby deleted and replaced with a new subsection (c) as follows:

(c) Number of Buildings

Each lot shall comply with the maximum number, if any, of primary buildings allowed by the building type requirements of this section. The Zoning Administrator may waive this requirement if the submitted building permit application includes a site plan with potential lot lines that meet the intent and all the requirements of this Ordinance.

SECTION XXI. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 8 Building Standards, Section 21-08.02 Building Types, subsection (i) Apartment House is hereby amended as follows:

(3) Building Type Standards

Building Dimensions

Separation between buildings 10' min.

Number of Dwelling Units

Apartment Houses per Lot

~~S2, U3, UF district~~ 3 max.

U2 district 1 max.

All other districts ~~1 max.~~ Unlimited

SECTION XXII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 9 Site Development, Section 21-09.01 Landscape, subsection (k) Alternatives to Landscape Requirements is hereby deleted and replaced with a new subsection (k) as follows:

(k) Alternate Landscape Plan

The Zoning Administrator, upon request by an applicant, shall have the authority to approve an alternate landscape plan, subject to the provisions below, as long as the intent of this section is met. An alternate landscape plan may include the following:

- (1) The redistribution or clustering of landscape materials.
- (2) Any combination of shade trees, ornamental trees, evergreen trees, or hedge plants/shrubs, provided that the total amount of plant materials remains proportional to the base requirements of this section.
- (3) The substitution of narrow spread evergreen trees for wide spread evergreen trees at a rate of 4 trees for each 1 required. If narrow spread evergreen trees are used, the required buffer width may be reduced by 5 feet.

SECTION XXIII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 9 Site Development, Section 21-09.02 Fences & Walls, subsection (c) Height is hereby amended as follows:

~~(2)~~ On a lot without a primary building, the height of fences and walls shall not exceed 3 feet if less than or equal to 50 percent open or 4 feet if more than 50 percent open.

~~(2)~~(3)

SECTION XXIV. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 9 Site Development, Section 21-09.02 Fences & Walls, Table 21-09D: Fences & Walls Maximum Height is hereby amended as follows:

District ¹	<u>Established</u> Front & Corner Yard	<u>Established</u> Side & Rear Yard
	Less than or Equal to 70% <u>50% Open</u>	More than 70% <u>50% Open</u>
I	6' <u>4'</u>	

¹ In the NNZO, fences and walls shall also comply with the provisions of Section 21-05.02(g)(1).

SECTION XXV. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 9 Site Development, Section 21-09.02 Fences & Walls, subsection (e) Materials is hereby amended as follows:

~~(3)~~ In the NNZO, fences and walls shall also comply with the provisions of Section 21-05.02(g)(1).

~~(3)~~(4)

SECTION XXVI. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 9 Site Development, Section 21-09.04 Outdoor Lighting, subsection (j) Special Regulations for Outdoor Lighting is hereby amended as follows:

- ~~(5) **Awning and Canopy Lighting.** Awnings and canopies used for building accents over doors, windows, walkways, and the like, may be internally illuminated or back lit (i.e., lit from underneath or behind) provided, however, that the primary material is opaque and that translucent material is limited to the actual text or logo of the sign, if any, incorporated into the awning or canopy.~~

SECTION XXVII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 11 Neighborhood & Subdivision Design, Section 21-11.02 Subdivision of Land, subsection (b) General Regulations is hereby amended as follows:

- (3) The subdivision shall be coordinated with existing developments or neighborhoods, and may require the extension of existing streets.
- ~~(6) Where a development borders on or contains an existing or proposed major street, the Plan Commission may require access via the side or rear of the lot, a marginal access street, double frontage with screen planting contained in a 10 foot deep nonaccess easement, or other such treatment.~~
- ~~(7)~~ (6)
- ~~(8)~~ (7)

SECTION XXVIII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 11 Neighborhood & Subdivision Design, Section 21-11.02 Subdivision of Land, subsection (c) Lot Standards is hereby amended as follows:

- (3) Double frontage lots shall ~~be avoided~~ not be permitted, except where essential to provide separation of residential development from major streets the lot abuts a limited access highway.

SECTION XXIX. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 11 Neighborhood & Subdivision Design, Section 21-11.02 Subdivision of Land, subsection (e) Open Space is hereby deleted and replaced with a new subsection (e) as follows:

(e) Open Space & Linkages

- (1) On sites greater than 5 acres or providing 50 dwelling units, a minimum of 10 percent of the project area shall be designated as publicly accessible civic or open space. This number shall be calculated after street rights-of-way are subtracted from the project area. Civic or open spaces may be managed privately or publicly but shall be open to the public.
- (2) If a subdivision abuts or is located within 500 feet of any portion of a public trail, a direct linkage from the subdivision to such public trail shall be provided.

SECTION XXX. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 11 Neighborhood & Subdivision Design, Section 21-11.04 Streets & Alleys, subsection (b) Street Standards is hereby amended as follows:

- (1) The arrangement, character, extent, width, grade, and location of all streets shall be correlated to existing and planned streets, existing topography, public convenience and safety, and in their appropriate relation to the proposed building types and uses of the land to be served by such streets.

SECTION XXXI. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 11 Neighborhood & Subdivision Design, Section 21-11.04 Streets & Alleys, subsection (c) Alley Standards is hereby amended as follows:

- (1) Alleys shall be provided ~~in commercial and industrial districts.~~
- (2) ~~Alleys shall be provided in residential areas~~ at the discretion of the Plan Commission and the Board of Public Works.

~~(3)~~(2)

~~(4)~~(3)

SECTION XXXII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 12 Administration, Section 21-12.07 Development Review Procedures, subsection (f) Common Procedures is hereby amended as follows:

(3) Special Exception Procedures

(E) Procedure

- (xii) An approved special exception may be subject to the site plan as presented to the Board of Zoning Appeals and Common Council. Any modification to the site plan, if applicable, shall be reviewed in accordance with Section ~~21-12.03~~ 21-12.07(f)(9).

(4) Use Variance Procedures

(E) Procedure

- (xi) Within 60 days after receiving the written certification on a ~~proposed zoning ordinance~~ petition for use variance from the ~~Plan Commission~~ Board of Zoning Appeals, the Common Council shall take final action thereon, pursuant to applicable law.

SECTION XXXIII. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 13 Nonconformities & Enforcement, Section 21-13.02 Enforcement, subsection (f) Violations is hereby amended as follows:

(f) Violations

- (4) The parking or storage, in any district the provisions of which do ~~not~~ not specifically permit such a use, of any:
- (8) Failure to comply with district development standards, including but not limited to landscaping, design and paving of parking areas, ~~minimum parking space requirements~~, minimum loading space requirements, trash ~~dumpster~~ container enclosures, fencing, landscaping, or screening requirements;
- (9) The failure to comply with:
- (C) The terms, provisions, or conditions of any other permit required as a prerequisite to the issuance of a an improvement location permit; or,

SECTION XXXIV. This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

Member of the Common Council

Attest:

City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2021, at _____ o'clock ____ . m.

City Clerk

Approved and signed by me on the _____ day of _____, 2021, at _____ o'clock ____ . m.

Mayor, City of South Bend, Indiana

Requested Action

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE TO INCREASE THE MAXIMUM BUILDING HEIGHT IN THE U3 URBAN NEIGHBORHOOD 3 DISTRICT, UF URBAN NEIGHBORHOOD FLEX DISTRICT, NC NEIGHBORHOOD CENTER DISTRICT, AND C COMMERCIAL DISTRICT

Project Summary

Updating the Zoning Ordinance to allow taller structures in select districts, while offering protection for smaller-scale buildings, including single-unit dwellings, in order to encourage smart growth in the City.

Analysis & Recommendation

Analysis: The proposed text amendment responds to recent trends in development that have continued to shift as the Building Code changes. The proposed height limits will ensure South Bend is competitive with other peer communities and offer a wider range of development options, while ensuring smaller-scale buildings are appropriately protected.

Recommendation: Based on the information available prior to the public hearing, the staff recommends the text amendment be sent to the Common Council with a favorable recommendation.

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE TO INCREASE THE MAXIMUM BUILDING HEIGHT IN THE U3 URBAN NEIGHBORHOOD 3 DISTRICT, UF URBAN NEIGHBORHOOD FLEX DISTRICT, NC NEIGHBORHOOD CENTER DISTRICT, AND C COMMERCIAL DISTRICT

STATEMENT OF PURPOSE AND INTENT

The Common Council of the City of South Bend, Indiana, adopted a new zoning ordinance for the City of South Bend that went into effect on January 1, 2020. The maximum building height allowances from the 2004 Zoning Ordinance were carried forward into the new Ordinance. As South Bend continues to innovate and hold discussions with developers, other communities, and monitor best practices from around the country, it was discovered that the height limits do not match common building code thresholds. Updating the ordinance to allow taller structures in select districts, while offering protection for smaller-scale buildings, including single-unit dwellings, will continue to encourage smart growth in the City.

NOW, THEREFORE, be it ordained by the Common Council of the City of South Bend, Indiana, as follows:

SECTION I. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Standard Districts, Section 21-03.05: U3 Urban Neighborhood 3, subsection (f) Building Form is hereby amended as follows:

Primary Building (max)¹ ~~40' and 3 stories~~ 55' and 4 stories

¹ Portions of a primary building in excess of 40' or 3 stories shall be located at least 40' from a S1, U1, or U2 District.

SECTION II. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Standard Districts, Section 21-03.06: UF Urban Neighborhood Flex, subsection (f) Building Form is hereby amended as follows:

Primary Building (max)¹ ~~40' and 3 stories~~ 55' and 4 stories

And adding footnote 1 as follows:

¹ Portions of a primary building in excess of 40' or 3 stories shall be located at least 40' from a S1, U1, or U2 District.

SECTION III. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Standard Districts, Section 21-03.07: NC Neighborhood Center, subsection (f) Building Form is hereby amended as follows:

Primary Building (max)¹ ~~40' and 3 stories~~ 55' and 4 stories

And adding footnote 1 as follows:

¹ Portions of a primary building in excess of 40' or 3 stories shall be located at least 40' from a S1, U1, or U2 District.

SECTION IV. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 4 Special Districts, Section 21-04.03: C Commercial, subsection (e) Building Form is hereby amended as follows:

Primary Building (max)¹ ~~40'~~ 55'

And adding footnote 1 as follows:

¹ Portions of a primary building in excess of 40' or 3 stories shall be located at least 40' from a S1, U1, or U2 District.

SECTION V. This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

Member of the Common Council

Attest:

City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day
of _____, 2021, at _____ o'clock _____. m.

City Clerk

Approved and signed by me on the _____ day of _____, 2021, at
_____ o'clock _____. m.

Mayor, City of South Bend, Indiana

Property Information

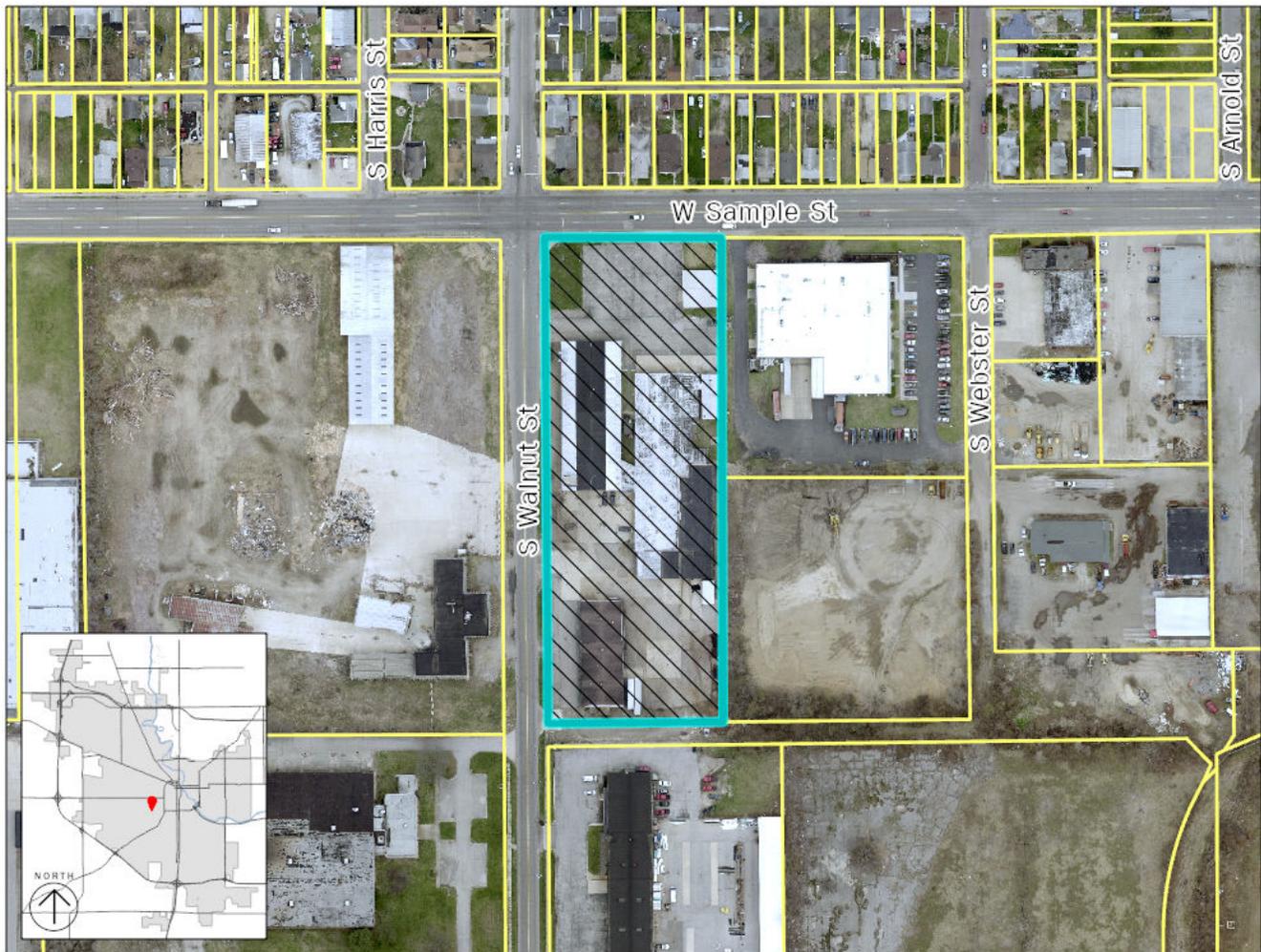
Subdivision Name: **WALNUT STREET AND SAMPLE STREET MINOR SUBDIVISION**

Location: This Minor Primary subdivision is located at the southeast corner of Sample and Walnut.

Requested Action

The total area of the subdivision is 3.53 acres and will consist of 2 building lots.

Location Map



Recommendation

Staff Recommendation: The Staff has reviewed this subdivision and finds it complies with the requirements for Approval as specified by the South Bend Subdivision Control Ordinance. The Staff therefore recommends that this subdivision be granted Approval.

Project Details

- Environmental Data:** A check of the Agency's maps indicates that no environmental hazard areas or wetlands are present.
- Drainage:** There is no drainage plan required at this time.
- Rights-Of-Way:** The rights-of-way are correct as shown.
- Utilities:** The site will be served by Municipal Water and Municipal Sewer.
- Agency Comments:** There are no additional comments at this time.

Recommendation

Staff Comments: There are no additional comments at this time.

Staff Recommendation: The Staff has reviewed this subdivision and finds it complies with the requirements for Primary Approval as specified by the South Bend Subdivision Control Ordinance. The Staff therefore recommends that this subdivision be granted Primary Approval.

Property Information

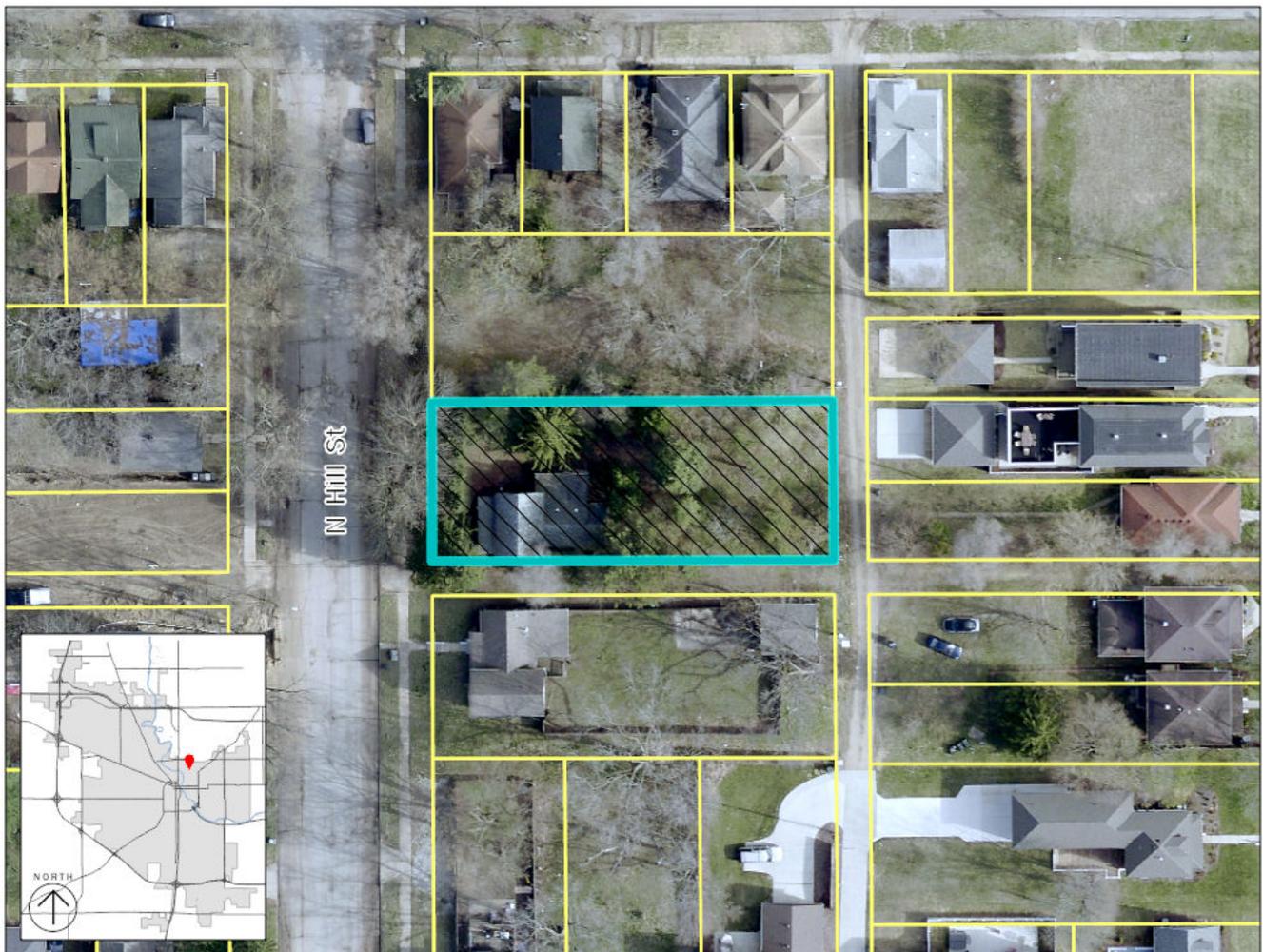
Subdivision Name: **Hill Street Minor Subdivision**

Location: This Minor Primary subdivision is located 920 N HILL ST

Requested Action

The total area of the subdivision is 0.25 acres and will consist of 2 building lots.

Location Map



Recommendation

Staff Recommendation: The Staff has reviewed this subdivision and finds it complies with the requirements for Primary Approval as specified by the South Bend Subdivision Control Ordinance. The Staff therefore recommends that this subdivision be granted Primary Approval.

Project Details

Environmental Data: A check of the Agency's maps indicates that no environmental hazard areas or wetlands are present.

Drainage: There is no drainage plan required at this time.

Rights-Of-Way: The rights-of-way are correct as shown.

Utilities: The site will be served by Municipal Water and Municipal Sewer.

Agency Comments: There are no additional comments at this time.

Recommendation

Staff Comments: There are no additional comments at this time.

Staff Recommendation: The Staff has reviewed this subdivision and finds it complies with the requirements for Primary Approval as specified by the South Bend Subdivision Control Ordinance. The Staff therefore recommends that this subdivision be granted Primary Approval.

