

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, March 3, 2025 - 4:00 p.m.

County-City Building
Fourth-Floor Council Chambers
<https://tinyurl.com/sbbza-2025>

PUBLIC HEARING:

1. **Location:** 2123 CLEVELAND RD **BZA#0313-25**
Owner: HUEBNER ENTERPRISES LLC
Requested Action:
Variance:
1) To replace required deciduous shade trees with ornamental trees
Zoning: C Commercial
2. **Location:** 4000 SAMPLE ST **BZA#0314-25**
Owner: NN HOLDINGS LLC
Requested Action:
Variance(s):
1) To allow a solid 6' fence in the front and corner yards;
2) To allow storage in the front and corner yards;
3) To allow outdoor storage that exceeds the height of the fence within 25' of the fence;
4) To waive the requirement for a Type 2 buffer along Sheridan Street; and
5) To allow barbed wire fencing
Zoning: I Industrial
3. **Location:** 411 COTTAGE GROVE AVE **BZA#0312-25**
Owner: VIP FLIP LLC
Requested Action:
Special Exception: To allow a two unit dwelling in U1 Urban Neighborhood 1
Zoning: U1 Urban Neighborhood 1

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – February 3, 2025
2. Minutes – February 3, 2025
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: 2123 CLEVELAND RD
Owner: HUEBNER ENTERPRISES LLC

Project Summary

Replace deciduous shade trees with shorter ornamental trees along Cleveland Road at a newly constructed carwash facility.

Requested Action

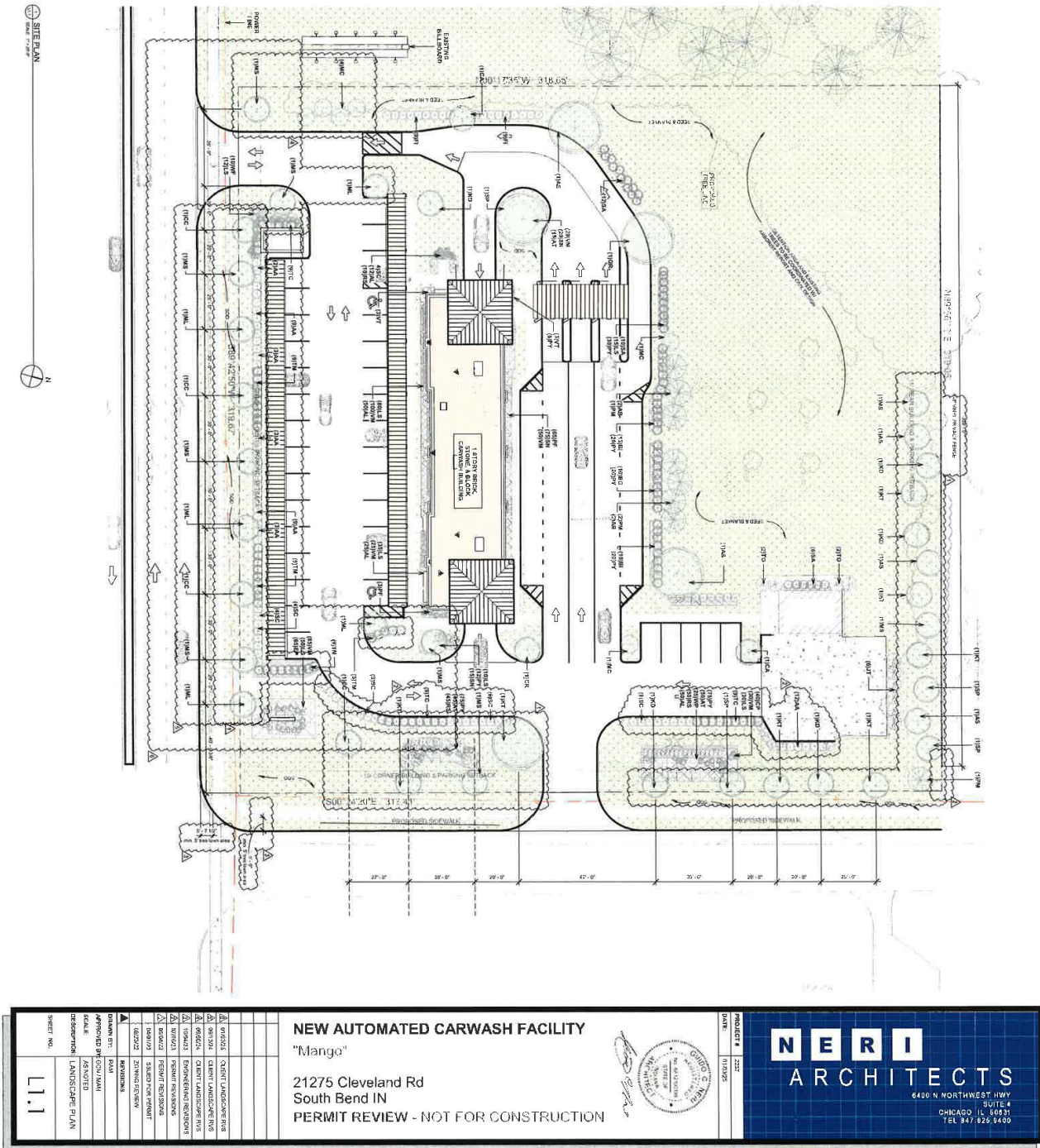
Variance(s):
1) To replace required deciduous shade trees with ornamental trees

Site Location

Staff Recommendation

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

Proposed Site Plan



Criteria for Decision Making: Variance(s)

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

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

The approval may be injurious to the general welfare of the community. Deciduous shade street trees are required for all new developments as they improve the comfort of public streets and enhance the pedestrian experience. There are no unique aspects of this project or site that would merit a variance from the required landscaping.

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

The use and value of adjacent properties should not be adversely affected. Street trees will increase the comfort of the public street and enhance the pedestrian experience.

(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 zoning ordinance would not result in practical difficulties in the use of the property as a car wash. The zoning ordinance does not allow for the removal of required vegetation for the purpose of increasing or enhancing the visibility of any sign.

(4) The variance granted is the minimum necessary

The variance is not the minimum necessary. Deciduous shade trees can be planted that meet the requirements and intent of the ordinance.

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

A zoning compliant landscape plan was reviewed and approved for this project in 2023. The need for a variance is created by a request of the current owner to change the approved shade trees to ornamental trees.

Analysis & Recommendation

Analysis: Deciduous shade street trees are required for all new developments as they improve the comfort of public streets and enhance the pedestrian experience. There are no unique aspects of this project or site that would merit a variance from the required landscaping.

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

Property Information

Location: 4000 SAMPLE ST
Owner: NN HOLDINGS LLC

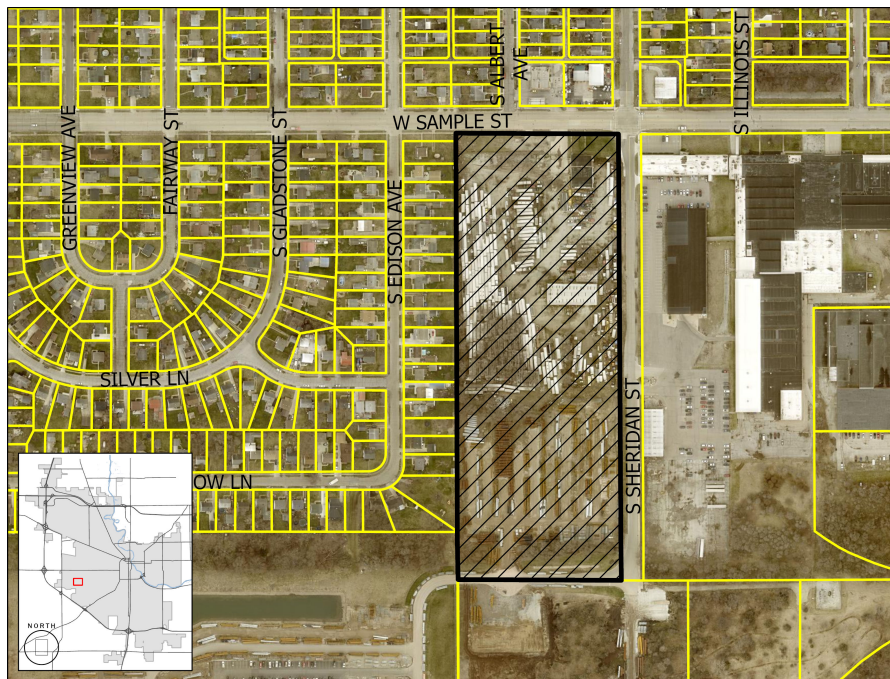
Project Summary

Install 2052 ft of a 6ft, 3BR style galvanized steel chain link fence with 1-1/8" wide plastic slats. Footage includes one 50ft wide Bi-parting manual slide gate and two 30' wide single manual side gates

Requested Action

Variance(s):

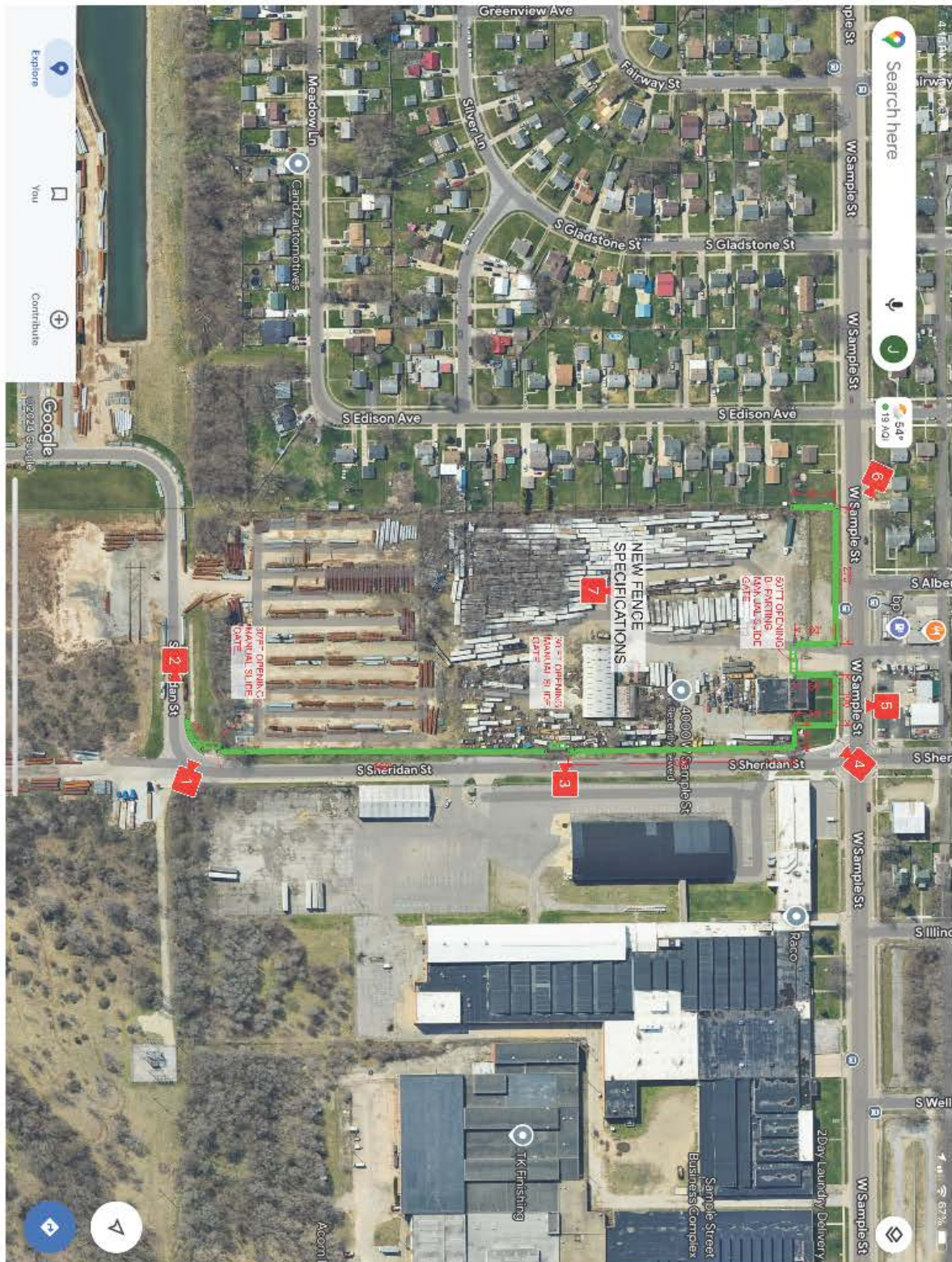
- 1) To allow a solid 6' fence in the front and corner yards
 - 2) To allow storage in the front and corner yards
 - 3) To allow outdoor storage that exceeds the height of the fence within 25' of the fence
 - 4) To waive the requirement for a Type 2 buffer along Sheridan Street
 - 5) To allow barbed wire fencing
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Site Location

Staff Recommendation

Based on the information available prior to the public hearing, Staff recommends the Board approve Variances 1, 2, and 4 as presented, subject to the fence having a 30' setback along Sample Street, streetscape trees in the tree lawn along Sample Street spaced at 30' intervals, a second row of streetscape trees in the front yard behind the Sample Street sidewalk spaced at 30' intervals, planting streetscape trees along Sheridan Street between the front property line along Sample Street and the fence, and removal of the smaller curb cut along Sample Street. Staff recommends the Board deny Variances 3 and 5 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

The approval of variances 1, 2, and 4 should not be injurious to the public health, safety, morals and general welfare of the community as the fence will screen the storage area from the north and east property lines; allow storage in the front and corner yards where it would have been permitted had the building previously located at the northeast corner of the property not been removed; and allowing the solid fence along Sheridan Street will provide a sufficient buffer to the industrial property located across the street. The approval of variances 3 and 5 could be injurious to the public health, safety, morals and general welfare of the community as there is adequate area on the nearly 14-acre lot to store product that doesn't exceed the height of the fence within 25' of it, and barbed wire is appropriate only for utility sites such as water, sewer, and electric, gas main facilities, water treatment facilities, and public and private communication facilities.

(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

Approval of variances 1, 2, and 4 should not adversely affect the use and value of the area adjacent to the property as additional landscaping along Sample Street will further shield adjacent residential and commercial properties. The solid fence along Sheridan Street provides sufficient buffering of the storage area to the industrial property across the street. However, approval of variances 3 and 5 could affect the use and value of the area adjacent to the property as there is no practical difficulty in the request for storage of product in excess of the fence height within 25' of the fence, and allowing barbed wire on top of the fence is not appropriate in the City, except in specific instances.

(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 could result in practical difficulties in the use of the property if storage is not permitted in the front and corner yards. The remaining building on the property is located over 400' from Sample Street and the area between the building and the front property line along Sample Street is technically considered the front yard and the zoning ordinance does not permit storage in this area. The same holds true for the area between the building and the property line along Sheridan Street. A fence more than 50% open would be permitted in this area, but the proposed fencing with slats will provide more visual buffering to the property to the east. There are no practical difficulties that warrant the variance for storage above the height of the fence within 25' of the fence or the barbed wire.

(4) The variance granted is the minimum necessary

The variances granted, 1, 2, and 4 are the minimum necessary as this property has been used for outside storage for many years and the owner will continue to use the property for

product storage. If the fence is located 30' from the front property line and streetscape trees added in the tree lawn and front yard along Sample Street, this should lessen the visual impact on the U1 Urban Neighborhood 1 and C Commercial properties north across the street. Requesting product to be stored exceeding the height of the fence within 25' behind the fence is not the minimum necessary as the nearly 14-acre lot provides adequate space for product storage as well as being directly adjacent to single family homes along the west property line, and there is no practical difficulty to justify the request for barbed wire (variances 3 and 5).

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

While the variance for storage in the front and corner yards does correct a hardship caused by the current owner by demolishing the building at the front of the property, having the fence set back 30' along Sample Street and providing additional streetscape trees should lessen the visual impact of product storage in the front yard. The desire to allow product storage above the height of the fence within 25' of the fence especially adjacent to single family homes and the desire for barbed wire is self-created.

Analysis & Recommendation

Analysis: The primary building being approximately 400' from the Sample Street right of way creates a larger than normal established front yard. Allowing a solid fence and storage in the front and corner yards where indicated on the site plan should not have injurious impacts on the community especially with the added site improvements.

The proposed variance for product storage above the height of the fence within 25' of the fence is a self-created hardship and is not consistent with the intent of the Ordinance. The proposed barbed wire is not an appropriate material to be used in the City, especially in the front yard. This is not a use in which the federal or state government require that security measure.

Staff Recommendation: Based on the information available prior to the public hearing, Staff recommends the Board approve Variances 1, 2, and 4 as presented, subject to the fence having a 30' setback along Sample Street, streetscape trees in the tree lawn along Sample Street spaced at 30' intervals, a second row of streetscape trees in the front yard behind the Sample Street sidewalk spaced at 30' intervals, planting streetscape trees along Sheridan Street between the front property line along Sample Street and the fence, and removal of the smaller curb cut along Sample Street. Staff recommends the Board deny Variances 3 and 5 as presented.

Property Information

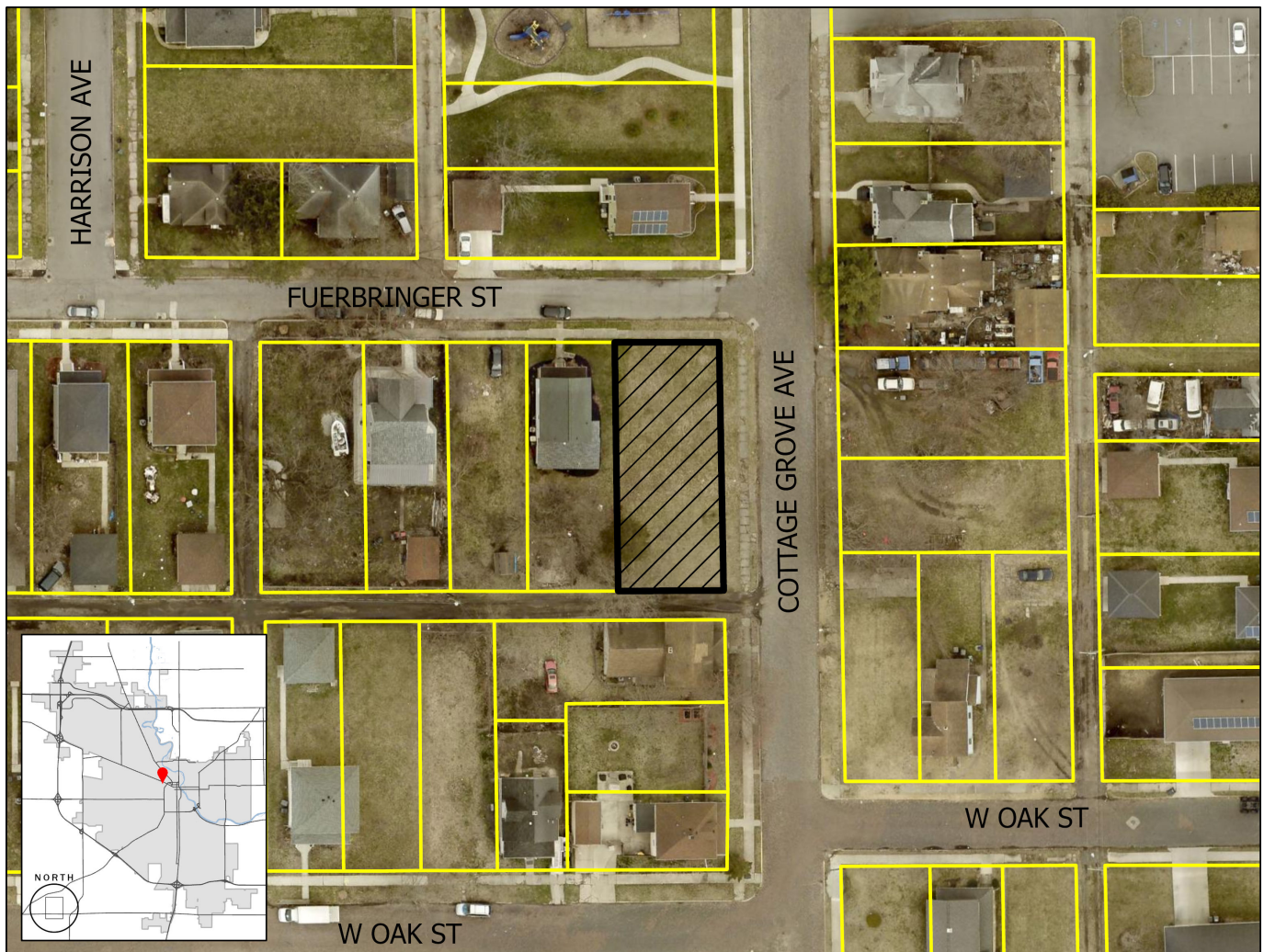
Location: 411 COTTAGE GROVE AVE
Owner: VIP FLIP LLC

Project Summary

Construction of a new duplex.

Requested Action

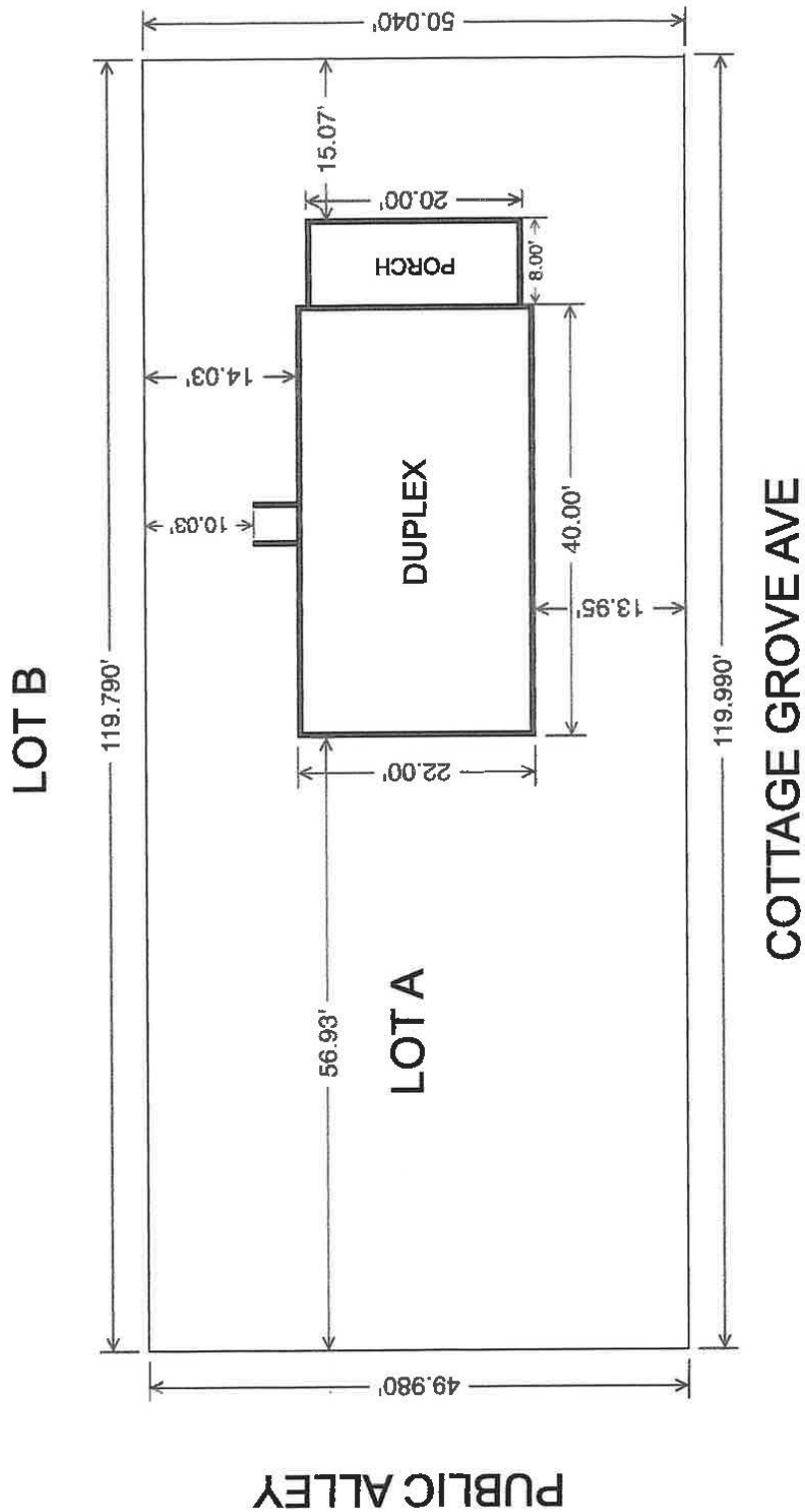
Special Exception: To allow a two unit dwelling in U1 Urban Neighborhood 1

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.

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;

Approval of the Special Exception should not be injurious to the public health, safety, morals and general welfare of the community. The building is newly constructed as a duplex. A two-unit dwelling will provide more residents to the neighborhood which will increase safety and the general welfare of the community.

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

Building a duplex should not injure or adversely affect the use or value of adjacent properties. The proposed duplex is consistent with the scale and character of the surrounding neighborhood, will bring new residents to the area, and will provide housing on a lot that is currently vacant.

(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 use as a two unit dwelling will further complement the existing housing stock, match the scale and character of dwellings in the neighborhood, and provide new housing in an area with substantial vacancy. The proposed use will provide more housing options for residents.

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

The petition is consistent with the City Plan, South Bend Comprehensive Plan (2006) Objective H1.1: Encourage residential developments to contain a mix of housing types, densities, price ranges, and amenities.

Analysis & Recommendation

Analysis: The construction of a new duplex that is consistent with the scale and character of the surrounding neighborhood will bring new residents to the area and provide additional housing on a lot that is currently vacant.

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.