

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, January 3, 2022 - 4:00 p.m.

County-City Building

Fourth-Floor Council Chambers

www.tinyurl.com/sbbza

ADMINISTRATIVE ITEMS:

1. Election of Officers

PUBLIC HEARING:

1. **Location:** 2046 SOUTH BEND AVE BZA#0093-21
Owner: DEV H12 LLC
Requested Action: Variance(s): 1) From the 5' minimum front sign setback to 0'; and 2) From the 15' maximum sign height to 19'
Zoning: C Commercial
2. **Location:** 6432 CHESTNUT (CURRENT) 6427, 6431, 6434, AND 6436 CHESTNUT LANE (PROPOSED) BZA#0095-22
Owner: SOUTHFIELD VILLAGE INC
Requested Action: Variance(s): 1) from the maximum 48' duplex width to 95'
Zoning: S2 Suburban Neighborhood 2
3. **Location:** 1165 Franklin Street BZA#0096-22
Owner: CATALYST TWO LLC
Requested Action: Variance(s): 1) from the 6' maximum height for a solid fence in the established front yard to 10'; and 2) to allow accessory structures in the established front yard (dumpster enclosure and tanks)
Special Exception: Heavy Industrial
Zoning: I Industrial

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – December 6, 2021
2. Minutes – December 6, 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: 2046 SOUTH BEND AVE
Owner: DEV H12 LLC

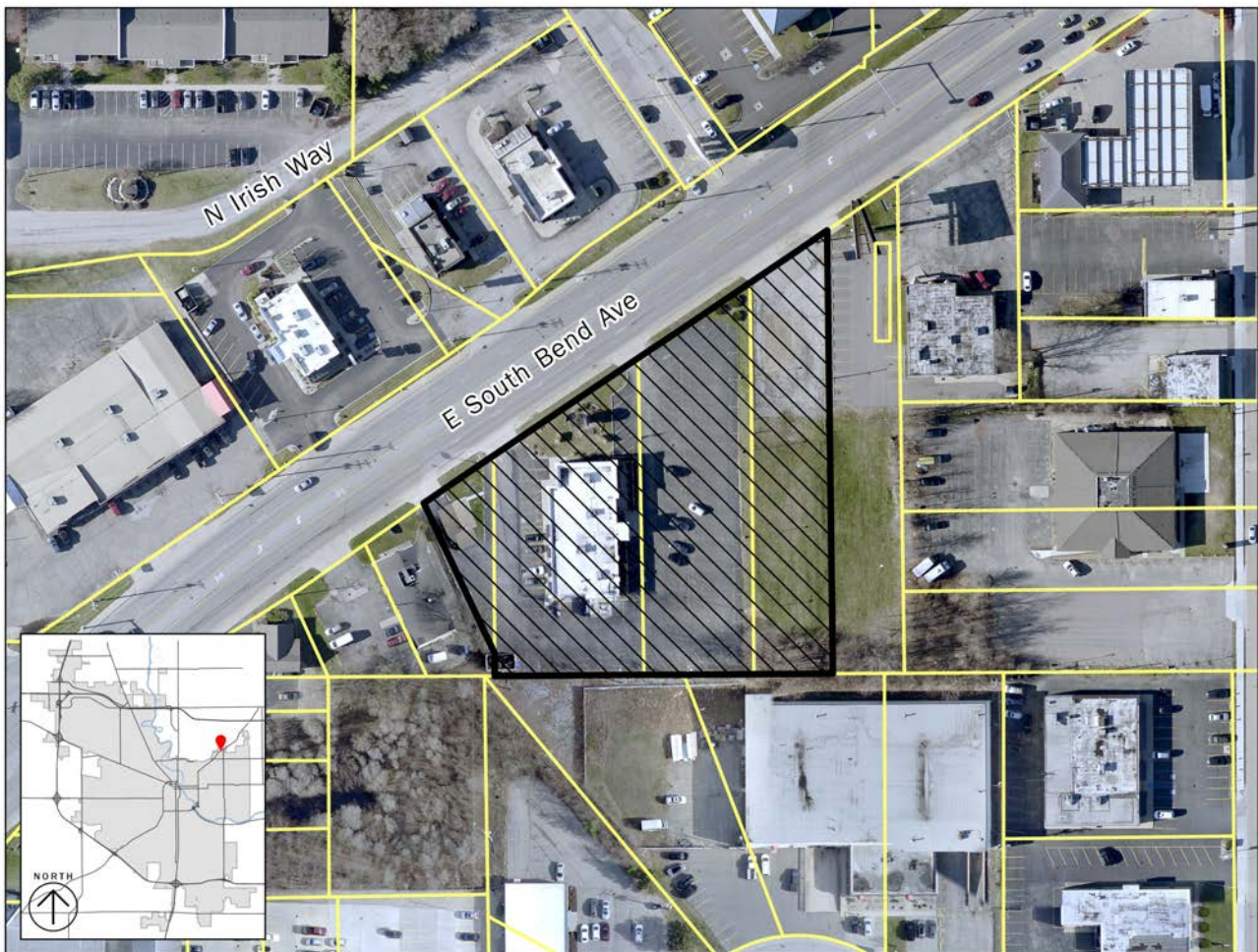
Project Summary

Legalize a sign installed.

Requested Action

Variance(s): 1) From the 5' minimum front sign setback to 0'
2) From the 15' maximum sign height to 19'

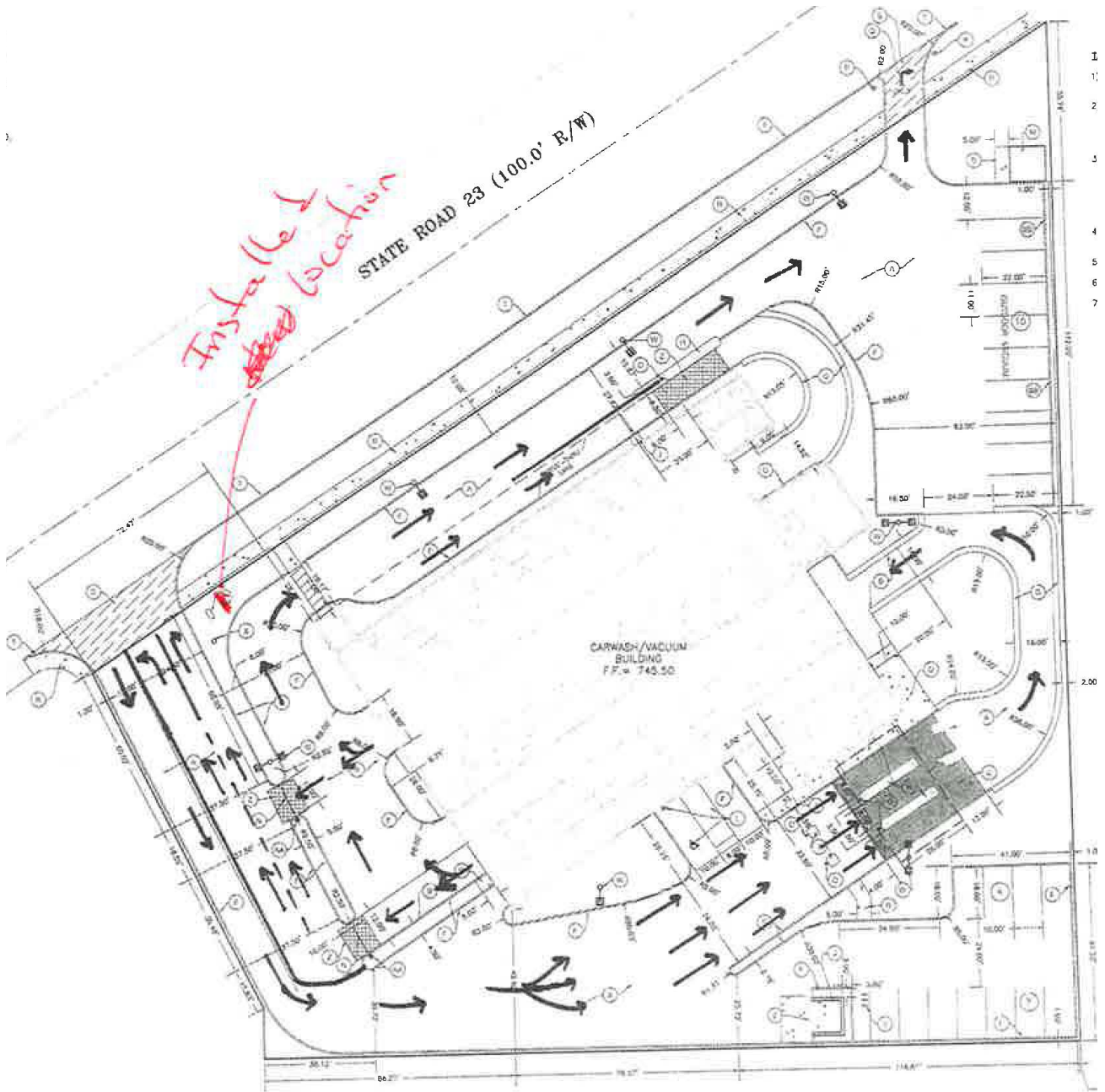
Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board deny the variances 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

Approval of the variance could be injurious to the public health, safety, morals and general welfare of the community. Granting the variance would give an undue advantage to the property owner which could negatively impact the use of the adjacent properties as well as setting a precedence for the surrounding area. The site already has restricted visibility due to the road curve. Further restricting the view will cause cars to have to pull into the pedestrian area in order to safely exit 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

Granting the variance would give an undue advantage to the property owner which could negatively impact the use of the adjacent properties, as well as setting a precedence for the surrounding area. Other signs in the area are legal non-conforming and will need to be adapted in the future. They are also predominately pole style signs that allow for adequate clearance and clear sight 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 result in practical difficulties in the use of the property. The use of the property is not related to the size or location of the sign. The sign was granted a permit in a code compliant location and later changed by the petitioner.

(4) The variance granted is the minimum necessary

The practical difficulties on the site are self created, so the variance is not the minimum necessary. The petitioner should not be granted a variance for the sign location due to poor site planning on their part.

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

The variance requested is based on the desire of the petitioner, not a practical difficult of the site. The petitioner made a conscious decision to move the sign location and constructed the sign at a taller height, against prior approved plans for a code compliant sign. The variance requested is to avoid the cost of relocating the sign and to maintain the height above what is allowed by code.

Analysis & Recommendation

Analysis: The petitioner had received permit approval for the construction of a code compliant sign in a code compliant location. The petitioner intentionally built the sign at a larger height and in a location that places the sign right against the right-of-way.

Granting the variance would give an undue advantage to the property owner, which could negatively impact the use of the adjacent properties. It would also set a precedence which would promote the practice of permitting something compliant with the ordinance, but installing something different than what is appropriate.

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

Property Information

Location: 6432 CHESTNUT (CURRENT) 6427, 6431, 6434, AND 6436 CHESTNUT LANE (PROPOSED)
Owner: SOUTHFIELD VILLAGE INC

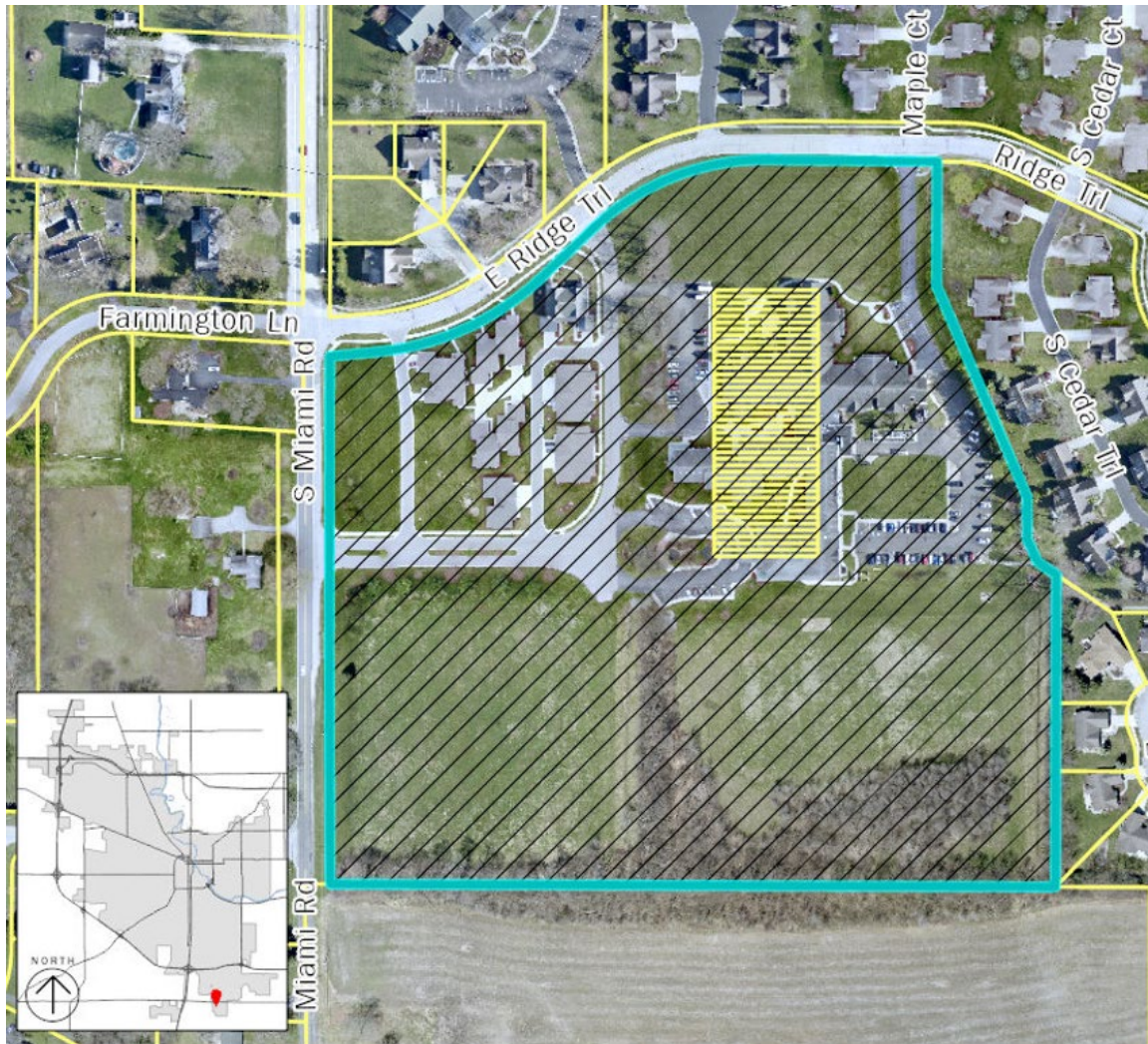
Project Summary

Southfield Village, is constructing two additional duplexes on the Southfield Village campus. The proposed duplexes are side-by-side units this they exceed the maximum 48 foot width in the S2 district.

Requested Action

Variance(s): 1) from the maximum 48' duplex width to 95'

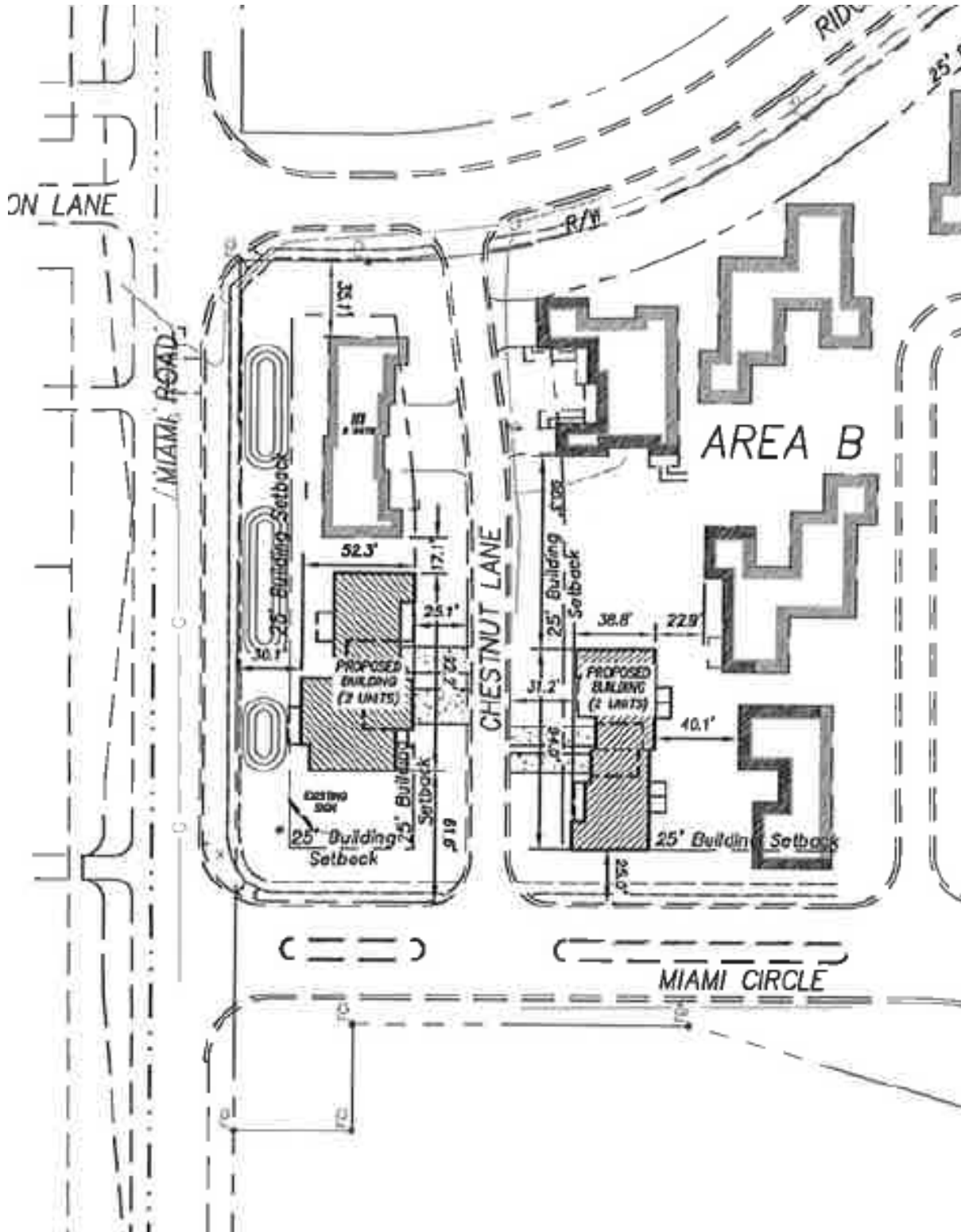
Site Location



Staff Recommendation

Based on the 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

The variance to increase the maximum width of a duplex should have no impact on the public health, safety, or general welfare of the community. The proposed duplexes are similar, in style and scale, to other duplexes on the block and neighborhood.

(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 variance allows 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 development was originally designed as a PUD. While the PUD did not specify a maximum building width, the variance proposed is consistent with the other buildings in the development. The 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 variance is the minimum necessary to allow the building to be designed in a way that is both consistent with the intent of the ordinance and remains in character with the design and use of the surrounding neighborhood.

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

The area was developed under a PUD. The PUD District was not included in the updated zoning ordinance. Each district was assigned to the district which included the uses and standards most similar to the PUD. This change was not caused by the property owner.

Analysis & Recommendation

Analysis: The proposed variance is consistent with the character of the area and the intent of the ordinance. Approving the variance will allow for the construction of a two-unit dwelling consistent in scale with the surrounding neighborhood. This is a suburban location with larger homes and a mix of housing types originally developed under a PUD. This particular area was designed for wide, front-loaded duplexes.

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

Property Information

Location: 1165 Franklin Street
Owner: CATALYST TWO LLC

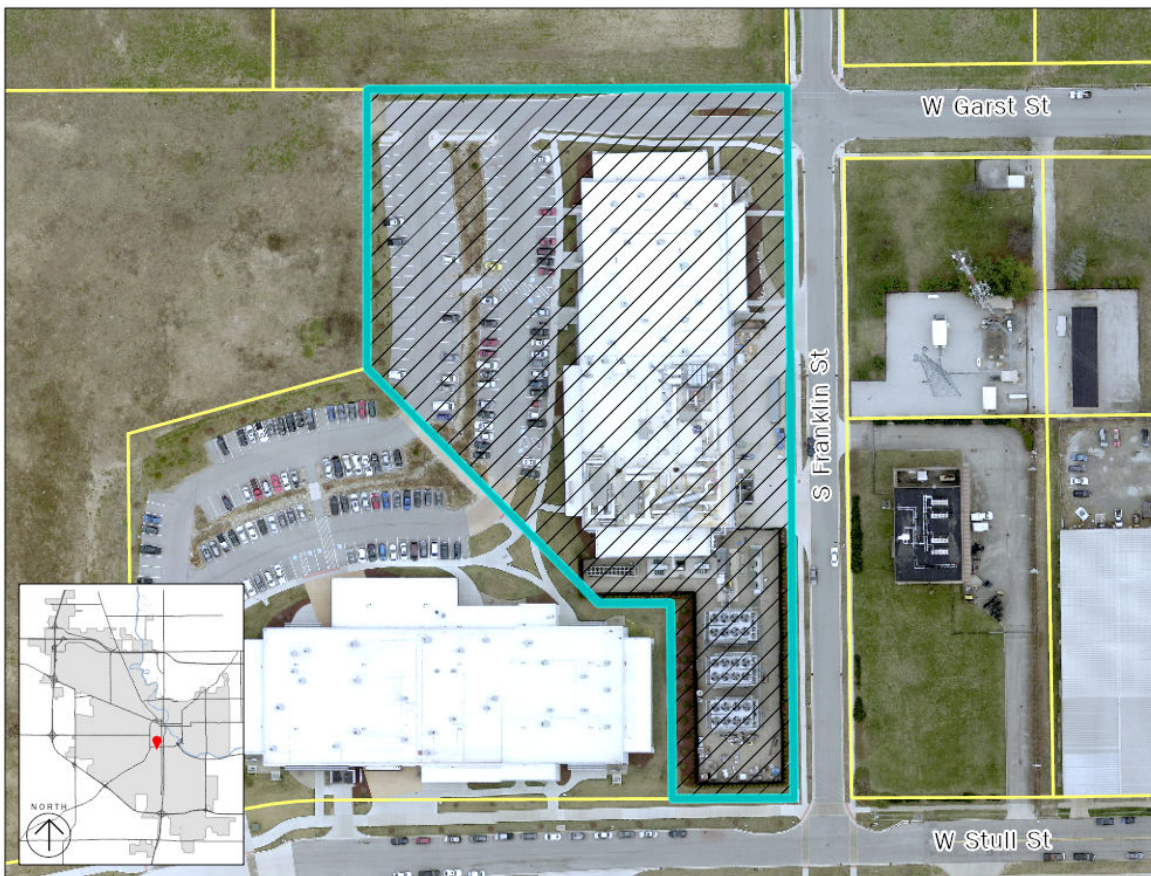
Project Summary

The Notre Dame Turbomachinery Laboratory seeks to install (1) a new, aboveground storage tank with capacity of 5,000 gallons for Jet A aviation fuel and (2) two Airgas CO2 storage tanks. Placing these tanks will require modifications to the currently existing fencing and dumpster enclosure.

Requested Action

Special Exception: Heavy Industrial
Variance(s): 1) from the 6' maximum height for a solid fence in the established front yard to 10'
2) to allow accessory structures in the established front yard (dumpster enclosure and tanks)

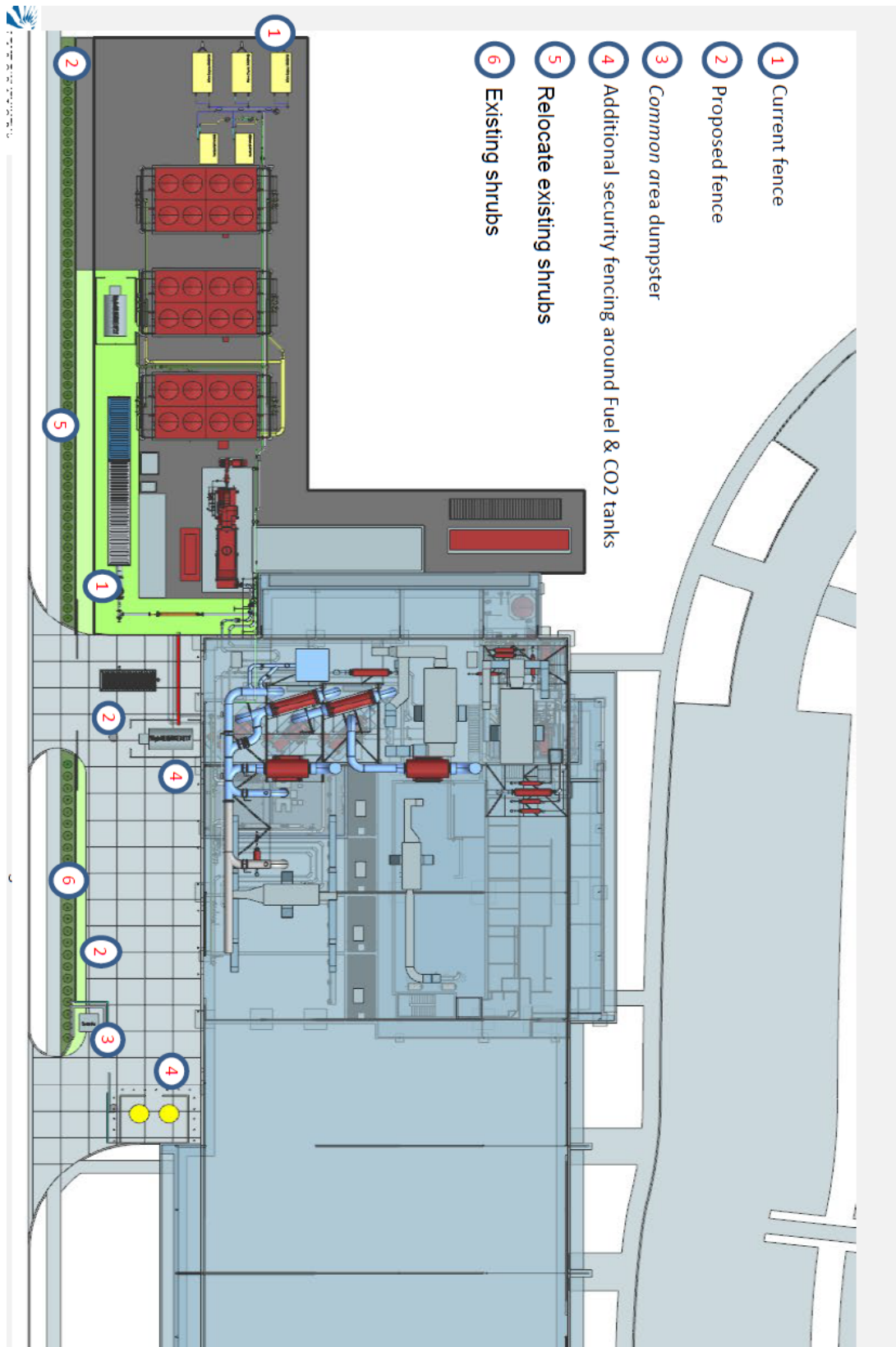
Site Location



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. The staff recommends approval of the variances as presented.

Proposed Site Plan



Criteria for Decision Making: Special Exception

A Special Use 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;

With proper buffering, the proposed 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;

The site is currently being used for heavy industrial purposes, and is well established in the neighborhood. The minimal expansion of the footprint of the site to allow for additional fuel and gas tanks should not adversely affect the use of the adjacent areas, provided it is properly screened. The variance for the 10' fence will allow for the additional screening consistent with the existing development.

(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. The site has been in operation for several years. Allowing the Special Exception will allow for the building to be used in its intended manner.

(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.

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, and general welfare of the community. The use of the 10' fence is not out of character with the industrial area as Franklin Street is used as an Industrial alley with the surrounding businesses having loading areas off 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

Because site is located in an industrial area and the variance is to allow for the relocation and extension of an existing fence, the use and value of the adjacent properties should not be adversely affected.

(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 allow for the installation of a new tank that would support the expansion of an existing building. The placement of the tank is heavily regulated by the safety code and the ability to refuel the tankers.

(4) The variance granted is the minimum necessary

The proposed layout has been designed so as to require the minimum variance necessary and to have the least amount of impact on adjacent property owners while still expanding the existing use.

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

The variance does not correct a hardship caused by a former or current owner. The design of Ignition Park was developed under previous development standards that allowed the buildings to be placed with the rear of the building facing Franklin Street. This has created a style of development that has resulted in Franklin functioning more like an alley than a street.

Analysis & Recommendation

Analysis: The proposed Special Exception to allow for the expansion of a heavy industry use is consistent with the character of the district in which it is located. The site has been in operation for several years.

The Special Exception will allow for the expansion of the current use and improve current operations, allowing the operations to remain in South Bend. The proposed variances will provide the appropriate space for the new tanks within the constraints of a limited site. The increased fence height is necessary for screening and security. While Franklin Street is technically the front, it serves as an industrial alley with the true front of the building facing west.

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. The staff recommends approval of the variances as presented.