

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Tuesday, September 8, 2020 - 4:00 p.m.
Howard Park Event Center
219 S. St. Louis; South Bend, 46617

VARIANCES – 4:00 p.m.

1. **Location:** 107 EDISON AVE BZA#0025-20
Owner: MARINA AGUILAR
Requested Action: Variance(s): 1) From the 3' maximum fence height in an established front and corner yard to 6'
Zoning: U1 Urban Neighborhood 1
2. **Location:** 2710 SAMPSON ST BZA#0026-20
Owner: SHERRI L HOLLAND
Requested Action: Variance(s): 1) From the 6' maximum fence height to 8' along the rear property line
Zoning: S1 Suburban Neighborhood 1
3. **Location:** 905 STANFIELD ST and 911 STANFIELD ST BZA#0029-20
Owner: ROBBY H RASK TRUST & PAMELA P RASK TRUST
Requested Action: Variance(s): 1) From the 70' maximum lot width in the NNZO Overlay District to 103'
Zoning: U1 Urban Neighborhood 1

SPECIAL EXCEPTIONS – 4:30 p.m.

4. **Location:** 316 E MONROE BZA#0027-20
Owner: WSJM INC
Requested Action: Special Use: a wireless communication tower in the NC Neighborhood Center District
Zoning: NC Neighborhood Center
5. **Location:** 4303 TECHNOLOGY DR BZA#0028-20
Owner: PATTERSON LOGISTICS SERVICES INC
Requested Action: Special Use: heavy industrial uses in the I Industrial District
Zoning: I Industrial
6. **Location:** the northwest corner of W Wayne Street and S Scott Street BZA#0030-20
Owner: SOUTH BEND HERITAGE FOUNDATION INC
Requested Action: Special Use: 2 unit dwellings in the U1 Urban Neighborhood District
Zoning: U1 Urban Neighborhood 1

City of South Bend **BOARD OF ZONING APPEALS**

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact
2. Minutes
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: 107 EDISON AVE
Owner: MARINA AGUILAR

Project Summary

Construction of a 6' privacy fence.

Requested Action

Variance(s): 1) From the 3' maximum fence height in an established front and corner yard to 6'

Site Location

Staff Recommendation

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

While out of character with the area, approval of this variance would not be injurious to the public health or safety 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 proposed fence is out of character with the area, which could have an impact on the value of surrounding properties. Houses in this neighborhood are set back a considerable distance with the expectation that fences will not be placed in an established front or corner yard. No other houses in the immediate vicinity have a fence in front of the house.

(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 not result in practical difficulties in the use of the property. A shorter, code compliant fence can still provide security and privacy to the property. Aesthetic preference is not a practical difficulty.

(4) The variance granted is the minimum necessary

The variance asked for is not the minimum necessary. The applicant is requesting a 6' privacy fence to extend to the edge of the property lines along Washington Street.

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

There is no hardship on the property. The lot is a typical corner lot with no unique features differentiating it from other corner lots.

Analysis & Recommendation

Analysis: There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is out of character for the area and not consistent with the intent of the ordinance.

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

Property Information

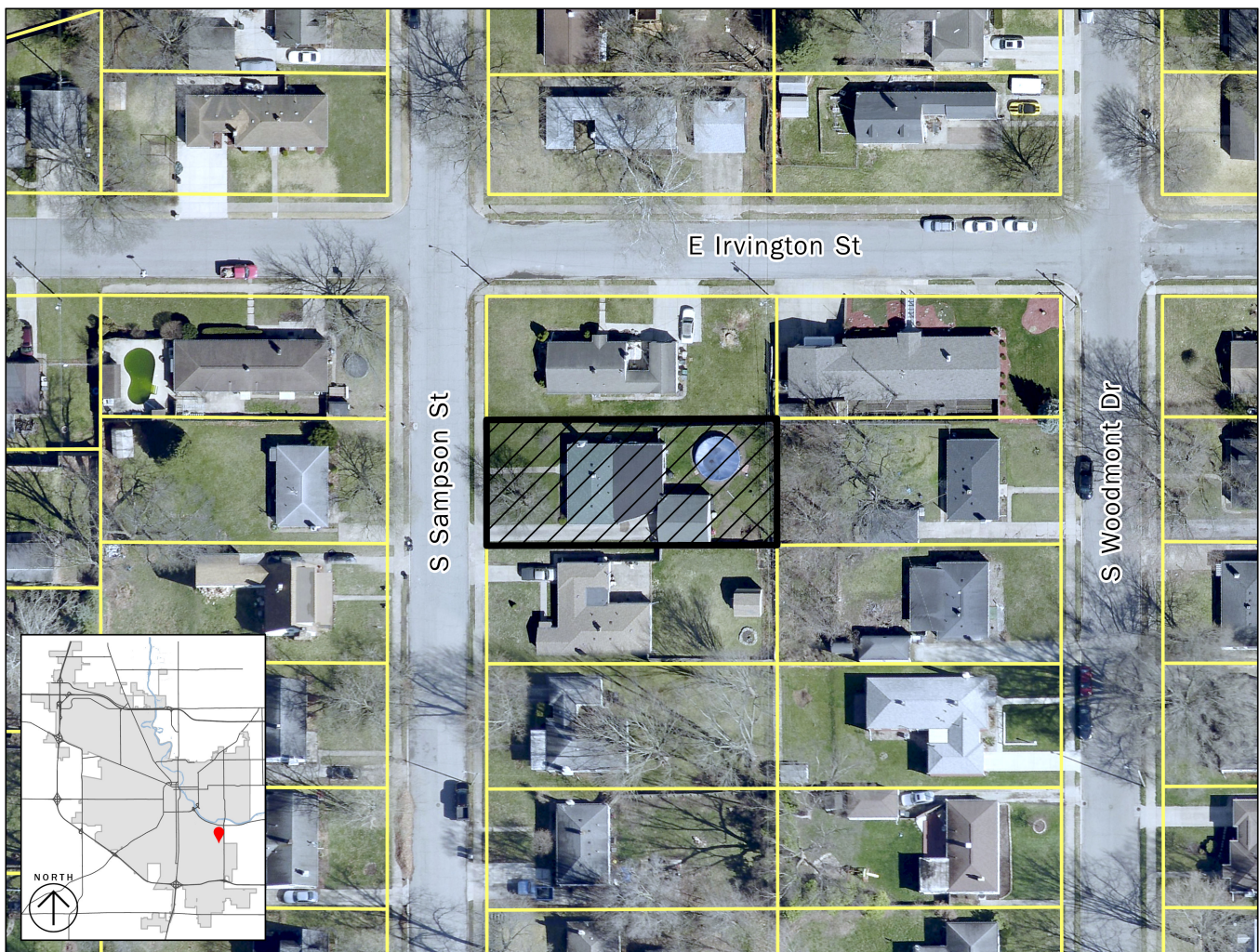
Location: 2710 SAMPSON ST
Owner: SHERRI L HOLLAND

Project Summary

Install a privacy fence that is 8' along the back

Requested Action

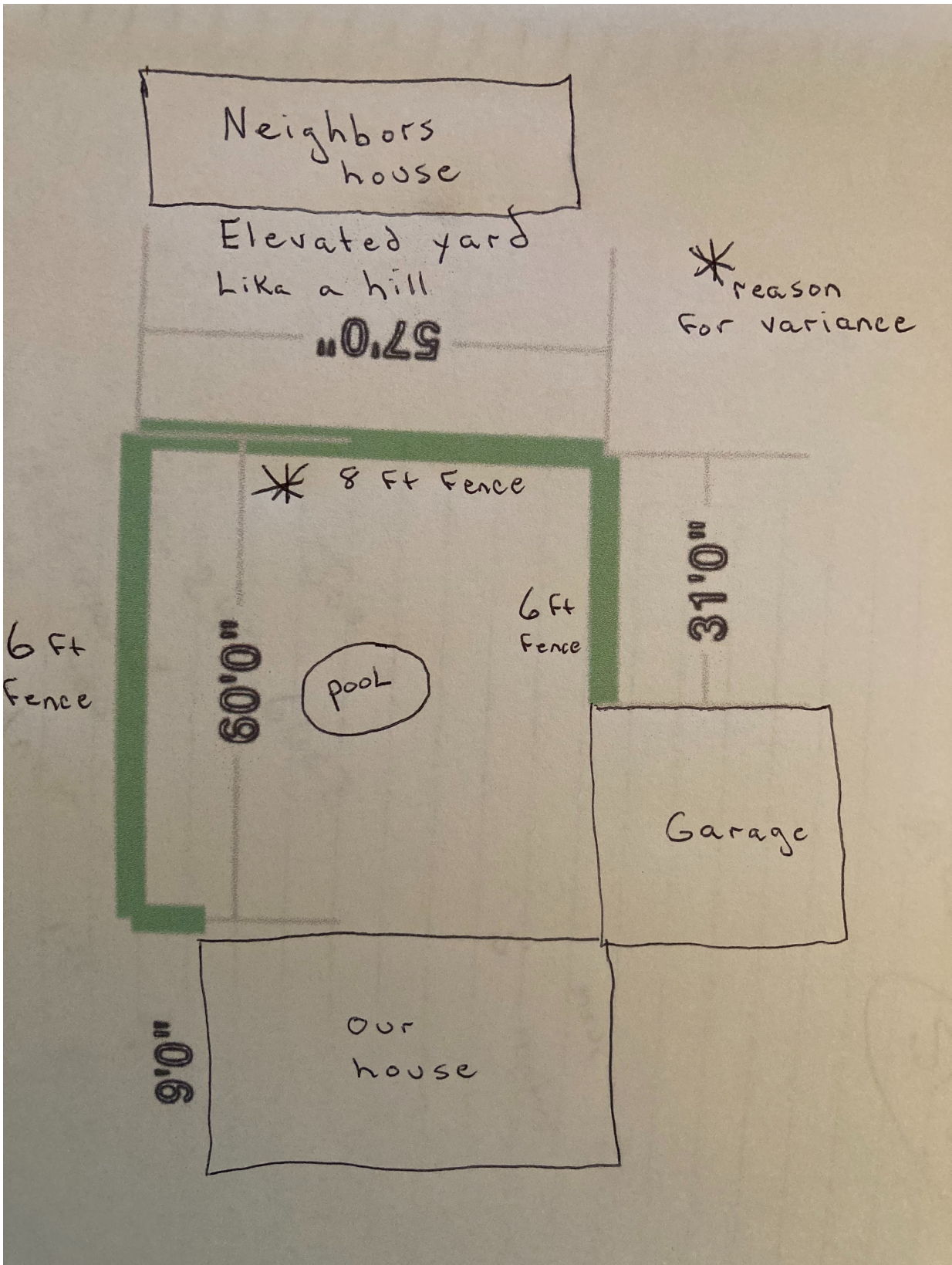
Variance(s): 1) From the 6' maximum fence height to 8' along the rear property line

Site Location

Staff Recommendation

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 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

Due to the unique circumstances of the property and the fact that the fence will only be along the rear property line, the 8' fence should not affect adjacent properties.

(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.

(4) The variance granted is the minimum necessary

The variance requested is for 2' of additional height for the fence. This is the minimum necessary to provide the privacy while addressing the grade change at the rear of the property. Also, by limiting the increased height to along the rear property, the petitioner is attempting to request the minimum variance necessary.

(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 8' fence is an appropriate response to the applicant wishing for privacy in their back yard while not negatively impacting the neighborhood.

Staff Recommendation: The staff recommends the Board approve the variance as presented.

Property Information

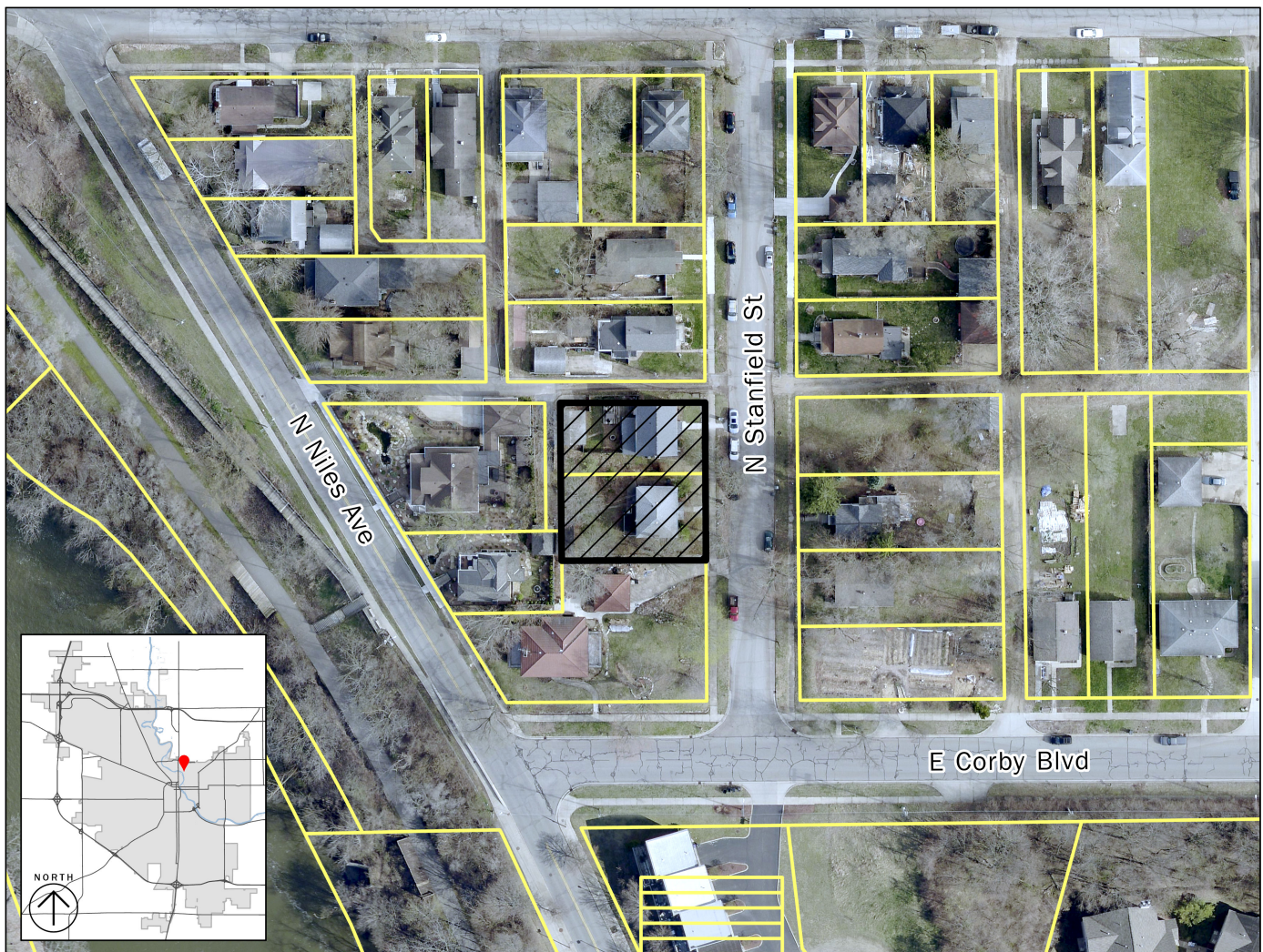
Location: 905 STANFIELD ST and 911 STANFIELD ST
Owner: ROBBY H RASK TRUST & PAMELA P RASK TRUST

Project Summary

Raze two existing houses and one accessory structure to replace them with a new house.

Requested Action

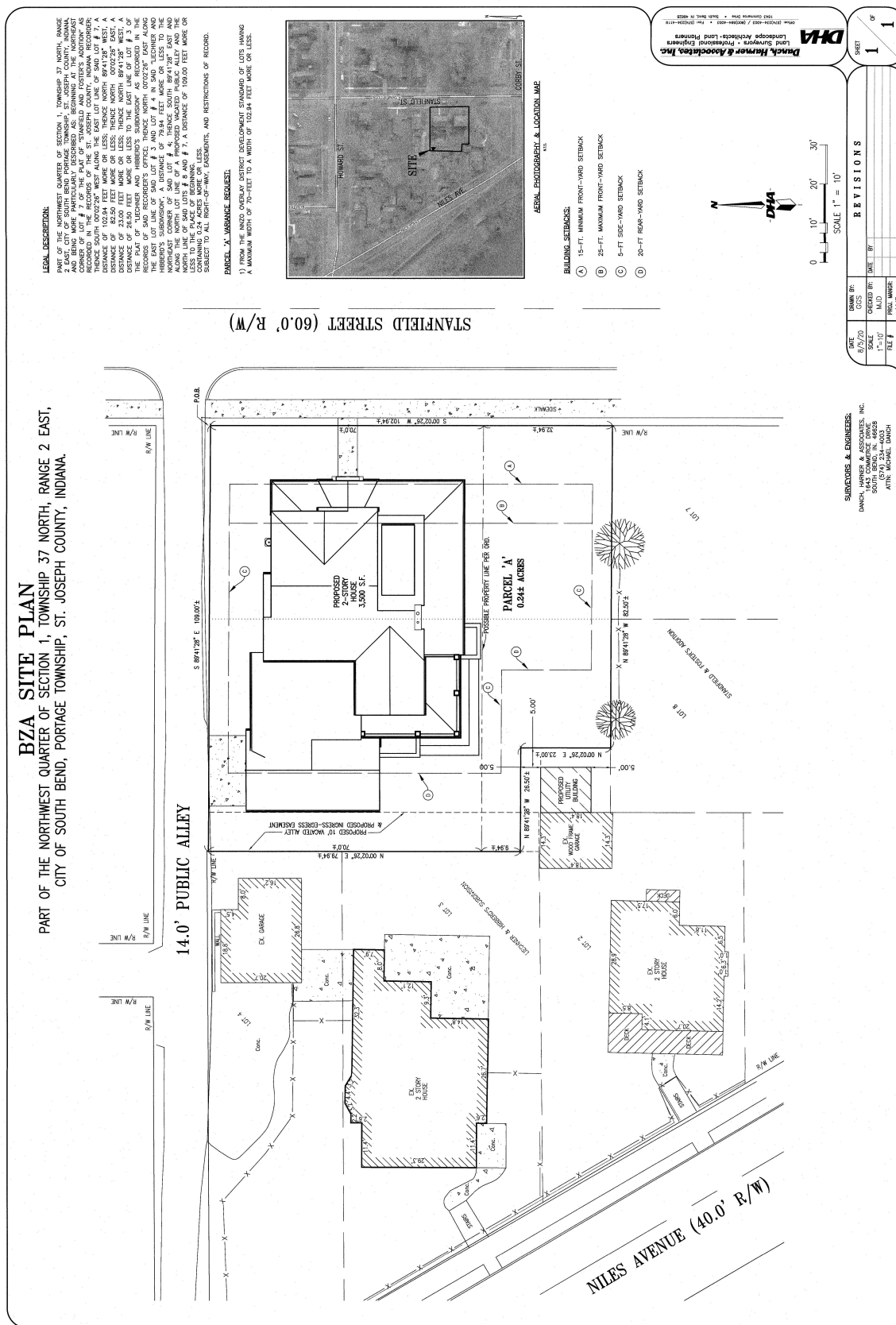
Variance(s): 1) From the 70' maximum lot width in the NNZO Overlay District to 103'

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

Approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community. Establishment of the larger lot should not negatively impact the surrounding 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 area adjacent to the property is primarily one-unit dwellings. Establishing a larger lot size for a new one-unit dwelling should not adversely affect the surrounding 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 require a portion of the land to either be subdivided or sold to another entity. The remainder of the lot is not being developed at this time, but the proposed development would meet all the development standards for a 70' wide lot and a 33' wide lot if or when the property is subdivided in the future.

(4) The variance granted is the minimum necessary

The proposed variance is the minimum necessary to provide enough space for a second house to be constructed on the southern lot, meeting the intent of the ordinance.

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

The proposed variance does not correct a hardship caused by a former or current owner of the property. The proposed house is consistent with the requirements of the ordinance and is sited on the property in such a way that would still allow for this to be developed as two compliant buildable lots.

Analysis & Recommendation

Analysis: Strict application of the ordinance would require a portion of the land to either be subdivided or sold to another entity. The remainder of the lot is not being developed at this time, but the proposed development would meet all the development standards for a 70' wide lot and a 33' wide lot if or when the property is subdivided in the future. This solution meets the intent of the ordinance by preserving the ability for two houses to be constructed where two once existed.

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

Property Information

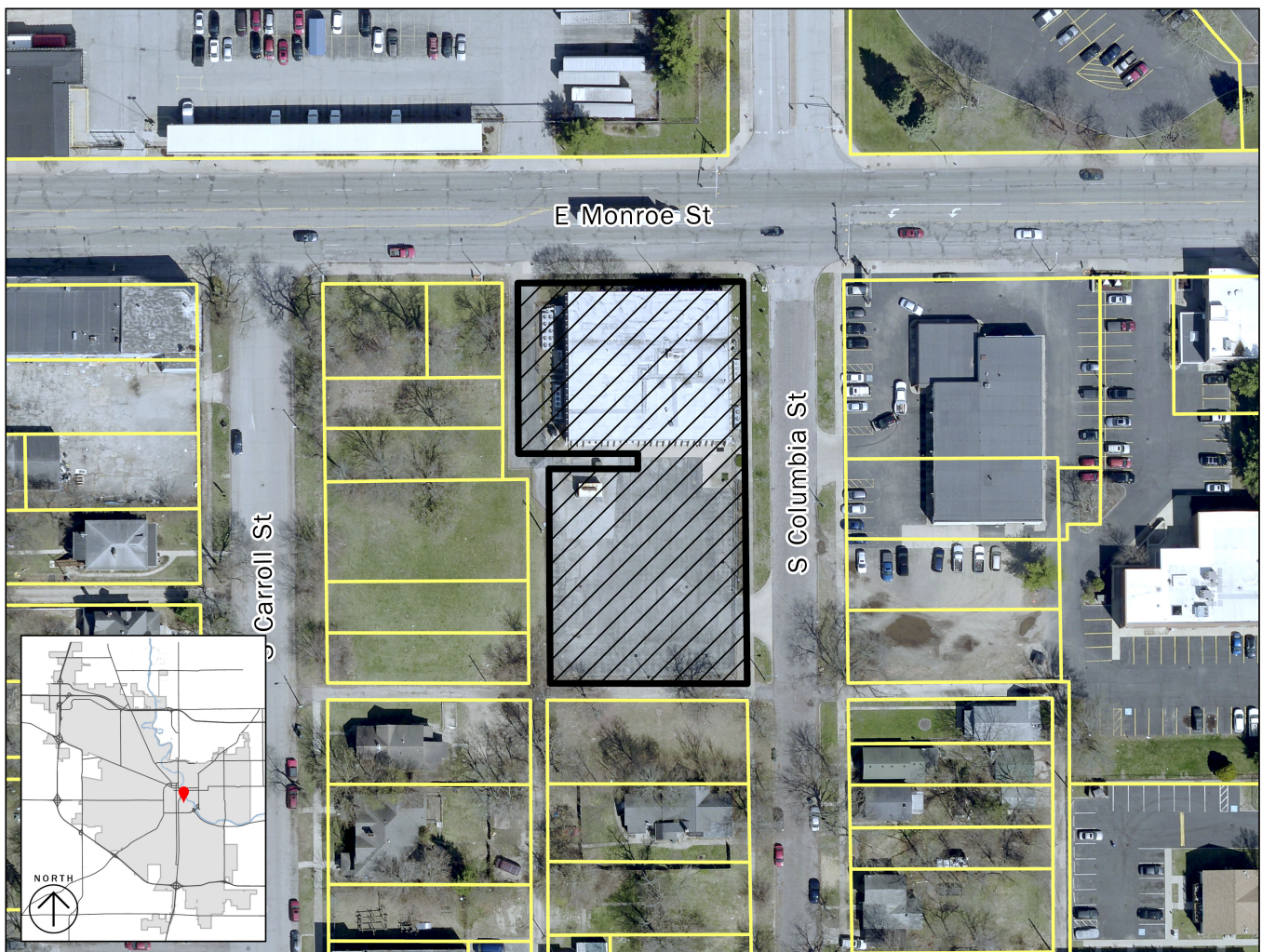
Location: 316 E MONROE
Owner: WSJM INC

Project Summary

Install a new 189' mono-pole adjacent to the west side of the existing building.

Requested Action

Special Exception: a wireless communication tower in the NC Neighborhood Center District

Site Location

Staff Recommendation

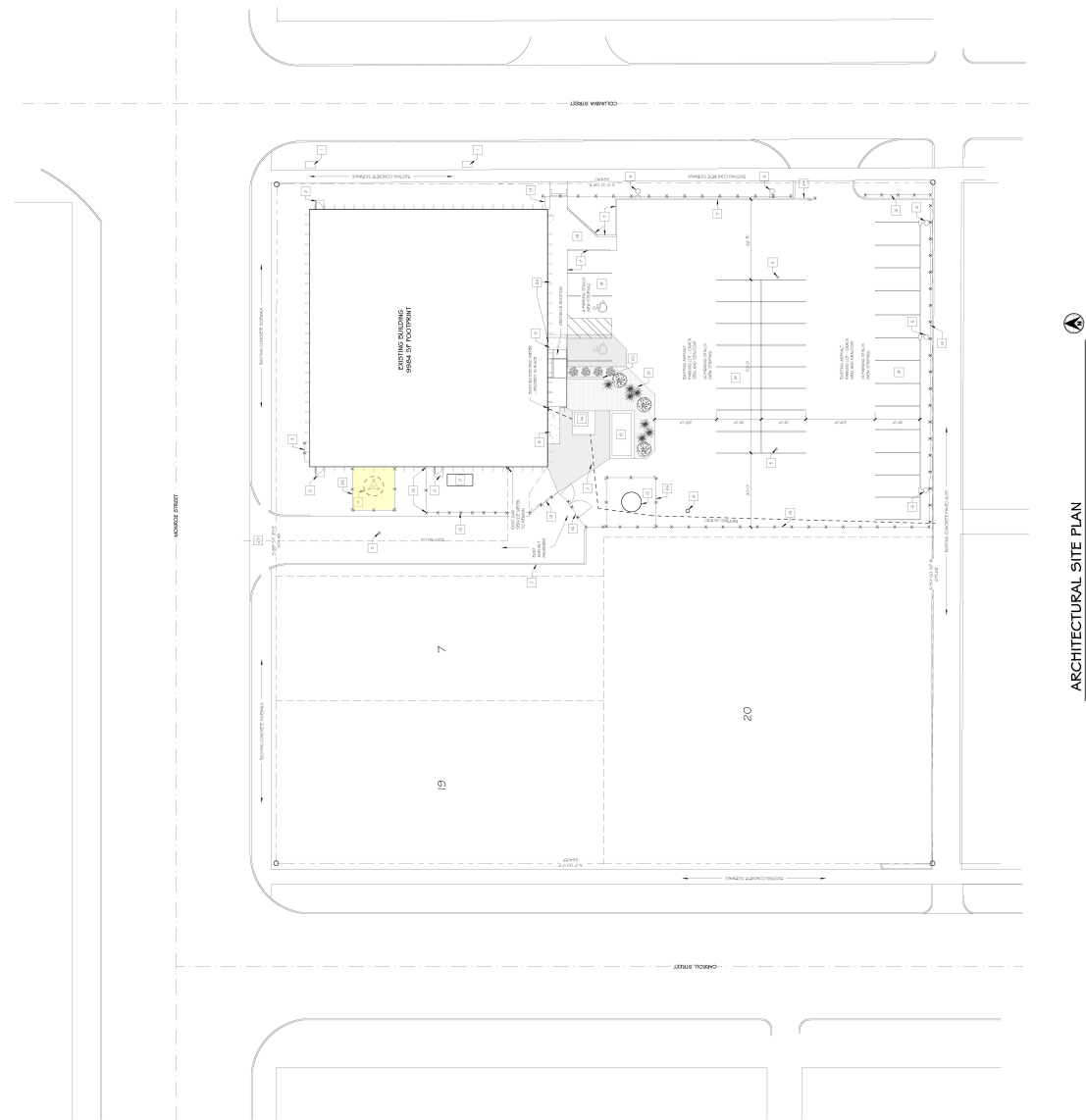
Based on the information provided prior to the public hearing, the staff recommends the Board send the petition to the Common Council with a favorable recommendation as presented.

Proposed Site Plan

 ADCI Architectural Design Consultants, Inc. 30 Wisconsin Dells Parkway - P.O. Box 580 Lake Delton, WI 53401 Phone: (608) 254-6191 Fax: (608) 254-2139 <small>ADCI is not responsible for the accuracy or completeness of the information provided in this drawing. The user of this drawing is responsible for obtaining all necessary permits and for verifying the accuracy of the information provided in this drawing.</small>	ARCHITECTURAL NEW WORK SITE PLAN	SOUTH BEND 100000	SHEET NO. 1 OF 2 PROJECT NO. 20-0001 DATE: 07-13-2020 DRAWN BY: A.S. 10/20 CHECKED BY: J.S. 10/20 SCALE: AS SHOWN	AS101 SHEET NUMBER
	MID-WEST FAMILY BROADCASTING OFFICE & BROADCAST FACILITY RENOVATION			

PRELIMINARY PLANS NOT FOR CONSTRUCTION

SITE PLAN NOTE LOG	
NO.	REVISION
1	ISSUED FOR PERMITTING
2	REVISIONS TO THE SITE PLAN
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ARCHITECTURAL SITE PLAN
DATE: 07-13-2020

Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Exception to allow:

a wireless communication tower in the NC Neighborhood Center District

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 will not be injurious to the public health, safety, morals and general welfare of the community. The construction of the proposed wireless communication tower will allow for the adaptive reuse of a currently vacant building which should be beneficial to the general welfare of the surrounding neighborhood.

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

With proper screening, the proposed wireless communication tower should not affect the use or value 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;

NC Neighborhood Center district permits a mixture of storefront retail, professional offices, and dwelling units. The proposed wireless communication tower will aid in the reuse of this site as a professional office for a local broadcasting company and is consistent with the mix of uses located along this corridor.

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

City Plan (2006) recommends the City "Stimulate the rehabilitation and adaptive reuse of property in the city." (Objective ED1). By approving the Special Exception, the possibility of rehabilitation and adaptive reuse of a vacant property in the city increases.

Analysis & Recommendation

Analysis: The proposed construction of a wireless communication tower will further allow the adaptive reuse of the existing building without posing a detriment to the surrounding neighborhood.

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

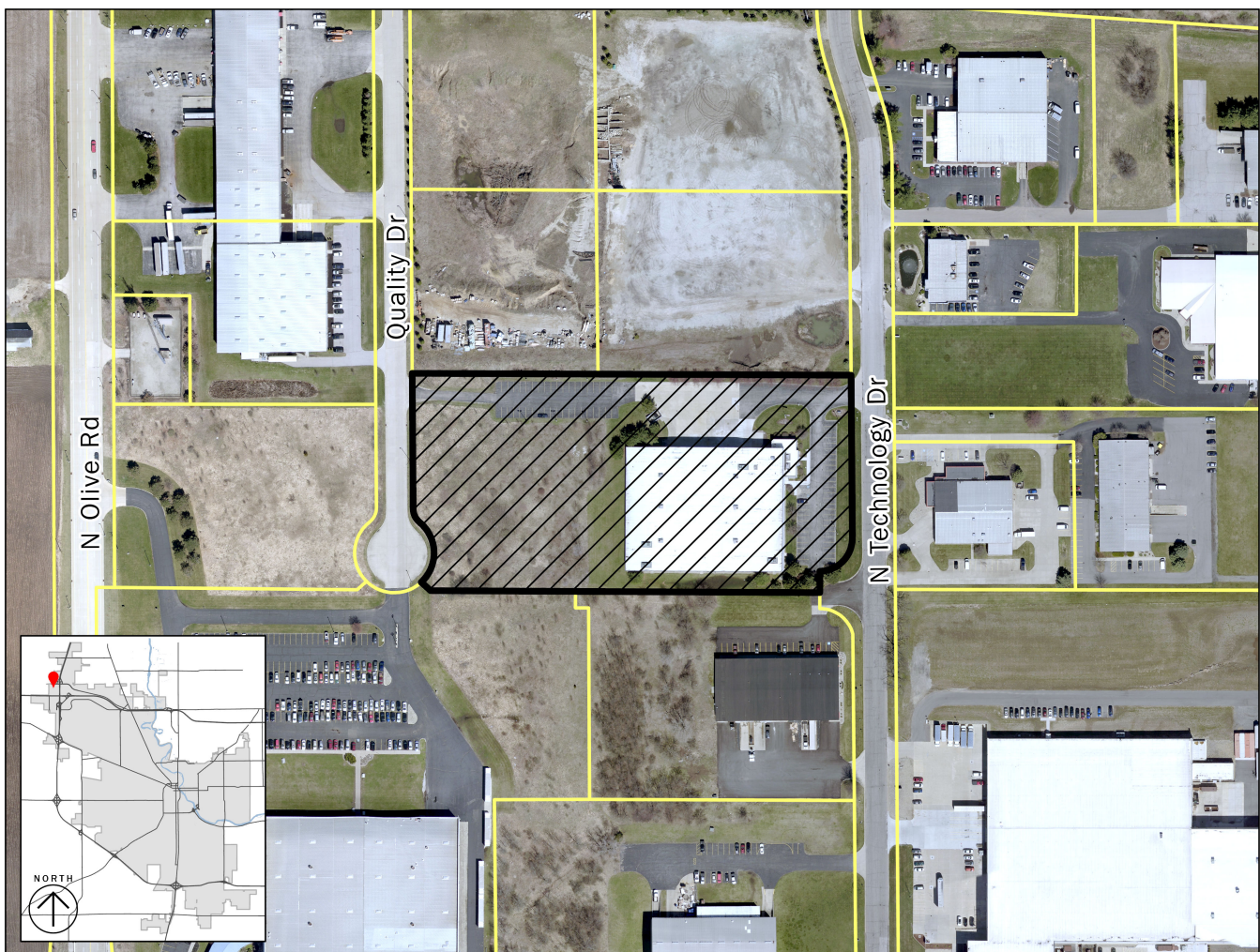
Location: 4303 TECHNOLOGY DR
Owner: PATTERSON LOGISTICS SERVICES INC

Project Summary

Install exterior storage tanks which hold chemicals/aerosols used in the manufacturing process.

Requested Action

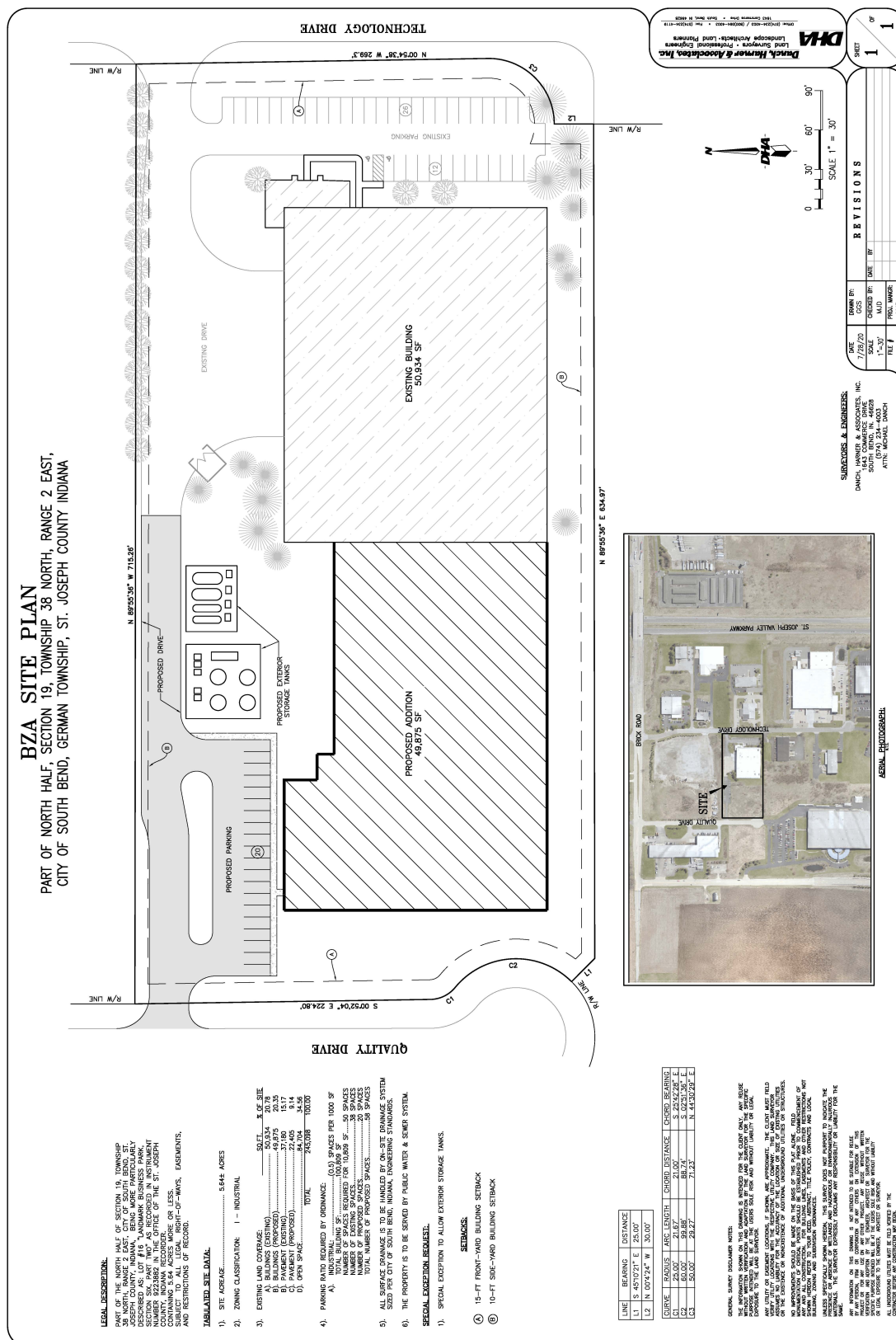
Special Exception: heavy industrial uses in the I Industrial District

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.

Proposed Site Plan



Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Exception to allow:

heavy industrial uses in the I Industrial District

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;

As the entire adjacent area is zoned as an I Industrial District with industrial land uses, a modest heavy industrial use should not adversely affect the surrounding area.

(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.

City Plan (2006) Objective ED2 recommends the city "Retain existing businesses and recruit new ones to the city". Allowing heavy industry use on this site will help recruit a new business to 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 recruit a new business to 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

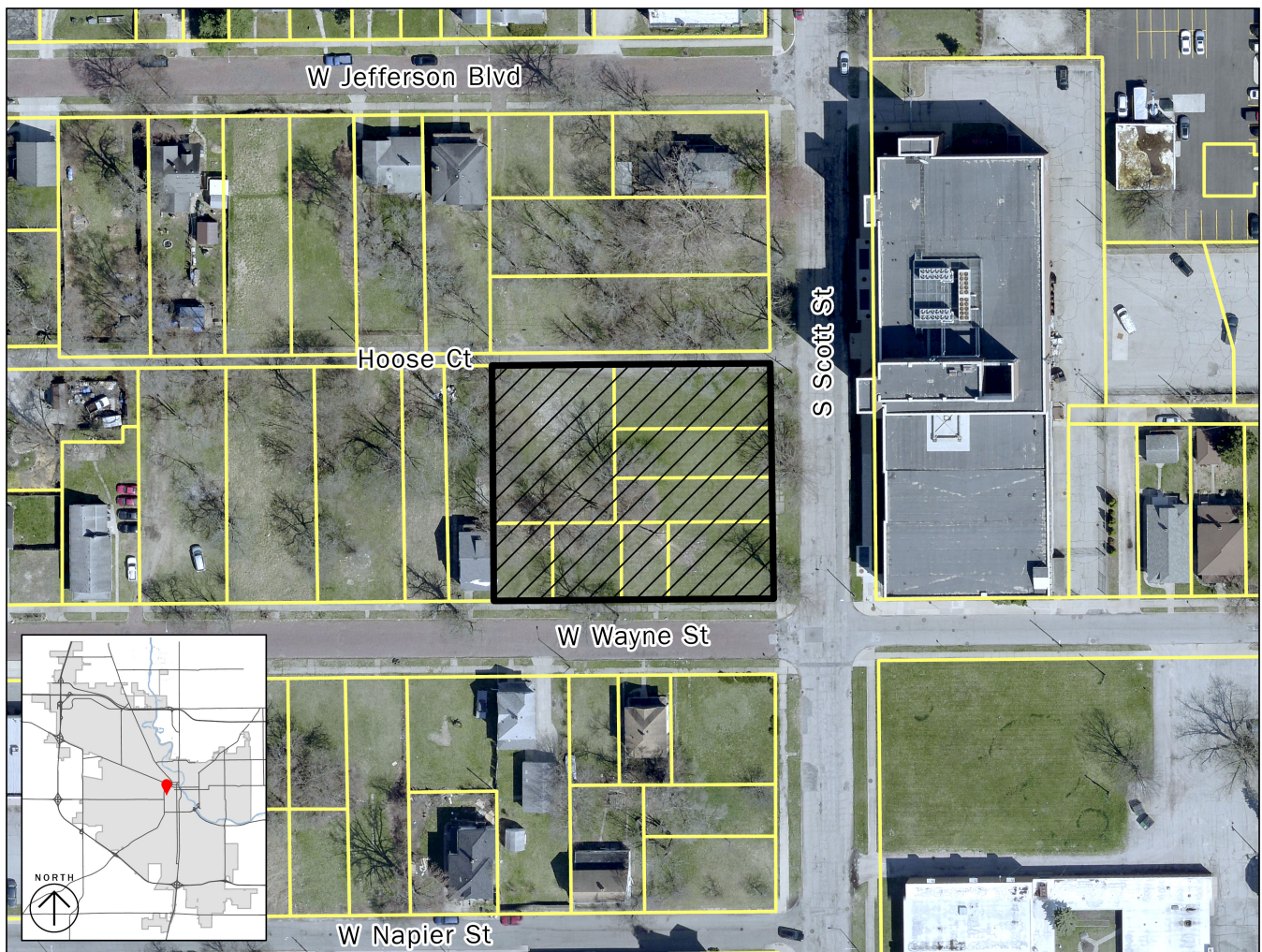
Location: the northwest corner of W Wayne Street and S Scott Street
Owner: SOUTH BEND HERITAGE FOUNDATION INC

Project Summary

To construct three duplex structures on vacant lots.

Requested Action

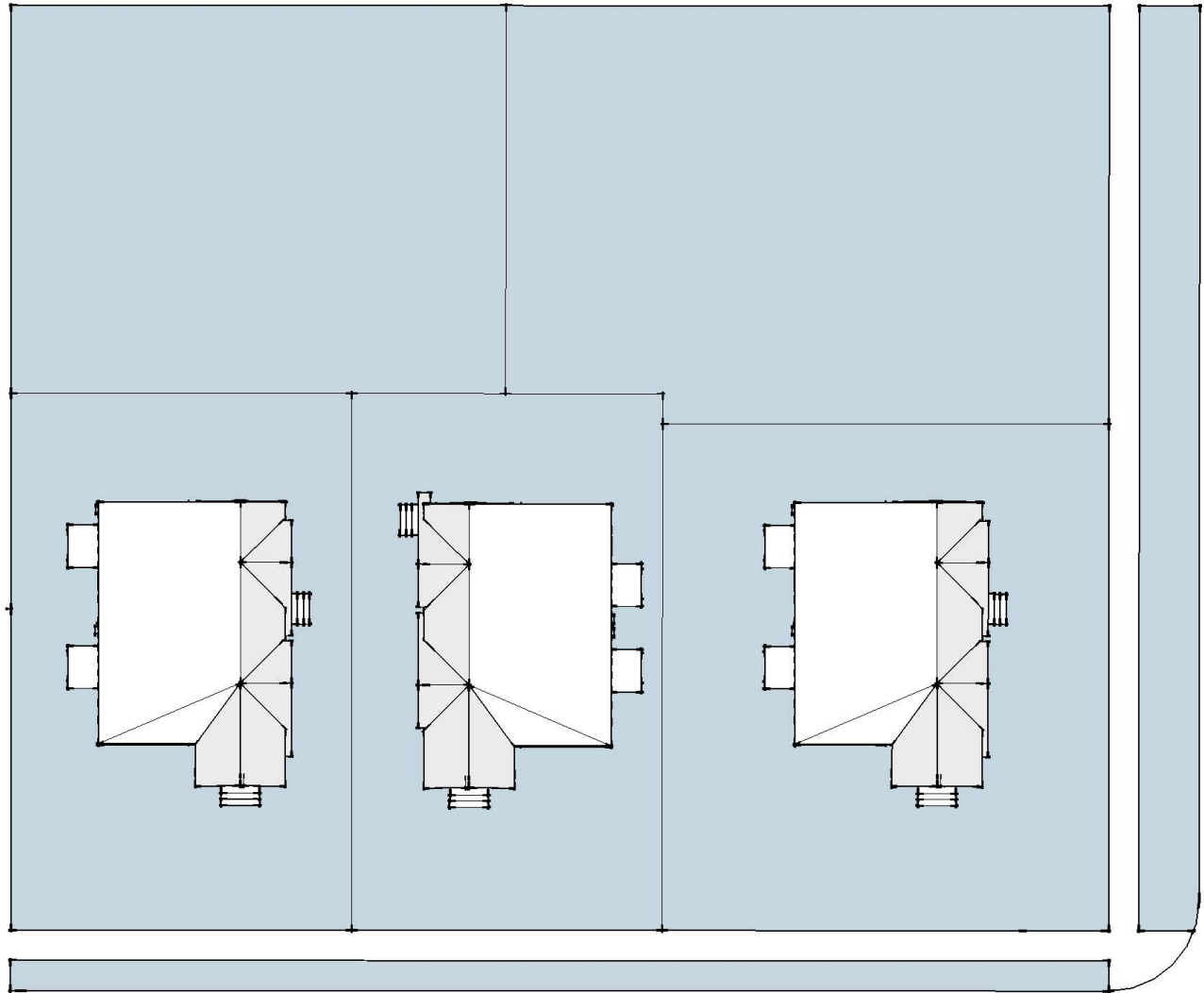
Special Exception: 2 unit dwellings in the U1 Urban Neighborhood District

Site Location

Staff Recommendation

Based on information available prior to the public hearing, the staff recommends the Board of Zoning Appeals send the Special Exception petition to the Common Council with a favorable recommendation.

Proposed Site Plan



Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Exception to allow:

2 unit dwellings in the U1 Urban Neighborhood District

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 will not be injurious to the public health, safety, morals and general welfare of the community. The scale of the proposed duplexes are comparable to a one-unit dwelling and will be used for residential use. Reactivating vacant lots will provide more residents to the neighborhood, thereby increasing 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;

Adding duplexes on currently vacant lots adjacent to parcels zoned NC Neighborhood Center should not injure or adversely affect the use of the adjacent area or property values. The addition of the duplexes will provide more residential opportunities for the neighborhood. New construction that fits the scale of the current residential properties should strengthen nearby property values.

(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 current context of the neighborhood provides a mix of one-unit dwellings, small-scale apartments and institutional uses. This duplex will be consistent with the character of the district and neighborhood in both uses and style of construction.

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

City Plan (2006) Policy H1.1 recommends the city "Encourage residential developments to contain a mix of housing types, densities, price ranges, and amenities." This proposed duplex is in line with the recommendation from the Comprehensive Plan by helping to establish a mix of housing types.

Analysis & Recommendation

Analysis: Allowing 2-unit dwellings will help with the creation of more diverse and affordable housing types. With proper design, these housing types blend well with the character and scale of existing urban neighborhoods. With its location in a fairly walkable urban neighborhood that is close to downtown and transit routes, this property is suited for 2-unit dwellings.

Staff Recommendation: Based on information available prior to the public hearing, the staff recommends the Board of Zoning Appeals send the Special Exception petition to the Common Council with a favorable recommendation.