

AGENDA
ELKHART CITY BOARD OF ZONING APPEALS
THURSDAY, MARCH 13, 2025 AT 6:00 P.M.
COUNCIL CHAMBERS – MUNICIPAL BUILDING

THIS MEETING WILL ALSO BE HELD ELECTRONICALLY VIA WEBEX.

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2318 781 8689** as the meeting number and “**BZA2025**” as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to hugo.roblesmadrigal@coei.org prior to the meeting.

1. **ROLL CALL**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES JANUARY 9, 2025**
4. **APPROVAL OF PROOFS OF PUBLICATION**

5. **OLD BUSINESS**

23-WT-01 PETITIONER IS HEIDI GASKILL TRUSTEE OF THE HEIDI GASKILL REVOCABLE TRUST
PROPERTY IS LOCATED AT 3424 EAST BRISTOL STREET - REHEARING

On February 7, 2025, the United States District Court, Northern District of Indiana, South Bend Division, has remanded the Wireless Tower request at 3424 E. Bristol Street, back to the Elkhart City Board of Zoning Appeals for reconsideration. The request is as follows: To vary from Section 4.2, Permitted Use in the R-1, One-Family Dwelling District to allow for the installation of a new wireless communication facility (cellular tower) that is one hundred thirty-five foot 135 feet in height.

25-BZA-03 PETITIONER IS JASON PATEL
PROPERTY IS LOCATED AT 1207 WEST LUSHER AVENUE

To vary from Section 26.10.D.1, General Location Standards, which states in part ‘All on premise signs shall be located no closer than five (5) feet from any right of way’ to allow for a free standing sign to be two (2) feet from the Lusher Avenue right of way, a variance of three (3) feet.

To vary from Section 26.10.D.4.d, General Location Standards, Free standing signs, which states ‘Free standing signs shall be centered on the property, or if not possible, at least twenty (20) feet from any adjacent property line’ to allow for a new sign to be located two (2) foot from the (corner) side property line, a variance of eighteen (18) feet.

6. **NEW BUSINESS**

25-X-02 PETITIONER IS JANELYA GATES
PROPERTY IS LOCATED AT 709 FIELDHOUSE AVENUE

Per Section 5.3, Special Exception Uses, (4.3 F) Day Care Home to allow for the establishment of a new day care home at 709 Fieldhouse Avenue.

25-BZA-01 PETITIONER IS ELKHART COUNTY YOUTH FOR CHRIST INC
PROPERTY IS LOCATED AT 2721 PRAIRIE STREET

To vary from the requirements found in Section 26.10, Sign Regulations, Table 1, to allow a new freestanding sign that is forty two square feet in area where the maximum area allowed (for Places of Worship and Educational Institutions) is thirty two square feet, a variance of ten (10) square feet.

25-UV-03 PETITIONER IS JEREMY STONE
PROPERTY IS LOCATED AT 640 EAST JACKSON BOULEVARD

To vary from Section 15.2 Permitted Uses in the CBD, Central Business District, to allow for auto sales at 640 E. Jackson Boulevard.

25-UV-04 PETITIONER IS WILLIAM W ZIMMERMAN
PROPERTY IS LOCATED AT 1129 PRAIRIE STREET

To vary from Section 4.2 Permitted Uses in the R-2, One Family Dwelling District, to allow for one (1) dwelling unit (apartment) above the funeral home at 1129 Prairie Street.

**25-BZA-05 PETITIONER IS TOLSON CENTER
PROPERTY IS LOCATED AT 1320 BENHAM AVENUE**

To vary from Section 26.7.C.7.k.v, Parking Lot Design Lighting, which states in part, 'all project light standards shall be of uniform height and except when lights abut or fall within seventy five (75) feet of a residential use property, where the maximum height shall not exceed twenty (20) feet,' to allow for the light poles for the new outdoor soccer fields to be sixty (60) feet in height, a variance of forty (40) feet.

7. ADJOURNMENT

**PLEASE REMEMBER TO USE THE MICROPHONE WHEN SPEAKING.
ERRORS IN THE MINUTES MAY RESULT FROM INAUDIBLE VOICES.**

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, January 9, 2025 - Commenced at 6:05 P.M. & adjourned at 7:09 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Ron Davis
Janet Evanega Rieckhoff

MEMBERS ABSENT

Phalene Leichtman

REPRESENTING THE PLANNING DEPARTMENT

Eric Trotter, Assistant Director for Planning
Jason Ughetti, Planner II

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Hugo Madrigal

APPROVAL OF AMENDED AGENDA

Mulvaney moves to approve an amended agenda and tabling 25-BZA-03.
Davis makes motion to approve; Second by Evanega Rieckhoff. Voice vote carries.

APPROVAL OF MINUTES FOR NOVEMBER 14, 2024

Evanega Rieckhoff makes motion to approve; Second by Davis. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION

Davis makes motion to approve; Second by Evanega Rieckhoff. Voice vote carries.

OPENING STATEMENT

Welcome to the January 9, 2025 meeting of the Elkhart City Board of Zoning Appeals. The purpose of this meeting is to review and consider all requests for relief from any standard in the Zoning Ordinance including variances, use variances, special exceptions, conditional use requests, and administrative appeals. All of the cases heard tonight will have a positive, negative, or no decision made by the Board. If no decision is made, the petition will be set for another hearing.

If a decision is made that you disagree with, either as the petitioner or an interested party, you must file for an appeal of the Board's decision in an appropriate court no later than 30 days after the decision is made. If you think you may potentially want to appeal a decision of this Board, you must give this Board a written appearance before the hearing. Alternatives: A sign-in sheet is provided which will act as an appearance. You should sign the sheet if you want to speak, but also if you do not wish to speak but might want to appeal our decision. Forms are provided for this purpose and are available tonight. A written petition that is set for hearing tonight satisfies that requirement for the petitioner. If you file your appeal later than 30 days after the decision of this Board or give no written appearance tonight you may not appeal the Board's decision. Because the rules on appeal are statutory and specific on what you can do, the Board highly suggests you seek legal advice. If you are the petitioner, in addition to filing an appeal, you may first file a motion for rehearing within 14 days of the Board's decision.

ELECTION OF OFFICERS

Trotter suggests that the Board only elects a slate of officers this evening, as required by statute. Trotter proposes that the election of officers would only be for the meeting in January, and the item would stay on the agenda for February when everyone is in attendance.

Mulvaney calls for a motion to nominate officers.

Evanega Rieckhoff makes a motion to nominate Doug Mulvaney as Board President; Second by Davis. Voice vote carries

Mulvaney calls for a motion to nominate Ron Davis as the Vice President for the meeting.

Evanega Rieckhoff makes a motion to approve; Second by Davis. Voice vote carries.

Mulvaney calls for a motion to nominate Evanega Rieckhoff as the Secretary for the meeting.

Evanega Rieckhoff makes a motion to approve; Second by Davis. Voice vote carries.

NEW BUSINESS

25-BZA-02 PETITIONER IS INDIANA MICHIGAN POWER COMPANY PROPERTY IS LOCATED AT 3340 TOLEDO ROAD

To vary from the requirements found in Section 18.2.II, which states, 'Outside storage of liquids or gases in one or more tanks, where the total volume of the tank(s) does not exceed 2000 gallons' to allow for an above ground 8,000 gallon fuel tank for diesel and gas storage, a variance of 6,000 gallons.

Mulvaney calls the petitioner forward.

Mona Livingston, located at 3340 Toledo Road, appears in person on behalf of the petitioner. Livingston says there are two underground tanks, 8000 gallons each, containing gas and diesel. She says they would like to replace them with above-ground tanks. The project would be more environmentally friendly and would not contaminate soil or groundwater due to undetectable leakages. Livingston says she brought pictures of other above-ground tanks installed at different locations so the Board may look at what is being proposed. She states that the above-ground tank is fire-resistant for up to three hours before imploding due to having an interior concrete barrier.

Evanega Rieckhoff asks Livingston if there would be remediation were a problem to happen.

Livingston says they would check the soil samples throughout the underground tank locations. If there is any contamination, they will take the necessary steps to remove and discard it in a contaminated area. She says she is unsure of the dumping site but says the soil would be discarded and replaced with fresh, clean soil. Once remediation is complete, they will test it again to ensure no contamination.

Mulvaney asks for questions from the Board.

Davis asks Livingston if any state permits are required to do the work and how the permits would be obtained.

Dana Booth, located at 3340 Toledo Road, appears via WebEx on behalf of the petitioner. Booth says they would follow state and EPA guidelines for removing the tanks before the above-ground storage tanks are installed.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls Staff forward.

STAFF ANALYSIS

Indiana and Michigan Power is requesting a developmental variance so they can replace two (2) 8,000 gallon underground fuel tanks with one (1) 8,000 gallon above ground tank. The ordinance standard limits the size of a storage tank to 2,000 gallons, therefore the need for the developmental variance.

The petitioner states in documents submitted for the variance, the new tank will incorporate an above ground UL 2085 fire shield tank with a concrete barrier. An example of a UL 2085 tank staff found online is shown below.

Staff has reviewed the findings submitted by the petitioner and support the request. The older underground tanks will be removed and replaced with a new more environmentally safe above ground tank. The location of the tank is west of the building centered on the site.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from in Section 18.2.II, which states, ‘Outside storage of liquids or gases in one or more tanks, where the total volume of the tank(s) does not exceed 2000 gallons’ to allow for an above ground 8,000 gallon fuel tank for diesel and gas storage, a variance of 6,000 gallons based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community because the new tank will meet all the necessary regulations for installation;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because tanks like this are not uncommon and are often found in association with industrial uses;
3. Granting the variance would be consistent with the intent and purpose of this ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because without board action the installation of the new above ground tank would not be permitted;
5. The strict application of the terms of this ordinance will result in practical difficulties in the use of the property because it without the variance the ability to fuel trucks on site could be compromised;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because currently there are two (2) non-conforming underground tanks. The request to replace them both with one (1) above ground tank, that is more environmentally friendly, will bring the site closer into compliance with current development standards;
7. This property does not lie within a designated flood area.

Trotter states that 25 letters were mailed, four of which were returned not in favor with four comments.

The not in favor comments reads as follows:

"I do not want an above-ground 8,000-gallon fuel tank for diesel and gas storage that close to my property!"

"My house is directly across from the property. It's an eyesore to look out my window at a bunch of fuel tanks. There are odors of fuels and the property already has two driveway entrances off old US 20 with another off C.R. 13. It does not need another."

"Oak Ridge Estates has 205 families that reside here."

"I am the immediate neighbor to the east of this location. I am not in favor of this request due to possible environmental issues. If the above-ground tank explodes or leaks and seeps into the groundwater system, it could ruin my groundwater. This would force me to hook up to the city water/sewer system and then be forced to be zoned as a city property not county property. I & M did not have the courtesy to write or send a rep to my office (23241 Old US 20 e, Elkhart IN 4651- direct neighbor to the east of the I & M location to explain what they were doing. It may not a be legal requirement but is would have been common courtesy. If the system is destroyed and I had to hook up to city water and sewer who would pay the charges. Prior estimates provided to my office exceed 25000.00 and that was 15 years ago. In my opinion, I & M represented the building as a customer service and service location. Very quickly the customer service was closed, leaving Elkhart with no local service. Will additional volatile materials be stored? Does I & M have sufficient security in place to protect these volatile materials against theft, weather, vandalism, or terrorism? In the last ten years, we had a situation where unknown parties drove over my backyard to enter from my n/w corner to the parking lot of the I & M location. They broke into I & M trucks. During this process, they drove over my septic system, causing damage. Will this tank just be another attractive nuisance that could cause me grief?"

Mulvaney asks if there are questions from the Board for Staff.

Evanega Rieckhoff asks Trotter if he or his Staff believes that above-ground tanks are safer and better for the environment.

Trotter says he is not an environmental scientist, but to him, having a tank above ground to allow for monitoring where one can see and monitor would be much safer. In contrast, a tank underground cannot be seen and monitored with the naked eye. Trotter adds that he believes IDEM permits are required for the removal of the old tanks, which would necessitate another level of inspection and supervision on the Board and the City.

Evanega Rieckhoff asks Trotter...(unintelligible, off mic).

Trotter says he believes it's understood.

Mulvaney calls for a motion.

Evanega Rieckhoff makes motion to approve 25-BZA-02 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Mulvaney – Yes

Motion carries.

**25-BZA-04 PETITIONER IS PURA VIDA CHICAS HOLDINGS LLC
PROPERTY IS LOCATED AT 2831 JAMI STREET**

To vary from Section 26.4.A.6, Fence Requirements, that states, No fences, other than split rail, wrought iron or open picket not to exceed four (4) feet in height, shall be permitted in any front yard or corner side yard, to allow for a chain link fence that is six (6) feet in height, a variance of two (2) feet. And;

To also vary from Section 26.4.A.1, Fence Requirements, which states No fence or wall shall be constructed of or contain barbed wire, broken glass, spikes, or sharp and dangerous objects nor be electrically charged, except in manufacturing districts where barbed wire may be used at the top portion of a permitted fence or wall if located more than seven (7) feet above the adjacent ground level. Such permitted barbed wire shall be considered part of a fence and subject to the fence height restrictions, to allow for barbed wire to be incorporated within the six (6) foot chain link fence.

Mulvaney calls the petitioner forward.

Jill James-Laudeman, located at 29155 County Road 2, appears in person on behalf of the petitioner. She says they are a fast-growing, expanding company. She says they noticed they were the only building in the industrial park that did not have a six-foot fence with barbed wire around it. The request is due to safety concerns and aesthetics, so they don't want to take away from the money they are putting into the building with the addition. She states they have a letter from Councilman Crabtree with his support after inviting him to visit their facility. She says one of the other things with them is that they are adding landscape to the front, which other facilities do not have. The different landscapes would cover a lot of that fencing. It would be sandwiched between the fencing and the street, and about 20-25 feet of landscape would extend out. This will all be done in the spring.

Mulvaney asks James-Laudeman what is the primary purpose of the fence.

James-Lademan says they have a dock in the back and many windows up front for safety reasons, especially at night. The industrial park is a dead end and does not have a lot of traffic after hours. She says they have noticed that when they bought the facility, there was a lot of traffic due to the property being an open 2 ½ acres. There were holes left on the property from semis trying to find a place to park on their property.

Evanega Rieckhoff asks James-Lademan if they have had any break-ins or attempted break-ins.

James-Lademan says no, not since purchasing the property in January.

Evanega Rieckhoff asks James-Lademan if she means this January or the previous one.

James-Lademan says they purchased it a year ago. It was a rough-looking 6,000-square-foot building.

Evanega Rieckhoff tells James-Lademan good for you.

James-Lademan states that she wants to keep the place looking nice, and it would only take a moment to inflict damage. She says she only lives three miles away to respond to any alarm going off, but she would not be able to do much.

Davis asks James-Lademan what is the purpose of the barbed wire.

James-Lademan says that it keeps people from crawling over the top of it.

Mulvaney states that Staff recommends approving the six-foot fence, not the barbed wire.

Mulvaney asks James-Lademan if she could live without the barbed wire. If there are issues, they could come back for additional requests.

James-Lademan states that issues are expenses. She then says that she could, but she does not want to. She says she would rather have it done, be done with it, and not worry about it.

Mulvaney states that adding the barbed wire is expensive after the fact.

James-Lademan states that the installation of the barbed wire would be after the fact.

James-Lademan states that she does not want to take a \$10,000 or \$20,000 claim, turn it into insurance, and pay more because everything is so expensive. She says she wants to feel safe and comfortable but does not know if she feels that way right now.

Evanega Rieckhoff asks James-Lademan if several close businesses have barbed wire.

James-Lademan says that every business in the area has barbed wire, and she says that Chad Crabtree noticed that and told her that she would be one of the only ones without one. Across the street, Thor Industries has a seven-foot-tall fence with barbed wire on top. Around the corner, she says Thor has an even taller fence. She says she is trying to make it look nicer for aesthetics and believes they are accomplishing that.

Mulvaney asks for questions from the Board.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls Staff forward.

STAFF ANALYSIS

The petitioners are requesting to vary from the requirements for fences located in the front yard. They desire to place a new six (6) foot fence with a barbed wire top across the front of the 2.5 acre lot on Jami and south approximately sixty (60) feet connecting to an existing six (6) foot barbed wire fence.

The area where the subject site is located is a low traffic volume, older industrial park. The industrial park was developed in Elkhart County and subsequently annexed in the City in 1997. Most of the improvements, including the non-conforming fences, were approved when the area was under the county's jurisdiction. Most all of the adjacent lots have similar fences as the one requested in this petition. The fence requested tonight would not be out of character for this specific industrial park.

The subject property at 2831 Jami Street was purchased within the last year and is finalizing a major addition and a series of upgrades for the property. At the time of purchase, there were two (2) buildings onsite. The larger of the two, an existing 6,000 square foot building on the east side of the lot, is having a nearly 12,000 square foot addition added to the north toward Jami. The company located at the property is a small start up company that has experienced tremendous growth and looks at this property to accommodate their future needs.

Another part of the improvements is the new parking lot. The non-conforming parking lot was brought into conformance with new asphalt paving and upgraded storm water retention. As this property had been vacant for a number of years, trucks had become accustomed to using the property as a turn around. The new owners are concerned that with their substantial monetary investment into site improvements, having trucks use the now improved parking lot as a turn around will cause them harm and inconvenience in unplanned repairs by trucks using the area that are not delivering to their company.

Several significant design constraints do also exist for the site. First, there is a thirty (30) foot platted easement for drainage and utilities that runs most of the length of the west property line. That easement prohibits any paving or building with in that easement

area. That easement also limits the orientation of the new parking area, pushing it farther north so as to accommodate the functionality of the parking and necessary onsite truck movements for their deliveries.

Another major constraint is the area reserved for the onsite retention pond located along the southern part of the property. With the major building addition and area for the parking lot paving, the stormwater retention area is sized accordingly and no paving or building is permitted in that area either. Therefore limiting the use and prohibiting paving.

These developmental limitations are the hardship of the site; limiting the area remaining for a conforming fence placement that is greatly diminished. There is currently a chain link fence running the length of the west property line and a fence along the east property line. The desire of the petitioner is to connect the side fences across the front of the property with a six (6) foot chain link fence with barbed wire.

Because of the limitations with utility easements and retention areas, along with the configuration of the new parking, the area to locate the proposed fence in a conforming location is not possible without significantly altering the redevelopment plans for the site.

Staff understands the limitations of the site with the existing easements and retention however the security and safety needs can be accomplished without barbed wire topping the fence. Staff recommends approval of the requested variance for the six (6) foot chain link fence without the barbed wire.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from Section 26, Fence Requirements to allow a six foot chain link fence without chain link, based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, or general welfare of the community;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the industrial park was established in the county with different fence standards and a number of adjoining properties have fences similar to the one being requested with this submittal;
3. Granting the variance would be consistent with the intent and purpose of this ordinance because its allows a measure of relief when uniquely warranted;
4. Special conditions and circumstances do exist that are peculiar to the land involved and which are not applicable to other lands or structures in the district because of the existing utility easements, stormwater retention area and proposed building addition, locating the fence in a conforming location would compromise the functional area of the property, specifically the parking lot;
5. The strict application of the terms of this ordinance will result in practical difficulties in the use of the property because the utility easement and retention pond make the parking lot configuration challenging to locate the fence in a permitted location.
6. The special conditions and circumstances do not result from action or inaction by the applicant because the utility easement was platted as a part of the development and the storm water computation requirements are regulated by another body;
7. This property does not lie within a designated flood area.

Ughetti states there were 25 letters mailed, with two returned in favor with one comment.

The in favor comment reads as follows:

"Dear Members of the Board of Zoning Appeals, I am writing in support of the variance request submitted by VIDA CHICAS HOLDINGS LLC for the property located at 2831 Jami Street (25-BZA-04). The petitioner seeks a variance from Section 26.4.A.6, which limits fences in front and corner side yards to a height of four feet, to allow for a six-foot chain link fence. Additionally, the petitioner requests a variance from Section 26.4.A.1 to allow barbed wire to be incorporated at the top of the six-foot fence for security purposes. I believe this variance is warranted for several reasons. The property at 2831 Jami Street has specific security needs that would be effectively addressed by the installation of a six-foot chain link fence with barbed wire. These

measures are crucial for ensuring the safety and protection of the property, and the addition of barbed wire will enhance security without compromising the safety of the surrounding area. While I recognize that the zoning ordinance is designed to maintain aesthetic and safety standards, I also acknowledge that some properties, especially those used for business purposes, may require more robust security measures. The requested variance will not have a negative impact on the surrounding neighborhood, and the proposed fence will blend into the environment while providing essential security for the property owner. I urge the Board to approve this request for a variance, as it will help meet the security needs of VIDA CHICAS HOLDINGS LLC while maintaining the integrity of the community. Thank you for your time and consideration. Please do not hesitate to contact me should you require any further information or assistance regarding this request. Yours in Chad Crabtree."

Mulvaney asks if there are questions from the Board for Staff.

Evanega Rieckhoff asks Ughetti...(unintelligible, off mic).

Evanega Rieckhoff asks Trotter why Staff is not letting the petitioner have barbed wire. It's not like the petitioner is building a gorgeous fence and topping it off with barbed wire.

Trotter answers that he understands the concern, but they require rear yard storage and side yards. He says they have had those requests and consistently looked for an alternative to the barbed wire is not across the front. He says he understands the industrial park's needs. As Staff in the City, it tends to take on a more correctional look, and they want to have more aesthetic footage for the public.

Evanega Rieckhoff states that if she were a bad guy coming in, she would look around for property without barbed wire.

Trotter states that he understands the thought process, but as outlined in the staff report, the industrial park was established in the county, and Elkhart County's developmental requirements significantly differ from those of the City. Trotter says that the ordinance is geared to consider their agricultural activities, which the City of Elkhart does not have.

Davis asks Trotter if he checked to see if the petitioner can live without the barbed wire.

Trotter states he had proposed that before the meeting, but the petitioner still wanted to take the opportunity with the Board, to which they are fully entitled.

Mulvaney calls for a motion.

Evanega Rieckhoff makes motion to approve 25-BZA-04 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt the following conditions: Adding both the fence and the barbed wire; Second by Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Mulvaney – Yes

Motion carries.

25-UV-01 PETITIONER IS ALONDRA SALAZAR
PROPERTY IS LOCATED AT 1320 HARRISON STREET

To vary from Section 11.2, Permitted Uses in the B-1, Neighborhood Business District to allow for an automotive detailing business.

Mulvaney calls the petitioner forward.

Herlinda Salazar, located at 1320 Harrison Street, appears in person on behalf of the petitioner. Herlinda says that Alondra Salazar is the owner of 1320 Harrison Street. She says that part of the property is vacant, and they would like to establish a small family auto-detailing business. Herlinda says the property will be appropriately managed so that it does not cause disruptions to the neighboring properties. She says they plan on using biodegradable products and sustainable water saving methods. They would like the business established because they considered it a minimum disruptor to the neighbors and could cause further investment in the community later. She says it's good for the local economy, and with the property being correctly managed, there would be little to no disruption to the adjacent properties.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff states that section three of the petitioner's letter says the property is unoccupied.

Herlinda says correct.

Evanega Rieckhoff states that she drove by the property today, which is very much occupied. She then asked Herlinda if a misstep had been made when the petitioner answered that question.

Alondra Salazar, located at 1320 Harrison Street, appears in person as the petitioner. Alondra says she is the owner.

Evanega Rieckhoff asks Alondra if she is the owner of the property or the owner of the business.

Alondra says she owns both. She says there is no business going on right now but that she does have a lot of cars there. She then says she has a side business and takes her vehicles there. She says she did not see a problem with it because she owns the property. Nonetheless, there is no business going on; it's just her and her cars that she takes.

Evanega Rieckhoff says that Alondra owns a lot of cars.

Alondra acknowledges that she does. She says she tries to flip cars with her brothers, but now she wants to turn it into a detailing business. Alondra states she would move whatever vehicles.

Mulvaney says that based on the picture provided by the Board, he can see at least one car without a license plate. He counts at least five vehicles outside.

Mulvaney asks Alondra who owns the cars that are not correctly plated.

Alondra says she owns the cars but has been unable to properly plate them since she bought them via auction, and it takes a couple of months. She says she must fix them and return the paperwork to the BMV.

Mulvaney asks Alondra what she does with the cars after she buys them at the auction.

Alondra says she fixes some of the cars to resell them, and she sells other cars to her family.

Mulvaney states that the petition calls for an auto detailing business, and fixing and repairing cars for reselling is not auto detailing.

Alondra says she is not going to do that there. She wants to start an auto detailing business there. She then asked if the Board wanted to know about the cars.

Mulvaney asks Alondra what is she going to do with the cars that are out there right now.

Alondra answers that they will be moved.

Evanega Rieckhoff asks Alondra... (unintelligible, off mic).

Alondra says the cars will be moved. She wants the detailing shop there. Those are her cars. She would usually park them at home but has had an issue. She did not think moving her cars to the property would be an issue.

Mulvaney states that if the Board approved the request as an auto detailing shop, all work would have to be done inside, not outside.

Alondra says they have never done anything outside.

Evanega Rieckhoff says today they were. They were working on two trucks with the hoods up on both.

Alondra says she did not think there would be a problem with working on cars on her property. She claims no business or money is coming in and that she and her brother are working on her cars. She says she owns her properties, and it's like going outside working on her cars. She states that it will become an auto detailing business, where it will all be cleaned up.

Evanega Rieckhoff asks Alondra if she has seen the conditions the City wants her to comply with before it is approved.

Alondra says she would comply with the conditions.

Evanega Rieckhoff asks Alondra...(unintelligible, off mic).

Alondra says it would be in the back area of the building. The garage is a decent size, so it is the area being used for that.

Davis asks Alondra if there will not be any auto repair, just strictly detailing.

Alondra answers that there should not be, and if they would like, they can go and check it out or do whatever the Board needs to do.

Herlinda states that as of right now, all that is planned is washing, waxing, interior cleaning, and detailing of vehicles, nothing else besides that.

Mulvaney asks Herlinda...(unintelligible, off mic), all the outside vehicles.

Herlinda says correct.

Alondra states that if...(unintelligible, off mic).

Mulvaney says parking is not allowed but that there is no working on vehicles.

Alondra asks if she was not allowed to park there.

Mulvaney states that one condition would be to establish off-street parking and a paved drive to the overhead door. Parked vehicles... (unintelligible, off mic).

Alondra asks if working on the vehicles is a problem, even if she owns them and her brothers work on them.

Mulvaney says that it would be a problem...(unintelligible, off mic).

Davis states that...(unintelligible, off mic).

Evanega Rieckhoff says that right now, Alondra should probably pull the vehicles her brother is working on and put them inside the garage.

Alondra says okay, that is fine.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition.

Craig and Cheryl Bartley, located at 1321 Harrison St, appear in person opposing the petition. Cheryl says they live across the street from the business. The building was fixed up around September last year, including painting and re-roofing. Cheryl says the guys are working on cars, and they have pictures of them working. She then says about a month ago, there was a party in the building, and cars were parked all down the street, including the grass in the front. She says they are working on vehicles near the garage doors and having parties on the other side of the building. Cheryl states that she does not know if it's an event center or car detailing business because vehicles have been pushed in there and worked on. She says they are continuing to work where they pull the vehicles out, and the guys working there pull up a car carrier and unload cars there. She says the guys working there pushed the vehicle into the garage. Cheryl says it's not a detailing business and sees no detailing whatsoever.

Evanega Rieckhoff says the petitioner is not asking for a business to work on cars, but they want to open a detail shop. She says the petitioner thinks they can work on vehicles as if it's their home, which the Board told her they cannot. All the cars would have to be pulled in.

Cheryl says the petitioner has been working on cars on the property since October. She says she has documented it all. Even tonight, she says her husband Craig took pictures of them pushing a vehicle into the garage. It's ongoing, and she's unsure what type of business is being run. There's lots of banging, and car parts are outside the door.

Craig says a radiator and fan are outside the garage door.

Cheryl wonders where all the fluid, like antifreeze and drain oil, is going because it must be disposed of appropriately. She says her brother is a customer service representative for Heart City Toyota, and he has been in that business for almost 30 years. Cheryl says her brother asked her where the oil was being discarded.

Evanega Rieckhoff states that one of the conditions for the petitioner to open the detailing business is to find out if there is a drain in the building.

Cherly states she does not know where the fluids are going right now. She says it's a neighborhood with many apartments. She and another couple have been there for over 30 years, and it seems no one can decide what they want to do at the property. She says she disapproves of the request.

Seeing none, he closes the public portion of the meeting and calls Staff forward.

STAFF ANALYSIS

The petitioner is requesting a use variance to allow the property to be used as an automotive detailing business. The request comes to us based on a complaint and an investigation by zoning Staff that observed a new use at the location after seeing activity and cars parked around the building. There was also some new signage displayed that also led Staff to believe there was a new use of the property. It is the understanding of Staff, the petitioner has leased the building to a tenant for the auto detail business.

The property is located in the B-1 District. This district's purpose is designed to accommodate service and business establishments with less than 7,500 square feet of floor area and is intended to serve the daily convenience needs of surrounding residential neighborhoods. Some examples of B-1 uses are bakery shops, barber shops, dry cleaner, florist, medical office, professional office, restaurant or café and funeral homes. The Development Conditions for the district restrict business activity wholly to the inside of the building, shall not offer good or services to customers directly in motor vehicles, businesses shall be of retail or service character, selling to or performing services directly for the ultimate customer and no business shall create nuisance from noise, smoke or odor. The requested auto detail use is a B-2 use, therefore the need for the use variance.

Based on assessor records, the building was built around 1920 and is approximately 3,500 square feet over two floors with about 2,300 square feet on the first floor (a small basement is also shown on the record card). There are two overhead doors on the east side of the building that would allow cars to be parked inside while being detailed.

Staff struggles with this request. We don't want to presuppose a violation but we have already observed work being performed on cars outside the building – which is a violation of the district development standards. The statement the petitioner makes that this request will further diversify the mix of businesses in the area and attract other investment is a valid point if and when the business meets the development requirements for the area. The standards require all work to be wholly inside the building and performed in compliance with the other development standards for the district.

The other main concern staff has with the request is the noise and impact to the residential uses that surround this property. The noise from the act of washing and detailing a car by itself is minimal, especially when performed inside a building. The problem comes from other tools for more intense automotive uses – impact wrenches, hammers, etcetera when working on cars. Up to this point staff hasn't been able to substantiate the actual level of work being performed on cars as Staff has observed on several occasions cars parked outside without plates with the hood up seemingly being worked on by employees. Which is a violation of the development standards for the district.

Additionally, Staff has spoken with the Public Works and Utilities Pretreatment Division about concerns surrounding the automotive use and the chemicals associated with and related to that use. The primary concern from PW is that there not be any floor drains that would allow the chemicals to be introduced into the sanitary sewer system. They are requesting an inspection to confirm there is no floor drain in the building.

STAFF RECOMMENDATION

The Staff recommends denial of the use variance based on the following findings of fact:

1. The approval will be injurious to the public health, safety, morals or general welfare of the community because the proposed use is inconsistent with the purpose of the district and is more intense than the permitted B-1 uses;
2. The use and value of the area adjacent to the property will be affected in a substantially adverse manner because the proposed use is not in keeping with the purpose of the B-1 district intended to serve the daily convenience needs of the surrounding residential neighborhood;
3. The need for the variance arises from some condition peculiar to the property involved because the petitioner has already leased the property to a tenant for the use requested;
4. The strict application of the terms of this ordinance will not constitute an unnecessary hardship if applied to the property for which the variance is sought because any of the permitted uses could be established on this site;
5. The request does not comply with the Comprehensive Plan which calls for the area to be developed with medium density residential uses.

CONDITIONS

If the Board chooses to approve the requested use variance, Staff recommends that the following conditions be placed upon the approval:

1. Petitioners allow Public Works pretreatment staff and Building inspectors to inspect the building to confirm as to whether or not floor drains exist within the building. Inspection shall also determine if the structure is compliant with current building codes.
2. A plan shall be submitted to Technical Review to establish off street parking and a paved drive to the overhead door.
3. Any signage proposed for the business shall be submitted to zoning staff for review. Petitioner shall be required to obtain proper permits prior to installation.

Trotter says that if the Board upholds the Staff's recommendation for denial, it will impose a deadline for compliance with the actual use of the property because, right now, the uses going on there are not permitted to occur.

Trotter states that 53 letters were mailed, three of which were returned in favor, one returned not in favor, and no comment. One telephone call comment claimed the petitioner is not running a detailing business but a car repair shop pouring onto the street.

Mulvaney asks if there are questions from the Board for Staff.

Mulvaney calls for a motion.

Davis makes motion to approve 25-UV-01 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt all conditions listed in the staff report; Second by Evanega Rieckhoff .

Davis – Yes

Evanega Rieckhoff – Yes

Mulvaney – Yes

Motion carries.

Mulvaney states that the petitioner can operate their detail shop but nothing else. They will have to comply with all regulations. The cars will have to be removed, and everything must be inside. No repairs, detail only. If the City finds out the petitioner is doing other work on the property, such as mechanical repairs, the petitioner will be found in a code violation. Mulvaney also says no events, parties, or gatherings. It is only a commercial business retail shop. The neighbors will be watching, ensuring that the City will act if regulations are not followed.

ADJOURNMENT

Davis makes motion to adjourn; Second by Evanega Rieckhoff. All are in favor and meeting is adjourned.

Janet Evanega Rieckhoff , President

Phalene Leichtman, Vice-President

DRAFT

0900 LEGALS

Notice is hereby given that Petitioners, Trevor Bottom and Alaina Anthony, filed a Verified Petition for Change of Name of Minor Child on February 4, 2025, to change the name of Kane Hudson Anthony to Kane Hudson Bottom.

The Petition is scheduled for hearing in the Elkhart Superior Court 6 in front of Referee Cintron located at 315 S. Second Street, Elkhart, Indiana 46516 on **April 15, 2025, at 11:00 AM** which is more than thirty (30) days after the third notice of publication. Any person has the right to appear at the hearing and to file written objections on, or before, the hearing.

/s/ Christopher Anderson, Clerk hspaxlp

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LEGAL NOTICE #25-BZA-05

Hearing on proposed Developmental Variance #25-BZA-05

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, MARCH 13, 2025 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #25-BZA-05.

Petitioner: Tolson Center

Request: To vary from Section 26.7.C.7.k.v, Parking Lot Design Lighting, which states in part, 'all project light standards shall be of uniform height and except when lights abut or fall within seventy five (75) feet of a residential use property, where the maximum height shall not exceed twenty (20) feet,' to allow for the light poles for the new outdoor soccer fields to be sixty (60) feet in height, a variance of forty (40) feet.

Location: 1320 Benham Avenue

Zoning: R-2, One Family Dwelling District and B-1, Neighborhood Dwelling District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2318 781 8689** as the meeting number and "BZA2025" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

Lots Numbered 298 and 299 as the said Lots are known and designated on the recorded Plat of Benham Avenue Replat in Chapman's Rosedale Addition to the City of Elkhart, Indiana, said Plat being recorded in Plat Book 1, page 101 in the Office of the Recorder of Elkhart County, Indiana.

Lots 302, 303, 304 and the West 22 feet of Lot 305 as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Lots Number Three Hundred Twenty-nine (329), Three Hundred Thirty (330), Three Hundred Thirty-one (331), Three Hundred Eighty-two (382), Three Hundred Eighty-three (383) and Three Hundred Eighty-four (384) as the said Lots are known and designated on the recorded Plat of BENHAM A VENUE REPLAT of Chapman's Rosedale Addition to the City of Elkhart; said Plat being recorded in Plat Book 1, page 101; and Lots Number Three Hundred Twenty-three (323) Three Hundred Twenty-four (324), Three Hundred Twenty-five (325), Three Hundred Twenty-six (326), Three Hundred Twenty-seven (327), Three Hundred Twenty-eight (328), Three Hundred Eighty-five (385), Three Hundred Eighty-six (386), Three Hundred Eighty-seven (387), Three Hundred Eighty-eight (388), Three Hundred Eighty-nine (389), and Three Hundred Ninety (390) as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Said property has additional lots listed as follows:

ALSO, the vacated alley lying between Lots Number 323,324,325, 326, 327 and 328 and Lots Number 385, 386, 387, 388, 389 and 390 in Chapman's Rosedale Addition and between Lots Number 329 and Lot Number 384 in Benham Avenue Replat of Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the vacated alley lying between Lots Number 329, 330, 331, 382, 383 and 384 in Benham A venue Replat of Chapman's Rosedale Addition and Lots Number 328 and 385 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the West One-half (W 1/2) of the vacated alley tying east of and adjacent to said Lot Number 390 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

EXCEPTING all that part used for highway purposes.

ALSO: Lot Number Three Hundred Fifteen (315) and part of Lot Number Three Hundred Sixteen (316) as the said lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana, more particularly described as follows:

Beginning at a point on the North line of Lot Number Three Hundred Sixteen (316), as the said Lot is known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart, which said point is three (3) feet west from the northeast corner of said lot; thence southwardly, parallel with the East line of said lot, to a point which is midway between the north and south lines of said lot; thence eastwardly parallel with the north line of said lot, three (3) feet to the east line thereof; thence northwardly along the east line of said lot to the northeast corner thereof; thence westwardly along the north line of said lot, three (3) feet to the place of beginning.

ALSO, the North One-half (N 1/2) of the vacated alley adjoining said Lot Three Hundred Fifteen (315) on the south side of said lot.

ALSO: Lot Numbered Three Hundred Sixteen (316), except the East Three (3) feet of the North One-half (N 1/2) of said Lot; and Lots Numbered Three Hundred Seventeen (317) to Three Hundred Twenty-two (322) inclusive as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO: Lots Numbered Three Hundred Ninety-one (391) and Three Hundred Ninety-two (392) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO, the South One-half (S 1/2) of the vacated alley lying north of and adjacent to said Lots, and ALSO the East One-half (E 1/2) of the vacated alley lying west of and adjacent to said Lot Three Hundred Ninety-one (391).

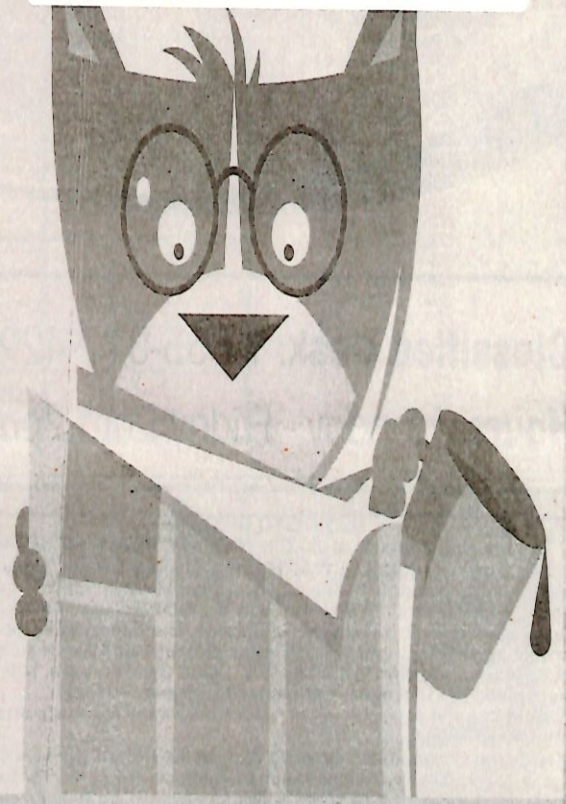
ALSO: Lots Numbered Three Hundred Ninety-three (393), Three Hundred Ninety-four (394) and Three Hundred Ninety-five (395) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the office of the Recorder of Elkhart County, Indiana.

ALSO, the South One-half (S 1/2) of the vacated alley lying north of and adjacent to said Lots.

ALSO: Lots Numbered Three Hundred Ninety-six (396), Three Hundred Ninety-seven (397) and Three Hundred Ninety-eight (398) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, Page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO, Part of the Northeast Quarter (NE-1/4) of Section Eight (8), Township, Thirty-seven (37) North, Range Five (5) East, more particu-

Page 2



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LEGAL NOTICE #25-BZA-01

Hearing on proposed Developmental Variance #25-BZA-01

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, MARCH 13, 2025 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #25-BZA-01.

Petitioner: Elkhart County Youth for Christ Inc

Request: To vary from the requirements found in Section 26.10, Sign Regulations, Table 1, to allow a new freestanding sign that is forty two square feet in area where the maximum area allowed (for Places of Worship and Educational Institutions) is thirty two square feet, a variance of ten (10) square feet.

Location: 2721 Prairie Street

Zoning: R-5, Urban Residential District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2318 781 8689** as the meeting number and "BZA2025" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

A part of the Southeast Quarter (SE-1/4) of Section Seventeen (17), Township Thirty-seven (37) North, Range Five (5) East, more particularly described as follows:

Commencing at the Northeast corner of said quarter (1/4) section; thence South along the East line of said quarter (1/4) section twenty (20) rods to the place of beginning of this description, said point being the Southeast corner of land deeded to Merle Hartman (Deed Record 193, page 613); thence West along the South line of Hartman's land Two Hundred Seventy-two and twenty-five hundredths (272.25) feet, more or less, to the Southeast corner of land deed to William Gehman and Dor M Gehman and recorded in Deed Record 199, page 158; thence North along the Gehman's East line One Hundred (100) feet; thence East parallel with the South line of said Hartman's land to the East line of said quarter (1/4) section; thence South along the East line of said quarter (1/4) section, One Hundred (100) feet, to the place of beginning.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 24th day of February, 2025, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 28th, 2025 hspaxlp

LEGAL NOTICE #25-X-02

Hearing on proposed Special Exception #25-X-02

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, MARCH 13, 2025 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #25-X-02.

Petitioner: Janelya Gates

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LEGAL NOTICE #25-BZA-01

Hearing on proposed Developmental Variance #25-BZA-01

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A public hearing will be conducted on a Developmental Variance Petition #25-BZA-01.

Petitioner: Elkhart County Youth for Christ Inc

Request: To vary from the requirements found in Section 26.10, Sign Regulations, Table 1, to allow a new freestanding sign that is forty two square feet in area where the maximum area allowed (for Places of Worship and Educational Institutions) is thirty two square feet, a variance of ten (10) square feet.

Location: 2721 Prairie Street

Zoning: R-5, Urban Residential District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter 2318 781 8689 as the meeting number and "BZA2025" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

A part of the Southeast Quarter (SE-1/4) of Section Seventeen (17), Township Thirty-seven (37) North, Range Five (5) East, more particularly described as follows:

Commencing at the Northeast corner of said quarter (1/4) section; thence South along the East line of said quarter (1/4) section twenty (20) rods to the place of beginning of this description, said point being the Southeast corner of land deeded to Merle Hartman (Deed Record 193, page 613); thence West along the South line of Hartman's land Two Hundred Seventy-two and twenty-five hundredths (272.25) feet, more or less, to the Southeast corner of land deed to William Gehman and Dor M Gehman and recorded in Deed Record 199, page 158; thence North along the Gehman's East line One Hundred (100) feet; thence East parallel with the South line of said Hartman's land to the East line of said quarter (1/4) section; thence South along the East line of said quarter (1/4) section, One Hundred (100) feet, to the place of beginning.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 24th day of February, 2025, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 28th, 2025
hspaxlp

LEGAL NOTICE #25-X-02

Hearing on proposed Special Exception #25-X-02

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, MARCH 13, 2025 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #25-X-02.

Petitioner: Janelya Gates

Request: Per Section 5.3, Special Exception Uses, (4.3 F) Day Care Home to allow for the establishment of a new day care home at 709 Fieldhouse Avenue.

Location: 709 Fieldhouse Avenue

Zoning: R-2, One Family Dwelling District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter 2318 781 8689 as the meeting number and "BZA2025" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

Lot Numbered Five (5) as the said lot is known and designated on the recorded Plat of Brown's Second Minor Subdivision, said Plat being recorded in Plat Book 40, page 99, in the Office of the Recorder of Elkhart County, Indiana.

Parcel ID: 20-06-17-127-032.000-012

Commonly Known As: 709 Fieldhouse Avenue, Elkhart, Indiana 46517

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 24th day of February, 2025, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 28, 2025
hspaxlp

corded in Plat Book 1, page 101 in the Office of the Recorder of Elkhart County, Indiana.

Lots 302, 303, 304 and the West 22 feet of Lot 305 as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Lots Number Three Hundred Twenty-nine (329), Three Hundred Thirty (330), Three Hundred Thirty-one (331), Three Hundred Eighty-two (382), Three Hundred Eighty-three (383) and Three Hundred Eighty-four (384) as the said Lots are known and designated on the recorded Plat of BENHAM A VENUE REPLAT of Chapman's Rosedale Addition to the City of Elkhart; said Plat being recorded in Plat Book 1, page 101; and Lots Number Three Hundred Twenty-three (323) Three Hundred Twenty-four (324), Three Hundred Twenty-five (325), Three Hundred Twenty-six (326), Three Hundred Twenty-seven (327), Three Hundred Twenty-eight (328), Three Hundred Eighty-five (385), Three Hundred Eighty-six (386), Three Hundred Eighty-seven (387), Three Hundred Eighty-eight (388), Three Hundred Eighty-nine (389), and Three Hundred Ninety (390) as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Said property has additional lots listed as follows:

ALSO, the vacated alley lying between Lots Number 323,324,325, 326, 327 and 328 and Lots Number 385, 386, 387, 388, 389 and 390 in Chapman's Rosedale Addition and between Lots Number 329 and Lot Number 384 in Benham Avenue Replat of Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the vacated alley lying between Lots Number 329, 330, 331, 382, 383 and 384 in Benham A venue Replat of Chapman's Rosedale Addition and Lots Number 328 and 385 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the West One-half (W 1/2) of the vacated alley lying east of and adjacent to said Lot Number 390 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

EXCEPTING all that part used for highway purposes.

ALSO: Lot Number Three Hundred Fifteen (315) and part of Lot Number Three Hundred Sixteen (316) as the said lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana, more particularly described as follows:

Beginning at a point on the North line of Lot Number Three Hundred Sixteen (316), as the said Lot is known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart, which said point is three (3) feet west from the northeast corner of said lot; thence southwardly, parallel with the East line of said lot, to a point which is midway between the north and south lines of said lot; thence eastwardly parallel with the north line of said lot, three (3) feet to the east line thereof; thence northwardly along the east line of said lot to the northeast corner thereof; thence westwardly along the north line of said lot, three (3) feet to the place of beginning.

ALSO, the North One-half (N 1/2) of the vacated alley adjoining said Lot Three Hundred Fifteen (315) on the south side of said lot.

ALSO: Lot Numbered Three Hundred Sixteen (316), except the East Three (3) feet of the North One-half (N 1/2) of said Lot; and Lots Numbered Three Hundred Seventeen (317) to Three Hundred Twenty-two (322) inclusive as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO: Lots Numbered Three Hundred Ninety-one (391) and Three Hundred Ninety-two (392) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO, the South One-half (S 1/2) of the vacated alley lying north of and adjacent to said Lots, and ALSO the East One-half (E 1/2) of the vacated alley lying west of and adjacent to said Lot Three Hundred Ninety-one (391).

ALSO: Lots Numbered Three Hundred Ninety-three (393), Three Hundred Ninety-four (394) and Three Hundred Ninety-five (395) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the office of the Recorder of Elkhart County, Indiana.

ALSO, the South One-half (S 1/2) of the vacated alley lying north of and adjacent to said Lots.

ALSO: Lots Numbered Three Hundred Ninety-six (396), Three Hundred Ninety-seven (397) and Three Hundred Ninety-eight (398) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, Page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO, Part of the Northeast Quarter (NE-1/4) of Section Eight (8), Township, Thirty-seven (37) North, Range Five (5) East, more particularly described as follows:

Beginning at the northeast corner of Lot Number Three Hundred Ninety-five (395) in Chapman's Rosedale Addition; thence south eighty-eight (88) feet to the northwest corner of Lot Number Three Hundred Ninety-six (396) in said addition; thence east one hundred thirty-two (132) feet to the northeast corner of Lot Number Three Hundred Ninety-eight (398) in said addition; thence north eighty-eight (88) feet; thence west one hundred thirty-two (132) feet to the Place of Beginning.

ALSO, the South One-half (S 1/2) of the vacated alley lying north of and adjacent to said real estate.

ALSO: Lots Numbered 399 through 404 inclusive, as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Also, the North One-half (N 1/2) of vacated alley lying south of and adjacent to said Lots.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 24th day of February, 2025, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 28th, 2025
hspaxlp

White Space Sells

Page 3

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Staff Report

Planning & Zoning

<u>Petition:</u>	23-WT-01
<u>Petition Type:</u>	Wireless Tower/Use Variance
<u>Date:</u>	March 12, 2025
<u>Petitioner:</u>	Heidi Gaskill Trustee of the Heidi Gaskill Revocable Trust
<u>Request:</u>	To vary from Section 4.2, Permitted Use in the R-1, One-Family Dwelling District to allow for the installation of a new wireless communication facility (cellular tower) that is one hundred thirty-five foot 135 feet in height.
<u>Site Location:</u>	3424 EAST BRISTOL STREET
<u>Existing Zoning:</u>	R-1, One-Family Dwelling District
<u>Size:</u>	+/- .63 Acres
<u>Thoroughfares:</u>	E Bristol Street
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

The properties to the north and east are PUD Planned Unit Development built to R-1 One-Family Dwelling District. The properties to the east are R1 One-Family Dwelling and properties outside the City limits of Elkhart. Pinewood Elementary that is located to the west is zoned R-1 One-Family Dwelling District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to develop residentially with this property to develop recreationally with adjacent institutional.



Staff Analysis

The petitioner desires to lease a 50 by 50 foot area of the property to use for the construction of a cell tower. The site location is in the northwest corner of the subject property in a heavily wooded area. The proposed tower will be 135 feet in height. A security fence will surround the lease area and there will be space for future collocate equipment.

Verizon Wireless is the designated user of the tower but it can handle an additional three carriers. The petition indicates there is a need in Elkhart for improved cellular service that this location would be able to provide. It also states that this tower would enhance the City's 911 first responders service. The site's isolation from adjacent residential properties and ability to provide enhanced coverage to the area were the reasons this site was selected.

Recommendation

The Staff recommends **denial** of the use variance based on the following findings of fact:

1. The approval will be injurious to the public health, safety, morals or general welfare of the community because the proposed tower could be detrimental to the natural viewshed from the surrounding properties;
2. The use and value of the area adjacent to the property will be affected in a substantially adverse manner because the tower's proximity to the surrounding existing residences could negatively impact the value of the surrounding homes;
3. The need for the variance arises from some condition peculiar to the property because of the residential zoning and the height of the proposed tower;
4. The strict application of the terms of this Ordinance will not constitute an unnecessary hardship as the property can still be used for single family dwelling residential development;
5. The approval does interfere substantially with the Comprehensive Plan because the plan calls for low density residential uses.



PETITION #: 23-WT-01
23-44-13

FILING FEE: \$ 300

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE:

Developmental Variance Appeal from Staff Decision
 Use Variance Special Exception Conditional Use

Property Owner(s): Heidi Gaskill, Trustee of the Heidi Gaskill Revocable Trust

Mailing Address: [Redacted]

Phone #: [Redacted] Email: [Redacted]

Contact Person: Melissa Olson

Mailing Address: [Redacted]

Phone #: [Redacted] Email: [Redacted]

Subject Property Address: 3424 E. BRISTOL ST.
~~3499 Newton Dr.~~ Elkhart, IN 46514

Zoning: R-1

Present Use: Residential Proposed Use: Cellular Communications Site

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): HEIDI GASKILL

SIGNATURE(S): [Handwritten Signature] DATE: 8/02/23

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: Nathan Chooley DATE: 8/7/2023

DATE: 7/31/2023

TO: Board of Zoning Appeals

RE: Use Variance

City of Elkhart, Indiana

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, Heidi Gaskill, am authorized to act on behalf of the Heidi Gaskill Revocable Trust, the owner of the following described real estate located within the City of Elkhart, ^{Elkhart} ~~Elkhart~~ Township, Elkhart County, State of Indiana, and I have entered into an agreement with DRA Properties, LLC, a Missouri Limited Liability Company, to lease land for the purposes of a communication site, to-wit:
2. The above described real estate presently has a zoning classification of R-1 District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner presently occupies (or proposes to occupy) the above described property in the following manner: The construction of a 135' cell tower, including a 50' x 50' lease area. The site is being designed for Verizon Wireless but will be able to accommodate 3 additional carriers (AT&T, T-Mobile, etc.)
4. Petitioner desires to install a cell site to provide enhanced cell phone coverage and increase data speeds for the residents and visitors of Elkhart. This includes enhanced 9-11 service to emergency responders. At present, the R-1 use does not permit this use without a variance.
5. The Zoning Ordinance of the City of Elkhart requires: Section 27.1 B-1 states that the location of any wireless communication facility shall comply with other applicable standards of the zoning ordinance not specifically indication in this section, including but not limited to those for floodplains and wetlands. Section 27.1 B-2 states that all wireless communication facilities, with the exception of television and radio towers, shall be fully automated, shall not require attention on a daily basis and shall be visited only for periodic and necessary maintenance or emergencies. Section 4.2 notes that wireless communication facilities are not allowed in the R-1 district.
6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship: The location allows for the best coverage to the residents of Elkhart in this area. This location was selected due to its ability to be screened by existing foliage. Without this location, Elkhart will continue to receive degraded service.
7. Using the appropriate standards (developmental or use) from page 3, address each standard. You cannot answer simply "Yes" or "No"; you must state why this is true (the reasons for your answer).
 1. The approval will not be injurious to the public health, safety, morals and general welfare of the community: These towers are deemed safe by the Federal Government. These towers are licensed by the FCC and the FAA and regulated for safe operation. Enhanced 9-11 service will benefit Elkhart's first responders.
 2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner: This location was selected due to its setback from neighboring residents.
 3. The need for the variance arises from some condition peculiar to the property involved: The properties R-1 zoning limits its use. We are requesting this use variance to permit the cell site.

4. The strict application of the terms of this Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought: The strict application of this ordinance would result in a degradation of cell service.

5. The approval does not interfere substantially with the "Comprehensive Plan.": This cell site will result in enhanced services to the residents of Elkhart.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance

Signature of Property Owner: 


Printed Name: 8/02/23

Agent for Verizon Wireless/DRA Properties: Melissa Olson

Printed Name: Melissa Olson

Contact Person: Melissa Olson, DRA Properties, LLC

Address: 

Phone Number where you can be reached: 

Email: 

AFFIDAVIT IN SUPPORT OF VARIANCE PETITION

I, Heidi Gaskill being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

- 1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
- 2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
- 3. I am now and at all times relevant herein have been, the owner of record of the property located at 3424 E. Bristol St. Elkhart, Indiana.
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 2ND day of AUGUST, 2023

HEIDI GASKILL

Printed: HEIDI GASKILL

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

HEIDI GASKILL

Printed: HEIDI GASKILL

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Megan Martin, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 2nd day of August, 2023.



Megan Martin

Printed: Megan Martin

My Commission Expires:

4-6-2030

Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana

Legal Description:

Legal: A part of the Northwest Quarter (1/4) of Section 35, Township 38 North, Range 5 East, more particularly described as follows:

Commencing at a stone at the Southwest corner of said quarter (1/4) Section; thence Eastwardly along the South line of said quarter (1/4) with the East line of the West Half (1/2) of said quarter (1/4) section 200 feet to an iron stake for the beginning point of this description, thence Northwardly parallel with the East line of the West Half (1/2) of said quarter (1/4) section 100 feet to an iron stake; thence Eastwardly parallel with the South line of said quarter (1/4) section 350 feet to an iron stake on the East line of the West Half (1/2) of said quarter (1/4) section; thence Southwardly along the East line of the West Half (1/2) of said quarter (1/4) section 100 feet to an iron stake, thence Westwardly parallel with the South line of said quarter (1/4) section 350 feet to the Place of Beginning; containing 0.8 of an acre, more or less.

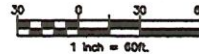
ALSO, the right of the grantor, his heirs and assigns to use the following described 50 foot easement as a means of ingress and egress to and from the above described real estate:

A part of the Northwest Quarter (1/4) of Section 35, Township 38 North, Range 5 East, more particularly described as follows: Commencing at a stone at the southwest corner of said quarter (1/4) section; thence Eastwardly along the South line of said quarter (1/4) section 978.73 feet to a railroad spike for the beginning point of this description; thence Northwardly parallel with the East line of the West Half (1/2) of said quarter (1/4) section 300 feet to an iron stake; thence Westwardly parallel with the South line of said quarter (1/4) section 50.01 feet; thence Southwardly parallel with the East line of the West Half (1/2) of said quarter (1/4) section 300 feet to the South line of said quarter (1/4) section; thence Eastwardly along the South line of said quarter (1/4) section 50.01 feet to the Place of Beginning

Location: V/L Adj N 3424 E Bristol
Tax ID No.: 20-02-35-153-005.000-027



Site Location Plan



verizon



MISSION 1 COMMUNICATIONS

6201 Constitution Drive, Suite C
Fort Wayne, IN 46824

CERTIFICATION:

**PRELIMINARY
NOT FOR
CONSTRUCTION**

RELEASE

DATE

06-15-23 LEASE EXHIBIT

08-20-23 LEASE EXHIBIT

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DRAWN BY: JF
CHECKED BY: MJA

SITE NAME:

**SE
CASSOPOLIS
CELL SITE**

SITE ADDRESS:

E BRISTOL STREET
ELKHART, IN 46514

SHEET TITLE:

SITE LOCATION PLAN

ASE PROJECT NO.:

SHEET NO.:

C-1



MISSION 1 COMMUNICATIONS

6202 Constitution Drive, Suite C
Fort Wayne, IN 46824

CERTIFICATION:

PRELIMINARY
NOT FOR
CONSTRUCTION

RELEASE

DATE
06-15-23 LEASE EXHIBIT
06-29-23 LEASE EXHIBIT

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DRAWN BY: JRF
CHECKED BY: MJA

SITE NAME:

SE
CASSOPOLIS
CELL SITE

SITE ADDRESS:

E BRISTOL STREET
ELKHART, IN 46514

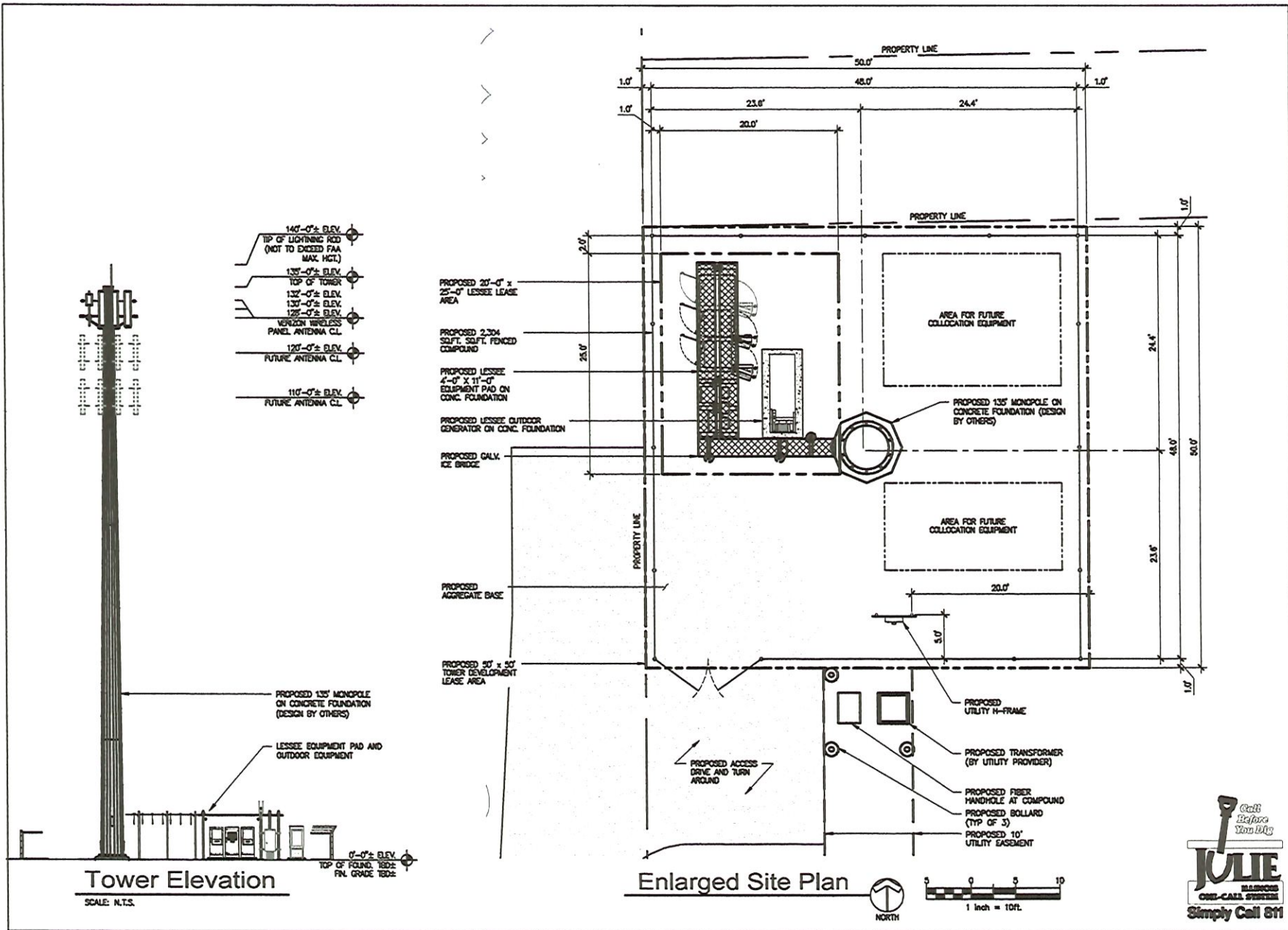
SHEET TITLE:

TOWER ELEVATION &
ENLARGED SITE PLAN

RAE PROJECT NO.:

SHEET NO.:

C-2





Staff Report

Planning & Zoning

Petition: 25-BZA-03

Petition Type: Developmental Variance

Date: March 13, 2025

Petitioner: Jason Patel

Site Location: 1207 W. Lusher Avenue

Request:

To vary from Section 26.10.D.1, General Location Standards, which states in part ‘All on premise signs shall be located no closer than five (5) feet from any right of way’ to allow for a free standing sign to be two (2) feet from the Lusher Avenue right of way, a variance of three (3) feet.

To vary from Section 26.10.D.4.d, General Location Standards, Free standing signs, which states ‘Free standing signs shall be centered on the property, or if not possible, at least twenty (20) feet from any adjacent property line’ to allow for a new sign to be located two (2) foot from the (corner) side property line, a variance of eighteen (18) feet.

Existing Zoning: B-2, Community Business District

Size: +/- 0.36 acres

Thoroughfares: W. Lusher and Oakland Avenues

School District: Elkhart Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:

The surrounding properties to the north and east and are zoned B-1, Neighborhood Business District and B-2, Community Business District. The land to the west and south are single family dwellings zoned R-2, One Family Dwelling District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive calls for this area to be developed as commercial.



Staff Analysis

The petitioner is requesting two (2) variances for a proposed sign at the north east corner of the property located at 1207 W. Lusher Avenue. The variances are for distance from front property line and distance from the (corner) side property line.

The subject property, formerly an auto repair shop, is being redeveloped as a convenience store with fuel. As with any new development or redevelopment project, the developer's agent submitted a site development plan in the fall of 2023. The plans reviewed and approved through the City's Technical Review process included building location, landscape, sign location, canopy and pumps, and parking. Technical review includes both planning and engineering staff. Any plan deficiencies noted during review were addressed with three exceptions – landscape buffer, corner side setback and parking. In January 2024, the variance request was heard before this body and all three requests were approved.

That approved site plan depicted one (1) pylon sign, which was located at the corner of W. Lusher and Oakland Avenues. During Tech Review, staff made comment that a developmental variance(s) would be required because of the sign location. Sign contractors are required to submit a separate plan package due to ordinance bonding and permitting requirements.

The petitioner has demonstrated some hardship related to the conditions of the site. The redevelopment plan was not designed to accommodate a compliant freestanding sign. Wall and canopy signs will be visible from the street and function as additional wayfinding and branding signage.

The sign submitted for the variance request meets the development standards and is within of scale for the property. Furthermore, the property is at a signalized intersection which gives drivers in one direction or another time to see the sign while waiting on the light to change.

Recommendation

The Staff recommends **approval** of the developmental variance to vary from the requirements found in Section 26.10, Sign Regulations based on the following findings of fact:

1. The approval **will not be** injurious to the public health, safety, morals, or general welfare of the community because the sign will be constructed and will meet all current building standards;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner because the sign meets the size development standards for the street but not the location;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because it allows a measure of relief when uniquely warranted;
4. Special conditions and circumstances **do exist** that are peculiar to the land involved redevelopment of the small site, not sufficient room for approved location.
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property as it would be a safety hazard for West Lusher Ave approved location.
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant because of the location the applicant has already come to the board for three development variations to be able to build.
7. This property **does not** lie within a designated flood area.

Photos



PETITION #: 25BZA-03

FILING FEE: \$ 300.⁰⁰

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): JASON PATEL

Mailing Address: [REDACTED]

Phone # [REDACTED] Email: _____

Contact Person: RON MITCHEL

Mailing Address [REDACTED]

Phone # [REDACTED] Email [REDACTED]

Subject Property Address: 1207 W. LUSHER AVE - ELKHART, IN

Zoning: B-2

Present Use: AUTO SERVICE Proposed Use: GAS STATION C-STORE

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): RON MITCHEL

SIGNATURE(S): Ron Mitchel DATE: 12/6/2024

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.

A completed Petition form signed by the legal owner of record (or approved representative).

_____ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.

A full and accurate legal description of the property.

One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.

_____ Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: _____ DATE: _____

February 26, 2025

TO: BOARD OF ZONING APPEALS
CITY OF ELKHART, INDIANA

RE: DEVELOPMENTAL VARIANCE

1. The undersigned petitioner respectfully shows the Board of Zoning Appeals:
2. I, Jason B. Patel am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana to wit:

SEE ATTACHED WARRANTY DEED 2023-07185

3. The above-described real estate presently has a zoning classification of B-2 District under the Zoning Ordinance of the City of Elkhart

Petitioner proposes to occupy the above-described property in the following manner:

GAS STATION and C-STORE

4. Petitioner desires to reduce the 5' setback from the ROW/PL to 2' And move the sign to the Northeast corner versus the center of the property as the center will be the ingress / egress access to the station.
5. Per section 26.10 Table 1, B-2 zoning allows 50 SF or One Times the Lot Frontage Whichever is smaller. Section 26.10 Table 2 B-2 zoning allows 6 feet tall, however, the code states the maximum height of a freestanding sign can be increased at the rate of 1 foot in height for each 2 feet of additional setback. In no case shall the sign exceed a maximum height of 20 feet. Section 26 D 4 d Sates Free-standing signs shall be centered on the property or if not possible, at least twenty (20) feet from any adjacent property line. (see Figures 26.l
6. The Gas Station – C-Store sits on 0.36 of an acres. Based on the keeping the flow of the pump islands and placement of the C-Store, our lot will function well if the price sign can placed on the Northeast Corner.

Standards that must be considered for a Developmental Variance:

I.C. 36-7-4-918.4 Section 29.9A of the City of Elkhart Zoning Ordinance states **No** variance shall be granted by the Board unless the Board specifically finds that:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.**
 - a) The placement of the proposed sign out at the Northeast corner of the property will not create any public health, safety morals or general welfare issues. The sign will meet the ordinance requirements of not exceeding 6' in height.
2. **The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.**
 - a) The site is surrounded with other commercial businesses including a Pizza Shop, Laundry Mat and a Mechanic / Tire Shop. These properties would not be affected in any adverse manner.
3. **Granting the variance would be consistent with the intent and purpose of the zoning ordinance.**
 - a) Yes, it's our belief the zoning ordinance wants to allow new business to invest in the community while being able to clearly allow the businesses to adequately display the goods and services they provide to the public.
4. **Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district .**
 - a) For this, I cannot honestly answer because I am not a resident of this area. I know this is a corner lot and where we propose the sign, it would work well in the corner so the ingress / egress maintains a safe distant from the intersection to protect the motorists.
5. **The strict application of the terms of this ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the provisions of this ordinance.**
 - a) The use of this property is approved for a Gas Station – To place the sign in the middle of the lot, would disrupt the use of the property being on a corner lot.
6. **The special conditions and circumstances do not result from any action or inaction by the applicant.**
 - a) From my understanding NO, ownership was made aware a variance would be needed when the plans were reviewed by Staff.

7. In the designated flood hazards area, the variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, or conflict with existing laws or ordinances.

- a) The property does not sit within any flood areas nor will placing the sign in the Northeast corner of the property conflict with the ordinance related to designated flood areas.

WHEREFORE, Petitioner prays and respectfully request a hearing on this appeal and that after such hearing, the Board grant the requested development variance.

Signature of Property Owner: _____

Printed Name: _____

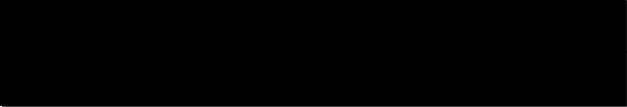
Second Property Owner: _____

Contact Person: RON MITCHEL _____

Name: CREATIVE SIGN RESOURCES _____

Address:  _____

Phone Number where you can be reached:  _____

Email:  _____

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Jason Patel, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 1207 W. Lusher Ave Elkhart, Indiana. 46517
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 6TH day of December, 2024.

[Signature]
Printed: Jason Patel

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

[Signature]
Printed: Jason Patel

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Jason Patel, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 6TH day of December, 2024.



[Signature]
Printed: JAMES HUGHEY

My Commission Expires:

6-30-32

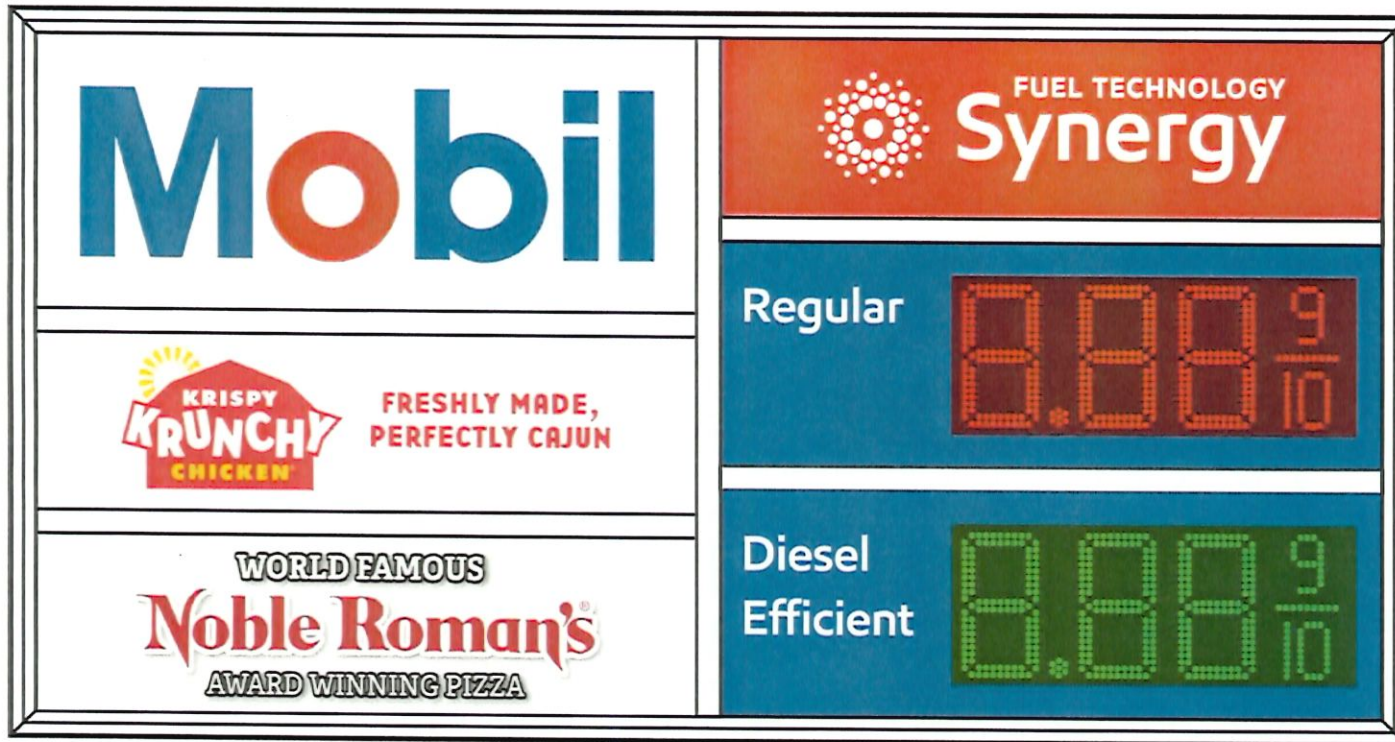
Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana

Warranty Deed 2023-07185

A part of the Northeast Quarter of Section 18, Township 37 North, Range 5 East, in the City of Elkhart, Elkhart County, Indiana, more particularly described as follows:

Beginning at an iron stake marking the intersection of the South line of West Lusher Avenue with the West line of Oakland Avenue in said City, said point of intersection being 30 feet South and 33 feet West of the Northeast corner of said Section 18; thence due West, along the South line of said West Lusher Avenue, a distance of 120 feet to an iron stake on the East line of a public alley, said stake being 12 feet East of the Northeast corner of Lot Number 4 in Markel's First Addition; thence due South along the East line of said alley and parallel with the East line of said Lot, a distance of 132 feet to an iron stake on the North line of a public alley, said stake being 16.5 feet North of the Northwest corner of Lot Number 146 in said Addition; thence due East along the North line of said last sectioned alley and parallel with the North line of said Lot Number 146, a distance of 122.22 feet to an iron stake on the West line of Oakland Avenue, said stake being 33 feet West of the East line of said Section 18; thence North 0 degrees 58 minutes West, along the West line of said Oakland Avenue, a distance of 132.2 feet to the place of beginning.

ALSO: The East $\frac{1}{2}$ of the vacated alley lying East of and adjacent to Lot Number 4 in the Markle's 1st Addition, said Plat being recorded in Deed Record 116, page 21 in the Office of the Recorder of Elkhart County, Indiana.



Center Pole Sign - Double Face
 Chassis Size: 61.375" H X 117" W X 8" D
 Area: 49.9 SQ FT
 Street Justified
 Standard Windload
 Chassis Color: Egg Shell-Satin White

Cabinet Illumination
 LED PS Draw: 3.7 Amps@120V
 LED PS Circuits: 1 - 20 Amp Circuit @120V

LED(Pricelines/EMC) Draw: 1@120V
 LED Circuits: 1 - 20 Amp Circuit @120V

Total Circuits Rec. : 2 - 20 Amp Circuit(s) @120V

Detail 1: Logo
 VO: 23"H X 55.3125"W
 Mobil Logo Flat Emboss Face

Detail 2: Logo
 VO: 15"H X 55.3125"W
 Mobil Upload Image Flat Face

Detail 3: Logo
 VO: 15"H X 55.3125"W
 Mobil Upload Image Flat Face

Detail 4: Logo
 VO: 15"H X 55.3125"W
 Mobil Synergy Red Flat Face

Detail 5: Priceline
 VO: 40"H X 55.3125"W
 Digit Type: Lumidigit 4 (Flat Faces)
 Priceline 1: Red 12", Right
 Priceline 2: Green 12", Right

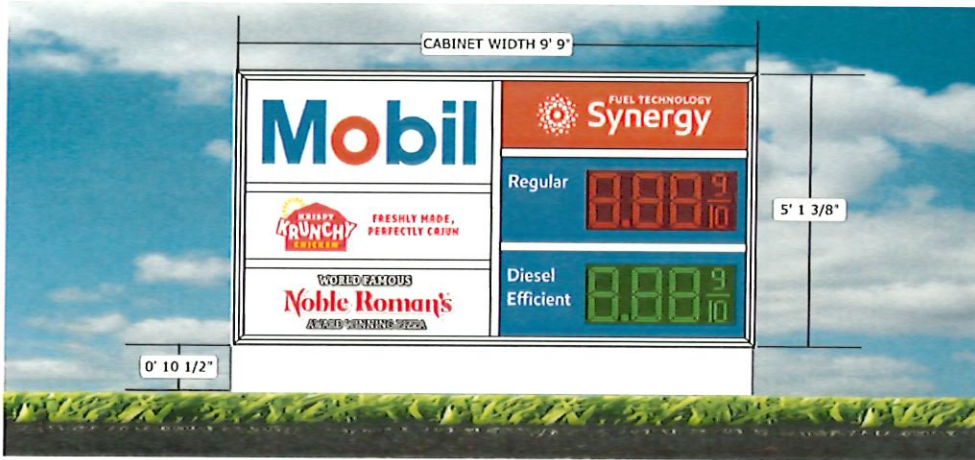
Est. Crated Weight: 697 lbs
 Crate HxLxW: 75x124x21
 Freight Class: 125


FOR VIEWING ONLY
 Plant Graphics to determine final graphics layout
 Noble Roman's will not be street justified on side B of sign.

Everbrite		DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings. These drawings and designs are the exclusive property of Everbrite LLC Use of, or duplication in any manner without express written permission of Everbrite LLC is prohibited.			
Customer: Mobil		Description:		Customer Approval: NOTE: Unless specified by customer, all depth of embossing will be determined by Everbrite Engineering or existing customer specifications on file. Colors and graphics on file will be used unless otherwise specified by customer. Please read carefully, check appropriate <input type="checkbox"/> Sketch OK as is box and fax back to Everbrite: <input type="checkbox"/> New Sketch Required	
Project No: PP516829A	Scale: N/A				
Date: 01/27/2025	Drawn By: JB				
Location & Site No: 1207 W Lusher Ave, Elkhart, IN, 46517-1524		Version: 1		LANDLORD SIGNATURE _____	DATE _____
				SIGNATURE _____	DATE _____

Detailed Information:
 Sign Type: Center Pole
 Overall Height: 5' 11 7/8"
 Number of Signs: 1
 Chassis Width: 9' 9"
 Sign Sq Footage: 49.9

Notes: Using for graphics only - see PIF for individual sign layout options



 Everbrite		<small>DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings. These drawings and designs are the exclusive property of Everbrite LLC Use of, or duplication in any manner without express written permission of Everbrite LLC is prohibited.</small>	
Customer: Mobil Project No: 516829 Date: 01/27/2025		Description: Customer Approval: NOTE: Unless specified by customer, all depth of embossing will be determined by Everbrite Engineering or existing customer specifications on file. Colors and graphics on file will be used unless otherwise specified by customer.	
Scale: N/A Drawn By: JB		Please read carefully, check appropriate box and fax back to Everbrite: <input type="checkbox"/> Sketch OK as is <input type="checkbox"/> New Sketch Required	
Location & Site No: 1207 W Lusher Ave, Elkhart, IN, 46517-1524		Version: 1	
		LANDLORD SIGNATURE _____ DATE _____ SIGNATURE _____ DATE _____	

RE: EXTERNAL: Re: Elkhart Sign Variance

From Ron Mitchel <[REDACTED]>
Date Thu 1/2/2025 1:02 PM
To Trotter, Eric <eric.trotter@coei.org>; Pete Burns <[REDACTED]>

Please table the request until February.

Thank you,

Ron Mitchel



p: 260.425.9618
c: 260.413.9678

4707 East Washington Blvd.
Fort Wayne, IN 46803

From: Trotter, Eric <eric.trotter@coei.org>
Sent: Thursday, January 2, 2025 12:26 PM
To: Ron Mitchel <[REDACTED]>; Pete Burns <[REDACTED]>
Subject: Re: EXTERNAL: Re: Elkhart Sign Variance

Gentlemen -

I'm wrapping up reports today and packets will be delivered tomorrow. All I need is an email requesting the item be tabled until February while a new design is worked out.

Thank you -

Eric Trotter

Assistant Director for Planning

Development Services Department

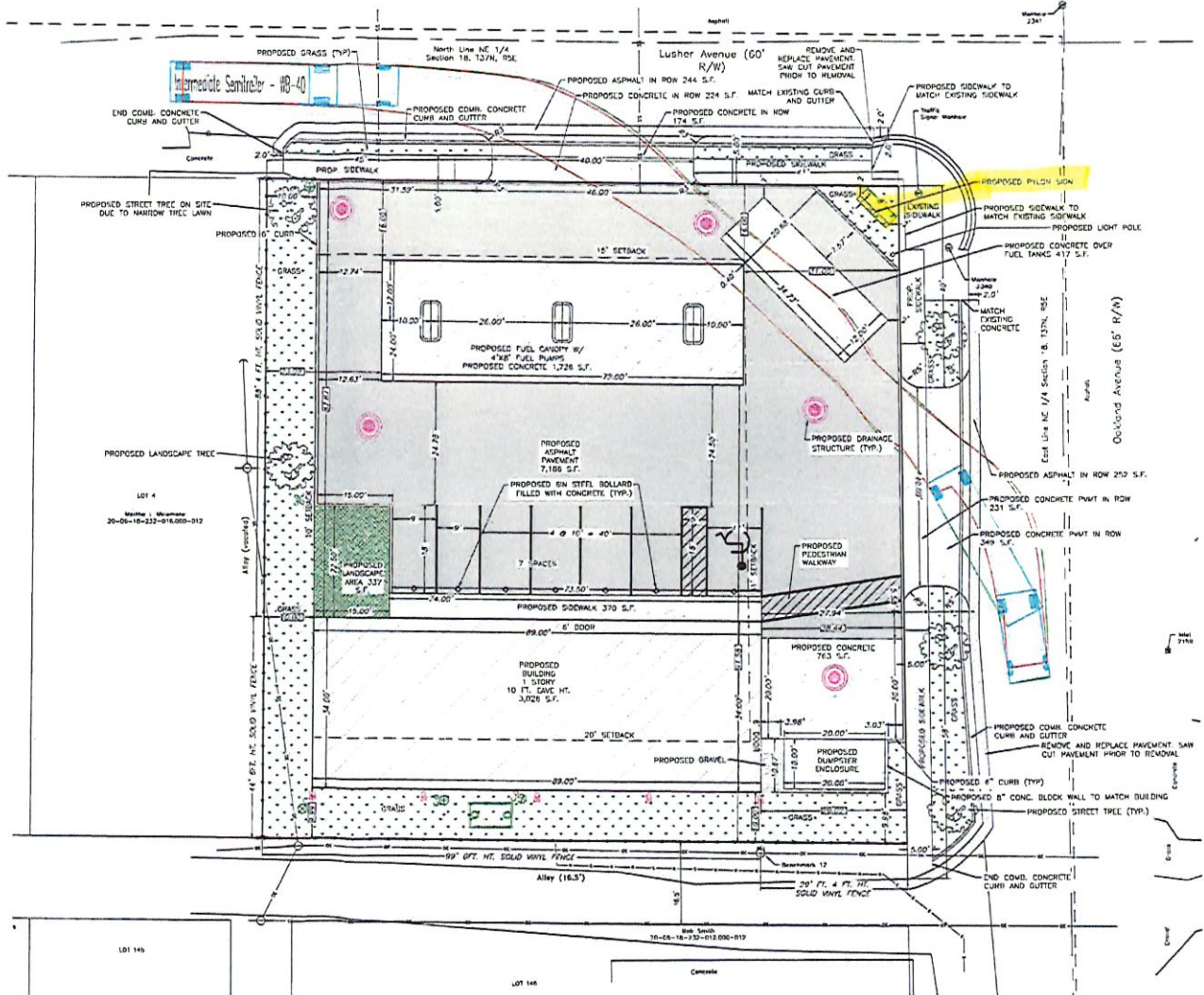
City of Elkhart

BENCHMARKS
 BM-11
 Gas Pole set up 1' South face of ASP Pole #C30-1220
 Elevation = 757.98
 BM-12
 Gas Pole set up 1' in North face of ASP Pole #E251-156
 Elevation = 738.39

LEGEND		STRUCTURE DETAILS	
---	EASEMENTS	STORM DRAIN 2" SDR	
---	SANITARY SEWER	CHUTE 72x50	
---	STORM SEWER	INV 12" IRON W 753.50	
---	OVERHEAD ELECTRIC	SANITARY MANHOLE 2340	
---	CENTERLINE ASPHALT	TOP RIM 736.88	
---	UNDERGROUND WATER	INV 42" IRON NE 739.02	
---	UNDERGROUND GAS	INV 42" IRON S 739.05	
---		INV 24" IRON W/W 739.28	
○	SANITARY MANHOLE 2341		
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- SITE PLAN NOTES**
- PROPERTY ZONE: B-2 COMMUNITY BUSINESS DISTRICT
 - PERMITTED USE: CONVENIENCE STORE
 - YARD REQUIREMENTS:
 - FRONT:
 - 30 FT. FOR BUILDING
 - 10 FT. FOR FUEL DISPENSER CANOPY
 - EAST CORNER SIDE YARD:
 - 31 FT. FOR BLDG. TO SOUTH
 - WEST SIDE YARD:
 - BUILDING 10 FT.
 - LANDSCAPE 10 FT.
 - REAR YARD:
 - BUILDING 20 FT.
 - DRIVE 6 FT.
 - LANDSCAPE 10 FT.
 - ZONING VARIANCES APPROVED JAN. 11, 2024 BY O.Z.A.
 - EAST CORNER SIDE YARD SETBACK: BUILDING 38.4 FT. (VAR. 2.44 FT.)
 - REAR SETBACK: BUILDING 10.0 FT. (VAR. 10.0 FT.)
 - PARKING: 18 SPACES REQUIRED, 13 PROVIDED
 - LANDSCAPE REQUIREMENTS:
 - IRRIGATION AND IRRIGATION SYSTEM INCLUDED
 - BUILDING FOUNDATION 4 FT. WIDE ADJACENT TO PARKING LOT
 - BUILDING LENGTH: 89 FT. + 4 FT. = 93 S.F.
 - LANDSCAPE AREA PROVIDED: 389 S.F.
 - YARD TREES:
 - 1 TREE PER 4000 S.F. OF YARD
 - YARD AREA: 2,090 S.F.
 - 1 TREE REQUIRED
 - STREET TREES: 1 PER 40 FT. FRONTAGE (NOT INCLUDING DRIVES)
 - LUSHER AVE. FRONTAGE: 45' + 41' = 86'
 - OAKLAND AVE. FRONTAGE: 51' + 40' + 95'
 - STREET TREES REQUIRED: 4
 - STREET TREES PROVIDED: 4 (1 LUSHER FRONTAGE TREE PROVIDED ON SITE, NO TREE LAWN AVAILABLE, 3 STREET TREES ON OAKLAND AVE. FRONTAGE)
 - TREE VARIETY: ANY TREE VARIETY PERMITTED EXCEPT THOSE ON CITY OF ELKHART PROHIBITED SPECIES LIST (ORD. 26.7.0.3). PROPOSED SPECIES TO BE APPROVED BY CITY FORESTER.
 - PARKING REQUIREMENTS:
 - CONVENIENCE RETAIL: 6 SPACES PER 1000 S.F.
 - BUILDING SIZE: (3026/1000) = 3 SPACES
 - PARKING PROVIDED: 7 AT BUILDING, 6 AT PUMPS = 13 TOTAL
 - TRAFFIC DATA:
 - LUSHER AVENUE: 5,268 ADI (2022 WACOD #2274)
 - OAKLAND AVENUE: 3,133 ADI (2023 WACOD #20114)
 - EMPLOYEES ON LARGEST SHIFT: 3
 - PROJECTED CUSTOMER TRAFFIC PER DAY: 750
 - FORMER OWNER REMOVED UNDERGROUND STORAGE TANKS. IDEM LETTER SUBMITTED TO THE CITY.
 - DRIVEWAY WIDTH OF 10 FT. REQUIRED DUE TO CONSTRAINTS THAT ARE UNIQUE TO THIS SITE. DRIVEWAY WIDTH TO BE APPROVED BY CITY ENGINEER.

OWNER AND DEVELOPER:
 STAR 004 LLC
 JASON B. PATTEL, MEMBER
 7432 SYLVAN COURT
 BRISTOL IN 46507
 317-438-5257
 JBPATC1215@GMAIL.COM



NO.	REVISIONS	BY	DATE
1	ADD CURB AND GUTTER ON ROAD FRONTAGE WITH PAVEMENT REPLACEMENT, REVISE NOTES.	DSM	04/02/2024
2	REVISE FENCE HEIGHT ON WEST AND SOUTH PROPERTY LINES FOR CITY COMMENTS	DSM	24/12/2024



2810 Dexter Drive
 Elkhart, IN 46514
 Phone: 574-266-1010
 Email: info@sam.biz

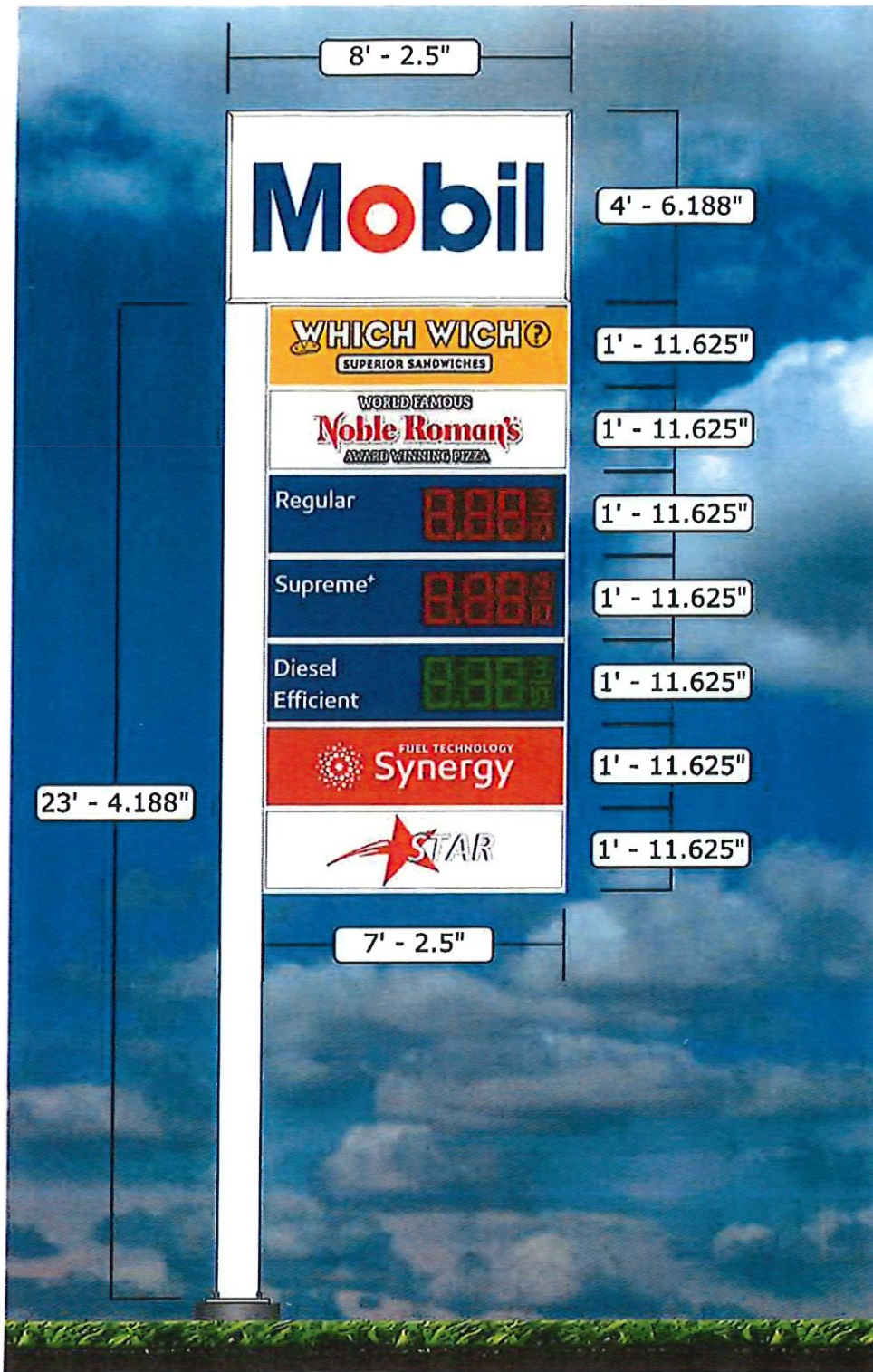
DRAWING FILE: 1023078232-DESIGN.OWG
 CERTIFICATION DATE: 07/16/2024
 HORIZONTAL SCALE: 1" = 10'
 VERTICAL SCALE: NONE
 ENGINEER: Debra S. Hughes, P.E.
 TECHNICIAN: MMW



PROPOSED SITE PLAN
 STAR 004 LLC, 1267 W LUSHER AVE. ELKHART
 PT. NE 1/4, SEC. 18, 137N, R5E,
 CONCORD TWP., ELKHART CO., INDIANA

SHEET 1
 OF 7

JOB NUMBER: 1023078232



Notes:
Plant Graphics to determine final imprint size and layout-----

Customer: Mobil
Header Cabinet: E031532
Sign System: A Model
System Color: Egg Shell White
Overall Height: 28'-4.4"
Pole Height: 23'-4.2"
Ground Clearance: 10'-0.8"
Total Square Feet: 136.4 SQ FT
7 Line Aux Cab Height: 13'-9.4"
Wind Load: 35 psf

Digit Type: Lumidigit 4
Digit Size: 14", 14", 14"

LED Illum. Draw: 10 Amps@120V
LED(Pricers/EMC) Draw: 2 Amps@120V
Total Circuits Rec. : 4 - 20 Amp Circuits @120V

ExxonMobil MID



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Customer: Mobil	Description:	Customer Approval: NOTE: Unless specified by customer, all depth of embossing will be determined by Everbrite Engineering or existing customer specifications on file. Colors and graphics on file will be used unless otherwise specified by customer. Please read carefully, check appropriate <input type="checkbox"/> Sketch OK as is box and fax back to Everbrite: <input type="checkbox"/> New Sketch Required _____ SIGNATURE DATE
Project No: PP507784A Scale: N/A	Revised:	
Date: 07/24/2024 Drawn By: JB	Revision: 1	
Location & Site No: , 1207 W Lusher Ave, Elkhart, IN, 46517-1524		



Staff Report

Planning & Zoning

Petition: 25-X-02

Petition Type: Special Exception

Date: Plan Commission: March 3, Board of Zoning Appeals: March 13, 2025

Petitioner: Janelya Gates

Site Location: 709 Fieldhouse Avenue

Request: Per Section 5.3, Special Exception Uses, (4.3 F) Day Care Home to allow for the establishment of a new day care home at 709 Fieldhouse Avenue.

Existing Zoning: R-2, Single Family Dwelling District

Size: +/- .224 Acres

Thoroughfares: Fieldhouse Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:
Surrounding properties are residential zoned R-2.

Applicable Sections of the Zoning Ordinance:
Enumerated in request.

Comprehensive Plan:
The Comprehensive Plan calls for this area to be developed with low density residential uses.



Staff Analysis

The petitioner is seeking local permission to operate a home day care at 709 Fieldhouse Avenue. The City of Elkhart requires, in addition to state approvals, an approved special exception to operate a home day care.

The house, built in 2024, based on assessor records comprises approximately 960 square feet on a .224-acre site. The house and grounds appear to be in good condition. The house has a spacious backyard with a small driveway; parents may use part of the driveway or the two streets to drop off and pick up children. The daycare will necessitate a license from the Indiana Family and Social Service Administration (FSSA)

Recommendation

Staff recommends **approval** of the request based on the following findings of fact:

1. The special exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected because the site has a fenced yard and parents can park on either of the two intersecting streets;
2. The special exception will not reduce the values of other properties in its immediate vicinity because the site must retain its residential character;
3. The special exception shall conform to the regulations of the Zoning District in which it is to be located because there can be no noise, smoke or odors that would compromise the neighboring properties.

Conditions

If the Board chooses to approve the requested special exception, staff recommends that the following conditions be placed upon the approval:

1. All children shall be restricted to the building and fenced-in play area except when arriving and leaving or on supervised walks or outings.
2. The facility and grounds shall be kept clean at all times.
3. The facility shall be subject to inspection upon reasonable notice, by the zoning administrator during hours of operation.
4. There shall be no exterior display, signs, or other forms of advertising on the premises.
5. A copy of the child care home license shall be submitted to the Department of Planning and Zoning upon receipt from the Indiana Family and Social Services Administration.
6. If the day care ceases to operate for more than one (1) year, or the license is revoked, the Special Exception becomes null and void.
7. Any violation of the terms of this Special Exception as determined by the City Zoning Administrator shall render the Special Exception invalid.
8. There shall be a maximum twelve (12) children.
9. The operator of the day care shall live on the premises.
10. The Special Exception is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by March 13, 2027.

Photos



PETITION #: 25-X-02

FILING FEE: \$ 300

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE: SPECIAL EXCEPTION

Property Owner(s): Janelya Gates

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Janelya Gates

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 709 Fieldhouse Ave

Zoning: _____

Present Use: LIVING Proposed Use: Family In-home Childcare

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Janelya Gates

SIGNATURE(S): [Signature] DATE: 01/27/25

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: [Signature] DATE: 1/29/25

Janelya Gates



01/28/2025

To: Plan Commission & Board of Zoning Appeals

City of Elkhart, Indiana

Re: Special Exception Request

The undersigned petitioner respectfully shows the Plan Commission and Board of Zoning Appeals:

I, Janelya Gates, am the owner of the following described real estate located within the city of Elkhart at 709 Fieldhouse Ave Elkhart County, State of Indiana. The above-described real estate presently has a zoning classification of single-family residential in the R-2, ONE-FAMILY DWELLING DISTRICT under the Zoning Ordinance of the City of Elkhart. Currently, the property is used as a residential home where my children and I live. However, I am requesting a special exception to operate a family home childcare business within my residence. This childcare service allows me to run a small business from home. The Zoning Ordinance of the City of Elkhart requires special approval from home-based childcare operations. My requirements align with these regulations, as I will comply with all state licensing requirements and adhere to health and safety guidelines to ensure a secure environment for children in my care.

The property is well suited for the requested special exception due to the following reasons:

1. Public Health, Safety, and Welfare: My childcare business will operate in full compliance with the state- mandated safety regulations, including proper supervision, secure play areas, and emergency preparedness measures. There will be no adverse impact on public health, safety, or welfare. My childcare business will meet the growing need for quality childcare in the community, supporting working families. The home-based setting provides a safe and nurturing environment for children.
2. Property values: The presence of a small, in-home childcare business will not negatively affect the property values in the surrounding neighborhood. The home will remain well-maintained, and no structural changes will be made that would alter the residential character of the property.
3. Zoning Compliance: the requested special exception aligns with the zoning regulations, as family home childcare services are an allowable use under special conditions. My

business will not disrupt the residential nature of the neighborhood, as it will have minimal impact on traffic, noise levels, and overall community aesthetics.

For these reasons, I respectfully ask that the approval of this special exception so I may service a family home childcare business within my residence. I am happy to provide more details and address any concerns at the scheduled hearing.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested special exception for the in-home childcare facility.

A handwritten signature in black ink, appearing to read "Janelya Gates". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke.

Janelya Gates

Contact Person: Self/Joyful Journeys Daycare

Name: Janelya Gates

Address:

[REDACTED]

Phone number where I can be reached:

[REDACTED]

Email:

[REDACTED]

Date: December 22, 2023
MIN: 1000922-1401935644-7

Loan Number: 1401935644
Case Number: 156-6021123-703

EXHIBIT "A"

LEGAL DESCRIPTION

Lot Numbered Five (5) as the said lot is known and designated on the recorded Plat of Brown's Second Minor Subdivision, said Plat being recorded in Plat Book 40, page 99, in the Office of the Recorder of Elkhart County, Indiana.

Parcel ID: 20-06-17-127-032.000-012

Commonly Known As: 709 Fieldhouse Avenue, Elkhart, Indiana 46517

AFFIDAVIT IN SUPPORT OF SPECIAL EXCEPTION PETITION

I, Janelya, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

- 1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
- 2. I make this affidavit in support of my special exception petition filed contemporaneously herewith.
- 3. I am now and at all times relevant herein have been, the owner of record of the property located at 709 Fieldhouse Ave Elkhart, Indiana.
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 01 day of 27, 2025.

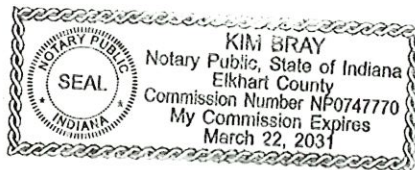
Janelya Gates
Printed: Janelya Gates

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

Janelya Gates
Printed: Janelya Gates

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

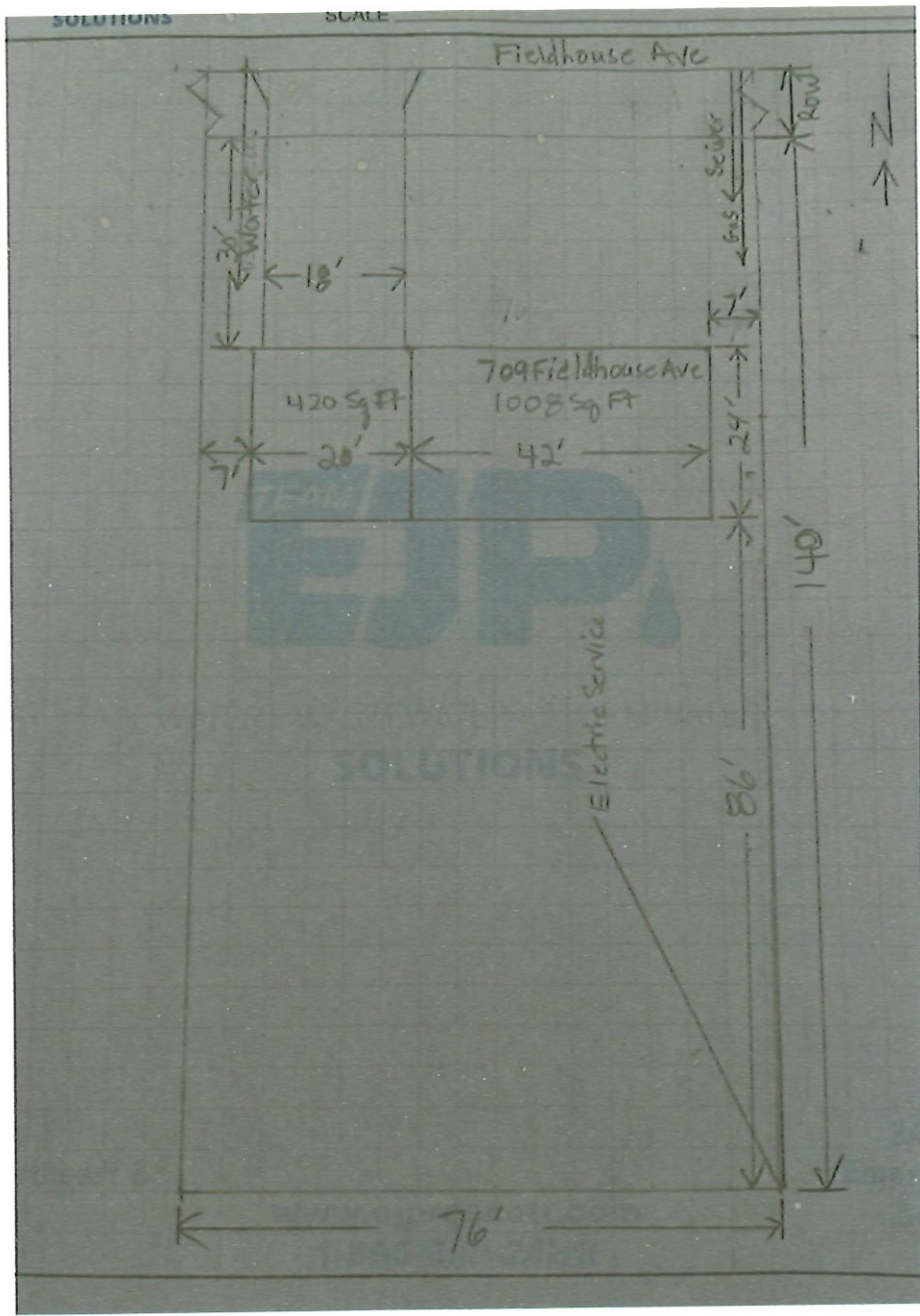
Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared in person, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 27th day of January, 2025.



Kim Bray
Printed: Kim Bray

My Commission Expires:
March 22, 2031

Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana



House Design



Staff Report

Planning & Zoning

<u>Petition:</u>	25-BZA-01
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	March 13, 2025
<u>Petitioner:</u>	Darrell Peterson, Elkhart County Youth for Christ Inc.
<u>Request:</u>	To vary from Section Sign Regulations 26.10 Requirements, Table 1, in the R-5, Urban Residential District to allow for a new freestanding sign that is forty-two (42) square foot in area to be installed where the maximum area is thirty-two (32) square feet in area a variance of ten (10) square feet.
<u>Site Location:</u>	2721 Prairie Street
<u>Existing Zoning:</u>	R-5, Urban Residential District
<u>Size:</u>	+/- 2.85 Acres
<u>Thoroughfares:</u>	Prairie Street and Desmond Avenue
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

The property is surrounded by a mix of residential uses zoned R-1, One Family Dwelling and R-4, Multiple Family Dwelling District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with a mix of low density residential uses and high density residential uses.



Staff Analysis

The petitioner is requesting a developmental variance to allow for a sign that is 42 square feet when the maximum allowed is 32 square feet.

This property is currently used for a youth ministry and charter school. They are proposing a new freestanding monument style sign to be located along the north side of Prairie Street. The proposed sign will be internally lit and 9 feet back from the property lines and 20 feet south of the property line. The variance is needed as the ordinance requires all freestanding signs in Residential Districts to be 32 square feet.

Staff recommends approval of this variance.

Recommendation

The Staff recommends **approval** of the developmental variance e based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals, or general welfare of the community as a freestanding monument style sign of this size is typically found in the nearby business districts;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the property will continue to be used as an office building;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances **do exist** which are particular to the land involved and which are not applicable to other lands or structures in the same district as the signs are preexisting;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because it places constraints on the visibility of the building;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant;
7. This property does not lie within a designated flood hazard area.

Photos



PETITION #: 25-B2A-01

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): EIKhart County Youth for Christ Inc / Darrell Peterson
Mailing Address: [REDACTED]
Phone #: [REDACTED] Email: [REDACTED]
Contact Person: Signtech Sign Services / Todd Lehman
Mailing Address: [REDACTED]
Phone #: [REDACTED] Email: Signtech@signtechsigns.com
Subject Property Address: 2721 Prairie St. EIKhart IN. 46517
Zoning: Commercial
Present Use: Youth Ministry Sign Proposed Use: Youth Ministry Sign
NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.
PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Darrell Peterson
SIGNATURE(S): [Signature] X DATE: 1-27-25

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____
Map #: _____ Area: _____
RECEIVED BY: [Signature] DATE: 1/31/25

CITY OF ELKHART VARIANCE FORMS

DATE: 1-31-25

TO: BOARD OF ZONING APPEALS
CITY OF ELKHART, INDIANA

TYPE OF APPEAL: DEVELOPMENTAL OR USE VAIANCE

The undersigned appellant respectfully shows the Board of Zoning and Appeals:

X 1. I, Danell Peterson, am the owner of the following described real
(Property owners name)

estate located within the City of Elkhart, Concord Township, Elkhart County, State
of Indiana, to wit: (see the attached accurate legal description and address.)

2. The above-described real estate presently has a zoning classification of R-5
District under the Zoning Ordinance of the City of Elkhart.

3. Petitioner presently occupies the above, described property in the following manner:
Commercial

4. Petitioner desires to explain how our proposal is varying from the provisions within the zoning ordinance:
The Identity Sign will be 42 sqft in an R-5 Zone, where a 32 sqft sign is allowed, Difference of 10 sqft.

5. The Zoning Ordinance of the City of Elkhart requires:
A 32 sqft sign in an R-5
* see section 26.10 Table 1

6. The strict adherence to the Zoning Ordinance requirements would create an unusual hardship in the following ways:
A 32 sqft sign would not allow sufficient visibility or space for all tenants to be displayed on the road sign.

STANDARDS THAT MUST BE CONSIDERED FOR A DEVELOPMENTAL VARIANCE ARE AS FOLLOWS:

- 1.) The approval will not be injurious to the public health, safety, morals and general welfare of the community:
The signs will meet the required setbacks from the Right of Way & the North property line.
- 2.) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner:
The sign will be constructed using high quality materials
- 3.) Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance:
To allow Lifeline and other tenants to promote their ministry and be visible to the community
- 4.) Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to the other lands or structures in the same district:
This size of a sign gives the greatest visibility for all tenants to adequately display their locations to the public
- 5.) The strict application of the terms of this ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the provisions of this ordinance:
Property owners need to be able to advertise their services to the community through visible signage
- 6.) The special conditions and circumstances do not result from any action or inaction by the applicant: Correct
- 7.) In designated flood hazard areas, the variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, or conflict with the existing laws or ordinances:

Wherefore, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

SIGNATURE OF PROPERTY OWNER: *Danell Peterson*

PRINTED NAME: Danell Peterson

Contact Person: Diane Miller

Name: Diane Miller

Address: [REDACTED]

Phone Number: [REDACTED]

Email: [REDACTED]

AFFIDAVIT IN SUPPORT OF USE VARIANCE PETITION

Darrell Peterson

I, _____, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 2721 Prairie Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 28th day of Jan, 2025.

Darrell Peterson

Printed: Darrell Peterson

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

Darrell Peterson

Printed: Darrell Peterson

STATE OF INDIANA)
COUNTY OF ELKHART)

) SS:



TIFFANY BURNS
Notary Public, State of Indiana
Elkhart County
Commission Number NP0751251
My Commission Expires
August 29, 2031

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Darrell Peterson, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 28th day of January, 2025.

Tiffany Burns

Printed: Tiffany Burns

My Commission Expires:

AUGUST 29, 2031

Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana

Tax ID Number(s):
State ID Number Only 20-06-17-427-006.000-011

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

Jeffrey L. Long and Joni K. Long, Husband and Wife

CONVEY(S) AND WARRANT(S) TO

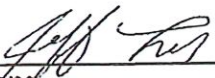
Elkhart County Youth For Christ Inc., for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Elkhart County, in the State of Indiana, to wit:

SEE ATTACHED EXHIBIT "A"


Subject to Real Estate taxes now due and payable and thereafter.

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 17 day of MAY 2019.



Jeffrey L. Long



Joni K. Long

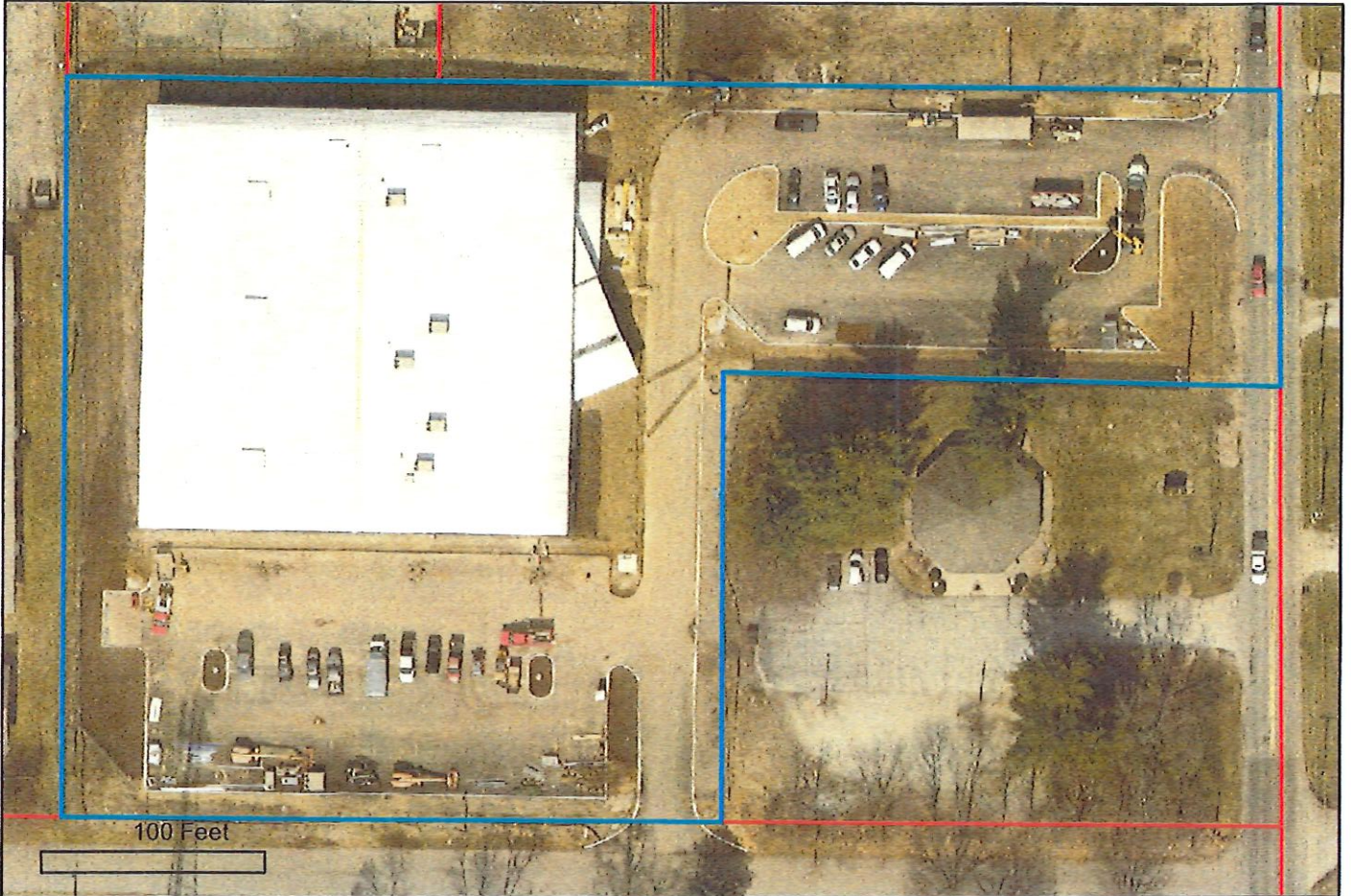
EXHIBIT A

A part of the Southeast Quarter (SE-1/4) of Section Seventeen (17), Township Thirty-seven (37) North, Range Five (5) East, more particularly described as follows:

Commencing at the Northeast corner of said quarter (1/4) section; thence South along the East line of said quarter (1/4) section twenty (20) rods to the place of beginning of this description, said point being the Southeast corner of land deeded to Merle Hartman (Deed Record 193, page 613); thence West along the South line of Hartman's land Two Hundred Seventy-two and twenty-five hundredths (272.25) feet, more or less, to the Southeast corner of land deed to William Gehman and Dora M. Gehman and recorded in Deed Record 199, page 158; thence North along the Gehman's East line One Hundred (100) feet; thence East parallel with the South line of said Hartman's land to the East line of said quarter (1/4) section; thence South along the East line of said quarter (1/4) section, One Hundred (100) feet, to the place of beginning.

Elkhart County, IN

2721 PRAIRIE ST, ELKHART, IN 46517
20-06-17-427-009.000-011



Parcel Information

Parcel Number: 20-06-17-427-009.000-011
Alt Parcel Number: 06-17-427-009-011
Property Address: 2721 PRAIRIE ST
ELKHART, IN 46517
Neighborhood: 1146023-Commercial-Acre-Fringe-
Average Rate (011)
Property Class: Commercial: Health Club - 467
Owner Name: ELKHART COUNTY YOUTH FOR CHRIST INC
Owner Address: PO Box 73
Elkhart, IN 46515-0073
Legal Description: IN NE COR SE 20X32 1/2RDS EX; 1.15A
SEC 17; 2.85A

Taxing District

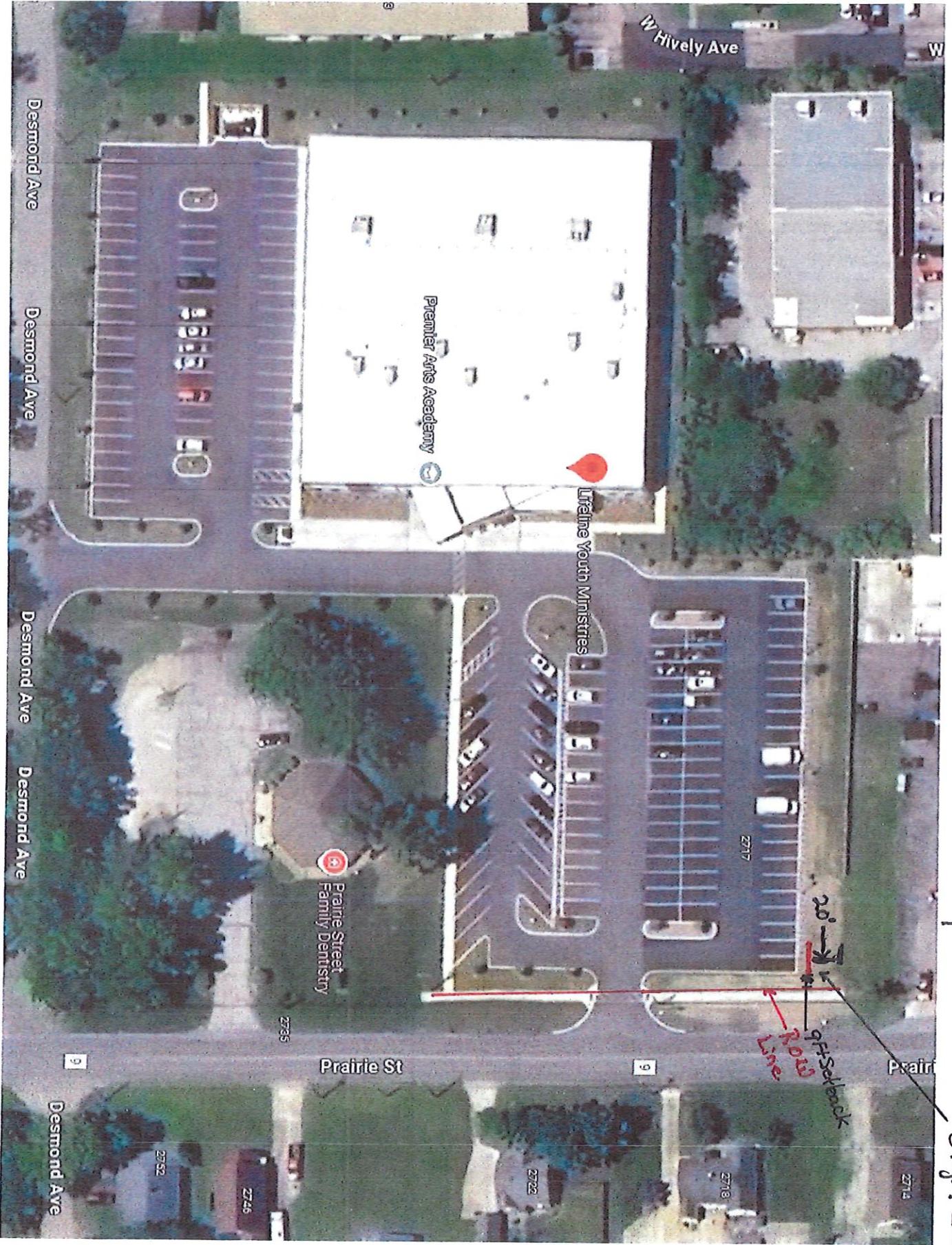
Township: CONCORD TOWNSHIP
Corporation: Concord Community Schools

Land Description

<u>Land Type</u>	<u>Acreage</u>	<u>Dimensions</u>
Secondary Com & Ind	2.85	



7' w x 6' h = 42 sqft = Identity Sign



2+

Sign Location

W Hively Ave

Premier Arts Academy

Lifeline Youth Ministries

Prairie Street Family Dentistry

Desmond Ave

Desmond Ave

Desmond Ave

Desmond Ave

Prairie St

Desmond Ave

Prairie St

2714

2718

2722

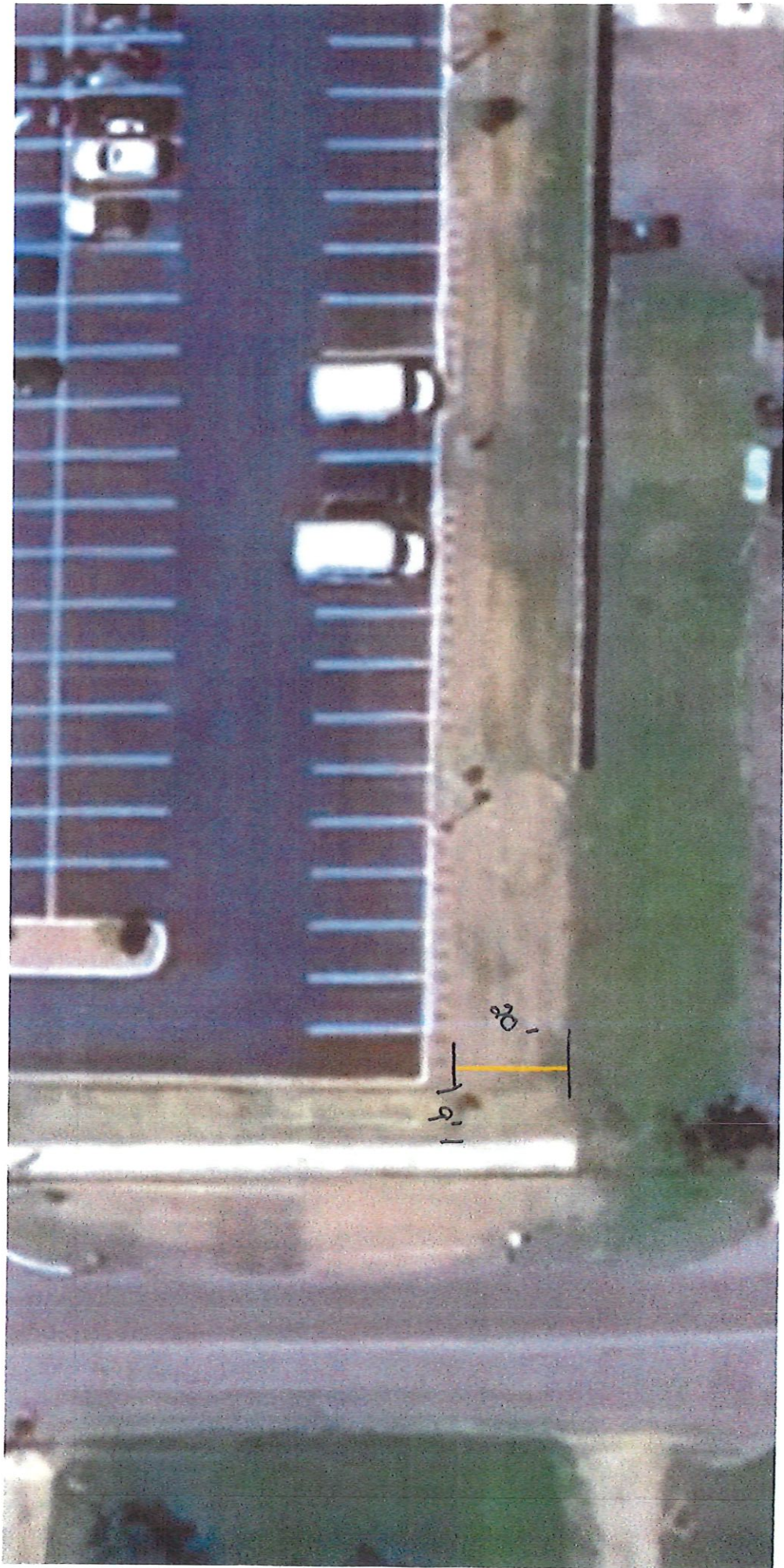
2746

2752

9

9

9





Staff Report

Planning & Zoning

<u>Petition:</u>	25-UV-03
<u>Petition Type:</u>	Use Variance
<u>Date:</u>	March 13, 2025
<u>Petitioner:</u>	Jeremy Stone
<u>Request:</u>	To vary from Section 15.2, Permitted Uses in the CBD, Central Business District to allow for Auto Sales.
<u>Site Location:</u>	640 East Jackson Blvd
<u>Existing Zoning:</u>	CBD, Central Business District
<u>Size:</u>	+/- 0.188 Acres
<u>Thoroughfares:</u>	East Jackson Boulevard and Johnson Street
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

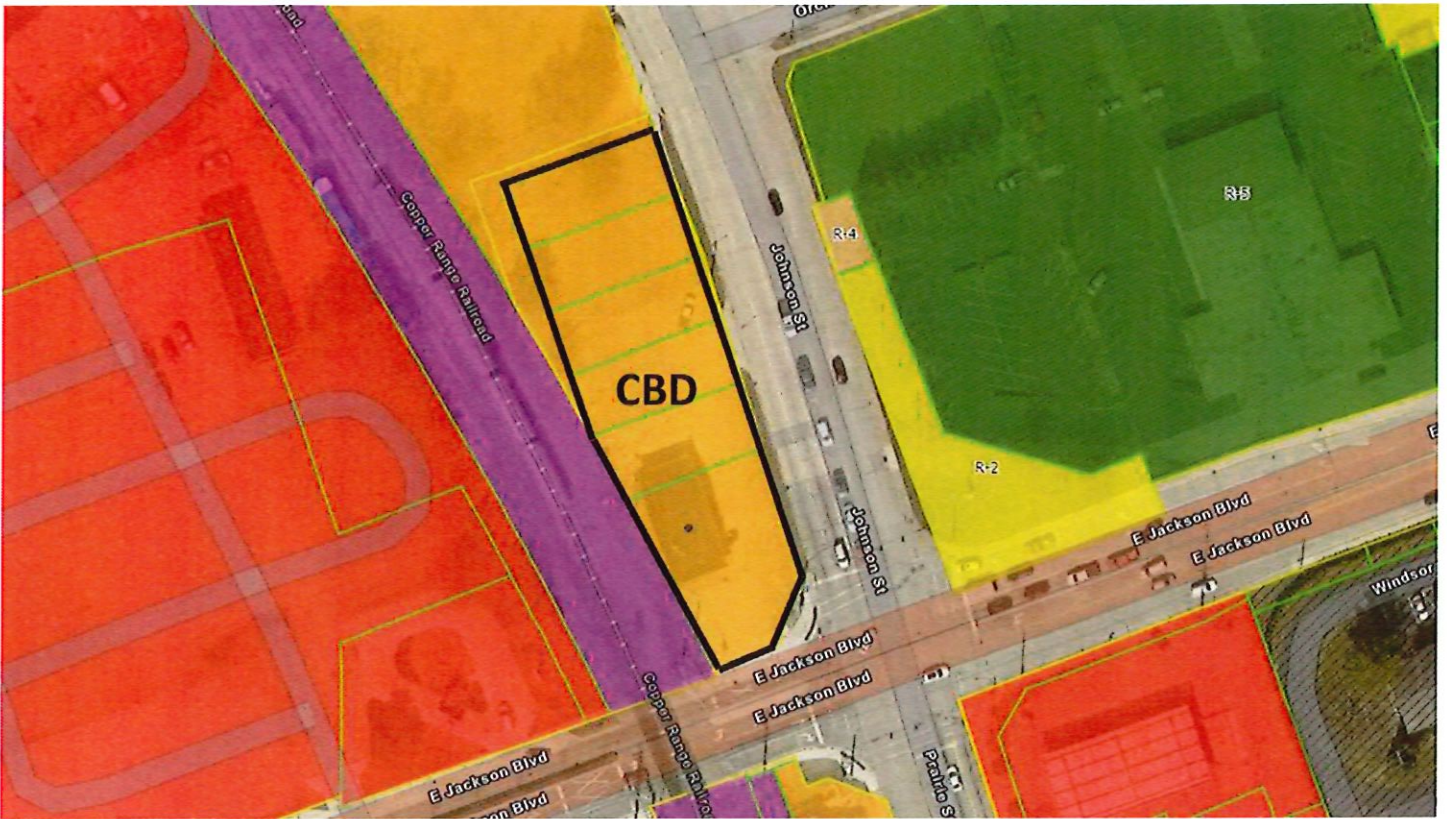
The property is surrounded by a mix of residential and commercial uses zoned R-2, Two Family Dwelling District, R-4, Multiple Family Dwelling District, B-3, Service Business District, B-2, Community Business District and CBD, Central Business District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with a mix of low- and high-density residential uses and commercial uses.



Staff Analysis

The petitioner is requesting a use variance to allow the property to be used for auto sales. The current zoning of the Central Business District does not permit auto-oriented land uses which includes auto sales.

Based on assessor records, the building was built around 1968 and is approximately 1914 square feet over one level. The building was originally used as a gas station and repair shop. Over the last several decades the site had been known as Dick Choler Cars. After Choler cars closed the subsequent businesses operated for several years before closing and utilities to the site shut off in March 2023.

The request comes to us based on a complaint and an investigation by zoning staff that observed a new business at the location after seeing activity and cars parked around the building. The building had recently been purchased.

Staff reached out to the new owner and asked to meet with them to understand the desired use of the property. Staff met with the owner/petitioner in January 2025 and heard their plans for the site. Staff explained the allowable uses and what uses are permitted and more importantly, also covered the non-conforming use regulations found in the zoning ordinance (See Figure 1 below). Staff relayed that the use had been abandoned for more than one (1) year and that the owners would need to file in order for the use to resume.

The primary way staff determines whether or not a non-conforming use has lapsed is with active utility usage. Based on no water or sewer activity for 18 months, staff determined the use had lapsed. Water service was turned off on March 15, 2023 and reestablished on September 16, 2024.

The new owners/petitioner did not understand the limitations of the current zoning and were under the assumption that based on the previous use as a used car lot they could again operate a used car lot. Unfortunately, the new property owner did not do the sufficient due diligence before purchasing the property.

The property is located in CBD zoning district. The purpose of the Central Business District is to encourage a diversity of uses which together contributes to the vitality of the downtown core. The district recognizes the unique character of downtown and its function as a center of business, government, finance, residential, and social activity in the community. Land uses and building design are integral to the image and theme of the Central Business District.

Some examples of CBD uses are drug stores, live/work units, medical offices, multi-family residential dwellings, offices, restaurants and retail sales. The Development Conditions for the district shall comply with Type I and Type II Design Standards as specified in Section 24. Business activity must be conducted wholly within a completely enclosed building, except for legally permitted outdoor eating areas and sidewalk sales. Where businesses in this district are adjacent to residentially zoned or used property, all service areas, including but not limited to, loading docks and doors, dumpsters, etc. shall be screened.

The other concern staff has with this request is the property is located at the eastern bookend of the River District. The River District Plan, authored by Jeff Speck focused on the goal of establishing a pedestrian, walkable urban area. The primary uses outlined in the plan to achieve those goals were office, housing, retail, dining, entertainment, hospitality, schools, recreation and worship. The city has expended tremendous resources and has supported the vision of the Speck plan and others to reimagine downtown Elkhart.

The city supports redevelopment activity that falls in line with the River District Plan and the current permitted uses found in the CBD section of the ordinance. Surrounding the property is a mix of commercial and residential uses. The staff cannot support the request.

Figure 1 – Excerpt from Section 1 – Elkhart City Zoning Ordinance

In Section 1.10.B.3 Regulations for Nonconformities, Non confirming uses of land, the regulations list the below requirements and limitations for nonconforming uses.

- a. No nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- b. No nonconforming uses shall be moved to any portion of the lot or parcel other than that occupied by the use at the effective date of adoption or amendment of this Ordinance.
- c. No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use to a use permitted in the district in which it is located. No additional structure shall be erected in connection with a nonconforming use of land.
- d. A nonconforming use may be extended throughout any parts of the structure it occupies which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance but no such use shall be extended to occupy any land outside such structure.
- e. When a nonconforming use is replaced by a conforming use, the nonconforming use status shall be lost and no nonconforming use shall thereafter be resumed. A nonconforming use which complies with the provisions of this Ordinance.
- f. If any nonconforming use of land is discontinued or abandoned for more than one (1) year, any subsequent use of the land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

Recommendation

The Staff recommends **denial** of the use variance based on the following findings of fact:

1. The approval **will** be injurious to the public health, safety, morals or general welfare of the community because the proposed use is inconsistent with the purpose of the district and is more intense than the permitted CBD uses;
2. The use and value of the area adjacent to the property **will** be affected in a substantially adverse manner because the proposed use is not in keeping with the purpose of the CBD district intended in part to function as the center of business, government, finance, residential and social activity in the community as well as not in keeping with the vision of the River District Plan;
3. The strict application of the terms of this Ordinance **will not** constitute an unnecessary hardship if applied to the property for which the variance is sought because many of the permitted uses listed in the CBD section of the zoning ordinance could be established on this site;
4. The request **does not comply** with the Comprehensive Plan which calls for the area to be developed with mixed uses.

Photos





PETITION #: 25-UV-03

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): Jeremy Stone

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Jeremy Stone

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 640 E. Jackson Elkhart, IN

Zoning: CBD

Present Use: pre-owned auto sales Proposed Use: pre-owned auto sales

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Jeremy Stone

SIGNATURE(S):  DATE: 2-5-25

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: _____ DATE: _____

DATE: 2/4/2025

TO: Board of Zoning Appeals

RE: Use Variance

City of Elkhart, Indiana

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

I, Jeremy Stone, am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit:

640 E Jackson St

Elkhart, IN 46516

Lot(s): 1 2 3 4 5 6

LANES 2ND LOT 1 EX 8FT E SIDE EX SO & E PT FOR HWY (TIF 155) / LANES 2ND LOT 2 EX PT FOR HWY (TIF 155) / LANES 2ND LOT 3 EX E PT FOR HWY (TIF 155) / LANES 2ND LOT 4 EX E PT FOR HWY (TIF 155) / LANES 2ND LOT 5 EX E PT FOR HWY (TIF 155) / LANES 2ND LOT 6 EX E PT FOR R/W (TIF 155)

The above-described real estate presently has a zoning classification of CBD,

I presently occupy (and propose to occupy) the above described as a pre-owned vehicle dealership.

I desire to sell quality preowned vehicles to this community and surrounding areas.

The Zoning Ordinance of the City of Elkhart requires that auto sales and service are not permitted within areas zoned CBD, although many are "grandfathered" in, as was this one to our understanding prior to change in ownership of the property.

The need for the variance arises from this property being zoned CBD, although it has been used as preowned auto dealership since the early 1980's.

The approval will not be injurious to the public health, safety, morals and general welfare of the community for the following reasons: the business will comply with all relevant local, state, and federal regulations regarding safety and environmental standards. This ensures that both the vehicles sold, and the business operations meet rigorous safety requirements, promoting public well-being. The dealership will maintain a clean and organized lot, with proper signage, lighting, and aesthetic considerations, which aligns with the area's zoning and enhances the neighborhood's visual appeal. We are committed to maintaining a high standard of operations to ensure it blends with the character of the area. We are committed to being an active and responsible member of the community. Our dealership will focus on providing quality preowned vehicles and excellent customer

service, fostering positive relationships with our neighbors and customers alike. The dealership will also create local employment opportunities and contribute to the community's economic development. By drawing customers from surrounding areas, the business could also stimulate other local businesses, further strengthening the local economy.

If able to establish the business at this location we are committed to truly bringing value to the community beyond pre owned auto needs, it is a strong belief of mine to use any resources available to me to help others and we have full intention to invest those resources in the form of supporting our local schools and youth, at risk families, and notable charities in our area.

The use and value of the area adjacent to the property will not be affected in a substantially adverse manner for the following reasons; the dealership will be operated in a manner that ensures it blends seamlessly with its surroundings. The property will be properly maintained, with a clean and orderly lot that aligns with the visual standards of the area. Our commitment to keeping the dealership well-organized, with attractive landscaping and proper signage, will enhance the overall appeal of the area, not detract from it. The layout of the dealership will be designed to minimize traffic disruptions and ensure smooth access to and from the property. Since the property is already located on a main thoroughfare, it is positioned to handle the expected level of customer traffic without causing congestion or safety concerns. This careful planning ensures that the dealership will not negatively impact the ease of access for neighboring businesses and residents. We have no intention of having an overfilled, unorganized establishment. Our goal is to bring quality vehicles to people in this community with a quality experience.

Strict adherence to the current Zoning Ordinance requirements would create an unusual hardship for my business for several reasons. First, the property has previously operated as a used car dealership for many years, and its infrastructure and layout are specifically designed for that purpose. The property is uniquely suited for a used car dealership due to its location and features, such as ample space for vehicle display and customer interaction. Requiring a change in use to comply with current zoning regulations would necessitate significant modifications to the property, which would not be practical given the specific design elements tailored to its previous use. Additionally, since the property has been vacant for some time, there are limited potential uses that would fit the existing building structure, and the imposition of new, incompatible uses could result in continued vacancy, which negatively impacts the neighborhood and surrounding property values. Moreover, allowing the property to return to its prior use would maintain the character and functionality of the area, supporting a use that is consistent with the

community's historical zoning and avoiding the disruption that could result from introducing an entirely different type of business.

Approval would not interfere substantially with the Comprehensive Plan. We understand that the city of Elkhart has a "vision" for its downtown area. We are committed to creating and maintaining an aesthetically pleasing and well-organized environment that will not detract from the surrounding area. There has been a pre-owned auto sales business at this location for 40+ years, and we would like the opportunity to continue that, albeit with a more aesthetically pleasing appearance. We are excited for the growth of the downtown area in the city we call home and understand that as the expansion of the downtown area continues that it may be beneficial for this business to relocate in the future, we are just respectfully requesting the opportunity to get this business up and running.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board

grant the requested use variance.

Signature of Property Owner:  _____

Printed Name: Jeremy Stone _____

Second Property Owner: _____

Printed Name: _____

Contact Person: Jeremy Stone _____

Name: _____

Address: 

Phone Number where you can be reached: 

Email: 

AFFIDAVIT IN SUPPORT OF USE VARIANCE PETITION

I, Jeremy Stone being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

- 1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
- 2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
- 3. I am now and at all times relevant herein have been, the owner of record of the property located at 640 E. Jackson Elkhart, Indiana.
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 5 day of February 2025.

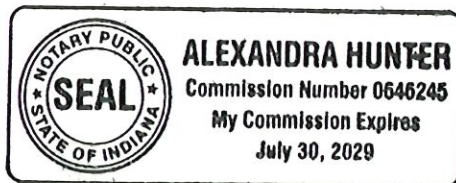
[Signature]
Printed: Jeremy Stone

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

[Signature]
Printed: Jeremy Stone

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Jeremy Stone, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 5th day of February, 2025.



[Signature]
Printed: Alexandra Hunter

My Commission Expires:
July 30, 2029

Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana

EXHIBIT "A"
Legal Description

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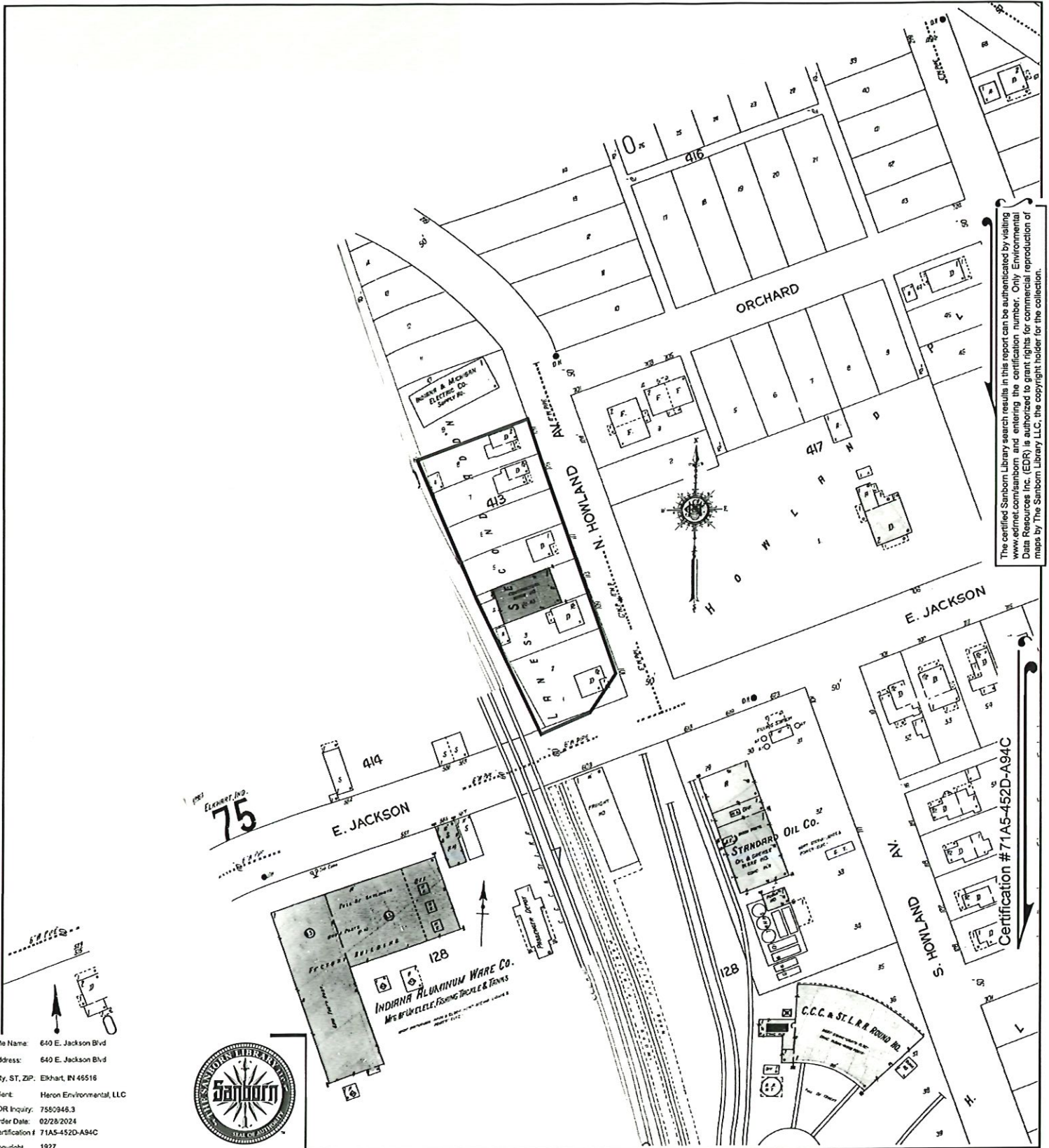
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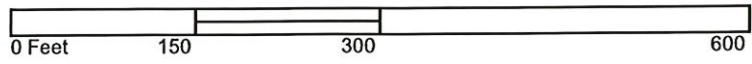


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Site Name: 640 E. Jackson Blvd
 Address: 640 E. Jackson Blvd
 City, ST, ZIP: Elkhart, IN 46516
 Client: Heron Environmental, LLC
 EDR Inquiry: 7580946.3
 Order Date: 02/28/2024
 Certification #: 71A5-452D-AS4C
 Copyright: 1927

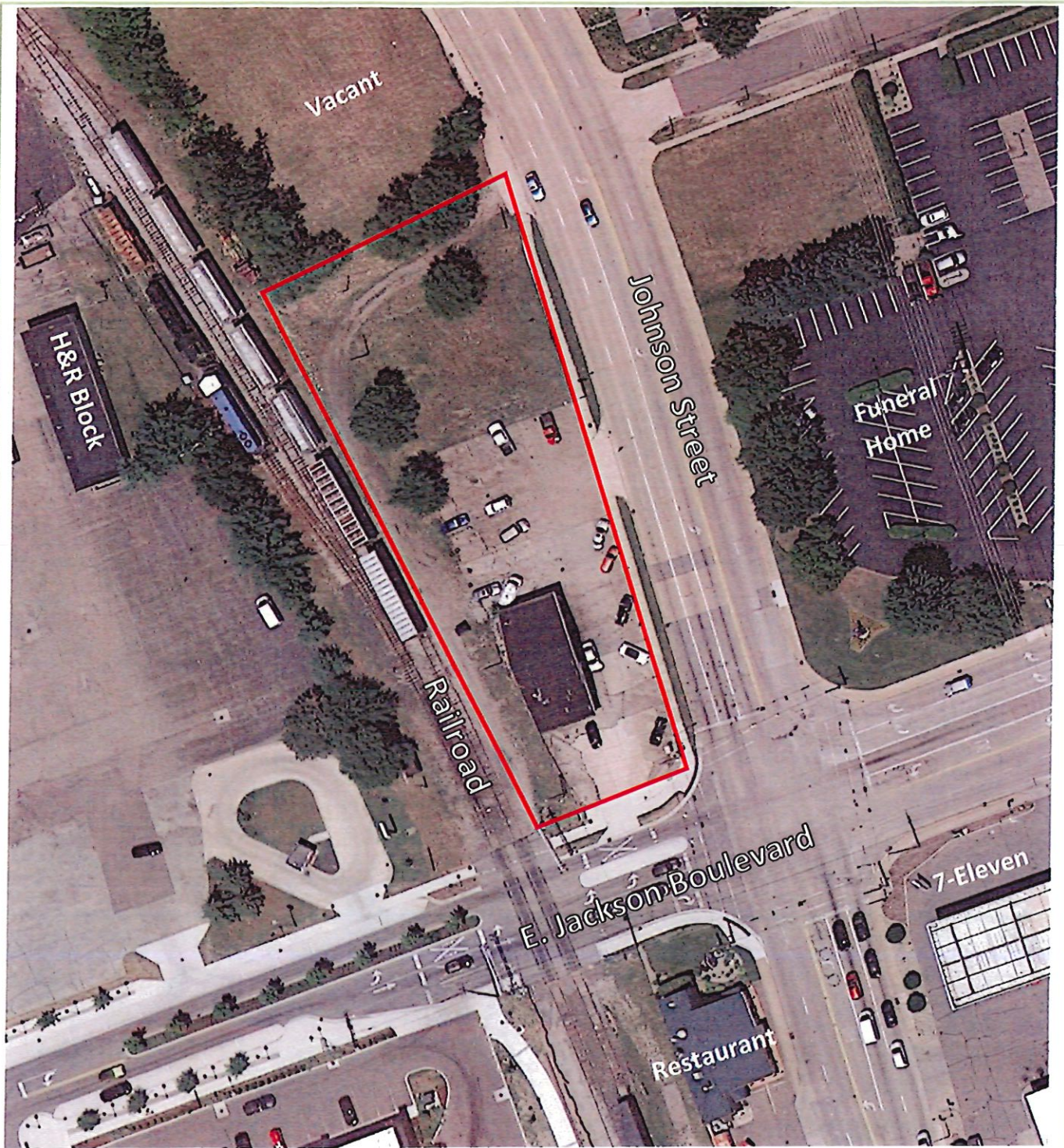


This Certified Sanborn Map combines the following sheets. Outlined areas indicate map sheets within the collection.



Volume 1, Sheet 72
 Volume 1, Sheet 75





Approximate Property Parcel Boundaries



FIGURE 1
PROPERTY DETAIL
 Commercial Property
 640 E. Jackson Boulevard
 Elkhart, Indiana

Heron Project: 24-0519

Source: Google Earth
 2022 Aerial Photograph

Approximate Scale: 1" = 75'
 Prepared: May 2024 By: JRB



Staff Report

Planning & Zoning

Petition: 25-UV-04

Petition Type: Use Variance

Date: March 13, 2025

Petitioner: William Zimmerman

Request: To vary from Section 5.2, Permitted Uses in the R-2, One-Family Dwelling District to allow for an additional unit on the upper level.

Site Location: 1129 Prairie Street

Existing Zoning: R-2, One-Family Dwelling District

Size: +/- 0.62 Acres

Thoroughfares: Prairie Street and Park Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

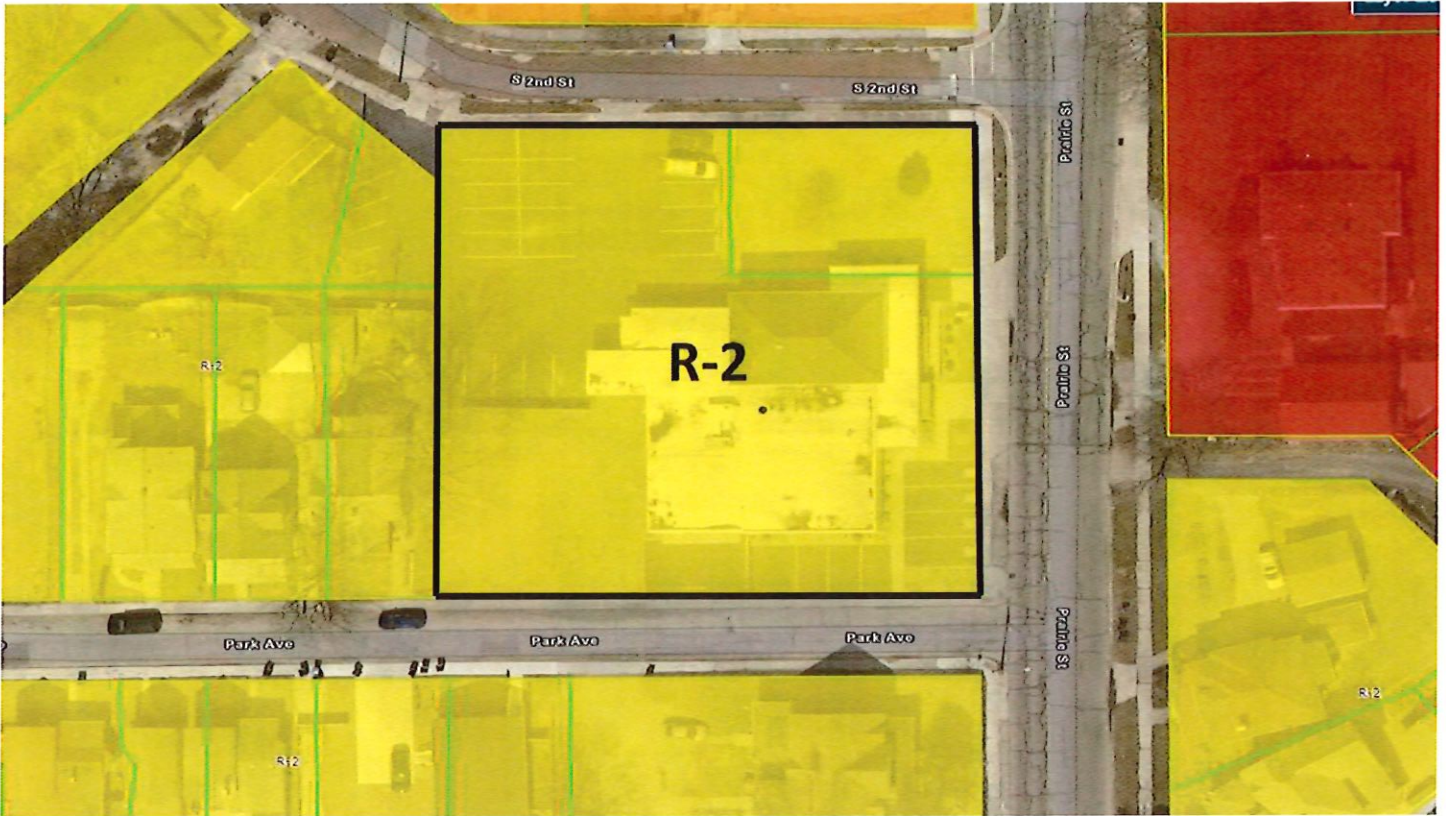
The property is surrounded by a mix of residential and commercial uses zoned R-2, Two Family Dwelling, B-3, Service Business District and CBD, Central Business District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with a mix of low density residential uses and commercial uses.



Staff Analysis

The petitioner is requesting a use variance to allow the property to use the existing living quarters for an apartment rental unit.

The request comes to us from a request from a local funeral home looking to utilize their upper level of their building for a rental apartment.

Based on assessor records, the building was built around 1900 and is approximately 7,900 square feet over two levels with about 6,600 square feet on the first floor and on the second floor is 1200 square feet. The building had been originally used as a house but has since been converted into a funeral home with living quarters previously used by staff on the upper level.

Recommendation

The Staff recommends **approval** of the use variance based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals or general welfare of the community because the proposed use was remodeled with all necessary permits and inspections;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the proposed use is often found above funeral homes;
3. The strict application of the terms of this Ordinance **will** constitute an unnecessary hardship if applied to the property for which the variance is sought because without action by this body the apartment would not be able to be rented legally;
4. The request **does comply** with the Comprehensive Plan which calls for the area to be developed with medium density residential;
5. The apartments unit was originally used by staff and is being underutilized, the adding of an existing unit will not negative impact the surrounding neighborhood.

Photos





PETITION #: 25-WV-04

FILING FEE: \$ 200

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): William W. Zimmerman

Mailing Address: [REDACTED]

Phone: [REDACTED] Email: [REDACTED]

Contact Person: Same as above

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: 1129 S. Prairie Street

Zoning: Funeral Home

Present Use: Funeral Home Proposed Use: Multi-use

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): William W. Zimmerman

SIGNATURE(S): [Signature] DATE: 2-7-2025

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: [Signature] DATE: 2/7/25

**Waterman Westbrook Clouse Funeral Home
1129 S. Prairie Street Elkhart, IN 46516
574-295-6006**

February 6, 2025

To: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Use Variance

I, **William Zimmerman**, am the owner of **1129 S. Prairie Street Elkhart, IN 46516**. Located within the City limits of Elkhart, Concord Township, Elkhart County, State of Indiana, to wit (**see attached documentation**)

The above described real estate presently has a zoning classification of funeral home district under the zoning ordinance of the city of Elkhart.

Petitioner, William Zimmerman, presently occupies the above described property, in the following manor. Lower level of the building is currently be used as a funeral home. I petitioner, William Zimmerman desire to use the upper level (that has always and previously been used as living quarters for staff) as an apartment rental.

The zoning ordinance of the City of Elkhart requires that I

We have remodeled the upper level (apartment) to be used as a rental apartment and the funeral home would have no reason for it to be used in the daily operation of the funeral home.

We are asking the zoning on this property to be made into a multiuse zoning. Especially since it was formally used as such many years ago.

Standard 1: The approval will not be injurious to the public due to the fact that it is adding a safe and updated rental unit for the public.

Standard 2: There will be no adverse effects to surrounding areas especially because there are many apartments already surrounding the current funeral home. Our goal is just to add another.

MERIDIAN TITLE CORPORATION

Agent for: Fidelity National Title Insurance Company
Commercial Division Elkhart
881 Parkway Ave., Ste. 300
Elkhart, IN 46516
574.293.3075
574.674.0070 FAX
elkhartclosing@meridiantitle.com

File No.: 15-29645 Effective Date: July 24, 2015 at 8:00 AM

Customer Reference No.: Property Address Reference: 1129 South Prairie Street,
Elkhart, IN 46516

Prepared For:

1. Policy or Policies to be issued:

(a) ALTA Owner's Policy 06/17/06 Amount

Proposed Insured:

(b) ALTA Loan Policy 06/17/06 Amount

Proposed Insured: First State Bank of Middlebury, its successors and/or assigns as defined in the Conditions of this policy

2. The estate or interest in the land described or referred to in this Commitment is Fee Simple.

3. Title to said estate or interest in said land is at the effective date hereof vested in:

Elkhart Cremation Services LLC, an Indiana limited liability company

4. The land referred to in this Commitment is located in the County of Elkhart, State of Indiana described as follows:

SEE ATTACHED EXHIBIT "A"

Countersigned By:



James Hughey

EXHIBIT A

TRACT I: A part of Lot Numbered 110 as the said Lot is known and designated on the Recorded Plat of Chapmans South Elkhart Third Addition, said Plat being recorded in Deed Record 44, page 217 in the Office of the Recorder of Elkhart County, Indiana, being more particularly described as follows;

Commencing at the Southeast corner of said Lot; thence North along the East line of said Lot, a distance of 66 feet to the Place of beginning of this description; thence Westwardly a distance of 35.5 feet; thence Northeastwardly a distance of 67.5 feet to the point on the North line of said Lot, which point is 32.2 feet Northwestwardly of the Northeast corner of said Lot; thence Southeastwardly, along the North line of said Lot, a distance of 32.2 feet to the Northeast corner; thence South along the East line of said Lot, a distance of 47.15 feet to the place of beginning.

TRACT II: A part of Section 8, Township 37 North, Range 5 East, Elkhart County, Indiana, described as follows:

Commencing at a point on the East line of Section 8, Township 37 North, Range 5 East, 60 rods and 16 links North of the Quarter Post on the East line of said Section; thence North 67 feet and 6 inches; thence West 6 rods for a place of beginning of this description; thence West in a continuation of the foregoing line, 4 rods; thence South 67 feet and 5 inches; thence East 4 rods; thence North 67 rods and 6 inches to the place of beginning.

TRACT III: Part of Section 8, Township 37 North, Range 5 East, Elkhart County, Indiana, described as follows:

Commencing at the Southeast corner of a tract in the Northeast corner of said Section, Township and Range, conveyed by Philip Truby to George Shupert (See DR. 50, page 106); thence West along the South line of Shupert's lot to the Southwest corner thereof; thence South parallel with the said East line of said Section, 51 feet; thence East parallel with said South line of Shupert's lot to the West line of Prairie Street in Elkhart; thence North along said line of said street, 51 feet to the beginning.

TRACT IV: Part of the Northeast Quarter of Section 8, Township 37 North, Range 5 East, Elkhart County, Indiana, described as follows:

Beginning at a point on the East line of said Section 8, 60 rods and 16 links North of the Quarter post on East line of said Section and running thence North 67 feet and 6 inches; thence West 8 rods; thence South 67 feet and 6 inches; thence East 8 rods to the place of beginning.

TRACT V: Part of the Northeast Quarter of Section 8, Township 37 North, Range 5 East, Elkhart County, Indiana described as follows:

Beginning on the South line of South Second Street, at a point 121 feet, Westardly from the Southwest corner of Prairie Street and South Second Street as the same are now used in the City of Elkhart, State of Indiana; thence Westwardly along the South line of said South Second Street, 47 feet; thence Southwardly parallel with the West line of said Prairie Street, 54 feet; thence Eastwardly parallel with the South line of said South Second Street 47 feet; thence Northwardly parallel with the West line of said Prairie Street, 54 feet to the place of beginning.

TRACT VI: Part of the Northeast Quarter of Section 8, Township 37 North, Range 5 East, Elkhart County, Indiana, described as follows:

Beginning on the South Line of South Second Street at a point 73.8 feet Westwardly from the Southwest corner of Prairie Street and South Second Street as the same are platted in the City of Elkhart, State of Indiana; thence Westwardly along the South line of said South Second Street 47.2 feet; thence Southwardly parallel with the West line of said Prairie Street 54 feet; thence Eastwardly parallel with the South line of said South Second Street 47.2 feet; thence Northwardly parallel with the West line of said Prairie Street 54 feet to the place of beginning.

TRACT VII: A part of the Northeast Quarter of Section 8, Township 37 North, Range 5 East, more particularly described as follows:

Beginning in the Southwest corner of Prairie Street and South Second Street, as the same are now platted in the City of Elkhart, Indiana; thence Westwardly along the South line of said South Second Street 73.8 feet; thence Southwardly parallel with the West line of said Prairie Street 54 feet; thence Eastwardly parallel with the South line

of said South Second Street 73.8 feet to the West line of said Prairie Street; thence Northwardly along the West side of said Prairie Street 54 feet to the place of beginning.

AFFIDAVIT IN SUPPORT OF USE VARIANCE PETITION

I, William Zimmerman, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

- 1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
- 2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
- 3. I am now and at all times relevant herein have been, the owner of record of the property located at 1129 S. Prairie Street Elkhart, Indiana.
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 6 day of February, 2025.

William W. Zimmerman
Printed: William W. Zimmerman

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

William W. Zimmerman
Printed: William W. Zimmerman

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

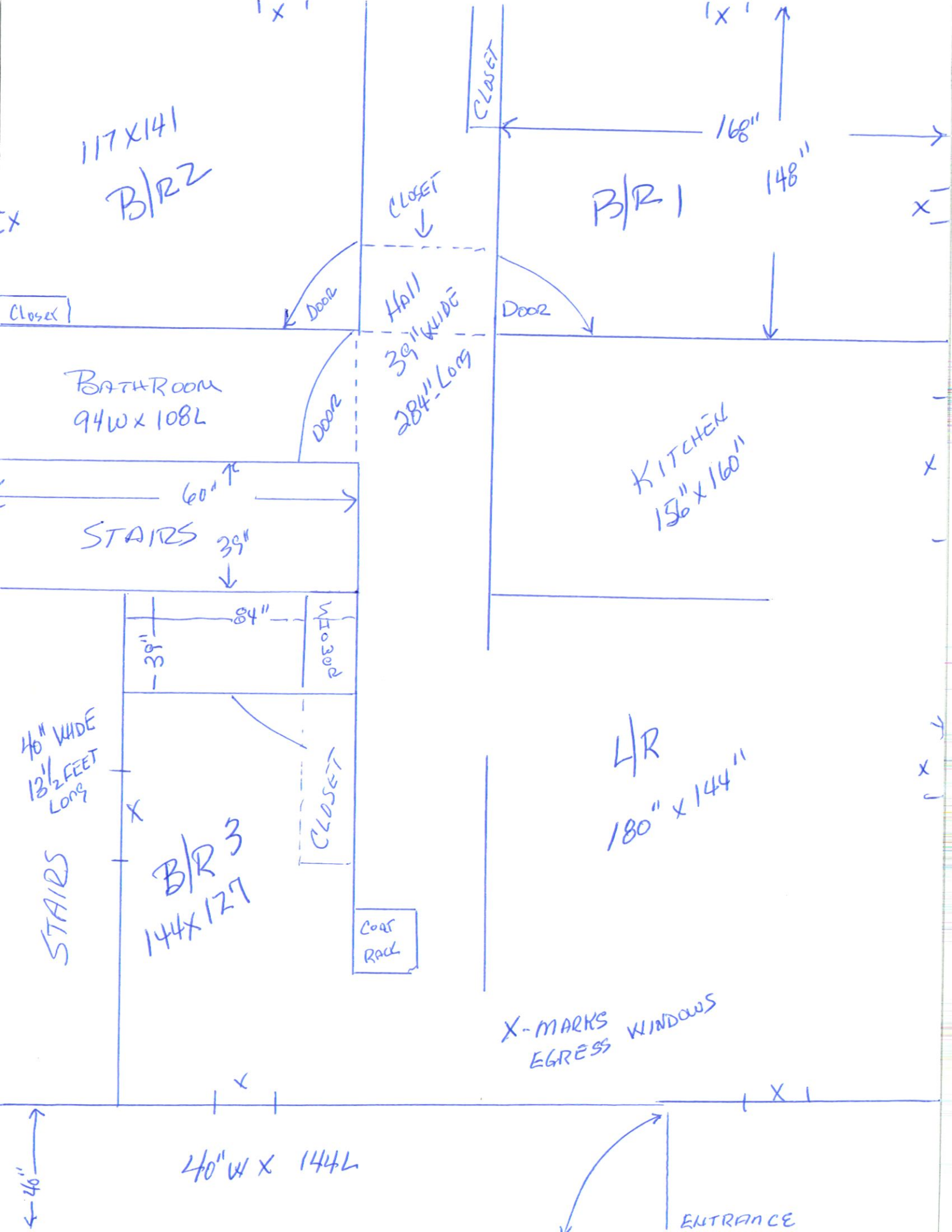
Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared William Zimmerman, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 6 day of February, 2025.

T. L. Hatton
Printed: Tara Hatton

My Commission Expires:
Sept 8, 2029



Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana



117 x 141
B/R 1

B/R 2

KITCHEN
156" x 160"

L/R
180" x 144"

BATHROOM
94W x 108L

STAIRS
60" x 39"

B/R 3
144 x 127

HALL
39" WIDE
284" LONG

COAT
RACK

X-MARKS
EGRESS WINDOWS

40" W x 144 L

ENTRANCE



Staff Report

Planning & Zoning

Petition: 25-BZA-05

Petition Type: Developmental Variance

Date: March 13, 2025

Petitioner: Tolson Center, Inc.

Request: To vary from Section 26.7.C.7.k.v, Parking Lot Design Lighting, which states in part, 'all project light standards shall be of uniform height and except when lights abut or fall within seventy five (75) feet of a residential use property, where the maximum height shall not exceed twenty (20) feet,' to allow for the light poles for the new outdoor soccer fields to be sixty (60) feet in height, a variance of forty (40) feet.

Site Location: 1320 Benham Ave

Existing Zoning: R-2, One Family Dwelling District and B-1, Neighborhood Dwelling District

Size: +/- 7.22 Acres

Thoroughfares: Benham Avenue and Chapmen Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

The property is surrounded by a mix of residential and commercial uses zoned R-3, Two Family Dwelling, B-3, Service Business District, B-2, Community Business District and B-1, Neighborhood Business District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with a mix of low-density residential uses and commercial uses.



Staff Analysis

The petitioner is requesting a Developmental Variance to allow the new Tolson athletic fields to be illuminated by 60-foot-tall light poles. The request comes to us as Tolson expands the services provided to the community to include the sports field as a part of the final phase of the campus master plan.

The petitioner's contractor and lighting consultant feel that shorter poles would not adequately illuminate the fields and need the taller light poles to light the field are necessary.

The regulations for lighting in the zoning ordinance comes in two parts. First, the amount of light cast from fixtures measured in foot candles. The second is the glare caused by the fixtures themselves. The first part is straight forward to measure and regulate. Review of the foot candle reading are completed by overlaying the photometric plan on the site plan and generating by computer the foot candle readings on the plan to ensure the readings are within regulation. The second, glare, is far more subjective. In the past staff has regulated glare by whether or not the light emitted from the fixture emits light directionally offsite that causes a nuisance to adjacent properties. Oftentimes staff is altered to such a violation by complaint and the solution is often having the fixture redirected down so the light shines away from other properties where no direct light emission is visible. Wall pack light fixtures mounted on the sides of buildings often generate the most complaints.

There are a mix of commercial and residential uses that surround this property. The primary concern staff has with the request is the amount of spray the lighting will cast and the height of the poles themselves. The proposed height of the light poles could impact residential properties leading to a loss of enjoyment because of the increase in off-site light emitted from the fixtures. The Tolon Center sits in the center of the Benham Avenue neighborhood planning area. The light from the proposed fixtures could impact the redevelopment efforts for new infill housing in the area surrounding the field.

In reviewing the lighting plan for the site, the light level behind each light is at the maximum of what is allowed by zoning ordinance at the property line when adjacent to residential.

Section 26.7, Lighting Standards, states in part that all exterior lighting shall be shielded to avoid casting light above three-tenths (0.3) foot candles or glare upon any property located in a residentially zoned district or used for residential purposes. Additionally, the section reads unless otherwise approved, all project light standards shall be of uniform height, not to exceed thirty (30) feet in height, except when lights abut or fall within seventy-five (75) feet of a residential use property, where the maximum height shall not exceed twenty (20) feet.

Recommendation

The Staff recommends **approval** of the use variance based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals or general welfare of the community because the proposed light poles will be shielded and will not cause glare onto adjacent residential structures;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the proposed use was previously approved and the light fixtures for the athletic field will be shielded and will not cause glare onto adjacent residential structures;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances **do** exist which are particular to the land involved and which are not applicable to other lands or structures in the same district because the professionals hired to examine the light needs for the field were unable to achieve the required light coverage with shorter poles;
5. The strict application of the terms of this Ordinance **will** constitute an unnecessary hardship if applied to the property for which the variance is sought because based on the professionals hired to examine the light needs for the field the necessary light standards for the filed cannot be met with shorter poles;
6. The request **does comply** with the Comprehensive Plan which calls for the area to be developed with mix of parks and recreation uses;
7. This property does not lie within a designated flood area.

Conditions

If the Board chooses to approve the requested use variance, staff recommends that the following conditions be placed upon the approval:

1. All exterior lighting shall be shielded to not cast direct light on street rights-of-way or adjacent properties and minimize neighborhood lighting nuisances by reducing allowable spill and glare disruption.

Photos



PETITION #: 25-BZA-05

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): Tolson Center, Breanna Allen

Mailing Address: 1320 Benham Avenue, Elkhart, IN 46516

Phone #: 574-359-7233 Email: executivedirector@tolson.org

Contact Person: Crystal Welsh, Abonmarche

Mailing Address: 303 River Race Drive, Unit 206 Goshen, Indiana 46526

Phone #: 574-314-1027 Email: cwelsh@abonmarche.com

Subject Property Address: 1320 Benham Avenue, Elkhart, IN 46516

Zoning: R-2/B-1 Districts

Present Use: existing community center. Proposed Use: operation of a community center including outdoor facilities.

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Tolson Center, Breanna Allen

SIGNATURE(S):  DATE: 2/3/25

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY:  DATE: 2/7/25

February 7, 2025

To: Board of Zoning Appeals
City of Elkhart, Indiana

Re: Developmental Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

I, **Brenna Allen**, for Tolson Center, Inc., am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit:

See attached legal description

1. The above-described real estate has a zoning classification of R-2/B-1 District under the zoning ordinance of the City of Elkhart. The main facility is zoned B-1.
2. The petitioner presently occupies the above-described real estate in the following manner: existing community center.
3. The petitioner desires to occupy the real estate in the following manner: operation of a community center including outdoor facilities.
4. The Zoning Ordinance of the City of Elkhart 26-7.C.7.K.V requires the following:
The maximum light pole height allowed is 20 feet when they abut or fall within 75 feet of a residential use property. The lights for the sports fields are proposed to exceed this height restriction.
5. Strict adherence to the Zoning Ordinance requirements would create an unusual hardship. For the sports facilities to function and have adequate illumination, the light poles must exceed the 20-foot maximum pole height. The proposed sports field lights will be 60 feet in height. Due to the nature of the sports fields, light poles cannot be placed within the playing area thus requiring the light poles be placed around the perimeter of the space, necessitating taller poles to illuminate the center of the playing area.
6. The proposed Developmental Variance meets the standards of the Board of Zoning Appeals as follows:
 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The community center facilities are an improvement community. The sports fields are an important component of the operations and services provided by the Tolson Center. Efforts have been made to reduce impacts on the surrounding neighborhood caused by the lights for the sports field.
 2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner. The community center building will be a significant investment and improvements to the neighborhood. The facility and its outdoor

facilities will be beneficial to the area and have been designed to have a minimal impact on the surrounding neighborhood.

3. Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance. The community center is an allowed use as a Special Exception in an R-2/B-1 District. The sports facilities require greater lighting heights than are generally required with residential and business uses. The Elkhart Housing Authority is also a commercial use in this area and is adjacent to the south of the Tolson project and has outdoor lighting.
4. Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district. The community center is to be in an area of transition between residential and commercial.
 - A) As mentioned, the light poles must be taller than allowed by right to adequately illuminate the sports facilities.
5. The strict application of the terms of the Zoning Ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the provisions of the Zoning Ordinance. Without this developmental variance, the sports facilities would not be able to be illuminated and limit their usefulness to the community by restricting hours of operation.
6. Special conditions and circumstances do not result from any action or inaction by the applicant. The construction and operation of a community center and sports facilities is a reasonable development and land use in the R-2/B-1 District with a Use Variance.
7. The variance does not have an impact on the flood hazard area, as it is not located within the flood hazard area.

WHEREFORE, the petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

Signed:



Brenna Allen
Tolson Center, Inc.,
1320 Benham Avenue
Elkhart, In 46516

Contact:

Crystal Welsh, Abonmarche
303 River Race Drive, Unit 206
Goshen, Indiana 46526
574-314-1027
cwelsh@abonmarche.com

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Breanna Allen, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 1320 Benham Avenue Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 3 day of Feb, 2025.

Breanna Allen
Printed: Breanna Allen

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

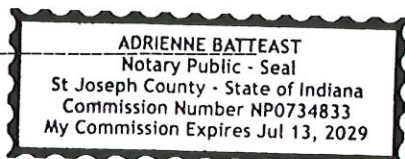
Breanna Allen
Printed: Breanna Allen

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Adrienne Batteast, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 3 day of February, 2025.

Adrienne Batteast
Printed: Adrienne Batteast

My Commission Expires:



Notary Public in and for the State of Indiana
Resident of St. Joseph County, Indiana

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
01/04/2022 10:56 AM
AS PRESENTED

Tax ID Number(s):
20-06-08-279-005.000-012
20-06-08-279-006.000-012
20-06-08-279-022.000-012
20-06-08-279-023.000-012
20-06-08-279-024.000-012
20-06-08-279-025.000-012

Meridian Title

(JH)

CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

Community Missionary Baptist Church of Elkhart Ind Inc., an Indiana nonprofit corporation a.k.a. Community Missionary Baptist Church of Elkhart, Indiana, Inc. and Community Missionary Baptist Church

CONVEY(S) AND WARRANT(S) TO

Tolson Center, Inc., an Indiana nonprofit corporation, for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Elkhart County, in the State of Indiana, to wit:

SEE ATTACHED EXHIBIT "A"

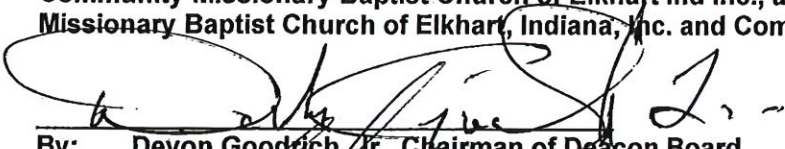
Subject to Real Estate taxes now due and payable and thereafter.

Subject to covenants, restrictions and easements of record.

The undersigned persons executing this deed on behalf of Grantor represent and certify that they are duly authorized to act for the Grantor and have been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full corporate capacity to convey the real estate described herein; and that all necessary corporate action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, the Grantor has executed this deed this 20th day of December, 2021.

Community Missionary Baptist Church of Elkhart Ind Inc., an Indiana nonprofit corporation a.k.a. Community Missionary Baptist Church of Elkhart, Indiana, Inc. and Community Missionary Baptist Church


By: **Devon Goodrich, Jr., Chairman of Deacon Board**


By: **Barry Smith, Chairman of Trustee Board**

MTC File No.: 21-45813 (UD)

DM

SD

DISCLOSURE FEE NOT REQUIRED
DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Jan 04 2022

PATRICIA A. PICKENS, AUDITOR

00010

60.00

EXHIBIT A

Lot Numbered 479 in Plat of Chapman's Rosedale Addition to the City of Elkhart as per plat thereof recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana; also the South Half of the vacated alley lying North and adjacent to said Lot.

EXHIBIT A

Lots Numbered 298 and 299 as the said Lots are known and designated on the recorded Plat of Benham Avenue Replat in Chapman's Rosedale Addition to the City of Elkhart, Indiana, said Plat being recorded in Plat Book1, page 101 in the Office of the Recorder of Elkhart County, Indiana.

Lots 302, 303, 304 and the West 22 feet of Lot 305 as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

EXHIBIT A

PARCEL DESCRIPTION

Lots Number Three Hundred Twenty-nine (329), Three Hundred Thirty (330), Three Hundred Thirty-one (331), Three Hundred Eighty-two (382), Three Hundred Eighty-three (383) and Three Hundred Eighty-four (384) as the said Lots are known and designated on the recorded Plat of BENHAM AVENUE REPLAT of Chapman's Rosedale Addition to the City of Elkhart; said Plat being recorded in Plat Book 1, page 101; and Lots Number Three Hundred Twenty-three (323) Three Hundred Twenty-four (324), Three Hundred Twenty-five (325), Three Hundred Twenty-six (326), Three Hundred Twenty-seven (327), Three Hundred Twenty-eight (328), Three Hundred Eighty-five (385), Three Hundred Eighty-six (386), Three Hundred Eighty-seven (387), Three Hundred Eighty-eight (388), Three Hundred Eighty-nine (389), and Three Hundred Ninety (390) as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Said property has additional lots listed as follows:

ALSO, the vacated alley lying between Lots Number 323, 324, 325, 326, 327 and 328 and Lots Number 385, 386, 387, 388, 389 and 390 in Chapman's Rosedale Addition and between Lots Number 329 and Lot Number 384 in Benham Avenue Replat of Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the vacated alley lying between Lots Number 329, 330, 331, 382, 383 and 384 in Benham Avenue Replat of Chapman's Rosedale Addition and Lots Number 328 and 385 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the West One-half (W ½) of the vacated alley tying east of and adjacent to said Lot Number 390 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

EXCEPTING all that part used for highway purposes.

ALSO: Lot Number Three Hundred Fifteen (315) and part of Lot Number Three Hundred Sixteen (316) as the said lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana, more particularly described as follows:

Beginning at a point on the North line of Lot Number Three Hundred Sixteen (316), as the said Lot is known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart, which said point is three (3) feet west from the northeast corner of said lot; thence southwardly, parallel with the East line of said lot, to a point which is midway between the north and south lines of said lot; thence eastwardly parallel with the north line of said lot, three (3) feet

known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Said property has additional lots listed as follows:

ALSO, the vacated alley lying between Lots Number 323, 324, 325, 326, 327 and 328 and Lots Number 385, 386, 387, 388, 389 and 390 in Chapman's Rosedale Addition and between Lots Number 329 and Lot Number 384 in Benham Avenue Replat of Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the vacated alley lying between Lots Number 329, 330, 331, 382, 383 and 384 in Benham Avenue Replat of Chapman's Rosedale Addition and Lots Number 328 and 385 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

ALSO, the West One-half (W ½) of the vacated alley tying east of and adjacent to said Lot Number 390 in Chapman's Rosedale Addition to the City of Elkhart, Indiana.

EXCEPTING all that part used for highway purposes.

ALSO: Lot Number Three Hundred Fifteen (315) and part of Lot Number Three Hundred Sixteen (316) as the said lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana, more particularly described as follows:

Beginning at a point on the North line of Lot Number Three Hundred Sixteen (316), as the said Lot is known and designated on the recorded Plat of Chapman's Rosedale Addition to the City of Elkhart, which said point is three (3) feet west from the northeast corner of said lot; thence southwardly, parallel with the East line of said lot, to a point which is midway between the north and south lines of said lot; thence eastwardly parallel with the north line of said lot, three (3) feet to the east line thereof; thence northwardly along the east line of said lot to the northeast corner thereof; thence westwardly along the north line of said lot, three (3) feet to the place of beginning.

ALSO, the North One-half (N ½) of the vacated alley adjoining said Lot Three Hundred Fifteen (315) on the south side of said lot.

ALSO: Lot Numbered Three Hundred Sixteen (316), except the East Three (3) feet of the North One-half (N ½) of said Lot; and Lots Numbered Three Hundred Seventeen (317) to Three Hundred Twenty-two (322) inclusive as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO: Lots Numbered Three Hundred Ninety-one (391) and Three Hundred Ninety-two (392) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart

County, Indiana.

ALSO, the South One-half (S ½) of the vacated alley lying north of and adjacent to said Lots, and ALSO the East One-half (E ½) of the vacated alley lying west of and adjacent to said Lot Three Hundred Ninety-one (391).

ALSO: Lots Numbered Three Hundred Ninety-three (393), Three Hundred Ninety-four (394) and Three Hundred Ninety-five (395) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, page 586 in the office of the Recorder of Elkhart County, Indiana.

ALSO, the South One-half (S ½) of the vacated alley lying north of and adjacent to said Lots.

ALSO: Lots Numbered Three Hundred Ninety-six (396), Three Hundred Ninety-seven (397) and Three Hundred Ninety-eight (398) as the said Lots are known and designated on the recorded Plat of CHAPMAN'S ROSEDALE ADDITION to the City of Elkhart; said Plat being recorded in Deed Record 114, Page 586 in the Office of the Recorder of Elkhart County, Indiana.

ALSO, Part of the Northeast Quarter (NE-1/4) of Section Eight (8), Township, Thirty-seven (37) North, Range Five (5) East. more particularly described as follows:

Beginning at the northeast corner of Lot Number Three Hundred Ninety-five (395) in Chapman's Rosedale Addition; thence south eighty-eight (88) feet to the northwest corner of Lot Number Three Hundred Ninety-six (396) in said addition; thence east one hundred thirty-two (132) feet to the northeast corner of Lot Number Three Hundred Ninety-eight (398) in said addition; thence north eighty-eight (88) feet; thence west one hundred thirty-two (132) feet to the Place of Beginning.

ALSO, the South One-half (S ½) of the vacated alley lying north of and adjacent to said real estate.

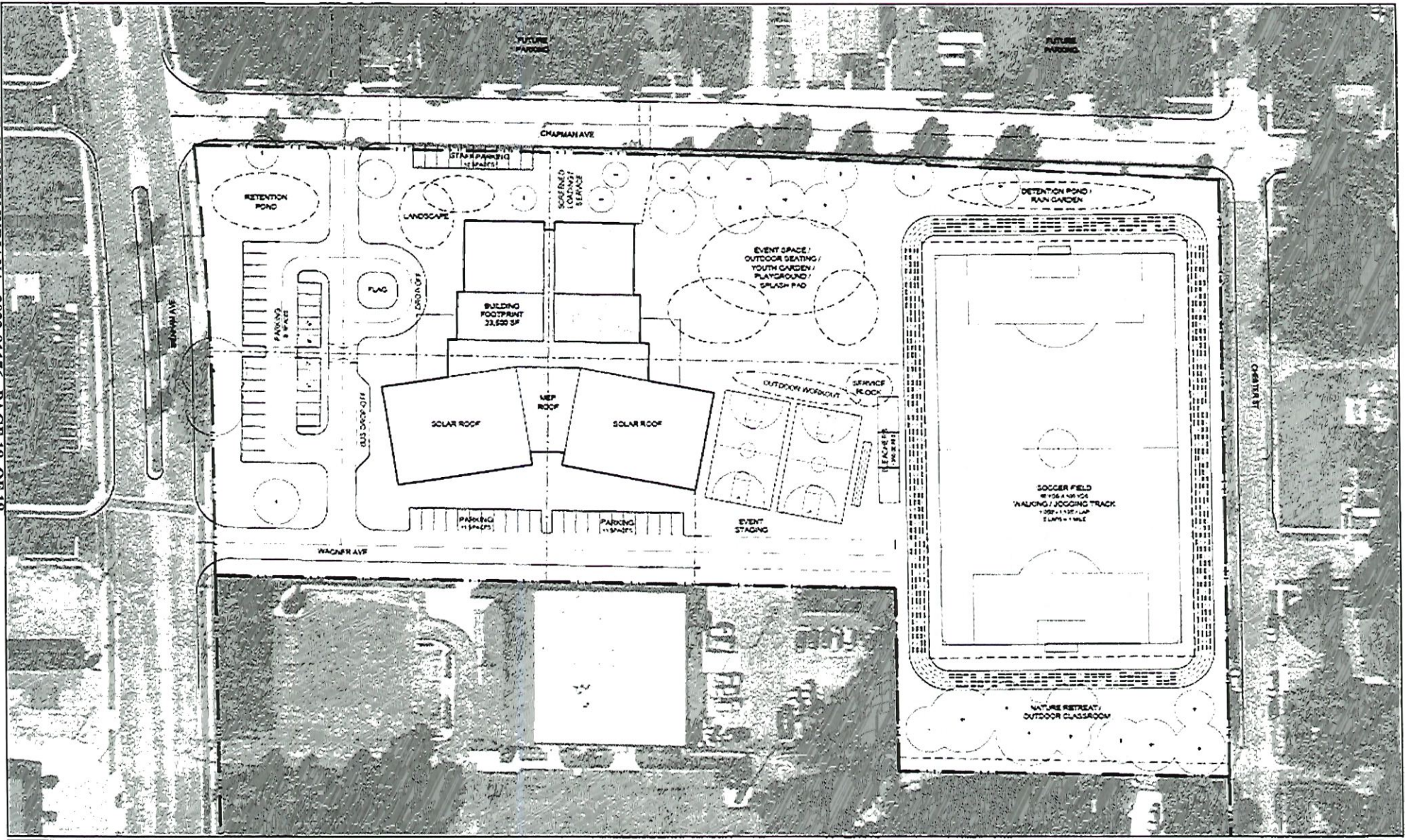
ALSO: Lots Numbered 399 through 404 inclusive, as the said Lots are known and designated on the recorded Plat of Chapman's Rosedale, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 114, page 586 in the Office of the Recorder of Elkhart County, Indiana.

Also, the North One-half (N ½) of vacated alley lying south of and adjacent to said Lots.

This conveyance being subject to a right of reverser reserved by the City of Elkhart which may arise upon the non-performance of such promises and commitments set forth in the said *Real Property Transfer Agreement*, described herein attached hereto as Exhibit A.

[Balance of page intentionally blank. Signatures to follow.]

RICHART COUNTY INDIANA 2022-01176 PAGE 18 OF 18

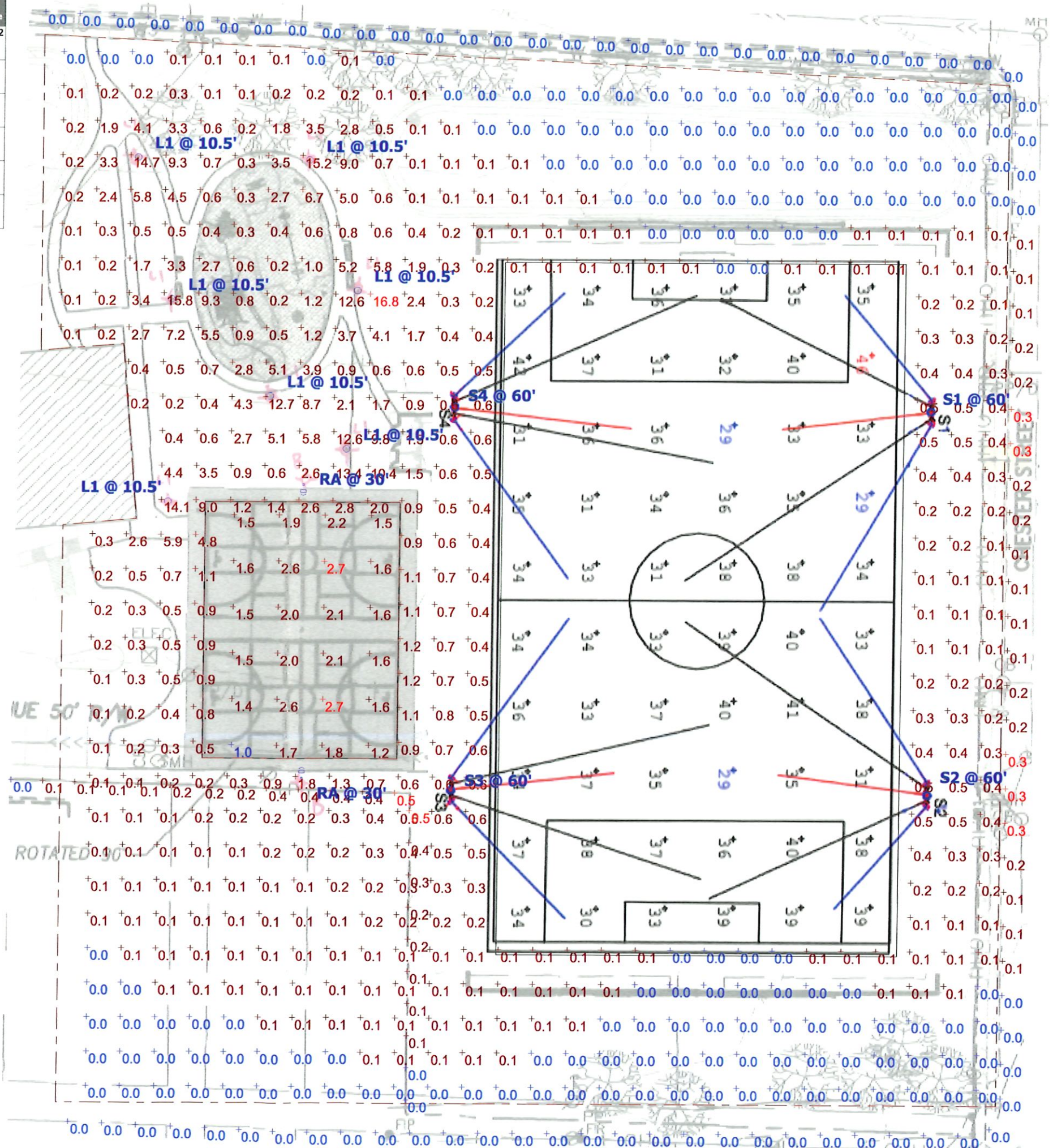


Tolson Center For Community Excellence / Site Plan
Scale: 1/32"=1'-0" / Date: 12-01-2021

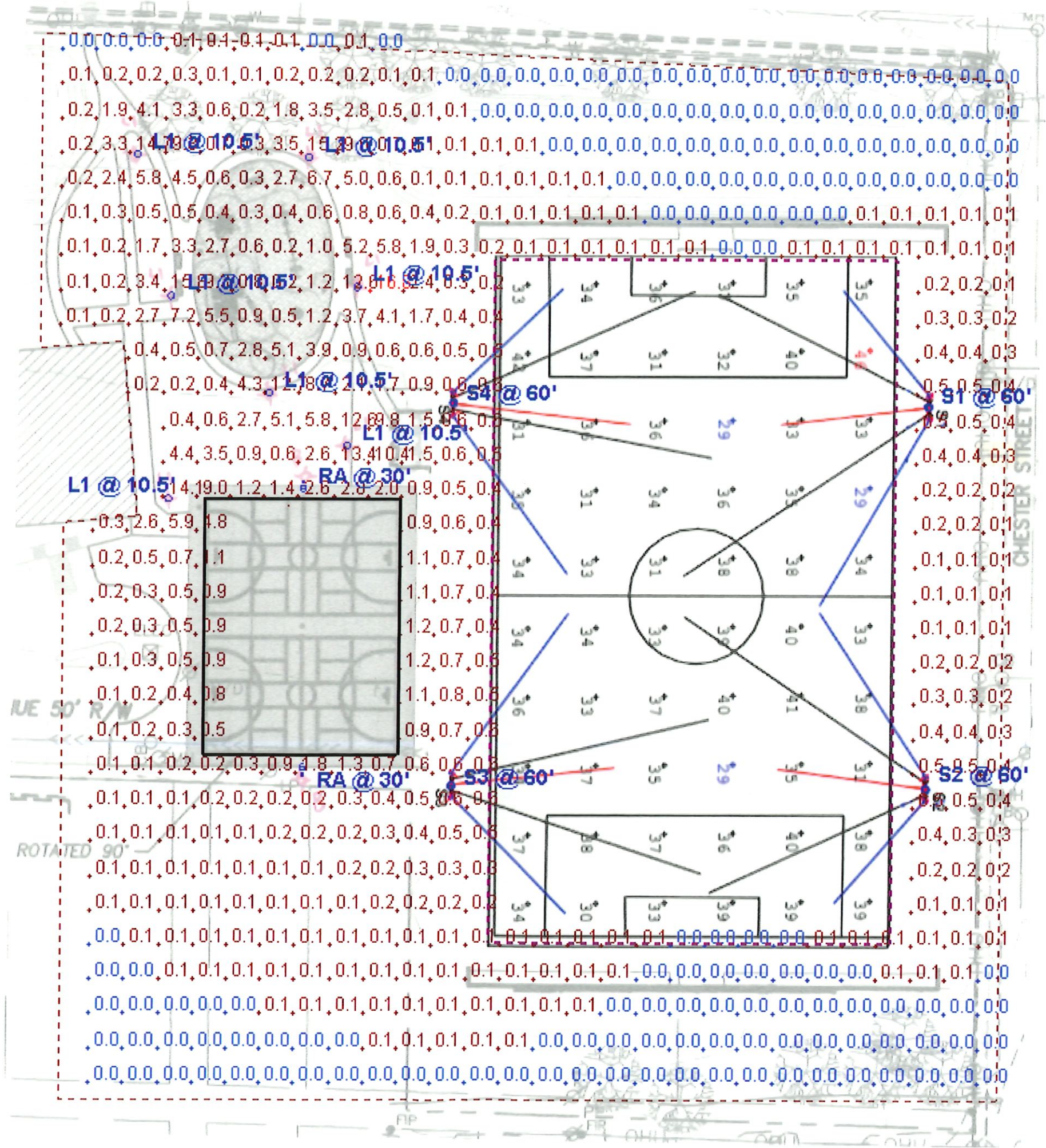
METICULOUS

Symbol	Label	Qty	Manufacturer	Catalog Number	Lumens	Wattage
RA		2	Lithonia Lighting	RSXF2 LED P4 50K AWFV BV	23492	189.5392
L1		7	LSI INDUSTRIES, INC.	OPS-PT-14L-5Q-30K8	13539	100
S1		1	SPARTAN	2x KSL1-IN-N3-1000 & 2x KSL1-IN-N4-1000 & 1x KSL1-IN-N5-1000	1078	5000
S2		1	SPARTAN	2x KSL1-IN-N3-1000 & 2x KSL1-IN-N4-1000 & 1x KSL1-IN-N5-1000	1078	5000
S3		1	SPARTAN	2x KSL1-IN-N3-1000 & 2x KSL1-IN-N4-1000 & 1x KSL1-IN-N5-1000	1078	5000
S4		1	SPARTAN	2x KSL1-IN-N3-1000 & 2x KSL1-IN-N4-1000 & 1x KSL1-IN-N5-1000	1078	5000

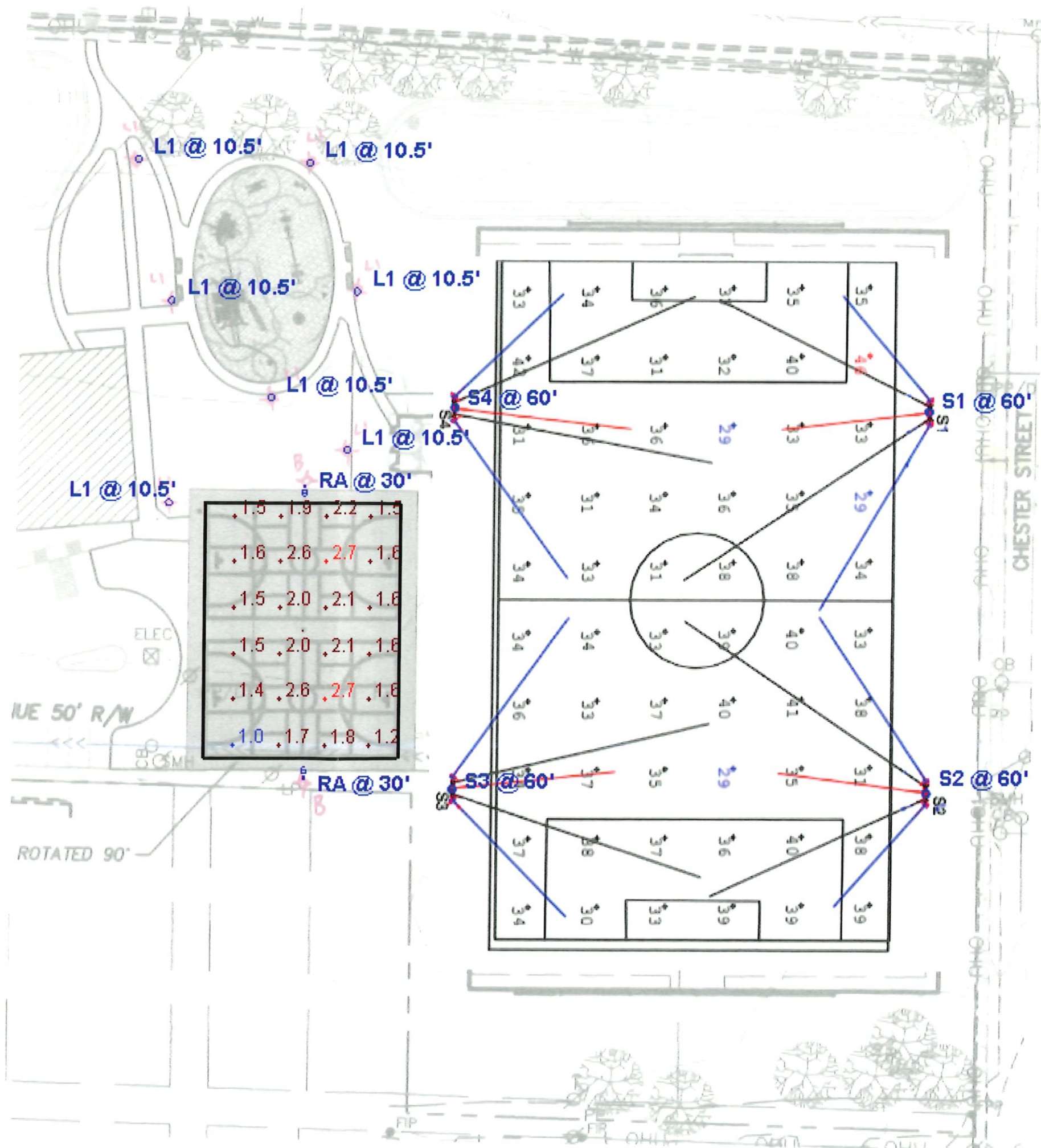
Description	Symbol	Avg	Max	Min	Avg/Min	Max/Min
BASKETBALL COURTS	+	1.8 fc	2.7 fc	1.0 fc	1.8:1	2.7:1
NORTH & EAST PROPERTY LINE	+	0.0 fc	0.3 fc	0.0 fc	N/A	N/A
SITE PLAN	+	0.8 fc	16.8 fc	0.0 fc	N/A	N/A
SOUTH & WEST PROPERTY LINE	+	0.2 fc	0.5 fc	0.0 fc	N/A	N/A



Statistics						
Description	Symbol	Avg	Max	Min	Avg/Min	Max/Min
BASKETBALL COURTS	+	1.8 fc	2.7 fc	1.0 fc	1.8:1	2.7:1
NORTH & EAST PROPERTY LINE	+	0.0 fc	0.3 fc	0.0 fc	N/A	N/A
SITE PLAN	+	0.8 fc	16.8 fc	0.0 fc	N/A	N/A
SOUTH & WEST PROPERTY LINE	+	0.2 fc	0.5 fc	0.0 fc	N/A	N/A



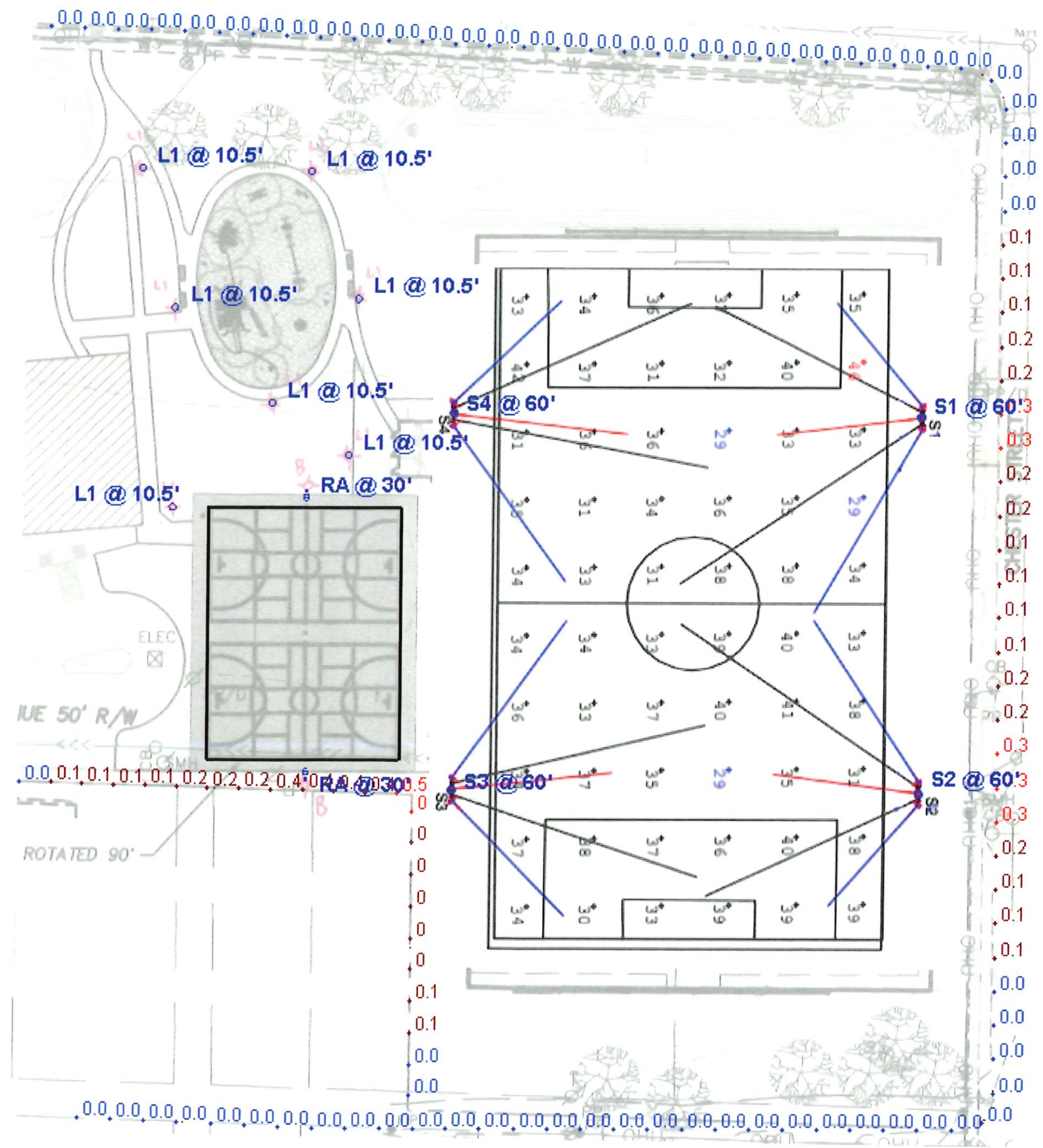
Statistics						
Description	Symbol	Avg	Max	Min	Avg/Min	Max/Min
BASKETBALL COURTS	+	1.8 fc	2.7 fc	1.0 fc	1.8:1	2.7:1
NORTH & EAST PROPERTY LINE	+	0.0 fc	0.3 fc	0.0 fc	N/A	N/A
SITE PLAN	+	0.8 fc	16.8 fc	0.0 fc	N/A	N/A
SOUTH & WEST PROPERTY LINE	+	0.2 fc	0.5 fc	0.0 fc	N/A	N/A



TOLSON SITE LIGHTING PLANS
 RSXF2 MOUNTED @ 30°
 FIXTURES TILTED @ 45 DEGREES
 LIGHT LEVEL @ GROUND

BASKETBALL & SOCCER CALCULATION

Statistics						
Description	Symbol	Avg	Max	Min	Avg/Min	Max/Min
BASKETBALL COURTS	+	1.8 fc	2.7 fc	1.0 fc	1.8:1	2.7:1
NORTH & EAST PROPERTY LINE	+	0.0 fc	0.3 fc	0.0 fc	N/A	N/A
SITE PLAN	+	0.8 fc	16.8 fc	0.0 fc	N/A	N/A
SOUTH & WEST PROPERTY LINE	+	0.2 fc	0.5 fc	0.0 fc	N/A	N/A



PROPERTY LINE CALCULATIONS

TOLSON SITE LIGHTING PLANS
 RSXF2 MOUNTED @ 30"
 FIXTURES TILTED @ 45 DEGREES
 LIGHT LEVEL @ GROUND