

AGENDA
ELKHART CITY BOARD OF ZONING APPEALS
THURSDAY, NOVEMBER 14, 2024 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 2317 077 1574 as the meeting number and “BZA2023” 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 FOR AUGUST 8, 2024 AND SEPTEMBER 12, 2024**
4. **APPROVAL OF PROOFS OF PUBLICATION**
5. **APPROVAL OF 2025 CALENDAR**

6. **OLD BUSINESS**

24-UV-04 PETITIONER IS HERG INC
PROPERTY IS LOCATED AT 106 & 108 BOWERS CT
TABLED

24-UV-11 PETITIONER IS LUMAAN LLC
PROPERTY IS LOCATED AT 707 CHRISTIAN AVENUE

To vary from Section 5.2, Permitted Uses to allow for a two family dwelling. Two family dwellings are not permitted in the R-2 district.

7. **NEW BUSINESS**

24-X-08 PETITIONER IS MARIA TORRES
PROPERTY IS LOCATED AT 2022 BENHAM AVENUE

A Special Exception per Section 5.3, Special Exception Uses in the R-2, One-Family Dwelling District, to allow for a Day Care Center.

24-BZA-26 PETITIONER IS GATEWAY MILE PROPERTIES LLC
PROPERTY IS LOCATED AT 101 S MAIN STREET

To vary from Section 26.10.D – Table 1, Wall signs in the CBD for single tenant buildings that limits the size to 50% of the signable area to a maximum of 50 square feet to allow for a wall sign that is 115 square feet, a variance of 65 square feet.

24-BZA-29 PETITIONER IS WDX LLC
PROPERTY IS LOCATED AT 1210 GOSHEN AVENUE AND 1623 TOLEDO ROAD

To vary from Section 26.4 Fence Requirements, where the height limit for fences in the front yard is four (4) feet, to allow for a fence that is six (6) feet in height, a variance of two (2) feet.

24-X-09 PETITIONER IS CITY OF ELKHART
PROPERTY IS LOCATED AT VAC-LOT ADA DRIVE 20-02-26-126-026.000-027, 20--02-26-126--019.000-027,
AND 20-02-26-126-027.000-027

To vary from Section 19.3.A, Special Exception Uses, in the M-2, General Manufacturing District, which states ‘All special exception uses permitted in the M-1, Limited Manufacturing District’ to allow a Public Utilities and public services use (Section 18.3.J) for the construction of a new fire station

8. **ADJOURNMENT**

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

**BOARD OF ZONING APPEALS
-MINUTES-**

**Thursday, August 8, 2024 - Commenced at 6:00 P.M. & adjourned at 7:26 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Ron Davis
Janet Evanega Rieckhoff
Phalene Leichtman (via Web-Ex)

MEMBERS ABSENT

None

REPRESENTING THE PLANNING DEPARTMENT

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

LEGAL DEPARTMENT

John Espar

RECORDING SECRETARY

Hugo Madrigal

APPROVAL OF AMENDED AGENDA

Mulvaney moves to approve an amended agenda and tabling 24-UV-04.
Davis makes motion to approve; Second by Evanega Rieckhoff. Voice vote carries.

APPROVAL OF MINUTES FOR JUNE 13, 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 August 8, 2024 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.

OLD BUSINESS

24-BZA-06 PETITIONER IS JFS REAL ESTATE HOLDING LLC PROPERTY IS LOCATED AT 444 NORTH NAPPANEE STREET

To vary from the requirements found in Section 26.10, Sign Regulations, Table 2, to allow a new freestanding sign at a height of 10.25 (ten and twenty five hundredths) feet where maximum sign height at the required minimum five (5) foot setback, is 6 (six) feet in height, a variance of 3.75 (three and seventy five hundredths) feet. To also vary from the maximum allowed message center of 50% of the principal sign which is 22.5 square feet to allow a message center of 32 square feet, a variance of twenty and seventy five hundredths square feet.

Mulvaney calls the petitioner forward.

Lauren Overmyer with Vanadco Signs, located at 10625 State Road 10, appears in person on behalf of the petitioner. Overmyer says the lot is small and cannot be set back. The building was built close to the road, and there is no space as the road has grown. She says the petitioner would like to ensure that the electronic sign is large enough for traffic to see.

Mulvaney asks for questions from the Board.

Mulvaney asks Overmyer if the petitioner would have any issues with the nine conditions consistent with the new proposed ordinance regarding electronic signs that Staff has placed on the request if the Board approves the petition.

Overmyer answers no and says that the conditions are standard and understandable.

Mulvaney states that the conditions will become standard once the new ordinance is in place.

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 subject property is occupied by the Northern Indiana Hispanic Health Coalition (NIHHC), which provides the community with educational, vaccine, and community health programs. NIHHC is requesting the proposed sign to be at a more readable height for drivers and an EMC to showcase current programs and events at the center.

City staff has been working closely with NIHHC to reach a sign design that the City is comfortable recommending approval. City staff appreciates that this sign is significantly closer to the regulations than most other signs in the area that are nonconforming. The site does pose some practical difficulties due to the building placement at 15 feet from the Nappanee Street property line, where the current required setback is 30 feet, leaving little room for a sign or to set the sign farther back which would allow them a greater height by-right.

Staff recommends approval of the requested variances subject to the recommended conditions that have been placed on other EMC Board of Zoning Appeals approvals.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from 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 uses in the area are commercial and industrial uses;
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 due to the structure being located only 15 feet from the Nappanee Street right-of-way, leaving little room for a sign. An additional 5 feet is from the edge of pavement exists, giving the sign an effective setback from edge of pavement of 10 feet;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property due to the structure being locate so close to this very wide road;

6. The special conditions and circumstances do not result from any action or inaction by the applicant because NIHHC is only the tenant of this building. They have no control on the placement of the building;
7. This property does not lie within a designated flood area.

CONDITIONS

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

1. The variances related to sign area, height, and location shall apply to both signs/faces.
2. Movement, including video, flashing, and scrolling, is prohibited.
3. Message sequencing, where content on one message is related to content on the next message, is prohibited.
4. The minimum time duration of each message shall be 20 seconds.
5. The sign must be equipped with a sensor and programmed to automatically dim in response to changes in ambient light.
6. The maximum brightness shall not exceed three-tenths (0.3) foot candles over ambient light levels.
7. Light trespass shall not exceed one-tenth (0.1) foot candles as measured at the property line of any residential district.
8. The sign must either stay fixed on one message or go blank if there is a malfunction that would not permit the sign meeting the above conditions.
9. No sign message may depict, or closely approximate, official traffic control signage

Trotter states there were eight letters mailed with zero returned.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-06 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
Leichtman – Yes
Mulvaney – Yes

Motion carries.

**24-BZA-12 PETITIONER IS SALLIE H. HIMES
PROPERTY IS LOCATED AT 1804 OSOLO ROAD**

To vary from Section 26.1.B.8.a, Development Standards for Accessory Structures, which states 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of seven hundred twenty (720) square feet for the largest structure, with a maximum total of eight hundred forty (840) square feet for all accessory buildings combined to allow for the construction of an additional accessory structure with an area of one thousand forty (1040) square feet for a total area of accessory structures of one thousand six hundred sixty four (1664) square feet, a variance of three hundred twenty (320) square feet for one structure and eight hundred twenty four (824) square feet for the combined area.

Mulvaney calls the petitioner forward.

Logan Stevens with Barnes and Thornburg, located at 888 S Harrison Street, appears in person on behalf of the petitioner. Stevens states he has prepared a presentation and will be using it accordingly. Stevens says the request is for the construction of a second garage. He says the property is about 2 ½ acres and has two parcels. The smaller parcel with the house is about ¾ quarters of an acre, and the second accessory structure will be on the smaller parcel. For background on the property, Stevens states that the house was built in the 1870s. The petitioner's son, Craig, currently lives in the property pursuant to a land contract. Stevens says Craig is renovating the house and restoring the property and needs the second garage to store building materials and tools. Stevens says other equipment will also be stored to help maintain the property and restore the garage. Stevens goes to slide three of his presentation, which displays a satellite image of where the property is located. He says the red x on the picture indicates where the garage will be placed, which will be behind the current existing garage.

Stevens states that the property owner's houses with the blue checkmarks on his presentation have signed approval and are satisfied with the proposed plans. The next slide shows the signatures of the neighbors who approve of the request.

Mulvaney asks for questions from the Board.

Mulvaney asks Stevens what the petitioner plans to do with the garage when it is no longer used for building materials.

Stevens answers that the property owner is entering into an agreement with the Planning Department and that the garage will not be used for storing vehicles but solely for storing tools.

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

Petitioner is requesting to build a storage building (accessory structure) that is 1040 square feet in area in order to store building materials while he is remodeling the home at 1804 Osolo Road. The request is specifically to vary from Section 26.1.B.8.a, Development Standards for Accessory Structures, which states 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of seven hundred twenty (720) square feet for the largest structure, with a maximum total of eight hundred forty (840) square feet for all accessory buildings combined to allow for the construction of an additional accessory structure with an area of one thousand forty (1040) square feet for a total area of accessory structures of one thousand six hundred sixty four (1664) square feet, a variance of three hundred twenty (320) square feet for one structure and eight hundred twenty four (824) square feet for the combined area.

Based on County Assessor records the home was constructed in 1870 – very likely one of the last remaining homes from the mid-1800s. The home owner is remodeling the home and would like to securely store material out of the elements. The current garage does not provide adequate room for all of the storage needs on the property.

The proposed structure would be placed east (behind) of the existing garage, not visible from Osolo Road. Plans call for at least one (1) opening (figure depicts two (2) doors) that is eight (8) foot by ten (10) foot, with an overall height of nine (9) feet. This size structure and door opening area would be large enough to accommodate vehicle storage.

This type of request is not that out of the ordinary. However, typically when this type of variance is requested, staff looks for the site to be brought closer into compliance to slowly eliminate the non-conforming developmental standards. Staff would, normally in this circumstance, look for the drive to be paved as we would require anyone else building a new accessory structure, especially if there are doors that would permit the storage of vehicles. In discussions with the legal representative for the petitioner, he has agreed on behalf of his client, there will be no vehicles stored in the new accessory structure – it will only be used for the storage of materials – therefore staff is not asking for the drive to be paved as a part of this request.

The 2.35 acre total parcel has been divided into two (2) separate parcels in or around 2009. However, staff can find no record of a Minor Subdivision filed with the Planning Department. Staff did raise this issue with the legal representative for the petitioner and they have agreed to file a Minor Subdivision petition after this hearing. They will also expand the boundary by ten (10) feet to provide greater buffer from the adjacent parcel.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from 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 accessory structure will be built per all applicable building codes;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the structure is a common addition to residential homes and if not for the size it would be otherwise permitted;
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 because the size of the accessory structure requires that a variance be filed in order to construct it on the property;

5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because the owner would not be able to adequately store materials for the restoration and maintenance of the grounds;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because no construction has begun;
7. This property does not lie within a designated flood area.

CONDITIONS

1. No vehicles shall be stored or parked in the proposed accessory structure. It shall only be used for the storage of personal building materials. This requirement condition shall be memorialized as a written commitment recorded against the property.
2. A Minor Subdivision shall be filed. The parcel with the home shall be expanded by ten (10) feet.
3. Building Department review and approval is required prior to construction.

Trotter states there were 31 letters mailed, with two returned in favor with no comment.

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

Leichtman asks Trotter what happens if the house is sold and if the approval will go on the contract when the home is sold.

Trotter answers yes, that if there is a change of ownership, it will go along with any future owners.

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-BZA-12 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 Davis.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

NEW BUSINESS

**24-BZA-16 PETITIONER IS BLANCA PINA
PROPERTY IS LOCATED AT 304 WEST WOLF AVENUE**

To vary from the requirement found in Section 26.3.B.9, Permitted Obstructions in Required Front Yards, to allow for an open front porch that is 8.58 (eight and fifty eight hundredths) feet away from the front wall of the structure, where 6 (six) feet is allowed, a variance of 2.58 (two and fifty eight hundredths) feet.

Mulvaney calls the petitioner forward.

Blanca Pina, 304 W. Wolf Ave., appears in person as the petitioner. Pina asks the Board for permission to keep her porch because it had already been built, and she was unaware of city ordinances.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks Pina if the picture in the Staff report is her home.

Pina answers yes.

Evanega Rieckhoff says the porch looks nice and then asks if Pina will change anything or if she is solely there because of the porch.

Pina answers that she is only there for the porch.

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 petitioner wishes to vary from the requirement found in Section 26.3.B.9, Permitted Obstructions in Required Front Yards, to allow for an open front porch that is 8.58 (eight and fifty eight hundredths) feet away from the front wall of the structure, where 6 (six) feet is allowed, a variance of 2.58 (two and fifty eight hundredths) feet.

The petitioner previously had a porch that met the City's requirements. Based on the petitioner's assessment of the previous porch's condition, they felt it was necessary to rebuild and subsequently increased the size of the structure to create a better buffer between the open front porch and the primary entrance to the home. Increasing the open front porch allows a barrier from natural weather conditions between the home entrance and the porch entrance. The petitioner did not seek a building permit or zoning clearance prior to construction. Currently, the petitioner's porch does not meet the City's development standards. Since the discovery of the unpermitted work, the petitioner has submitted a building permit application and a zoning clearance application with sufficient documentation.

This portion of West Wolf Avenue is located in the Benham's First Addition Subdivision approved in 1910 and is a long established residential zone district encompassed by single family residential homes. There are several other properties neighboring the subject property that have similar characteristics, including open front porches that extend out from the front of the homes and are currently legal non-conforming. There are some properties where the open front porch extends closer to the public right of way than the subject property.

STAFF RECOMMENDATION

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

1. The approval will not be to injurious the public health, safety, morals or general welfare of the community as the open porch will not create a visibility obstruction for traveling pedestrians and motorists along West Wolf Avenue;
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 its use as residential;
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 because at the time the original structure was built, it met City development standards and became legal non-conforming over time;
5. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property as the property will not differ from the characteristics of neighboring properties and would limit the petitioner the same enjoyment of similar surrounding properties without board action;
6. The special conditions and circumstances do result from an action or inaction by the applicant because the open porch was constructed without the benefit of a building permit and zoning clearance;
7. This property does not lie within a designated flood area.

Ughetti states there were 37 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-16 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 Evanega Rieckhoff.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

**24-X-05 PETITIONER IS ELKHART COMMUNITY SCHOOLS
PROPERTY IS LOCATED AT 2608 CALIFORNIA ROAD**

Per Section 4.3, a Special Exception to allow an addition to Elkhart High School. The proposed use is a Health and Wellness Center.

Mulvaney calls the petitioner forward.

Andrew Cunningham with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears via WebEx on behalf of the petitioner. Cunningham says he is with a civil engineering firm partnering with Elkhart Community Schools on a Health and Wellness Center. The addition would be on the northeast corner of the high school. He then states that the purpose of the addition is to serve the student population with health and recreation offerings. Cunningham says it will fit well within the campus and the surrounding community.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff says it looks nice, then asks Cunningham how it will affect the partnership between the school and the aquatic center.

Cunningham answers that, from a civil engineering perspective, the addition would mainly benefit students rather than the community.

Tony Gianesi, Chief Operating Officer of Elkhart Community Schools, located at 1135 Kent Street, appears in person on behalf of the petitioner. To answer Evanega Rieckhoff's question, Gianesi says the project is designed to supplement the physical education component of school and different athletics. He says it was part of the overall plan when the schools combined and created the campus. He says it's the educational piece when it comes to physical education.

Evanega Rieckhoff asks Gianesi if it will damage the partnership with the aquatic center.

Gianesi answers that there is no pool component, but it would enable them to have three physical education classes there and host other extracurricular activities.

Mulvaney asks Gianesi if the center will be primarily open during the school day or if there will be after-hours hours when students can access the building to work out late at night.

Gianesi answers that students will only be allowed to use the facility after school hours if adults supervise them.

Mulvaney states it's an excellent addition because the cost is one of the complaints about the Aquatic Center. Not every student can access that because of the expenses, so it will be a great addition to Elkhart High School.

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 petitioner is requesting a special exception use for an addition to the existing Elkhart High School for a new health and wellness center. Since the consolidation of the school districts within the City of Elkhart, the school has emphasized a focus of bettering the quality of life for its students. The proposed health and wellness center will provide students with new opportunities for fitness and recreation.

Section 4.3(L) of the Elkhart Zoning ordinance requires a special exception use for high schools and is the reason for this request. The health and wellness center will be located on the northeast corner of the existing school, utilizing 1.73 acres of the existing 32.66 acre site. Given this is an addition to the existing facility and located far from the surrounding residential uses, the value and use of surrounding properties will not be affected by this addition.

Staff recommends approval of this special exception.

STAFF 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 as this use provides an essential community service;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because it is a minor change to an already approved use;
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Trotter states there were 23 letters mailed with zero returned.

Trotter says the petition comes to the Board with a Do-Pass recommendation from the Plan Commission.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-BZA-16 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
- Leichtman – Yes
- Mulvaney – Yes

Motion carries.

24-BZA-17 PETITIONER IS HABITAT FOR HUMANITY OF ELKHART COUNTY PROPERTY IS LOCATED AT 3115 HOMER AVENUE

To vary from Section 5.4, Yard Requirements, to allow for a Corner Side Setback of fourteen and eight tenths (14.8) feet where twenty (20) feet is required, a variance of five and four tenths (5.4) feet.

Mulvaney calls the petitioner forward.

Andrew Cunningham with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears via WebEx on behalf of the petitioner.

Greg Conrad, President of Habitat for Humanity of Elkhart County, appears in person on behalf of the petitioner. Conrad says he is seeking the variance because it’s a part of a larger project. He states there is an existing home on the parcel, and rather than tear it down, it was decided to rehab the home. Conrad says a road will be built for another nine new homes on the parcel. The need for the setback arises because building a road will create a corner lot that will lead to the back of the home. Conrad says that if the road were moved, the lot would be lost, and there would not be enough room to build on the other side. The site plan for the rehabbed

home has already gone through preliminary approval. He then says that one of the Habitat partner families is working on the house with community volunteers to help the process and build the nine new homes as phase one of the latest development. Conrad says the project fits with the community, and Habitat is building several houses in the area.

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 petitioner wishes to vary from Section 5.4, Yard Requirements, to allow for a Corner Side Setback of fourteen and eight tenths (14.8) feet where twenty (20) feet is required, a variance of five and four tenths (5.4) feet.

This home is part of a new ten (10) lot subdivision on Homer Avenue for Habitat for Humanity that was presented this month to the Plan Commission. This home, built in 1975 on a +/- 3.5 acre parcel, is being incorporated into the new subdivision. Earlier this year Habitat for Humanity purchased the property and is in the process of renovating the home for a new partner family. This request is required because this home does not meet the corner side yard setback requirements for the new project.

The minimum corner side yard setback is twenty (20) feet. Because the subdivision is being developed around the existing structure and in order to meet the other minimum developmental requirements for new right of way widths that include new underground utilities as well as sidewalks, there was only 14.8 feet of side yard remaining. The graphics included in the packet depict the home as proposed in the subdivision (proposed Lot 6) as well as a blow up of the home on the new lot.

Staff supports the variance. This request and the overall proposed subdivision continue to provide much needed housing for the City of Elkhart.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental 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 home is existing and the variance is required because the new subdivision being developed around the home causing the hardship;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the structure is existing and the hardship is caused again by the new subdivision being developed around the home;
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 because the home existed prior to the subdivision being developed;
5. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property because without board action the property would not otherwise met the developmental requirements for the district;
6. The special conditions and circumstances do result from an action or inaction by the applicant. However, because of the nature of the overall project this variance could not be helped without jeopardizing the entire proposed subdivision. Modifying the other development requirements, to make this structure compliant, i.e. road right of way width, could potentially cause safety issues for other adjacent and future residents;
7. This property does not lie within a designated flood area.

Trotter states there were 30 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-17 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 Evanega Rieckhoff.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

24-BZA-18 PETITIONER IS ADEC INC
PROPERTY IS LOCATED AT 1205 MIDDLETON RUN ROAD

To vary from the requirements found in Section 26.10, Sign Regulations, Table 1, to allow for an existing freestanding sign that is forty (40) square foot in area to be refaced where the maximum area is thirty two (32) square feet in area a variance of eight (8) square feet. To also vary from the requirements found in Section 26.10, Sign Regulations, Table 1, to allow for a new wall sign that is 79.05 square feet in area where the maximum area allowed is two (2) square feet (name and address only) a variance of 77.05 square feet.

Mulvaney calls the petitioner forward.

Todd Lehman with Signtech Sign Services, located at 1508 Bashor Road, appears in person on behalf of the petitioner. Lehman says that the property previously was the DAV on Middleton Run Road and was, most recently, the Middleton Run Road Community Event Center. He says the building is relatively large and has restrictions because it's zoned R-1. He then states that it's relatively familiar to architects because they like to incorporate coloring and logos. Lehman says ADEC is spending money on the exterior of the building, and part of that is because of the large logo on the building. Given the distance the building is from the road, he says the logo will look small when on Middleton Run Road because of the setback. For ADEC to get the architectural sign, the petitioner must go to the Board because two square feet is insignificant. He says the address on the building is bigger than two square feet.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks Layman if the current property sign is the final one.

Layman replies no and that it'll have the same logo as ADEC. He does not believe the petitioner has created the design yet. A reface is not usually allowed, but given its size, it's doable.

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

ADEC Inc., the petitioners, are requesting a sign variance to replace the sign on the former Disabled American Veterans building. ADEC provides essential services to disabled members of the community and worked closely with City staff to locate in the former DAV building. This building allowed ADEC to locate here easily with little modifications to the existing layout.

Due to the site being zoned R-1, the sign regulations are very restrictive and don't align with the current use or the industrial character of this street. The strict application of this ordinance would prohibit ADEC from installing a sign that is consistent with the industrial zoning districts which neighbor the property.

Staff recommends approval of the variances to allow the repurposing of the former DAV site for this essential community service.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from 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 request will allow for the installation of a sign that is consistent with industrial character of the area;
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 as the property is a nonresidential use located in a residential district;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property by depriving ADEC of a sign that is consistent with the character of the area;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because this nonresidential use is located in an R-1 district with strict sign standards not consistent with the character of the area; and
7. This property does not lie within a designated flood area.

Ughetti states there were ten letters mailed, with one returned in favor with no comment.

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

Evanega Rieckhoff asks Trotter why the property is zoned R-1 and if it can be changed.

Trotter answers that the City annexed the property from the county. In the county, the property is an R-1 use in the special exception. When ADEC took over, the petitioner filed for a use variance to allow the use to occur in that building. Trotter says Staff felt that changing the zoning for the particular circumstance was inappropriate. The R-1 zoning special exception that allowed this was more closely similar to the uses than the commercial ones. Trotter says he should have considered the signage implications but was trying to work with them. He says sign regulations are for R-1 residential, but unfortunately, that is the reason for the variance.

Mulvaney states that it's the best use for the property without going industrial.

Trotter states that Staff anticipates the petitioner will be a longtime owner of that property.

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-BZA-18 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
 Leichtman – Yes
 Mulvaney – Yes

Motion carries.

**24-BZA-19 PETITIONER IS DAVID A NUFER LLC
 PROPERTY IS LOCATED AT 2101-2111 S MAIN STREET**

To vary from Section 13.4, Yard Requirements to allow for a new structure that is 3.60 (three and six tenths) feet from the front property line (Main Street) where 30 feet is required and 2.16 (two and sixteen hundredths) feet from the corner side yard (Lusher Avenue) where 30 feet is required, a variance of 26.4 and 27.84 feet respectively. To also vary from Section 26.7.C.7.1.ii. (b). (2) where 10 (ten) feet is required for a parking lot adjacent to a right of way to allow for 8.66 (eight and sixty six hundredths) feet for the new parking lot. To also vary from Section 26.7.C.7.1.ii. (a). (1) where a 4 (four) foot landscape strip is required to allow for 3.5 (three and five tenths) feet, a variance of .5 (five hundredths) feet. To also vary from Section 26.7.C.7.1.ii. (b). (2) to allow for the landscape strip along the Main Street frontage to be 3.60 (three and six tenths) feet where 10 feet is required and 2.16 (two and sixteen hundredths) feet along the Lusher Avenue frontage where 10 (ten) feet is required a variance of 6.4 (six and four tenths)

feet and 7.84 (seven and eighty four hundredths) feet respectively. To vary from Section 26.7.C.7.1.ii.(b).(2) to allow for the alley landscape strip to be 8.77 (eight and seventy seven hundredths) feet where 10 (ten) feet is required.

Mulvaney calls the petitioner forward.

Deborah Hughes with Surveying and Mapping, located at 2810 Dexter Drive, appears in person on behalf of the petitioner. Hughes says many dimensions are highlighted on the exhibit the Board has of the petitioner. She says there is a list of issues. One is that the building is close to the right-of-way line in an urban-style development similar to the existing buildings on the north side of Lusher Avenue. This is mainly due to the lot's narrow size, which is 121 feet, and the need for a parking lot on the rear. Hughes says there is the parking lot aisle, parking lot, parking space, sidewalk, and landscape strip. All have to fit within the space along with the 54-foot-wide building. So, what has been decided is to keep the parking spaces 20 feet long and the entire drive aisle width while burying the landscaping. There is also a north setback for the parking 8.6 feet, where 10 feet is needed. The landscape variance is all around the building to fit in that width. However, Hughes says that on the south side of the building, there is more than required landscaping to help make up for the shortage. There will be a large 22-foot-long landscape strip, plus additional landscaping on the far south edge of the property adjacent to residential use. Where there is space, there will be additional landscaping and landscape islands in the parking lot, too. She says those are the variances and why they are needed.

Mulvaney asks for questions from the Board.

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

Mary Krause appears in person in opposition to the petition. Krause says her concern is mainly traffic because she is a block from Main Street, and vehicles regularly pass her house at 60 MPH. She states that she goes through that intersection multiple times a day, and it's pretty intense. She says her fear is having cars coming and going from the laundromat. She also added that she had not received any information on the request and needed to know how the building would sit on the property or how the entrance and exits would work. Krause states that she knows a neighbor who lives close to her who had written in no, but she does not know about the rest of the neighborhood. She says she is concerned about safety, especially with cars and children entering and leaving the area. She says she saw this happen when she occasionally used the laundromat on the corner of Hively.

Leichtman asks Krause if they are concerned that a new business will increase traffic or are worried about where the building is being placed and whether that will obstruct views.

Krause replies that she is concerned about the increased traffic because she needs to know the view or where the building will be. She states that she grew up in her corner, which is an accident corner. She says she's unsure if anyone has surveyed how many accidents occur on that corner, even though she has lived through several.

Mulvaney states that the Board has a diagram that shows how the building will be set up. The building is set back, with the parking lot along the alley... (unintelligible, off mic). Here is the building; this is Main Street... (unintelligible, off mic). Most traffic will funnel out...(unintelligible, off mic).

Mulvaney closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The petitioner has recently purchased the parcels at the southwest corner of South Main Street and Lusher Avenue from the City of Elkhart Redevelopment Commission. The sale was conditioned on the petitioner developing a commercial space that follows traditional urban design, including small front setbacks for the main building and parking in the rear. All parcels are currently vacant. Petitioner is requesting variances for the front and corner side setbacks to allow new construction for a laundromat and additional retail space with frontage on South Main Street. Development is proposed with parking at the rear of the newly constructed building, which leaves little room for the building if required to stay within the 30-foot front and corner side setbacks. Approval of the request would allow a front building setback of 3.60 feet where 30 feet is required and a corner side building setback of 2.16 feet where 30 feet is required. The variance would also allow a parking pavement setback of 8.66 feet where 10 feet is required. Petitioner is also requesting variances for landscaping widths on the east (along South Main Street), north (along Lusher Avenue), and west (along the alley) borders of the parcel, and adjacent to the building on the west. Approval of the request would allow landscaping to be installed with the following widths:

- 3.60 feet between the building and right of way on South Main Street (10 feet required)
- 2.16 feet between the building and right of way on Lusher Avenue (10 feet required)
- 8.77 feet between the parking lot and the public alley (10 feet required)

- 3.50 feet between the building and the parking lot (4 feet required)
Staff recommends approval of this variance.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental 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 uses provide beneficial services to residents and cater to the convenience of pedestrians accessing the site from South Main Street sidewalk;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed development makes use of vacant land to provide new services to area residents;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance;
4. Special conditions and circumstances do exist that are peculiar to the land, since the size of the properties make it difficult to develop the desired uses with adequate interior floor space;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property by depriving the petitioner of the rights commonly enjoyed by other properties in the same area;
6. The special conditions and circumstances do not result from any action or inaction by the applicant, as the petitioner is proposing to develop the site as desired by the City RDC;
7. This property does not lie within a designated flood area.

Trotter states there were 35 letters mailed, with one returned in favor with no comment and one telephone call not in favor with the comment that the intersection is dangerous. The additional traffic will lead to more accidents.

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

Evanega Rieckhoff asks Trotter if there is ever a worry when a business is so close to the intersection if there are worries about cars jumping the curve, and if it could be done differently to have posted similar to ones in the River District.

Trotter answers that the property is located at a signalized intersection. Traffic volume and speed should not cause undue harm to people driving within reasonable speeds at that intersection.

Leichtman asks Trotter if people will be at risk when they leave the parking lot since the building will be so close to the road.

Trotter says it should not because it's so close to the signalized intersection that would allow people to get out.

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-19 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 Evanega Rieckhoff.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

24-X-06 PETITIONER IS REPUBLIC SERVICES (BROWNING FERRIS INDUSTRIES)

PROPERTY IS LOCATED AT 3300 CHARLOTTE AVENUE

Per Section 18.3, Special Exception Uses in the M-1, Limited Manufacturing District, a special exception to allow for the replacement of a 10,000 gallon diesel fuel storage tank.

Mulvaney calls the petitioner forward.

Kathryn Johnson with Republic Services, located at 3300 Charlotte Avenue, appears in person on behalf of the petitioner. Johnson says that Republic Services is just looking for a tank replacement. It would be the same size but double-walled, whereas the current tank is single-walled with a containment area around it so that it would be inherently safer.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks Johnson where the tank will be located.

Johnson answers that the tank will be in the same spot, so the old one will be decommissioned when the new one finally operates. The new tank will be 30 feet away from the current one.

Mulvaney asks Johnson how tall the current one that stands is.

Johnson answers that the current tank is vertical, so the new one will be about 20 feet tall. To continue to protect it, the new tank will also have a bollard around it.

Mulvaney asks...(unintelligible, off mic).

Johnson says the old tank will be decommissioned, meaning it will no longer exist.

Leichtman asks Johnson if the old tank will be taken down.

Johnson answers that the old tank will be gone.

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 petitioner operates as a waste removal services provider throughout the City of Elkhart and occupies the subject parcel. Petitioner desires to replace the existing vertical 10,000 gallon above-ground diesel fuel storage tank that was previously approved by Elkhart County before the parcel was annexed into the City. The existing storage tank is approaching its life expectancy and should be replaced. Petitioner intends to replace the existing storage tank with a horizontal, double wall UL142 10,000 gallon above-ground fuel storage tank. The parcel is currently buffered from residential uses to the east (rear of the parcel) by deciduous trees and shrubs.

Permitted uses in the M-1 Limited Manufacturing District include "outside storage of liquids or gases in one or more tanks, where total volume of the tank(s) does not exceed 2000 gallons." (See Section 18.2.II) Strict adherence to zoning ordinance Section 18.2 would reduce the existing fuel capacity of 10,000 gallons to 2,000 gallons, which would greatly hinder the ability of the service provider to continue its current level of service in the City of Elkhart.

Staff recommends approval of this special exception.

STAFF 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;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because it is a minor change to an already approved use;

3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Ughetti states there were 24 letters mailed, with one returned in favor with no comment, and the request comes with a do-pass recommendation from the Plan Commission.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-X-06 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

Leichtman – Yes

Mulvaney – Yes

Motion carries.

**24-UV-08 PETITIONER IS ELKHART COMMUNITY SCHOOLS
PROPERTY IS LOCATED AT 2424 CALIFORNIA ROAD**

To vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow for an addition to the Career Center Building, part of the Elkhart High School Campus.

Mulvaney calls the petitioner forward.

Brian Sutanto with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears via WebEx on behalf of the petitioner. Sutanto says the petitioner requests permission to add to the Career Center building. The addition will improve the sidewalks in the proposed building, as well as the storm system, water management, and parking lot improvements. A retention basin will also be proposed south of the building, serving as the new addition's stormwater runoff.

Mulvaney asks for questions from the Board.

Mulvaney opens for public comments to speak in favor.

Tony Gianesi, Chief Operating Officer of Elkhart Community Schools, located at 1135 Kent Street, appears in person on behalf of the petitioner. Gianesi says they want to add to what Sutanto has said. He states that there has been an increase in the number of students in their district for students who wish to attend the Career Center. He says they are looking to add 200 additional spaces for students. The expansion will expand the criminal justice program housed inside the existing Career Center. The old space will be for a sports medicine space, and it will also be used for surgical tech. The expansion of the offerings will be similar to the health and strength center.

Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The petitioner is requesting to vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow an addition at the southeast corner of the Career Center for additional space serving the technology center. In addition, sidewalk improvements around the proposed building addition have been made along with storm water system management to accommodate parking lot improvements. A retention basin will be proposed to the south of the building addition, which will serve the new additions storm water runoff.

This property has an existing institutional building that serves Elkhart Community Schools as the Elkhart Area Technology Center. According to county records the current building on the property was constructed in 1973, and was built for its current use as a technology center and a local radio station broadcast center. In 2019, a use variance was granted to allow the Elkhart Community Schools Teenage Parent Program as a permitted use located in the technology center as a permitted use in the M-1, Limited Manufacturing District.

STAFF 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 building addition will be constructed to all current applicable building requirements;
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 as additional classrooms for the technology centers activity will occur indoors and would be an asset as this facility serves the greater community school district;
3. The need for the variance does arise from some condition peculiar to the property involved because without board action the use would not be permitted;
4. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the site because the building was constructed for its current use whereon the addition will serve the same purpose;
5. The approval does comply with the Comprehensive Plan which calls for the area to be developed with institutional uses.

Ughetti states there were five letters mailed, with one returned in favor with no comment.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-UV-08 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 Evanega Rieckhoff.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

**24-UV-09 PETITIONER IS ELKHART COMMUNITY SCHOOLS
PROPERTY IS LOCATED AT 2411 AND 2439 COUNTY ROAD 10**

To vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow for an addition to the Diesel Tech and Building Trades Buildings, part of the Elkhart High School Campus.

Mulvaney calls the petitioner forward.

Brian Sutanto with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears in person on behalf of the petitioner. Sutanto says they request an addition and improvements for the Diesel Tech and Building Trade Buildings. This would include a retention basin expansion and an increase in the current stormwater piping to accommodate the proposed development.

Tony Gianesi, Chief Operating Officer of Elkhart Community Schools, located at 1135 Kent Street, appears in person on behalf of the petitioner. Gianesi says they are requesting two additions for diesel tech and building trades because of the additional programming they seek to offer. The diesel tech building would be expanded to double the size of the work base to increase the number of diesel tech students and move auto trades into that building. This would open up room for new programs. This allows Elkhart Community Schools to increase their offerings in that building by creating more space. Currently, there is one small classroom in the construction and trades building. With the addition, there would be two additional classrooms to allow for expanded offerings.

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 petitioner is requesting to vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow for an addition and improvements to be made to the Career Center Annex specifically the Diesel Tech and Building Trades. The proposed expansion of the current storm water retention basin and an increase to current storm water piping to the south of the site will accommodate the proposed development.

These properties contain multiple institutional buildings that serve the Elkhart Community School District as training facilities. According to county records these buildings were constructed over time from the 1970's through 2019. In 2020, both properties were annexed into the City of Elkhart – Ordinance 5812.

STAFF 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 building addition will be constructed to all current applicable building requirements;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed development would be an asset for the community and the surrounding school district by increasing the quality of the use of the subject properties;
3. The need for the variance does arise from some condition peculiar to the property involved because without board action the use would not be permitted;
4. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the site because the buildings were constructed for their current use whereon the proposed development will serve the same purpose;
5. The approval does comply with the Comprehensive Plan which calls for the area to be developed with institutional uses.

Ughetti states there were 10 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-UV-09 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
Leichtman – Yes
Mulvaney – Yes

Motion carries.

ADJOURNMENT

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

Doug Mulvaney, President

Ron Davis, Vice-President

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, September 12, 2024 - Commenced at 6:08 P.M. & adjourned at 7:05 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Ron Davis
Janet Evanega Rieckhoff
Phalene Leichtman

MEMBERS ABSENT

None

REPRESENTING THE PLANNING DEPARTMENT

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

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Hugo Madrigal

APPROVAL OF AGENDA

Mulvaney moves to approve the agenda.
Davis makes motion to approve; Second by Evanega Rieckhoff. Voice vote carries.

APPROVAL OF MINUTES FOR JULY 11, 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 July 11, 2024 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.

OLD BUSINESS

24-UV-04 PETITIONER IS HERG INC PROPERTY IS LOCATED AT 106 & 108 BOWERS COURT TABLED FOR ONE MONTH

NEW BUSINESS

24-BZA-20 PETITIONER IS THOMAS NICKEL INVESTMENTS LLC PROPERTY IS LOCATED AT 900 E BEARDSLEY AVE

To vary from Section 26.4.B.2, Fences Permitted in Residential and Business Districts, which requires in part that 'in a corner lot, no fence, wall or vegetation exceeding four (4) feet in height or a fence, wall or vegetation that is opaque may be placed, built or installed: 1. In the required side yard adjacent to the street; or 2. In any portion of the rear yard lying closer to said street than the point of the principal building nearest said street.' To allow a six (6) foot opaque fence installed in the corner side yard (Howard Street frontage) without benefit of permit to remain.

Mulvaney calls the petitioner forward.

Glenn Duncan, an attorney representing Thomas Nickel Investments LLC, located at 228 W High St, appears in person on behalf of the petitioner. Duncan wants to clarify that the petitioner knows things were done incorrectly. The fence was installed before ever receiving a permit, and had they applied, the petitioner would have been made aware of the need for a variance. Duncan states that full disclosure and ignorance of the law are no excuses, but sometimes, they are somewhat of an explanation. Duncan says Thomas is a good citizen of Elkhart, where Thomas has done a great deal of development in and around the City. Duncan says he would like to point out that Thomas developed Star Tire and designed it to have brick, which was the City's recommendation at the time. Duncan says this is proof that Thomas is a good citizen. He then explains that Thomas hired a reputable fence contractor and that the contractor would handle whatever legal requirements there were to install the fence. He states that when Thomas received the notice of violation from the City, Thomas contacted the contractor to address issues with the legality of the fence, where the contractor stated that that burden falls on the property owner, not on the contractor. Having received a citation from the City, the petitioner has recognized that he is in violation. So, applying for the permit started, leading the petitioner to seek the variance. Duncan says that the Board has received the petitioner's application, which addressed the seven standards required for the petition. He adds that the Staff report indicates that the petitioner is satisfying nearly all the requirements except for one, which Duncan believes has been satisfied. Duncan says it's number six, as it replies to number four regarding the property characteristics his client does not have, which is that it is a corner lot. He says Staff has indicated that the petitioner causes number six. This means the fence was installed in the corner lot without receiving the appropriate variance. Duncan says that that is not the characteristic that is the problem, but the problem is that it's a corner lot in a high-traffic area. That issue has been addressed by pointing out that the neighbors across the street developed their property without a buffer between commercial and residential properties. So, Duncan says, the use of his property is for residential purposes, the yard runs the entire length of the Lake City Bank property, and there is a lot of traffic. He says the petitioner would like to shelter the residence from traffic exposure. In addition, since the property on Beardsley Street sees a lot of traffic, the petitioner would like to shelter the backyard. Duncan says he does not believe the fence has negatively impacted any surrounding properties. Duncan then states that a benefit of violating the requirement is that neighbors will know what the fence will look like. Duncan states that the neighbors have expressed their pleasure with the fence to Staff and the standards for being in the flood zone are satisfied. Duncan says he does take issue with the condition that Staff has recommended for three simple reasons. First, the condition itself may satisfy the standards. However, the Staff would like them to move the fence back one foot. Duncan says that the petitioner can do that; however, that would come at a significant expense. Second, Staff asks that the condition be imposed because it will be consistent with a new ordinance that the city council will consider, but that Ordinance has yet to exist. Duncan says he does not know if the final form will be one or two feet. The real problem with the condition is that the sidewalk at the location is in good condition, and there are no trees in the tree lawn along Howards Street, so there is no chance of any tree uprooting or causing the sidewalk to be redone or removed. Duncan then says the sidewalk is in good condition and should be for the next 50 years, so there is no real good reason. Moving the fence back to allow space between the sidewalk and the fence is unnecessary. He says the wrong thing is if you look at where it exists, there will be a problem if there is a one-foot area and he wonders who will maintain that area. Currently, where the fence is, it runs along the edge of the sidewalk, and the mowing of the yard inside that fence will prevent that from becoming an issue. He says a property directly to the north has a chain-link fence about a foot off the sidewalk; weeds and trees are growing in that space. Duncan says his client will have no issue taking care of that area. However, the petitioner may only own the property for a while, and it's not a good idea to create that one-foot space between the sidewalk and the fence because it will be difficult for somebody to maintain.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff states that if the Board were to approve the request, the petitioner would be grandfathered at one foot if the new zoning ordinance were to change that. She also says that the petitioner will be responsible for the one foot since that area still belongs to the property owner.

Leichtman asks Trotter for a timeframe of when the Ordinance will be changing.

Trotter answers that a draft may be ready by this year's fourth quarter.

Leichtman asks Trotter if the City anticipates the Zoning Ordinance to grow.

Trotter replies yes.

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

Thomas M Nickel Investments, LLC is the owner of the subject rental property and resides immediately south across Beardsley Ave. In an attempt to provide screening from the auto-oriented commercial uses with drive-throughs across Howard St., the owner installed a 6 foot privacy fence, when 4 feet is the maximum height, at its current location on the property line, which is not at the required setback, without a permit. Petitioners are seeking this variance to allow for a permit of the now existing fence in its current location.

Staff has no recommendation on the proposed variance but is requesting the condition that the fence be moved to a 1 foot setback from the Howard St. property line. The City of Elkhart is in the process of updating its zoning ordinance, including the fence regulations. It is anticipated that the new UDO will include allowances for fences in a corner side yard to be located at 1 foot setback in the subject location.

STAFF RECOMMENDATION

The Staff has no recommendation of the developmental variance to vary from Section 26.4.B.2, Fences Permitted in Residential and Business Districts, which requires in part that 'in a corner lot, no fence, wall or vegetation exceeding four (4) feet in height or a fence, wall or vegetation that is opaque may be placed, built or installed: 1. In the required side yard adjacent to the street; or 2. In any portion of the rear yard lying closer to said street than the point of the principal building nearest said street.' To allow a six (6) foot opaque fence installed in the corner side yard (Howard Street frontage) without benefit of permit to remain 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 approval of the variance will soon be permitted by right if located at a 1 foot setback consistent with the future City of Elkhart Unified Development Ordinance;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because a fence, even if located at the property line, is a typical use of residential districts. The fences location should not affect the use and value of a adjacent property, especially if located per the requested condition;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted because the fence would allow for screening from the intense, auto-oriented commercial uses to the west;
4. Special conditions and circumstances do exist as the subject property is a corner lot;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because if the fence were installed in the correct location it would effectively divide the yard in half.;
6. The special conditions and circumstances do result from the applicant because the fence was installed without a permit and in the incorrect location;
7. This property does not lie within a designated flood area.

CONDITIONS

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

1. To relocate the fence to a 1-foot setback along Howard St., consistent to what's proposed in the future City of Elkhart Unified Development Ordinance.

Ughetti states that 31 letters were mailed, three of which were returned in favor with two comments. The first says that it is an improvement over the previous wire fence. The second letter says that the fence looks good and increases security, to pay the fine and get a permit next time.

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

Davis asks Ughetti if the petitioner understands the condition being placed by Staff.

Duncan answers yes.

Mulvaney asks Trotter about the theory behind the one-foot setback along a sidewalk and a street in this situation. Mulaveny says he understands there might be a reason between residences.

Trotter replies that the theory allows for proper sidewalk maintenance while allowing the homeowner to have a larger backyard versus what is currently required, which is a six-foot fence equal to the house's setback. So, if the home is setback 12 or 14 feet, it loses the area behind the six-foot fence.

Mulvaney asks if that would narrow the number of setbacks based on the side the fence sits on.

Trotter replies yes.

Trotter states that Staff is attempting to allow more usable space within the six-foot boundary limit.

Mulvaney states that if he assumes the sidewalk needs to be replaced, the fence must be torn down to allow equipment to pass through.

Trotter answers that that would depend on the scale of operation at the time.

Mulvaney asks Trotter if the City would have every right to remove them.

Trotter answers that they would assume.

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-BZA-20, and adopt the petitioner's documents and presentation as the findings of fact in the present petition, and adopt all conditions listed on; seconded by Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

**24-UV-10 PETITIONER IS DIANA CASTILLO AND JUAN CASTILLO
PROPERTY IS LOCATED AT 722 GRAYWOOD AVE**

To vary from Section 18.2, Permitted Uses in the M-1, Limited Manufacturing District to allow for the property to be used as a commercial kitchen.

Mulvaney calls the petitioner forward.

David Porter, a contractor representing Diana Castillo and Juan Castillo, located at 722 Graywood Ave, appears in person on behalf of the petitioner. Porter says the request is for a commercial prep kitchen since it needs to be zoned for that use. He then states that he is still determining the appropriate zoning for the food prep but believes it's currently zoned as M-1.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks Porter how many people will work there and how many trucks will enter and exit the facility.

Porter answers that one business and one food truck will cater off-site. If things go well, this could allow community businesses to have a place to come locally and do their food preparations. However, the plan is to have just one company with no patrons.

Evanega Rieckhoff asks Porter if it's a restaurant.

Porter replies no.

Mulvaney states that the food will be prepared on-site solely by loading trucks. He adds that major renovations will be made to the building, which appears to have once been a growing facility.

Leichtman states that commercial kitchens are needed in the City.

Porter states that the property would allow for an expansion to open it up more to the community. He says that everything would be done within the appropriate standards.

Mulvaney asks Porter if there are any issues with the conditions listed by Staff.

Porter answers no.

Mulvaney states that the petitioner's biggest challenge will be the Health Department.

Porter states that once permits are pulled, everything will be sized appropriately with the facility.

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 petitioner is requesting a use variance to allow for a commercial kitchen and food truck fulfillment center at the site. The surrounding area is highly industrial, and the request use is consistent with its character. The proposed use will see food trucks coming to the location to restock before going to other locations to serve customers.

Based on the submittal, Staff has additional questions regarding the number of employees, number of food trucks expected to restock at the site, and the hours of operation. Those questions and the lack of a proper site plan lead to the requested condition of the required pre-development meeting. Nonetheless, Staff feels the use is appropriate for the district and is recommending approval as the only requested action this moment is the use variance, not site plan approval which will need to be achieved at a later date.

The project will still need to go through zoning, health, and building review processes. Submittal to Technical Review will also be required.

STAFF 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 is consistent and less intense than other uses allowed in the M-1 Limited Industrial District;
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 less intense than other uses allowed in the M-1 district;
3. The need for the variance arises from some condition peculiar to the property involved because without board action the use would not be permitted;
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 because more intense uses are allowed in the M-1 district and denial would leave the property vacant;
5. The approval complies with the Comprehensive Plan which calls for the area to be developed with industrial uses.

CONDITIONS

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

1. The petitioners schedule a pre-development meeting with Staff to discuss getting a site plan for the site that meets the current zoning, health, and building regulations.

Ughetti states there were 12 letters mailed, with one returned in favor with no comment.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-UV-10 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 Leichtman.

- Davis – Yes
- Evanega Rieckhoff – Yes
- Leichtman – Yes
- Mulvaney – Yes

Motion carries.

**24-X-07 PETITIONER IS CITY OF ELKHART
PROPERTY IS LOCATED AT 1300 BL INDIANA AVE THOMAS ST**

To vary from Section 6.4, Yard Requirements in the R-3, Two Family Dwelling District, which requires the front yard setback for new structures to be built at the established or twenty (20) feet from the front property line to allow for the lift station structure to be located within the twenty (20) foot setback. To also vary from the Yard Requirements which limits the height of structures to thirty (30) feet to allow for the lift station structure at a height of thirty-seven (37) feet, a variance of seven (7) feet. To also vary from the Yard Requirements which limits lot coverage to forty (40) percent for all structures to allow for a lot coverage of forty-two (42) percent, a variance of two (2) percent. To also vary from Section 26.4.A.6, Fence Requirements which states in part that 'No fences, other than split rail, wrought iron or open picket fences not to exceed four (4) feet in height, shall be permitted in any front yard or corner side yard, to allow for a six (6) foot vinyl coated fence in the front yard.

Mulvaney calls the petitioner forward.

Tory Erwin, director of the City of Elkhart Public Works, located at 1201 S. Nappanee St, appears in person. Erwin says that the project is one of the City's long-term control plans, a twenty-year project in which the City is under a consent decree with the DOJ and the EPA to eliminate and reduce the combined sewer overflows into the waterways in Elkhart. The project is a key part of that project, allowing for a lift station to accept 1/3 of the City's wastewater and combine sewer. It will also have a 1.7 million-gallon

storage tank. The site was selected in 2008 when the long-term control plan was being developed, and it has taken until now to get the project on the list.

Mulvaney asks for questions from the Board.

Mulvaney asks Erwin if all the construction around downtown is in relation to the station.

Erwin answers that the construction around Indiana Avenue is related to the lift station. The construction near downtown is a different long-term control plan project that is not connected to the project but is still part of the plan.

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 petitioner is requesting a special exception to allow for the construction of a new lift station, equipment building, monorail system, security fence and Combined Sewer Overflow (CSO) storage tank.

The request is part of the City of Elkhart's Long Term Control Plan (LTCP) which is mandated by the Environmental Protection Agency (EPA).

The site is adjacent to existing sewer infrastructure along both Lafayette Street and Indiana Avenue where sewer flows will be directed to the new lift station and CSO storage tank. The design was completed to meet the parameters found in the LTCP as well as the necessary operational access to both the lift station and the CSO storage tank.

The storage tank has been designed to resemble a building which will help the structure blend more easily into the street scape along Indiana Avenue. The exterior elevations are included in the packet.

The above grade CSO storage tank will incorporate an access stair tower. Security fencing will be built around the lift station to protect the monorail system that will serve the lift station.

STAFF 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 all structures will be built per all applicable local building and federal (where applicable) codes;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because the new equipment will be screened and will not impact the adjacent uses;
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because the equipment will not generate adverse effects on adjacent properties with noise, emissions or vibrations.

Trotter states there were 58 letters mailed with one returned in favor with no comment.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-X-07, and adopt the petitioner's documents and presentation as the findings of fact in the present petition, and adopt all conditions listed on; seconded by Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

24-BZA-23 PETITIONER IS CITY OF ELKHART
PROPERTY IS LOCATED AT 1300 BL INDIANA AVE THOMAS ST

To vary from Section 6.4, Yard Requirements in the R-3, Two Family Dwelling District, which requires the front yard setback for new structures to be built at the established or twenty (20) feet from the front property line to allow for the lift station structure to be located within the twenty (20) foot setback. To also vary from the Yard Requirements which limits the height of structures to thirty (30) feet to allow for the lift station structure at a height of thirty-seven (37) feet, a variance of seven (7) feet. To also vary from the Yard Requirements which limits lot coverage to forty (40) percent for all structures to allow for a lot coverage of forty-two (42) percent, a variance of two (2) percent. To also vary from Section 26.4.A.6, Fence Requirements which states in part that 'No fences, other than split rail, wrought iron or open picket fences not to exceed four (4) feet in height, shall be permitted in any front yard or corner side yard, to allow for a six (6) foot vinyl coated fence in the front yard.

The presentation for 24-BZA-23 from Tory Erwin has been combined with that of 24-X-07, thus rendering an additional presentation unnecessary.

STAFF ANALYSIS

The petitioner is requesting several developmental variances associated with the special exception request for the installation of a new lift station, equipment building, monorail system, fence and storage tank building.

The City's Long Term Control Plan (LTCP) is required by a consent decree from the Environmental Protection Agency (EPA) and the Department of Justice (DOJ) to reduce sanitary sewer overflows into local waterways. The need for the variances comes from the new equipment that is part of the LTCP to separate combined sewers, install devices that direct wastewater to the treatment plant rather than combined sewer areas, install regional storage tanks to capture and store sewer overflows during wet weather and improvements to the wastewater treatment plant. Since 2010, the City has completed approximately half of the 38 Long Term Control Plan projects. The consent decree has a mandated completion date of December 2029 for all of the LTCP projects.

This project is located on the north side of the 1300 block of Indiana Avenue bounded by Thomas (west) and Fremont Streets (east). The north boundary is Lafayette Street. Currently there is a community garden and two (2) single family dwellings that will be removed as a part of this project.

The proposed storage tank building is designed to look like a built structure along Indiana Avenue. It is placed between the commercial uses on either side of the property – a place of worship and a food outreach ministry. The primary façade along Indiana includes a contemporary wave feature that incorporates landscaping that buffers and softens that elevation toward the street. The height of the storage tank building is requiring a height variance because the enclosed stair tower is seven (7) feet above the maximum height allowed in the R-3 district of thirty (30) feet. The lot coverage variance where the storage tank building is to be placed is two (2) percent over the lot coverage maximum for the R-3 district of 40%. The north south alley that is to the west of the tank will not be used for maintenance vehicles. A newly constructed access drive has been incorporated into the plan to provide an additional buffer area to keep maintenance traffic away from the church.

North of the church, a small portion of the proposed underground pump station, at the intersection of Lafayette and Thomas Streets, will extend into the front yard setback along Thomas Street. The only visible parts of the pump station will be the concrete top and access hatches. The entire area will be surrounded by vegetation to screen the built structures associated with the lift station.

Finally along Thomas Street, a six (6) foot, vinyl coated fence, is requested to be placed in the front yard. This proposed fence will provide security and prevent people from accessing the site, out of harm's way and away from the equipment.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from 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 petitioner will be required to complete the modifications in a workmanlike manner and have inspection by the building department;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the equipment associated with the variance requested will be screened from adjacent properties and is permitted as a special exception use within the district;
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 because without board action, the mandated project would not move forward and cause the City to be out of compliance with our consent decree;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because board action is required for this proposed use;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because no work has begun;
7. This property does not lie within a designated flood area.

Trotter states there were 58 letters mailed, with one returned in favor with no comment.

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

Evanega Rieckhoff asks Erwin if money has been budgeted for the properties and if a new community garden will be around the area.

Erwin answers that Utilities has acquired all the properties necessary for the project. To address the second question, Erwin says that green space will remain open north of the tank, east of the lift station, where the City will look to allow some programming for the area. Whether that is used for a community garden or playground equipment will depend on whatever the community finds the best value for the area.

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-23 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 Leichtman.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

**24-BZA-21 PETITIONER IS PATRICK MOHAN AND JILL MOHAN
PROPERTY IS LOCATED AT VL MELROSE MANOR (06-03-230-002)**

To vary from Section 26.1B.1, Accessory Structures, which states in part 'An accessory structure shall not be erected prior to the establishment or construction of the principal building to which it is accessory or to which it is intended to be accessory,' to allow for the accessory structure to remain without the establishment of a principal building.

Mulvaney calls the petitioner forward.

Petitioner Patrick Mohan, 13 Melrose Manor, appears in person. Mohan says that he had purchased a storage garage and placed it on a lot adjacent to his property without releasing that he was in violation. Mohan says that he talked to the company from which he bought the shed and was told that a foundation was unnecessary. Mohan states that he was written up for needing a foundation and for building on a vacant lot.

Mulvaney asks for questions from the Board.

Mohan brings in two large exhibits that display the property with the already-built accessory structure. Mohan points out that the white house is on lot 4, and lots 5 and 6 are behind the shed.

Mulvaney asks Mohan if the lots were purchased separately from Mohan's residential property.

Mohan replies yes. He has lived on lot 13 since 2000 and bought the vacant lot, also known as lot 14, in 2016. He says that he thought he would build a pool or pool house.

Mulvaney asks Mohan if there is no room on his principal property.

Mohan answers that additional storage is warranted and that nothing can be done on his lot.

Mohan states that at one point, lots 10 through 15 face the river, and lots 1 through 6 face Jackson Boulevard. Mohan says there are two interior lots. He says he looked at what could be done with the lot, but it would be difficult because the front of the house would face the street. Mohan says there is one house north of lot one, but that was the original farmhouse built before any other homes were built in the subdivision. Mohan says the other point he wanted to make was that, at one point, there was a public easement.

Evanega Rieckhoff asks Mohan if he has the red line with the public easement.

Mohan says that would have made the property more attractive for building a home then; however, now there is no river access for the lot.

Mulvaney opens for public comments to speak in favor.

Doug Graham, located at 53523 County Road 15, appears in person in favor of the petition. Graham says that the petitioner needs more storage since the house is landlocked. Graham says the shed is stuck far back on the property, and as one can see, driving down the neighborhood, people would only know it's there if they look for it. Graham says Mohan takes excellent care of the property, where they mow it and keep it current. Graham says it's not a permanent structure, and if the petitioner had to, it could be torn out. Graham says it complements the house and the neighborhood.

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

STAFF ANALYSIS

Patrick and Jill Mohan are the owners of 13 Melrose Place (A) and have obtained the subject property (B) and placed a small 12 foot by 16 foot shed in the southeast corner of the property (C).

The variance is needed because the property is separated from its owner by a public street and it is an accessory structure without a primary structure. The petitioners received a notice of violation from City Code Enforcement for this reason. It should be noted that the petitioners did not obtain a permit, but the structure meets all other regulations regarding accessory structures.

The accessory structure is located in a discrete location screened by the fences of the surrounding property. The primary homes waterfront lot makes it difficult to locate the structure in the little available yard.

Staff recommends approval of the variance, subject to the condition that they obtain a permit.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from Section 26.1B.1, Accessory Structures, which states in part 'An accessory structure shall not be erected prior to the establishment or construction of the principal building to which it is accessory or to which it is intended to be accessory,' to allow for the accessory structure to remain without the establishment of a principal building, subject to the requested condition, 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 a small shed as an accessory structure is a typical use in residential districts and the structure is located far from the public right of way and screened by fences of the surrounding properties;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure because it would allow for the use of a vacant property by an adjacent owner;
4. Special conditions and circumstances do exist as the subject property is owned by an adjacent owner separated by a public street as opposed to directly abutting it;

5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it would be vacant otherwise and the waterfront location of their existing home makes it difficult to locate an accessory structure in their small yard;
6. The special conditions and circumstances do not result from any action or inaction by the applicant;
7. This property does not lie within a designated flood area.

CONDITIONS

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

1. To obtain a permit for the accessory structure.

Ughetti states there were 31 letters mailed, with two returned in favor with no comment.

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

Mulvaney calls for a motion.

Leichtman makes a motion to approve 24-BZA-21, and adopt the petitioner's documents and presentation as the findings of fact in the present petition, and adopt all conditions listed on the staff report; seconded by Evanega Rieckhoff.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

**24-UV-12 PETITIONER IS VASHU MOTELS INC
PROPERTY IS LOCATED AT 2807 CASSOPOLIS ST**

To vary from Section 18.2, Permitted Uses in the M-1, Limited Manufacturing District to allow for the construction of a drive thru coffee shop.

Mulvaney calls the petitioner forward.

John Schebaum, a civil engineer representing Net Lease Properties LLC, located at 1000 Forest Park Blvd Suite 401, appears via WebEx on behalf of the petitioner. Schebaum says the petitioner wants to build a drive-thru coffee shop, and to do that, the property has multiple zoning. Schebaum says that when he was working with Eric, research had to be done to figure out the zoning for the property. He says they are seeking a use variance for the drive-thru over the M-1 zoning portion of the property.

Mulvaney asks for questions from the Board.

Mulvaney asks if the coffee shop will be a drive-thru only.

Schebaum replied yes and said that there would be no menu boards. There will not be a service window, but more like a service door, where employees will go around with a hand-held iPad and take orders. Schebaum says that if there are 10 vehicles, there will be an employee who will go to the last car on the drive and take their order where they will go to the door. Schebaum says the typical turnaround is pretty quick due to the model being used.

Evanega Rieckhoff asks Schebaum if 18 cars can be lined up.

Schebaum answers that that's showing maximum stacking for a seven-thru model where they might try to get it to 20, but the typical outcome will see it get that busy on opening day.

Leichtman asks Schebaum if the petitioner knows that it will usually be cold and rainy.

Schebaum answers that there will be a canopy structure to protect the employees.

Evanega Rieckhoff asks Schebaum if customers will use the parking spots on the left-hand side of the property while they wait for their coffee.

Schebaum answers that the parking there will be used only by employees.

Evanega Rieckhoff asks Schebaum how customers will be getting out.

Schebaum answers that customers will pay while sitting at the stop bar. He then says that when a customer gets their order taken and they are the only one, the customer will pay and receive the coffee at the stop bar. However, if there are 10 customers, someone will walk along the sidewalk or drive-thru, where orders will be taken. When customers get to the stop bar, employees will have their drinks ready, and then customers will exit the property.

Evanega Rieckhoff states that she did not see the other exit onto Cassopolis Street and she apologizes.

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 petitioner is requesting a use variance to allow for a drive thru coffee shop in an M-1 Limited Manufacturing District at the location of the former Budget Inn located on Cassopolis St. near the Toll Road intersection. The location places the site at a key gateway to our City and influences visitors first perceptions of Elkhart. Gateways are essential establishing the sense of community and Elkhart's image.

The reason for the request is the mix of zoning found on the site. The use is permitted in the portion that directly abuts Cassopolis St. that's zoned B-3, but because part of the site is zoned M-1 it requires a use variance. Staff recommends approval of the use variance as more intense uses are allowed in the M-1 district. Approving the use would allow for the reuse of the property to a desired use and provide for new investment along this critical corridor. Redevelopment of the site will improve the sense of welcome and Elkhart community image as discussed in the Comprehensive Plan. City staff welcomes this new development. Submittal to Technical Review will be required as well as approval from the Indiana Department of Transportation (INDOT).

STAFF 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 is consistent with the commercial character of the corridor;
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 less intense than other uses allowed in the M-1 district;
3. The need for the variance arises from some condition peculiar to the property involved because without board action the use would not be permitted;
4. The strict application of the terms of this Ordinance will constitute an unnecessary hardship if applied to the property because a denial of the use variance will limit the development to a small portion of the site;
5. The approval complies with the Comprehensive Plan which calls for the area to be developed with commercial uses and for improving the streetscape and community image of this key gateway.

CONDITIONS

1. Project shall be submitted for review and approval at Technical Review.
2. Petitioner shall be required to obtain all necessary approvals from Indiana Department of Transportation (INDOT) in coordination with the Technical Review submittal listed in condition No. 1 above.

Trotter states there were 17 letters mailed with zero returned.

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

Evanega Rieckhoff asks Trotter if the petitioner understands the conditions put forth by Staff.

Trotter answers that the petitioner has been in contact with Jeff Schaffer out of Public Works because they will have to go through Tech Review, and INDOT will have to be involved. Because of the location, the entrances will be modified, and since Cassopolis is a state road, they will need INDOT approval. This is not a site plan approval; it is just the use, and they will still go through Tech Review and INDOT for site plan approval.

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-UV-12, and adopt the petitioner's documents and presentation as the findings of fact in the present petition, and adopt all conditions listed on the staff report; seconded by Davis.

- Davis – Yes
- Evanega Rieckhoff – Yes
- Leichtman – Yes
- Mulvaney – Yes

Motion carries.

ADJOURNMENT

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

Doug Mulvaney, President

Ron Davis, Vice-President

South while sweeping the season series from Indy. Worse yet, Richardson briefly left the game in the second half after tapping his helmet to signal he needed a breather. Though he returned on Indy's next series, his decision to leave — on what Steichen said was going to be a handoff — was so heavily scrutinized, Richardson acknowledged he made a mistake though he didn't say when he realized it was a mistake.

"Regarding that play, I know I can't do that as a leader, especially as a quar-

ing with one of the league's oldest. Flacco, last year's AP NFL Comeback Player of the Year and the Super Bowl 47 MVP, already has made two starts and is 2-1 in the three appearances with the Colts. He's completed 71 of 108 passes (65.7 percent) with 716 yards, seven TDs and one interception and his quick decision-making has helped Indy's offense stay on the field more consistently.

And with the Colts still in the playoff mix, Flacco certainly appears capable

when I was that young, there's no chance I would have been able to have the perspective and just the right head on my shoulders to handle it and take it the right way," Flacco said. "Being this is my 17th year, I do have that perspective. So this doesn't have to be a negative thing. There are a lot of positives on his end that can come from this."

Still, it's a dramatic shift for Steichen, who just last week told reporters he needed to help Richardson with better play-calling. Back then, the Colts seemed intent to let Richardson learn from

"Of course, it hurts," he said. "As a competitor, you definitely don't want to be told that you're not the guy anymore for the upcoming week, but it's all good. I'm using this moment as an opportunity to grow and just learn from my mistakes."

So for now, it's Flacco's job to lose.

"I'm fired up man," Flacco said. "Anytime you get a chance to play football in this league, you have to count yourself as blessed. I really feel very fortunate to be with this team and be in this situation and I'm excited to get it done."

NorthWood's Kaley Kiefer, NORTHWOOD Sr. Coach of the Year: Chris Malott, Northridge

LIONS

From page B1

tion both as a runner in fake punt situations, as well as showing a strong and accurate leg.

But the heart-and-soul of this Elkhart team is still the defense, led by the three Division 1 defensive linemen in Mariyon Dye (Tennessee), Camine Orozco (Miami of Ohio) and CD McFee (Cincinnati).

Throw in likely D1 linebacker Kros Jones (24 tackles for loss), who is just a sophomore, as well as senior cornerback Loudyn Johnson and you can see why the Elkhart defense is one of the best.

Curry said quarterback Quinn Rost, who suffered a concussion in a Week 8 win over Marian, is expected to be back on Friday. He expects both Rost and back-

up Tre Fedel to play against Snider.

One thing Curry does know is Snider won't be intimidated by the Lions or playing in a 6A playoff game. "We know they will not be scared of a 6A program," Curry said. "They saw another legit defense against Warren Central and of course they play in a really good conference."

"We just have to play disciplined defense, execute and play Elkhart football."

Sectional games

In other area games, Jimtown will travel to Marian and Fairfield will go to West Noble in 3A, NorthWood will travel to South Bend St. Joseph in 4A, Goshen will host Warsaw in 5A and Lake Central will play at Penn in 6A.

We advanced the Concord-Fort Wayne North game in Thursday's Truth

FREEMAN

From page B1

feat. The streak began when he launched the first game-ending grand slam in World Series history to win a dramatic opener in Los Angeles.

Freeman's two-run drive in the first inning Tuesday night at Yankee Stadium made him

the only player to go deep in six consecutive Series games, dating to the 2021 title he won with Atlanta.

He was robbed of an extra-base hit in the fourth inning of Game 5 when Aaron Judge made a sensational catch of his long drive while crashing hard into the fence.

But the MVP award put a joyous cap on a scary and

trying season for the Freeman family. Freeman missed eight games in July and August after his 3-year-old son, Maximus, fell ill while watching his father at the All-Star Game festivities in Texas.

When the family returned home, Max was hospitalized and put on a ventilator after he experienced partial paralysis and breathing dif-

ficulty. He was diagnosed with Guillain-Barré, the rare neurological condition that affects the immune system, nerves and muscles.

Max's condition gradually improved, and Freeman returned to work Aug. 5. He was welcomed back by a huge ovation from Dodgers fans that prompted tears from Freeman.

The Elkhart Truth

CLASSIFIEDS

Classified Desk: 1-855-317-4292

Hours: Monday - Friday 9am-2pm EST



0100 ANNOUNCEMENTS

GUN SHOW ROCHESTER
 Saturday, November 9th
 8am-3pm EST
 Admission \$4
 Fulton County Historical Society Museum
 37 East 375 North
 (4 miles north of Rochester on west side of US 31)
 Call (574) 936-4431

Classifieds Make a Cash Connection!

LEGAL NOTICE #24-X-08

Hearing on proposed Special Exception #24-X-08

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, NOVEMBER 14, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Special Exception Petition #24-X-08.

Petitioner: Maria Torres

Request: A Special Exception per Section 5.3, Special Exception Uses in the R-2, One-Family Dwelling District, to allow for a Day Care Center.

Location: 2022 Benham 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 2317 077 1574 as the meeting number and "BZA2023" 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 (SE1/4) OF SECTION EIGHT (8), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS TWO HUNDRED THIRTY-NINE (239) FEET SOUTH OF THE SOUTHEAST CORNER OF BENHAM AVE. AND HUBBARD AVENUE IN THE CITY OF ELKHART, INDIANA; THENCE EAST PARALLEL WITH THE SOUTH LINE OF HUBBARD AVE. ONE HUNDRED TWENTY SIX (126) FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF BENHAM AVE. SIXTY (60) FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF HUBBARD AVENUE, ONE HUNDRED TWENTY-SIX (126) FEET; THENCE NORTH ALONG THE EAST LINE OF BENHAM AVENUE, SIXTY (60) FEET TO THE PLACE OF BEGINNING.

ALSO KNOWN AS PART OF LOTS NUMBERED EIGHT (8) AND (9) IN WOLF'S SIXTH UNRECORDED ADDITION. 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 28th day of October, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: November 1, 2024
hspaxlp

LEGAL NOTICE #24-BZA-29

Hearing on proposed Developmental Variance #24-BZA-29

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, NOVEMBER 14, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-29.

Petitioner: WDX, LLC

Request: To vary from Section 26.4 Fence Requirements, where the height limit for fences in the front yard is four (4) feet, to allow for a fence that is six (6) feet in height, a variance of two (2) feet.

Location: 1210 Goshen Avenue and 1623 Toledo Road

Zoning: B-3, Service Business District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter 2317 077 1574 as the meeting number and "BZA2023" 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 Northwest Quarter (NW¼) of Section Ten (10), Township Thirty-seven (37) North of Range Five (5) East, Concord Township, Elkhart County, Indiana, more particularly described as follows:

Beginning at a point fourteen hundred and thirty-nine (1,439) feet West of the Northeast corner of the South one-half (S ½) of the Northwest Quarter (NW¼) of Section Ten (10) of said Township; thence South parallel with the East line of said South one-half (S ½) of the Northwest Quarter (NW¼) to the center line of Goshen Avenue; thence Northwesterly on and along the center line of Goshen Avenue to the North line of the South one-half (S ½) of the Northwest Quarter (NW¼); thence Easterly to the place of beginning.

Parcel No. 20-06-10154-001.000-012

Commonly Known As: 1210 Goshen, Elkhart, IN 46516

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 28th day of October, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: November 1, 2024
hspaxlp

PUBLIC NOTICE Date: October 29, 2024

State Revolving Fund (SRF) Loan Program Categorical Exclusion (CE): City of Elkhart, Elkhart County, Concord Township, PER Amendment No. 1: Oakland CSO Storage Tank and Local Sewers; SRF Project WW 24 18 20 06.

To all interested parties: this is notification that the City of Elkhart Oakland CSO Storage Tank and Local Sewers project is categorically excluded from substantive environmental review. The SRF is submitting the CE for public notice.

The Oakland Avenue Project B, Oakland CSO Storage Tank and Local Sewers project, includes:

- New CSO storage tank and pumping facility; including 1.7 million gallon rectangular above ground tank, seven total pumps with VFDs (GPR), controls, channel grinders, solids handling, and solar panels (GPR);
- Approximately 330 LF of 30-inch diameter connecting force main ductile iron pipe (GPR) with associated structures;
- Approximately 5,200 LF of 12- through 48-inch diameter storm sewer pipe with associated structures;
- Approximately 1,610 LF of 36- through 72-inch diameter sanitary sewer pipe with associated structures;
- Approximately 4,380 LF of relocated and upsized water main ductile iron pipe (GPR), which is undersized and in conflict with the new storm sewer piping;
- Approximately 420 LF of cast-in-place sewer lining, including lining of brick manholes; and
- Service line replacements along three segments of relocated water main; addressing water loss and reducing potential of lead exposure.

The Oakland Avenue Project A CSO force main and Project B CSO storage tank are included in Elkhart's CSO Long Term Control Plan. The force main, currently under construction, will convey wet weather flow from the proposed Oakland Avenue Project B CSO Storage Tank, CSO 37 Interceptor, and CSO 24 Interceptor to the existing wastewater treatment plant. Sewers within the project area will be separated by installing storm and sanitary sewer piping. Sewer separation will redistribute combined sewer flows and further reduce discharges from CSO 37 and CSO 24. By reducing the frequency and volume of CSOs, the project is expected to improve water quality of the St. Joseph River.

Total cost of this project is estimated to be approximately \$36,534,000. The City of Elkhart will finance the project with a loan from the Clean Water SRF Loan Program for a term and annual fixed interest rate to be determined at loan closing. Monthly user rates and charges may need to be analyzed to determine if adjustments are required for loan repayment.

The documentation supporting this CE is available for review at the following locations:

- 1201 Nappanee Street, Elkhart, Indiana 46516;
- Indiana Government Center North, 100 North Senate Avenue, SRF Loan Programs, Room 1275, Indianapolis, Indiana, Weekdays, 9 am-3:30 pm;

and at www.srf.in.gov.

If you have questions, please contact Ms. Abbi Kuhn, 463-261-7294 or abkuhn@ifa.in.gov
HSPAXLP

Extra Business is as easy as asking for it!
DO IT HERE, DO IT NOW!

ORDINANCE NO. 5984

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE COMMONLY KNOWN AS ELKHART EAST AREA A, NORTHWEST CORNER OF COUNTY ROAD 4 AND COUNTY ROAD 17, ELKHART, IN 46514, AND DECLARING THE SAME TO BE A PART OF THE CITY OF ELKHART, INDIANA

WHEREAS, all of the owners of the real property commonly known as Elkhart East Area A, Northwest Corner of County Road 4 and County Road 17, Elkhart, IN 46514, have petitioned the City of Elkhart to annex said property into the corporate limits of the City of Elkhart and;

WHEREAS, the Common Council of the City of Elkhart desires to annex said property known into the corporate limits of the City of Elkhart, Indiana (hereinafter referred to as "City"); and;

WHEREAS, the boundaries of the real property commonly known as Elkhart East Area A, Northwest Corner of County Road 4 and County Road 17, Elkhart, IN 46514, as more fully described herein, are non-contiguous to the corporate boundaries of the City of Elkhart, but meet the requirements for annexation of non-contiguous property into the City of Elkhart, under the provisions of I.C. 36-4-3-4 (b);

WHEREAS, the real property currently has an Elkhart County zoning designation of M-2, General Manufacturing District; and

WHEREAS, the petitioner requests that the Common Council zone the real property M-2, General Manufacturing District, upon being annexed into the City of Elkhart which is supported by the Elkhart City Plan Commission and the Elkhart Planning Department.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The following described real estate in Elkhart County, Indiana is hereby annexed into, and declared a part of, the City of Elkhart, Indiana; to-wit:

Parcel Identification Numbers:

- 20-02-13-401-003.000-026
20-02-13-426-004.000-026
20-02-13-477-002.000-026
20-02-13-477-003.000-026
20-02-13-477-005.000-026

Legal Description:

A parcel of land in the Southeast Quarter of Section 13, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, being more particularly described as follows:

Commencing at a Harrison Monument marking the southeast corner of said Southeast Quarter; thence North 0°0'21" East along the east line of said Southeast Quarter a distance of 425.01 feet to the southeast corner of land described in deed record 99-09100 in the Recorder's Office of Elkhart County and the point of beginning of this description; thence South 89°39'54" West along the south line of said land a distance of 30.30 feet to west boundary of County Road 17 and the northeast corner of Lot 4 as said lot is known and designated on the recorded plat of "Lakeland Estates," said plat being recorded in Book 11, Page 99; thence South 0°0'20" East along the east line of said recorded plat and said west boundary of County Road 17 a distance of 284.35 feet to the north boundary of County Road 4; thence South 89°57'56" West along said north boundary a distance of 30.00 feet; thence South 0°0'20" East along said north boundary a distance of 70.81 feet; thence South 89°39'54" West along said north boundary a distance of 101.81 feet to the east line of Lot 2 in said recorded plat; thence North 0°0'20" East along said east line a distance of 155.00 feet to the south line of Lot 3 in said plat; thence South 89°39'54" West along said south line a distance of 130.99 feet to the east boundary of Glen Drive as shown and dedicated by said plat; thence North 0°23'32" West along said east boundary a distance of 79.00 feet; thence continuing along said east boundary 126.51 feet along an arc to the left having a radius of 246.64 feet and being subtended by a long chord bearing North 15°05'10" West a distance of 125.12 feet to the south line of Lot 6 in said recorded plat; thence North 89°39'54" East along said south line a distance of 66.85 feet to the southeast corner of said Lot 6; thence North 0°21'00" East along the east line of said Lot 6 a distance of 184.99 feet to the northeast corner of said Lot; thence continuing along said east line 39.41 feet along a non-tangent arc to the left having a radius of 17.57 feet and being subtended by a long chord bearing North 63°55'45" West and a distance of 31.65 feet; thence North 89°47'42" West along the north line of said Lot 6 and the north line of said recorded plat a distance of 180.00 feet to the east line of Lot 8 in said recorded plat and the west boundary of Glen Drive; thence North 0°21'00" East along said east line and west boundary a distance of 22.77 feet to the northeast corner of said Lot 8; thence North 90°00'00" West along the north line of said Lot 8 a distance of 194.99 feet to the northwest corner of said Lot; thence South 0°09'48" West along the west line of said recorded plat and said west line extended a distance of 569.68 feet to the north boundary of County Road 4; thence South 89°39'54" West along said north boundary a distance of 869.50 feet; thence South 0°20'06" East along said north boundary a distance of 40.00 feet; thence South 89°39'54" West along said north boundary a distance of 592.04 feet; thence North 0°20'06" West along said north boundary a distance of 11.88 feet; thence South 89°39'54" West along said north boundary a distance of 112.72 feet; thence North 83°29'32" West along said north boundary a distance of 101.70 feet; thence South 89°39'54" West along said north boundary a distance of 215.56 feet; thence North 45°03'52" West along said north boundary a distance of 62.19 feet; thence South 89°52'45" West along said north boundary a distance of 14.52 feet; thence North 0°07'15" West along said north boundary a distance of 81.79 feet; thence South 89°52'45" West along said north boundary a distance of 40.00 feet to the west line of said Southeast Quarter; thence North 0°07'15" West along said west line a distance of 2,491.43 feet to the northwest corner of said Southeast Quarter; thence South 69°21'08" East along the south boundary of land owned by the Indiana Department of Natural Resources (IDNR) and described in deed record 2018-26655 a distance of 1,423.65 feet; thence continuing along the south boundary of said IDNR land South 25°06'14" East a distance of 380.71 feet; thence continuing along the south boundary of said IDNR land South 71°42'18" East a distance of 531.98 feet; thence continuing along the south boundary of said IDNR land South 0°08'42" West a distance of 13.77 thence continuing along the south boundary of said IDNR land South 89°26'18" East a distance of 661.45 feet to the east line of said Southeast Quarter; thence South 0°07'13" East along said east line a distance of 1,207.08 feet to the point of beginning of this description.

Section 2. Once annexed into the City, the Zoning Map created pursuant to and incorporated into Ordinance No. 4370 of the City of Elkhart, as amended, ("Zoning Ordinance") shall show the real estate described in Section 1 as zoned M-2, General Manufacturing District. The real estate shall be subject to all applicable requirements of the Zoning Ordinance, as amended, such other applicable ordinances and regulations of the City of Elkhart, and subject to I.C. 36-4-3-4 (b).

Section 3. The real estate described in Section 1 is assigned to the Councilmanic District Three (3).

Section 4. Pursuant to I.C. 36-4-3-5.1, a public hearing to consider this proposed annexation will be held at the regular Council meeting set for the 17th day of June, 2024, at 7:00 p.m.

Section 5. That this Ordinance shall become effective thirty (30) days after the final publication thereof, in the absence of an appeal, as provided at I.C. 36-4-3-5.1 and I.C. 36-4-3-15.5.

ORDAINED this 17th day of June, 2024.

/s/ Arvis L. Dawson
President of the Common Council

ATTEST:
/s/ Debra D. Barrett, City Clerk

Presented to the Mayor by me this 18th day of June, 2024.

/s/ Debra D. Barrett, City Clerk
APPROVED by me this 20th day of June, 2024.

/s/ Rod Roberson, Mayor

at 3:30 PM in the Housing Authority's office.
Small Ads. You Did!

LEGAL NOTICE #24-X-09

Hearing on proposed Special Exception #24-X-09

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, NOVEMBER 14, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Special Exception Petition #24-X-09.

Petitioner: City of Elkhart

Request: To vary from Section 19.3.A, Special Exception Uses, in the M-2, General Manufacturing District, which states 'All special exception uses permitted in the M-1, Limited Manufacturing District' to allow a Public Utilities and public services use (Section 18.3.J) for the construction of a new fire station

Location: Vacant Lot, ADA Drive;
20-02-26-126-026.000-027, 20-02-26-126-019.000-027

Zoning: M-2, General Manufacturing District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter 2317 077 1574 as the meeting number and "BZA2023" 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:

PARCEL 1: 20-02-26-126-026.000-027, 20-02-26-126-019.000-027, AND 20-02-26-126-027.000-027

THE SOUTH TWO HUNDRED FORTY-FIVE (245) FEET OF LOT NUMBER A-FORTY (A-40) AND THE NORTH FIFTY (50) FEET OF LOTS NUMBERED A-FORTY-ONE (A-41) AND A-FORTY-TWO (A-42), AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

THE EAST 200 FEET OF THE SOUTH 245 FEET OF LOT NUMBERED A-40, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, LESS AND EXCEPTING THEREFROM THE FOLLOWING:

THE NORTH 50 FEET OF THE EAST 200 FEET OF LOT NUMBERED A-42, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

PARCEL 2: 20-02-26-126-031.000-027

LOT NUMBER A-41, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

LESS AND EXCEPT THE FOLLOWING 2 PARCELS:

(I) THE SOUTH 289 FEET OF LOT NUMBER A-41, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

(II) THE NORTH FIFTY (50) FEET OF LOT NUMBERED A-FORTY-ONE (A-41), AS THE SAID LOT KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

PARCEL 3: 20-02-26-126-029.000-027

LOT NUMBER A-FORTY-TWO (A-42) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

LESS AND EXCEPT THE FOLLOWING 4 PARCELS:

(I) THE NORTH FIFTY (50) FEET OF LOT NUMBERED A-FORTY-TWO (A-42), AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

(II) THE EAST TWO HUNDRED (200) FEET OF THE SOUTH ONE HUNDRED FIVE (105) FEET OF THE NORTH ONE HUNDRED FIFTY-FIVE (155) FEET OF LOT NUMBERED A-FORTY-TWO (A-42), AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

(III) THE EAST SEVENTY-FIVE (75) FEET OF THE SOUTH TWO HUNDRED EIGHTY-NINE (289) FEET OF LOT NUMBERED A-FORTY-TWO (A-42), AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

(IV) THE WEST TWO HUNDRED SEVENTY-FIVE (275) FEET OF THE SOUTH TWO HUNDRED EIGHTY-NINE (289) FEET OF LOT NUMBERED A-42 AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

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 28th day of October, 2024, by the City of Elkhart, Board of Zoning Appeals

Call 293-2937 or 295-8052
WE WILL MEET OR BEAT ANY LEGIT OFFER! CALL/TEXT FOR A FREE QUOTE & INSPECTION 574-215-2737

White Space Sells

NOTICE OF PROPOSED RATES AND CHARGES

Notice is hereby given to the freeholders of the Simonton Lake Conservancy District, Elkhart, Indiana, that the Board of Directors of the District at their regular meeting at Elkhart Health & Aquatics, Meeting Room, 200 East Jackson Blvd., Elkhart, Indiana, at 6:30 p.m., on November 13, 2024, will hold a Public Hearing in regard to amend its schedule of user rates and charges for sewer services.

The monthly sewage rate shall consist of one component, which shall be the charge for the operation, maintenance and replacement costs for the sanitary sewer collection and treatment system, and which shall be assessed monthly against each freeholder who connects a property to the sanitary sewer collection and treatment system as herein provided. The monthly sewer rate schedule will commence on January 1, 2025, and shall be as follows:

Table with 4 columns: Phase I Proposed Charges, Phase II Proposed Charges, Phase III Proposed Charges, Phase IV Proposed Charges. Rows include Residential, Commercial, Multiple Family with rates for Jan-1-25, Jan-1-26, Jan-1-27, Jan-1-28.

The rates and charges as herein set forth shall become effective on the first full billing period occurring after the adoption of the ordinance.

Bob Evans
Chairman
hspaxlp

LEGAL NOTICE #24-BZA-26

Hearing on proposed Developmental Variance #24-BZA-26

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, NOVEMBER 14, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-26.

Petitioner: Gateway Mile Properties LLC

Request: To vary from Section 26.10.D - Table 1, Wall signs in the CBD for single tenant buildings, that limits the size to 50% of the signable area to a maximum of 50 square feet to allow for a wall sign that is 115 square feet, a variance of 65 square feet.

Location: 101 South Main Street

Zoning: CBD, Central Business District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter 2317 077 1574 as the meeting number and "BZA2023" 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:

TRACT 1: THE NORTHERLY SEVENTEEN AND ONE-HALF (17 1/2) FEET BY PARALLEL LINES OF LOT NUMBER FOURTEEN (14) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN OF ELKHART; (NOW CITY) SAID PLAT BEING RECORDED IN DEED RECORD 1, PAGE 34, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, THE WESTERLY ONE AND TWENTY-FIVE HUNDREDTHS (1.25) FEET OF VACATED MAIN STREET LYING EASTERLY OF AND ADJACENT TO SAID REAL ESTATE.

TRACT 2: LOTS NUMBERED FIFTEEN (15) AND SIXTEEN (16) AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN (NOW CITY) OF ELKHART; SAID PLAT BEING RECORDED IN DEED RECORD 1, PAGE 34 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, THE WESTERLY ONE AND TWENTY-FIVE HUNDREDTHS (1.25) FEET OF VACATED MAIN STREET LYING EASTERLY OF AND ADJACENT TO SAID REAL ESTATE.

EXCEPTING THEREFROM: A PART OF LOT 14 AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED ORIGINAL PLAT OF TOWN (NOW CITY) OF ELKHART, INDIANA; SAID PLAT BEING RECORDED IN DEED RECORD 1, PAGE 34, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 14; THENCE SOUTH ALONG THE EAST LINE OF SAID, LOT 14 A DISTANCE OF 16.8 FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 14 A DISTANCE OF 7/10 OF ONE FOOT TO THE NORTHEAST CORNER OF LAND CONVEYED TO PERFECTA ROLL (ELKHART COUNTY INSTRUMENT #92-02 1954); THENCE WEST ALONG THE NORTH LINE OF SAID ROLL LAND 165.05 FEET (165 FEET REC.) TO THE NORTHWEST CORNER OF SAID ROLL LAND (SAID POINT ALSO BEING ON THE WEST LINE OF SAID LOT 14); THENCE NORTH ALONG THE WEST LINE OF SAID LOT 14 A DISTANCE OF 7/10 OF ONE FOOT; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID

ROLL LAND 165.05 FEET (165 FEET REC.) TO THE PLACE OF BEGINNING.

ALSO, THE WESTERLY 1.25 FEET OF THE VACATED MAIN STREET LYING EAST OF AND ADJACENT TO THE ABOVE DESCRIBED PARCEL.

TRACT 3: A SIXTEEN AND ONE-HALF (16 1/2) FOOT ALLEY BETWEEN LOTS NUMBERED 14 AND 15, IN ORIGINAL ELKHART ADDITION TO THE CITY OF ELKHART, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT NUMBERED 15, IN SAID ADDITION, THENCE WESTERLY 165 FEET TO THE SOUTHWESTERLY CORNER OF LOT NUMBERED 15; THENCE SOUTHERLY, 16 1/2 FEET TO THE NORTHWESTERLY CORNER OF LOT NUMBERED 14; THENCE NORTHEASTERLY 165 FEET TO THE NORTHEASTERLY CORNER OF LOT NUMBERED 14, THENCE NORTHERLY 16 1/2 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 28th day of October, 2024, by the City of Elkhart, Board of Zoning Appeals

2025 ELKHART CITY BOARD OF ZONING APPEALS CALENDAR

FILE BY DATE:

December 6, 2024

January 3, 2025

February 7, 2025

March 7, 2025

April 4, 2025

May 2, 2025

June 6, 2025

July 3, 2025

August 8, 2025

September 5, 2025

October 3, 2025

November 7, 2025

December 5, 2025

MEETING DATE:

January 9, 2025

February 13, 2025

March 13, 2025

April 10, 2025

May 8, 2025

June 12, 2025

July 10, 2025

August 14, 2025

September 11, 2025

October 9, 2025

November 13, 2025

December 11, 2025

January 8, 2026

Note: All meetings are held in the Council Chambers, 2nd floor, City Municipal Building at 6:00p.m., the 2nd Thursday of each month unless indicated with an asterisk (*). File By dates for the next month are a Friday unless indicated with an asterisk (*).

Reviewed and adopted by the City of Elkhart Board of Zoning Appeals at its regular meeting December 12, 2024.

Doug Mulvaney, Chair

Ron Davis, Vice-Chair



Staff Report

Planning & Zoning

Petition: 24-UV-11

Petition Type: Use Variance

Date: October 10, 2024

Petitioner: LUMAAN LLC

Request: To vary from Section 5.2, Permitted Uses to allow for a two family dwelling. Two family dwellings are not permitted in the R-2 district.

Site Location: 707 Christan Avenue

Existing Zoning: R-2 One Family Dwelling District

Size: +/- 5 Acres

Thoroughfares: Christian Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

The property is located in a single family residential subdivision zoned R-2.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The subject property is included in an area identified for low density residential uses on the future land use map. A goal of the comprehensive plan states: *“Direct investment, amenities, and new housing development to established residential areas within the City’s boundaries to create additional opportunities for diverse ages, income levels, and stages of life in neighborhoods of choice.”*



Staff Analysis

LUMAAN LLC is the owner of the subject property and they are requesting a use variance to allow for a two family dwelling. The property was damaged in a fire and the petitioner is using this opportunity to construct a new housing type for the neighborhood. While the comprehensive plan states the need for new investments in existing neighborhoods and vacant lots, there are no other two family dwellings in the neighborhood. The petitioner states that with out approval of the variances the project becomes unfeasible.

Recommendation

The Staff has **no recommendation** 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 project will redevelop a blighted and damaged home, improving the character of the neighborhood. The use would provide more diverse housing options for the community;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because two family homes have very similar character to single family homes;
3. The need for the variance arises from some condition peculiar to the property involved because without board action the use would not be permitted;
4. The strict application of the terms of this Ordinance **does not** constitute an unnecessary hardship as this use is allowed in other districts;

5. The approval **does** comply with the Comprehensive Plan which calls for the area to be developed for low density residential uses. It is consistent with the neighborhood goal: *“Direct investment, amenities, and new housing development to established residential areas within the City’s boundaries to create additional opportunities for diverse ages, income levels, and stages of life in neighborhoods of choice.”*

Photos

Rod Roberson
Mayor

Development Services
229 S. Second Street
Elkhart, IN 46516
574.294.5471



October 15, 2024

LUMAAN LLC
ATTN: Claudia Mariel Rainoldi
2564 Treadway Dr
Decatur, GA 30034

Petition #24-UV-11
707 Christian Ave

Dear Claudia Mariel Rainoldi,

This letter certifies that the Elkhart City Board of Zoning Appeals, at its regular meeting on **Thursday, October 10, 2024**, heard the above petition to vary from Section 5.2, Permitted Uses to allow for a two family dwelling. Two family dwellings are not permitted in the R-2 district.

The commission voted **3 to 0 to table the request.**

The request is scheduled for a rehearing on November 14, 2024 at 6:00 PM.

Sincerely,

A handwritten signature in blue ink, appearing to read "Hugo Madrigal", is written over a light blue horizontal line.

Hugo Madrigal
Board of Zoning Appeals Recording Secretary

PETITION #: 24-W-11

FILING FEE: \$ 200

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): LUMAAN LLC

Mailing Address: 2564 Treadway Dr, Decatur, 30034, GA

Phone #: 404 944 6207 Email: lumaanllc@gmail.com

Contact Person: Claudia Mariel Rainoldi / Gustavo Jorge Andres

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

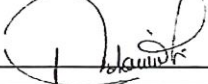
Subject Property Address: 707 Christian Ave.

Zoning: R2

Present Use: Single Family Home Proposed Use: Two Family Home

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): Lumaan LLC (Claudia Rainoldi)

SIGNATURE(S):  DATE: 28/08/2024

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: _____

TO: Board of Zoning Appeals RE: Use Variance
City of Elkhart, Indiana

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, *Claudia Rainoldi owner of Lumaan LLC*, am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit: *707 Christian Ave., Elkhart, IN 46517, USA. Lot Number Two Hundred Twenty-one (221) as the said lot is known and designated on the recorded plat of Southdale Sixth, an addition to the City of Elkhart, Indiana, said plat being recorded in Plat Book 8, page 89 in the Office of the Recorder of Elkhart County, State of Indiana.*

2. The above described real estate presently has a zoning classification of R2 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: *(Explain existing use).*

Originally this was a single family residential property but unfortunately it was badly damaged by a fire in November 2023 and we were forced to demolish it in June 2024 to rebuild from scratch.

4. Petitioner desires to *(Explain what is proposed that violates the provisions of the Zoning Ordinance).*

Our project now is to build a modern two-family residential property on the now existing vacant land.

5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance).*

SECTION 6

R-3, TWO-FAMILY DWELLING DISTRICT

Section

6.1 Purpose

6.2 Permitted Uses

6.3 Special Exception Uses

6.4 Yard Requirements

6.5 Supplemental Regulations

6.1 Purpose

The R-3 District is designed to provide for low to medium density single and two family residential development in urbanized areas.

6.2 Permitted Uses

A. Any use permitted in the R-2 One-Family Dwelling District.

B. Two-Family dwellings, with a minimum width of 24 feet and a minimum of seven hundred fifty (750) square feet of dwelling unit space per dwelling unit. The primary façade of the structure shall face a public street. (as amended per Ordinance No. 4542 dated December 4, 2000 & as amended per Ordinance 4762 on August 1, 2003).

6.3 Special Exception Uses

A. Special Exceptions listed in the R-2, One-Family Dwelling District.

B. Licensed home or facility for substance abuse rehabilitation.

C. Offices of charitable organizations.

6.4 Yard Requirements

The yard requirements for the R-3, Two-Family Dwelling District are as follows: (All standards are minimums except as noted.)

"Corner Side Yard: The Corner Side Yard setback is determined by measuring the average established setback of the structures within the same block between two intersecting streets. This calculation would equal the established front yard setback for the side street."

Use	Lot Size	Frontage	Setbacks			Maximum Structure Height	Maximum Lot Coverage for Structures	
			Front Yard	Side Yards	Rear Yard			
One-Family	6,000 square	50 feet	Established setbacks;	15 feet total, 5	10 feet between	30 feet	30 feet	40% total for all structures
	feet		or 20 feet if no established setback.	feet minimum	dwelling units			
Two-Family	7,200 square feet	60 feet	Established setbacks; or 20 feet if no established setback.	15 feet total, 5 feet minimum	10 feet between dwelling units	30 feet **see below	30 feet	40% total for all structures

*** Rear Yard 30 feet or established setbacks if adjacent to a river or creek. (as amended per Ordinance 4762 on August 1, 2003)*

6.5 Supplemental Regulations

- A. Special Flood Hazard Area Regulations - Section 21
- B. Wetlands Conservation District Regulations - Section 22
- C. Air Space Control Area Regulations - Section 25
- D. Accessory Structures and Swimming Pool Requirements - Section 26.1
- E. Permitted Obstructions in Required Yards - Section 26.3
- F. Fence Requirements - Section 26.4
- G. Intersection Visibility Area Requirements - Section 26.5
- H. Primary Street Setback Requirements - Section 26.5
- I. Off-Street Parking and Loading Requirements - Section 26.7
- J. Sign Regulations - 26.10

6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship. (Please note that the Board cannot consider financial hardship. *The Light Co., Inc. v. Houghton et. al.* 226 N.E. 2nd 341 (Ind. Ct. App. 1967).)

Our property conforms with the totality of the requirements needed to build our new project if it is recoded to R3 zone. The only drawback is that it is currently zoned R2. That is why we respectfully request you to rezone in order to act in full compliance with the law.

7. Using the **standards 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

No, our project will bring modernity, ecology, energy efficiency and good taste to the current neighborhood and will not harm public health, morale and safety.

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

No, because the project complies with the measures of the new R3 zoning that does not allow negative encroachment on neighboring properties.

3. The need for the variance arises from some condition peculiar to the property involved.

Yes, the new construction will be a two-family dwelling.

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. (Financial considerations do not qualify).

Yes, unfortunately the strict application of the ordinance without the variance makes the project unfeasible.

5. The approval does not interfere substantially with the Comprehensive Plan.

No, to the best of my knowledge this approval does not interfere substantially with the Comprehensive Plan.

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:



CLAUDIA RAINOLDI

Printed Name: Claudia Rainoldi

Second Property Owner:



Printed Name: Gustavo Andres

Contact Person:

Name: Claudia Rainoldi

Address: 2564 Treadway Dr., Decatur, 30034 GA

Phone Number where you can be reached: 404 944 6207

Email: lumaanllc@gmail.com

2023-17790

ELKHART COUNTY RECORDER
KAALA BAKER
FILED FOR RECORD ON
10/23/2023 01:26 PM
AS PRESENTED



SHERIFF'S DEED

THIS INDENTURE WITNESSETH, that Jeff A. Siegel, as Sheriff of Elkhart County, State of Indiana, conveys to LUMAAN LLC in consideration of the sum of \$55,504.00 the receipt of which is hereby acknowledged, on sale held on the 24th of May, 2023 pursuant to a decree judgment entered on the 17th of January, 2023 by Circuit Court of Elkhart County, in the State of Indiana, pursuant to the laws of said State in Cause No. 20C01-1902-MF-000082, wherein Wilmington Savings Fund Society, FSB, as trustee of Finance of America Structured Securities Acquisition Trust 2019-HB1 was Plaintiff, and Mary H. Powell, Deceased; James B. Powell, Deceased; Rosalie Williamson, Heir of Mary H. Powell, Deceased; Deborah Powell, Heir of Mary H. Powell, Deceased; Joshlyn Bell, Heir of Mary H. Powell, Deceased; Unknown Heirs and/or Devises of Mary H. Powell, Deceased; Estate of Mary H. Powell, Deceased; The Secretary of Housing and Urban Development; State of Indiana were Defendants. in consideration of said sum aforesaid, the following described real estate in Elkhart County, Indiana, to-wit:

Lot Number Two Hundred Twenty-one (221) as the said lot is known and designated on the recorded plat of Southdale Sixth, an addition to the City of Elkhart, Indiana; said plat being recorded in Plat Book 8, page 89 in the Office of the Recorder of Elkhart County, State of Indiana.

Commonly known as: 707 Christian Avenue, Elkhart, IN 46517-1841
State Parcel Number: 20-06-17-179-013.000-012

To have and to hold the premises aforesaid with the privileges and appurtenances to said purchaser, their grantees and assigns, forever, in full and ample manner with all rights, title and interest held or claimed by the aforesaid Defendants.

IN WITNESS WHEREOF, I, THE UNDERSIGNED, Sheriff aforesaid have hereunto set my hand and seal, this 24 day of May, 2023.

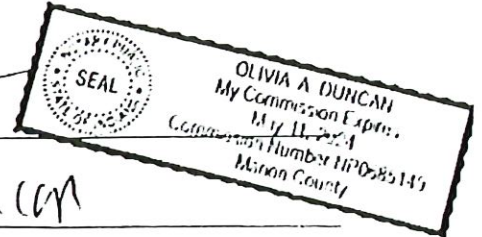
STATE OF INDIANA)
) SS: By: _____
COUNTY OF ELKHART)

On the 24 day of May, 2023, personally appeared Jeff Siegel Jeff A. Siegel and acknowledged the execution of the foregoing deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Morgan
COUNTY OF RESIDENCE
Sullivan
COMMISSION EXPIRES

[Signature]
NOTARY PUBLIC
Olivia A Duncan
PRINTED NAME



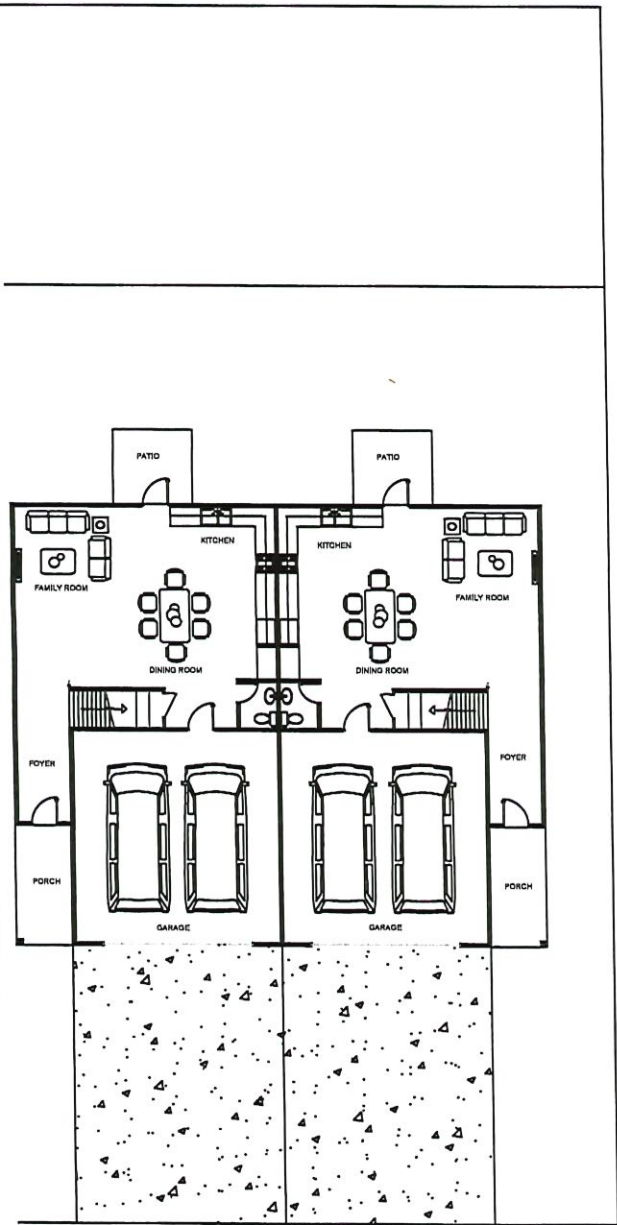
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DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

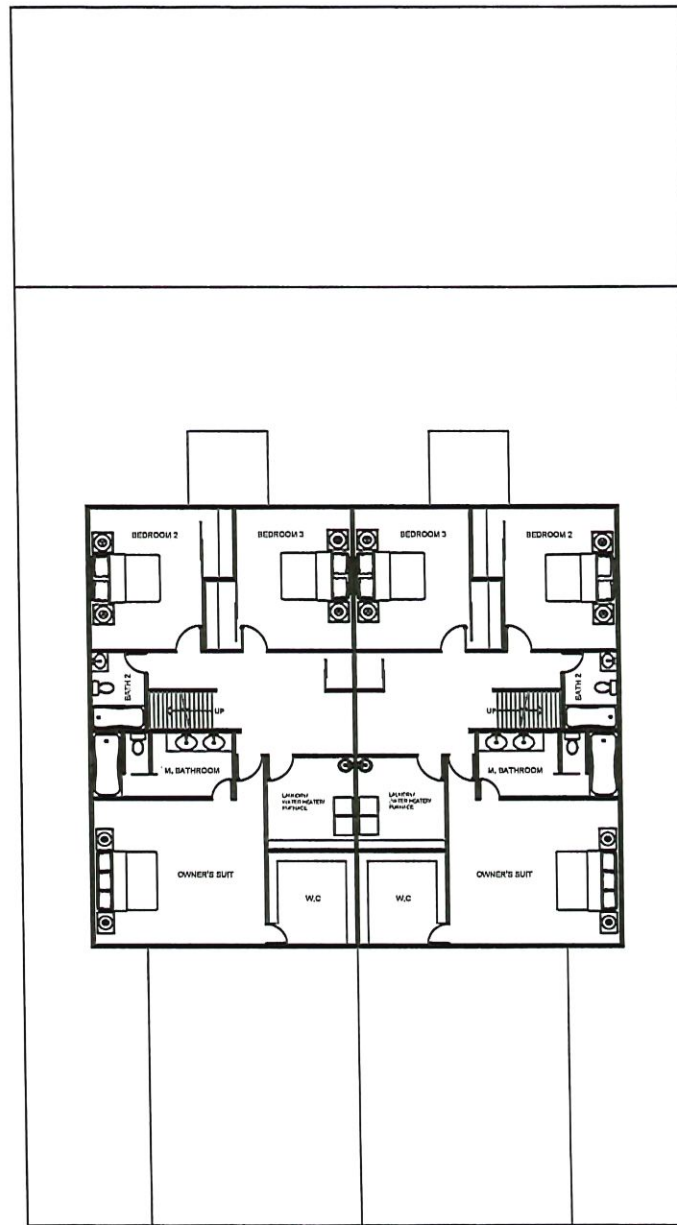
10-23 2023
Fessie A. Baker AUDITOR

TRANSFER FEE 004633
PARCEL NO. 10

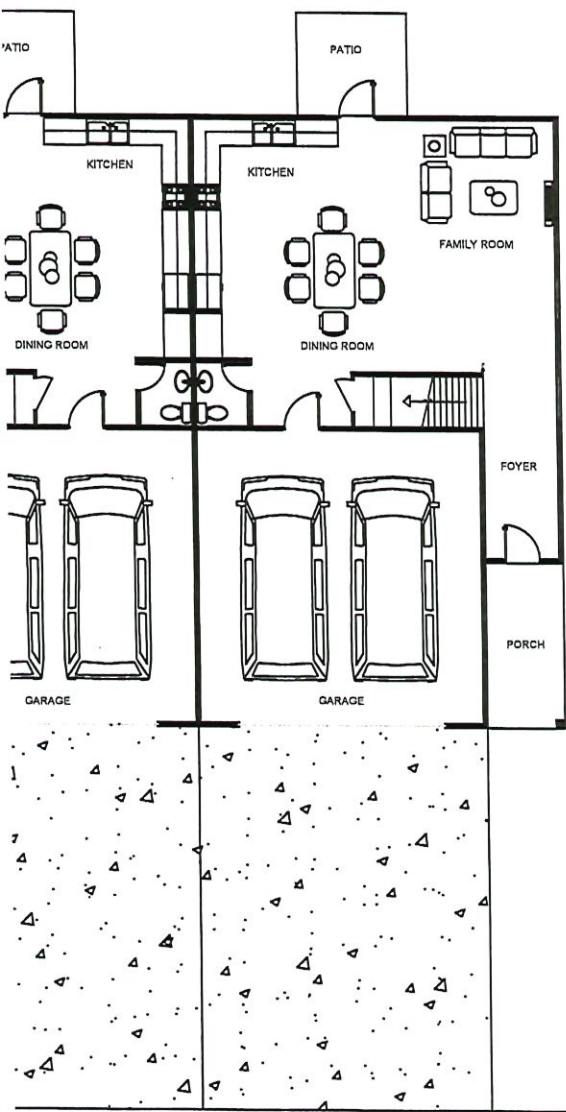
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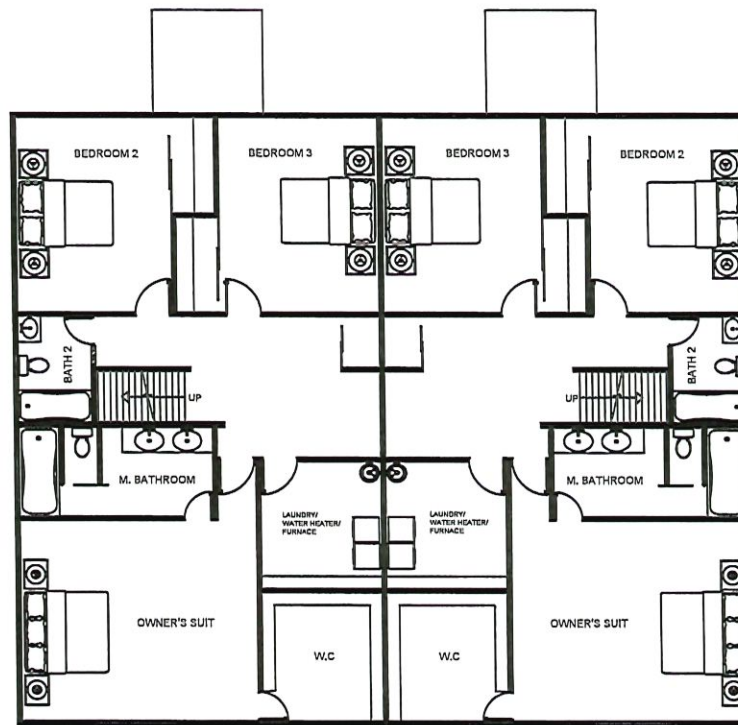
ARCHITECTURAL
FLOOR PLAN



ARCHITECTURAL
2ND FLOOR



ARCHITECTURAL
FLOOR PLAN

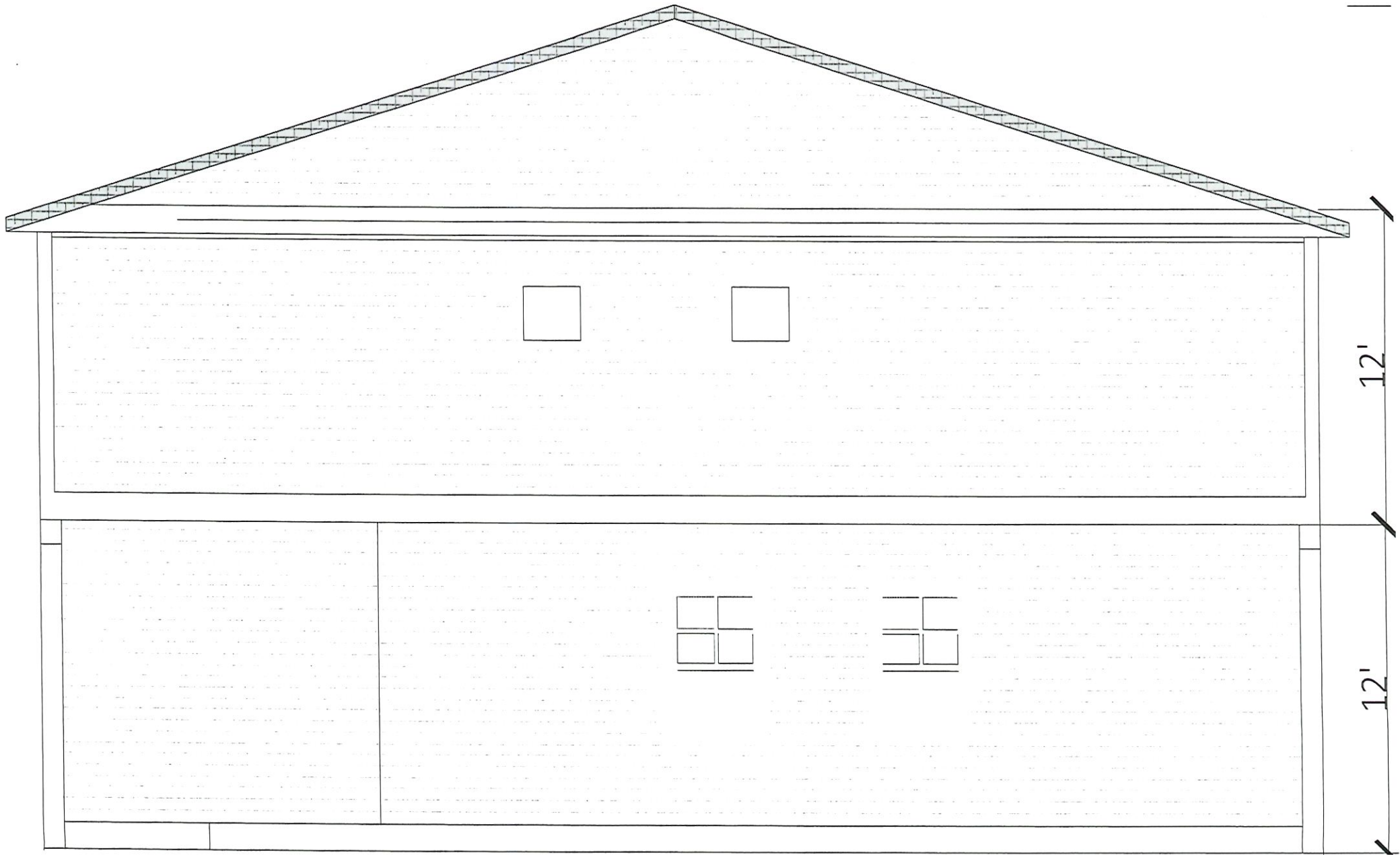


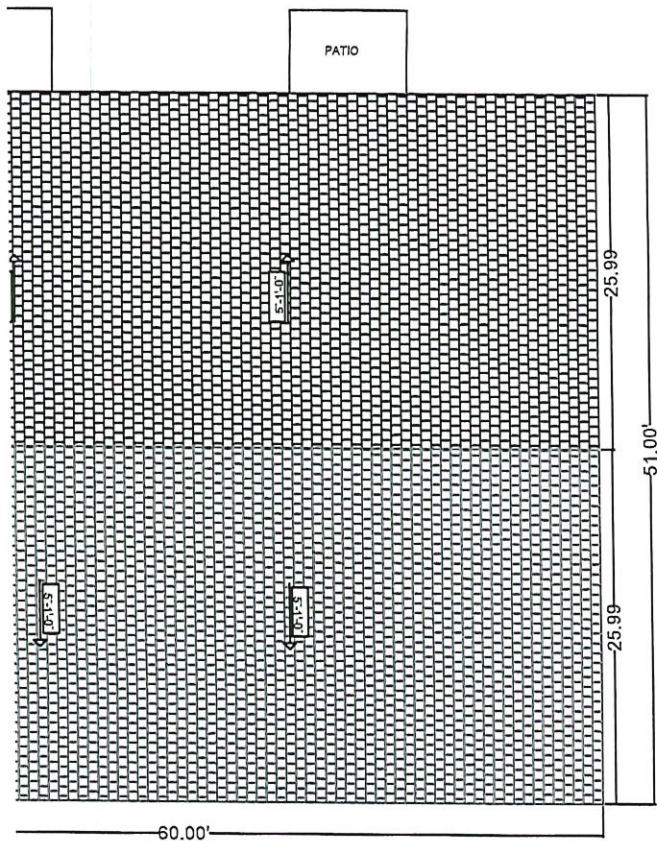
ARCHITECTURAL
2ND FLOOR

7-179-013.000-012

es

7"





-30 YEAR ROOF SHINGLES, COLOR BY OWNER

-5/8" EXTERIOR GRADE OSB SHEATHING
 -ROOF FRAMING - REFER TO STRUCTURAL
 -R-49 INSULATION, LAPPED ABOVE EXTERIOR WALL

-1/2" DRYWALL WITH SKIM COAT PLASTER

-ALUMINIUM GUTTERS AND DOWNSPOUTS

-30 YEAR ROOF SHINGLES, COLOR BY OWNER

-5/8" EXTERIOR GRADE OSB SHEATHING
 -R-49 INSULATION LAPPED ABOVE EXTERIOR WALL

-ALUMINIUM GUTTERS AND DOWNSPOUTS

ROOF CONSTRUCTION

-CONTINUOUS SOFFIT VENT
 -ICE + WATER SHIELD
 -15LB FELT UNDERLAYMENT

-1x3 STRAPPING @ 16" OC

-PAINT, COLOR BY OWNER
 -ALUMINIUM DRIP EDGE

-COMPOSITE FASCIA

EAVE CONSTRUCTION

-ICE + WATER SHIELD
 -15LB FELT UNDERLAYMENT

-ALUMINIUM DRIP EDGE

-COMPOSITE FASCIA
 -CONTINUOUS SOFFIT VENT

ARCHITECTURAL PLAN GENERAL NOTES

- A. ALL CMU WALLS THAT DO NOT LAY OUT IN FULL OR HALF LENGTHS SHOULD BE BALANCED SO AS NOT TO HAVE ANY PIECES LESS THAN 4" IN SIZE EXPOSED TO VIEW.
- B. WHERE DISSIMILAR FLOOR MATERIALS MEET, THEY SHALL DO SO UNDER THE CENTERLINE OF THE DOOR, UNLESS NOTED OTHERWISE.
- C. THE BASE FLOOR ELEVATION INDICATED FOR THE PROJECT IS 100'-0". REFER TO SITE PLAN FOR CORRELATION TO USGS DATUM.
- D. ALL INTERIOR MASONRY WALLS THAT RUN TO UNDERSIDE OF DECK ABOVE SHALL HAVE A 2" JOINT (U.N.O.) AT THE DECK TO BE FILLED WITH FIRE STOPPING AT RATED WALLS PER PROJECT MANUAL, AND MINERAL WOOL AT THE NON-RATED WALLS, TO ALLOW FOR DEFLECTION.
- E. ALL DIMENSIONS ON FLOOR PLANS ARE TO FINISH FACE OF CMU, CONCRETE, BRICK OR FINISH FACE OF GWB AT METAL/WOOD STUD WALLS, UNLESS NOTED OTHERWISE. EXCEPTION: EXTERIOR METAL STUD WALLS ARE TO FACE OF METAL STUDS.
- F. HINGE SIDE DOOR JAMB AT WALLS WILL TYPICALLY BE LOCATED 4" MINIMUM FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
- G. ALL EXPOSED CONCRETE MASONRY UNITS (CMU) CORNERS ARE TO BE BULLNOSE, EXCEPT AT BULKHEADS, WINDOW AND DOOR HEADS.
- H. PROVIDE WOOD BLOCKING AS REQUIRED, WITHIN METAL STUD WALLS FOR WALL MOUNTED ITEMS.
- I. REFER TO MASTER/CODE PLANS FOR CODE INFORMATION AND FIRE RATED WALL LOCATIONS.
- J. ALL INTERIOR WALLS TO EXTEND UP TO EXISTING/NEW CEILINGS U.N.O.
- K. KITCHEN LAYOUT/HOOD SHOWN FOR REFERENCE ONLY. CONTRACTOR/OWNER TO PROVIDE CODE COMPLIANT KITCHEN.
- L. ALL CASEWORK SHOWN FOR REFERENCE ONLY. OWNER TO PROVIDE CODE COMPLIANT CASEWORK.
- M. ALL ARCHITECTURAL ELEMENTS ARE EXISTING U.N.O.

ARCHITECTURAL PLAN NOTES



(ALL NOTES MAY NOT BE INDICATED ON THIS SHEET)

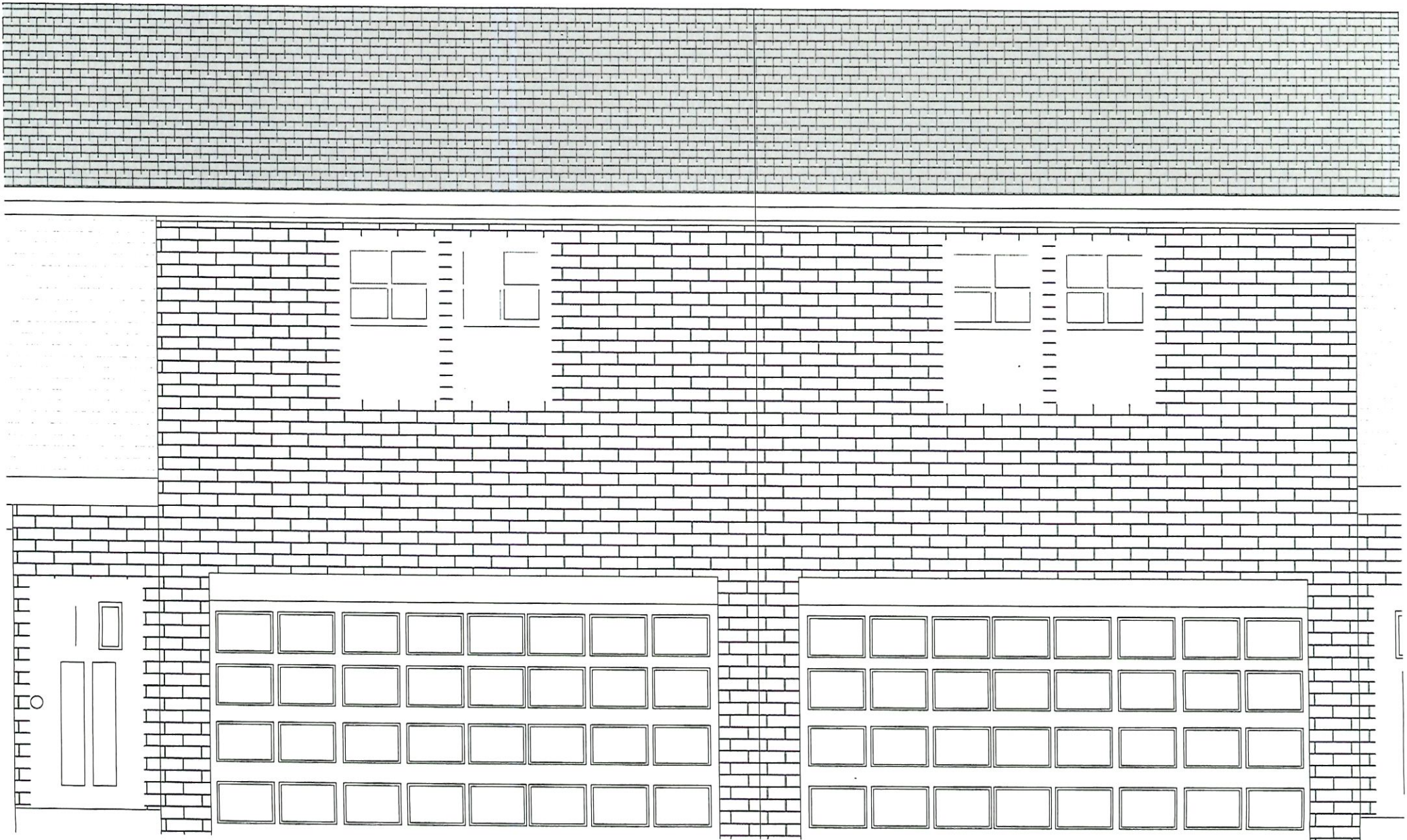
VERIFICATION NOTE

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CLEARANCES AND ALL EXISTING FIELD CONDITIONS BEFORE STARTING CONSTRUCTION. COMMENCEMENT OF WORK CONSTITUTES ACCEPTANCE OF CONDITIONS.

7-179-013.000-012

es

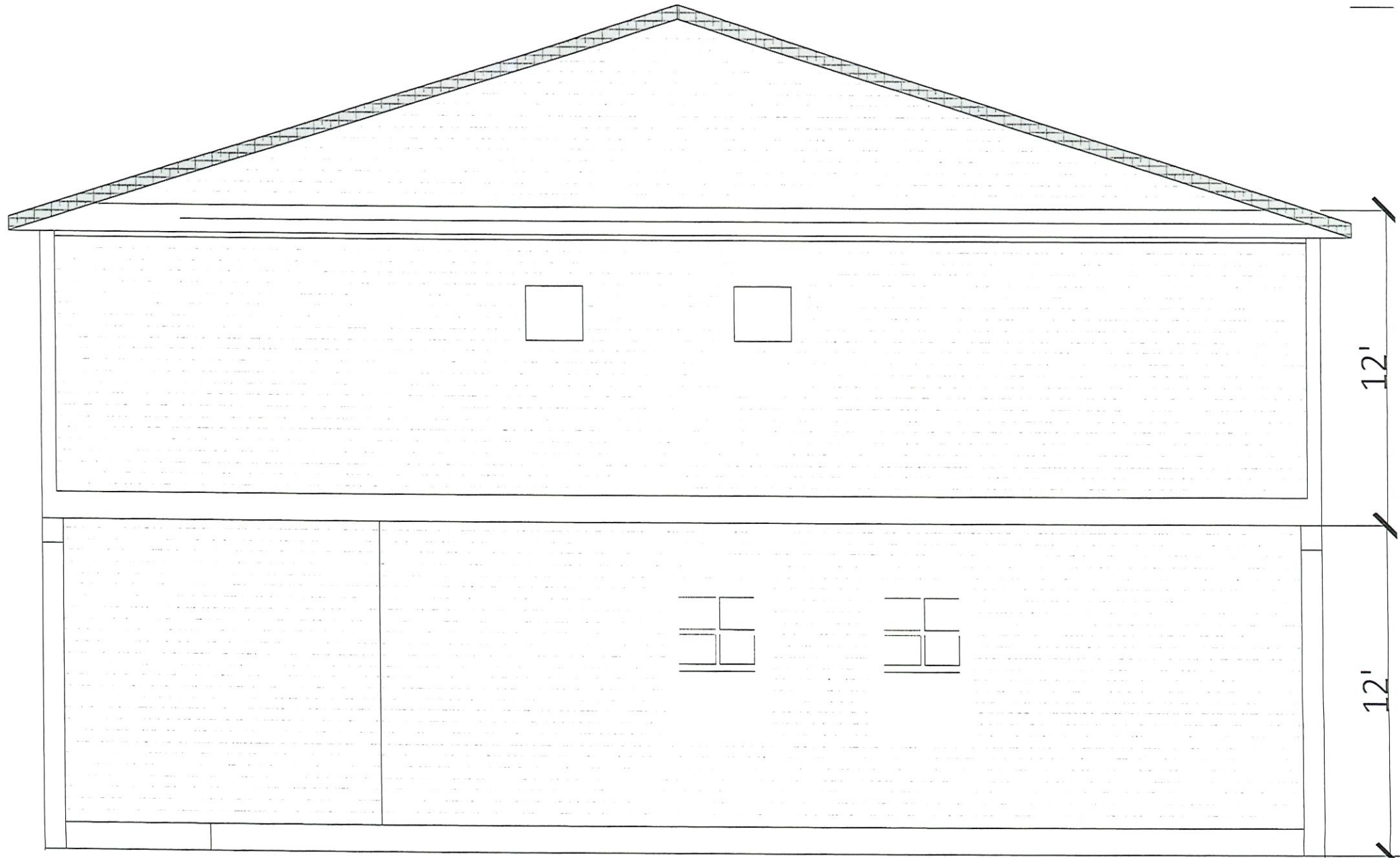
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7-179-013.000-012

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7"



SITE PLAN

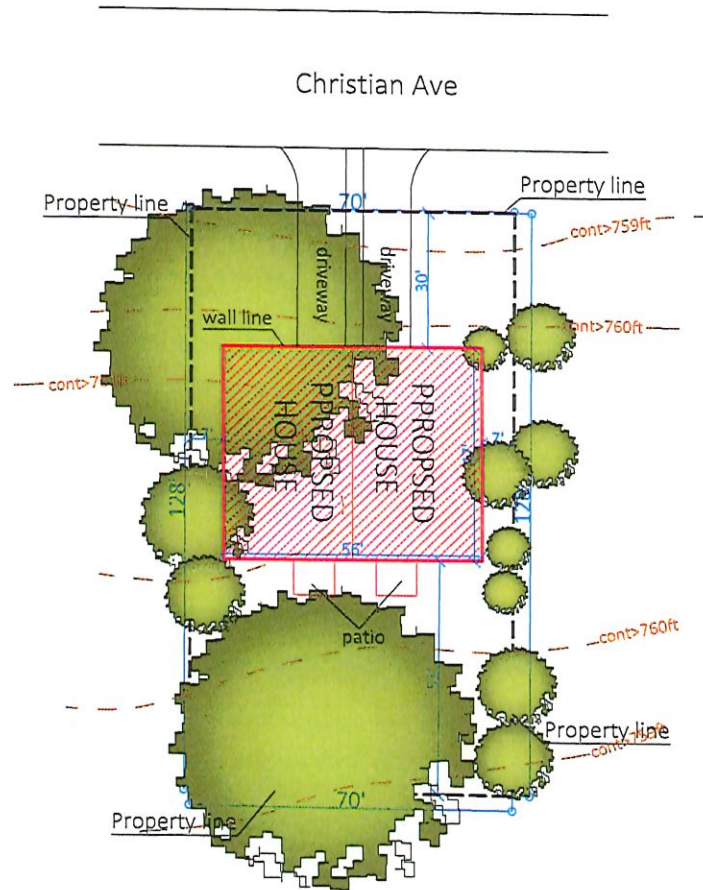
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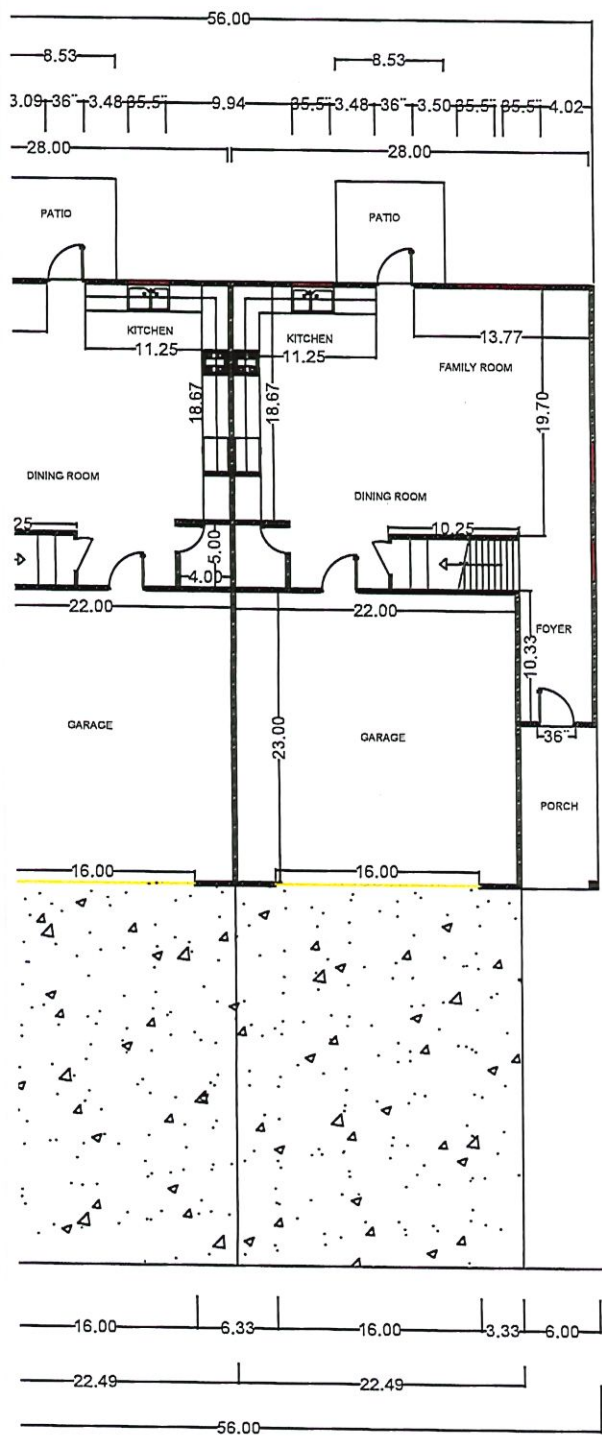
Elkhart, IN 46517

Parcel ID: 20-06-17-179-013.000-012

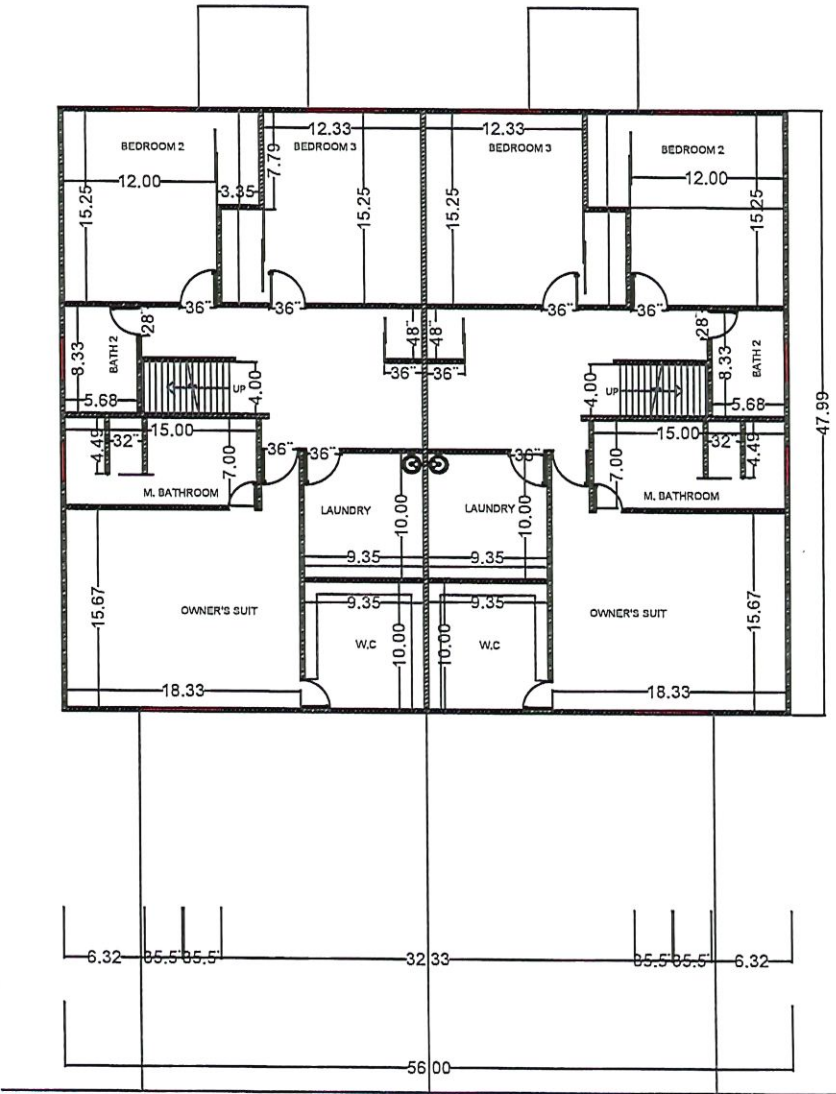
Lot area: 0.21 Acres

Paper Size: 11"x17"



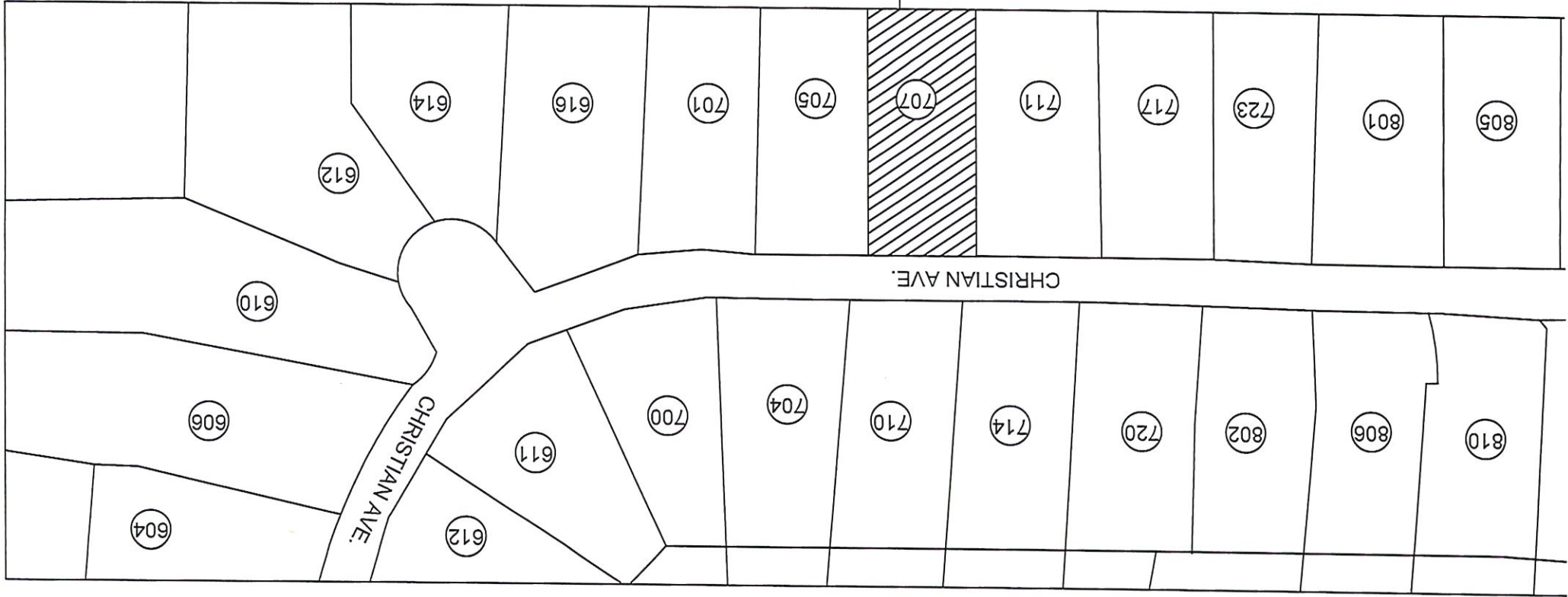


ARCHITECTURAL FLOOR PLAN



ARCHITECTURAL 2ND FLOOR

707 CHRISTIAN AVE,
ELKHART, IN 46517
PARCEL
ID:20-06-17-179-013-000-012
LOT AREA: 0.21 ACRES





Staff Report

Planning & Zoning

Petition: 24-X-08

Petition Type: Special Exception

Date: Plan Commission: November 4, 2024; Board of Zoning Appeals November 14, 2024:

Petitioner: Maria Torres

Site Location: 2022 Benham Avenue

Request: A Special Exception per Section 5.3, Special Exception Uses in the R-2, One-Family Dwelling District, to allow for a Day Care Center.

Existing Zoning: R-2 One Family Dwelling District

Size: +/- 0.18 Acres

Thoroughfares: Benham Ave

School District: Elkhart Community Schools

Utilities: Available to site.

Surrounding Land Use & Zoning:

The properties to the north, south, east, and west are all zoned R-2 One 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 low density residential.



Staff Analysis

The petitioners are submitting an application for a daycare center at 222 Benham Avenue this month. There are an existing six other daycares on the same block of Benham Avenue also owned and operated by the petitioners. They have been able to expand and fill their childcare openings in part because of the demonstrated need for daycare in Elkhart.

The house at 222 Benham Avenue is 1560 square feet and built in 1950, according to Elkhart County Assessor records. The lot is .18 acres. At the writing of this report, staff had not yet visited the site.

In 2013 an inspector for the city inspected the home for new gas service at the request of the owner and it was reported to zoning staff at the time that it appeared that the home was being used or prepared as a day care home or had been converted into a day care center. After confirmation that the home was being used as a day care home a fine was issued and a petition for a special exception for a child care home was submitted. In April 2013 the special exception was presented to the board of zoning appeals and the plan commission. One of the criteria to classify a land use as a day care home under the zoning ordinance is that it must be the primary residence of the provider. The special exception was approved for a child care home in 2013 because at that time the commission found that the home was the primary residence of the child care provider with two conditions attached to the approval.

The petitioner has since informed city staff that no one lives at the home of 222 Benham Avenue which would classify it as a day care center as defined in the zoning ordinance. In 2023 a letter was sent to the petitioner informing them that they were no longer considered a day care home due to the vacancy of residency and that they would need to re-apply for a special exception for a day care center. This prompted the petitioner to file for

a new special exception to change from the classification of child care home to the classification of child care center.

They plan to apply for a Class II license with the state's Family and Social Services Administration (FSSA), which allows for up to 24 children. They desire to provide daycare services Monday to Friday from 05:00AM to 04:00PM. Pick up and drop off for the facility will be handled from the alley rear of building. There is ample parking in the rear for employees. Based on information provided in the petition, they plan on enrolling in the Child and Adult Care Food Program (CACFP) to provide healthy meals. They also become members of The National Association for Family Child Care (NAFCC).

In terms of space, the house is adequate. The state requires a minimum of 560 square feet for a Class II license.

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;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because there will be no exterior changes to the existing building;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

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 sixteen (16) children.
9. Pickup and drop-off shall be from the alley at the rear of the property.
10. The Special Exception is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by November 12, 2026.

Photos



PETITION #: 24-X-08

FILING FEE: \$ 300

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE: SPECIAL EXCEPTION

Property Owner(s): Marid Torres

Mailing Address: 2018 Benham Ave.

Phone #: 574 333 1567 Email: _____

Contact Person: [REDACTED] Francisco Sarmas
Maria Torres

Mailing Address: SAME

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 2022 Benham Ave. Elkhart, IN 46516

Zoning: _____

Present Use: _____ Proposed 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): _____

SIGNATURE(S): [Signature] DATE: 10/10/24

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.

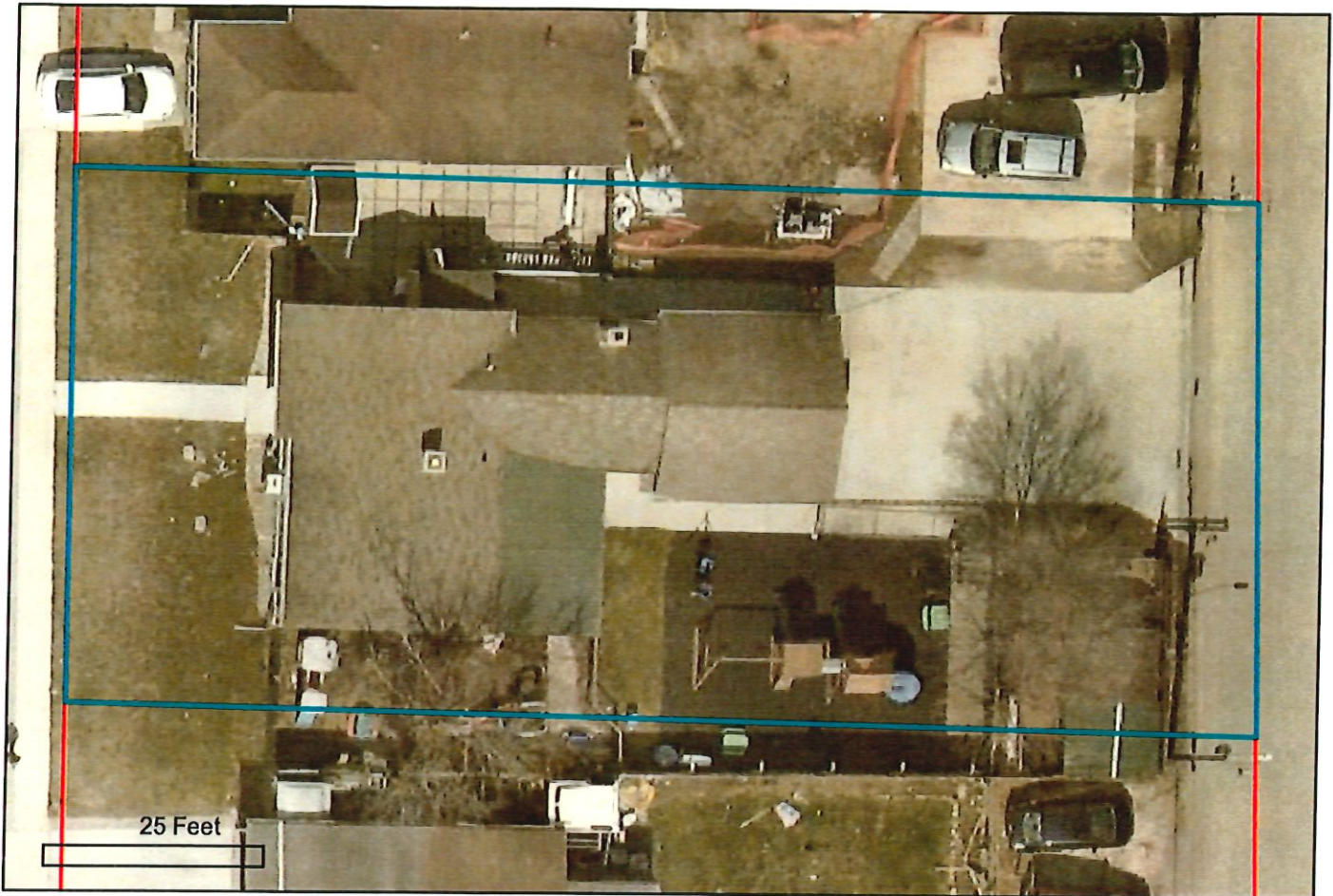
Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: _____ DATE: _____

Elkhart County, IN

2022 BENHAM, ELKHART, IN 46516
20-06-08-478-006.000-012



Parcel Information

Parcel Number: 20-06-08-478-006.000-012

Alt Parcel Number: 06-08-478-006-012

Property Address: 2022 BENHAM
ELKHART, IN 46516

Neighborhood: 1250210-N&E: RR tracks S: Lusher W:
Main (exclude)

Property Class: Residential: 1 Family Dwell - Platted Lot - 510

Owner Name: TORRES MARIA

Owner Address: 2018 BENHAM AVE
ELKHART, IN 46516

Legal Description: WOLFS 6TH UNREC LOT 9 &; N 21FT LOT
8

Taxing District

Township: CONCORD TOWNSHIP

Corporation: Elkhart Community Schools

Land Description

<u>Land Type</u>	<u>Acreage</u>	<u>Dimensions</u>
Front Lot	0.1764	61x126

**Fidelity National
Title Company LLC**

QUITCLAIM DEED

THIS INDENTURE WITNESSETH, That Efrain Rodriguez and Joanna L. Rodriguez, Husband and Wife (Grantor) QUITCLAIMS to Maria Torres (Grantee), for no consideration the following described real estate in Elkhart County, State of Indiana:

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION EIGHT (8), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS TWO HUNDRED THIRTY-NINE (239) FEET SOUTH OF THE SOUTHEAST CORNER OF BENHAM AVE. AND HUBBARD AVENUE IN THE CITY OF ELKHART, INDIANA; THENCE EAST PARALLEL WITH THE SOUTH LINE OF HUBBARD AVE. ONE HUNDRED TWENTY SIX (126) FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF BENHAM AVE. SIXTY (60) FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF HUBBARD AVENUE, ONE HUNDRED TWENTY-SIX (126) FEET; THENCE NORTH ALONG THE EAST LINE OF BENHAM AVENUE, SIXTY (60) FEET TO THE PLACE OF BEGINNING.

ALSO KNOWN AS PART OF LOTS NUMBERED EIGHT (8) AND (9) IN WOLF'S SIXTH UNRECORDED ADDITION.

Property Address: 2022 Benham Ave., Elkhart, IN 46516

Tax ID No.: 20-06-08-478-006.000-012 and 20-06-08-478-007.000-012

Subject to current taxes not delinquent, and all easements, agreements and restrictions of record and all public rights of way.

Grantors are executing this Deed in fulfillment of a Land Contract by and between Efrain Rodriguez and Joanna L. Rodriguez, Sellers, and Maria Torres, Buyer, dated November 4, 2011, and recorded April 16, 2012, as Document No. 2012-008169 in the Office of the Recorder of Elkhart County, Indiana.

IN WITNESS WHEREOF, Grantor has executed this deed this 10 day of October, 2017.

Efrain Rodriguez
Efrain Rodriguez

Joanna L. Rodriguez
Joanna L. Rodriguez

1. The Special Exception is so defined, located, and proposed to be operated that the public health, safety, and welfare will be protected; **Yes** this daycare will provide healthy meals under the supervision and sponsorship of the Child and Adult Care Food Program. We will follow guidelines from the local Health Department and CDC. We will notify the Fire Department of the daycare and they will inspect alarms and extinguishers. The property is fenced in to provide a safe play area. Parking and drop-off will be in the back of the property in a non-busy alley. Staff will meet the requirements such as National Criminal History, drug test, CPR, TB test, Physical exam, child abuse, and neglect courses, and safe sleep practices.
2. The special exception will not reduce the values of other properties in its immediate vicinity; **NO**, this property is well maintained and will continue to be maintained and in very good shape with no changes to its residential appearance.
3. The special exception shall conform to the regulation of the zoning district in which it is to be located; **Yes**, the property will continue to have its original residential appearance.

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

Printed Name: Francisco Sesmas .

Contact Person: Francisco Sesmas

Name: _____

Address: _____

Phone number where you can be reached: _____

August 23, 2024

TO: Plan Commission & Board of Zoning Appeals
City of Elkhart, Indiana

RE: Special Exception Request

Francisco Sesmas and Maria Torres, are the owners of the following described real estate located within the City of Elkhart, on 2022 Benham Ave., Elkhart In 46516-3413.

LEGAL DESCRIPTION ATTACHED TO THIS LETTER

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

Petitioner presently occupies the above-described property in the following manner:
VACANT.

Petitioner desires: to provide daycare services on a daily basis from Monday to Friday from 05:00 a.m. to 04:00 p.m. We will work to achieve level 4 on Paths of Quality I. We will get a daycare license class II following all the standards, requirements, and procedures from Family Social Services Administration (FSSA) and Early Learning Indiana (ELI). We will be enrolled in the Child and Adult Care Food Program (CACFP) and provide healthy meals. We will become members of The National Association for Family Child Care (NAFCC).

Section 5.3 Special Exception used in the R-2 District. The Zoning Ordinance requires a Special Exception for a daycare home in the R-2 District.

This property is suited to the special exception use being requested because We have a parking space in the rear of the property on a non busy alley to have a safe pick up and drop off.

In addition to that, the location of this property is very convenient for the community in need of daycare services in this area.

Signature of Property Owner Francisco Sesmas

Printed Name: Francisco Sesmas / Maria Torres

Second Property Owner Maria Torres

Rod Roberson
Mayor



Planning & Development
Community Development
Economic Development
Planning Services
229 S. Second St.
Elkhart, IN 46516
574.294.5471
Fax: 574.295.7501

Maria Torres
2022 Benham Ave
Elkhart, IN 46516

August 26, 2024

RE: Child Care Program located at 2022 Benham Ave., Suite 101 (front) and Suite 102 (rear)

Dear Sir or Madam,

The licensed child care center located at the address referenced above is classified as a Day Care Home and is allowed by special exception under the City of Elkhart's Zoning Ordinance. The approval for the facility to be used as a Day Care Center is currently pending.

The special exception numbered 13-X-04 was granted for this property on April 11, 2013. It is currently valid. The following conditions apply to this special exception:

1. The maximum number of children allowed at this location is 24.
2. The petitioner must provide on an annual basis copies of licenses and inspections.

Aside from compliance with the Zoning Ordinance, the City of Elkhart does not require Child care Programs to obtain an additional license or permit in order to operate.

Please contact me at (574) 294-5471 x 1018 or eric.trotter@coei.org if you have any questions.

Sincerely,

Eric Trotter
Assistant Director for Planning
Department of Planning and Development

Rod Roberson
Mayor



Planning & Development
Community Development
Economic Development
Planning Services
229 S. Second St.
Elkhart, IN 46516
574.294.5471
Fax: 574.295.7501

Maria Torres
2022 Benham Ave
Elkhart, IN 46516

August 21, 2024

RE: Child Care Program located at 2022 Benham Ave., Suite 101 (front) and Suite 102 (rear)

Dear Sir or Madam,

The licensed child care center located at the address referenced above is classified as a Day Care Home and is allowed by special exception under the City of Elkhart's Zoning Ordinance. According to the information regarding the existing Child Care Program this office has received, it is not in compliance with the Zoning Ordinance.

The special exception numbered 13-X-04 was granted for this property on April 11, 2013. It is currently valid. The following conditions apply to this special exception:

1. The maximum number of children allowed at this location is 24.
2. The petitioner must provide on an annual basis copies of licenses and inspections.

One of the criteria to classify a land use as a Day Care Home under the Zoning Ordinance is that it must be the primary residence of the provider. Otherwise it is considered a Day Care Center. The special exception for this property was granted for a Day Care Home. However, the applicants have informed staff that no one lives at the residence, which would classify it as a Day Care Center. The applicants should re-apply for a Special Exception for a Day Care Center.

Aside from compliance with the Zoning Ordinance, the City of Elkhart does not require Child care Programs to obtain an additional license or permit in order to operate.

Please contact me at (574) 294-5471 x 1018 or eric.trotter@coei.org if you have any questions.

Sincerely,

Eric Trotter
Assistant Director for Planning
Department of Planning and Development

Rod Roberson
Mayor



Planning & Development
Community Development
Economic Development
Planning Services
229 S. Second St.
Elkhart, IN 46516
574.294.5471
Fax: 574.295.7501

Maria Torres
2022 Benham Ave.
Elkhart, IN 46516

June 9, 2023

RE: Child Care Program located at 2022 Benham Ave.

Dear Sir or Madam,

The licensed child care center located at the address referenced above is classified as a Day Care Home and is allowed by special exception under the City of Elkhart's Zoning Ordinance. According to the information regarding the existing Child Care Program this office has received, it is not in compliance with the Zoning Ordinance.

The special exception numbered 13-X-04 was granted for this property on April 11, 2013. It is currently valid. The following conditions apply to this special exception:

1. The maximum number of children allowed at this location is 24.
2. The petitioner must provide on an annual basis copies of licenses and inspections.

One of the criteria to classify a land use as a Day Care Home under the Zoning Ordinance is that it must be the primary residence of the provider. Otherwise it is considered a Day Care Center. The special exception for this property was granted for a Day Care Home. However, the applicants have informed staff that no one lives at the residence, which would classify it as a Day Care Center. The applicants should re-apply for a Special Exception for a Day Care Center.

Please note that the addresses being used by the applicant erroneously assigned the rear unit a 2022-A address. This is incorrect. The addresses that have been assigned are Suite 101 for the front unit and Suite 102 for the rear unit.

Aside from compliance with the Zoning Ordinance, the City of Elkhart does not require Child care Programs to obtain an additional license or permit in order to operate.

Please contact me at (574) 294-5471 x 1017 or ryan.smith@coei.org if you have any questions.

Sincerely,

Ryan Smith, AICP
Planner
Department of Planning and Development

STAFF ANALYSIS AND RECOMMENDATION

GENERAL INFORMATION

PETITION #: 13-X-04

PETITION TYPE: Special Exception

DATE: Plan Commission April 1 and Board of Zoning Appeals April 11, 2013

PETITIONER: Efrain & Joanna Rodriguez

SITE LOCATION: 2022 Benham Avenue

REQUEST: A Special Exception per Section 5.2.A, to operate a home day care at 2022 Benham Avenue.

EXISTING ZONING: R-2, One Family Dwelling District

SIZE: +/- 7,686 square feet

THOROUGHFARE: Benham Avenue

SCHOOL DISTRICT: Elkhart Community Schools

UTILITIES: Yes, City services are available to the site.

SURROUNDING LAND USE AND ZONING:

The land immediately surrounding the property is zoned as R-2, One Family Dwelling District.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE:

Section 5.2.A and 5.3 Special Exception Uses in the R-2

COMPREHENSIVE PLAN:

The Comprehensive Plan calls for the area to be developed with low-density residential uses.

STAFF ANALYSIS

This property came to our attention when the City mechanical inspector, Jim Holtz, had occasion to see the interior of the home when the City received a request for a gas service. The area was being heated with a portable, electric space heater. He reported to zoning staff that it appeared that the structure was being used or prepared as a day care home or had been converted into a day care center. Staff reacted to this information by writing a letter to the land owner. After confirming that the information was correct, a ticket with a \$100 fine was issued for the violation. Petitioner then filed

ATTACHMENTS

From petitioner: petition, narrative, floor plan, site plan, neighbor comments, client letters, letter stating number of children receiving care, two pages of Plan of Correction (a State document), evacuation plan, fire drill log, State license.



Recommendation

The Staff recommends approval of the developmental variance to vary from 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 wall sign of this size is typically found in central business districts;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner because the sign is of the same manner and external effect as the previous sign;
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 as the building façade on which the sign will be located is larger than neighboring buildings that are allowed a sign of the same size;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property by depriving the tenant that has a significantly longer name a sign of similar height and manner;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant because the current building is existing and the signable area on the building will not change as a result of this request;
7. This property **does not** lie within a designated flood area.



Staff Report

Planning & Zoning

Petition: 24-BZA-26

Petition Type: Developmental Variance

Date: November 14, 2024

Petitioner: Gateway Mile Properties LLC

Site Location: 101 S. Main Street

Request: To vary from Section 26.10.D – Table 1, Wall signs in the CBD for single tenant buildings, that limits the size to 50% of the signable area to a maximum of 50 square feet to allow for a wall sign that is 115 square feet, a variance of 65 square feet.

Existing Zoning: CBD, Central Business District

Size: +/- 0.75 acres

Thoroughfares: South Main Street, West Jackson Boulevard

School District: Elkhart Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:

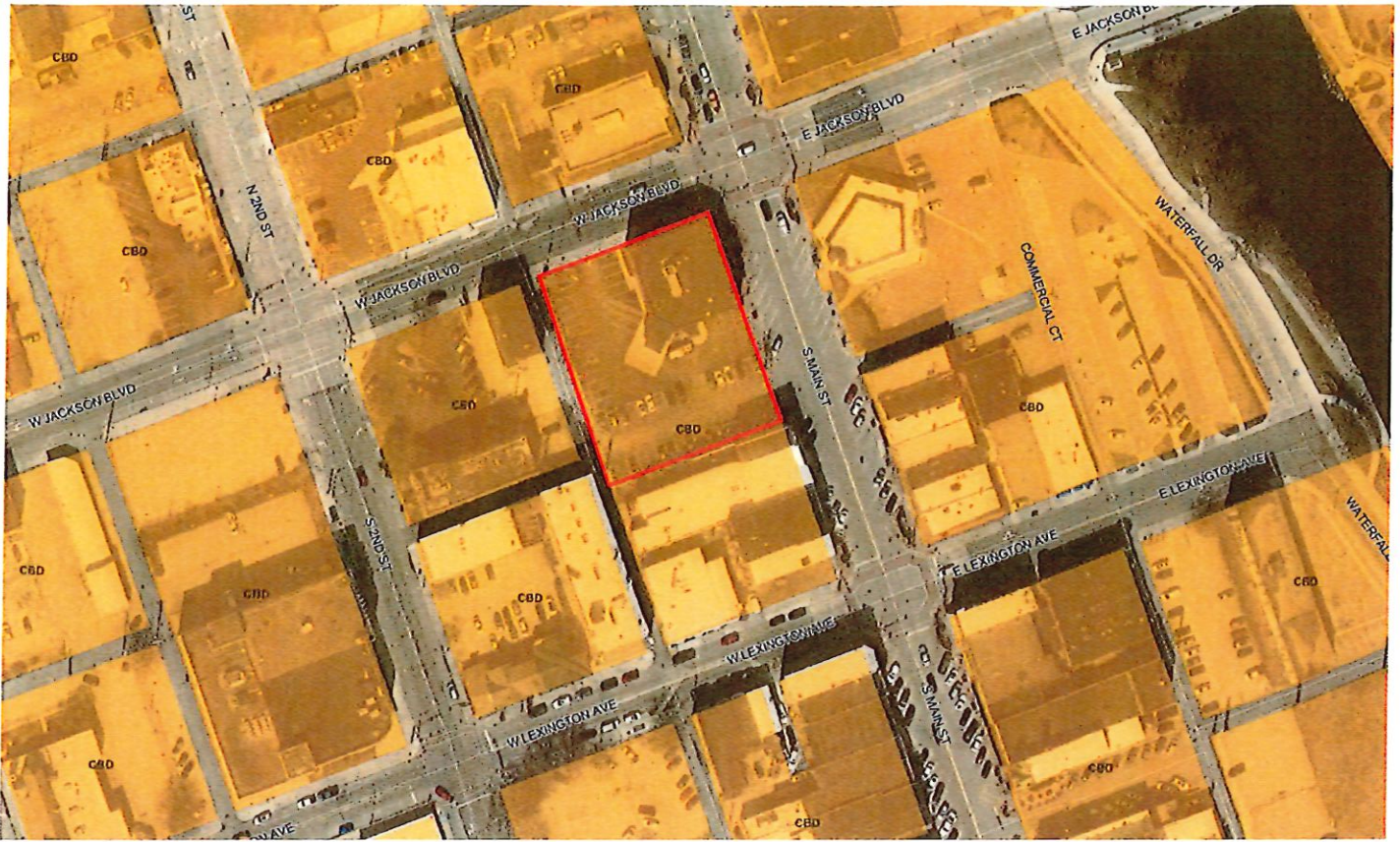
The surrounding properties are CBD Central Business District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive calls for this area to be developed office and institutional uses of the downtown mixed use future land use district.



Staff Analysis

The petitioner is requesting a variance to allow for a sign that is 115 square feet when the maximum allowed is 50 square feet. The requested sign is of similar height as the previous Key Bank sign, but is larger due to the longer name of the tenant that is currently occupying the building, Kruggel Lawton CPA. The proposed sign is being located on a façade that is much larger than the surrounding buildings which are allowed a sign of the same 50 square feet. The petitioners are making efforts to respect the character of the commercial corridor while covering up the damage caused by the previous Key Bank sign.

The strict application of the ordinance would deprive this tenant, with a longer name, of a sign that would have a similar visual impact as the previous tenant. These types of wall signs are typical within central business districts and would not feel out of place.

Staff recommends approval of this variance.

Recommendation

The Staff recommends approval of the developmental variance to vary from 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 wall sign of this size is typically found in central business districts;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner because the sign is of the same manner and external effect as the previous sign;
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 as the building façade on which the sign will be located is larger than neighboring buildings that are allowed a sign of the same size;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property by depriving the tenant that has a significantly longer name a sign of similar height and manner;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant because the current building is existing and the signable area on the building will not change as a result of this request;
7. This property **does not** lie within a designated flood area.

Photos



PETITION #: 24-BZA-26

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): GATEWAY MILE PROPERTIES LLC

Mailing Address: 210 S Michigan St. Ste 200, South Bend, IN 46601

Phone #: _____ Email: _____

Contact Person: David Mikel - Site Enhancement Services

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 101 S. Main Street

Zoning: CBD

Present Use: Retail Proposed Use: Retail

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): Breay K Hall, Member

SIGNATURE(S): [Signature] DATE: 9/24/2024

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: [Signature] DATE: 10/2/24



September 19, 2024

Board of Zoning Appeals

City of Elkhart, Indiana

RE: Developmental Variance for Kruggel Lawton Signage

Greetings:

Site Enhancement Services, on behalf of the property owner Kruggel Lawton, is the authorized applicant pursuing a sign variance for the following described real estate (101 South Main Street, Elkhart, IN 46516) located within the City of Elkhart, E.C. Concord Township, Elkhart County, State of Indiana, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

The above-described real estate presently has a zoning classification of Central Business District (CBD) under the Zoning Ordinance of the City of Elkhart.

Petitioner presently occupies the above-described property in the following manner: Office Use

The Zoning Ordinance of the City of Elkhart requires Wall Signs in the CBD not to exceed 50% of the Signable Area to a maximum of 50 SF per façade for single tenant building; 50% of the signable area to a maximum of 25 SF per store front for multiple tenant buildings.

Strict adherence to the Zoning Ordinance requirements would create an unusual hardship because the previous owner was allowed approximately 115 SF and Kruggel Lawton is respectfully requesting a sign package to match and cover up the previous damage to the elevations due to the removal of the Key Bank signs. Kruggel Lawton is looking to provide a sense of environment for such a substantial building within the downtown business district.

Per the standards that are to be met for an Appeal to the Zoning Ordinance:

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

Reply: Approval of the requested wall branding elements will not be injurious to the public health, safety, morals and general welfare of the community as it matches the previous signage on the building.

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

Reply: The use and value of the area adjacent to the property will not be affected in a substantially adverse manner since Kruggel Lawton is respectfully requesting branding elements that match what has been previously allowed.



3. Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance.

Reply: Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance due to the fact that this is a thriving commercial environment, and a request of this nature lends itself to such a zoning district.

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.

Reply: 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 since there is a precedent of building signage allowed for this property, so Kruggel Lawton has made an effort to remain consistent within the commercially zoned corridor while also proposing branding elements that will cover up any previous damage to the elevations due to removal of the Key Bank signs.

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. (Financial considerations do not qualify).

Reply: 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 as a sign package of this nature has been approved previously for the same building. The building is large compared to other businesses that are adjacent to this property and the square footage cap of 50 SF limits the allowable signable area to a lower percentage than other buildings within the Central Business District.

6. The special conditions and circumstances do not result from any action or inaction by the applicant.

Reply: The special conditions and circumstances do not result from any action or inaction by the applicant as Kruggel Lawton is buying the building/lot from a previous owner.

7. In designated flood hazard areas, the variance will not increase flood heights, create additional threats to public safety,

Reply: This request is for signage and will not increase flood heights or create any additional threats to public safety if approved.

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 20-06-05-406-039.000-012

TRACT 1:

THE NORTHERLY SEVENTEEN AND ONE-HALF (17 1/2) FEET BY PARALLEL LINES OF LOT NUMBER FOURTEEN (14) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN OF ELKHART; (NOW CITY) SAID PLAT BEING RECORDED IN DEED RECORD 1, PAGE 34, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, THE WESTERLY ONE AND TWENTY-FIVE HUNDREDTHS (1.25) FEET OF VACATED MAIN STREET LYING EASTERLY OF AND ADJACENT TO SAID REAL ESTATE.

TRACT 2:

LOTS NUMBERED FIFTEEN (15) AND SIXTEEN (16) AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN (NOW CITY) OF ELKHART; SAID PLAT BEING RECORDED IN DEED RECORD 1, PAGE 34 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, THE WESTERLY ONE AND TWENTY-FIVE HUNDREDTHS (1.25) FEET OF VACATED MAIN STREET LYING EASTERLY OF AND ADJACENT TO SAID REAL ESTATE.

EXCEPTING THEREFROM:

A PART OF LOT 14 AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED ORIGINAL PLAT OF TOWN (NOW CITY) OF ELKHART, INDIANA; SAID PLAT BEING RECORDED IN DEED RECORD 1, PAGE 34, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 14; THENCE SOUTH ALONG THE EAST LINE OF SAID, LOT 14 A DISTANCE OF 16.8 FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 14 A DISTANCE OF 7/10 OF ONE FOOT TO THE NORTHEAST CORNER OF LAND CONVEYED TO PERFECTA ROLL (ELKHART COUNTY INSTRUMENT #92-02 1954); THENCE WEST ALONG THE NORTH LINE OF SAID ROLL LAND 165.05 FEET (165 FEET REC.) TO THE NORTHWEST CORNER OF SAID ROLL LAND (SAID POINT ALSO BEING ON THE WEST LINE OF SAID LOT 14); THENCE NORTH ALONG THE WEST LINE OF SAID LOT 14 A DISTANCE OF 7/10 OF ONE FOOT; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID ROLL LAND 165.05 FEET (165 FEET REC.) TO THE PLACE OF BEGINNING.

ALSO, THE WESTERLY 1.25 FEET OF THE VACATED MAIN STREET LYING EAST OF AND ADJACENT TO THE ABOVE DESCRIBED PARCEL.

EXHIBIT "A"
Legal Description

TRACT 3:

A SIXTEEN AND ONE-HALF (16 1/2) FOOT ALLEY BETWEEN LOTS NUMBERED 14 AND 15, IN ORIGINAL ELKHART ADDITION TO THE CITY OF ELKHART, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

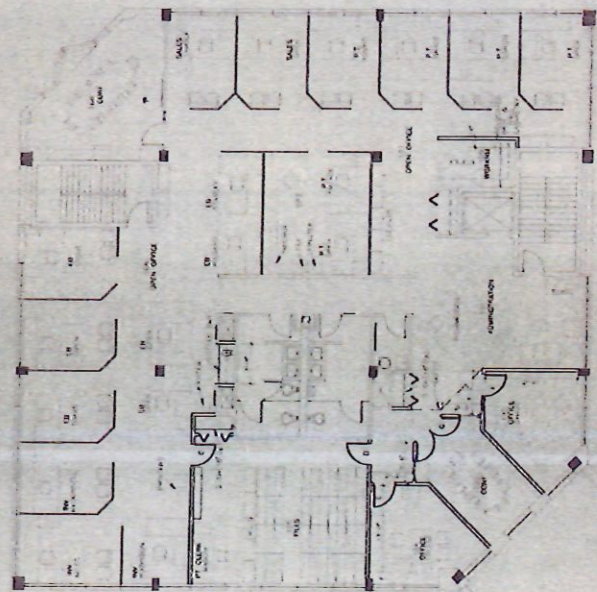
COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT NUMBERED 15, IN SAID ADDITION, THENCE WESTERLY 165 FEET TO THE SOUTHWESTERLY CORNER OF LOT NUMBERED 15; THENCE SOUTHERLY, 16 1/2 FEET TO THE NORTHWESTERLY CORNER OF LOT NUMBERED 14; THENCE NORTHEASTERLY 165 FEET TO THE NORTHEASTERLY CORNER OF LOT NUMBERED 14, THENCE NORTHERLY 16 1/2 FEET TO THE PLACE OF BEGINNING.

ROOM FINISH & MATERIAL SCHEDULE

ROOM NO.	ROOM NAME	FLOOR		BASE		WALLS		C. J.C.		TRIM		PARTITIONS	
		FINISH	THICKNESS	FINISH	THICKNESS	FINISH	THICKNESS	FINISH	THICKNESS	FINISH	THICKNESS	FINISH	THICKNESS
101	RECEPTION	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
102	OFFICE	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
103	CONFERENCE	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
104	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
105	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
106	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
107	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
108	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
109	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
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111	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
112	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
113	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
114	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
115	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
116	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
117	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
118	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
119	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"
120	SALES	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"	1/2" GYP	5/8"

DOOR SCHEDULE

NO.	DESCRIPTION
1	1/2" GYP
2	1/2" GYP
3	1/2" GYP
4	1/2" GYP
5	1/2" GYP
6	1/2" GYP
7	1/2" GYP
8	1/2" GYP
9	1/2" GYP
10	1/2" GYP
11	1/2" GYP
12	1/2" GYP
13	1/2" GYP
14	1/2" GYP
15	1/2" GYP
16	1/2" GYP
17	1/2" GYP
18	1/2" GYP
19	1/2" GYP
20	1/2" GYP



LEGEND

- 1/2" GYP WALL, 5/8" TO DECK
- 1/2" GYP WALL, 5/8" TO CEILING
- 1/2" GYP WALL, 5/8" TO CEILING
- 1/2" GYP WALL, 5/8" TO CEILING

NOTE:
 ALL INTERIOR WALLS THAT MEET EXTERIOR WALLS ARE TO CENTER. EXTERIOR WALLS ARE TO CENTER. ALL INTERIOR WALLS ARE TO CENTER. ALL INTERIOR WALLS ARE TO CENTER. ALL INTERIOR WALLS ARE TO CENTER.

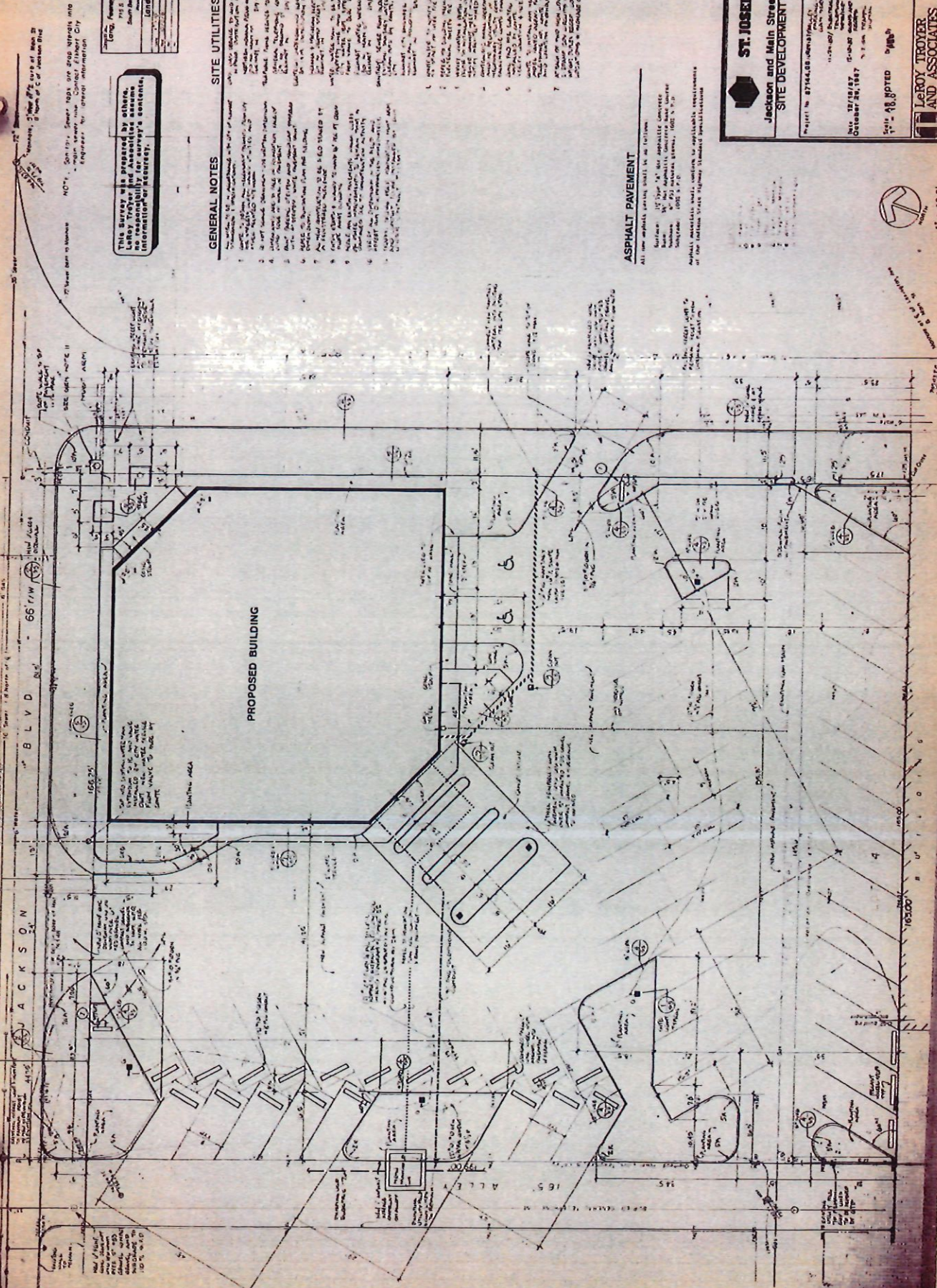
Society BANK
 REMODELING PLANS
 1000 W. Main St.
 Gary, IN 46401

PROPOSED 2nd Floor Plan

DATE: 10/10/01
 10/10/01
 1/8" = 1'-0"

THE TROYER GROUP
 1000 W. Main St.
 Gary, IN 46401

A1.1



NOTY: See City of Jackson, MS, for any other information regarding this project. Contact Jackson City Engineer for general information.

This survey was prepared by either Leroy Troyer and Associates or its predecessor, Jackson Surveying and Mapping, Inc. The contents of this survey are the property of Leroy Troyer and Associates.

GENERAL NOTES

1. The survey was conducted in accordance with the City of Jackson, MS, Ordinance No. 198-107, which requires that all surveys be conducted in accordance with the standards set forth in that ordinance.
2. The survey was conducted on or about the date indicated on the survey plat.
3. The survey was conducted by Leroy Troyer and Associates, Inc., a professional engineering firm licensed in the State of Mississippi.
4. The survey was conducted in accordance with the standards set forth in the Mississippi Surveying and Mapping Act of 1967, as amended.
5. The survey was conducted in accordance with the standards set forth in the Mississippi Surveying and Mapping Act of 1967, as amended.
6. The survey was conducted in accordance with the standards set forth in the Mississippi Surveying and Mapping Act of 1967, as amended.
7. The survey was conducted in accordance with the standards set forth in the Mississippi Surveying and Mapping Act of 1967, as amended.
8. The survey was conducted in accordance with the standards set forth in the Mississippi Surveying and Mapping Act of 1967, as amended.
9. The survey was conducted in accordance with the standards set forth in the Mississippi Surveying and Mapping Act of 1967, as amended.
10. The survey was conducted in accordance with the standards set forth in the Mississippi Surveying and Mapping Act of 1967, as amended.

SITE UTILITIES

1. All utility lines shown on this plan are assumed to be in accordance with the City of Jackson, MS, Ordinance No. 198-107, which requires that all utility lines be installed in accordance with the standards set forth in that ordinance.
2. The utility lines shown on this plan are assumed to be in accordance with the City of Jackson, MS, Ordinance No. 198-107, which requires that all utility lines be installed in accordance with the standards set forth in that ordinance.
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10. The utility lines shown on this plan are assumed to be in accordance with the City of Jackson, MS, Ordinance No. 198-107, which requires that all utility lines be installed in accordance with the standards set forth in that ordinance.

ASPHALT PAVEMENT

All new asphalt paving shall be as follows:
 Surface: 1 1/2" Type III Hot Asphalt Concrete
 Base: 4" Type I Hot Asphalt Concrete
 Subgrade: GSS & P
 Asphalt materials shall conform to applicable requirements of the Indiana State Highway Standard Specifications.

ST. JOSEPH BANK
 Jackson and Main Streets, Chart, IN
 SITE DEVELOPMENT PLAN

Project No. 87144.08 (REVISED)
 Date: 11/27/87
 Drawn by: [Name]
 Checked by: [Name]
 Scale: 1" = 40.00'

LEROY TROYER AND ASSOCIATES
 1000 N. 10th Street, Jackson, MS 39201
 Phone: (601) 933-1111

Sheet No. **S1**



1" = 100'

KEYNOTES

1. Line of reserved work.
2. Pattern off and lather construction.
3. Reinforcing concrete.
4. Reinforced light (not used).
5. Unreinforced light.
6. Cast-in-place concrete.
7. Cast-in-place concrete.
8. Cast-in-place concrete.
9. Cast-in-place concrete.
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28. Cast-in-place concrete.

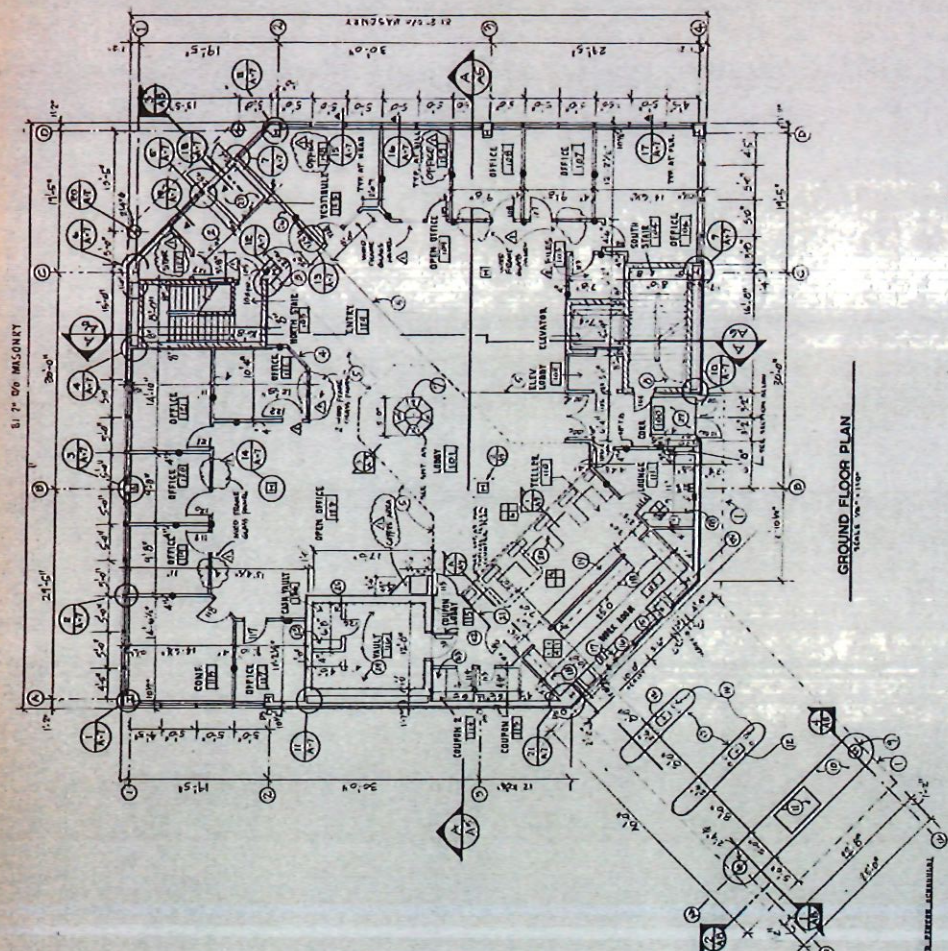
ST. JOSEPH BANK
 Jackson and Main Streets Elkhart, IN

GROUND FLOOR PLAN.
 Project No. 87164.00
 Date: 12/18/37

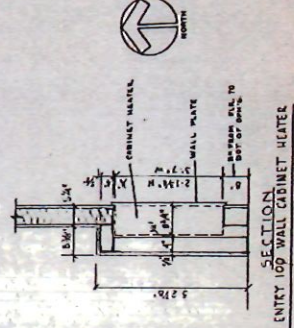
Scale: AS NOTED Drawn By: B.M.

LeROY TROYER AND ASSOCIATES
 ARCHITECTS
 105 W. Washington St., Elkhart, Ind.

Sheet **A 2**



GROUND FLOOR PLAN
 SCALE: 1/8" = 1'-0"



SECTION
 ENTRY LOBBY WALL CABINET HEATER

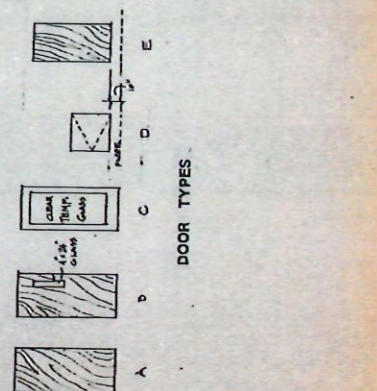
ROOM FINISH & MATERIAL SCHEDULE

ROOM NO.	FLOOR	BASE	WALLS	CEILING	TRIM	REMARKS
101	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
102	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
103	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
104	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
105	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
106	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
107	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
108	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
109	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
110	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
111	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
112	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
113	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
114	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
115	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
116	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
117	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
118	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
119	OFFICE	WOOD	PLASTER	PLASTER	WOOD	
120	OFFICE	WOOD	PLASTER	PLASTER	WOOD	

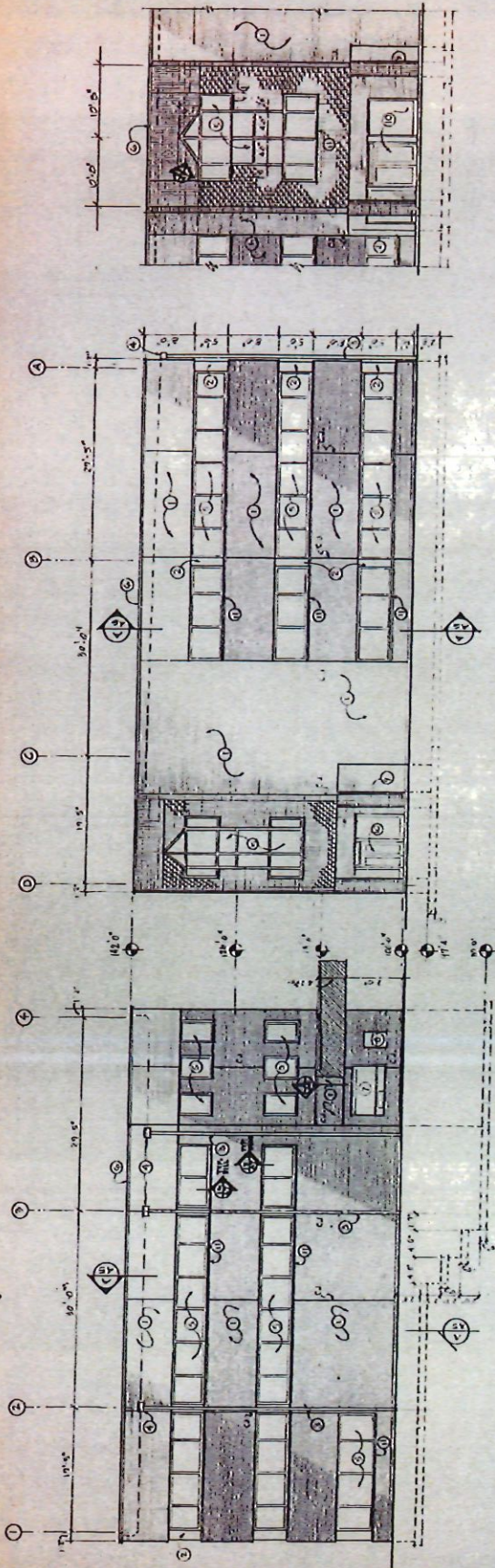
DOOR & HARDWARE SCHEDULE

ROOM NO.	DOOR	FINISH	HARDWARE	CLASS	REMARKS
101	DOOR	WOOD	BRASS	STANDARD	
102	DOOR	WOOD	BRASS	STANDARD	
103	DOOR	WOOD	BRASS	STANDARD	
104	DOOR	WOOD	BRASS	STANDARD	
105	DOOR	WOOD	BRASS	STANDARD	
106	DOOR	WOOD	BRASS	STANDARD	
107	DOOR	WOOD	BRASS	STANDARD	
108	DOOR	WOOD	BRASS	STANDARD	
109	DOOR	WOOD	BRASS	STANDARD	
110	DOOR	WOOD	BRASS	STANDARD	
111	DOOR	WOOD	BRASS	STANDARD	
112	DOOR	WOOD	BRASS	STANDARD	
113	DOOR	WOOD	BRASS	STANDARD	
114	DOOR	WOOD	BRASS	STANDARD	
115	DOOR	WOOD	BRASS	STANDARD	
116	DOOR	WOOD	BRASS	STANDARD	
117	DOOR	WOOD	BRASS	STANDARD	
118	DOOR	WOOD	BRASS	STANDARD	
119	DOOR	WOOD	BRASS	STANDARD	
120	DOOR	WOOD	BRASS	STANDARD	

- LEGEND - LINE AND SYMBOLS**
- 1. CENTER LINE
 - 2. FINISH LINE
 - 3. FINISH LINE
 - 4. FINISH LINE
 - 5. FINISH LINE
 - 6. FINISH LINE
 - 7. FINISH LINE
 - 8. FINISH LINE
 - 9. FINISH LINE
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 - 20. FINISH LINE



DOOR TYPES



WEST ELEVATION
1/4" = 1'-0"

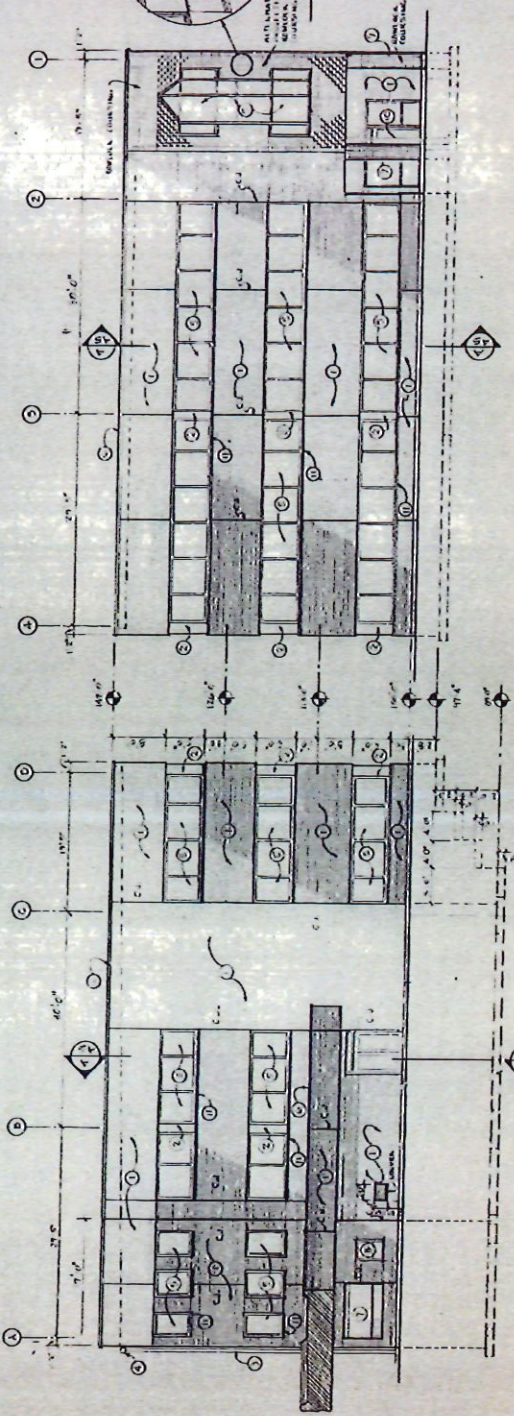
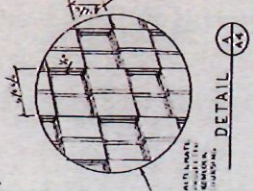
NORTH ELEVATION
1/4" = 1'-0"

SOUTH ELEVATION
1/4" = 1'-0"

SHADDED BRICK AREAS DENOTES DIFFERENT COLOR BRICK THAN NON-SHADED AREAS

KEYNOTES;

1. Face brick.
2. Hardwood window sash/door/frame.
3. Stone/brick.
4. Paint.
5. 1/2" x 1/2" x 1/2" unglazed aluminum window.
6. 1/2" x 1/2" x 1/2" unglazed aluminum door.
7. Hardwood window sash/door/frame.
8. Window letter stone.
9. Right eave/parapet.
10. 3/4" x 1/2" x 1/2" brick masonry.
11. 1/2" x 1/2" x 1/2" unglazed aluminum window.
12. 1/2" x 1/2" x 1/2" unglazed aluminum door.
13. Window with steel wire.



EAST ELEVATION
1/4" = 1'-0"

WEST ELEVATION
1/4" = 1'-0"

ST. JOSEPH BANK
Jackson and Main Streets Elkhart, IN

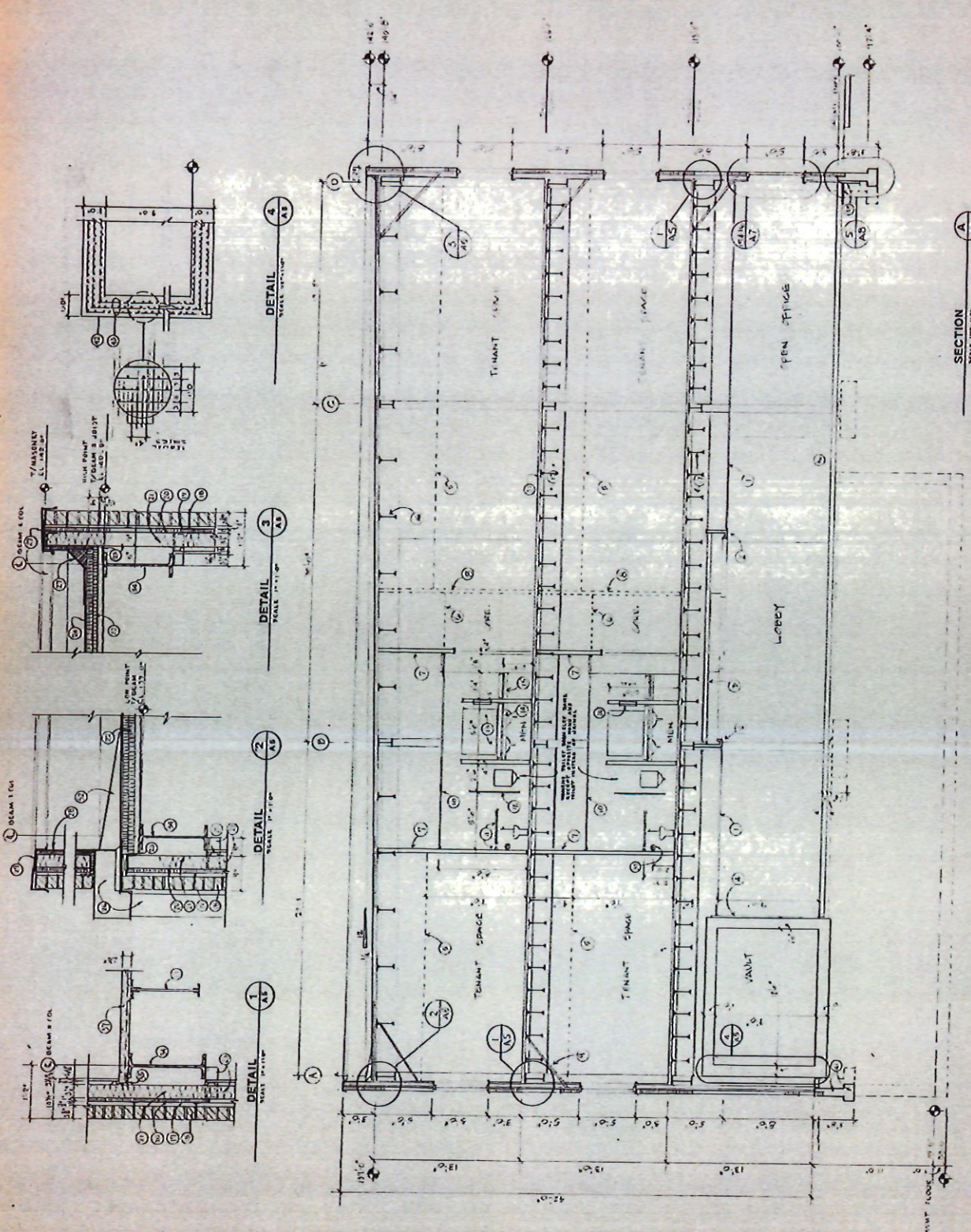
Project No. 87144-00 Revision
Date: 12/18/87
Scale AS NOTED
Drawn by: SJ & JB
Sheet: **A4**

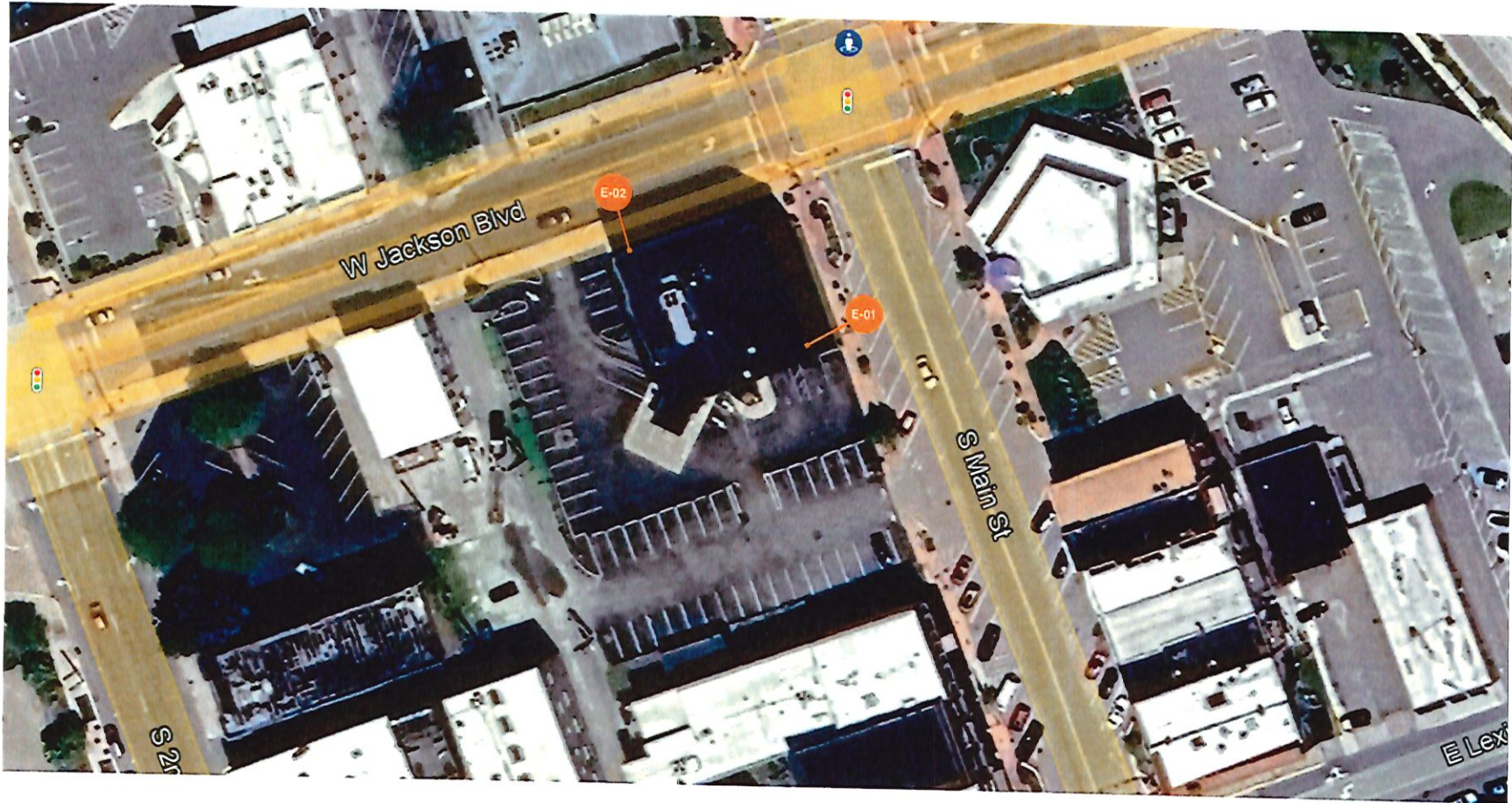
LeROY TROVER AND ASSOCIATES
ARCHITECTS

KEYNOTES

1. Unreinforced masonry walls at 8" or less.
2. Masonry walls.
3. Reinforced masonry walls at 8" or less.
4. Reinforced masonry walls at 12" or less.
5. Reinforced masonry walls at 16" or less.
6. Reinforced masonry walls at 20" or less.
7. Reinforced masonry walls at 24" or less.
8. Reinforced masonry walls at 28" or less.
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99. Reinforced masonry walls at 392" or less.
100. Reinforced masonry walls at 396" or less.
101. Reinforced masonry walls at 400" or less.
102. Reinforced masonry walls at 404" or less.
103. Reinforced masonry walls at 408" or less.
104. Reinforced masonry walls at 412" or less.
105. Reinforced masonry walls at 416" or less.
106. Reinforced masonry walls at 420" or less.
107. Reinforced masonry walls at 424" or less.
108. Reinforced masonry walls at 428" or less.
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251. Reinforced masonry walls at 1000" or less.

ST. JOSEPH BANK
 Jackson and Main Streets Elkhart, IN
 BUILDING SECTION / DETAILS
 Project No. 87144.00 Rev. 1/19/87
 Date: 12/18/87
 Scale: AS NOTED Drawn by: GJ & JB
 Sheet: **A5**
LEROY TROYER AND ASSOCIATES
 1111 North Main Street, Elkhart, Indiana 46516
 Phone: (317) 291-1111







Wall Sign E-01



Sign Type: **Channel Letters** Height: 3'-4" Comments:
Quantity: 1 Width: 34'-5 13/16"
Illumination: **Internal** Height Over Ground:



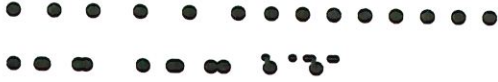
Detail



Mounting Detail



888.276.7107
www.sesbranding.com



Wall Sign E-02



Sign Type:	Channel Letters	Height:	3'-4"	Comments:
Quantity:	1	Width:	34'-5 13/16"	
Illumination:	Internal	Height Over Ground:		



Detail



Mounting Detail



888.276.7107
www.sesbranding.com

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Staff Report

Planning & Zoning

<u>Petition:</u>	24-BZA-29
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	November 14, 2024
<u>Petitioner:</u>	WDX LLC
<u>Site Location:</u>	1210 Goshen Avenue
<u>Request:</u>	To vary from Section 26.4 Fence Requirements, where the height limit for fences in the front yard is four (4) feet, to allow for a fence that is six (6) feet in height, a variance of two (2) feet.
<u>Existing Zoning:</u>	B-3, Service Business District
<u>Size:</u>	+/- 1.18 acres
<u>Thoroughfares:</u>	Goshen Avenue, Toledo Road
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to site.

Surrounding Land Use & Zoning:

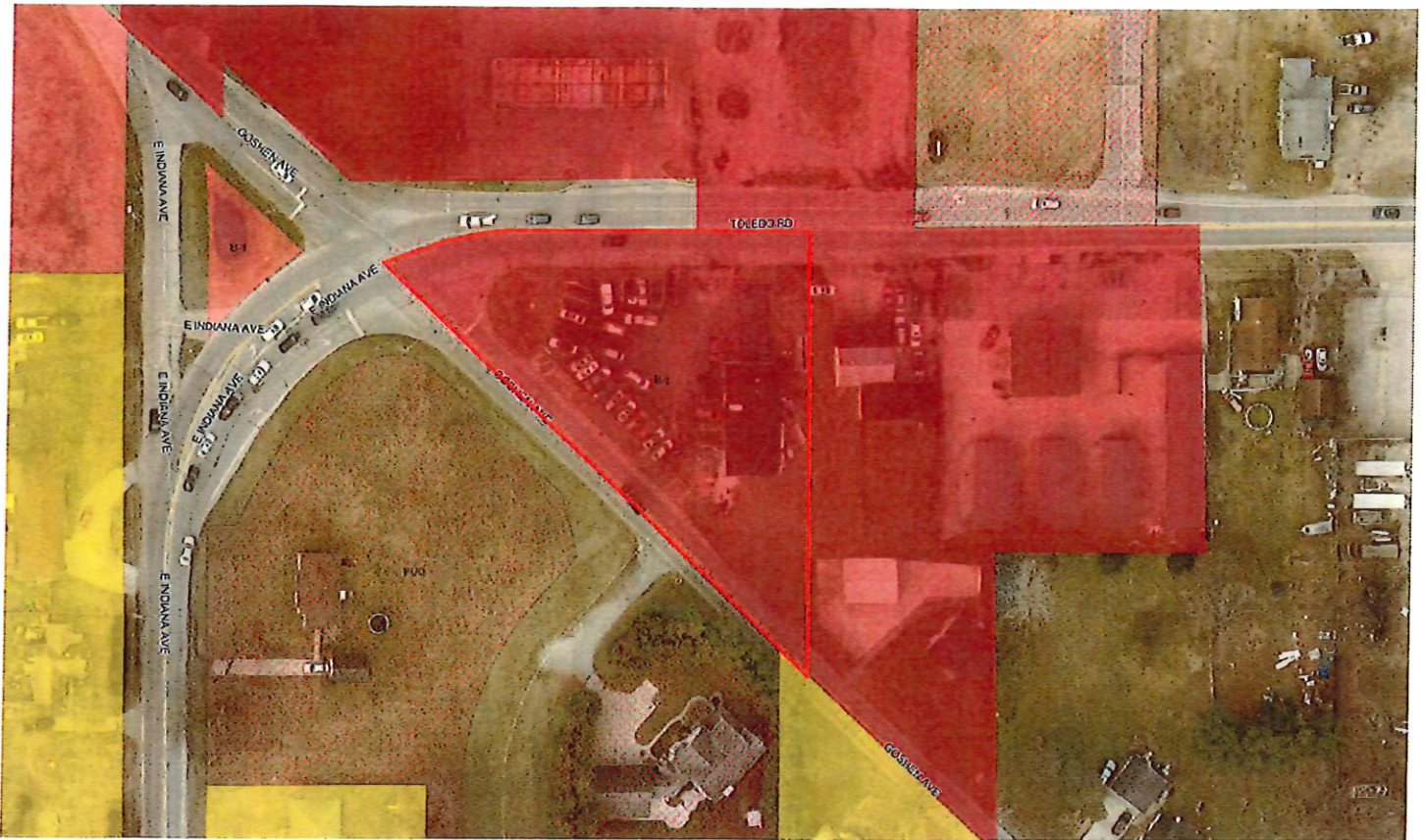
The Goshen Avenue corridor is a mix of commercial uses zoned B-1 and B-3 and single-family residential uses zoned R-2 and PUD.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

This specific site is not mentioned in the future land use map found in the comprehensive plan. In general, the Goshen Avenue corridor is marked commercial development surrounded by residential uses.



Staff Analysis

The petitioner is requesting a variance to allow for a 6 foot fence to be located where a maximum of 4 feet is allowed. The business is a used car dealership and the petitioners are requesting the fence to secure their display vehicles, parts, and hide unsightly features like the trash bins from the sight of the public way and surrounding residential properties. The petitioners have stated that drivers are cutting across their property to avoid the light and parts theft as the need to better secure their property.

Staff recommends approval of this variance. A hardship exists as the lot is a corner lot with a large amount of road frontage exposing multiple surrounding residential properties to the unsightly features of a commercial use, which would benefit from being screened.

Recommendation

The Staff recommends approval of the developmental variance to vary from 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 fence will help screen the unsightly features of this commercial use;
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 because the lot is a corner lot with a large amount of road frontage;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property by creating opportunities for theft on the property;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant because the lot existed before the petitioner was located there;
7. This property **does not** lie within a designated flood area.

Photos



PETITION #: 24-BZA-29

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): WDX LLC

Mailing Address: 1210 Goshen Ave Elkhart, IN 46816

Phone #: 574-849-6642 Email: ESM3MAYA@GMAIL.COM

Contact Person: Octavio Maya (owner of WDX LLC)

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 1210 Goshen Ave. Elkhart

Zoning: Commercial

Present Use: Auto Repair Shop Proposed Use: Auto Repair Shop

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): OCTAVIO MAYA

SIGNATURE(S): Octavio Maya DATE: 10.03.2024

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: [Signature] DATE: 10/4/2024

October 3, 2024

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Developmental Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. Octavio Maya, am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit:

A part of Northwest Quarter (NW ¼) of Section Ten (10), Township Thirty-seven (37) North of Range Five (5) East, Concord Township, Elkhart County, Indiana, more particularly described as follows:

Beginning at a point fourteen hundred and thirty-nine (1,439) feet West of the Northeast corner of the South one-half (S ½) of the Northwest Quarter (NW ¼) of Section Ten (10) of said Township; thence South parallel with the East line of said South one-half (S ½) of the Northwest Quarter (NW ¼) to the center line of Goshen Avenue; thence Northwesterly on and along the center line of Goshen Avenue to the North line of the South one-half (S ½) of the Northwest Quarter (NW ¼); thence Easterly to the place of beginning.

Parcel No. 20-06-10154-001.000-012

Commonly Known As: 1210 Goshen, Elkhart, IN 46516

2. The above described real estate presently has a zoning classification of Commercial District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner presently occupies the above described property in the following manner:
As an auto repair garage
4. Petitioner desires to:
 - A. To fence in the entire property with four foot open railing fence in the front and 6 foot privacy fence in the rear as show in Exhibit "A" attached. There will also be 4 gates (approx. 30 foot wide) to close and lock. Also included as additional Exhibits are renderings of what the fence will look like when installed.
 - B. To add wording on the existing brick sign on the top of the shop
 - C. To be able to put advertising feather flags out, possibly 3 times a year for up to 30 days, to advertise services.
5. The Zoning Ordinance of the City of Elkhart under I.C. 36-7-4-918.4 and Section 29.9A. of the City of Elkhart Zoning Ordinance requires it meets the following listed under "6" below.

6. A. The approval will not be injurious to the public health, safety, moral and general welfare of the community
- B. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner. The fence will actually improve the view of the neighbors as it will hide any unsightly items, such as vehicles, trash bin, etc.
- C. Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance as the property is in a Zone ____.
- D. 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 as:
1. this is a corner lot and vehicles are trying to cut across avoiding the traffic light; and
 2. There has been theft of parts from the vehicles parked here as there are multiple points of egress and no way to secure the vehicles.
- E. 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 provision of this Ordinance as this corner is an unusual shaped corner property with a high percentage of road frontage and with multiple egress points making it more susceptible to thefts.
- F. The special conditions and circumstances do not result from any action or inaction by the applicant.

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

Octavio Maya

Contact Person: Octavio Maya
905 Wagner Ave
Elkhart, IN 46516
574-849-6642
Esm3maya@gmail.com

LEGAL DESCRIPTION

A part of Northwest Quarter (NW ¼) of Section Ten (10), Township Thirty-seven (37) North of Range Five (5) East, Concord Township, Elkhart County, Indiana, more particularly described as follows:

Beginning at a point fourteen hundred and thirty-nine (1,439) feet West of the Northeast corner of the South one-half (S ½) of the Northwest Quarter (NW ¼) of Section Ten (10) of said Township; thence South parallel with the East line of said South one-half (S ½) of the Northwest Quarter (NW ¼) to the center line of Goshen Avenue; thence Northwesterly on and along the center line of Goshen Avenue to the North line of the South one-half (S ½) of the Northwest Quarter (NW ¼); thence Easterly to the place of beginning.

Parcel No. 20-06-10154-001.000-012

Commonly Known As: 1210 Goshen, Elkhart, IN 46516

2019-22295

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
10/24/2019 03:18 PM
AS PRESENTED



QUIT-CLAIM DEED

THIS INDENTURE WITNESSETH that **JIMMY L. WALTERS**, "Grantor", of Elkhart County, State of Indiana,

RELEASES AND QUIT-CLAIMS to **WDX, LLC**, "Grantee", whose mailing address is C/o 1210 Goshen Avenue, Elkhart, Indiana 46516

For the sum of One Hundred Thirty-Two Thousand Five Hundred Dollars (\$132,500.00), the following Real Estate in Elkhart County, in the State of Indiana, to-wit:

A part of the Northwest Quarter (NW ¼) of Section Ten (10), Township Thirty-seven (37) North of Range Five (5) East, Concord Township, Elkhart County, Indiana, more particularly described as follows:

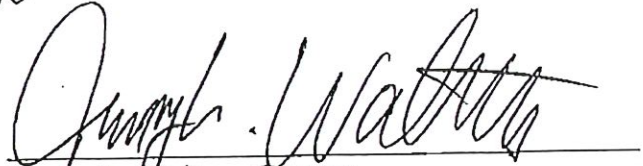
Beginning at a point fourteen hundred and thirty-nine (1,439) feet West of the Northeast corner of the South one-half (S ½) of the Northwest Quarter (NW ¼) of Section Ten (10) of said Township; thence South parallel with the East line of said South one-half (S ½) of the Northwest Quarter (NW ¼) to the center line of Goshen Avenue; thence Northwesterly on and along the center line of Goshen Avenue to the North line of the South one-half (S ½) of the Northwest Quarter (NW ¼); thence Easterly to the place of beginning.

Parcel No. 20-06-10154-001.000-012

This conveyance constitutes a land contract which has now been paid in full.

unrecorded DE

Dated this 24th day of October 2019.

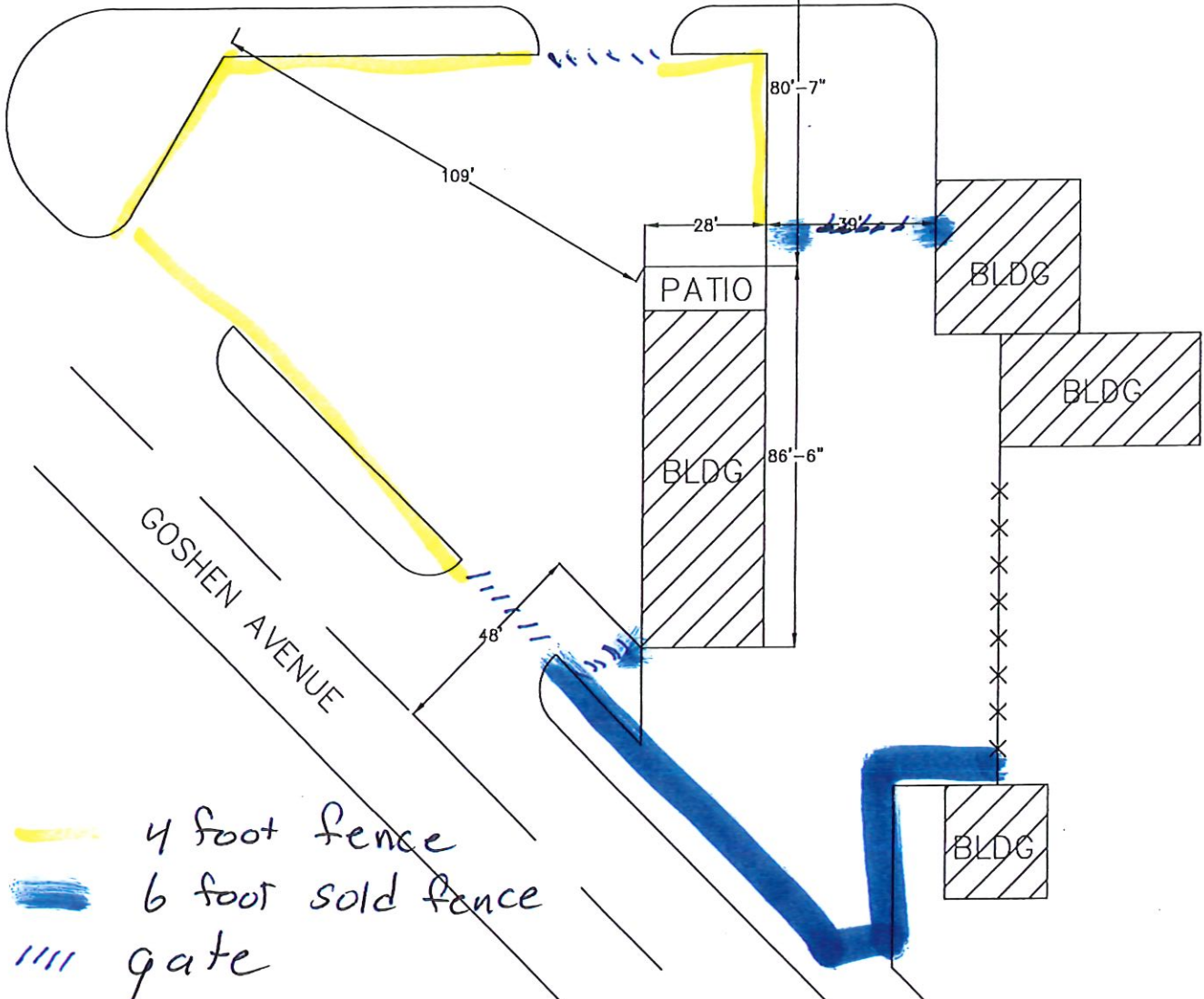

Jimmy L. Walters, Grantor

DISCLOSURE FEE PAID

afj

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
10-24 20 19
Patricia A. Perkins AUDITOR
TRANSFER FEE 10 005797
PARCEL NO.

TOLEDO ROAD



ONE MAYA AUTO REPAIR
1210 GOSHEN AVE
ELKHART, IN 46516

EXHIBIT
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6 foot fence

Goshen Ave

Goshen



EXHIBIT
Proposed
fence



EXHIBIT

Before



EXHIBIT
Before



EXHIBIT
*Proposed
Fence*

ETHANY
Visit bethanyvet.com

SERVICE CALL
SALES CALL



EXHIBIT
Proposed
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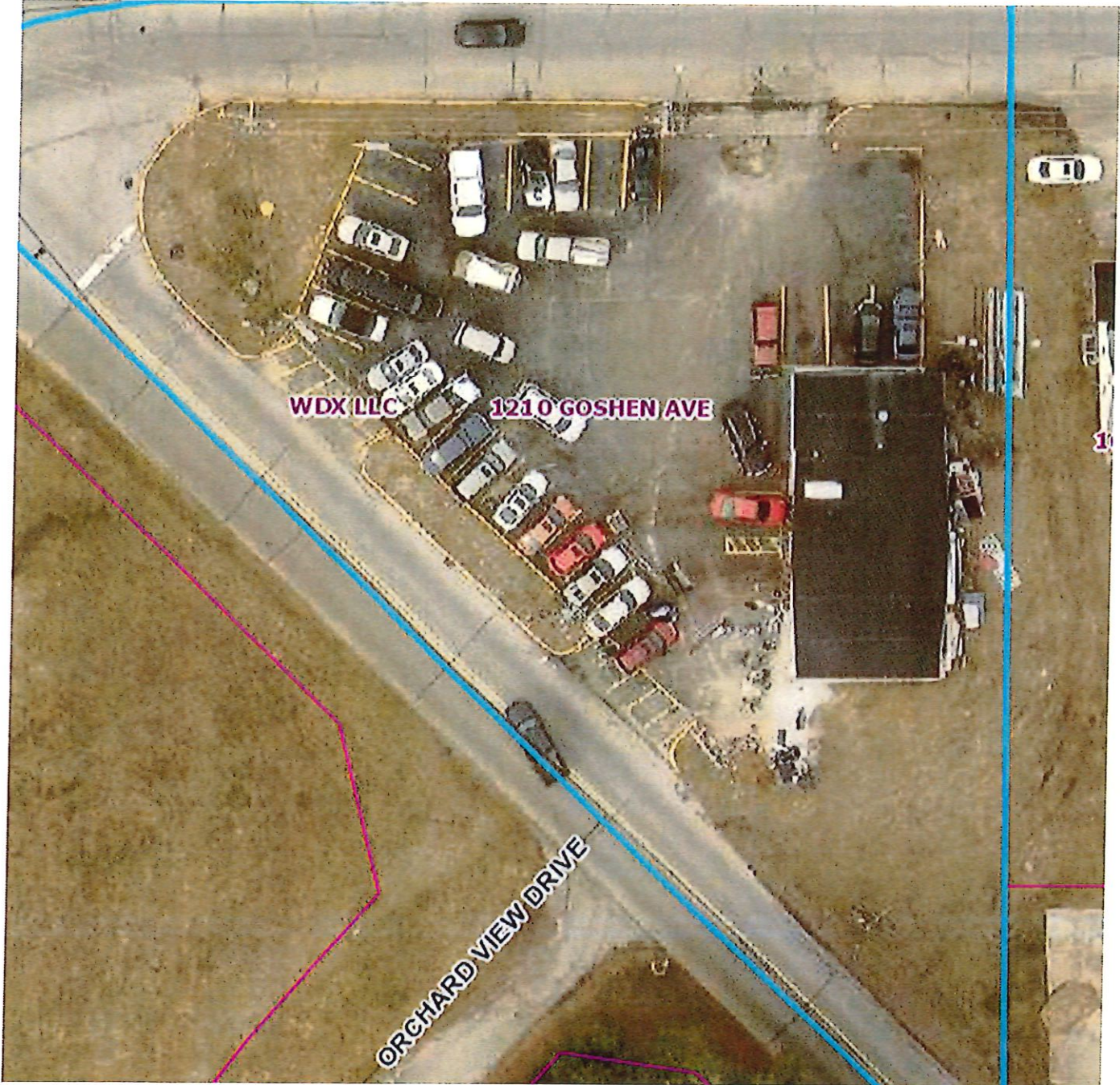
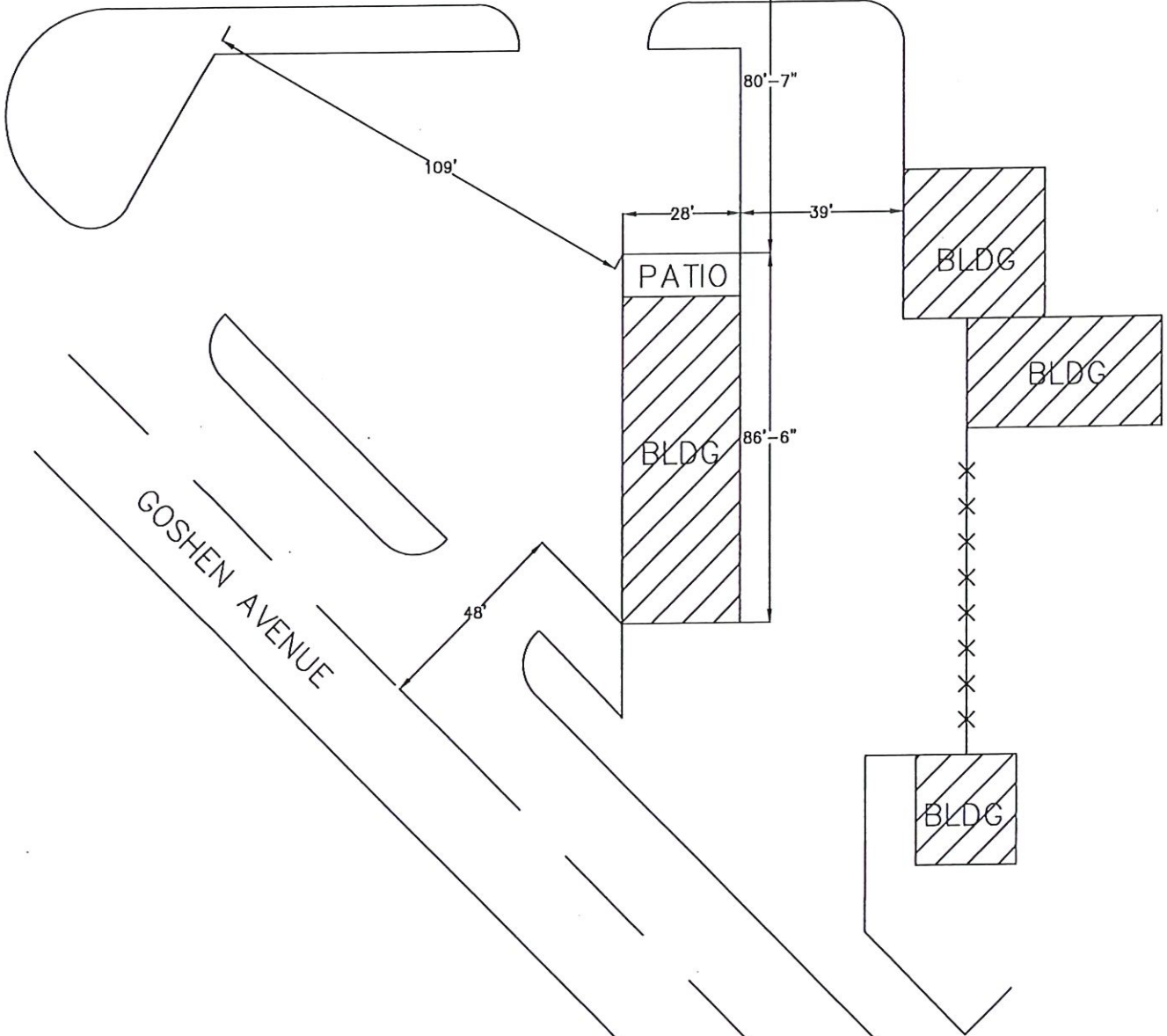


EXHIBIT
Alternate
option



TOLEDO ROAD



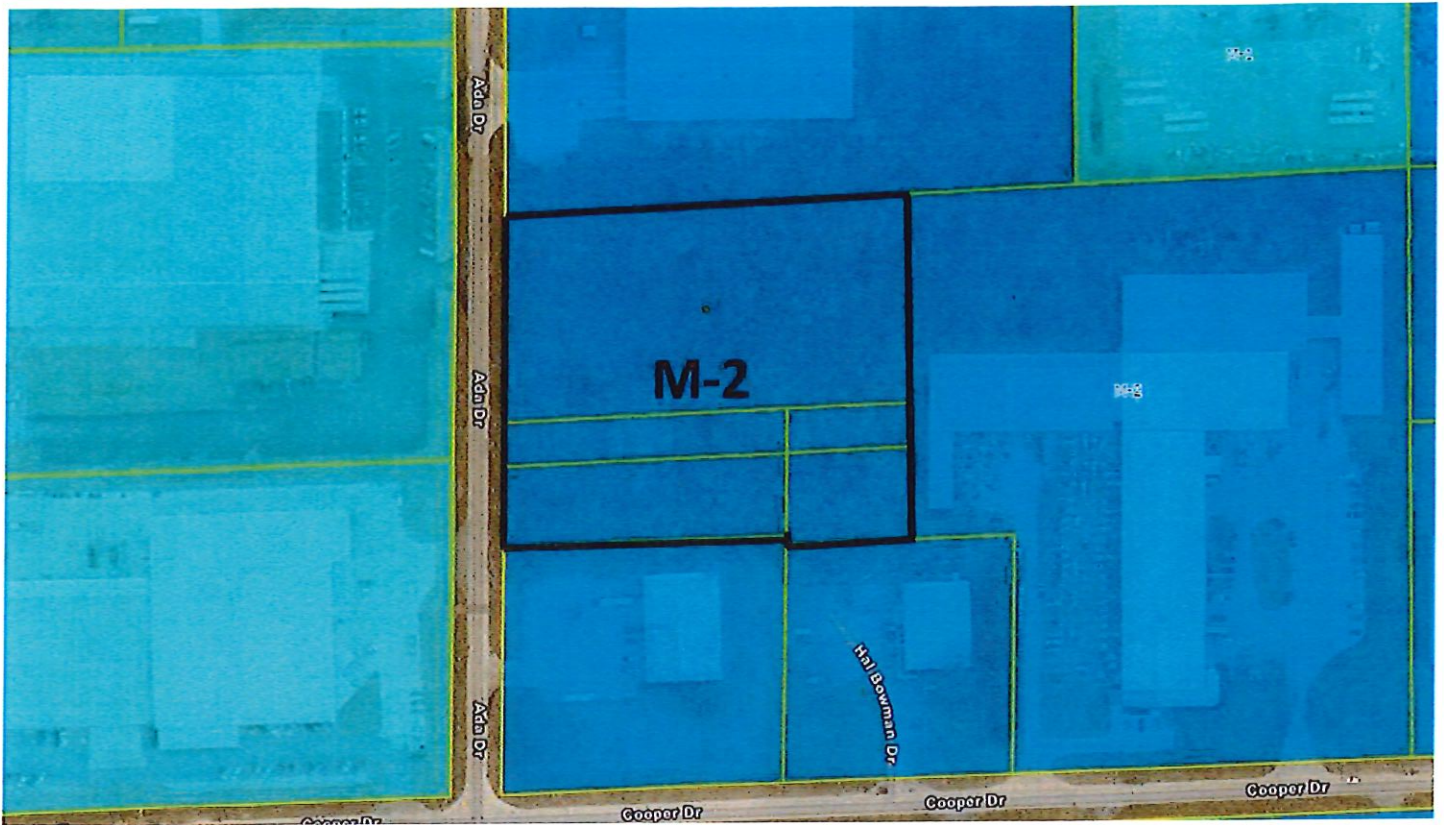
ONE MAYA AUTO REPAIR
1210 GOSHEN AVE
ELKHART, IN 46516



Staff Report

Planning & Zoning

<u>Petition:</u>	24-X-09
<u>Petition Type:</u>	Special Exception
<u>Date:</u>	Plan Commission: November 4, 2024; Board of Zoning Appeals November 14, 2024;
<u>Petitioner:</u>	City of Elkhart
<u>Site Location:</u>	Vacant Land Ada Drive
<u>Request:</u>	To vary from Section 19.3.A, Special Exception Uses, in the M-2, General Manufacturing District, which states 'All special exception uses permitted in the M-1, Limited Manufacturing District' to allow a Public Utilities and public services use (Section 18.3.J) for the construction of a new fire station
<u>Existing Zoning:</u>	M-2, General Manufacturing District
<u>Size:</u>	+/- 4.43 Acres
<u>Thoroughfares:</u>	Ada Drive
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available to site.
<u>Surrounding Land Use & Zoning:</u>	The site in question is surrounded by industrial uses
<u>Applicable Sections of the Zoning Ordinance:</u>	Enumerated in request.
<u>Comprehensive Plan:</u>	The Comprehensive Plan calls for this area to be developed with industrial uses.
<u>Plan Commission Action:</u>	Recommendation to Board of Zoning Appeals.



Staff Analysis

The petitioner is requesting a special exception to allow for the construction of a new fire station.

The request is part of the City of Elkhart's plan to construct a new Station #6. The new Station #6 will replace the current Station #6 at the intersection of Osolo Road and Bristol Street. The new facility on Ada will be in the same sector, Sector 6.

The new station will allow for improved fire protection in the north east area of the city that has experienced much industrial growth around the CR 17 corridor. Sector 6 has several high hazard occupancy facilities within the sector. Those include four (4) nursing homes and three (3) schools.

The new 13,000 square foot station will have capacity for larger apparatus bay for three bays, living quarters, sleeping quarters and administration spaces.

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 all structures will be located within the same Sector 6 and be built per all applicable local building codes;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because the new station will provide improved fire response and will not impact the adjacent uses;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because the equipment will not generate adverse effects on adjacent properties with noise, emissions or vibrations.

Photos



Oct 22, 2024 at 12:43:54 PM
2749-2761 Ada Dr
Elkhart IN 46514
United States



Oct 22, 2024 at 12:44:37 PM
2725-2747 Ada Dr
Elkhart IN 46514
United States

Oct 22, 2024 at 12:44:05 PM
2725-2747 Ada Dr
Elkhart IN 46514
United States



October 4, 2024

City of Elkhart
Department of Public Works
1201 S. Nappanee Street
Elkhart, IN 46516

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Special Exception Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. The City of Elkhart (Department of Public Works) is the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit:

- 20-02-26-126-026.000-027
- 20-02-26-126-019.000-027
- 20-02-26-126-027.000-027
- 20-02-26-126-031.000-027
- 20-02-26-126-029.000-027

Please see **Attachment A** for the full and accurate legal description of all properties referenced above.

2. The above-described real estate presently has a zoning classification of M-2 General Manufacturing 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 property is unoccupied and heavily vegetated. Approximately two acres have been cleared in anticipation of future construction. The City proposes to construct a fire station on the site.
4. **Petitioner desires to:** construct a fire station on the site with the following features:
 - Approximately 13,000 gross square foot facility.
 - o Apparatus Bay with three bays.
 - o Living Quarters.
 - o Sleeping Quarters.
 - o Administration Spaces.
 - Parking Lot with access drive.
 - Storm water retention basin.
5. **The Zoning Ordinance of the City of Elkhart requires:** the properties to follow Section 19, M-2, General Manufacturing District zoning requirements.

Section 19.3, K. Special Exception Uses: The submittal is for the approval of a Special Exception in the M-2 district. The project includes the construction of a new fire station, which meets the criteria of subsection K.: "any other use not qualifying as a permitted use in the M-2 District."

Section 19.6 Yard Requirements:

- Lot size: no minimum.
- Frontage: no minimum.
- Setbacks:
 - Front yard = 25 feet.
 - Side yards = 15 feet, or 50 feet when abutting a residential district.
 - Rear yard = 10 feet, or 50 feet when abutting a residential district.
 - Corner side yard = The corner side yard setback is determined by measuring the average established setback of the structures within the same block between 2 intersecting streets. This calculation would equal the established front yard setback for the side street.
- Maximum Structure Height: 75 feet; maximum of two towers of 90 feet in height.
- Maximum Lot Coverage for Structures: 60% total for all structures.
- F.A.R.: 3.

Refer to the accompanying Site Development plan for indications of required setbacks and structure locations. The stair tower of the Fire Station is 36 feet above grade, which is less than the maximum structure height of 75 feet. The lot coverage including the fire station and driveway is 25%, which is below the maximum lot coverage amount of 60%.

Section 19.7, H. Screening Requirements: The property is surrounded on all four sides by other M-2 classified properties, and does not abut residentially zoned areas. Therefore, there are no screening requirements.


Section 26.4, C.: Fencing Requirements in Manufacturing Districts: Fences or walls constructed at the property lines shall not exceed eight feet in height. No perimeter fencing/screening is required for this project. Fencing provided to screen mechanical and service areas will not exceed the maximum height.

6. **Explain why this property is suited to the special exception use being requested.** This property is suited to the special exception use being requested for a variety of reasons. The property is big enough to accommodate a larger Fire Station No. 6 that houses more fire fighting apparatus and associated staff to provide increased fire fighting services to the community. The property is already owned by the City of Elkhart and does not require additional City funds to procure. The property is located within the same Sector 6 as the existing Fire Station No. 6, meaning that the change of location will not adversely affect service coverage according to the most recent Fire Sector Analysis. The functions of a Fire Station are not substantially different from the surrounding M-2 classified properties. The property is not adjacent to residentially classified properties.
7. Using the standards from page 3, address each standard. You cannot answer simply Yes or No; you must state **why** this is true (the reason for your answer).
 - a. **The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected.** The location of a new fire station on this property will provide faster response times to the surrounding properties. The size of the property allows for a larger fire station with more fire-fighting apparatus and staff to provide an increased level of fire protection services to the surrounding community.

Location of the fire station in an M-2, rather than a residential zone, lowers the risk of potential impacts with pedestrians and noise infringement.

- b. **The Special Exception will not reduce the values of other properties in its immediate vicinity.** All properties in the immediate vicinity are classified M-2; none are residential. Location of a fire station at this property can result in faster response times to an incident, which is a benefit. The new Fire Station No. 6 will utilize similar massing and materials that surrounding structures exhibit to fit within the surrounding context, albeit in an aesthetically enhanced manner to convey the civic importance of the facility.
- c. **The Special Exception shall conform to the regulations of the zoning district in which it is to be located.** The regulations of the zoning district will be followed with regard to the project described above.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the board grants the requested variance.

Signature of Property Owner:  _____

Printed Name: TONY IRWIN _____

Secondary Property Owner: _____

Printed Name: _____

Contact Person:

Name: Zachary Flagle, AIA - DLZ Indiana, LLC

Address: 2211 E. Jefferson Blvd, South Bend, IN 46615

Phone Number where you can be reached: 574-236-4400

Email: zflagle@dlz.com

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 20-02-26-126-026.000-027, 20-02-26-126-019.000-027, 20-02-26-126-027.000-027,
20-02-26-126-031.000-027 and 20-02-26-126-029.000-027

PARCEL 1: 20-02-26-126-026.000-027, 20-02-26-126-019.000-027, AND 20-02-26-126-027.000-027

THE SOUTH TWO HUNDRED FORTY-FIVE (245) FEET OF LOT NUMBER A-FORTY (A-40) AND THE NORTH FIFTY (50) FEET OF LOTS NUMBERED A-FORTY-ONE (A-41) AND A-FORTY-TWO (A-42), AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

THE EAST 200 FEET OF OF THE SOUTH 245 FEET OF LOT NUMBERED A-40, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, LESS AND EXCEPTING THEREFROM THE FOLLOWING:

THE NORTH 50 FEET OF THE EAST 200 FEET OF LOT NUMBERED A-42, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

PARCEL 2: 20-02-26-126-031.000-027

LOT NUMBER A-41, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

LESS AND EXCEPT THE FOLLOWING 2 PARCELS:

(I) THE SOUTH 289 FEET OF LOT NUMBER A-41, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

EXHIBIT "A"
Legal Description

(II) THE NORTH FIFTY (50) FEET OF LOT NUMBERED A-FORTY-ONE (A-41), AS THE SAID LOT KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

PARCEL 3: 20-02-26-126-029.000-027

LOT NUMBER A-FORTY-TWO (A-42) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

LESS AND EXCEPT THE FOLLOWING 4 PARCELS:

(I) THE NORTH FIFTY (50) FEET OF LOT NUMBERED A-FORTY-TWO (A-42), AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

(II) THE EAST TWO HUNDRED (200) FEET OF THE SOUTH ONE HUNDRED FIVE (105) FEET OF THE NORTH ONE HUNDRED FIFTY-FIVE (155) FEET OF LOT NUMBERED A-FORTY-TWO (A-42), AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

(III) THE EAST SEVENTY-FIVE (75) FEET OF THE SOUTH TWO HUNDRED EIGHTY-NINE (289) FEET OF LOT NUMBERED A-FORTY-TWO (A-42), AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

(IV) THE WEST TWO HUNDRED SEVENTY-FIVE (275) FEET OF THE SOUTH TWO HUNDRED EIGHTY-NINE (289) FEET OF LOT NUMBERED A-42 AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ATTACHMENT A

COMPILED DEEDS

2023-10924

ELKHART COUNTY RECORDER
KAALA BAKER
FILED FOR RECORD ON
07/07/2023 08:15 AM
AS PRESENTED

Fidelity National
Title Company LLC

LIMITED LIABILITY COMPANY
WARRANTY DEED

File No.: 792300126-ASH

THIS INDENTURE WITNESSETH, that Ludwig & Miller, LLC, an Indiana limited liability company (Grantor) CONVEY(S) AND WARRANT(S) to City of Elkhart by its Board of Public Works (Grantee) for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in Elkhart County in the State of Indiana, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Property: V/L Ada Drive, Elkhart, IN 46514

Subject to all current real estate taxes and assessments and all subsequent taxes and assessments.

Subject to all easements, covenants, conditions, and restrictions of record.

IN WITNESS WHEREOF, The undersigned person(s) executing this deed on behalf of Grantor(s) represent and certify that they are a current member/manager of said Grantor(s) and have been fully empowered, by proper meeting and vote of Grantor(s) to execute and deliver this deed.

IN WITNESS WHEREOF, Grantor has executed this deed this 10 day of July, 2023.

Ludwig & Miller, LLC, an Indiana limited liability company

BY: Anthony P. Dibley
Anthony P. Dibley
Manager

HC

KK

20-02-26-126-019/026/027.000-027
20-02-26-126-029/031.000-027

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

Jul 07 2023

PATRICIA A. PICKENS, AUDITOR

02800

50.00

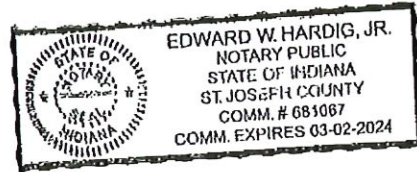
STATE OF Indiana

COUNTY OF Elkhart

Before me, a Notary Public in and for said County and State, personally appeared Anthony P. Dibley, as Manager of Ludwig & Miller, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 6 day of July, 2023

Signature: Edward W Hardig
Printed: _____
Resident of: _____ County
State of: _____
My Commission expires: _____



Prepared By: Edward W. Hardig, Jr., Attorney at Law
401 W. High Street, Elkhart, IN 46516
IN19199-71/MIP60319

Grantee's Address and Tax Billing Address: 1201 S. Nappanee St.
Elkhart, IN 46516

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: Jeff Lade.

Return To: Fidelity National Title Company, LLC
401 W. High Street, Elkhart, IN 46516

NORTHLAND PARK SECOND SECTION

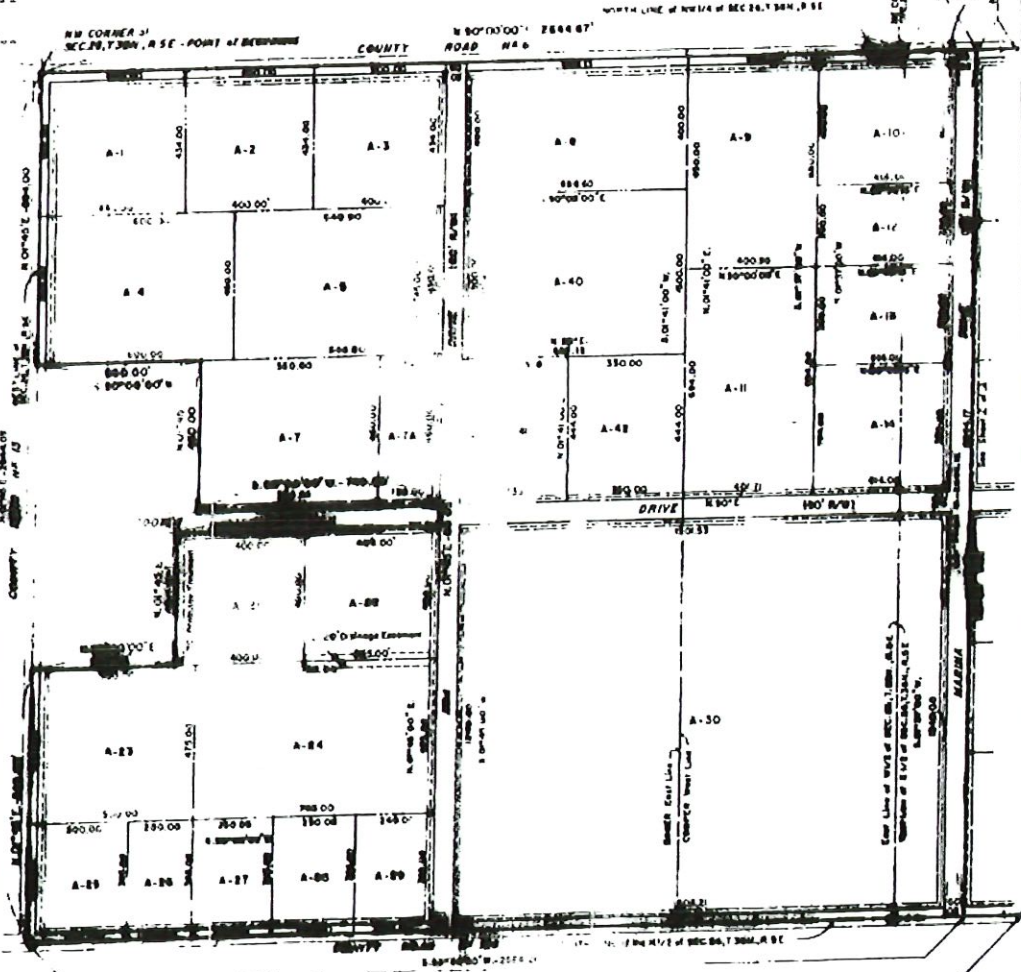
OBOLO TWP.

ELKHART CO.

INDIANA



RECORDING DISCLAIMER
 This document is being recorded as presented, under the direction of the recorder, and the recorder is not responsible for the accuracy of the information contained herein. The recorder is not a party to the transaction and does not warrant the accuracy of the information contained herein. The recorder is not a party to the transaction and does not warrant the accuracy of the information contained herein. The recorder is not a party to the transaction and does not warrant the accuracy of the information contained herein.



TYPICAL SUBDIVISION
 Co. Rd. 1000
 Co. Rd. 1000
 Co. Rd. 1000
 Co. Rd. 1000

TYPICAL SUBDIVISION
 ADD DRIVE
 COUNTY ROAD
 MARINA DRIVE

NORTHLAND PARK SECOND SECTION

DEDICATION

Know all men by these presents that the undersigned, as proprietors, have caused the above described land to be surveyed and subdivided as shown on plat drawn above, that said subdivision is to be known as 'NORTHLAND PARK SECOND SECTION', that the lots are numbered and have their respective dimensions given in feet and decimals thereof as shown on said plat and that the streets included in said subdivision as shown on said plat are hereby dedicated for public use.

OWNER OF LOT A-3

Roger Raymond Karasch
Roger Raymond Karasch
P. O. Box 501
Elkhart, IN 46514

OWNER OF LOT A-4

Myrl W. Balch, Jr.
Myrl W. Balch, Jr.
23982 Greenleaf Boulevard
Elkhart, IN 46514

OWNERS OF LOT A-5

Robert Holoy
Robert Holoy
Partners, d/b/a H & K Associates

Edwin E. Ksiezopolski
Edwin E. Ksiezopolski

OWNER OF LOT A-7-A

James A. Wagner
James A. Wagner
2338 Sylvan Lane
Elkhart, IN 46514

OWNERS OF LOTS A-21 & A-22

James L. Macumber
James L. Macumber
As Tenants in Common
519 South Tenth Street
Elkhart, IN 46514

Fremoh H. Macumber
Fremoh H. Macumber

OWNER OF LOTS A-23, A-25 & A-26

Frank P. Lipps
Frank P. Lipps
1107 Greenleaf Boulevard
Elkhart, IN 46514

OWNER OF LOT A-15

Jerry E. Kimmel
K & E Land and Leasing
A Texas Partnership
Jerry E. Kimmel, Partner

OWNERS OF LOT A-43

George Frouzlis
George Frouzlis

ANDY FROUTZIS
Andy Frouzlis

OWNER OF LOT A-31

Geocol Limited, Inc.
An Indiana Corporation
1430 Mishawaka Road
Elkhart, IN 46514

Don Krabill
Don Krabill, President
OWNERS OF LOT A-33

Robert SHERELIS
ROBERT SHERELIS, SECRETARY

Judd A. Lowenhar
Judd A. Lowenhar
Husband & Wife
1834 Crabtree Lane
Elkhart, IN 46514

Regina E. Lowenhar
Regina E. Lowenhar

OWNERS OF ALL OTHER LOTS

Allan J. Ludwig
Allan J. Ludwig

David J. Miller
David J. Miller

STATE OF INDIANA
COUNTY OF ELKHART S.S.

Before me the undersigned Notary Public in and for said County and State, personally came the above named individuals and acknowledged the execution of this plat.
Witness my hand and Notarial Seal this 17th day of October, 1977.

My Commission Expires:
12/22/80

STEPHEN MACUMBER
Notary Public
STEPHEN MACUMBER

Approved by the Elkhart County Plan Commission this 12th day of October, 1977.

John K. Letherman
JOHN K. LETHERMAN - PRESIDENT

Elmer Welch
Elmer Welch - Secretary

Approved by the Board of County Commissioners of Elkhart County, Indiana, the 17th day of October, 1977.

Thomas W. Romberger
Thomas W. Romberger

Har Doriot
Har Doriot

Patsy Ronyone
Patsy Ronyone
Duly entered for taxation this 17 day of October, 1977.

Charles R. Miller
CHARLES R. MILLER - Auditor - Elkhart County

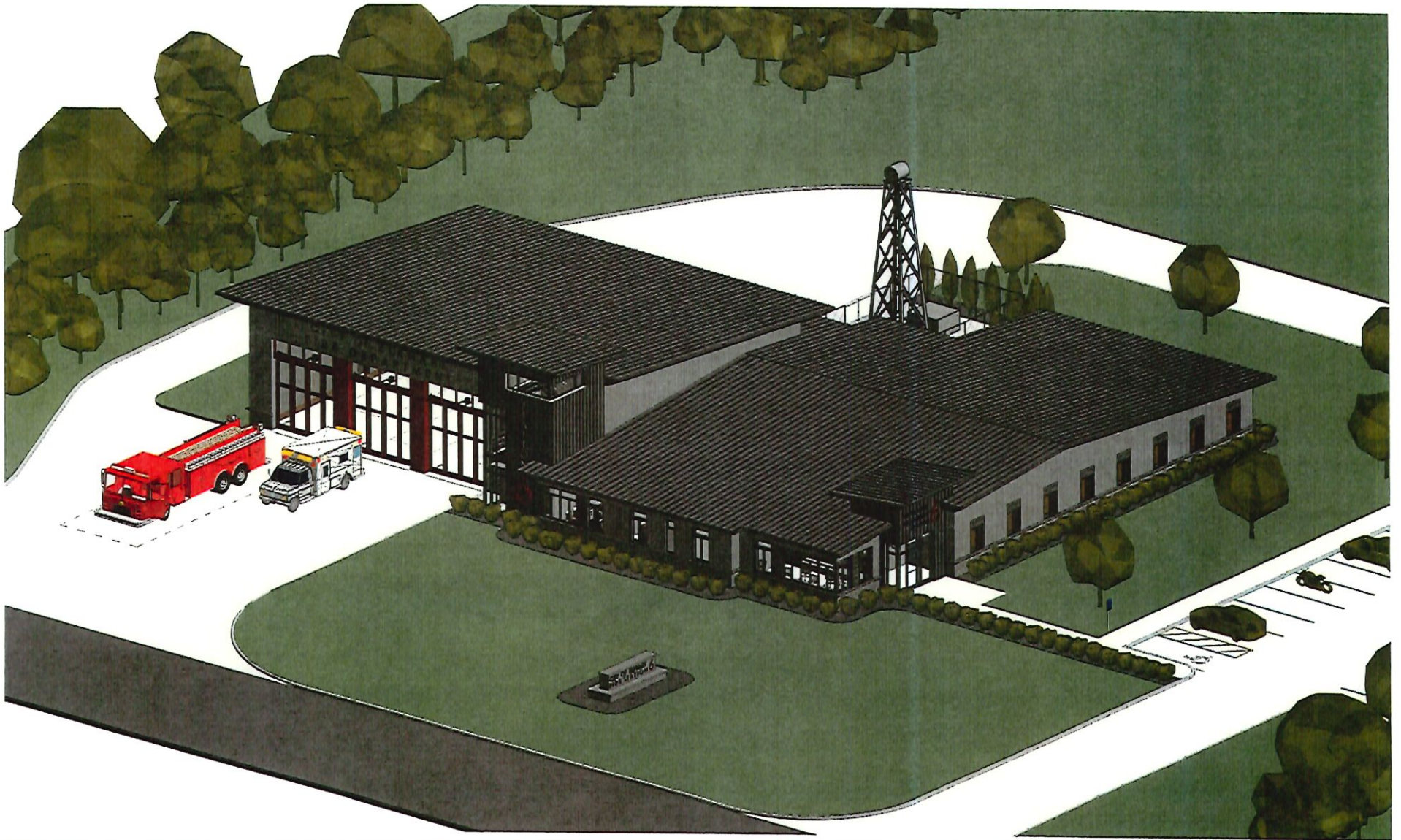
Received for record this 17 day of October, 1977
at 12:25 P.M. and
Recorded in Plat Record No. 13 Page 62
Fee \$ 9.00

Marjorie L. Milbourn
638877
Marjorie L. Milbourn, Recorder - Elkhart County

RECORDER'S DISCLAIMER
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ATTACHMENT B

SITE EXHIBITS



ELKHART

CITY OF ELKHART
NEW FIRE STATION NO. 6

EXTERIOR AXONOMETRIC

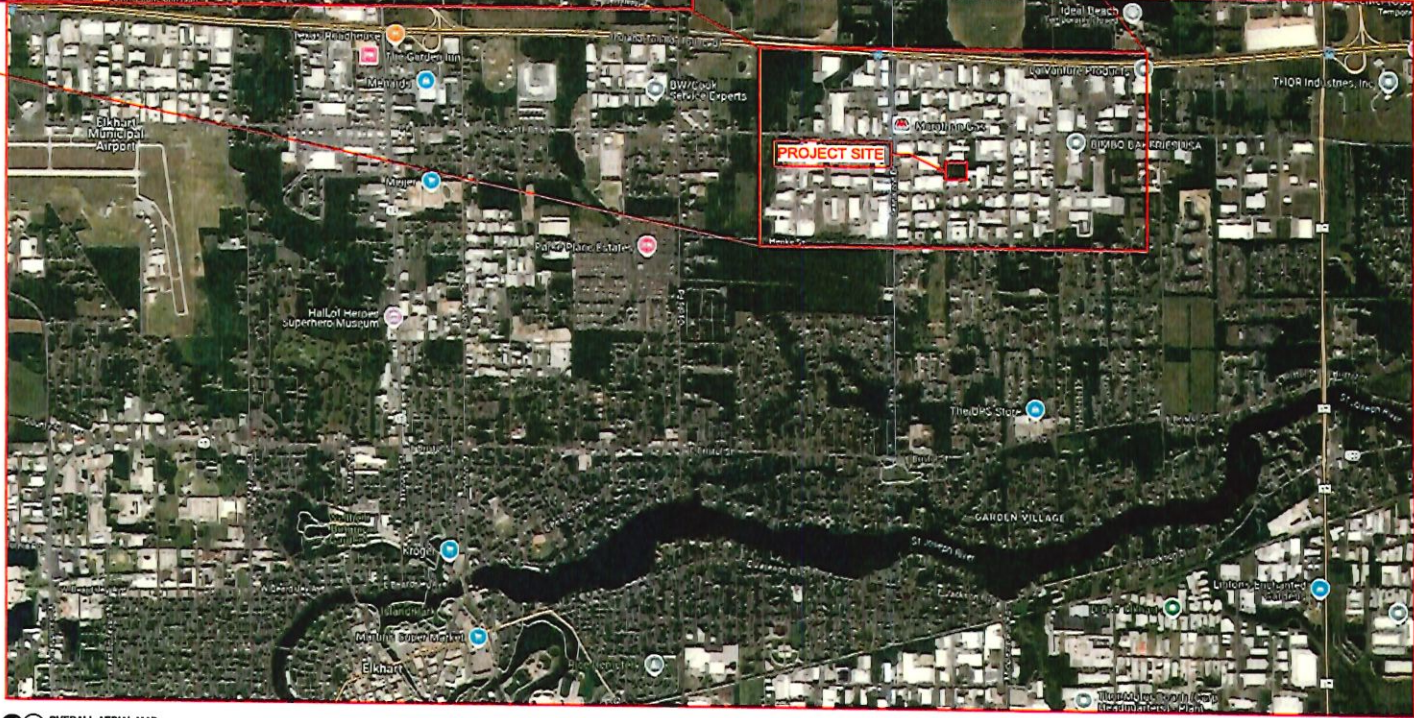
INDIANA

DATE	AUGUST 30, 2024
PROJECT NUMBER	2361-4982-50

SKETCH NUMBER	A15.2
---------------	-------



1-2 ENLARGED AERIAL MAP
 NORTH



1-1 OVERALL AERIAL MAP
 NORTH

 DLZ ARCHITECTURE · ENGINEERING · PLANNING SURVEYING · CONSULTING SERVICES DLZ-INDIANA, LLC	NOT FOR CONSTRUCTION		DATE	
			APPROVAL	
ELKHART CITY OF ELKHART NEW FIRE STATION NO. 6 AERIAL MAPS	INDIANA PLANNING AREA / COUNTY / COMMUNITY DEVELOPMENT APPROVAL / APPROVAL DATE / PROJECT NUMBER 2361-4982-50	PROJECT NUMBER 2361-4982-50	DATE	
SD1.0			DATE	

DRAWING NUMBER
SD2.0

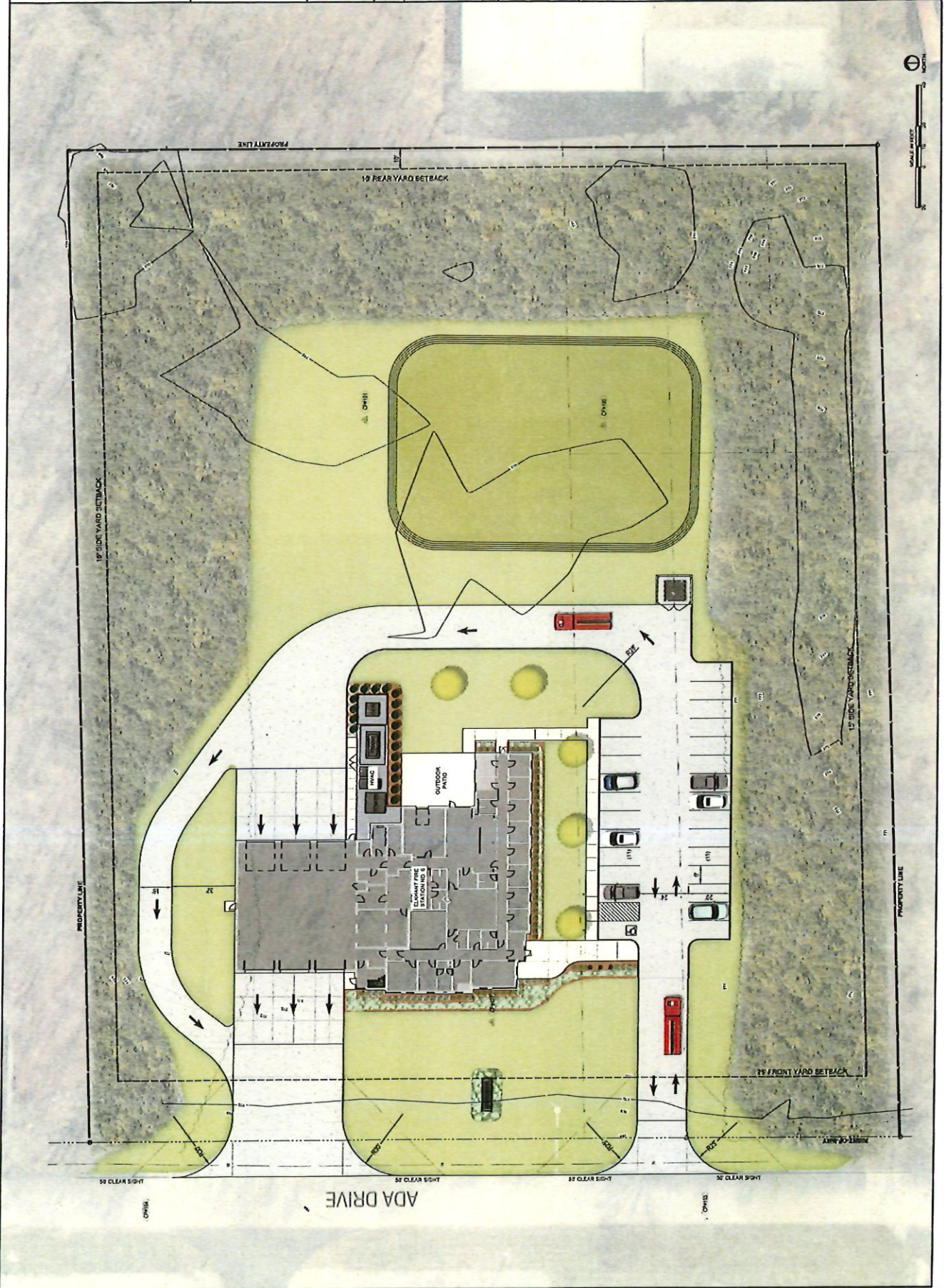
CITY OF ELKHART
ELKHART FIRE STATION NO. 6
CONCEPTUAL SITE PLAN

STATE: INDIANA
DATE: 08/11/2011
PROJECT NUMBER: 2361-4982-50

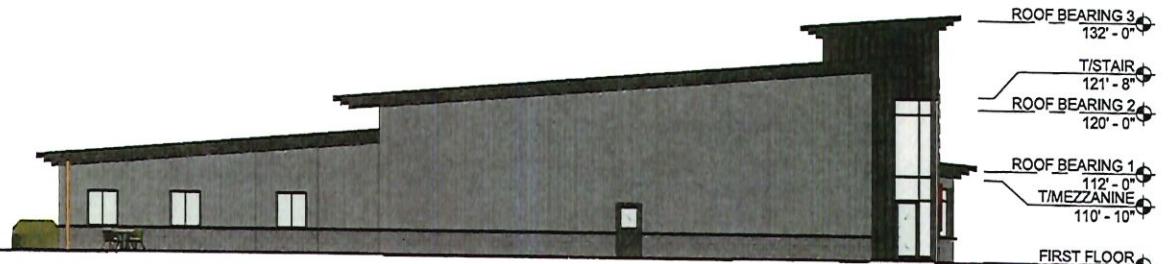
NO.	REVISION	DATE

NOT FOR
CONSTRUCTION

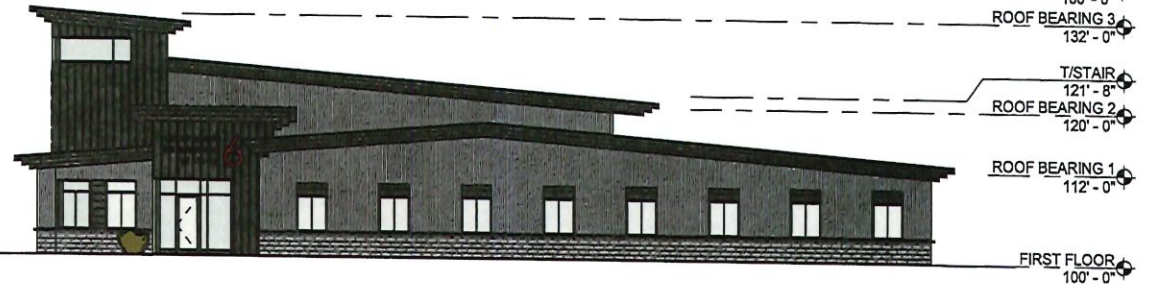
DLZ
ARCHITECTURE - ENGINEERING - PLANNING
SURVEYING - CONSTRUCTION SERVICES
212 ADKINS, LLC



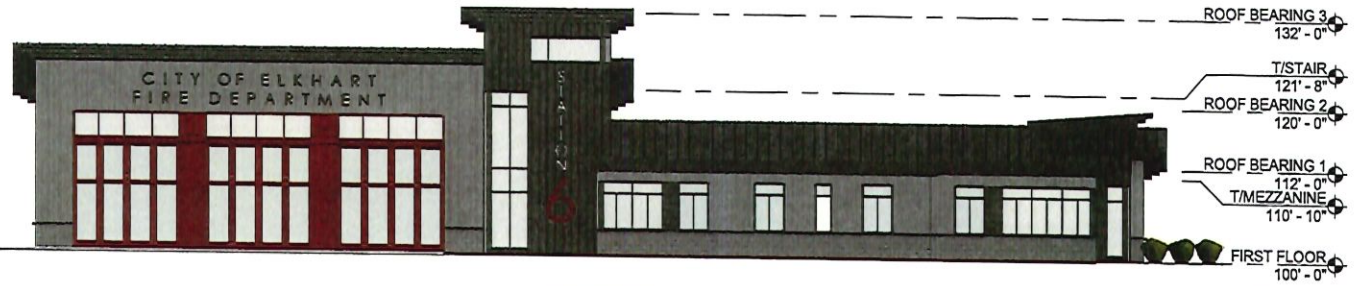
4 NORTH EXTERIOR ELEVATION
SCALE: 1/16" = 1'-0"



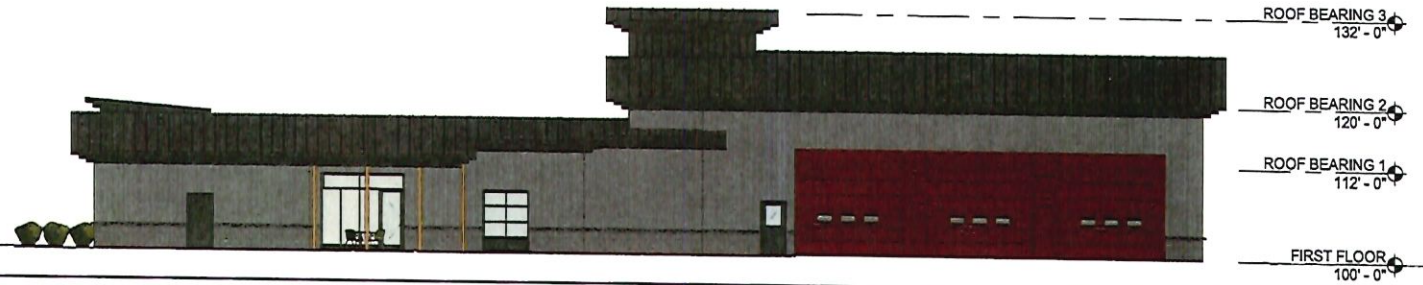
3 SOUTH EXTERIOR ELEVATION
SCALE: 1/16" = 1'-0"



2 WEST EXTERIOR ELEVATION
SCALE: 1/16" = 1'-0"



1 EAST EXTERIOR ELEVATION
SCALE: 1/16" = 1'-0"



	ELKHART	CITY OF ELKHART	INDIANA	DATE	SKETCH NUMBER A5.1
		NEW FIRE STATION NO. 6		AUGUST 30, 2024	
		EXTERIOR ELEVATIONS - PREFERRED CONCEPT		PROJECT NUMBER 2361-4982-50	