

AGENDA
ELKHART CITY BOARD OF ZONING APPEALS
THURSDAY, SEPTEMBER 12, 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 JULY 11, 2024**
4. **APPROVAL OF PROOFS OF PUBLICATION**

5. **OLD BUSINESS**

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

6. **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.

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.

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

Per Section 6.3, Special Exception Uses, (4.3 J) Public Utilities and public service uses to allow for the construction of a new lift station, equipment building, monorail system, fence and CSO storage tank.

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.

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.

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.

7. ADJOURNMENT

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

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, July 11, 2024 - Commenced at 6:00 P.M. & adjourned at 7:01 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

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

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 AMENDED AGENDA

Mulvaney moves to approve an amended agenda and tabling 24-UV-04, 24-BZA-06, and 24-BZA-12.
Davis makes motion to approve; Second by Evanega Rieckhoff. Voice vote carries.

APPROVAL OF MINUTES FOR APRIL 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-BZA-09 PETITIONER IS MARK SHARP & COLLETTE SHARP PROPERTY IS LOCATED AT 1626 W EAST LAKE DR

To vary from the requirements found in Section 26.7.C.7.o.ii.(a), Pedestrian Access, which states in part 'For new construction on vacant land, both a public sidewalk as per City standards and the required designated pedestrian connections shall be installed,' to allow for no public sidewalk.

Trotter states that since there was a lack of a majority vote last month, Staff suggests that if the municipality reconstructs the public right of way, the homeowner will not object to installing public sidewalks as a part of the project. Trotter says that if the Board approves the request, Staff offers a condition that if the municipality reconstructs the public right of way, the homeowner will not object to installing public sidewalks as part of the project.

Mulvaney calls the petitioner forward.

Mark Sharp and Collette Sharp appear in person as the petitioners. Mark states that he has no objections to the condition put forward by Staff.

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 the requirements found in Section 26.7.C.7.o.ii.(a), Pedestrian Access, which states in part 'For new construction on vacant land, both a public sidewalk as per City standards and the required designated pedestrian connections shall be installed,' to allow for no public sidewalk.

The petitioner built a home, which was completed earlier this year, on one of the last remaining vacant tracts of land within the East Lake Subdivision north of Bristol Street; there are two or three vacant lots remaining throughout the subdivision. This subdivision was established in the mid 1950's with the majority of the homes being built into the 1990's. The site that is part of the request is in the third phase of the subdivision where no adjacent sidewalks currently exist. Typically, the later phases (three or four) of the eleven, in the subdivision have public sidewalks, mainly in the central and northern part of the neighborhood.

Staff recognizes the concerns posed by the petitioner in their submittal material around maintenance and aesthetics. However, this circumstance is not unlike many other circumstances in the city where development has occurred over time – even this subdivision is evidenced where sidewalks exist in some areas and not others. Sidewalks provide a designated place for pedestrians and allow for the separation of pedestrians from automobile traffic. Part of living in a more urban area include the urban elements which include sidewalks.

As a compromise to the lack of majority vote last month, Staff offers this suggestion - In the event the municipality undertakes a reconstruction of the public right of way, the home owner will not object to the installation of public sidewalks as a part of the project.

STAFF RECOMMENDATION

The Staff recommends denial of the developmental variance to vary from the requirements found in Section 26.7.C.7.o.ii.(a), Pedestrian Access, which states in part 'For new construction on vacant land, both a public sidewalk as per City standards and the required designated pedestrian connections shall be installed,' to allow for no public sidewalk based on the following findings of fact:

1. The approval will be injurious to the public health, safety, morals or general welfare of the community because it is necessary to establish standards regulating off street parking, pedestrian movement and in part for the enhancement 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 new home is in an area of the subdivision with no existing sidewalk system;
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 not exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the public sidewalk in question could have been installed at the time of construction;
5. The strict application of the terms of this Ordinance not will result in practical difficulties in the use of the property because the public sidewalk in question could have been installed at the time of construction;
6. The special conditions and circumstances do result from any action or inaction by the applicant because the petitioner chose not to install the sidewalk and file for relief from the requirement;
7. This property does not lie within a designated flood area.

CONDITIONS

Should the BZA choose to approve the request, the Staff offers the following condition:

1. In the event the municipality undertakes a reconstruction of the public right of way, the home owner will not object to the installation of public sidewalks as a part of the project.

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-09 and adopt the petitioner's documents and presentations 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
- Boecher – Yes

Motion carries.

NEW BUSINESS

**24-BZA-11 PETITIONER IS ROGER ELLSWORTH & KELLY ELLSWORTH
PROPERTY IS LOCATED AT VAC-LOT 406 RIVER POINTE DRIVE (CURRENTLY VACANT) - 20-05-12-201-017.000-006**

To vary the requirements of Section 4.4, Yard Requirements, for the front yard average established setback of sixty-two and eight hundredths (62.08) feet, to allow the construction of a single family residence at a front yard setback of forty-three and eight tenths (43.8) feet, a variance of eighteen and twenty eight hundredths (18.28) feet.

Mulvaney calls the petitioner forward.

Crystal Welsh appears in person on behalf of the petitioner. Welsh says the petition intends to allow for the construction of a single-family residence. She states that one of the main attractions of a property like the petitioners is river and water access. So, the developer is looking for the best way to get a house on the lot without impacting adjacent property views. Welsh says the setbacks were chosen to be far from the water; however, they infringe on average setbacks for the front yard. She says they are looking for the best solution, and encroaching on the front yard less impacts the neighbors than the rear yard setbacks.

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 the requirements of Section 4.4, Yard Requirements, for the front yard average established setback of sixty-two and eight hundredths (62.08) feet, to allow the construction of a single family residence at a front yard setback of forty-three and eight tenths (43.8) feet, a variance of eighteen and twenty eight hundredths (18.28) feet.

The petitioner is proposing to build a new single family dwelling on the river front Lot 27 in the Lexington Landing Subdivision. The proposed home meets the setback requirements for the river frontage and because of the configuration of the home, a front yard variance is required. The lot, by the zoning ordinance development standards has two front yards – the street frontage and the river front side of the property. The ordinance requires the setback be calculated for the front and rear (for river front lots) be established by determining the average for that part of the street. This method for determining setback, helps to protect the adjacent property owners' views to the river. Which is why most people live on the river – the view.

Since 2007, this is the third developmental type variance for setback on River Pointe Drive. On a river front lot, in a developed neighborhood, this is not that uncommon a variance. Most times, the homeowner will want to maximize the view of the river and in order to also not block the view of other surrounding properties, some sort of variance is required. The proposed L-shaped home configuration is also common for water front parcels where the property owner wishes to maximize the number of rooms in the home having water views.

The scale of home is not out of character for the neighborhood and may in fact be desirable in terms of property values. Given the constraints of the established setback, it will not allow a home of this scale to be built without some measure of relief.

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 both the front and rear setbacks are similar to adjacent properties;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed structure will have a significant setback in both the front and rear yards;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because its allows a measure of relief when uniquely warranted;
4. Special conditions and circumstances do exist that are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the established setbacks create a hardship on this particular plot of land;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it limits the scale of housing on the lot;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because the setbacks were established by neighboring properties;
7. This property does lie within a designated flood area. That part of the subdivision has an approved LOMR-F. The applicant will take appropriate steps to raise the floor level above the base flood elevation.

Trotter states that 15 letters were mailed, two of which were returned in favor, with one comment that they have concerns with the 54-foot side where the rear setbacks will align with their property. Trotter says one letter was returned not in favor, with no comment.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes motion to approve 24-BZA-11 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

Boecher – Yes

Motion carries.

**24-BZA-13 PETITIONER IS MARIA LOURDES LARIOS SALMERON
PROPERTY IS LOCATED AT 1517 WEST FRANKLIN STREET**

To vary from Section 6.4, Yard Requirements, Front Yard setbacks, to allow the front porch to be enclosed which alters the average front yard setback for the block. The average front yard setback for the block is 15.38 feet. To allow the front porch to be enclosed that would have a new setback of 11 feet, a variance of four and thirty eight hundredths (4.38) feet.

Mulvaney calls the petitioner forward.

Maria Lourdes Larios Salmeron appears in person as the petitioner. Hugo Robles Madrigal, the Secretary of the Board of Zoning Appeals, translates for the petitioner. Salmeron states that she wants to enclose her front porch due to safety concerns for her children.

Mulvaney asks for questions from the Board.

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

William Lane appears in person in opposition to the petition. Lane says the petitioner has failed to integrate positively into the neighborhood since moving to Franklin Street. Lane states that Salmeron's grass is almost always knee-high, they have chickens in the backyard and no control over their pets. He says he is concerned about what kind of enclosure will go on the front porch. Lane says the house is already a two thousand foot three-story house, so he needs to understand how enclosing the front porch will benefit the front house. He states that he and his wife will be moving soon, so he is concerned about how the addition will adversely affect his property value since the petitioner seeks to build an unattractive addition to the neighborhood.

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

STAFF ANALYSIS

The petitioner is requesting to vary from Section 6.4, Yard Requirements, Front Yard setbacks, to allow the front porch to be enclosed which alters the average front yard setback for the block. The average front yard setback for the block is 15.38 feet. To allow the front porch to be enclosed that would have a new setback of 11 feet, a variance of four and thirty eight hundredths (4.38) feet.

The petitioner is seeking this variance due to the theft of personal belongings and to keep people from accessing the front door of the home. The variance is less than five (5) feet and Staff supports the request.

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 variance requested is small and should be imperceptible from the street;
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 of the need to provide safety and security for the home;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because the need to provide safety and security of the home;
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.

CONDITIONS

The petitioner cannot begin construction until city codes have been met.

Ughetti states there were 44 letters mailed with zero returned.

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

Mulvaney asks Trotter if the petitioner would be subject to building and construction codes.

Trotter answers that the petitioner would be required to submit plans to the building department, which would be subject to inspection. The plans would have to pass the inspection before being released for use.

Evanega Rieckhoff asks Trotter if that is normal, and if adding a condition is unnecessary.

Trotter answers that that is already required. He states they are before the Board since the petitioner still needs to meet setback requirements. Afterward, the petitioner will be required to submit plans to the building departments, and once approved, will need an inspection once the project is complete.

Leichtman asks Trotter if the petitioner's main concern was safety; however, Salmeron did not mention it during her presentation.

Trotter answers that the petitioner did include safety in her petition material; however, she did not mention that during her presentation.

Evanega Rieckhoff asked Trotter if Davis had a question about the chickens and if the Board could add a condition to the petition requesting their removal.

Marnocha appears in person as the attorney for the Board of Zoning Appeals. Marnocha says it would be reasonable criteria for the property to uphold city codes only after she conforms.

Mulvaney asks if Marnocha is suggesting that the Board add a condition.

Marnocha answers that she is telling the Board they can make it a condition. For example, the Board can make a motion to approve the variance with the condition that the petitioner cannot begin any construction if they violate the city code.

Trotter states that he wants the petitioner to approach the podium and have her understand the requirements for the variance.

Salmeron says she understands and confirms that she has three egg-laying chickens on the property.

Mulvaney calls for a motion.

Evanega Rieckhoff makes motion to approve 24-BZA-13 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt the following condition: The petitioner cannot begin construction until city codes have been met.

Second by Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Boecher – Yes

Motion carries.

24-BZA-14 PETITIONER IS NELSON B HOLDINGS
PROPERTY IS LOCATED AT 529 SOUTH SECOND STREET

To vary from Section 26.4.B.1, which states in part, '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'. To allow for a fence that is six (6) feet in height to be placed in the required side (Harrison Street) yard.

Mulvaney states that Phalene Leichtman is recusing herself.

Mulvaney calls the petitioner forward.

Christopher Baiker appears via Webex as the petitioner. Baiker states that he purchased the property around three years ago and has had numerous issues with theft and vandalism. He says he would like to secure the property with a fence in the back near the parking area. Baiker states he knows his property lines and that the four-foot fence would be too easy for some people to scale.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks where the fence will go and whether it will be around the parking lot or the side yard up to the front porch.

Baiker says it will go through the back parking lot and connect to the building. It will just enclose the parking lot. Baiker says he has had incidents where people have smashed car windows, defecated on the house, and slept on the porch. He says he recently had an incident where a worker was sleeping by the entryway. He states he would feel safer if he were allowed a six-foot-high fence.

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 26.4.B.1, which states in part, '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'. To allow for a fence that is six (6) feet in height to be placed in the required side (Harrison Street) yard.

The petitioner is seeking the variance due to the vandalism that has occurred on their property. Damage has occurred to both the vehicles parked on site and the building. Windows has been broken on the lot, and Windows supports the request and understands the need for security for the building and personal property on site.

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 fence will be installed in a workmanlike manner;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because security fences are not that uncommon in urban areas;
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 property is located on a corner the need for the variance exists;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because the need for safety and security is important for the viability of the business;
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

The proposed fence shall meet the development conditions found in Section 15.5.C. of the CBD, Central Business District development standards chapter.

Ughetti states that 23 letters were mailed, with one returned in favor, citing safety and vandalizing issues.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-14 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
- Boecher – Yes

Motion carries.

**24-BZA-15 PETITIONER IS JAMES HUBBARD & SHARRON FERRIN
PROPERTY IS LOCATED AT 3620 GORDON ROAD**

To vary from the requirements found in Section 26.1.C.3, Swimming Pools, which states 'A swimming pool or the yard in which the pool is located, or any part thereof, shall be enclosed with a fence, six (6) feet in height, measured from the natural grade on the exterior side of the fence. All gates within such a fence shall be self-closing and self-locking.' To allow for a perimeter fence that is four (4) feet in height. The in ground pool will have an automatic pool cover.

Mulvaney calls the petitioner forward.

James Hubbard appears in person as the petitioner. Hubbard states that the zoning requirement asks for a six-foot fence; however, Elkhart will adopt a new ordinance for a four-foot fence to meet state requirements. He says his property is already enclosed with a four-foot fence, and part it was removed for the construction project. He says he intends to replace that fence and plans to also install an automatic pool cover.

Mulvaney states that Hubbard is the second or third person to request a similar variance within the last couple of months, so it’s about time the city caught up with state requirements.

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 the requirements found in Section 26.1.C.3, Swimming Pools, which states 'A swimming pool or the yard in which the pool is located, or any part thereof, shall be enclosed with a fence, six (6) feet in height, measured from the natural grade on the exterior side of the fence. All gates within such a fence shall be self-closing and self-locking.' To allow for a perimeter fence that is four (4) feet in height. The in ground pool will have an automatic pool cover.

The home site is located along the St. Joseph River. Based on county tax data, the home was built in 1953 and is surrounded by single family dwellings. The petitioner is in the process of constructing an in-ground pool with an automatic pool cover. The proposal is to have a four (4) foot fence surround the rear yard where the pool is being constructed. The intent is to also have the river bank act as the fourth side of the fence as any person wanting to enter from the north side of the property would have to enter by boat or swim up to the bank – this request is similar to other developmental variance requests heard by this body.

Staff shared the Planning Department is in the process of updating the current zoning ordinance. One of the regulations that would change is the pool development requirements. Although still in the draft form – the requirement would be for an in-ground pool

with an automatic pool cover, a four (4) foot fence would be required. This proposed language will more closely mirror state code. It is anticipated that the new ordinance will have public hearings in the late fall. Staff supports this request as it is similar to other water front developmental variances that this Board has approved in the past.

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 as the river wall would create a sufficient barrier equal to a fence. In addition, the pool has an automatic pool cover installed for added security;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the property would still remain a residential property in a residential neighborhood, and pools are commonly found in residential neighborhoods;
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 rear of the property abuts a river, creating a natural barrier;
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 because the property abuts the St. Joseph River and the embankment would serve as preventative access to the pool comparable to the otherwise required fence;
7. This property does not lie within a designated flood area.

Trotter states that 22 letters were mailed, four of which were returned in favor. One comment said the property was already fenced and to let the petitioner do what he wanted.

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

Leichtman asks Trotter if it is a load-bearing pool cover.

Trotter answers yes.

Mulvaney calls for a motion.

Evanega Rieckhoff makes motion to approve 24-BZA-15 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

Boecher – Yes

Motion carries.

ADJOURNMENT

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

Doug Mulvaney, President

Ron Davis, Vice-President

DRAFT

0300 PETS

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On September 4, 2024, at 4:00 pm, local time, the Board of School Trustees and representatives of the Middlebury Teachers will meet at the Administration Building, 56853 Northridge Drive, Middlebury, Indiana, for the purpose of discussing collective bargaining and hear testimony from the public, pursuant to the provisions of IC 20-29-6-1(b).

Middlebury Community Schools Board of School Trustees

Middlebury Teachers Association
HSPAXLP

Mortgage Asset Trust 2021-GS3 Carolyn Blackman, et al, was Plaintiff, and Carolyn Blackman, et al, was the Defendant, requiring me to make the sum as provided for in said Decree with interest and costs, I will expose at public sale to the highest bidder, on the 23 day of October 2024 at the hour of 10:30 AM or as soon thereafter as is possible, at www.zeusauction.com, the fee simple of the whole body of Real Estate in Elkhart County, Indiana. Lot Numbered Twenty-One (21) As The Said Lot Is Known And Designated On The Recorded Plat Of Valley View Hills, A Subdivision In Concord township; Said Plat Being Recorded In Plat Book 9, Page 2 In The Office Of The Recorder Of Elkhart County, Indiana. More Commonly Known As: 58200 Benham Avenue, Elkhart, IN 46517 Parcel No. 20-06-20-226-009.000-009 Together with rents, issues, income, and profits thereof, said sale will be made without relief from valuation or appraisal laws. /s/ Jeff Siegel Sheriff of Elkhart County, Indiana Phillip A. Norman #13734-64 Benjamin J Pliskie #30407-45 Phillip A. Norman P.C. Date Township Street Address 58200 Benham Avenue, Elkhart, IN 46517 The Sheriff's Department does not warrant the accuracy of the street address published herein. Please Serve: Calvin N. Williams 58200 Benham Avenue, Elkhart, IN 46517 Type of Service Sheriff Carolyn Blackman 58200 Benham Avenue, Elkhart, IN 46517 Type of Service Sheriff.

HSPAXLP

LEGAL NOTICE #24-UV-10

Hearing on proposed Use Variance #24-UV-10

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, SEPTEMBER 12, 2024, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-UV-10.

Petitioner: Diana Castillo and Juan Castillo

Request: 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.

Location: 722 Graywood Avenue

Zoning: M-1, Limited 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:

Part of the West half of the Southwest Quarter of Section 2, Township 37 North, Range 5 East, situate in Concord Township, Elkhart County, State of Indiana, described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 200 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2, a distance of 290 feet to an iron stake at the Northwest corner of land deeded to Alan R. Craig Etux in DR 94-012183, said stake being the place of beginning of this description; thence continuing North 1 degree 23 minutes East a distance of 120 feet to an iron stake; thence North 89 degrees 57 minutes 30 seconds East a distance of 128 feet to an iron stake; thence South 1 degree 23 minutes West a distance of 120 feet to an iron stake at the Northeast corner of said Craig land; thence South 89 degrees 57 minutes 30 seconds West along the North line of said Craig land a distance of 128 feet to the place of beginning of this description.

ALSO: Part of the West half of the Southwest Quarter of Section 2, Township 37 North, Range 5 East, situate in Concord Township, Elkhart County, State of Indiana, described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 200 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2 a distance of 410 feet to a point, said point being the place of beginning of this description; thence continuing North 1 degree 23 minutes East a distance of 104.6 feet to an iron stake; thence North 89 degrees 57 minutes 30 seconds East a distance of 128 feet to an iron stake; thence South 1 degree 23 minutes West a distance of 104.61 feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 128 feet to the place of beginning of this description.

ALSO: An Easement for ingress and egress over the following described Real Estate:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (Deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 150 feet to the place of beginning of this description; thence continuing North 89 degrees 57 minutes 30 seconds East along the South line of the Southwest Quarter of said Section 2, a distance of 50 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2, a distance of 514.61 feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 35.96 feet to a point; thence Southwestwardly along a curve to the left (R=149.99 feet) a distance of 65.40 feet to the point of tangency of said curve; thence South 1 degree 23 minutes West a distance of 41.62 feet to a point; thence North 89 degrees 57 minutes 30 seconds East a distance of 25 feet to a point; thence South 1 degree 23 minutes West a distance of 120 feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 25 feet to a point; thence South 1 degree 23 minutes West a distance of 290 feet to the place of beginning of this description.

ALSO: An Easement for ingress and egress over the following described Real Estate:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (Deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 328 feet to the place of beginning of this description; thence continuing North 89 degrees 57 minutes 30 seconds East along the South line of the

Southwest Quarter of said Section 2, a distance of 20 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2 a distance of 514.61 feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 20 feet to a point; thence South 1 degree 23 minutes West a distance of 514.61 feet to the place of beginning of this description.

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 26th day of August, 2024, by the City of Elkhart, Board of Zoning Appeals.

HSPAXLP

LEGAL NOTICE #24-X-07

Hearing on proposed Special Exception #24-X-07

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, SEPTEMBER 12, 2024, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Special Exception Petition #24-X-07.

Petitioner: City of Elkhart

Request: Per Section 6.3, Special Exception Uses, (4.3 J) Public Utilities and public service uses to allow for the construction of a new lift station, equipment building, monorail system, fence and CSO storage tank.

Location: 1300 block Indiana Avenue and Thomas Street

Zoning: R-3, Two 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:

TRACT I:

Lots Numbered 1, 2, 3, 4, 5, 6, and 7 as the said Lots are known and designated on the recorded Plat of IVY PLACE, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Plat Book 2, page 140, in the Office of the Recorder of Elkhart County, Indiana.

TRACT II:

Part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East; beginning at a point on the East line of Thomas Street in the City of Elkhart, 299 feet and 10 inches North of the North line of Indiana Avenue; thence from said beginning point North along the East line of Thomas Street, 132 feet; thence Eastwardly parallel with the South line of Harrison Street, 165 feet; thence Southwardly parallel with the East line of Thomas Street, 132 feet; thence Westwardly parallel with the South line of Harrison Street, 165 feet to the place of beginning.

TRACT III:

A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows:

BEGINNING at a point on the East line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the East line of said Thomas Street 66 feet; thence Southwardly parallel with the East line of Thomas Street 66 feet; thence Westwardly parallel with the South line of Harrison Street 165 feet to the place of beginning.

Lot Numbered Thirty-six (36) as the said Lot is known and designated on the recorded Plat of Hiram D. Thomas Estates Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

Encumbers Key 20-06-07-282-012.000-012

Lot 37 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

LOTS NUMBERED 38, 39, AND 40, AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF HIRAM D. THOMAS ESTATE ADDITION TO THE CITY OF ELKHART, INDIANA; SAID PLAT BEING RECORDED IN DEED RECORD 103, PAGE 287 IN THE RECORDS OF ELKHART COUNTY, INDIANA.

Tax ID No.: 20-06-07-282-013-000-012; 20-06-07-282-014-000-012 & 20-06-07-282-015-000-012

Encumbers Key 20-06-07-282-016.000-012

Lot 41 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

Encumbers Key 20-06-07-282-017.000-012

Lot 42 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

Lots Numbered Forty-three (43) and Forty-four (44) as the said Lots are known and designated on the Plat of Hiram D. Thomas Estate Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, page 287, 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 26th day of August, 2024, by the City of Elkhart, Board of Zoning Appeals.

HSPAXLP

LEGAL NOTICE #24-BZA-23

Hearing on proposed Developmental Variance #24-BZA-23

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, SEPTEMBER 12, 2024, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-23.

Petitioner: City of Elkhart

Request: 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.

Location: 1300 block Indiana Avenue and Thomas Street

Zoning: R-3, Two 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:

TRACT I:

Lots Numbered 1, 2, 3, 4, 5, 6, and 7 as the said Lots are known and designated on the recorded Plat of IVY PLACE, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Plat Book 2, page 140, in the Office of the Recorder of Elkhart County, Indiana.

TRACT II: Part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East; beginning at a point on the East line of Thomas Street in the City of Elkhart, 299 feet and 10 inches North of the North line of Indiana Avenue; thence from said beginning point North along the East line of Thomas Street, 132 feet; thence Eastwardly parallel with the South line of Harrison Street, 165 feet; thence Southwardly parallel with the East line of Thomas Street, 132 feet; thence Westwardly parallel with the South line of Harrison Street, 165 feet to the place of beginning.

TRACT III: A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows:

BEGINNING at a point on the East line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the East line of said Thomas Street 66 feet; thence Southwardly parallel with the East line of Thomas Street 66 feet; thence Westwardly parallel with the South line of Harrison Street 165 feet to the place of beginning.

Lot Numbered Thirty-six (36) as the said Lot is known and designated on the recorded Plat of Hiram D. Thomas Estates Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

Encumbers Key 20-06-07-282-012.000-012

Lot 37 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

LOTS NUMBERED 38, 39, AND 40, AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF HIRAM D. THOMAS ESTATE ADDITION TO THE CITY OF ELKHART, INDIANA; SAID PLAT BEING RECORDED IN DEED RECORD 103, PAGE 287 IN THE RECORDS OF ELKHART COUNTY, INDIANA.

Tax ID No.: 20-06-07-282-013-000-012; 20-06-07-282-014-000-012 & 20-06-07-282-015-000-012

Encumbers Key 20-06-07-282-016.000-012

Lot 41 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

Encumbers Key 20-06-07-282-017.000-012

Lot 42 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

Lots Numbered Forty-three (43) and Forty-four (44) as the said Lots are known and designated on the Plat of Hiram D. Thomas Estate Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, page 287, 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 26th day of August 2024, by the City of Elkhart, Board of Zoning Appeals.

HSPAXLP

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1113 Sanders Avenue
Street Address
The Sheriff's Department does not warrant the accuracy of the street address published herein.
HSPAXLP

LEGAL NOTICE #24-UV-12

Hearing on proposed Use Variance #24-UV-12

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, SEPTEMBER 12, 2024, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition #24-UV-12.

Petitioner: Vashu Motels Inc

Request: 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.

Location: 2807 Cassopolis Street

Zoning: M-1, Limited Manufacturing District and 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 the Southeast Quarter (1/4) of Section Twenty (20), Township Thirty-eight (38) North, Range Five (5) East, more particularly described as follows:

Commencing on the West line of said Quarter Section at a point One Hundred Fifty-seven (157) feet North of a stone at the Southwest corner of said quarter section; thence Eastwardly, parallel with the South line of said quarter section, to a point that is Four Hundred Ninety-two (492) feet West of the centerline of the Cassopolis Road for the beginning point of this description; thence North parallel with the West line of said quarter section, One Hundred Five and Twenty-four Hundredths (105.24) feet to the South line of Comet Avenue; thence Eastwardly, parallel with the South line of said quarter section and along the South line of Comet Avenue, to the centerline of Cassopolis Road; thence Southwardly along the centerline of said Cassopolis Road, One Hundred Five and Thirty-nine Hundredths (105.39) feet; thence Westwardly parallel with the South line of said quarter section, Four Hundred Ninety-two (492) feet to the place of beginning. Subject to public highways.

EXCEPTING THEREFROM THE FOLLOWING: A part of the Southeast Quarter of Section 20, Township 38 North, Range 5 East, Elkhart County, Indiana, described as follows:

Commencing at the Southwest corner of said quarter section; thence North 0 degrees 07 minutes 14 seconds East 262.24 feet (distance deduced from Deed Record 251, Page 146) along the West line of said quarter section to the South boundary of Comet Avenue; thence South 89 degrees 27 minutes 46 seconds East 800.37 feet along the boundary of Comet Avenue to the point of beginning of this description, which point of beginning is on the West boundary of S.R. 19 (Cassopolis Road); thence South 2 degrees 30 minutes 46 seconds East 105.39 feet along the boundary of said S.R. 19 to the North line of ¼ acre tract of land shown on the plat of Lake Drive a subdivision in said quarter section recorded in Plat Book 3, Page 24, in the Office of the Recorder of said county; thence North 89 degrees 27 minutes 46 seconds West 20.24 feet along said North line; thence North 2 degrees 40 minutes 26 seconds West 85.32 feet; thence North 41 degrees 36 minutes 36 seconds West 27.05 feet to the South boundary of said Comet Avenue; thence South 89 degrees 27 minutes 46 seconds East 37.56 feet along the boundary of said Comet Avenue to the point 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 26th day of August, 2024, by the City of Elkhart, Board of Zoning Appeals.

HSPAXLP

to do so, the court will enter orders for what the petition has demanded.

Date 05/21/2024
Clerk, Elkhart County Courts
HSPAXLP

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TO THE OWNERS OF THE WITHIN DESCRIBED REAL ESTATE AND ALL INTERESTED PARTIES

NOTICE OF SHERIFF'S SALE

By virtue of a certified copy of a decree to me, directed from the Clerk of the Superior Court of Elkhart County, Indiana, in Cause No. 20D02-2401-MF-000027, wherein Citizens Bank N.A. fka RBS Citizens N.A. was Plaintiff, and Marvette Henderson and The Bank of New York Mellon Trust Company, National Association fka the Bank of New York Trust Company, N.A. as Successor to JPMorgan Chase Bank, N.A., as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates Series 2005-RS5 were Defendants, requiring me to make the sum as provided for in said Decree, with interest and cost, I will expose at public online sale to the highest bidder on the 25th day of September, 2024, at the hour of 10:30 a.m., with a closing time of 11:30 a.m. or as soon thereafter as is possible, at www.zeusauction.com, the fee simple of the whole body of Real Estate in Elkhart County, Indiana. Lot Number Thirty-five (35) as the said Lot is known and designated on the recorded Plat of Pierre Moran Village, an Addition to the City of Elkhart; said Plat being recorded in Plat Book 5, page 44 in the Office of the Recorder of Elkhart County, Indiana. More commonly known as: 343 Pierre Moran Drive, Elkhart, IN 46517 Parcel No. 20-06-17-206-018.000-012

Together with rents, issues, income, and profits thereof, said sale will be made without relief from valuation or appraisal laws. "Subject to all liens, encumbrances and easements of record not otherwise extinguished in the proceedings known as Cause 20D02-2401-MF-000027 in the Superior Court of the County of Elkhart, Indiana."

Attorney for Plaintiff: Nicholas M. Smith
ATTORNEY NO. 31800-15
Manley Deas Kochalski LLC
P.O. Box 165028
Columbus OH 43216-5028

Jeff A. Siegel
Sheriff of Elkhart County

CONCORD Township

343 Pierre Moran Drive
Street Address

The Sheriff's Department does not warrant the accuracy of the street address published herein.
HSPAXLP

NOTICE TO BIDDERS

1. The Housing Authority of the City of Elkhart, Indiana will receive sealed Bids in its offices at 1396 Benham Avenue, Elkhart, Indiana 46516, until the hour of 3:00 p.m. local time, September 11, 2024. A public bid opening will occur at that time. Any bid received after the above designated time will be returned unopened. The work shall be performed as per Plans and Specifications prepared by Forum Architects, LLC, 415 Lincolnway East, Mishawaka, Indiana, and Bids are desired for 2023 Capital Fund, in Elkhart, IN.
2. Work includes replacement of the sanitary lines for twenty-two (22) apartments (units) from the kitchen sink to the main sanitary line with new sanitary lines at the Bannerker Heights Apartments. Additional work shall include removal and replacement of concrete sidewalks/stoops as necessary for the installation of the new sanitary lines. Work shall also include the replacement of the kitchen sink drain piping, supply lines and shut off valves for the twenty-two (22) apartment kitchen sinks.
3. Each Proposal also shall be accompanied by an acceptable certified check or cashier's check made payable to the order of the Housing Authority of the City of Elkhart, Indiana, or acceptable Bidder's Bond for an amount of not less than 5% of the amount of the Proposals, which check, or Bond shall be forfeited in case of failure of any Bidder to enter into the contract price, after notification of the acceptance of his Proposal.
4. All Bids must be accompanied by a signed copy of the "Statement of Bidder's Qualifications/Affirmative Action" in the form set forth in the Specifications. All prime Contractors submitting Bids on the Project shall encourage qualified minority subcontractors to perform any portion of the Work in the Project which is not performed by the Contractor's own forces. All bidders shall comply with HUD Section 3 Clause of regulation 24 C.F.R. Part 75.
5. Said Housing Authority of the City of Elkhart, Indiana is not obligated to accept the lowest or any other Bid submitted and reserves the right to reject any and all Proposals, to waive informalities in any Proposal if it shall be in the judgment of the Housing Authority of the City of Elkhart so to do and to defer the acceptance or rejection until the financial arrangements for said Project are completed.
6. Plans and Specifications may be obtained from Forum Architects, LLC, 415 Lincolnway East, Mishawaka, Indiana, on or after August 23, 2024. Electronic Plans and Specifications are available upon request. If hard copies are required, deposits are to be made out to Housing Authority of the City of Elkhart in the amount of Fifty Dollars (\$50.00) will be required of Prime Contractors for each set of Drawings and Specifications, which amount shall be returned in full in case the following two conditions are complied with:
 1. The return of Drawings and Specifications within ten (10) days after the date of receiving Bids and
 2. The Drawings and Specifications are in usable condition as determined by the Architect. Should any Bidder fail in the observance of EITHER CONDITION he shall forfeit the FULL AMOUNT of his deposit.7. A Pre-Bid Meeting will be held September 3, 2024, at 10:00 a.m. (local time) at the Bannerker Heights Community Building located at 7 Malcolm Drive, Elkhart, Indiana. Site visits that are necessary after this date will be by appointment only and should be made through the Housing Authority of the City of Elkhart, IN by contacting Mr. Erik Mathavan, Director of Comprehensive Improvements at 574-295-8392.
 8. Contractors awarded work shall furnish an acceptable Performance Bond and Payment Bond, in an amount equal to 100% of the Contract Price which form Contract and Bond shall conform to the forms prescribed by the State Board of Accounts. Instructions to Bidders, Plans, and Specifications including General Conditions are on file at:
 1. Forum Architects, LLC
415 Lincolnway East
Mishawaka, Indiana 46544
 2. Housing Authority of the City of Elkhart
1396 Benham Avenue
Elkhart, Indiana 46516
www.ehai.org/open-public-bids.html
 3. MACIAF
212 W. Colfax Ave.
South Bend, IN 46601

HSPAXLP

Attorney for Plaintiff: Nicholas M. Smith
ATTORNEY NO. 31800-15
Manley Deas Kochalski LLC
P.O. Box 165028
Columbus OH 43216-5028

Jeff A. Siegel
Sheriff of Elkhart County

OSOLO Township

51484 County Road 109
Street Address

The Sheriff's Department does not warrant the accuracy of the street address published herein.
HSPAXLP

LEGAL NOTICE #24-BZA-20

Hearing on proposed Developmental Variance #24-BZA-20

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, SEPTEMBER 12, 2024, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-20.

Petitioner: Thomas Nickel Investments LLC

Request: 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.

Location: 900 East Beardsley Avenue

Zoning: R-3, Two 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:

Lot Number One (1) as the said Lot is known and designated on the recorded Plat of Kauffman's Addition to the city of Elkhart, as per plat thereof recorded in Plat Volume 105 page 248, 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 26th day of August, 2024, by the City of Elkhart, Board of Zoning Appeals.

HSPAXLP

LEGAL NOTICE #24-BZA-21

Hearing on proposed Developmental Variance #24-BZA-21

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, SEPTEMBER 12, 2024, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-21.

Petitioner: Patrick Mohan and Jill Mohan

Request: 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.

Location: Vacant Lot Melrose Manor (06-03-230-002)

Zoning: R-1, 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:

Lots Numbered Seven (7) and Eight (8) as the said Lots are known and designated on the recorded Plat of MELROSE MANOR in Elkhart, Indiana; said Plat being recorded in Plat Book 4, page 5 in the Office of the Recorder of Elkhart County, Indiana. ("Property 1") EXHIBIT A

Lots Number Thirteen (13) as the said Lot is known and designated on the recorded Plat of MELROSE MANOR in Elkhart, Indiana; said Plat being recorded in Plat Book 4, page 5 in the Office of the Recorder of Elkhart, Indiana. Also: The East one-half (E1/2) of a strip of land lying between Lots Numbered Twelve (12) and Thirteen (13) in said Melrose Manor. ("Property 2") EXHIBIT E

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 26th day of August, 2024, by the City of Elkhart, Board of Zoning Appeals.

HSPAXLP



**We Got
'Em Right
Here In Our
Classifieds!**

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

PETITION #: 24-B2A-20

FILING FEE: \$ 200.00

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): Thomas M. Nickel Investments, LLC

Mailing Address: 913 E. Beardsley Ave., Elkhart, IN 46514

Phone #: [REDACTED] Email: N/A

Contact Person: Glenn L. Duncan, Attorney

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 900 E. Beardsley Ave., Elkhart, IN 46514

Zoning: R-1

Present Use: Residential Proposed Use: Residential

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): Glenn L. Duncan

SIGNATURE(S): *Glenn L. Duncan, atty* DATE: August 2, 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: 8/2/24

DATE: July 31, 2024

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Developmental Variance
26.4 Fence Requirements
26.5 Roadway Regulation

PETITION FOR DEVELOPMENTAL VARIANCE

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. Thomas M. Nickel Investments, LLC, is the owner of the following described real estate located within the City of Elkhart, 900 E. Beardsley Ave., Osolo Township, Elkhart County, Indiana also known as Parcel Number 06-04-102-001.012.

(See attached Exhibit "A")

2. The above described real estate presently has a zoning classification of "Residential" R-1 District under the Zoning Ordinance of the City of Elkhart.

3. Petitioner presently occupies the above described property in the following manner: Rental property, single family residence directly across from Petitioner's primary residence at 913 E. Beardsley Ave.

4. Petitioner desires to retain fence located on the property (see Exhibit "D") which has following issues:

- a. Fence placed on yard at 900 E. Beardsley Ave. did not obtain proper permit in advance of placement;
- b. 26.4(A)(6) Fence does not have 40% open spacing;
- c. 26.4(B) Fence is located closer to street then the point of the principle building nearest street; and
- d. 26.5(B)(1) Intersection visibility may currently be violated at alley on North boundary of property. Owner investigating and will correct (eliminate) this issue.

5. The Zoning Ordinance of the City of Elkhart requires a compliant fence to not have the issues described in paragraph No. 4: (See items described at 4(a) – (d).

6. Explain why strict adherence to the Zoning Ordinance requirements would create unusual hardship. (See attached Exhibit "B").

7. The standards for granting a developmental variance are satisfied as follows: (See attached Exhibit "C").

8. A scale drawing of the property showing the location of the fence at the time of the drawing is attached as Exhibit "D".

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

Signature of Property Owner: _____

A handwritten signature in blue ink, appearing to be 'Tom', is written over a horizontal line.

Printed Name: Thomas M. Nickel Investments, LLC, Thomas Nickel, Manager

Contact Person:

Name: Glenn L. Duncan, Attorney

Address: [REDACTED]

Phone Number where you can be reached: [REDACTED]

Email: [REDACTED]

EXHIBIT A

Lot Number One (1) as the said Lot is known and designated on the recorded Plat of Kauffman's Addition to the city of Elkhart, as per plat thereof recorded in Plat Volume 105 page 248, in the Office of the Recorder of Elkhart County, Indiana.

EXHIBIT "B"

Strict application of the Zoning Ordinance will deprive the owner/applicant of the rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance, specifically:

- a. The right of security by fence's ability to limit access to the property and residence located thereon;
- b. The right of privacy especially in rear yard by limiting visibility to outsiders;
- c. The right of safety for residents' small children in rear yard, limiting inadvertent access on to adjacent high traffic streets (e.g., Beardsley Avenue); and
- d. The right to appropriate buffer from commercial area to the West (i.e. Lake City Bank; Burger King)

EXHIBIT "C"

VARIANCE STANDARDS SATISFIED

1. Approval of this variance application authorizing the fence will not be injurious to the public health, safety, morals and general welfare of the community. Use of the property remains "residential". The fence along with other improvements on the property have improved its value and appearance and with the proper site line and visibility correction on the alley will have nothing but a positive impact on 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. The neighbor to the immediate north (Mr. and Mrs. Bryant) and to the west (Lake City Bank) and to the south (Applicant and his family) have all expressed verbally support for the fence. The neighbor to the immediate East is bordered by the house located at 900 E. Beardsley, not the fence. Impact on granting the variance on value of adjacent properties is not adverse.

3. Granting the variance is consistent with the intent and purpose of the Zoning Ordinance. Assuming at least one of the purposes is to promote safe consistent standards for residential areas, and in particular where the residential area adjoins a high traffic commercial area, and a high traffic roadway (Beardsley Avenue). Other residents and/or properties in the area have similar fences to wit:

- a. 751 Violet Road
- b. 1333 Beardsley Avenue
- c. 1312 Greenleaf Boulevard
- d. 937 Dearborn Street

4. Special conditions exist which are peculiar to the property involved which are not applicable to other land or structures in the same district. Specifically, the adjacent property owner to the west, Lake City Bank, has no buffer or tree line between its facility, driveway, parking lot and the subject property. The City has removed and/or has no tree line on Beardsley Avenue between Howard and Johnson Street Bridge and has widened (added lanes) Beardsley Avenue in this area to accommodate more traffic. Howard Street has become a "short cut" for traffic wishing to avoid the streetlight at Johnson Street and Beardsley Avenue, increasing the traffic on Howard on the west side of the property. The property has more safety, security, traffic quieting and commercial buffering (or lack thereof) issues than other properties in the district.

5. Strict application will deprive applicant of rights. (see attached Exhibit "B").

6. The "special conditions and circumstances" which exist (see item No. 4 above) do not result from any action or inaction by the applicant.

7. The applicant does not believe the property is in a flood hazard area, but to the extent it is, the variance if granted allowing the fence as is where is, will not increase flood heights or


create additional threats to the public safety or cause additional public expense, or create a nuisance, or conflict with existing laws or ordinances.

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Thomas M. Nickel, Manager, Thomas M. Nickel Investments, LLC, being first duly sworn upon his oath, deposes and says that he is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:


- 1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
- 2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
- 3. I am now and at all times relevant herein have been, the owner of record of the property located at 900 E. Beardsley Ave., Elkhart, Indiana.
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 31st day of July, 2024.



 Thomas M. Nickel Investments, LLC
 By: Thomas M. Nickel, Manager

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

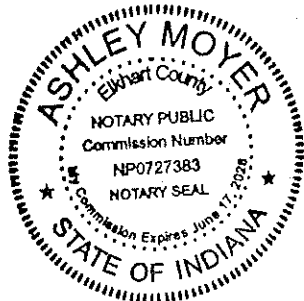


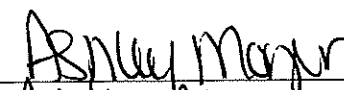
 Thomas M. Nickel Investments, LLC
 By: Thomas M. Nickel, Manager

STATE OF INDIANA)
)
 COUNTY OF ELKHART)

Before me the undersigned, a Notary Public, in and for the State of Indiana, personally appeared Thomas M. Nickel, Manager of Thomas M. Nickel Investments, LLC, and acknowledged the execution of the foregoing,

Subscribed and sworn to before me this 31st day of July, 2024.

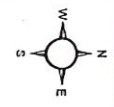




 Ashley Moyer, Notary Public
 Resident of Elkhart County, IN
 My Commission Expires: June 11, 2026

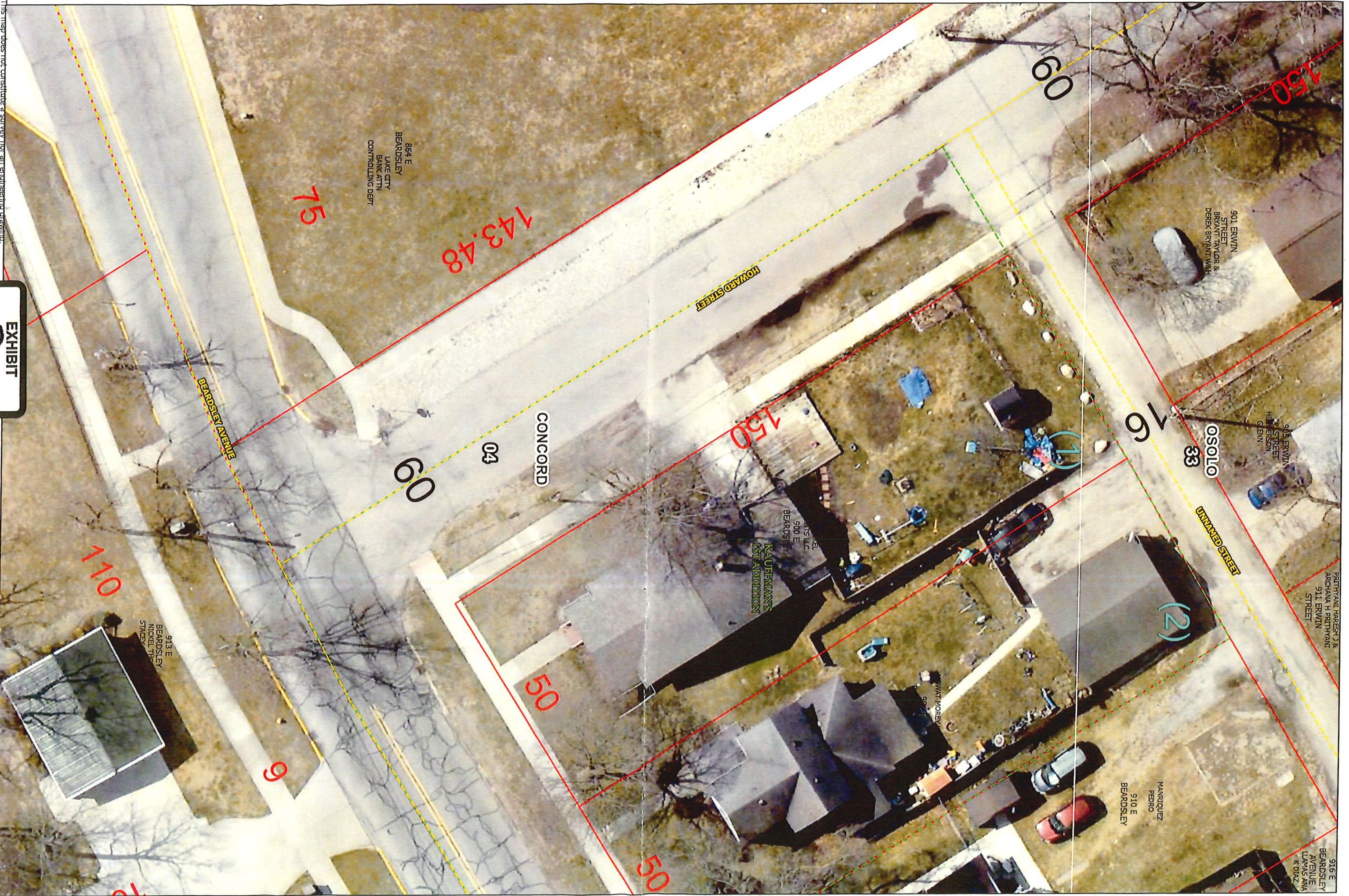
This map does not constitute a survey nor an engineering drawing. The map and any information shown on it is not warranted for accuracy, merchantability, or fitness for a particular purpose. Reliance is at the user's risk. Copying or other reproduction of this map and any information shown on it is prohibited without the prior written permission of the County of Elkhart, Indiana.

tabbies' EXHIBIT D-1



1 inch = 20 feet

Elkhart County Surveyor's Office
4230 Elkhart Road Goshen, Indiana 46526
Aerial Imagery: Spring 2019
Printed: 7/31/2024



143.48

75

60

04

CONCORD

150

50

50

90

76

33

OSOLO

UNKAMED STREET

(2)

150

901 ERWIN STREET
BRYANT TAYLOR &
DEREK BRYANT WASH

905 ERWIN STREET
HEMERSON
GENN

PRITHYANT HARSH J &
ARCHANA H PRITHYANT
911 ERWIN STREET

916 E BEARDSLEY AVENUE
LIMAS ANA
K DIAZ

MANRIQUEZ PEDRO
910 E BEARDSLEY

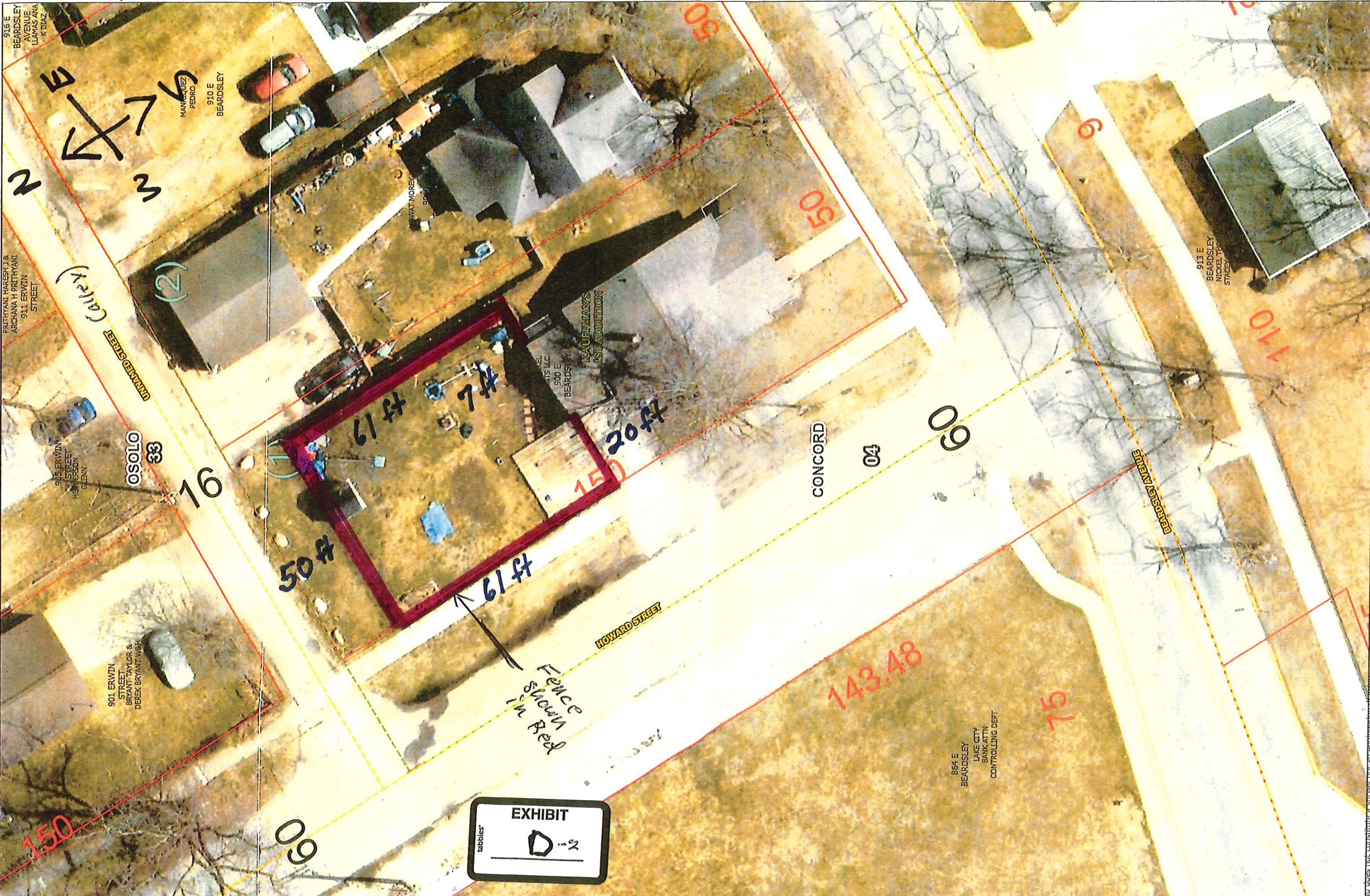
KAUFMANN'S 1ST ADDITION
BEARDSLEY
900 E

864 E BEARDSLEY
LAKE CITY BANK ATTN
CONTROLLING DEPT

913 E BEARDSLEY
NICKEL TRAIL STAGES

110

9



916 E BEARDSLEY BEARDSLEY AVENUE LLAMAS ANA K DIAZ

PRITHVANI HARESHJI & ARCHANA H PRITHVANI 911 ERWIN STREET

905 ERWIN STREET HEATHERSON GLENN

901 ERWIN STREET BRYANT TAYLOR & DEREK BRYANT W84

MANRIQUEZ PEDRO 910 E BEARDSLEY

MENWAT MOREY 902

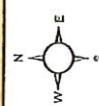
KAUFFMAN'S 1ST ADDITION

BEARDSLEY

913 E BEARDSLEY BEARDSLEY NICKEL TROOP STACEY

864 E BEARDSLEY LAKE CITY BANK ATTN CONTROLLING DEPT

tabbies EXHIBIT D-2



Elkhardt County Surveyor's Office
4230 Elkhardt Road Goshen, Indiana 46526
Aerial Imagery: Spring 2019
Printed: 7/31/2024

1 inch = 20 feet

This map does not constitute a survey nor an engineering drawing. The map and any information shown on it is not warranted for accuracy, reliability, or fitness for a particular purpose. Reliance is at the user's risk. Copying or other reproduction of this map and any information shown on it is prohibited without the prior written permission of the County of Elkhardt, Indiana.



Staff Report

Planning & Zoning

Petition: 24-UV-10

Petition Type: Use Variance

Date: September 12, 2024

Petitioner: Juan B. Castillo Dominguez & Diana S. Ortiz Castillo

Request: 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.

Site Location: 722 Graywood Ave.

Existing Zoning: M-1 Limited Manufacturing District

Size: +/- 0.35 Acres

Thoroughfares: Graywood Ave.

School District: Concord Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

The property is surrounded by a mix of commercial, industrial, and non-conforming residential uses all located in the M-1 Limited Manufacturing District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with industrial uses.



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.

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.

Photos

PETITION #: 24-UV-10

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): DIANA CASTILLO JUAN CASTILLO

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: DAVID PORTER

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 722 GRAYWOOD AVE. ELKHART, IN 46099

Zoning: M-1

Present Use: LIMITED MANS GROWING FACILITY Proposed Use: PREP KITCHEN

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): DAVID PORTER

SIGNATURE(S): [Signature] DATE: 7-31-24

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: [Signature] DATE: 8/19/24

DATE: 7-28-2024

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Use Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, (DIANA CASTILLO), am the owner of the following described real estate located within the City of Elkhart, _____ Township, Elkhart County, State of Indiana, to-wit:
Attach the accurate legal description and common address: 722 Graywood Ave. Elkhart, IN - a tax key number is not a legal description.
2. The above described real estate presently has a zoning classification of _____ District under the Zoning Ordinance of the City of Elkhart.

Petitioner presently occupies (or proposes to occupy) the above described property in the following manner: (intending to Construct a food prep kitchen for off site food service such as catering or food trucks).

Petitioner desires to fall under a usage class specifically allowing a prep kitchen to prepare offsite food services.

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

The approval of variance will not change the use of the property to be injurious to the public health, safety, morals and general welfare of the community. Neither will The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.

The need for the variance arises from some condition peculiar to the property involved. Specifically the exact definition of use is not listed in the current particular zoning class definition.

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 it does not specifically mention or include a food prep kitchen. The approval of a use variance does not interfere substantially with the Comprehensive Plan in any negative manner.

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

Signature of Property Owner:

Printed Name:

Second Property Owner:

Printed Name:

Contact Person:

Name: David Porter

Address:



Tax ID Number(s):
20-06-02-352-014.000-012, 20-06-02-352-013.000-012

WARRANTY DEED

Meridian Title Corporation

THIS INDENTURE WITNESSETH THAT

Myco Mushrooms, LLC, an Indiana limited liability company

CONVEY(S) AND WARRANT(S) TO

Diana S. Castillo Ortiz and Juan B. Castillo Dominguez, Tenants in Common, for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Elkhart County, in the State of Indiana, to wit:

SEE ATTACHED EXHIBIT "A"

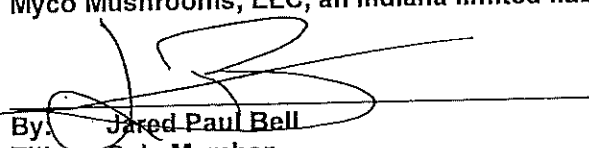
Subject to Real Estate taxes now due and payable and thereafter.

Subject to covenants, restrictions and easements of record.

The undersigned person(s) executing this deed on behalf of the Limited Liability Company represent and certify that they are a current member/manager of said Limited Liability Company and have been fully empowered by a proper meeting and vote of the Limited Liability Company members to execute and deliver this deed.

IN WITNESS WHEREOF, the Grantor has executed this deed this 17th day of May, 2023.

Myco Mushrooms, LLC, an Indiana limited liability company


By: **Jared Paul Bell**
Title: **Sole Member**

State of Indiana, County of Elkhart ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **Jared Paul Bell, Sole Member of Myco Mushrooms, LLC, an Indiana limited liability company** who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 17th day of May, 2023.

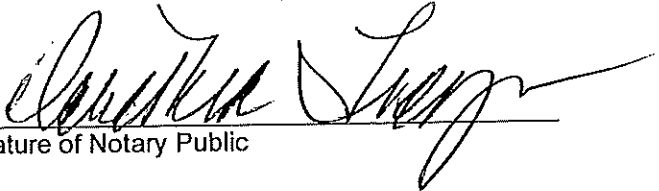
11/01/2024
My Commission Expires:

692194
Commission No.

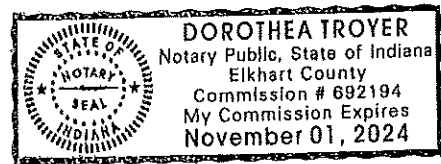
Elkhart County, Indiana
Notary Public County and State of Residence

This instrument was prepared by:
Andrew R. Drake, Attorney-at-Law
1120 W. Oak Street, Ste. 250, Zionsville, IN 46077

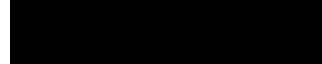
Property Address:
722 Graywood Avenue, Elkhart, IN 46516


Signature of Notary Public

Dorothea Troyer
Printed Name of Notary



Grantee's Address and Mail Tax Statements To:



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. Andrew R. Drake

EXHIBIT A

Part of the West half of the Southwest Quarter of Section 2, Township 37 North, Range 5 East, situate in Concord Township, Elkhart County, State of Indiana, described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 200 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2, a distance of 290 feet to an iron stake at the Northwest corner of land deeded to Alan R. Craigo Etux in DR 94-012183, said stake being the place of beginning of this description; thence continuing North 1 degree 23 minutes East a distance of 120 feet to an iron stake; thence North 89 degrees 57 minutes 30 seconds East a distance of 128 feet to an iron stake; thence South 1 degree 23 minutes West a distance of 120 feet to an iron stake at the Northeast corner of said Craigo land; thence South 89 degrees 57 minutes 30 seconds West along the North line of said Craigo land a distance of 128 feet to the place of beginning of this description.

ALSO: Part of the West half of the Southwest Quarter of Section 2, Township 37 North, Range 5 East, situate in Concord Township, Elkhart County, State of Indiana, described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 200 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2 a distance of 410 feet to a point, said point being the place of beginning of this description; thence continuing North 1 degree 23 minutes East a distance of 104.6 feet to an iron stake; thence North 89 degrees 57 minutes 30 seconds East a distance of 128 feet to an iron stake; thence South 1 degree 23 minutes West a distance of 104.61 feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 128 feet to the place of beginning of this description.

ALSO: An Easement for ingress and egress over the following described Real Estate:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (Deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 150 feet to the place of beginning of this description; thence continuing North 89 degrees 57 minutes 30 seconds East along the South line of the Southwest Quarter of said Section 2, a distance of 50 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2, a distance of 514.61 feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 35.96 feet to a point; thence Southwestwardly along a curve to the left (R=149.99 feet) a distance of 65.40 feet to the point of tangency of said curve; thence South 1 degree 23 minutes West a distance of 41.62 feet to a point; thence North 89 degrees 57 minutes 30 seconds East a distance of 25 feet to a point; thence South 1 degree 23 minutes West a distance of 120

feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 25 feet to a point; thence South 1 degree 23 minutes West a distance of 290 feet to the place of beginning of this description.

ALSO: An Easement for ingress and egress over the following described Real Estate:

Commencing at the Southwest corner of the Southwest Quarter of said Section 2; thence North 89 degrees 57 minutes 30 seconds East (Deed: due East) along the South line of the Southwest Quarter of said Section 2, a distance of 328 feet to the place of beginning of this description; thence continuing North 89 degrees 57 minutes 30 seconds East along the South line of the Southwest Quarter of said Section 2, a distance of 20 feet to a point; thence North 1 degree 23 minutes East parallel with the West line of the Southwest Quarter of said Section 2 a distance of 514.61 feet to a point; thence South 89 degrees 57 minutes 30 seconds West a distance of 20 feet to a point; thence South 1 degree 23 minutes West a distance of 514.61 feet to the place of beginning of this description.

AFFIDAVIT IN SUPPORT OF USE VARIANCE PETITION

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

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 722 GRAYWOOD AVE Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 2 day of AUG, 2024.

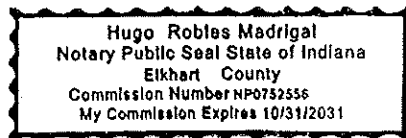
DAVID PORTER FOR: CASTILLOS
Printed: DAVID PORTER

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

DAVID PORTER FOR: CASTILLOS
Printed: DAVID PORTER

STATE OF INDIANA)
COUNTY OF ELKHART)

) SS:



Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared David Porter, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 2 day of August, 2024.

Hugo Robles Madrigal
Printed: Hugo Robles Madrigal

My Commission Expires:
10/31/2031

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

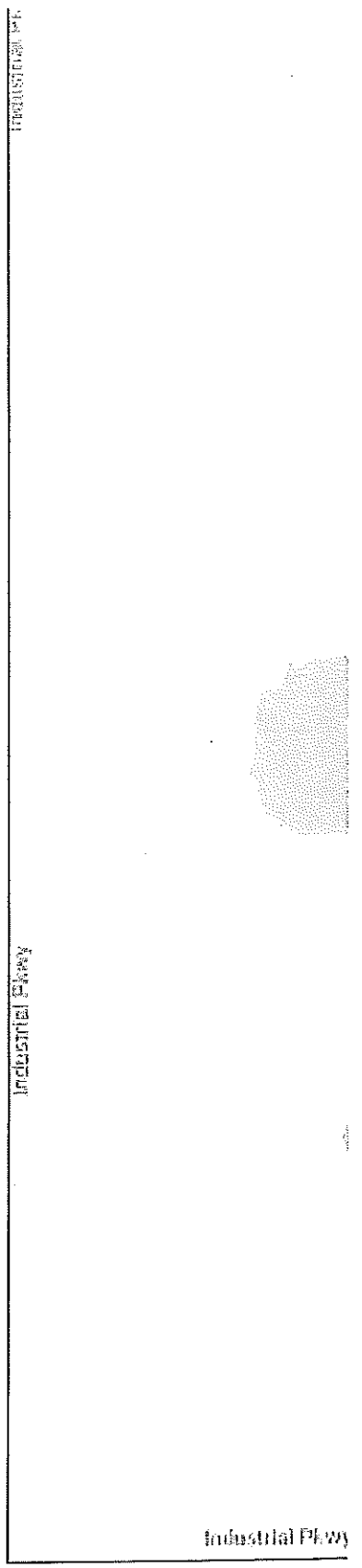
200'E 290'N SW CORNER OF
SW 1/4; 120X128 SEC 2.35A

&

200'E 410'N SW CORNER OF
SW 1/4; 104.6X128 SEC 2.30A

LOCATED AT Latitude.....41.68225
Longitude...-85.92638

PROJECT LOCATION



143.00'
(FENCE LINE)

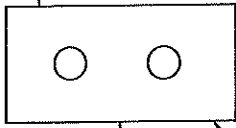
38.88'
(BUILDING LINE)

Fence Line

7.00'

86.65'
(BUILDING LINE)

26.00'



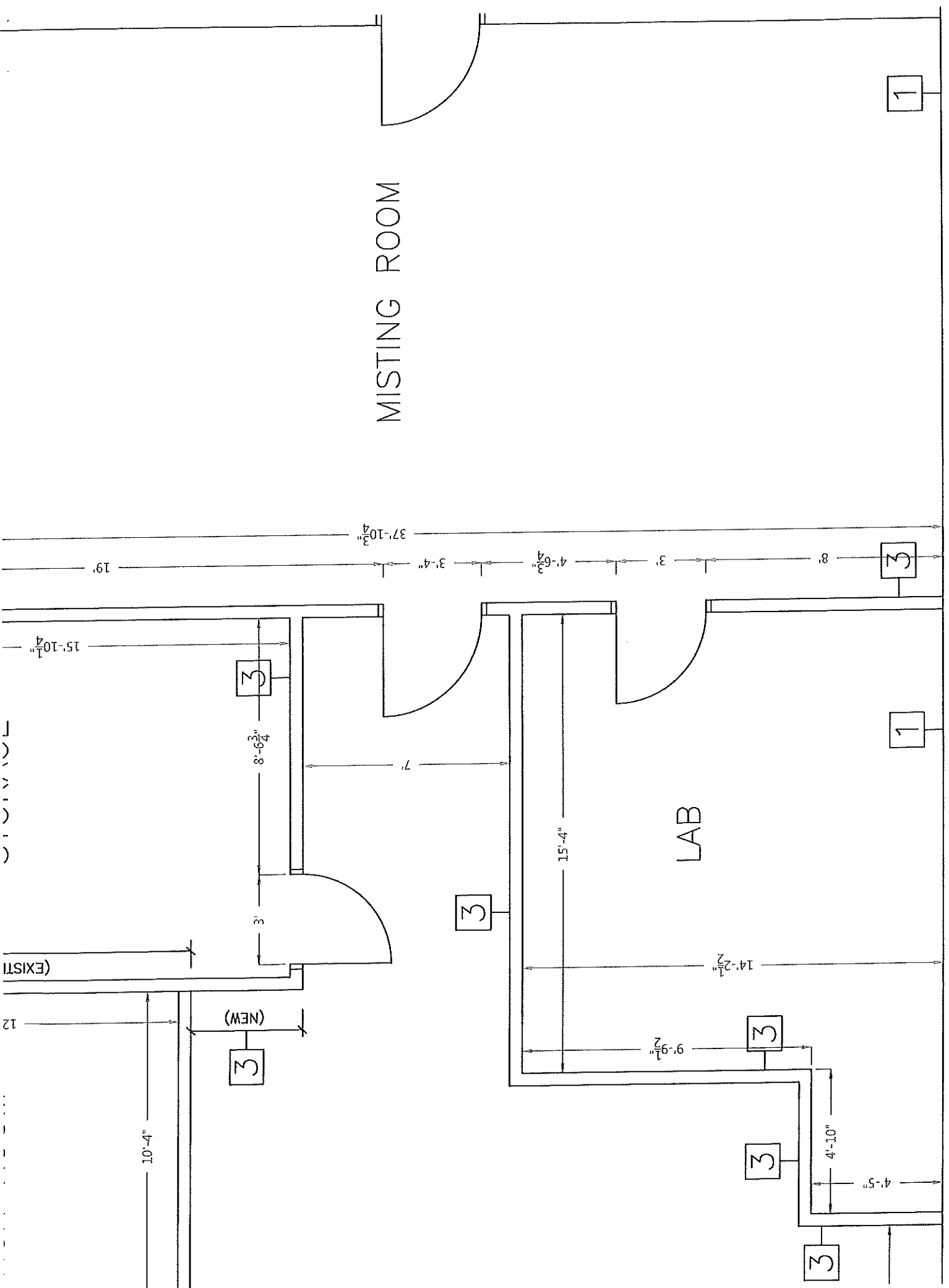
TO EXISTING LEACH FIELD

Existing Septic Tank
& System

722 GRAYW

MISTING ROOM

LAB



+100.00'

Existing Gutter/Downspout
Assemblies

The drawing features a large grid of 20 columns and 20 rows. Two horizontal lines are drawn across the grid. The first line is positioned between the 10th and 11th rows and is labeled 'EXISTING ROOF MATERIAL'. The second line is positioned between the 15th and 16th rows and is labeled 'EXISTING SIDING MATERIAL'. The labels are oriented vertically, reading from bottom to top.

3 NORTH ELEVATION

3

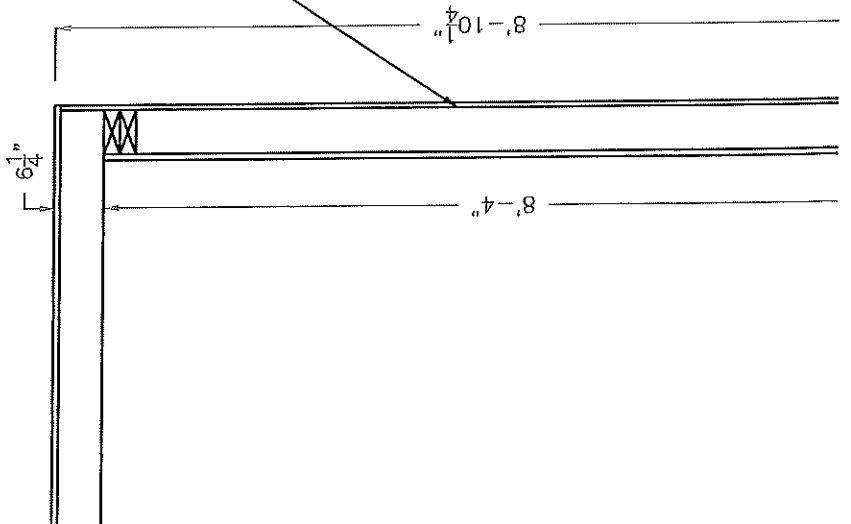
Scale: 1/4" = 1'-0"

3/4" Plywood Top Deck On 2x6 Joists
@ 16" o.c. For Mechanical Loft. LOFT
To Extend Over All New Wall Areas Except
At Open Area As Noted.

Existing Structure

New or Existing As Noted On
Floor Plan. New Wall Construction
At Interior Rooms To Consist
Of 2x4 Studs @ 16" o.c. w/ 5/8"
Firecode.

OPEN AREA



Water Feed
to Water Heater
tubs To All Fixtures

10'-4"

12

3'

8'-6"

7'

15'-10 $\frac{1}{4}$ "

37'-10 $\frac{1}{4}$ "

19'

3'-4"

4'-6 $\frac{3}{4}$ "

9'-9 $\frac{1}{2}$ "

14'-2 $\frac{1}{2}$ "

15'-4"

LAB

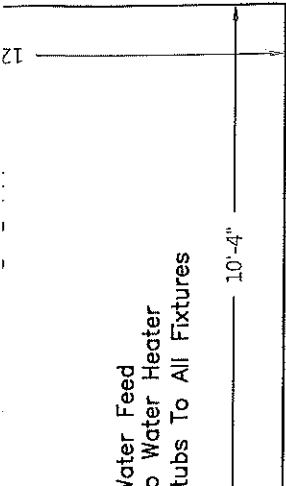
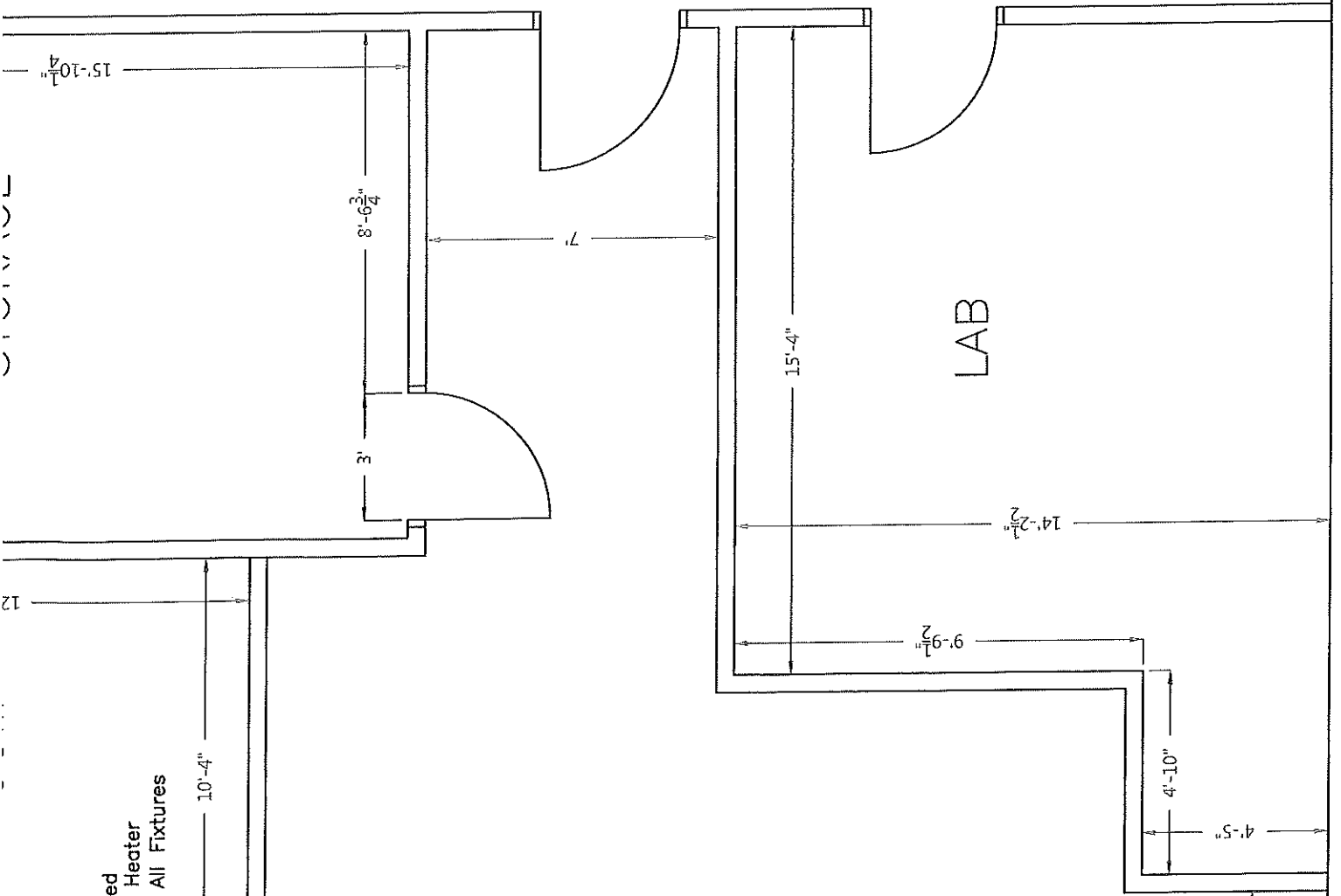
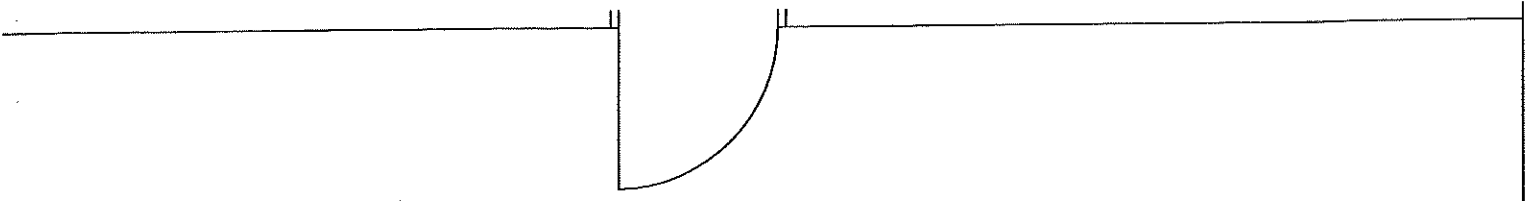
4'-10"

4'-5"

8'

3'

MISTING ROOM



MUA CONTROL

EXHAUST CONTROL

Ⓟ

MISTING ROOM

30" x 10"

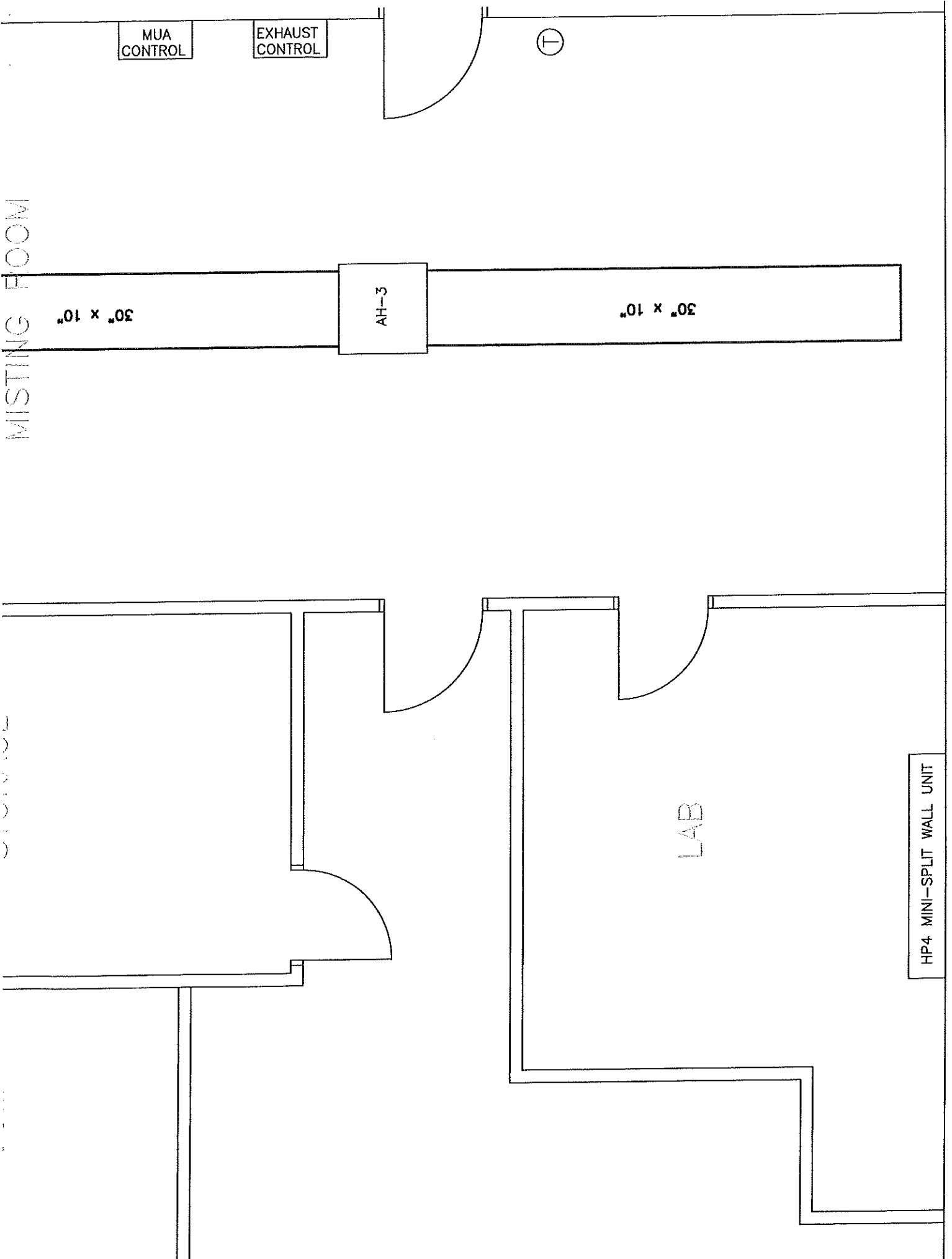
AH-3

30" x 10"

LAB

LAB

HP4 MINI-SPLIT WALL UNIT



18,000	1.5 TON	-	DIRECT ECM	1 HP BLOWER
28,000	-	2000	DIRECT ECM	1 HP BLOWER

FAN SCHEDULE

MOUNT	MANUFACTURER	MODEL #	AIR FLOW (CFM)	D
CEILING	DAIKEN	MBVC1200AA-1	1200	THF
CEILING	DAIKEN	TO MATCH ABOVE UNIT	-	
CEILING	DAIKEN	MBVC1200AA-1	1200	THF
CEILING	DAIKEN	TO MATCH ABOVE UNIT	-	

MISTING ROOM

AH-3

\$2P

30" x 10"

LAB

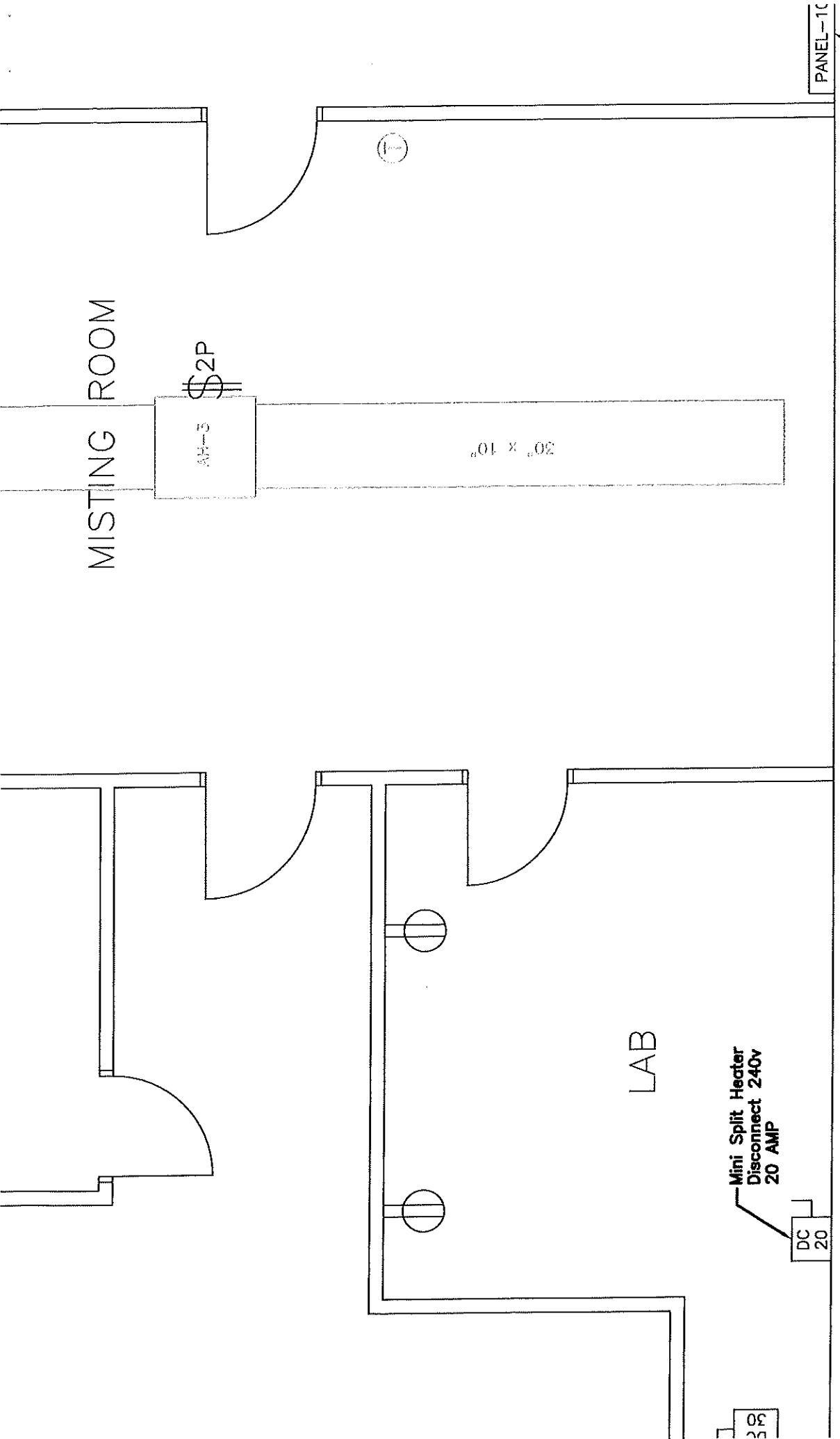
Mini Split Heater
Disconnect 240v
20 AMP

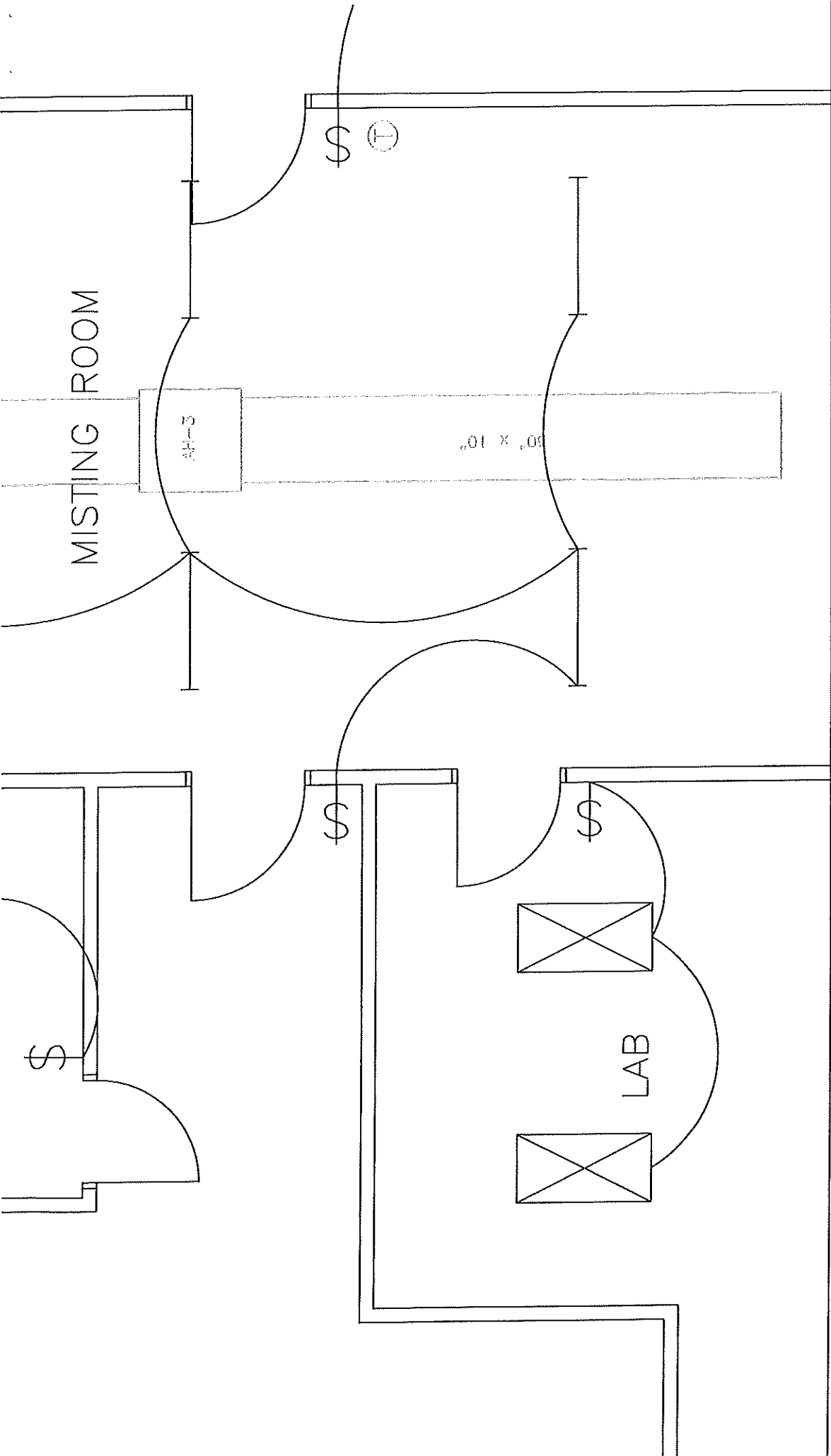
DC
20

30

PANEL-1C

Sub-panel 100 AMP 1 ϕ 120/240v
#3 THHN Copper x3
#6 THHN Copper x1







Staff Report

Planning & Zoning

Petition: 24-X-07

Petition Type: Special Exception

Date: Plan Commission: September 3, 2024; Board of Zoning Appeals September 12, 2024:

Petitioner: City of Elkhart

Site Location: 1300 block Indiana Avenue and Thomas Street

Request: Per Section 6.3, Special Exception Uses, (4.3 J) Public Utilities and public service uses to allow for the construction of a new lift station, equipment building, monorail system, fence and CSO storage tank.

Existing Zoning: R-3, Two Family Dwelling District

Size: +/- 43 Acres

Thoroughfares: Indiana Avenue, Thomas Street, Lafayette Street, Fremont Street

School District: Elkhart Community Schools

Utilities: Available to site.

Surrounding Land Use & Zoning:
The site in question is surrounded by residential and light commercial uses

Applicable Sections of the Zoning Ordinance:
Enumerated in request.

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

Plan Commission Action: Recommendation to Board of Zoning Appeals.



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.

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.

Photos





PETITION #: 24-x-07

FILING FEE: \$ 0

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE: SPECIAL EXCEPTION

Property Owner(s): City of Elkhart

Mailing Address: 1201 S. Nappanee Street, Elkhart, IN 46516

Phone #: 574-293-2572 Email: pubworks@coei.org

Contact Person: Jamie Poczekay, P.E., DLZ Indiana, LLC

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

Phone #: [REDACTED] Email: jpoczekay@dlz.com


Subject Property Address: Southeastern quadrant of Lafayette St and Thomas St (parcels 06-07-282-001 / 002 / 003), Southwestern quadrant of Lafayette St and Fremont St (parcels 06-07-282-011 / 012 / 013 / 014, which include 1305 Lafayette St and 907 Fremont St), Northwestern quadrant of Indiana Ave and Fremont St (parcels 06-07-282-015 / 016 / 017 / 018 / 019, which include 1007 Fremont St)
[REDACTED]

Zoning: R-3

Present Use: Community garden and residential homes Proposed Use: Combined Sewer Overflow Lift Station

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): City of Elkhart

SIGNATURE(S):  DATE: 8/20/24

STAFF USE ONLY:

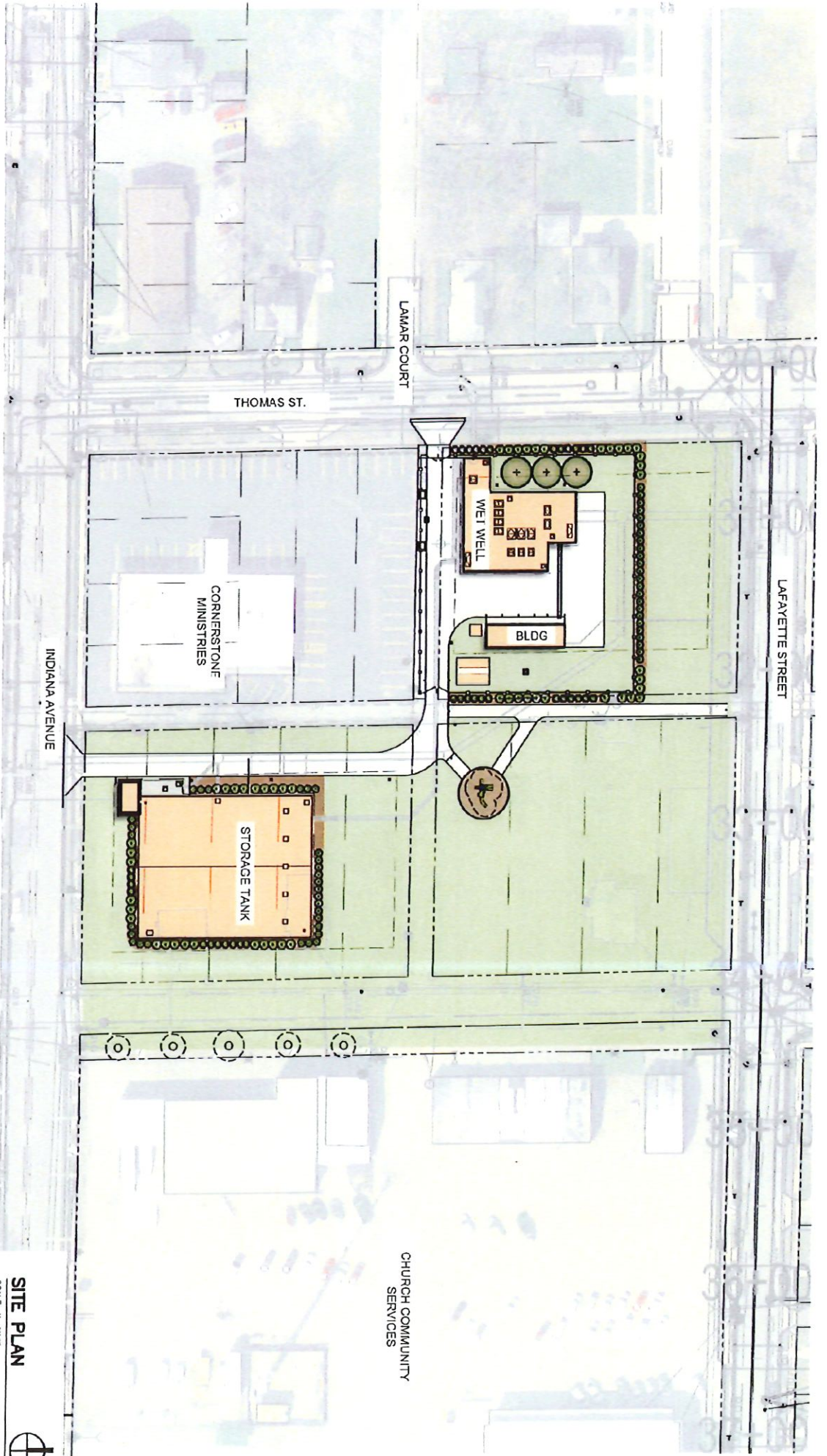
Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- 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 Oakland Project B Tank Location

Elkhart, IN

7/31/2024

SCALE: 1" = 60'-0"

SITE PLAN



CHURCH COMMUNITY SERVICES

August 2, 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:

- Southeastern quadrant of Lafayette St and Thomas St (parcels 06-07-282-001 / 002 / 003)
- Southwestern quadrant of Lafayette St and Fremont St (parcels 06-07-282-011 / 012 / 013 / 014, which include 1305 Lafayette St and 907 Fremont St)
- Northwestern quadrant of Indiana Ave and Fremont St (parcels 06-07-282-015 / 016 / 017 / 018 / 019, which include 1007 Fremont St)

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 R-3 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 properties at the southeastern quadrant of Lafayette Street and Thomas Street, at the southwestern quadrant of Lafayette Street and Fremont Street and at the northwestern quadrant of Indiana Avenue and Fremont Street currently contain vacant residential homes and vacant lots owned by the City. The property at the southeastern quadrant of Lafayette Street and Thomas Street previously served as a community garden. The City proposed to repurpose the property as a public utility use.

4. **Petitioner desires to:** replace the existing community garden and residential homes with the following new structures serving public utilities:

- Below grade concrete sanitary sewer lift station structure
- One (1) story above grade equipment building to house electrical and mechanical equipment necessary to operate the lift station
- Twenty-four (24) feet tall above grade metal beam monorail system to assist in the removal of equipment from the below grade lift station
- Vinyl coated chain link fence surrounding the lift station, equipment building, and monorail system
- Thirty-seven (37) feet tall above grade concrete structure for a Combined Sewer Overflow (CSO) Storage Tank with rooftop solar panels.

5. **The Zoning Ordinance of the City of Elkhart requires:** the properties to follow Section 6, R-3, Two-Family Dwelling District zoning requirements.

Section 6.3-4.3j Special Exception Uses: The submittal is for the approval of a Special Exception in the R-3 district (section 6.2A permitted uses, any use permitted in the R-2 District, section 5.2A permitted uses, any use permitted in the R-1 District, section 4.3J special exception uses) for use by Public Utilities and Public Service uses, including but not limited to: public utility facilities, railroad facilities, sewage treatment plant, telephone exchange, water filtration plants, water pumping stations, and water reservoirs. The project includes the construction of a new lift station, equipment building, monorail system, fence, and CSO storage tank.

Section 6.4 Yard Requirements:

- Setbacks: front yard = established setbacks; or 20 feet if no established setback
- Maximum Structure Height: 30 feet
- Maximum Lot Coverage for Structures: 40% total for all structures

A portion of the below grade sanitary sewer lift station structure extends into the required setbacks. The concrete top of the lift station is exposed at the ground level, with concrete and access hatches visible from the surface. The above grade CSO storage tank and enclosed stair tower (with a height above grade of 37 feet) exceeds the maximum structure height by seven (7) feet. The lot coverage including the CSO storage tank and driveway is 42% exceeding the maximum lot coverage amount of 40%.

Section 26.4 Fence Requirements: A 6-foot tall vinyl coated chain link fence is requested to be placed in the front yard along Thomas Street.

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 since the project is required to be constructed as prescribed in the City of Elkhart's Long Term Control Plan (LTCP) mandated by the EPA. The special use is needed in the R-3 district to construct these public utility facilities. The site is adjacent to existing sewer infrastructure along both Lafayette Street and Indiana Avenue of which sewer flows will be directed to the new lift station and CSO storage tank. The design was completed to meet the design parameters noted in the LTCP, as well as the necessary operational access to both the lift station and the CSO storage tank, necessitating the impacts noted in Item 5 above.
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 project including the sanitary sewer lift station and CSO storage tank are prescribed in the City of Elkhart LTCP. The infrastructure has been designed to limit access to the public utility facilities, including security fencing around the lift station site, and restricted access to the CSO storage tank through the incorporation of an enclosed stairway. Access points to these areas will be restricted via the use of locking gates and doors.

- b. **The Special Exception will not reduce the values of other properties in its immediate vicinity.** The new above grade structures are being designed to be complementary to the area. The above grade lift station building will be designed with typical residential materials, including metal siding and a standing seam metal roof. The CSO storage tank includes enhancements to create a softened aesthetic including the use of imprinted concrete and an enhanced lighting package.

- 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: Tory Irwin

Printed Name: Tory IRWIN

Secondary Property Owner: _____

Printed Name: _____

Contact Person:

Name: Jamie Poczekay, DLZ Indiana, LLC

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

Phone Number where you can be reached: [REDACTED]

Email: jpoczekay@dlz.com

AFFIDAVIT IN SUPPORT OF SPECIAL EXCEPTION PETITION

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

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my special exception petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at Southeastern quadrant of Lafayette St and Thomas St (parcels 06-07-282-001 / 002 / 003), Southwestern quadrant of Lafayette St and Fremont St (parcels 06-07-282-011 / 012 / 013 / 014, which include 1305 Lafayette St and 907 Fremont St), Northwestern quadrant of Indiana Ave and Fremont St (parcels 06-07-282-015 / 016 / 017 / 018 / 019, which include 1007 Fremont St) Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 20th day of Aug, 2024.

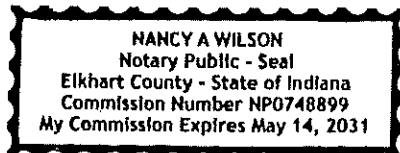
Tory Irwin
Printed: TORY IRWIN

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

Tory Irwin
Printed: TORY IRWIN

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Tory Irwin, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 20th day of August, 2024.



Nancy A. Wilson
Printed: Nancy A. Wilson

My Commission Expires:
May 14, 2031

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

ATTACHMENT A

COMPILED DEEDS



METROPOLITAN TITLE

4100 Edison Lakes Parkway, Suite 120, Mishawaka, Indiana 46545 Phone: (877)269-7670 Fax: (877)270-0534

TITLE AND ENCUMBRANCE REPORT

Code: _____ Parcel: 3 County: Elkhart Pol. Twp.: Concord
 Project: Oakland Road: _____ Des. No.: _____
 Name on Plans: Hole of Elkhart LLC

Key Number 20-06-07-282-003.000-012 Assessed Values
 Description or Addition: 66 x 165 Ft Ne Sec 7 Sec.:7 Twp.:37 North Rge.: 5 East Acreage: 0.24
 acres Land: \$10,500.00 Improv: \$0.00

LAST OWNER OF RECORD

Name: The Hole of Elkhart, LLC, an Indiana limited liability company

Address: 414 W Wolf Ave, Elkhart, IN 46516

Title Acquired by: 2015-14615

Mortgage Record

Mortgage Record: None Amount: \$ Dated: Rec:

Mortgagor:

Mortgagee:

Judgments: None

Easements: None

Taxes: 20-06-07-282-003.000-012

Taxes are current: Yes No

Certificate

I certify that I have searched the records of the above named county for the required period of time and that all recorded transactions which affect the ownership of the caption real estate during that period are set forth in the attached chain of title. I further certify that the information summarized above represents the current status of the fee ownership and encumbrances against the caption real estate.

Dated: 09/29/2023

Signed: Peter A. Vitale

Sent to Engineering:

Abstractor Peter A. Vitale

CAPTION
2015-14615
CONTIGUOUS

None
ITEM 1

GRANTOR: Life Treatment Centers, Inc., an Indiana non-profit corporation

GRANTEE: The Hole of Elkhart, LLC, an Indiana limited liability company
Dated: July 17, 2015
Recorded: July 20, 2015
Record or Instrument No: 2015-14615
Document Attached

ITEM 2

GRANTOR: Med-Art of Elkhart, Inc., an Indiana corporation

GRANTEE: Life Treatment Centers, Inc.
Dated: March 22, 2005
Recorded: March 24, 2005
Record or Instrument No: 2005-08445
Document Attached

ITEM 3

GRANTOR: Richard C. Boling II

GRANTEE: Med-Art of Elkhart, Inc., an Indiana corporation
Dated: March 22, 2005
Recorded: March 24, 2005
Record or Instrument No: 2005-08444
Document Attached

ITEM 4

GRANTOR: Jacob A. Kaufman

GRANTEE: Richard C. Boling II
Dated: February 10, 1989
Recorded: February 13, 1989
Record or Instrument No: 89002423
Document Attached

ITEM LAST

Taxes are listed in the name of Hole of Elkhart LLC
Key Number: 20-06-07-282-003.000-012
Taxes each installment: \$0.00
2022 payable 2023 : Spring paid Fall paid
Ditch: \$none

2015-14615

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
AS PRESENTED
07/20/2015 4:28 PM

THIS DOCUMENT IS PROVIDED FOR SOLE USE OF THE TROPOLITAN TITLE AND RECORDS DEPARTMENT UNDER IC 36-2-7

CORPORATE WARRANTY DEED

Property Address:
1332 W. Indiana Avenue
Elkhart, IN 46516

Tax Parcel No.: 20-06-07-282-001.000-012; 20-06-07-282-002.000-012; 20-06-07-282-003.000-012 and 20-06-07-282-009.000-012

This Indenture Witnesseth, That **Life Treatment Centers, Inc., an Indiana non-profit corporation**

Convey(s) and Warrant(s) to **The Hole of Elkhart, LLC, an Indiana limited liability company**

for the sum of **Ten & 00/100 Dollars (\$10.00)** and other valuable consideration, the following described real estate in **Elkhart County, In the State of Indiana:**

TRACT I:

Lots Numbered One (1) through Seven (7), inclusive, as shown on the plat of IVY PLACE, an addition to the City of Elkhart, recorded in the Office of the Recorder of Elkhart County, Indiana in Plat Book 2, page 140.

TRACT II:

Part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, BEGINNING at a point on the east line of Thomas Street in the City of Elkhart, 299 feet and 10 inches North of the north line of Indiana Avenue; thence from said beginning point North along the East line of Thomas Street, 132 feet; thence Eastwardly parallel with the south line of Harrison Street, 165 feet; thence Southwardly parallel with the east line of Thomas Street, 132 feet; thence Westwardly parallel with the south line of Harrison Street, 165 feet to the place of beginning.

TRACT III:

A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows: BEGINNING at a point on the east line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the east line of said Thomas Street 66 feet; thence Eastwardly parallel with the south line of Harrison Street in said City 165 feet; thence Southwardly parallel with the east line of Thomas Street 66 feet; thence Westwardly parallel with said south line of Harrison Street 165 feet to the place of beginning.

File No.: 49049A

Page 1 of 3

DISCLOSURE FEE PAID

DULY ENTERED FOR TAXATION

SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Jul 20 2015

PAULINE GRAFF, AUDITOR

2767

20.00

DM

PW

Subject to real estate taxes not yet due and payable.

This deed is given in full performance of that certain Land Contract between Life Treatment Centers, Inc., an Indiana non-profit corporation, as Seller(s), and The Hole of Elkhart, LLC, as Purchaser(s), as disclosed by memorandum of Contract for Sale of Real Estate dated April 1, 2014, and recorded May 6, 2014, in the Office of the Recorder of Elkhart County, Indiana, as Instrument No. 2014-07743.

Subject to matters created, suffered, or agreed to by the Grantee.

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

Subject To any and all easements, agreements, and restrictions of record, and to legal highways.

Signed this 17 day of July, 2015.

Life Treatment Centers, Inc.

By: Amy Grill
Its: CFO

Acknowledgement

State of Indiana; Elkhart County:

Before me, a Notary Public in and for the said County and State, personally appeared Amy Grill as CFO of **Life Treatment Centers, Inc.**, who acknowledged the execution of the foregoing Corporate Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and notarial seal this 17th day of July, 2015.

My commission expires: _____ Signature Tamera J. Borggren



TAMERA J. BORGGREN, Notary Public Printed _____, Notary Public
A Resident of Marshall County, IN _____ County, Indiana
My Commission Expires May 11, 2017 Residing in _____

This instrument prepared by Louis Klatch, Attorney at Law.

THIS DOCUMENT IS PRIVATE

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.

Tamera J. Boggien

Name: *Tamera J. Boggien*

Grantee's Mailing Address and Mailing Address for Tax Bills:

(must be a street address)

*414 W Wolf Ave.
Elkhart, In 46516*

NOT FOR RESALE UNDER IC 36-2-7

File No.: 49049A

Page 3 of 3

2005 08445

ELKHART CNTY RECORDER
CHRISTOPHER J ANDERSON
FILED FOR RECORD
AS PRESENTED

2005 MAR 24 11:50

Properly Address:
1332 West Indiana Avenue
Elkhart, IN 46516

Mail Tax Statements to: 1402 S. Michigan St.,
South Bend, IN 46613

Key No.: 20-06-07-282-001-000-012
20-06-07-282-002-000-012
20-06-07-282-003-000-012
20-06-07-282-004-000-012
20-06-07-282-005-000-012
20-06-07-282-006-000-012
20-06-07-282-007-000-012
20-06-07-282-008-000-012
20-06-07-282-009-000-012
20-06-07-282-010-000-012

Century Title Services

CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH that Med-Art of Elkhart, Inc., an Indiana corporation, Convey(s) and Warrant(s) to LIFE TREATMENT CENTERS, INC., for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Elkhart County in the State of Indiana, to wit:

See Exhibit "A" attached hereto and made a part hereof

2
1600
1600

SUBJECT TO all current real estate taxes and assessments and all subsequent taxes and assessments.

SUBJECT TO covenants, restrictions and easements of record.

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

Dated this 22 day of March, 2005.

FILED FINESSED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
324 2005
D. J. [Signature] AUDITOR
000473
TRANSFER FEE 3.00
PARCEL NO. _____

Med-Art of Elkhart, Inc., an Indiana corporation

By: [Signature]
Richard C. Boling II, Pres.
(printed name & title)

DISCLOSURE FEE PAID

STATE OF INDIANA)
COUNTY OF St. Joseph) \$:

Before me, the undersigned, a Notary Public in and for said County and State, this 22 day of March, 2005, personally appeared Richard C. Boling II for and on behalf of Med-Art of Elkhart, Inc., an Indiana corporation, who acknowledged the execution of the above and foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____

[Signature]
Signature of Notary Public

Printed Name of Notary Public _____

Notary Public County & State of Residence _____



This instrument was prepared by: Edward W. Hardig, Jr., Attorney at Law, IN#19199-71/MI#P60319
401 W. High Street, Elkhart, IN 46516
052000286 jcd

2005 08445

EXHIBIT "A"

TRACT I:

Lots Numbered 1, 2, 3, 4, 5, 6 and 7 as the said Lots are known and designated on the recorded Plat of IVY PLACE, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Plat Book 2, page 140, in the Office of the Recorder of Elkhart County, Indiana.

TRACT II:

Part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East; beginning at a point on the East line of Thomas Street in the City of Elkhart, 299 feet and 10 inches North of the North line of Indiana Avenue; thence from said beginning point North along the East line of Thomas Street, 132 feet; thence Eastwardly parallel with the South line of Harrison Street, 165 feet; thence Southwardly parallel with the East line of Thomas Street, 132 feet; thence Westwardly parallel with the South line of Harrison Street, 165 feet to the place of beginning.

TRACT III:

A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows:

BEGINNING at a point on the East line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the East line of said Thomas Street 66 feet; thence Eastwardly parallel with the South line of Harrison Street in said City 165 feet; thence Southwardly parallel with the East line of Thomas Street 66 feet; thence Westwardly parallel with said South line of Harrison Street 165 feet to the place of beginning.

2005 08444

DAILY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
3-24 20 05
000472
TRANSFER FEE 3.00
PARCEL NO.

ELKHART CNTY RECORDER
CHRISTOPHER J ANDERSON
FILED FOR RECORD
AS PRESENTED

2005 MAR 24 A 11: 49

Property Address: DISCLOSURE FEE NOT REQUIRED
1332 West Indiana Avenue
Elkhart, IN 46516

Mail Tax Statements to: 1402 S. Michigan St. Key No.: 20-06-07-282-003-000-012
South Bend, IN 46613

WARRANTY DEED

Century Title Services

THIS INDENTURE WITNESSETH that Richard C. Boling II, Convey(s) and Warrant(s) to MED-ART OF ELKHART, INC., an Indiana corporation, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Elkhart County in the State of Indiana, to wit:

A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows:

①
1472

BEGINNING at a point on the East line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the East line of said Thomas Street 66 feet; thence Eastwardly parallel with the South line of Harrison Street in said City 165 feet; thence Southwardly parallel with the East line of Thomas Street 66 feet; thence Westwardly parallel with said South line of Harrison Street 165 feet to the place of beginning.

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 Grantor has executed this deed this 22 day of March, 2005.

Richard C. Boling II
Richard C. Boling II

STATE OF INDIANA)
COUNTY OF ELKHART) §:

Before me, the undersigned, a Notary Public in and for said County and State, this 22 day of March, 2005, personally appeared Richard C. Boling II, who acknowledged the execution of the above and foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____

Edward W. Hardig, Jr.
Signature of Notary Public

Printed Name of Notary Public _____

Notary Public County & State of Residence _____



This instrument was prepared by: Edward W. Hardig, Jr., Attorney at Law, IN#19199-71/MI#P60319
401 W. High Street, Elkhart, IN 46516
052000286 jrm

Use of this form constitutes practice of law and is limited to practicing lawyers.
Copyright, 1986, by Indianapolis Bar Association.

Form No. 3
Rev. 10/86

Parcel No. _____

FEB 13 10 12 AM '89

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Feb 13 1989 **WARRANTY DEED**

ELKHART COUNTY RECORDER
PEGGY A. MILLER
FILED FOR RECORD

Charles R. Miller AUDITOR
07644

THIS INDENTURE WITNESSETH, That Jacob A. Kaufman

(Grantor)

of Elkhart County, in the State of Indiana, CONVEY S

AND WARRANT S to Richard C. Boling II

(Grantee)

of Elkhart County, in the State of Indiana, for the sum

of Ten and 00/100 Dollars (\$ 10.00) and other

valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Elkhart County, State of Indiana:

A part of the Northeast Quarter (NE 1/4) of Section Seven (7), Township Thirty-seven (37) North, Range Five (5) East, more particularly described as follows:

Beginning at a point on the east line of Thomas Street in the City of Elkhart, Indiana, which is two hundred thirty-three (233) feet and ten (10) inches north of the north line of West Indiana Avenue; thence from said beginning point north along the east line of said Thomas Street sixty-six (66) feet; thence eastwardly parallel with the south line of Harrison Street in said City one hundred sixty-five (165) feet; thence southwardly parallel with the east line of Thomas Street sixty-six (66) feet; thence westwardly parallel with said south line of Harrison Street one hundred sixty-five (165) feet to the place of beginning.

Subject to unpaid real estate taxes.

Subject to any and all easements, agreements and restrictions of record. The address of such real estate is commonly known as 916 Thomas Street, Elkhart, Indiana
46516

Tax bills should be sent to Grantee at such address unless otherwise indicated below.

IN WITNESS WHEREOF, Grantor has executed this deed this 10th day of February 19 89.

Grantor: _____ (SEAL) Grantor: _____ (SEAL)
Signature _____ Signature _____
Printed Jacob A. Kaufman Printed _____

STATE OF INDIANA } SS: ACKNOWLEDGMENT
COUNTY OF ELKHART

Before me, a Notary Public in and for said County and State, personally appeared Jacob A. Kaufman who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 10th day of February, 19 89.

My commission expires: December 15, 1992
Signature Tana T. Barnes
Printed Tana T. Barnes, Notary Public
Resident of Elkhart County, Indiana.

This instrument prepared by Robert C. Daniels, Attorney at Law.

Return deed to _____

Send tax bills to _____

WARRANT RECORDED
FEB 13 1989

010121423

2011 MAY -2 A 9 32

WARRANTY DEED

THIS INDENTURE WITNESSETH, that the CITY OF ELKHART REDEVELOPMENT COMMISSION, of Elkhart County, Indiana, CONVEYS AND WARRANTS to the CITY OF ELKHART WASTEWATER UTILITY, of Elkhart, State of Indiana, whose mailing address is 1201 South Nappanee Street, Elkhart, Indiana 46516, for and in consideration of valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Elkhart County, State of Indiana:

Lot Numbered Thirty-six (36) as the said Lot is known and designated on the recorded Plat of Hiram D. Thomas Estates Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

(4)
2200
OK

The real estate is more specifically describe is Exhibit A, Certificate of Survey.

It is understood between the parties hereto, and their successors in title, and made a covenant herein which shall run with the land, that all lands hereinbefore described are conveyed in fee simple and not merely for right-of-way purposes, and that no reversionary rights whatsoever are intended to remain in the Grantor.

Elkhart Public Works & Utilities

Page 1

NO SALES DISCLOSURE REQUIRED

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

5/2 2011
Pauline E. Haff AUDITOR
000966

TRANSFER FEE 5
PARCEL NO. 16-07-282-01-00

IN WITNESS WHEREOF, grantor has executed this deed this 8 day of February, 2011.

CITY OF ELKHART
REDEVELOPMENT COMMISSION

Steve Eldridge

By: Steve Eldridge, President

STATE OF INDIANA, COUNTY OF ELKHART, SS:

Before me, a Notary Public in and for said County and State, personally appeared Steve Eldridge, who acknowledged execution of the foregoing Warranty Deed for and on behalf of said grantor, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 8 day of February, 2011.

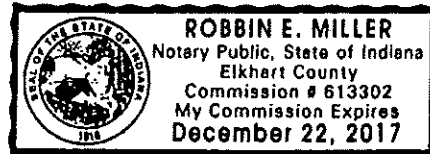
My Commission Expires:

12-22-2017

Robbin E. Miller
Signature of Notary Public

Printed Name

County of Residence: Elkhart



I affirm under the penalties for perjury that I have redacted all social security numbers.
Margaret M. Jones

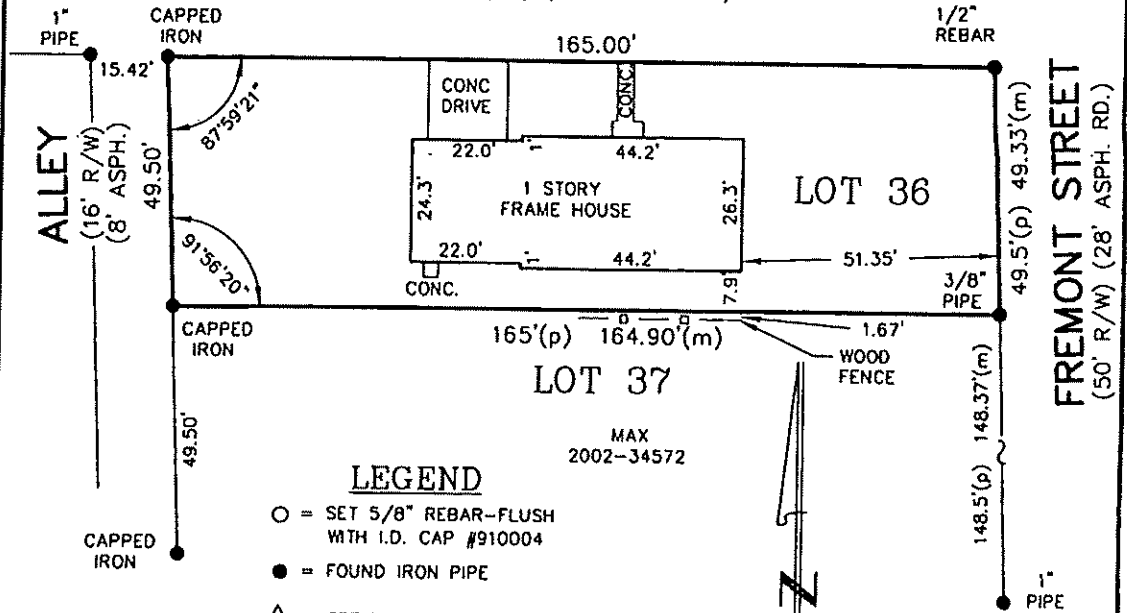
This instrument was prepared by Margaret M. Jones, Attorney #23249-71, Utility Staff Attorney, City of Elkhart, 1201 S. Nappanee St., Elkhart, IN 46516.

CERTIFICATE OF SURVEY

LEGAL
 LOT 36 IN HIRAM D. THOMAS
 ESTATES ADDITION TO
 THE CITY OF ELKHART,
 ELKHART COUNTY, INDIANA.
 D.R. 103, PAGE 287.

LAFAYETTE STREET

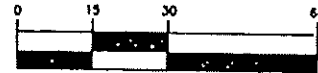
(50' R/W) (23' ASPH. RD.)



LEGEND

- = SET 5/8" REBAR-FLUSH WITH I.D. CAP #910004
- = FOUND IRON PIPE
- △ = SET R.R. SPIKE
- ▲ = FOUND R.R. SPIKE
- (m) = MEASURED
- (p) = PLATTED
- (d) = DEEDED

GRAPHIC SCALE



(IN FEET)
 1 inch = 30 ft.

I, BRADLEY S. CRAMER, A REGISTERED LAND SURVEYOR IN THE STATE OF INDIANA, LICENSE #910004, DO HEREBY CERTIFY THAT THIS REPRESENTS A SURVEY PREPARED BY ME OR UNDER MY DIRECT SUPERVISION. THIS SURVEY WAS COMPLETED ON FEBRUARY 12, 2009 IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12 OF THE INDIANA ADMINISTRATIVE CODE. I FURTHER 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.



Bradley S. Cramer

OWNER: CITY OF ELKHART REDEVELOPMENT COMM.
 DEED RECORD: 2007-31208
 ADD: 1305 LAFAYETTE STREET, ELKHART



Progressive Engineering Inc.

58640 State Road 15
 Goshen, IN 46528
 Phone (574) 533-0337
 Fax (574) 533-9736

www.p-e-i.com

CLIENT: CITY OF ELKHART REDEVELOPMENT COMMISSION

JOB NO.: 09-315	DATE: 2/16/2009
DRAWN BY: BRAD	SCALE: 1" = 30'

CERTIFICATE OF SURVEY

SURVEYORS REPORT

1) IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12 OF THE INDIANA ADMINISTRATIVE CODE, THE FOLLOWING OBSERVATIONS AND OPINIONS ARE SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED ON THIS SURVEY AS A RESULT OF:

- A) VARIANCES IN THE REFERENCE MONUMENTS;
- B) DISCREPANCIES IN RECORD DESCRIPTIONS AND PLATS;
- C) INCONSISTENCIES IN LINES OF OCCUPATION;

COMMENTS: ALL CORNERS WERE FOUND AND ACCEPTED IN PLACE. PREVIOUS SURVEYS WERE FOUND BY MAX GARL AND RON WEAVER OF THE PARCEL. A MORE RECENT SURVEY WAS DONE BY MARBACH BRADY & WEAVER, AS EVIDENCED BY THE CAPPED IRONS ON THE WEST LINE.

AS A RESULT OF THE ABOVE OBSERVATIONS, IT IS MY OPINION THAT THE DEGREE OF UNCERTAINTY IN THE LOCATION OF THE LINES AND CORNERS ON THIS SURVEY ARE AS FOLLOWS:

RELATIVE POSITIONAL ACCURACY: 0.13' PLUS 100 ppm (SUBURBAN)

DUE TO VARIANCES IN MONUMENTATION: 0.17' N/S ON THE EAST LINE. 0.10' E/W ON THE SOUTH LINE.

DUE TO DISCREPANCIES IN THE RECORD DESCRIPTION: NONE.

DUE TO INCONSISTENCIES IN THE LINES OF OCCUPATION: 1.6' ON THE SOUTH LINE DUE TO FENCE LINE.

THIS PROPERTY IS NOT LOCATED WITHIN THE FLOODPLAIN AS PER INFORMATION OBTAINED FROM FLOOD INSURANCE RATE MAP, NATIONAL FLOOD INSURANCE PROGRAM, COMMUNITY PANEL NUMBER 180057 0010 C, DATED MAY 1, 1985.



Progressive Engineering Inc.

58640 State Road 15
Goshen, IN 46528
Phone (574) 533-0337
Fax (574) 533-9736

www.p-e-i.com

CLIENT: CITY OF ELKHART
REDEVELOPMENT COMMISSION

JOB NO.:
09-315

DATE:
2/16/2009

DRAWN BY:
BRAD

SCALE:

2024-06244

ELKHART COUNTY RECORDER
KAALA BAKER
FILED FOR RECORD ON
04/19/2024 02:00 PM
AS PRESENTED

WARRANTY DEED

Form WD-1
Revised 8/2022

Project: Oakland Avenue
Code: NA
Parcel: 2
Page: 1 of 3

THIS INDENTURE WITNESSETH, That Wolf Pack, llc, the Grantor(s) of Elkhart County, State of Indiana Convey(s) and Warrant(s) to the **CITY OF ELKHART BY ITS BOARD OF PUBLIC WORKS**, the Grantee, for and in consideration of the sum of One Hundred Twenty One Thousand Five Hundred Dollars (\$121,500.00) (of which said sum \$121,500.00 represents land and improvements acquired and \$0.00 represents damages) and other valuable consideration, the receipt of which is hereby acknowledged, certain Real Estate situated in the County of Elkhart, State of Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon the Right of Way Parcel Plat attached hereto as Exhibit "B", both of which exhibits are incorporated herein by reference.

This conveyance is subject to any and all easements, conditions and restrictions of record.

The Grantor(s) hereby specifically acknowledge(s) and agree(s) that the Real Estate conveyed herein is conveyed in fee simple and that no reversionary rights whatsoever shall remain with the Grantor(s), or any successors in title to the abutting lands of the Grantor(s), notwithstanding any subsequent abandonment, vacation, disuse, nonuse, change of use, conveyance, lease and/or transfer by the Grantee or its successors in title, of a portion or all of the said Real Estate or any right of way, roadway or roadway appurtenances established thereupon. This acknowledgement and agreement is a covenant running with the land and shall be binding upon the Grantor(s) and all successors and assigns.

The undersigned represent and warrant that they are the Members of the Grantor; that the Grantor is a limited liability company validly existing in the State of its origin and, where required, in the State where the subject real estate is situated; that the Grantor has full company capacity to convey the real estate interest described; that pursuant to a resolution of the Members of the Grantor or the Operating Agreement of the Grantor they have full authority to execute and deliver this instrument on its behalf and that said authority has not been revoked; that they are therefore, fully authorized and empowered to convey to the City of Elkhart real estate of the Grantor, and that on the date of execution of said conveyance instruments they had full authority to so act; and that all necessary company action for the making of this conveyance has been duly taken.

Interests in land acquired by the City of
Elkhart
Grantee mailing address:
1201 S. Nappanee St.
Elkhart, IN 46516

JM

KK

GIVE TO GIS
20-06-07-282-012.000-012

NO SALES DISCLOSURE REQUIRED-SM

DULY ENTERED FOR TAXATION

SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Apr 19 2024

PATRICIA A. PICKENS, AUDITOR

01644

10.00

Project: Oakland Avenue
Code: NA
Parcel: 2
Page: 2 of 3

The grantor(s) assume(s) and agree(s) to pay the 2022 payable 2023 real estate taxes and assessments on the above described real estate. This obligation to pay shall survive the said closing and shall be enforceable by the State in the event of any non-payment.

IN WITNESS WHEREOF, the said Grantor(s) have executed this instrument
this 23rd day of Oct, 2023.

Wolf Pack, llc

[Signature]
Signature

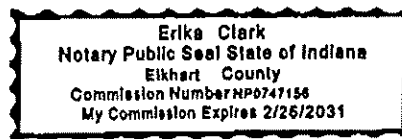
Ignacio Perez Owner
Printed Name and Title

STATE OF: IN :
COUNTY OF Elkhart : SS:

Before me, a Notary Public in and for said State and County, personally appeared Ignacio Perez
owner of Wolf Pack, llc, the Grantor(s) in the above conveyance, and acknowledged the execution of the same on the date aforesaid to be their voluntary act and deed and who, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 23rd day of Oct 2023.

Signature [Signature]
Printed Name Erika Clark
My Commission Number NP0747156
My Commission expires 2/26/2031
I am a resident of Elkhart County.



This instrument prepared by Margaret Mary Marnocha, #23249-71, Assistant City Attorney, Public Works & Utilities, 1201 S. Nappanee St., Elkhart IN 46516, 574-293-2572

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless otherwise required by law. Margaret Mary Marnocha

ACCEPTANCE

The Grantee hereby accepts the foregoing Warranty Deed together with all conditions and requirements stated therein.

Executed this 16th day of April, 2024.

ELKHART BOARD OF PUBLIC WORKS

Michael C. Machlan
Michael C. Machlan, President

Jamie Arce, Vice-President

Ronnie Davis
Ronnie Davis, Member

Rose Rivera
Rose Rivera, Member

Andy Jones
Andy Jones, Member

ATTEST:

Nancy A. Wilson
Nancy A. Wilson, Clerk

STATE OF INDIANA, COUNTY OF ELKHART, SS:

Before me, the undersigned Notary Public, in and for said County and State, personally came Michael C. Machlan, ~~Jamie Arce~~, Ronnie Davis, Rose Rivera and Andy Jones the members of the Elkhart Board of Public Works, and acknowledged their acceptance and execution of this dedication.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, on this 16th day of April, 2024.

My Commission Expires:

05-14-31

Nancy A. Wilson
Nancy A. Wilson, Notary Public
Resident of Elkhart County, Indiana

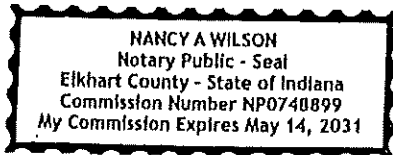


EXHIBIT "A"

Project: Oakland Project B

Sheet 1 of 1

Parcel 2 Fee Simple

Encumbers Key 20-06-07-282-012.000-012

Lot 37 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

2008 MAR 31 A 9:31

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Richard C. Boling, II (Grantor) **CONVEY(S) AND WARRANT(S)** to City of Elkhart, Indiana, 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, State of Indiana:

LOTS NUMBERED 38, 39, AND 40, AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF HIRAM D. THOMAS ESTATE ADDITION TO THE CITY OF ELKHART, INDIANA; SAID PLAT BEING RECORDED IN DEED RECORD 103, PAGE 287 IN THE RECORDS OF ELKHART COUNTY, INDIANA.

Property Address: V/L Fremont Street, Elkhart, IN 46516
Tax ID No.: 20-06-07-282-013-000-012; 20-06-07-282-014-000-012 & 20-06-07-282-015-000-012

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

IN WITNESS WHEREOF, Grantor has executed this deed on the 13 day of March, 2008

LandAmerica Lawyers Title

(Signature)
Richard C. Boling, II



EDWARD W. HARDIG, Jr., Notary Public
A Resident of St. Joseph County, IN
My Commission Expires: 05-31-2008

STATE OF INDIANA)
COUNTY OF ELKHART) SS.

Before me, a Notary Public in and for said County and State, personally appeared Richard C. Boling, II, who acknowledged the execution of the foregoing deed.

Witness my hand and notarial seal on the 13 day of March, 2008
(Signature)
Notary Public
Resident of _____ County
My Commission expires: _____

①
16-
OK

Grantee's Address and Tax Billing Address:
201 S. 2ND STREET
ELKHART, IN 46516

Prepared by:
Edward W. Hardig, Jr., Attorney at Law, IN#19199-71/MI# P60319
401 W. High St., Elkhart, IN 46516 kjm

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law SHELLEY TUTTLE File No. 510801063

DISCLOSURE FEE NOT REQUIRED
DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
3-31 20 08
(Signature) AUDITOR
000423
TRANSFER FEE 15.00
PARCEL NO. _____

2024-06243

ELKHART COUNTY RECORDER
KAALA BAKER
FILED FOR RECORD ON
04/19/2024 01:54 PM
AS PRESENTED

WARRANTY DEED

Form WD-1
Revised 8/2022

Project: Oakland Avenue
Code: NA
Parcel: 1
Page: 1 of 3

THIS INDENTURE WITNESSETH, That Capstone II, LLC, the Grantor(s) of Elkhart County, State of Indiana Convey(s) and Warrant(s) to the **CITY OF ELKHART BY ITS BOARD OF PUBLIC WORKS**, the Grantee, for and in consideration of the sum of One Hundred Thirty Two Thousand Five Hundred Dollars (\$132,500.00) (of which said sum \$132,500.00 represents land and improvements acquired and \$0.00 represents damages) and other valuable consideration, the receipt of which is hereby acknowledged, certain Real Estate situated in the County of Elkhart, State of Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon the Right of Way Parcel Plat attached hereto as Exhibit "B", both of which exhibits are incorporated herein by reference.

This conveyance is subject to any and all easements, conditions and restrictions of record.

The Grantor(s) hereby specifically acknowledge(s) and agree(s) that the Real Estate conveyed herein is conveyed in fee simple and that no reversionary rights whatsoever shall remain with the Grantor(s), or any successors in title to the abutting lands of the Grantor(s), notwithstanding any subsequent abandonment, vacation, disuse, nonuse, change of use, conveyance, lease and/or transfer by the Grantee or its successors in title, of a portion or all of the said Real Estate or any right of way, roadway or roadway appurtenances established thereupon. This acknowledgement and agreement is a covenant running with the land and shall be binding upon the Grantor(s) and all successors and assigns.

The undersigned represent and warrant that they are the Members of the Grantor; that the Grantor is a limited liability company validly existing in the State of its origin and, where required, in the State where the subject real estate is situated; that the Grantor has full company capacity to convey the real estate interest described; that pursuant to a resolution of the Members of the Grantor or the Operating Agreement of the Grantor they have full authority to execute and deliver this instrument on its behalf and that said authority has not been revoked; that they are therefore, fully authorized and empowered to convey to the City of Elkhart real estate of the Grantor, and that on the date of execution of said conveyance instruments they had full authority to so act; and that all necessary company action for the making of this conveyance has been duly taken.

NO SALES DISCLOSURE REQUIRED-SM

DULY ENTERED FOR TAXATION

SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Apr 19 2024

PATRICIA A. PICKENS, AUDITOR

01643

20.00

Interests in land acquired by the City of
Elkhart
Grantee mailing address:
1201 S. Nappanee St.
Elkhart, IN 46516

CM

KK

GIVE TO GIS

20-06-07-282-016/017.000-012

Form WD-1
Revised 8/2022

Project: Oakland Avenue
Code: NA
Parcel: 1
Page: 2 of 3

The grantor(s) assume(s) and agree(s) to pay the 2022 payable 2023 real estate taxes and assessments on the above described real estate. This obligation to pay shall survive the said closing and shall be enforceable by the State in the event of any non-payment.

IN WITNESS WHEREOF, the said Grantor(s) have executed this instrument
this 31 day of OCT, 2023.

Capstone II, LLC

[Signature]
Signature

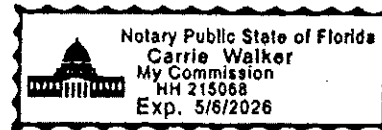
RICHARD L SCHMUCKER MEMBER
Printed Name and Title

STATE OF: Florida:
COUNTY OF Sumter: SS:

Before me, a Notary Public in and for said State and County, personally appeared Richard L Schucker
MEMBER of Capstone II, LLC, the Grantor(s) in the above conveyance, and acknowledged the execution of the same on the date aforesaid to be their voluntary act and deed and who, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 31 day of October, 2023.

Signature Carrie Walker
Printed Name Carrie Walker
My Commission Number HH 2150108
My Commission expires 5/6/2026
I am a resident of Sumter County.



This instrument prepared by Margaret Mary Mamocha, #23249-71, Assistant City Attorney, Public Works & Utilities, 1201 S. Nappanee St., Elkhart IN 46516, 574-293-2572

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless otherwise required by law. Margaret Mary Mamocha

ACCEPTANCE

The Grantee hereby accepts the foregoing Warranty Deed together with all conditions and requirements stated therein.

Executed this 16th day of April, 2024.

ELKHART BOARD OF PUBLIC WORKS

Michael C. Machlan
Michael C. Machlan, President

Jamie Arce, Vice-President

Ronnie Davis
Ronnie Davis, Member

Rose Rivera
Rose Rivera, Member

Andy Jones
Andy Jones, Member

ATTEST:

Nancy A. Wilson
Nancy A. Wilson, Clerk

STATE OF INDIANA, COUNTY OF ELKHART, SS:

Before me, the undersigned Notary Public, in and for said County and State, personally came Michael C. Machlan, ~~Jamie Arce~~, Ronnie Davis, Rose Rivera and Andy Jones the members of the Elkhart Board of Public Works, and acknowledged their acceptance and execution of this dedication.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, on this 16th day of April, 2024.

My Commission Expires:

05-14-31

Nancy A. Wilson
Nancy A. Wilson, Notary Public
Resident of Elkhart County, Indiana

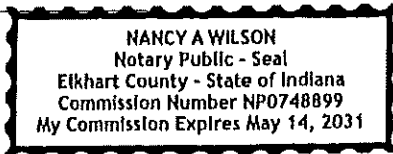


EXHIBIT "A"

Project: Oakland Project B

Sheet 1 of 2

Parcel 1 Fee Simple

Encumbers Key 20-06-07-282-016.000-012

Lot 41 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

EXHIBIT "A"

Project: Oakland Project B

Sheet 2 of 2

Parcel 1A Fee Simple

Encumbers Key 20-06-07-282-017.000-012

Lot 42 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

2020-04259

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
02/26/2020 01:48 PM
AS PRESENTED

Tax ID Number(s):
State ID Number Only 20-06-07-282-019.000-012
State ID Number Only 20-06-07-282-018.000-012

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

Larry LaMar Ott

CONVEY(S) AND WARRANT(S) TO

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

SEE ATTACHED EXHIBIT "A"

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

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 25 day of February, 2020.

Larry LaMar Ott
Larry LaMar Ott

MTC File No.: 20-3562 (UD)

DM

AL

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

Page 1 of 3

Feb 26 2020

PATRICIA A. PICKENS, AUDITOR

00918

20.00

State of Indiana, County of St. Joseph ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **Larry LaMar Ott** who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 25 day of February, 2020

July 31 2023

My Commission Expires:

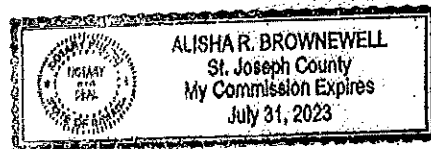
66 8594

Commission No.

St Joseph IN

Notary Public County and State of Residence

[Signature]
Signature of Notary Public
ALISHA R BROWNEWELL
Printed Name of Notary



This instrument was prepared by:

Andrew R. Drake, Attorney-at-Law
11711 N. Pennsylvania St., Suite 110, Carmel, IN 46032

Property Address:

1023 Fremont Street
Elkhart, IN 46516

Grantee's Address and Mail Tax Statements To:

12015 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. Andrew R. Drake

EXHIBIT A

Lots Numbered Forty-three (43) and Forty-four (44) as the said Lots are known and designated on the Plat of Hiram D. Thomas Estate Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, page 287, in the Office of the Recorder of Elkhart County, Indiana.

ATTACHMENT B

SITE EXHIBITS

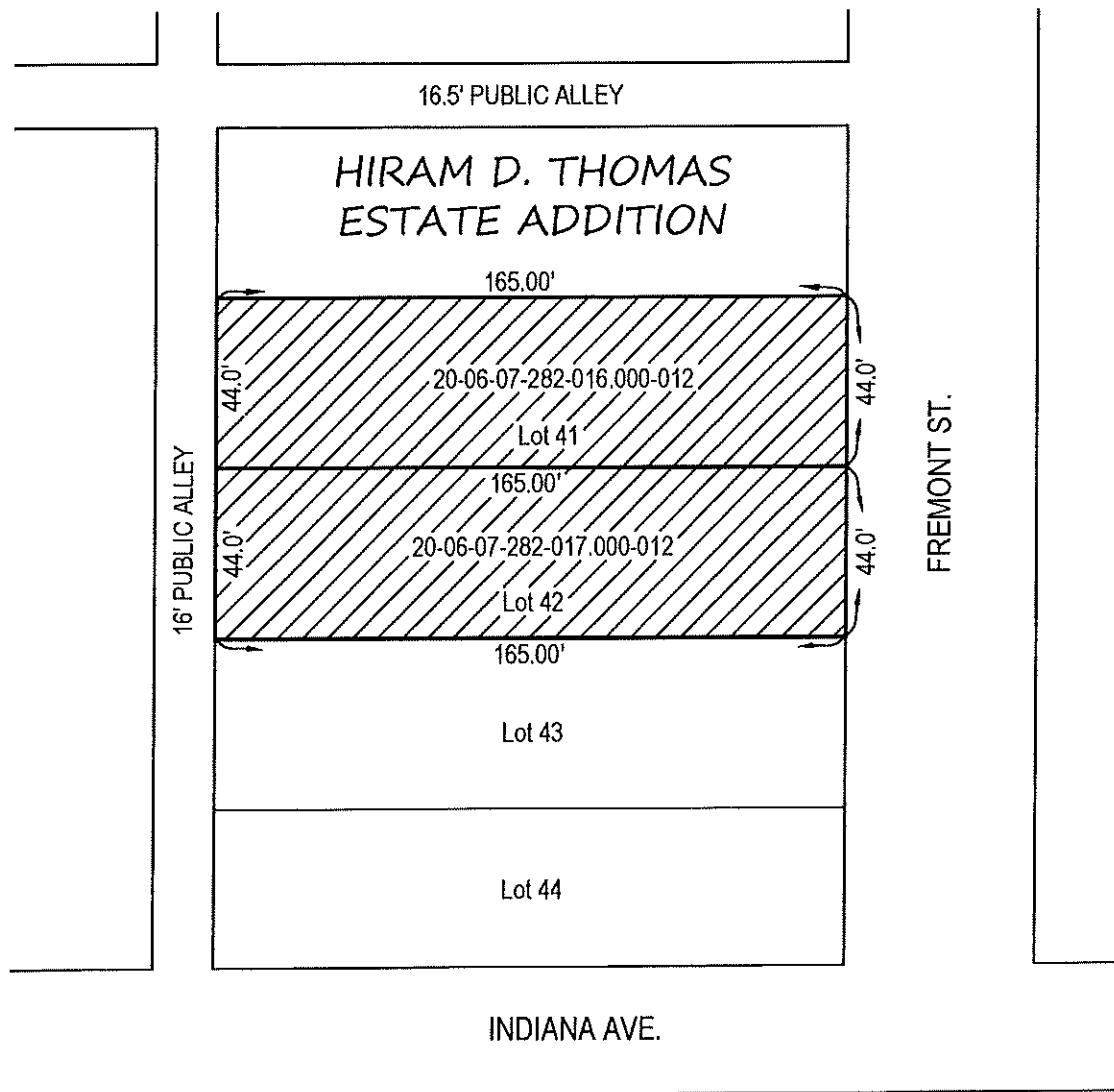
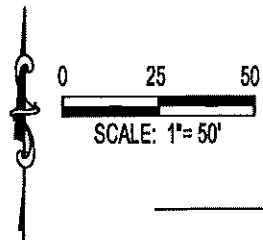
Parcel: 1
Project: Oakland Project B
County: Elkhart
Section: 7
Township: 37N
Range: 5

Exhibit "B" Right of Way Parcel Plat

Owner: Capstone II, LLC
Sheriff's Deed: 2019-20543
Hiram D.Thomas Estate Addition: MR 27 P 478

Prepared by: GMW
Checked by: SAJ
DL Proj: 2361-5893-90-6100

 Hatched Area is the
Approximate acquisition



DLZ
DLZ INDIANA, LLC
2211 EAST JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 45615
(574) 236-4400 www.dlz.com

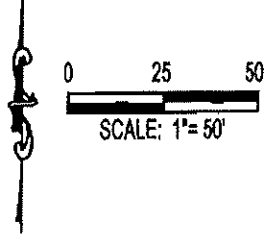
Parcel: 2
Project: Oakland Project B
County: Elkhart
Section: 7
Township: 37N
Range: 5

Exhibit "B" Right of Way Parcel Plat

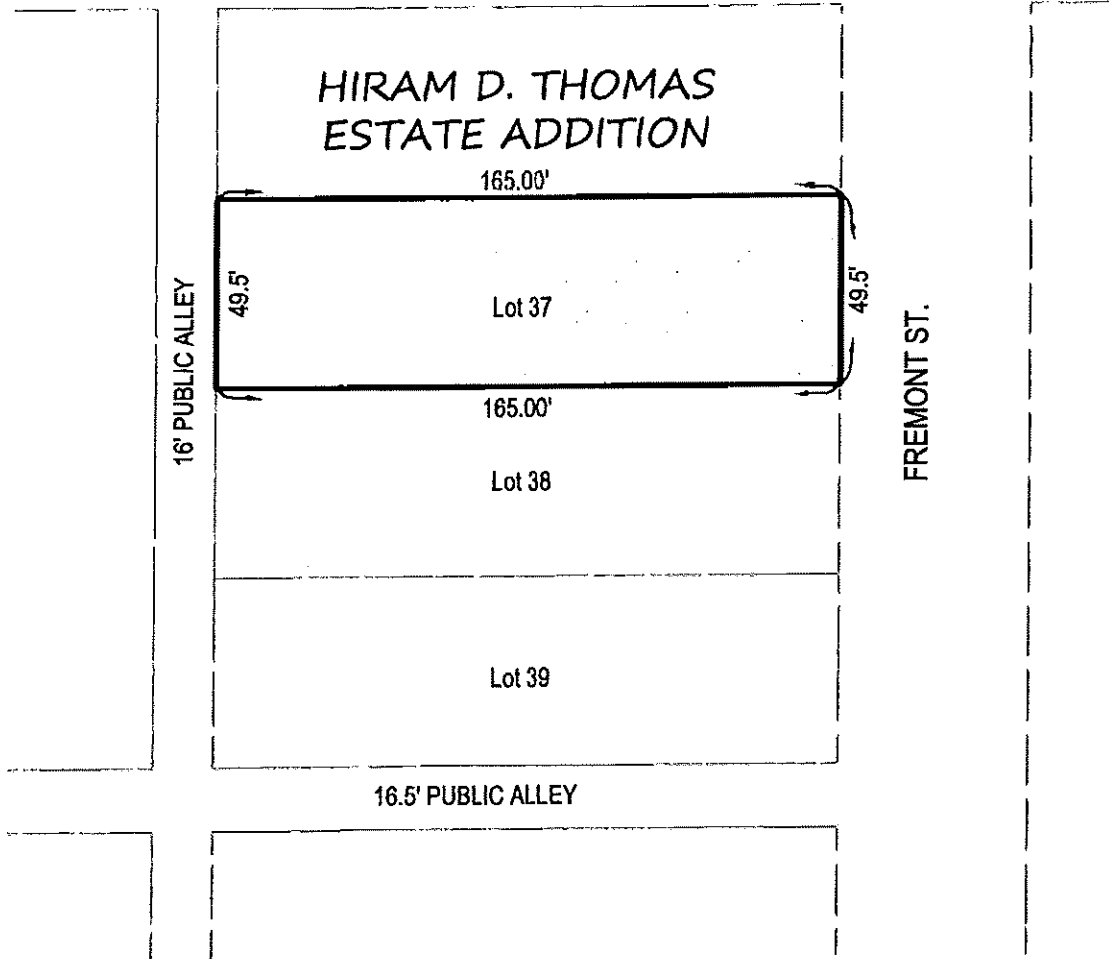
Owner: Wolf Pack LLC
Quit Claim Deed: 2022-11105
Hiram D. Thomas Estate Addition: MR 27 P 478
Tax ID No.: 20-06-07-282-012.000-012

Prepared by: GMW
Checked by: SAJ
DL Proj: 2361-5893-90-6100

 Hatched Area is the
Approximate acquisition



LAFAYETTE ST.



DLZ

DLZ INDIANA, LLC
2211 EAST JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 48615
(574) 236-4400 www.dlz.com



ELIGIART
OAKLAND AVENUE - PROJECT B
CSO STORAGE
SITE LAYOUT AND GEOMETRICS PLAN
AREA A

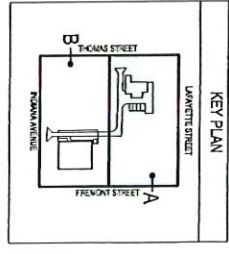
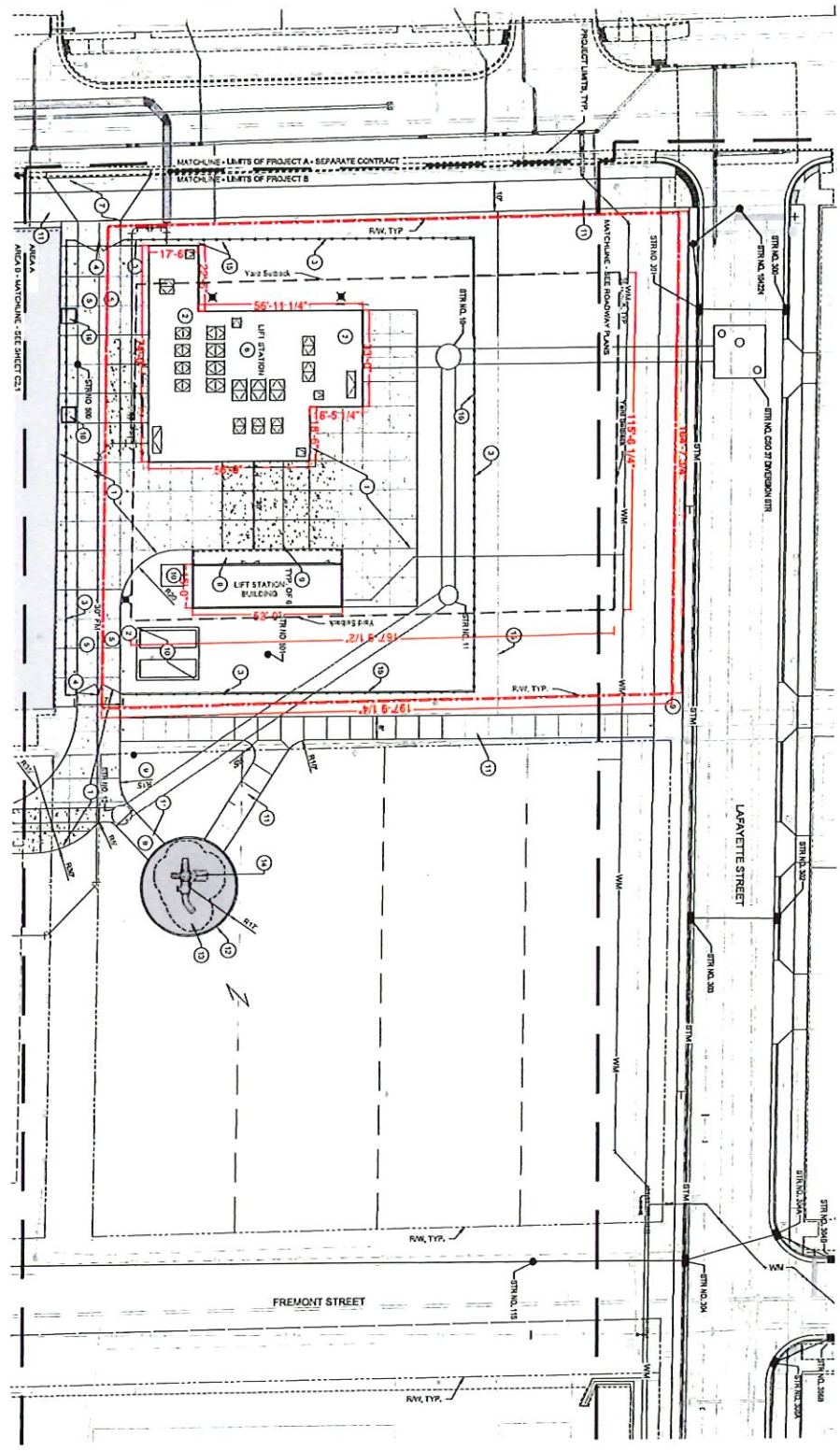
INDIANA

DESIGNED BY	DATE	SCALE
CSO STORAGE	MAY 15, 2024	1"=40'
PROJECT NUMBER		
2361,5983.90		

NO.	DATE	BY	REVISION

FOR USE VARIANCE ONLY

SHEET 12
 OF 174
C2.0

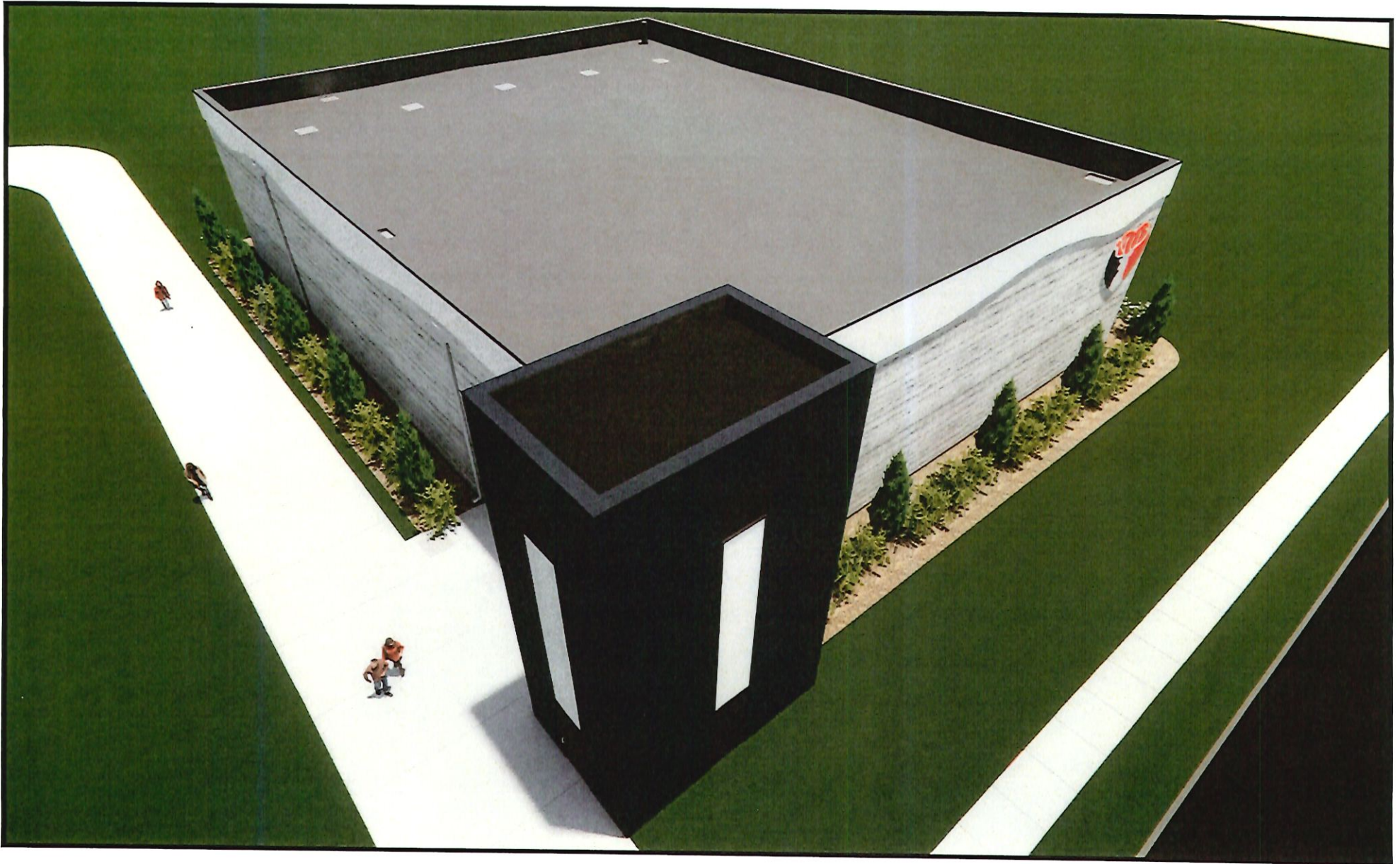


- NOTES**
1. DIMENSIONS ARE APPROXIMATE, FIELD VERIFY PRIOR TO CONSTRUCTION.
 2. DIMENSIONS AND COORDINATES ARE TAKEN FROM THE FACE OF CURB, WALL, AVIAR BUILDING UNLESS OTHERWISE NOTED.
 3. CONSTRUCTION LIMITS SHOWN ARE APPROXIMATE. ADJUSTMENTS TO THE LIMITS INCIDENTAL TO CONSTRUCTION ACTIVITIES MAY BE PERMITTED WITH THE APPROVAL OF THE ARCHITECT. CONTRACTOR SHALL FIELD MARK ANY PROPOSED APPROVAL PRIOR TO BEGINNING CONSTRUCTION.
 4. ALL AREAS DISTURBED, NOT PLANT, FENCED OR OTHERWISE COVERED BY CONSTRUCTION SHALL BE RESTORED.
 5. CONCRETE JOINTING SHOWN TO INDICATE DESIGN INTENT. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS IDENTIFYING ALL JOINTS, CONTROL & CONSTRUCTION JOINTS FOR ARCHITECT'S APPROVAL PRIOR TO CONSTRUCTION.

LEGEND

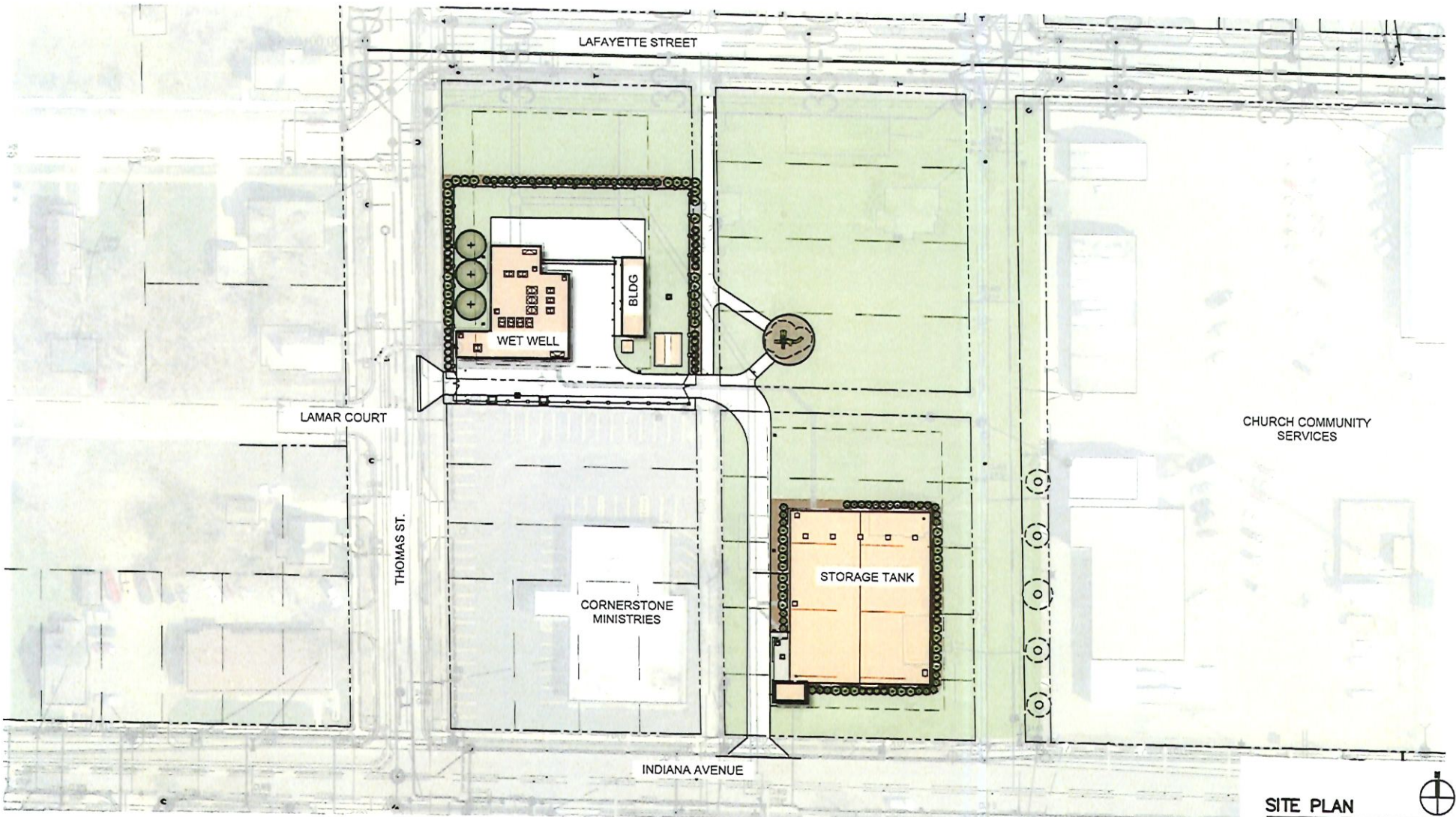
1. POLE FOR STRUCTURE AT OR IF COMPACTED APPROXIMATE NO. 50, B&E
2. LIGHT POLE - SEE ELECTRICAL
3. FENCE CHAIN LINK
4. DOUBLE SLING CHAIN LINK GATE
5. GATE STOP POSTS
6. UNDERGROUND UTILITY STRUCTURE - SEE SHEET 6-1-1
7. POLE FOR APPROXIMATES, IF OR IF COMPACTED APPROXIMATE NO. 50, B&E
8. CONCRETE STOP - SEE STRUCTURAL
9. BOLLARD
10. UTILITY POLE, SEE ELECTRICAL PLAN
11. CONCRETE SIGNWALL, IF OR IF COMPACTED APPROXIMATE NO. 50, B&E
12. FLUSH CONCRETE CURB
13. ENHANCED WOOD BARRIER
14. PLANT STRUCTURE
15. STEEL LANDSCAPE LIGHTING
16. BRIDGE CURVE POST - SEE STRUCTURAL

CSO Storage Tank Site Rendering





ES-1 <small>FIGURE NUMBER</small>	ELKHART	OAKLAND AVENUE LTCP CONTROL STUDY	<small>INDIANA</small>	<small>SCALE</small> 1" = 600' 	
	OVERALL PROJECT MAP			<small>PROJECT NUMBER</small> 2061.5739.50	



Elkhart Oakland Project B Tank Location

Elkhart, IN

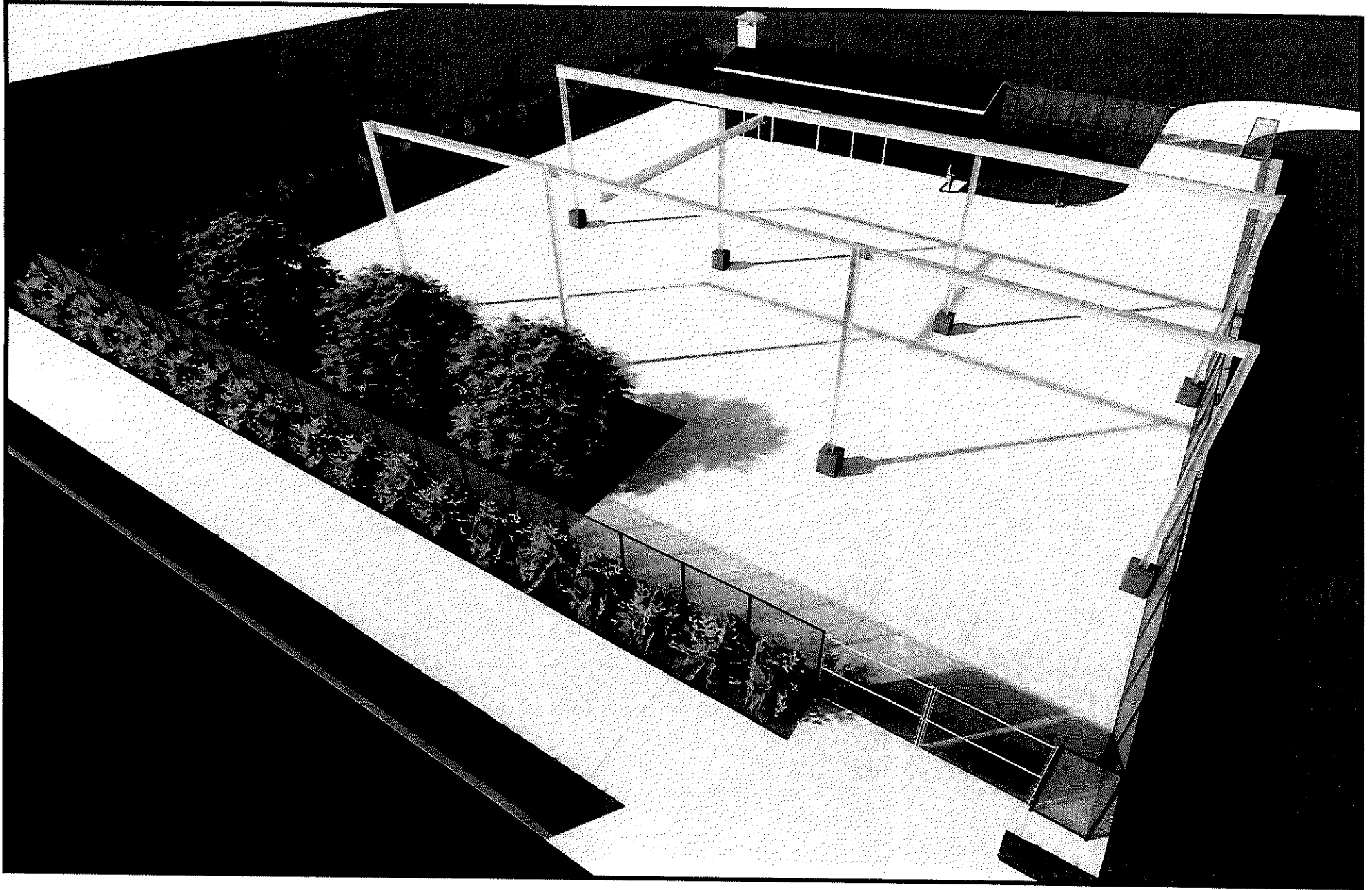
7/31/2024

SITE PLAN

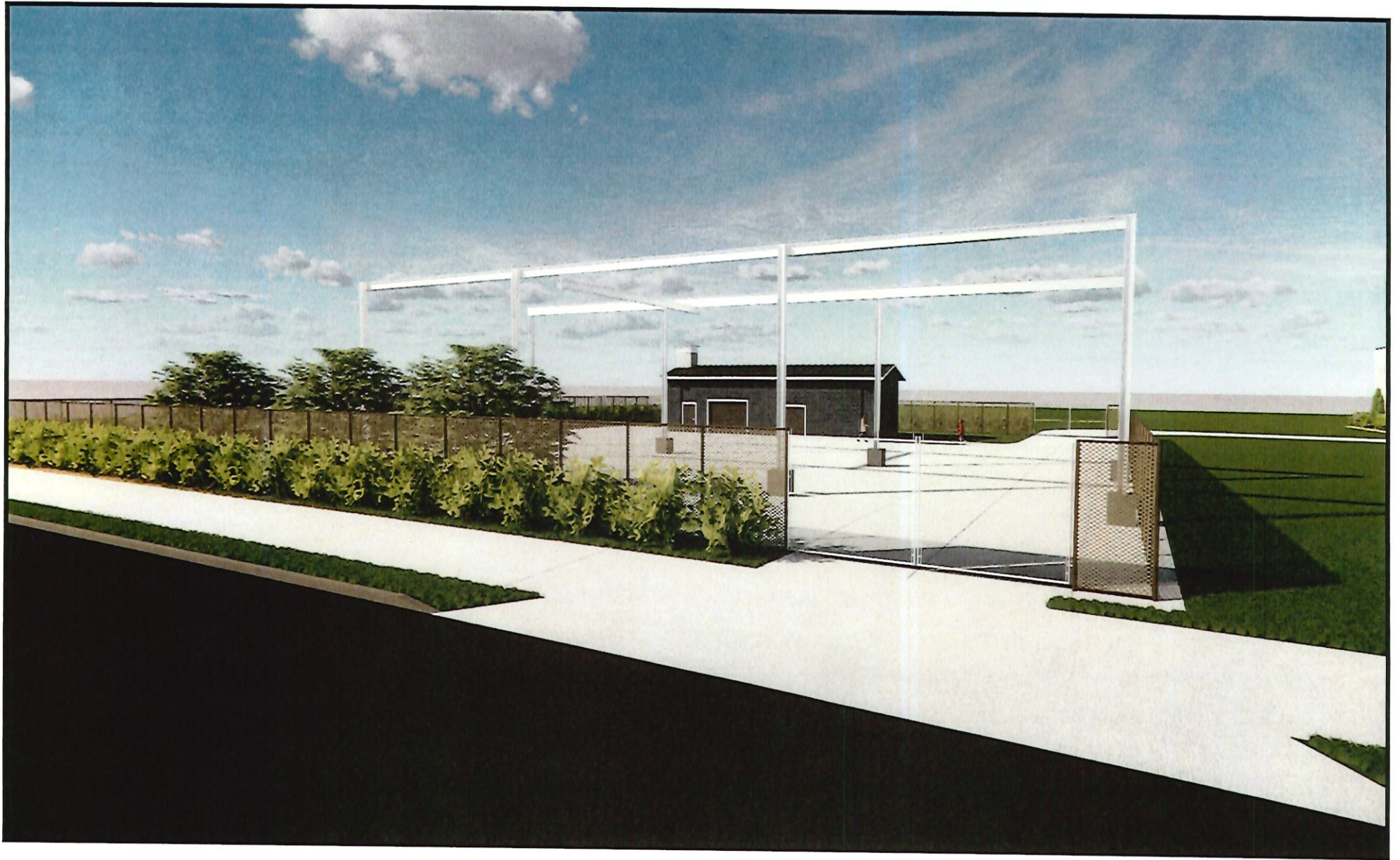
SCALE 1" = 60'-0"



Lift Station Site Rendering with Monorail System, Equipment Building, and Site Fence



Lift Station Site Rendering with Monorail System, Equipment Building, and Site Fence



CSO Storage Tank Site Rendering





Staff Report

Planning & Zoning

Petition: 24-BZA-23

Petition Type: Developmental Variance

Date: September 12, 2024

Petitioner: City of Elkhart

Site Location: 1300 Bl. Indiana and Thomas Street

Request: 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.

Existing Zoning: R-3, Two Family Dwelling District

Size: +/- .12 acres

Thoroughfares: West Franklin Street

School District: Elkhart Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:

The surrounding properties to the north and west residential uses zoned R-3 Two Family Dwelling District. To the east is a community service organization zoned M-1, Limited Manufacturing District. To the south a mix of residential and warehousing zoned B-2, Community Business District and M-1, Limited Manufacturing District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive calls for this area to be developed for residential uses. The subject property is included in an area identified for low density residential uses on the future land use map.



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 consent decree, by 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.

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.

Photos



PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): City of Elkhart

Mailing Address: 1201 S. Nappanee Street, Elkhart, IN 46516

Phone #: 574-293-2572 Email: pubworks@coei.org

Contact Person: Jamie Poczekay, P.E., DLZ Indiana, LLC

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

Phone #: [REDACTED] Email: jpoczekay@dlz.com

Subject Property Address: Southeastern quadrant of Lafayette St and Thomas St (parcels 06-07-282-001 / 002 / 003), Southwestern quadrant of Lafayette St and Fremont St (parcels 06-07-282-011 / 012 / 013 / 014, which include 1305 Lafayette St and 907 Fremont St), Northwestern quadrant of Indiana Ave and Fremont St (parcels 06-07-282-015 / 016 / 017 / 018 / 019, which include 1007 Fremont St)

Zoning: R-3

Present Use: Community garden and residential homes Proposed Use: Sanitary Sewer Lift Station

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): City of Elkhart Public Works, City of Elkhart Board of Public Works, City of Elkhart Indiana, City of Elkhart Wastewater Utility

SIGNATURE(S): [Signature] DATE: 8/1/24

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: [Signature] DATE: 8/19/24

August 2, 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 Use 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:

- Southeastern quadrant of Lafayette St and Thomas St (parcels 06-07-282-001 / 002 / 003)
- Southwestern quadrant of Lafayette St and Fremont St (parcels 06-07-282-011 / 012 / 013 / 014, which include 1305 Lafayette St and 907 Fremont St)
- Northwestern quadrant of Indiana Ave and Fremont St (parcels 06-07-282-015 / 016 / 017 / 018 / 019, which include 1007 Fremont St)

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 R-3 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 properties at the southeastern quadrant of Lafayette Street and Thomas Street, at the southwestern quadrant of Lafayette Street and Fremont Street and at the northwestern quadrant of Indiana Avenue and Fremont Street currently contain vacant residential homes and vacant lots owned by the City. The property at the southeastern quadrant of Lafayette Street and Thomas Street previously served as a community garden. The City proposed to repurpose the property as a public utility use.

4. **Petitioner desires to:** replace the existing community garden and residential homes with the following new structures serving public utilities:

- Below grade concrete sanitary sewer lift station structure
- One (1) story above grade equipment building to house electrical and mechanical equipment necessary to operate the lift station
- Twenty-four (24) feet tall above grade metal beam monorail system to assist in the removal of equipment from the below grade lift station
- Vinyl coated chain link fence surrounding the lift station, equipment building, and monorail system
- Thirty-seven (37) feet tall above grade concrete structure for a Combined Sewer Overflow (CSO) Storage Tank with rooftop solar panels.

5. **The Zoning Ordinance of the City of Elkhart requires:** the properties to follow Section 6, R-3, Two-Family Dwelling District zoning requirements.

Section 6.3-4.3j Special Exception Uses: The submittal is for the approval of a Special Exception in the R-3 district (section 6.2A permitted uses, any use permitted in the R-2 District, section 5.2A permitted uses, any use permitted in the R-1 District, section 4.3j special exception uses) for use by Public Utilities and Public Service uses, including but not limited to: public utility facilities, railroad facilities, sewage treatment plant, telephone exchange, water filtration plants, water pumping stations, and water reservoirs. The project includes the construction of a new lift station, equipment building, monorail system, fence, and CSO storage tank.

Section 6.4 Yard Requirements:

- Setbacks: front yard = established setbacks; or 20 feet if no established setback
- Maximum Structure Height: 30 feet
- Maximum Lot Coverage for Structures: 40% total for all structures


A portion of the below grade sanitary sewer lift station structure extends into the required setbacks. The concrete top of the lift station is exposed at the ground level, with concrete and access hatches visible from the surface. The above grade CSO storage tank and enclosed stair tower (with a height above grade of 37 feet) exceeds the maximum structure height by seven (7) feet. The lot coverage including the CSO storage tank and driveway is 42% exceeding the maximum lot coverage amount of 40%.

Section 26.4 Fence Requirements: A 6-foot tall vinyl coated chain link fence is requested to be placed in the front yard along Thomas Street.

6. **Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship.** The strict adherence to the zoning ordinance requirements would create an unusual hardship, as the project is required to be constructed as prescribed in the City of Elkhart's Long Term Control Plan (LTCP) mandated by the EPA. The special use is needed in the R-3 district to construct these public utility facilities. The site is adjacent to existing sewer infrastructure along both Lafayette Street and Indiana Avenue of which sewer flows will be directed to the new lift station and CSO storage tank. The design was completed to meet the design parameters noted in the LTCP, as well as the necessary operational access to both the lift station and the CSO storage tank, necessitating the impacts noted in Item 5 above.
7. Using the standards from the previous page, address each standard. You cannot answer simply Yes or No; you must state **why** this is true (the reason for your answer).
- a. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The project including the sanitary sewer lift station and CSO storage tank are prescribed in the City of Elkhart LTCP. The infrastructure has been designed to limit access to the public utility facilities, including security fencing around the lift station site, and restricted access to the CSO storage tank through the incorporation of an enclosed stairway. Access points to these areas will be restricted via the use of locking gates and doors.

- b. **The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.** The new above grade structures are being designed to be complementary to the area. The above grade lift station building will be designed with typical residential materials, including metal siding and a standing seam metal roof. The CSO storage tank includes enhancements to create a softened aesthetic including the use of imprinted concrete and an enhanced lighting package.
- c. **The need for the variance arises from some condition peculiar to the property involved.** The variance is needed to allow the construction of the new public works structures in accordance with the City of Elhart's LTCP within a residential zoning district.
- d. **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.** If the Ordinance is applied to the property, the proposed new public works structures will not be constructed; violating the City's LTCP, mandated by the EPA.
- e. **The approval does not interfere substantially with the Comprehensive Plan.** Two (2) quadrants (southeastern quadrant of Lafayette Street and Thomas Street and northwestern quadrant of Indiana Avenue and Fremont Street) are primarily impacted for the new public works structures, which will not substantially interfere with the Comprehensive Plan.

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: TORY DRWIN

Secondary Property Owner: _____

Printed Name: _____

Contact Person:

Name: Jamie Poczekay, DLZ Indiana, LLC

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

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

Email: jpoczekay@dlz.com

ATTACHMENT A

COMPILED DEEDS



METROPOLITAN TITLE

4100 Edison Lakes Parkway, Suite 120, Mishawaka, Indiana 46545 Phone: (877)269-7670 Fax: (877)270-0534

TITLE AND ENCUMBRANCE REPORT

Code: _____ Parcel: 3 County: Elkhart Pol. Twp.: Concord
Project: Oakland Road: _____ Des. No.: _____
Name on Plans: Hole of Elkhart LLC

Key Number 20-06-07-282-003.000-012 Assessed Values
Description or Addition: 66 x 165 Ft Ne Sec 7 Sec.:7 Twp.:37 North Rge.: 5 East Acreage: 0.24
acres Land: \$10,500.00 Improv: \$0.00

LAST OWNER OF RECORD

Name: The Hole of Elkhart, LLC, an Indiana limited liability company

Address: 414 W Wolf Ave, Elkhart, IN 46516

Title Acquired by: 2015-14615

Mortgage Record

Mortgage Record: None Amount: \$ Dated: Rec:

Mortgagor:

Mortgagee:

Judgments: None

Easements: None

Taxes: 20-06-07-282-003.000-012

Taxes are current: Yes No

Certificate

I certify that I have searched the records of the above named county for the required period of time and that all recorded transactions which affect the ownership of the caption real estate during that period are set forth in the attached chain of title. I further certify that the information summarized above represents the current status of the fee ownership and encumbrances against the caption real estate.

Dated: 09/29/2023

Signed: Peter A. Vitale

Sent to Engineering:

Abstractor Peter A. Vitale

File Number: 4058-237562

CAPTION
2015-14615
CONTIGUOUS

None
ITEM 1

GRANTOR: Life Treatment Centers, Inc., an Indiana non-profit corporation

GRANTEE: The Hole of Elkhart, LLC, an Indiana limited liability company
Dated: July 17, 2015
Recorded: July 20, 2015
Record or Instrument No: 2015-14615
Document Attached

ITEM 2

GRANTOR: Med-Art of Elkhart, Inc., an Indiana corporation

GRANTEE: Life Treatment Centers, Inc.
Dated: March 22, 2005
Recorded: March 24, 2005
Record or Instrument No: 2005-08445
Document Attached

ITEM 3

GRANTOR: Richard C. Boling II

GRANTEE: Med-Art of Elkhart, Inc., an Indiana corporation
Dated: March 22, 2005
Recorded: March 24, 2005
Record or Instrument No: 2005-08444
Document Attached

ITEM 4

GRANTOR: Jacob A. Kaufman

GRANTEE: Richard C. Boling II
Dated: February 10, 1989
Recorded: February 13, 1989
Record or Instrument No: 89002423
Document Attached

ITEM LAST

Taxes are listed in the name of Hole of Elkhart LLC
Key Number: 20-06-07-282-003.000-012
Taxes each installment: \$0.00
2022 payable 2023 : Spring paid Fall paid
Ditch: \$none

2015-14615

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
AS PRESENTED
07/20/2015 4:28 PM

THIS DOCUMENT IS PROVIDED FOR SOLE USE OF METROPOLITAN TITLE AND IS NOT BEING FILED UNDER IC 36-2-7

CORPORATE WARRANTY DEED

Property Address:
1332 W. Indiana Avenue
Elkhart, IN 46516

Tax Parcel No.: 20-06-07-282-001.000-012; 20-06-07-282-002.000-012; 20-06-07-282-003.000-012 and 20-06-07-282-009.000-012

This Indenture Witnesseth, That **Life Treatment Centers, Inc., an Indiana non-profit corporation**

Convey(s) and Warrant(s) to **The Hole of Elkhart, LLC, an Indiana limited liability company**

for the sum of **Ten & 00/100 Dollars (\$10.00)** and other valuable consideration, the following described real estate in **Elkhart** County, in the State of **Indiana**:

TRACT I:

Lots Numbered One (1) through Seven (7), inclusive, as shown on the plat of IVY PLACE, an addition to the City of Elkhart, recorded in the Office of the Recorder of Elkhart County, Indiana in Plat Book 2, page 140.

TRACT II:

Part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, BEGINNING at a point on the east line of Thomas Street in the City of Elkhart, 299 feet and 10 inches North of the north line of Indiana Avenue; thence from said beginning point North along the East line of Thomas Street, 132 feet; thence Eastwardly parallel with the south line of Harrison Street, 165 feet; thence Southwardly parallel with the east line of Thomas Street, 132 feet; thence Westwardly parallel with the south line of Harrison Street, 165 feet to the place of beginning.

TRACT III:

A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows: BEGINNING at a point on the east line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the east line of said Thomas Street 66 feet; thence Eastwardly parallel with the south line of Harrison Street in said City 165 feet; thence Southwardly parallel with the east line of Thomas Street 66 feet; thence Westwardly parallel with said south line of Harrison Street 165 feet to the place of beginning.

File No.: 49049A

Page 1 of 3

DISCLOSURE FEE PAID

DULY ENTERED FOR TAXATION

SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Jul 20 2015

PAULINE GRAFF, AUDITOR

2767

20.00

DM

PW

Subject to real estate taxes not yet due and payable.

This deed is given in full performance of that certain Land Contract between Life Treatment Centers, Inc., an Indiana non-profit corporation, as Seller(s), and The Hole of Elkhart, LLC, as Purchaser(s), as disclosed by memorandum of Contract for Sale of Real Estate dated April 1, 2014, and recorded May 6, 2014, in the Office of the Recorder of Elkhart County, Indiana, as Instrument No. 2014-07743.

Subject to matters created, suffered, or agreed to by the Grantee.

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

Subject To any and all easements, agreements, and restrictions of record, and to legal highways.

Signed this 17 day of July, 2015.

Life Treatment Centers, Inc.

By: Amy Grill
Amy Grill
Its: CFO

Acknowledgement

State of Indiana; Elkhart County:

Before me, a Notary Public in and for the said County and State, personally appeared Amy Grill as CFO of **Life Treatment Centers, Inc.**, who acknowledged the execution of the foregoing Corporate Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and notarial seal this 17th day of July, 2015.

My commission expires:

Signature Tamera J. Borngren



TAMERA J. BORNGREN, Notary Public
A Resident of Marshall County, IN
My Commission Expires May 11, 2017

Residing in _____, Notary Public
County, Indiana

This instrument prepared by Louis Klatch, Attorney at Law.

THIS DOCUMENT IS PRIVATE

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.

Tamera J. Boggien

Name: Tamera J. Boggien

Grantee's Mailing Address and Mailing Address for Tax Bills:

(must be a street address)

414 W. Wolf Ave.
Elkhart, IN 46516

NOT FOR SINGLE USE OF METROPOLITAN TITLE AND NOT ELIGIBLE FOR RESALE UNDER IC 36-2-7

File No.: 49049A

Page 3 of 3

2005 08445

ELKHART CNTY RECORDER
CHRISTOPHER J ANDERSON
FILED FOR RECORD
AS PRESENTED

2005 MAR 24 11:50

Property Address:
1332 West Indiana Avenue
Elkhart, IN 46516

Mail Tax Statements to: 1402 S. Michigan St.
South Bend, IN 46613

Key No.: 20-06-07-282-001-000-012
20-06-07-282-002-000-012
20-06-07-282-003-000-012
20-06-07-282-004-000-012
20-06-07-282-005-000-012
20-06-07-282-006-000-012
20-06-07-282-007-000-012
20-06-07-282-008-000-012
20-06-07-282-009-000-012
20-06-07-282-010-000-012

Century Title Services

CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH that Med-Art of Elkhart, Inc., an Indiana corporation, Convey(s) and Warrant(s) to LIFE TREATMENT CENTERS, INC., for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Elkhart County in the State of Indiana, to wit:

See Exhibit "A" attached hereto and made a part hereof

2
1600
1600 CK

SUBJECT TO all current real estate taxes and assessments and all subsequent taxes and assessments.

SUBJECT TO covenants, restrictions and easements of record.

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

Dated this 22 day of March, 2005.

ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
324 2005
Daniel J. ... AUDITOR
000473
TRANSFER FEE 3.00
PARCEL NO. _____

Med-Art of Elkhart, Inc., an Indiana corporation

By: [Signature]
Richard C. Boling II, Pres.
(printed name & title)

DISCLOSURE FEE PAID

STATE OF INDIANA)
COUNTY OF St. Joseph) \$:

Before me, the undersigned, a Notary Public in and for said County and State, this 22 day of March, 2005, personally appeared Richard C. Boling II for and on behalf of Med-Art of Elkhart, Inc., an Indiana corporation, who acknowledged the execution of the above and foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____

[Signature]
Signature of Notary Public

Printed Name of Notary Public _____

Notary Public County & State of Residence _____



EDWARD W. HARDIG, Jr., Notary Public
A Notary of St. Joseph County, IN
My Commission Expires: 05-24-2008

This instrument was prepared by: Edward W. Hardig, Jr., Attorney at Law, IN#19199-71/MI#P60319
401 W. High Street, Elkhart, IN 46516
052000286 jcd

2011 MAY -2 A 9 32

WARRANTY DEED

THIS INDENTURE WITNESSETH, that the CITY OF ELKHART REDEVELOPMENT COMMISSION, of Elkhart County, Indiana, CONVEYS AND WARRANTS to the CITY OF ELKHART WASTEWATER UTILITY, of Elkhart, State of Indiana, whose mailing address is 1201 South Nappanee Street, Elkhart, Indiana 46516, for and in consideration of valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Elkhart County, State of Indiana:

Lot Numbered Thirty-six (36) as the said Lot is known and designated on the recorded Plat of Hiram D. Thomas Estates Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

4
2200
OK

The real estate is more specifically describe is Exhibit A, Certificate of Survey.

It is understood between the parties hereto, and their successors in title, and made a covenant herein which shall run with the land, that all lands hereinbefore described are conveyed in fee simple and not merely for right-of-way purposes, and that no reversionary rights whatsoever are intended to remain in the Grantor.

Elkhart Public Works & Utilities

Page 1

NO SALES DISCLOSURE REQUIRED

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

5/2 2011
Pauline E. Hoff AUDITOR
000966

TRANSFER FEE 5

PARCEL NO. 06-07-282-011-00

Use of this form constitutes practice of law and is limited to practicing lawyers.
©Copyright, 1986, by Indianapolis Bar Association.

Form No. 3
Rev. 10/86

Parcel No. _____

FEB 13 10 12 AM '89

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR 1989

Feb 13 1989

WARRANTY DEED

ELKHART COUNTY RECORDER
PEGGY A. MILLER
FILED FOR RECORD

Charles A. Miller AUDITOR

07644

THIS INDENTURE WITNESSETH, That Jacob A. Kaufman

_____ (Grantor)
of Elkhart County, in the State of Indiana, CONVEY S
AND WARRANT S to Richard C. Boling II

_____ (Grantee)
of Elkhart County, in the State of Indiana, for the sum
of Ten and 00/100-----Dollars (\$ 10.00) and other
valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following
described real estate in Elkhart County, State of Indiana:

A part of the Northeast Quarter (NE 1/4) of Section Seven (7),
Township Thirty-seven (37) North, Range Five (5) East, more
particularly described as follows:

Beginning at a point on the east line of Thomas Street in the
City of Elkhart, Indiana, which is two hundred thirty-three (233)
feet and ten (10) inches north of the north line of West Indiana
Avenue; thence from said beginning point north along the east
line of said Thomas Street sixty-six (66) feet; thence eastwardly
parallel with the south line of Harrison Street in said City one
hundred sixty-five (165) feet; thence southwardly parallel with
the east line of Thomas Street sixty-six (66) feet; thence
westwardly parallel with said south line of Harrison Street one
hundred sixty-five (165) feet to the place of beginning.

Subject to unpaid real estate taxes.

Subject to any and all easements, agreements and restrictions of record. The address of such
real estate is commonly known as 916 Thomas Street, Elkhart, Indiana
46516

Tax bills should be sent to Grantee at such address unless otherwise indicated below.

IN WITNESS WHEREOF, Grantor has executed this deed this 10th day of
February, 19 89.

Grantor: _____ (SEAL)
Signature *Jacob A. Kaufman*
Printed Jacob A. Kaufman

Grantor: _____ (SEAL)
Signature _____
Printed _____

STATE OF INDIANA } SS: ACKNOWLEDGMENT
COUNTY OF ELKHART

Before me, a Notary Public in and for said County and State, personally appeared _____
Jacob A. Kaufman
who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly
sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 10th day of February, 19 89.

My commission expires:
December 15, 1992

Signature *Tana T. Barnes*
Printed Tana T. Barnes, Notary Public
Resident of Elkhart County, Indiana.

This instrument prepared by Robert C. Daniels, Attorney at Law.

Return deed to _____

Send tax bills to _____

010124423

559
David Keithman
Tena's Office

2005 08444

DULY ENTERED FOR TAXATION
 SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
 3-24 20 05
 David J. Nelson
 000472
 TRANSFER FEE 3.00
 PARCEL NO.

ELKHART CNTY RECORDER
 CHRISTOPHER J. ANDERSON
 FILED FOR RECORD
 AS PRESENTED
 2005 MAR 24 11:49

Property Address: DISCLOSURE FEE NOT REQUIRED
 1332 West Indiana Avenue
 Elkhart, IN 46516

Mail Tax Statements to: 1402 S. Michigan St. Key No.: 20-06-07-282-003-000-012
 South Bend, IN 46613

WARRANTY DEED

Century Title Services

THIS INDENTURE WITNESSETH that Richard C. Boling II, Convey(s) and Warrant(s) to MED-ART OF ELKHART, INC., an Indiana corporation, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Elkhart County in the State of Indiana, to wit:

A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows:

①
14 1/2

BEGINNING at a point on the East line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the East line of said Thomas Street 66 feet; thence Eastwardly parallel with the South line of Harrison Street in said City 165 feet; thence Southwardly parallel with the East line of Thomas Street 66 feet; thence Westwardly parallel with said South line of Harrison Street 165 feet to the place of beginning.

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 Grantor has executed this deed this 22 day of March, 2005.

Richard C. Boling II
 Richard C. Boling II

STATE OF INDIANA)
) §:
 COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, this 22 day of March, 2005, personally appeared Richard C. Boling II, who acknowledged the execution of the above and foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____

Edward W. Hardig, Jr.
 Signature of Notary Public

Printed Name of Notary Public _____

Notary Public County & State of Residence _____



EDWARD W. HARDIG, Jr., Notary Public
 A Resident of St. Joseph County, IN
 My Commission Expires: 05-24-2008

This instrument was prepared by: Edward W. Hardig, Jr., Attorney at Law, IN#19199-71/MI#P60319
 401 W. High Street, Elkhart, IN 46516
 052000286 jrm

2005 08445

EXHIBIT "A"

TRACT I:

Lots Numbered 1, 2, 3, 4, 5, 6 and 7 as the said Lots are known and designated on the recorded Plat of IVY PLACE, an Addition to the City of Elkhart, Indiana; said Plat being recorded in Plat Book 2, page 140, in the Office of the Recorder of Elkhart County, Indiana.

TRACT II:

Part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East; beginning at a point on the East line of Thomas Street in the City of Elkhart, 299 feet and 10 inches North of the North line of Indiana Avenue; thence from said beginning point North along the East line of Thomas Street, 132 feet; thence Eastwardly parallel with the South line of Harrison Street, 165 feet; thence Southwardly parallel with the East line of Thomas Street, 132 feet; thence Westwardly parallel with the South line of Harrison Street, 165 feet to the place of beginning.

TRACT III:

A part of the Northeast Quarter of Section 7, Township 37 North, Range 5 East, more particularly described as follows:

BEGINNING at a point on the East line of Thomas Street in the City of Elkhart, Indiana, which is 233 feet and 10 inches North of the North line of West Indiana Avenue; thence from said beginning point North along the East line of said Thomas Street 66 feet; thence Eastwardly parallel with the South line of Harrison Street in said City 165 feet; thence Southwardly parallel with the East line of Thomas Street 66 feet; thence Westwardly parallel with said South line of Harrison Street 165 feet to the place of beginning.

IN WITNESS WHEREOF, grantor has executed this deed this 8 day of February, 2011.

CITY OF ELKHART
REDEVELOPMENT COMMISSION

Steve Eldridge

By: Steve Eldridge, President

STATE OF INDIANA, COUNTY OF ELKHART, SS:

Before me, a Notary Public in and for said County and State, personally appeared Steve Eldridge, who acknowledged execution of the foregoing Warranty Deed for and on behalf of said grantor, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 8 day of February, 2011.

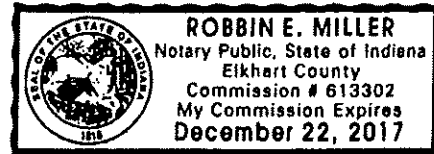
My Commission Expires:

12-22-2017

Robbin E. Miller
Signature of Notary Public

Printed Name

County of Residence: Elkhart



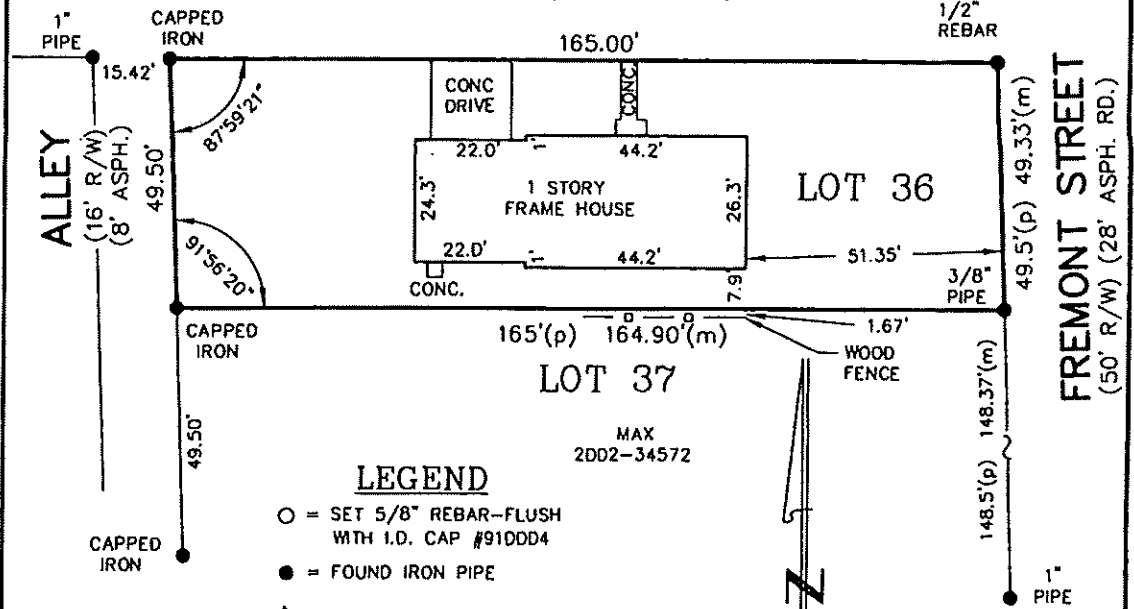
I affirm under the penalties for perjury that I have redacted all social security numbers.
Margaret M. Jones

This instrument was prepared by Margaret M. Jones, Attorney #23249-71, Utility Staff Attorney, City of Elkhart, 1201 S. Nappanee St., Elkhart, IN 46516.

CERTIFICATE OF SURVEY

LEGAL
 LOT 36 IN HIRAM D. THOMAS
 ESTATES ADDITION TO
 THE CITY OF ELKHART,
 ELKHART COUNTY, INDIANA.
 D.R. 103, PAGE 287.

LAYFAYETTE STREET
 (50' R/W) (23' ASPH. RD.)



LEGEND

- = SET 5/8" REBAR-FLUSH WITH I.D. CAP #910DD4
- = FOUND IRON PIPE
- △ = SET R.R. SPIKE
- ▲ = FOUND R.R. SPIKE
- (m) = MEASURED
- (p) = PLATTED
- (d) = DEEDED



(IN FEET)
 1 inch = 30 ft.

I, BRADLEY S. CRAMER, A REGISTERED LAND SURVEYOR IN THE STATE OF INDIANA, LICENSE #910004, DO HEREBY CERTIFY THAT THIS REPRESENTS A SURVEY PREPARED BY ME OR UNDER MY DIRECT SUPERVISION. THIS SURVEY WAS COMPLETED ON FEBRUARY 12, 2009 IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12 OF THE INDIANA ADMINISTRATIVE CODE. I FURTHER 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.



Bradley S. Cramer

OWNER: CITY OF ELKHART REDEVELOPMENT COMM.
 DEED RECORD: 2007-31208
 ADD: 1305 LAFAYETTE STREET, ELKHART



Progressive Engineering Inc.

58640 State Road 15
 Goshen, IN 46528
 Phone (574) 533-0337
 Fax (574) 533-9736

www.p-e-i.com

CLIENT: CITY OF ELKHART REDEVELOPMENT COMMISSION

JOB NO.: 09-315
 DATE: 2/16/2009

DRAWN BY: BRAD
 SCALE: 1" = 30'

CERTIFICATE OF SURVEY

SURVEYORS REPORT

1) IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12 OF THE INDIANA ADMINISTRATIVE CODE, THE FOLLOWING OBSERVATIONS AND OPINIONS ARE SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED ON THIS SURVEY AS A RESULT OF:

- A) VARIANCES IN THE REFERENCE MONUMENTS;
- B) DISCREPANCIES IN RECORD DESCRIPTIONS AND PLATS;
- C) INCONSISTENCIES IN LINES OF OCCUPATION;

COMMENTS: ALL CORNERS WERE FOUND AND ACCEPTED IN PLACE. PREVIOUS SURVEYS WERE FOUND BY MAX GARL AND RON WEAVER OF THE PARCEL. A MORE RECENT SURVEY WAS DONE BY MARBACH BRADY & WEAVER, AS EVIDENCED BY THE CAPPED IRONS ON THE WEST LINE.

AS A RESULT OF THE ABOVE OBSERVATIONS, IT IS MY OPINION THAT THE DEGREE OF UNCERTAINTY IN THE LOCATION OF THE LINES AND CORNERS ON THIS SURVEY ARE AS FOLLOWS:

RELATIVE POSITIONAL ACCURACY: 0.13' PLUS 100 ppm (SUBURBAN)

DUE TO VARIANCES IN MONUMENTATION: 0.17' N/S ON THE EAST LINE. 0.10' E/W ON THE SOUTH LINE.

DUE TO DISCREPANCIES IN THE RECORD DESCRIPTION: NONE.

DUE TO INCONSISTENCIES IN THE LINES OF OCCUPATION: 1.6' ON THE SOUTH LINE DUE TO FENCE LINE.

THIS PROPERTY IS NOT LOCATED WITHIN THE FLOODPLAIN AS PER INFORMATION OBTAINED FROM FLOOD INSURANCE RATE MAP, NATIONAL FLOOD INSURANCE PROGRAM, COMMUNITY PANEL NUMBER 180057 0010 C, DATED MAY 1, 1985.



Progressive Engineering Inc.

www.p-e-i.com

58640 State Road 15
Goshen, IN 46528
Phone (574) 533-0337
Fax (574) 533-9736

CLIENT: CITY OF ELKHART
REDEVELOPMENT COMMISSION

JOB NO.:
09-315

DATE:
2/16/2009

DRAWN BY:
BRAD

SCALE:

2024-06244

ELKHART COUNTY RECORDER
KAALA BAKER
FILED FOR RECORD ON
04/19/2024 02:00 PM
AS PRESENTED

WARRANTY DEED

Form WD-1
Revised 8/2022

Project: Oakland Avenue
Code: NA
Parcel: 2
Page: 1 of 3

THIS INDENTURE WITNESSETH, That Wolf Pack, llc, the Grantor(s) of Elkhart County, State of Indiana Convey(s) and Warrant(s) to the **CITY OF ELKHART BY ITS BOARD OF PUBLIC WORKS**, the Grantee, for and in consideration of the sum of One Hundred Twenty One Thousand Five Hundred Dollars (\$121,500.00) (of which said sum \$121,500.00 represents land and improvements acquired and \$0.00 represents damages) and other valuable consideration, the receipt of which is hereby acknowledged, certain Real Estate situated in the County of Elkhart, State of Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon the Right of Way Parcel Plat attached hereto as Exhibit "B", both of which exhibits are incorporated herein by reference.

This conveyance is subject to any and all easements, conditions and restrictions of record.

The Grantor(s) hereby specifically acknowledge(s) and agree(s) that the Real Estate conveyed herein is conveyed in fee simple and that no reversionary rights whatsoever shall remain with the Grantor(s), or any successors in title to the abutting lands of the Grantor(s), notwithstanding any subsequent abandonment, vacation, disuse, nonuse, change of use, conveyance, lease and/or transfer by the Grantee or its successors in title, of a portion or all of the said Real Estate or any right of way, roadway or roadway appurtenances established thereupon. This acknowledgement and agreement is a covenant running with the land and shall be binding upon the Grantor(s) and all successors and assigns.

The undersigned represent and warrant that they are the Members of the Grantor; that the Grantor is a limited liability company validly existing in the State of its origin and, where required, in the State where the subject real estate is situated; that the Grantor has full company capacity to convey the real estate interest described; that pursuant to a resolution of the Members of the Grantor or the Operating Agreement of the Grantor they have full authority to execute and deliver this instrument on its behalf and that said authority has not been revoked; that they are therefore, fully authorized and empowered to convey to the City of Elkhart real estate of the Grantor, and that on the date of execution of said conveyance instruments they had full authority to so act; and that all necessary company action for the making of this conveyance has been duly taken.

Interests in land acquired by the City of
Elkhart
Grantee mailing address:
1201 S. Nappanee St.
Elkhart, IN 46516

JM

KK

GIVE TO GIS
20-06-07-282-012.000-012

NO SALES DISCLOSURE REQUIRED-SM

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Apr 19 2024

PATRICIA A. PICKENS, AUDITOR

01644
10.00

Form WD-1
Revised 8/2022

Project: Oakland Avenue
Code: NA
Parcel: 2
Page: 2 of 3

The grantor(s) assume(s) and agree(s) to pay the 2022 payable 2023 real estate taxes and assessments on the above described real estate. This obligation to pay shall survive the said closing and shall be enforceable by the State in the event of any non-payment.

IN WITNESS WHEREOF, the said Grantor(s) have executed this instrument
this 23rd day of Oct, 2023.
Wolf Pack, llc

[Signature]
Signature
Ignacio Perez owner
Printed Name and Title

STATE OF: IN :
COUNTY OF Elkhart : SS:

Before me, a Notary Public in and for said State and County, personally appeared Ignacio Perez
owner of Wolf Pack, llc, the Grantor(s) in the above conveyance, and acknowledged the execution of the same on the date aforesaid to be their voluntary act and deed and who, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 23rd day of Oct 2023.

[Signature]
Signature
Erika Clark
Printed Name
NP0747156
My Commission Number
2/26/2031
My Commission expires
I am a resident of Elkhart County.



This instrument prepared by Margaret Mary Marnocha, #23249-71, Assistant City Attorney, Public Works & Utilities, 1201 S. Nappanee St., Elkhart IN 46516, 574-293-2572

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless otherwise required by law. Margaret Mary Marnocha

ACCEPTANCE

The Grantee hereby accepts the foregoing Warranty Deed together with all conditions and requirements stated therein.

Executed this 16th day of April, 2024.

ELKHART BOARD OF PUBLIC WORKS

[Signature]
Michael C. Machlan, President

Jamie Arce, Vice-President

[Signature]
Ronnie Davis, Member

[Signature]
Rose Rivera, Member

[Signature]
Andy Jones, Member

ATTEST:

[Signature]
Nancy A. Wilson, Clerk

STATE OF INDIANA, COUNTY OF ELKHART, SS:

Before me, the undersigned Notary Public, in and for said County and State, personally came Michael C. Machlan, ~~Jamie Arce~~, Ronnie Davis, Rose Rivera and Andy Jones the members of the Elkhart Board of Public Works, and acknowledged their acceptance and execution of this dedication.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, on this 16th day of April, 2024.

My Commission Expires:

05-14-31

[Signature]
Nancy A. Wilson, Notary Public
Resident of Elkhart County, Indiana

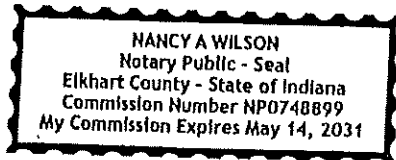


EXHIBIT "A"

Project: Oakland Project B

Sheet 1 of 1

Parcel 2 Fee Simple

Encumbers Key 20-06-07-282-012.000-012

Lot 37 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

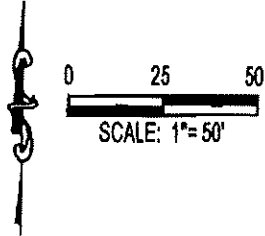
Parcel: 2
Project: Oakland Project B
County: Elkhart
Section: 7
Township: 37N
Range: 5

Exhibit "B" Right of Way Parcel Plat

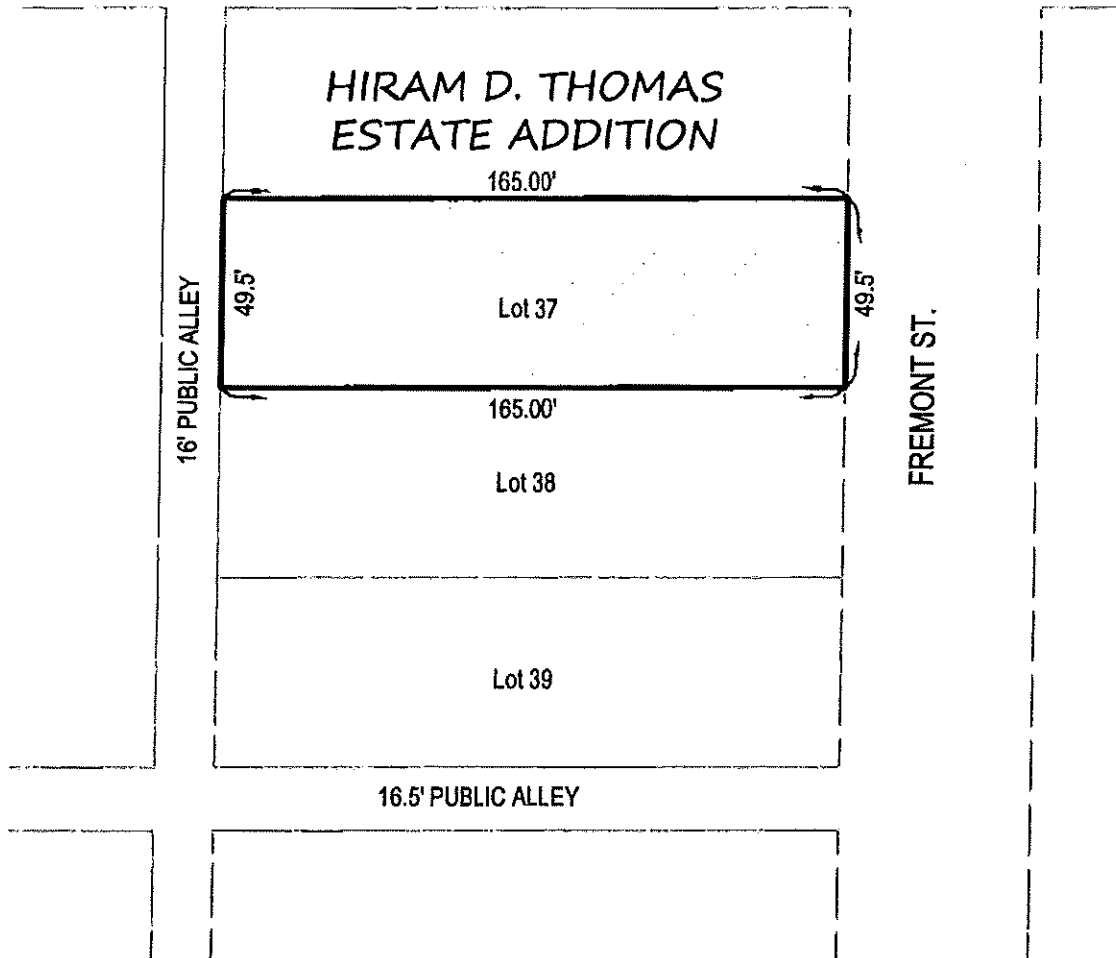
Owner: Wolf Pack LLC
Quit Claim Deed: 2022-11105
Hiram D. Thomas Estate Addition: MR 27 P 478
Tax ID No.: 20-06-07-282-012.000-012

Prepared by: GMW
Checked by: SAJ
DL Proj: 2361-5893-90-6100

 Hatched Area is the
Approximate acquisition



LAFAYETTE ST.



DLZ
DLZ INDIANA, LLC
2211 EAST JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46618
(574) 236-4400 www.dlz.com

2008 MAR 31 A 9:31

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Richard C. Boling, II (Grantor) **CONVEY(S) AND WARRANT(S)** to City of Elkhart, Indiana, 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, State of Indiana:

LOTS NUMBERED 38, 39, AND 40, AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF HIRAM D. THOMAS ESTATE ADDITION TO THE CITY OF ELKHART, INDIANA; SAID PLAT BEING RECORDED IN DEED RECORD 103, PAGE 287 IN THE RECORDS OF ELKHART COUNTY, INDIANA.

Property Address: V/L Fremont Street, Elkhart, IN 46516
Tax ID No.: 20-06-07-282-013-000-012; 20-06-07-282-014-000-012 & 20-06-07-282-015-000-012

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

IN WITNESS WHEREOF, Grantor has executed this deed on the 13 day of March, 2008

LandAmerica Lawyers Title

Richard C. Boling, II
Richard C. Boling, II



EDWARD W. HARDIG, Jr., Notary Public
A Resident of St. Joseph County, IN
My Commission Expires: 05-31-2008

STATE OF INDIANA)
COUNTY OF ELKHART) SS.

Before me, a Notary Public in and for said County and State, personally appeared Richard C. Boling, II, who acknowledged the execution of the foregoing deed.

Witness my hand and notarial seal on the 13 day of March, 2008
Edward W. Hardig, Jr.
Notary Public
Resident of _____ County
My Commission expires: _____

①
16-
CK

Grantee's Address and Tax Billing Address:
229 S. 2ND STREET
ELKHART, IN 46516

Prepared by:
Edward W. Hardig, Jr., Attorney at Law, IN#19199-71/MH P60319
401 W. High St., Elkhart, IN 46516 kjm

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law SHEELY TITLE File No. 510801063

DISCLOSURE FEE NOT REQUIRED
DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
3-31 20 08
D. W. Hardig, Jr. AUDITOR
000423
TRANSFER FEE 15.00
PARCEL NO. ✓

2024-06243

ELKHART COUNTY RECORDER
KAALA BAKER
FILED FOR RECORD ON
04/19/2024 01:54 PM
AS PRESENTED

WARRANTY DEED

Form WD-1
Revised 8/2022

Project: Oakland Avenue
Code: NA
Parcel: 1
Page: 1 of 3

THIS INDENTURE WITNESSETH, That Capstone II, LLC, the Grantor(s) of Elkhart County, State of Indiana Convey(s) and Warrant(s) to the **CITY OF ELKHART BY ITS BOARD OF PUBLIC WORKS**, the Grantee, for and in consideration of the sum of One Hundred Thirty Two Thousand Five Hundred Dollars (\$132,500.00) (of which said sum \$132,500.00 represents land and improvements acquired and \$0.00 represents damages) and other valuable consideration, the receipt of which is hereby acknowledged, certain Real Estate situated in the County of Elkhart, State of Indiana, and being more particularly described in the legal description(s) attached hereto as Exhibit "A" and depicted upon the Right of Way Parcel Plat attached hereto as Exhibit "B", both of which exhibits are incorporated herein by reference.

This conveyance is subject to any and all easements, conditions and restrictions of record.

The Grantor(s) hereby specifically acknowledge(s) and agree(s) that the Real Estate conveyed herein is conveyed in fee simple and that no reversionary rights whatsoever shall remain with the Grantor(s), or any successors in title to the abutting lands of the Grantor(s), notwithstanding any subsequent abandonment, vacation, disuse, nonuse, change of use, conveyance, lease and/or transfer by the Grantee or its successors in title, of a portion or all of the said Real Estate or any right of way, roadway or roadway appurtenances established thereupon. This acknowledgement and agreement is a covenant running with the land and shall be binding upon the Grantor(s) and all successors and assigns.

The undersigned represent and warrant that they are the Members of the Grantor; that the Grantor is a limited liability company validly existing in the State of its origin and, where required, in the State where the subject real estate is situated; that the Grantor has full company capacity to convey the real estate interest described; that pursuant to a resolution of the Members of the Grantor or the Operating Agreement of the Grantor they have full authority to execute and deliver this instrument on its behalf and that said authority has not been revoked; that they are therefore, fully authorized and empowered to convey to the City of Elkhart real estate of the Grantor, and that on the date of execution of said conveyance instruments they had full authority to so act; and that all necessary company action for the making of this conveyance has been duly taken.

NO SALES DISCLOSURE REQUIRED-SM

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Apr 19 2024

PATRICIA A. PICKENS, AUDITOR

01643

20.00

Interests in land acquired by the City of
Elkhart
Grantee mailing address:
1201 S. Nappanee St.
Elkhart, IN 46516

CM

KK

GIVE TO GIS

20-06-07-282-016/017.000-012

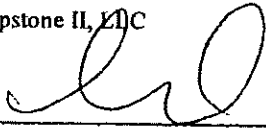
Form WD-1
Revised 8/2022

Project: Oakland Avenue
Code: NA
Parcel: 1
Page: 2 of 3

The grantor(s) assume(s) and agree(s) to pay the 2022 payable 2023 real estate taxes and assessments on the above described real estate. This obligation to pay shall survive the said closing and shall be enforceable by the State in the event of any non-payment.

IN WITNESS WHEREOF, the said Grantor(s) have executed this instrument
this 31 day of OCT, 2023.

Capstone II, LLC



Signature

RICHARD L SCHMUCKER MEMBER
Printed Name and Title

STATE OF: Florida;
COUNTY OF Sumter;

SS:

Before me, a Notary Public in and for said State and County, personally appeared Richard L Schmucker
MEMBER of Capstone II, LLC, the Grantor(s) in the above conveyance, and acknowledged the execution of the same on the date aforesaid to be their voluntary act and deed and who, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 31 day of October, 2023.

Signature Carrie Walker
Printed Name Carrie Walker
My Commission Number HH 2150108
My Commission expires 5/6/2026
I am a resident of Sumter County.



This instrument prepared by Margaret Mary Marnocha, #23249-71, Assistant City Attorney, Public Works & Utilities, 1201 S. Nappanee St., Elkhart IN 46516, 574-293-2572

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless otherwise required by law. Margaret Mary Marnocha

ACCEPTANCE

The Grantee hereby accepts the foregoing Warranty Deed together with all conditions and requirements stated therein.

Executed this 16th day of April, 2024.

ELKHART BOARD OF PUBLIC WORKS

Michael C. Machlan
Michael C. Machlan, President

Jamie Arce, Vice-President

Ronnie Davis
Ronnie Davis, Member

Rose Rivera
Rose Rivera, Member

Andy Jones
Andy Jones, Member

ATTEST:

Nancy A. Wilson
Nancy A. Wilson, Clerk

STATE OF INDIANA, COUNTY OF ELKHART, SS:

Before me, the undersigned Notary Public, in and for said County and State, personally came Michael C. Machlan, ~~Jamie Arce~~, Ronnie Davis, Rose Rivera and Andy Jones the members of the Elkhart Board of Public Works, and acknowledged their acceptance and execution of this dedication.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, on this 16th day of April, 2024.

My Commission Expires:

05-14-31

Nancy A. Wilson
Nancy A. Wilson, Notary Public
Resident of Elkhart County, Indiana

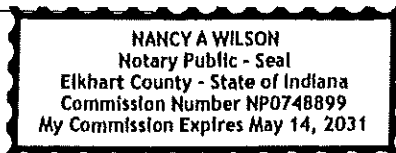


EXHIBIT "A"

Project: Oakland Project B

Sheet 1 of 2

Parcel 1 Fee Simple

Encumbers Key 20-06-07-282-016.000-012

Lot 41 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

EXHIBIT "A"

Project: Oakland Project B

Sheet 2 of 2

Parcel 1A Fee Simple

Encumbers Key 20-06-07-282-017.000-012

Lot 42 as designated on the recorded plat of Hiram D. Thomas Estate Addition to the City of Elkhart, said plat being recorded in Deed Record 103, Page 287, in the Office of the Recorder of Elkhart County, Indiana.

Parcel: 1
Project: Oakland Project B
County: Elkhart
Section: 7
Township: 37N
Range: 5

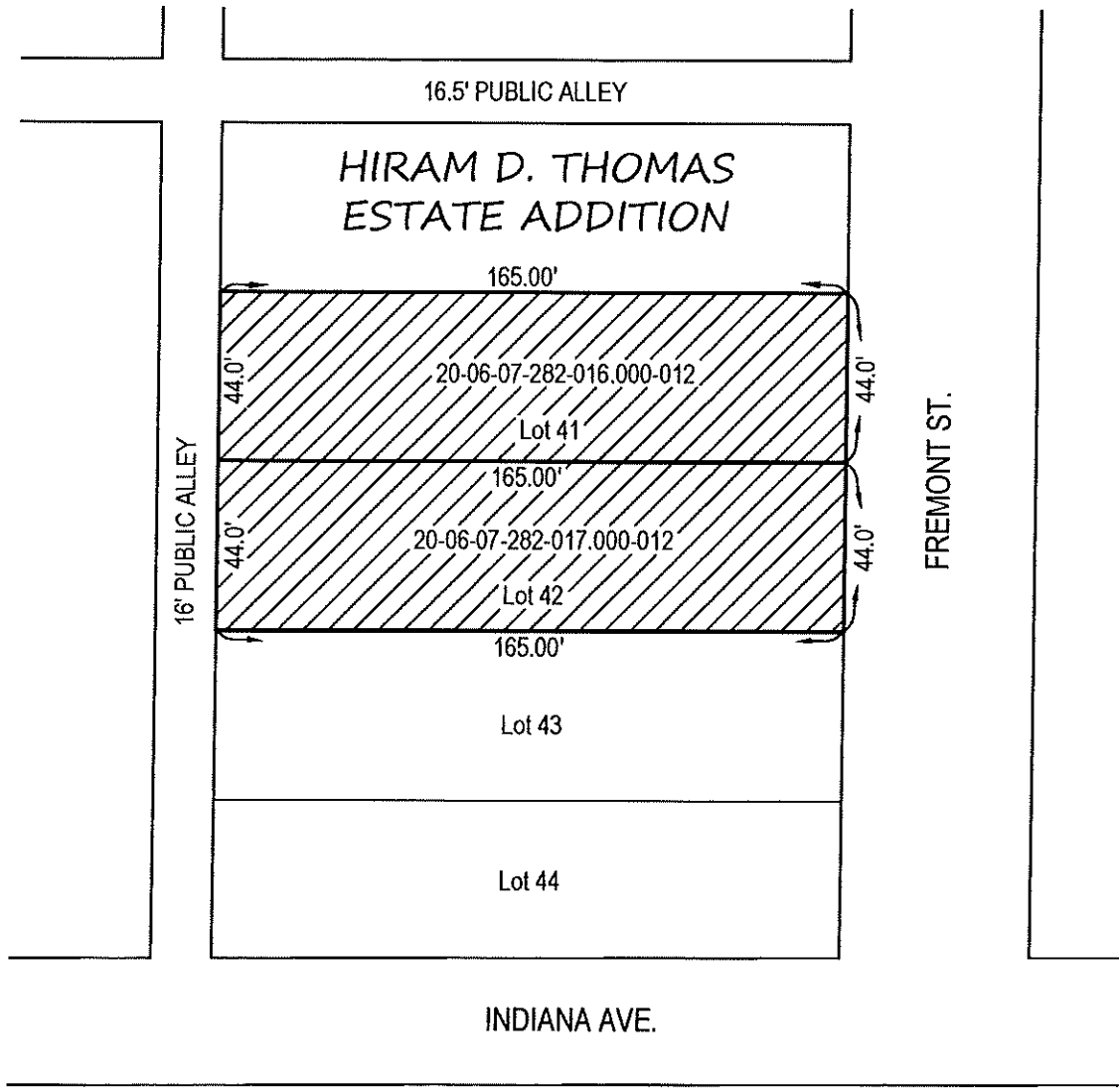
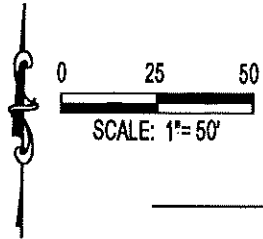
Exhibit "B"

Right of Way Parcel Plat

Owner: Capstone II, LLC
Sheriff's Deed: 2019-20543
Hiram D.Thomas Estate Addition: MR 27 P 478

Prepared by: GMW
Checked by: SAJ
DL Proj: 2381-5893-90-6100

 Hatched Area is the Approximate acquisition



DLZ
DLZ INDIANA, LLC
2211 EAST JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46815
(574) 236-4400 www.dlz.com

2020-04259

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
02/26/2020 01:48 PM
AS PRESENTED

Tax ID Number(s):
State ID Number Only 20-06-07-282-019.000-012
State ID Number Only 20-06-07-282-018.000-012

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

Larry LaMar Ott

CONVEY(S) AND WARRANT(S) TO

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

SEE ATTACHED EXHIBIT "A"

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

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 25 day of February 2020.

Larry LaMar Ott
Larry LaMar Ott

MTC File No.: 20-3562 (UD)

DM

AL

DISCLOSURE FEE NOT REQUIRED

DULY ENTERED FOR TAXATION

SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Feb 26 2020

PATRICIA A. PICKENS, AUDITOR

00918

20.00

Page 1 of 3

State of Indiana, County of St. Joseph ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **Larry LaMar Ott** who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

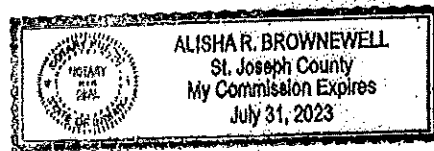
WITNESS, my hand and Seal this 25 day of February 2020

July 31 2023
My Commission Expires:

668594
Commission No.

St Joseph IN
Notary Public County and State of Residence

[Signature]
Signature of Notary Public
ALISHA R BROWNEWELL
Printed Name of Notary



This instrument was prepared by:
Andrew R. Drake, Attorney-at-Law
11711 N. Pennsylvania St., Suite 110, Carmel, IN 46032

Property Address:
1023 Fremont Street
Elkhart, IN 46516

Grantee's Address and Mail Tax Statements To:
12015. 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. Andrew R. Drake

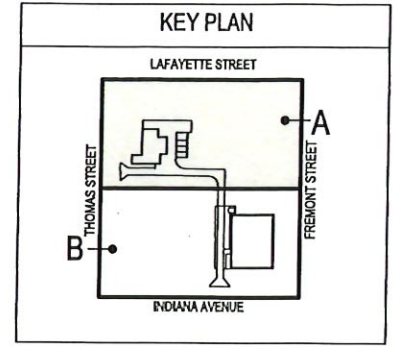
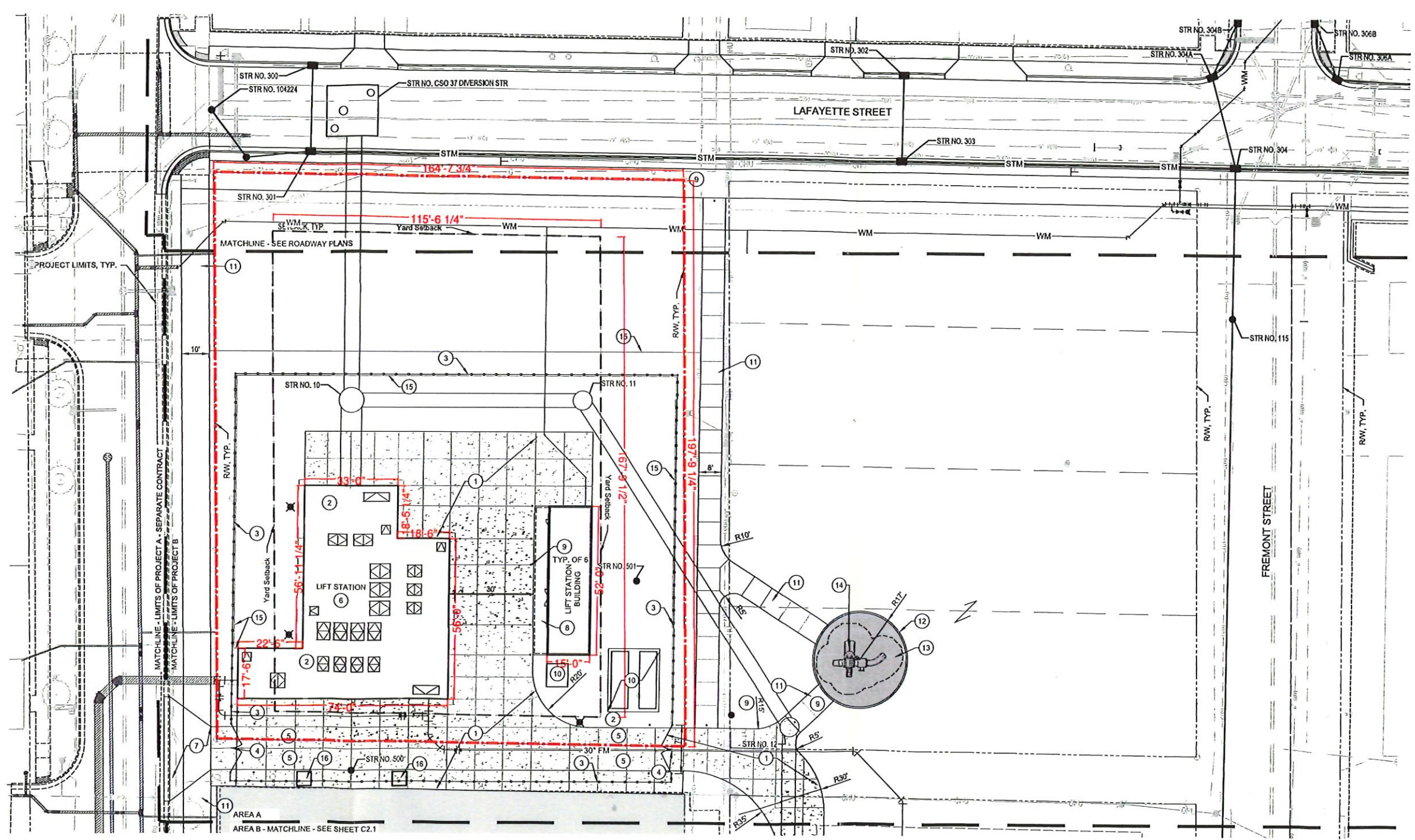
EXHIBIT A

Lots Numbered Forty-three (43) and Forty-four (44) as the said Lots are known and designated on the Plat of Hiram D. Thomas Estate Addition to the City of Elkhart, Indiana; said Plat being recorded in Deed Record 103, page 287, in the Office of the Recorder of Elkhart County, Indiana.

ATTACHMENT B

SITE EXHIBITS

Date: July 26, 2024, 5:47pm User: ID: sholdron
 File: X:\Projects\2023\2361.59830 Elkhart Oakland Pj\B01_Contract\Permit\Elkhart Use Variance\CAD Drawings and PDF Exhibit\C2.0.dwg Layout Tab: C2.0



- NOTES**
- UTILITIES SHOWN ARE APPROXIMATE, FIELD VERIFY PRIOR TO CONSTRUCTION.
 - DIMENSIONS AND COORDINATES ARE TAKEN FROM THE FACE OF CURBS, WALLS, AND/OR BUILDINGS UNLESS OTHERWISE NOTED.
 - CONSTRUCTION LIMITS SHOWN ARE APPROXIMATE. ADJUSTMENTS TO THE LIMITS INCIDENTAL TO CONSTRUCTION ACTIVITIES MAY BE PERMITTED WITH THE APPROVAL OF THE ARCHITECT. CONTRACTOR SHALL FIELD MARK ANY PROPOSED CHANGES TO THE CONSTRUCTION LIMITS FOR ARCHITECT APPROVAL PRIOR TO BEGINNING CONSTRUCTION.
 - ALL AREAS DISTURBED, NOT BUILT, PAVED OR OTHERWISE COVERED BY CONSTRUCTION, SHALL BE SEEDED.
 - CONCRETE JOINTING SHOWN TO IDENTIFY DESIGN INTENT. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS IDENTIFYING ALL EXPANSION, CONTROL & CONSTRUCTION JOINTS FOR ARCHITECTS APPROVAL PRIOR TO CONSTRUCTION.

LEGEND

①	PCCP FOR DRIVEWAY, 9", ON 6" COMPACTED AGGREGATE, NO. 53, BASE	⑤	GATE STOP POSTS
②	LIGHT POLE - SEE ELECTRICAL	⑥	UNDERGROUND UTILITY STRUCTURE - SEE SHEET 4.0 - 4.1
③	FENCE, CHAIN LINK	⑦	PCCP FOR APPROACHES, 9", ON 6" COMPACTED AGGREGATE, NO. 53, BASE
④	DOUBLE SWING CHAIN LINK GATE	⑧	CONCRETE STOOP - SEE STRUCTURAL
⑤	GATE STOP POSTS	⑨	BOLLARD
⑥	UNDERGROUND UTILITY STRUCTURE - SEE SHEET 4.0 - 4.1	⑩	UTILITY PAD. SEE ELECTRICAL PLANS.
⑦	PCCP FOR APPROACHES, 9", ON 6" COMPACTED AGGREGATE, NO. 53, BASE	⑪	CONCRETE SIDEWALK, 6", ON 6" COMPACTED AGGREGATE, NO. 53, BASE
⑧	CONCRETE STOOP - SEE STRUCTURAL	⑫	FLUSH CONCRETE CURB
⑨	BOLLARD	⑬	ENGINEERED WOOD FIBER MULCH
⑩	UTILITY PAD. SEE ELECTRICAL PLANS.	⑭	PLAY STRUCTURE
⑪	CONCRETE SIDEWALK, 6", ON 6" COMPACTED AGGREGATE, NO. 53, BASE	⑮	STEEL LANDSCAPE EDGING
⑫	FLUSH CONCRETE CURB	⑯	BRIDGE CRANE POST - SEE STRUCTURAL
⑬	ENGINEERED WOOD FIBER MULCH		
⑭	PLAY STRUCTURE		
⑮	STEEL LANDSCAPE EDGING		
⑯	BRIDGE CRANE POST - SEE STRUCTURAL		

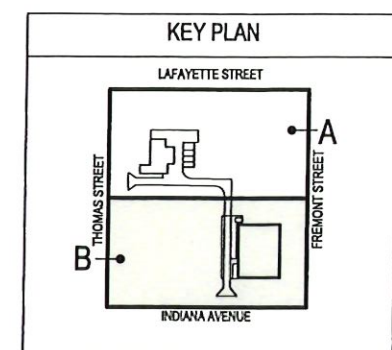
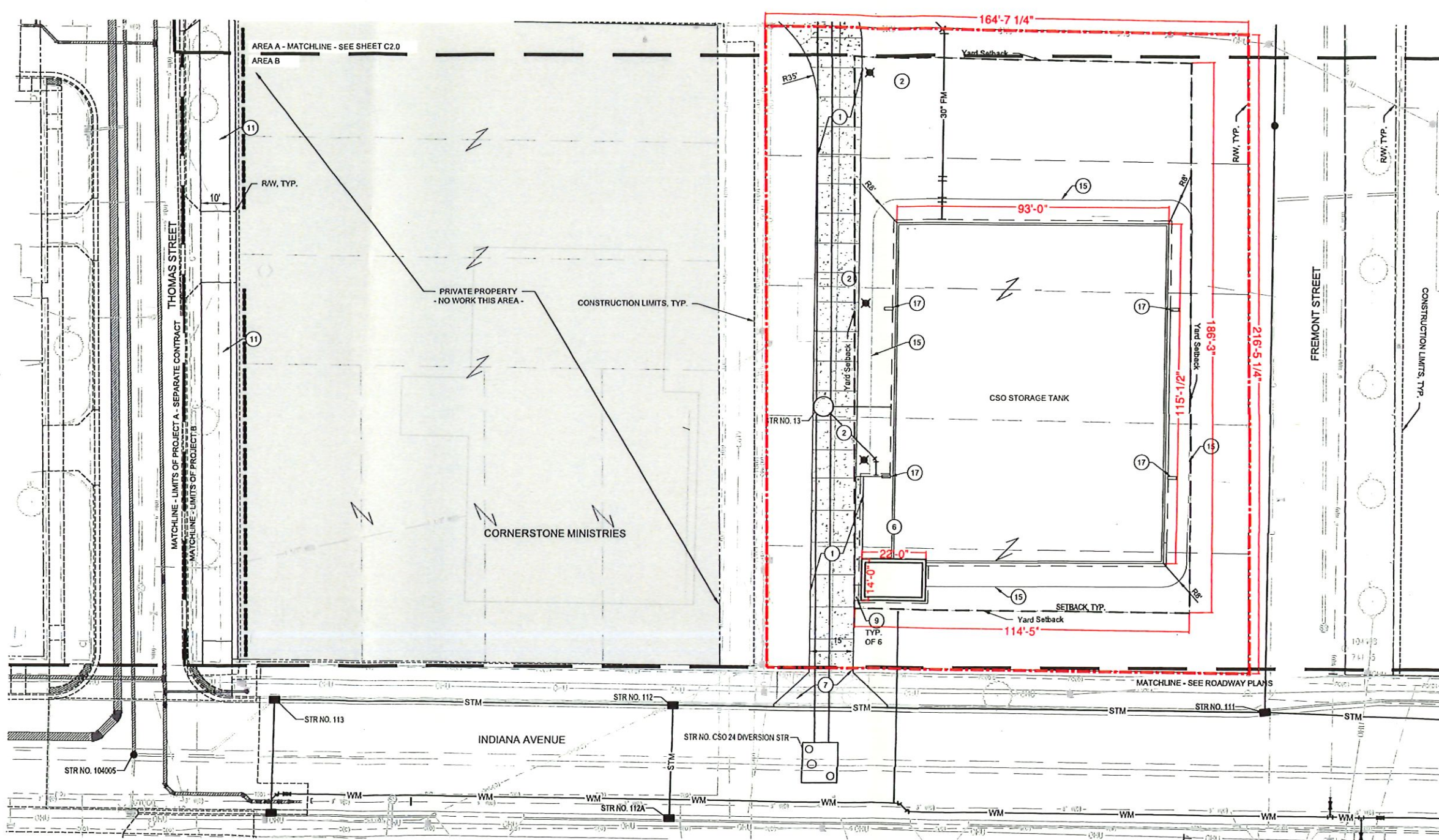


ELKHART INDIANA
OAKLAND AVENUE - PROJECT B
CSO STORAGE
SITE LAYOUT AND GEOMETRICS PLAN
AREA A

DRAWN	CS	CHKD	SAH	NO.	REVISION	BY	DATE
DESIGNED	CS	APPRVD	SAH	▲	ISSUE FOR BID		06.14.2024
DATE				▲			
HORIZ. SCALE:				▲			
VERT. SCALE:				▲			
PROJECT NUMBER				▲			
				▲			
				▲			
				▲			

05.29.2024
 SHEET 12
 OF 174
C2.0
FOR USE VARIANCE ONLY

Date: July 26, 2024, 5:20pm User: ID: zholdren File: X:\Projects\2023\2361598390 Elkhart Oakland Pj B01_Contract\Permit\Elkhart Linc Variance\CAD Drawings and PDF Exhibit\C2.1.dwg Layout Tab: C2.1



NOTES

1. UTILITIES SHOWN ARE APPROXIMATE, FIELD VERIFY PRIOR TO CONSTRUCTION.
2. DIMENSIONS AND COORDINATES ARE TAKEN FROM THE FACE OF CURBS, WALLS, AND/OR BUILDINGS UNLESS OTHERWISE NOTED.
3. CONSTRUCTION LIMITS SHOWN ARE APPROXIMATE. ADJUSTMENTS TO THE LIMITS INCIDENTAL TO CONSTRUCTION ACTIVITIES MAY BE PERMITTED WITH THE APPROVAL OF THE ARCHITECT. CONTRACTOR SHALL FIELD MARK ANY PROPOSED CHANGES TO THE CONSTRUCTION LIMITS FOR ARCHITECT APPROVAL PRIOR TO BEGINNING CONSTRUCTION.
4. ALL AREAS DISTURBED, NOT BUILT, PAVED OR OTHERWISE COVERED BY CONSTRUCTION, SHALL BE SEEDED.
5. CONCRETE JOINTING SHOWN TO IDENTIFY DESIGN INTENT. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS IDENTIFYING ALL EXPANSION, CONTROL & CONSTRUCTION JOINTS FOR ARCHITECTS APPROVAL PRIOR TO CONSTRUCTION.

LEGEND

- | | | | |
|---|--|---|--|
| ① | PCCP FOR DRIVEWAY, 9", ON 6" COMPACTED AGGREGATE, NO. 53, BASE | ⑤ | GATE STOP POSTS |
| ② | LIGHT POLE - SEE ELECTRICAL | ⑥ | UNDERGROUND UTILITY STRUCTURE |
| ③ | FENCE | ⑦ | PCCP FOR APPROACHES, 9", ON 6" COMPACTED AGGREGATE, NO. 53, BASE |
| ④ | DOUBLE SWING GATE | ⑧ | BOLLARDS |
| ⑤ | GATE STOP POSTS | ⑨ | CONCRETE SIDEWALK, 6", ON 6" COMPACTED AGGREGATE, NO. 53 BASE |
| ⑥ | UNDERGROUND UTILITY STRUCTURE | ⑩ | STEEL LANDSCAPE EDGING |
| ⑦ | PCCP FOR APPROACHES, 9", ON 6" COMPACTED AGGREGATE, NO. 53, BASE | ⑪ | 1' X 3' HEAVY DUTY CONCRETE SPLASH BLOCK |
| ⑧ | BOLLARDS | | |



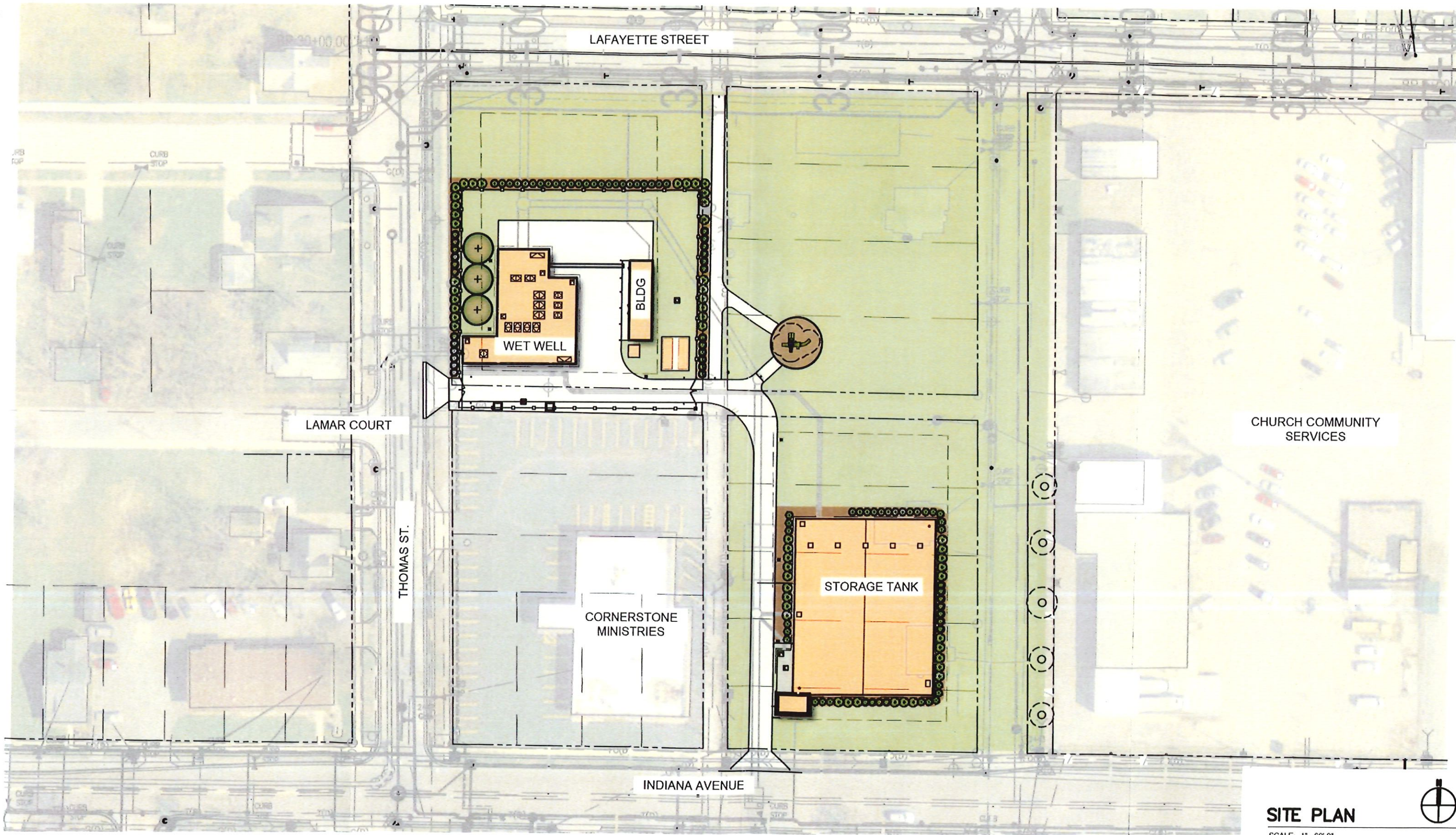
ELKHART OAKLAND AVENUE - PROJECT B INDIANA
 CSO STORAGE
 SITE LAYOUT AND GEOMETRICS PLAN
 AREA B

DRAWN: CS	CHKD: SAH	NO.	REVISION	BY	DATE
DESIGNED: CS	APPRVD: SAH	▲	ISSUE FOR BID		06.14.2024
DATE:	MAY 29, 2024	▲			
HORIZ. SCALE:	1" = 40'	▲			
VERT. SCALE:		▲			
PROJECT NUMBER	2361.5983.90	▲			

06.23.2024					

FOR USE VARIANCE ONLY

SHEET 13
 OF 174
C2.1



Elkhart Oakland Project B Tank Location

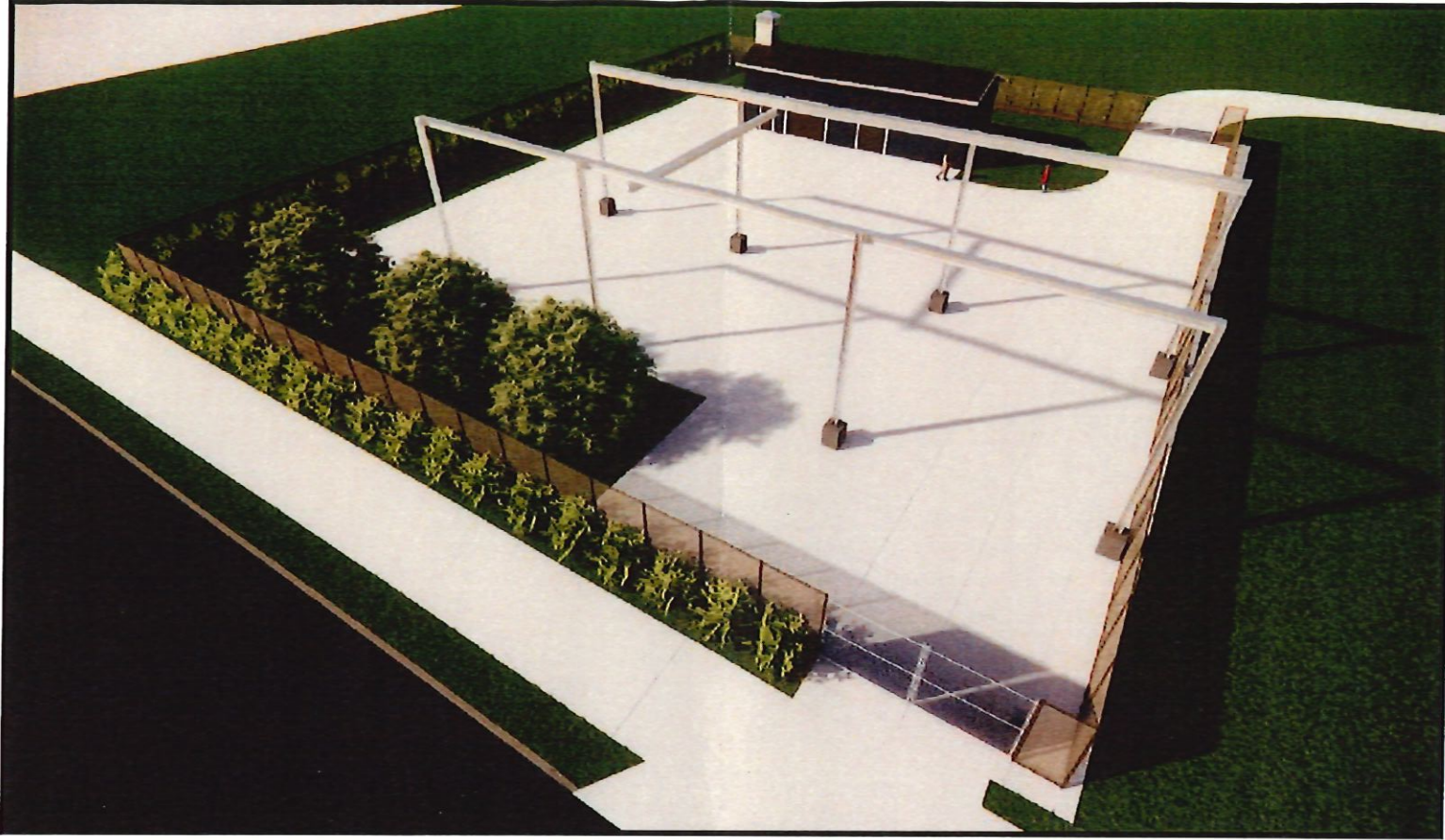
Elkhart, IN

7/31/2024

SITE PLAN

SCALE 1" = 60'-0"

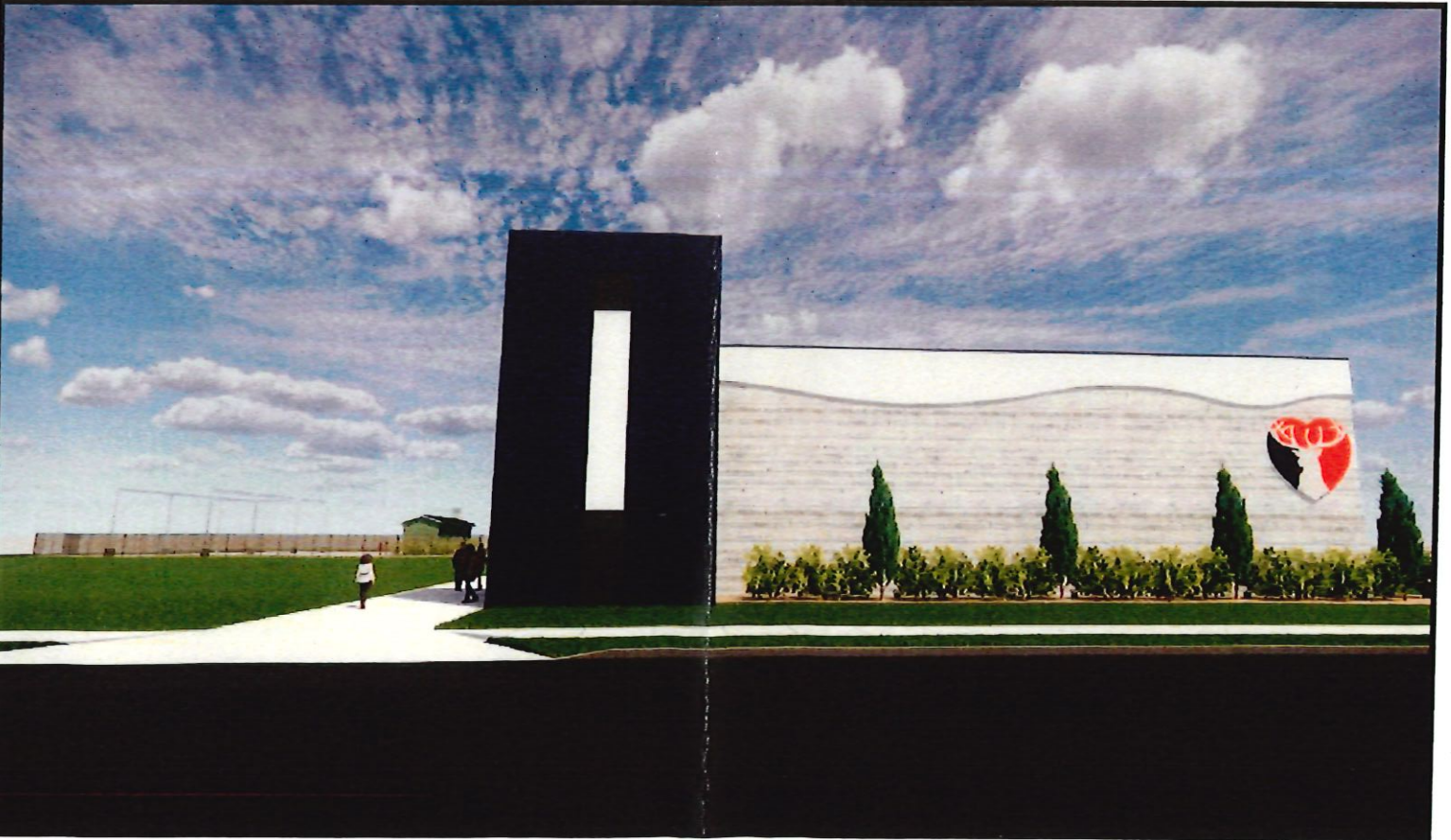




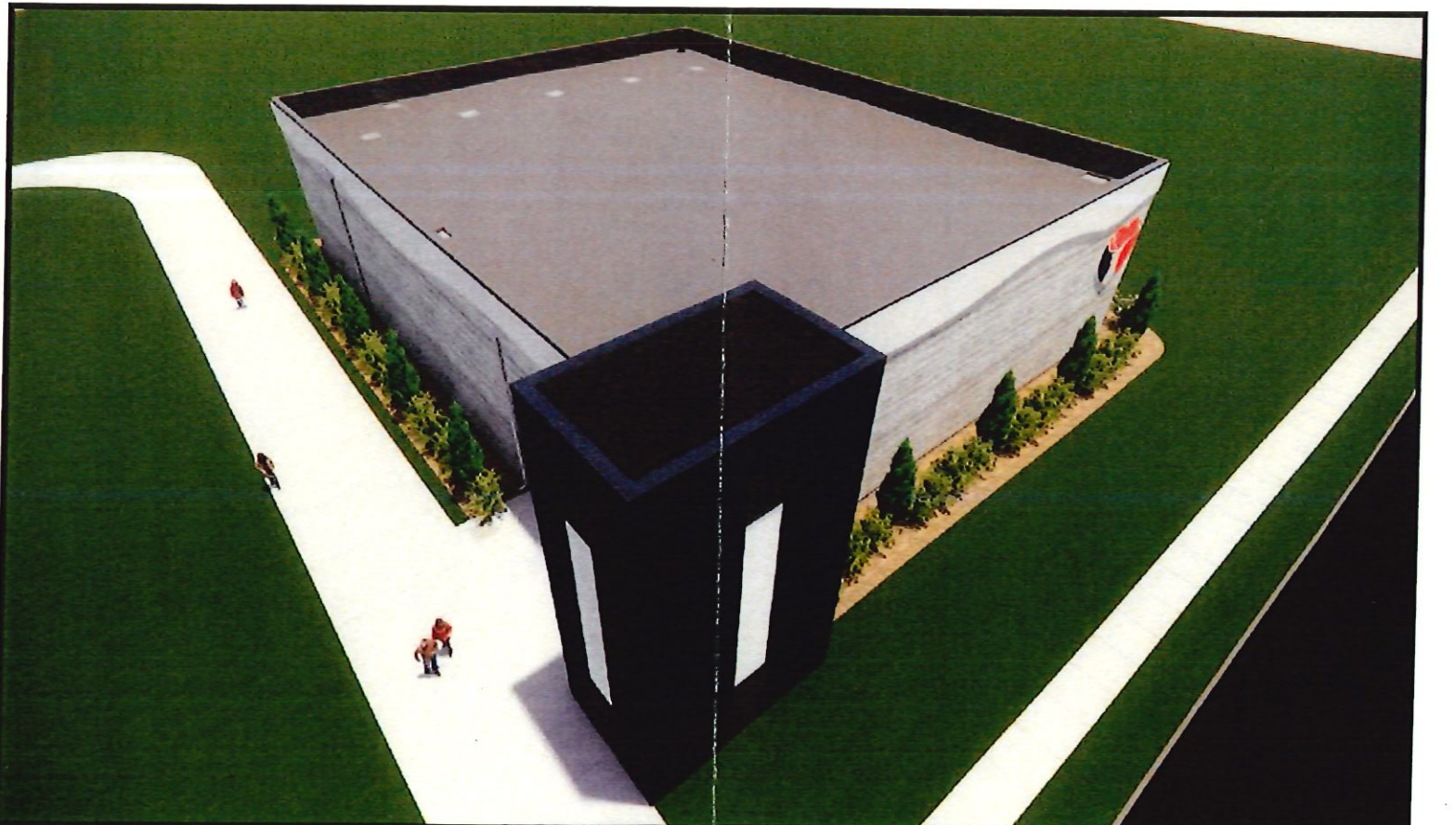
View 1 - Lift Station Site Rendering with Monorail System, Equipment Building, and Site Fence



View 2 - Lift Station Site Rendering with Monorail System, Equipment Building, and Site Fence



View 1 - CSO Storage Tank Site Rendering



View 2 - CSO Storage Tank Site Rendering



Staff Report

Planning & Zoning

<u>Petition:</u>	24-BZA-21
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	September 12, 2024
<u>Petitioner:</u>	Patrick & Jill Mohan
<u>Site Location:</u>	Property Southeast of 13 Melrose Manor, 60-03-230-002-012
<u>Request:</u>	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.
<u>Existing Zoning:</u>	R-1, One-Family Dwelling District
<u>Size:</u>	+/- .45 acres
<u>Thoroughfares:</u>	Melrose Manor
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to site.

Surrounding Land Use & Zoning:

The subject site is surrounded by residential dwellings zoned R-1 One Family Dwelling District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan does not specifically address accessory buildings. The subject property is included in an area identified for low density residential use on the future land use map.



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.

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.

Photos

PETITION #: 24-BZA-21

FILING FEE: \$ 200

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): PATRICK + JILL MOHAN

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: PATRICK MOHAN

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: LOTS 7 + 8 MELROSE MANOR

Zoning: R1

Present Use: VACANT LAND Proposed Use: ACCESSORY STRUCTURE

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): PATRICK MOHAN JILL MOHAN

SIGNATURE(S): [Signature] DATE: 8-1-24

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: [Signature] DATE: 8/19/24

August 1, 2024

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Developmental Variance

The undersigned Petitioners respectfully shows the Board of Zoning Appeals:

We, Patrick & Jill Mohan, are the owners of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to wit:

Lots Numbered Seven (7) and Eight (8) as the said Lots are known and designated on the recorded Plat of MELROSE MANOR in Elkhart, Indiana; said Plat being recorded in Plat Book 4, page 5 in the Office of the Recorder of Elkhart County, Indiana. ("**Property 1**") **EXHIBIT A**

Lot Number Thirteen (13) as the said Lot is known and designated on the recorded Plat of MELROSE MANOR in Elkhart, Indiana; said Plat being recorded in Plat Book 4, page 5 in the Office of the Recorder of Elkhart County, Indiana. Also: The East one-half (E1/2) of a strip of land lying between Lots Numbered Twelve (12) and Thirteen (13) in said Melrose Manor. ("**Property 2**") **EXHIBIT E**

Both **Property 1** and **Property 2** have a zoning classification of R-1 One-Family Dwelling District under the Zoning Ordinance of the City of Elkhart

The Petitioners have resided in a single-family home on **Property 2** since 2003. The Petitioners purchased **Property 1** from the owners of Lot Fourteen (14) of Melrose Manor in March of 2016. **Property 1** has been an empty lot since Melrose Manor was established in 1928.

The Petitioners placed a 12' x 16' **EXHIBIT B** (192sq/ft) accessory structure on **Property 1** in the Fall of 2023, not being aware it conflicted with the Zoning Ordinance of the City of Elkhart, Indiana. We received a Notice of Violation **EXHIBIT C** on May 15, 2024 indicating that during efforts to keep the community aesthetically pleasing, sweeps of the areas are made and upon driving into Melrose Manor a violation was noted: "The accessory structure that you have installed is not to code". The accessory structure is not required to have a foundation as it does not exceed the square footage that requires a foundation. We later learned; we conflicted with section 26.1 (B)(1) of Zoning Ordinance No. 4370.

Excerpt: City of Elkhart, Indiana / Zoning Ordinance No. 4370 Section 26.1

B. Accessory Structures - General Provisions

1. 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.

Standards for Consideration


1. The structure is non injuriouss to the public health, safety, morals and general welfare of the community. Structure is attractive and sits far away from any public road. Traffic is very light in the area as it is essential a cul de sac neighborhood. EXHIBITS D & E
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner. The Petitioners currently reside in a adjacent property and by having the said structure on the property in no way adversely affects adjacacenty property. EXHIBIT E
3. The purpose of the Zoning Ordinance as listed in section 1.2 would not be adversely affected in any way. The structure is difficult to see unless someone is intentionally looking for the structure.
4. **Property 1** is unique in many facets. There is no water access and does not face a main street. The land is part of an association which has five (5) water-front homes and four (4) homes facing Jackson Boulevard. There is one other lot in the interior (not on water or main street) that has a home with no backyard. This home sits on the site of the original farmhouse (since remodeled) when no other homes existed in the early 1900's. **Property 1**, is not ideal for a home site as it is essentially a corner lot with the most logical home having a backyard facing the street. The physical structure of the homes facing Jackson Boulevard are very close to the property line of **Property 1**, so those homes have little or no back yard EXHIBIT F. The two lots that make up **Property 1** are relatively small. The petitioners combined the lots into one parcel in May of 2016 EXHIBIT G. There is one entrance EXHIBITS H & E into Melrose Manor so community traffic, outside of neighbors, is limited to cars turning around to reverse direction on Jackson Boulevard. **Property 1** and **Property 2** are adjacent to each other and are only separated by a public street in Melrose Manor (approximately 30 feet). When Melrose Manor was created, a public easement existed which would have made **Property 1** more suitable for home development EXHIBIT E. The easement was abandoned 25 plus years ago.
5. The petitioners would not be able to add a structure to **Property 2** as the existing house sits upon the setback lines and there would not be enough space to expand the garage. The garage is relatively small and consistent with homes built in the 1950's. The best use and value for **Property 1** would be for someone living in Melrose Manor to serve as recreational land as it does not have access to water frontage. EXHIBIT I
6. Granting the variance would not necessarily make it unfair to other properties in the district due to the following facts:
 - ***Property 1 and 2** are jointly owned.
 - ***Property 2** has water frontage on a narrow lot that prohibits expansion.

*Property 1 and 2 are part of Melrose Manor Park Association, Inc. EXHIBIT J. There is one way in and out with a limited number of homes. There is very light traffic other than neighbors.

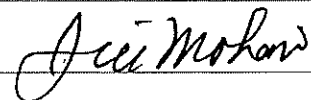
*Property 1 due to unique circumstances, the land is not ideal to build a home. The property does not have water access but is adjacent to homes on the water.

7. The Petitioners do not believe **Property 1** is in a designated flood hazard area.

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

Signature of Property Owner:  _____

Printed Name: **Patrick Mohan** _____

Signature Second Property Owner:  _____

Printed Name: **Jill Mohan** _____

Contact Person: **Patrick Mohan** _____

Name: **Patrick Mohan** _____

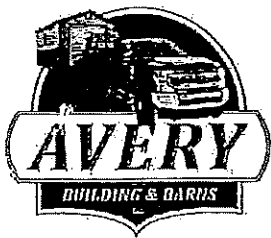
Address:  _____

Phone Number:  _____

Email:  _____

EXHIBITS

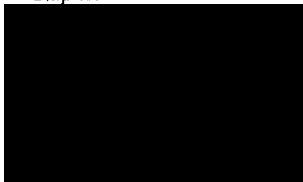
- A Certificate of Survey – **Property 1** – location of structure
- B Invoice - Accessory Structure 12 x 16
- C Notice of Violation from City of Elkhart
- D Picture – Accessory Structures – noncompliance / compliance
- E Plot Map – Melrose Manor 1928 - Easement / Entry-Exit
- F Picture – homes South of **Property 1** – limited backyard
- G Combination of Lots Seven (7) and Eight (8)
- H Picture – Melrose Manor entry and exit
- I Arial photo of Melrose Manor
- J Melrose Manor Park Association, Inc – Articles of Incorporation



INVOICE # CB-05690
 Order Type New Build Sale
 Date 09/20/2023
 Agent James Eash

Invoice from:
Avery Building and Barns
 58999 Farrand Rd
 Colon, MI 49040
 (269) 503-3965

Ship to:



Dealer:
M-66 Groceries & Barns
 62274 M - 66
 Sturgis, MI 49091
 (269) 397-0754

Description	Quantity	Total
Standard Garage 12x18 Serial Number SG-1218-092023-003162 Siding: Metal - Black, Trim: Metal - Black, Roof: Metal - Black	1	\$6,597.61
1 - 24x30 Window - Included	1	\$0.00
1 - Service Door - Included	1	\$0.00
10% off an service door credit, window credit	1	-\$1,059.00
6' Skylight	1	\$200.00
8x7 Garage Door: Included	1	\$0.00
Garage Door Lock	1	\$75.00
Verify Color Option	1	\$0.00

Avery Building and Barns and its agents are NOT responsible for permits, setbacks, restrictions, or covenants. PLEASE contact your local codes department or Homeowners Association. Avery Building and Barns is NOT responsible for yard or driveway damage. Free delivery and setup includes ONE TRIP, additional trips may incur CHARGES to the customer. Does not include ground anchors. First 50 miles Free Delivery From Lot. Thereafter up to \$10.00 Per Mile. CHANGE ORDERS - \$50 and contract is canceled and redone. If Rent to own - \$250 to cancel and redo.

I, the customer, have read the disclosure, Terms And Conditions Of Sale, and fully accept the terms provided therein.


 Sign **PATRICK MOHAN**

9-20-23
 Date

Subtotal \$5,813.61
 Taxes \$0.00
 Delivery FREE

Total \$5,813.61

Amount Due Today \$0.00

Remaining Balance \$5,813.61



City of Elkhart
Building & Code

City of Elkhart Planning & Zoning Department

229 S. Second St., Elkhart, Indiana 46516
Phone: 574.294.5471

Rod Roberson
Mayor

Date: May 15, 2024
Form: No Zoning Clearance
Incident #: 24-2085
Violation Date: May 13, 2024
Parcel No.: 06-03-227-010-012

MOHAN PATRICK & JILL



RE: [Redacted]

NOTICE OF VIOLATION

As part of our ongoing efforts to keep our community aesthetically pleasing, I complete sweeps of areas to ensure properties are in compliance with the Zoning Ordinance. During a recent drive past this property, I noted the following violation:

The accessory structure that you have installed is not to code. Please contact the Planning & Zoning Department by the below compliance date to discuss your options and to avoid fines.

The Zoning Ordinance regulates the setback, height, and exterior finish of a shed or detached garage and a zoning clearance permit is required prior to installation/construction. In addition, some sheds and all garages require building permits. The following regulations apply to sheds & detached garages: must be at least 3 feet from a side property line, at least 5 feet from a rear property line, no taller than 15 feet, and the exterior finish must closely match that of the house. Other regulations pertain to corner lots, etc.

You must visit the Permit Center to obtain the zoning clearance and any other applicable permits. Bring this letter with you so that staff will know you are responding to a violation letter.

We often find that residents are not aware of certain violations, so this courtesy letter is both to inform you of the regulation and to ask for your cooperation in bringing the property into compliance. Deadline for compliance is **June 6, 2024**. Tickets with fines will be issued for failure to comply.

If this property is a rental, please provide the information and the deadline to the tenant

If you have questions, you may reach me at the number below. We appreciate your cooperation.

Sincerely,

Jason Ughetti
Zoning Enforcement Officer
City of Elkhart Planning & Zoning Department
(574) 294-5476

CONTACTED JASON 6-6-24
FOUNDATION - NOT NOW NEEDED - PAUL CAME TO HOUSE
AND MEASURED

EXHIBIT D

Property 1 - Accessory Structure – Prior to principal building



Example of Accessory Structure after principal building - Gordon Road, Elkhart IN



MELROSE MANOR

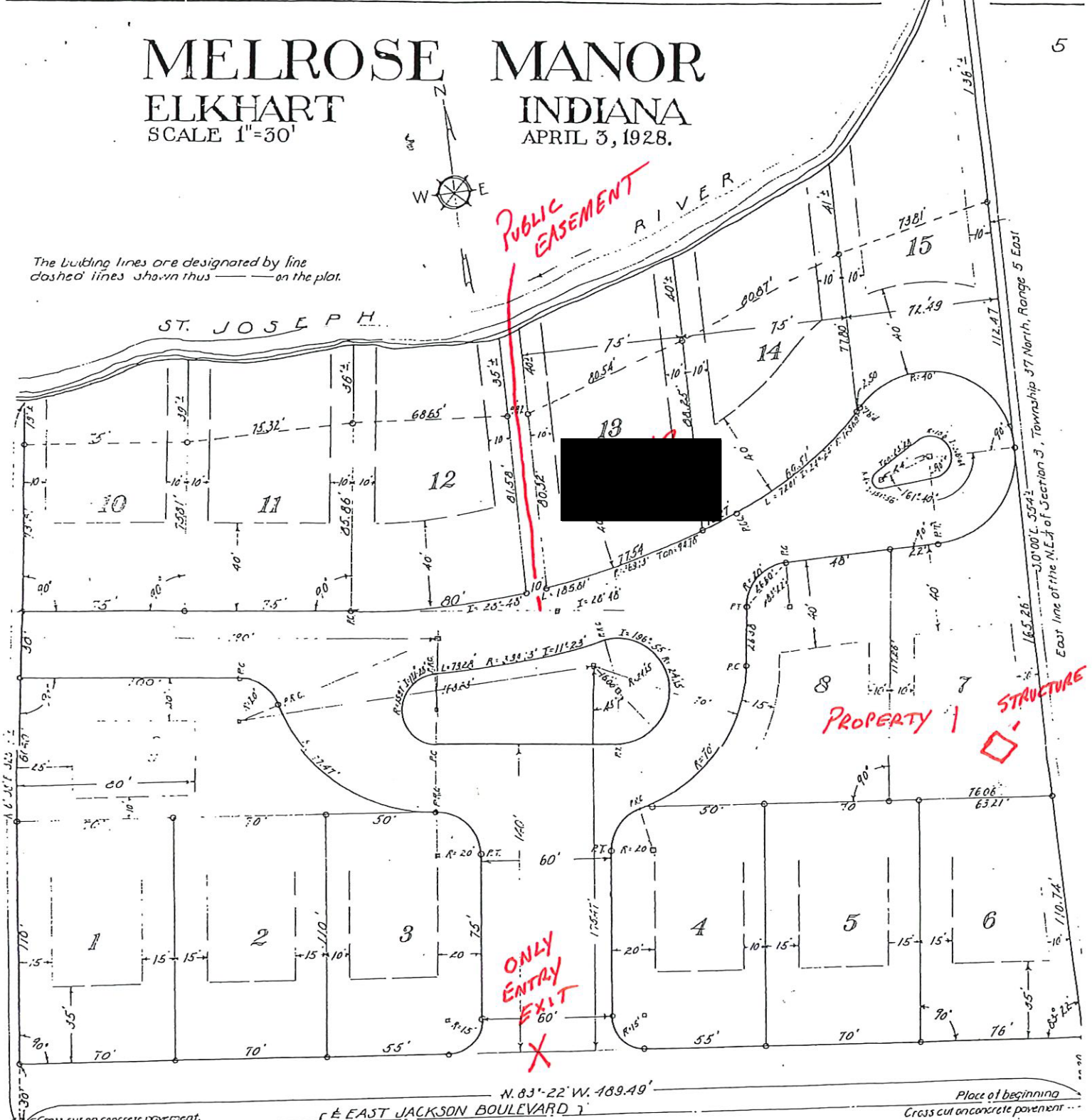
ELKHART INDIANA

SCALE 1"=30'

APRIL 3, 1928.



The building lines are designated by line
dashed lines shown thus on the plat.



STATE OF INDIANA
ELKHART COUNTY } ss.
We, the undersigned, hereby certify that the above map is a true and accurate plat of an Addition to Elkhart, Indiana, to be known as MELROSE MANOR, that the lots are numbered and have their respective dimensions given in feet and decimals thereof as hereon shown on the annexed plat. Said Addition is situated in the Northeast Quarter (N.E. 1/4) of Section Three (3), Township Thirty-seven (37) North, Range Five (5) East, more particularly described as follows: Assuming the concrete pavement in East Jackson Boulevard (formerly known as the Elkhart or Cross (X) cut on the East line of the N.E. 1/4 of said Section 3 to be due North and South, beginning at the center line of said boulevard where the center line of said boulevard is intersected by the East line of the said N.E. 1/4 of said Section 3; thence North Eighty-three degrees Twenty-two minutes West (83.49) feet to a cross (+) cut on the pavement; thence North Six degrees Thirty-nine minutes East (6.75) feet to a cross (+) cut on the pavement; thence North Sixty-three degrees Thirty-eight minutes East (N. 63.38 E.) approximately three hundred twenty-five (325) feet to the lands of the Indiana and Michigan Electric Company thence North thirty-two degrees thirty-eight minutes East (N. 32.38 E.) along said East line of the N.E. 1/4 of said Section 3; thence due South (S. 0.00 E.) along said East line of the N.E. 1/4 of said Section 3 approximately five hundred fifty-four (554) feet to the place of beginning.
We hereby dedicate the streets as shown on the annexed plat to the public for use as public highways. In testimony whereof, we hereunto set our hands and seals this 15th day of June, 1928.

George W. Walker
Rosa M. Walker

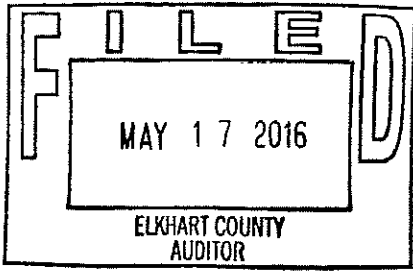
Personally appeared before me, a Notary Public in and for said County and State, the above named George W. Walker and Rosa M. Walker, his wife, and acknowledged the execution of the above plat. In testimony whereof, I hereunto set my hand and seal this 15th day of June, 1928.
Commission expires March 9-1931
Harold D. Duder NOTARY PUBLIC
I hereby certify that the plat hereon delineated is correct and that permanent monuments of iron gas pipe of about one (1) inch in diameter and about twenty (20) inches in length have been placed at all points marked thus "O". Wooden stakes about two (2) inches square and eighteen (18) inches in length have been placed at all points marked thus "A".
Frederick J. Anderson CITY ENGINEER.
The above plat is hereby approved this 17th day of April 1928 by the City Plan Commission.
John W. Clark Pres. *Adam H. Keen* Secy.
Duly entered for taxation this 15th day of June 1928.
per 95¢ *M. L. E. Carroll* AUDITOR ELKHART COUNTY.
Received for record this 18th day of June 1928 and recorded in Record No 4 Page 5
O. V. Snelbitch RECORDER ELKHART COUNTY.

EXHIBIT F

Lot 4 & 5 - South of Property 1



EXHIBIT G



(
(
(
(
(

FILE STAMP

OFFICE USE ONLY	
combined for	_____
mtg #/desc. check	_____
taxes pd	_____
initials	_____
notes	_____

**ELKHART COUNTY AUDITOR
TAX COMBINATION FORMS**

I (WE) Patrick + Jill A Mohan WOULD LIKE THE FOLLOWING TAX
(Please Print)

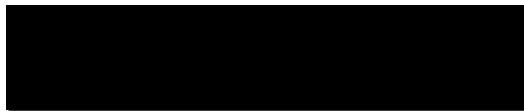
PARCEL NUMBERS COMBINED: (There are no mortgages on any of the properties being combined, or the mortgage covers all the property being combined.)

NUMBERS TO COMBINE:

20- <u>06-03-280-001</u> .000- <u>012</u>	20-_____.000-_____
20- <u>06-03-280-001</u> .000- <u>012</u>	20-_____.000-_____
20-_____.000-_____	20-_____.000-_____
20-_____.000-_____	20-_____.000-_____
20-_____.000-_____	20-_____.000-_____

Pat Mohan
SIGNATURE

5-16-16
DATE



Elkhart IN 47516
CITY, STATE & ZIP

THE ELKHART COUNTY AUDITOR'S OFFICE IS NOT RESPONSIBLE FOR ANY INCREASE OR DECREASE IN THE ASSESSED VALUES DUE TO THIS COMBINATION. CHECK WITH YOUR ASSESSOR IF YOU HAVE ANY QUESTIONS. THANK YOU

EXHIBIT H

Melrose Manor – One Entry/Exit

From North facing South



From South facing North



EXHIBIT 1

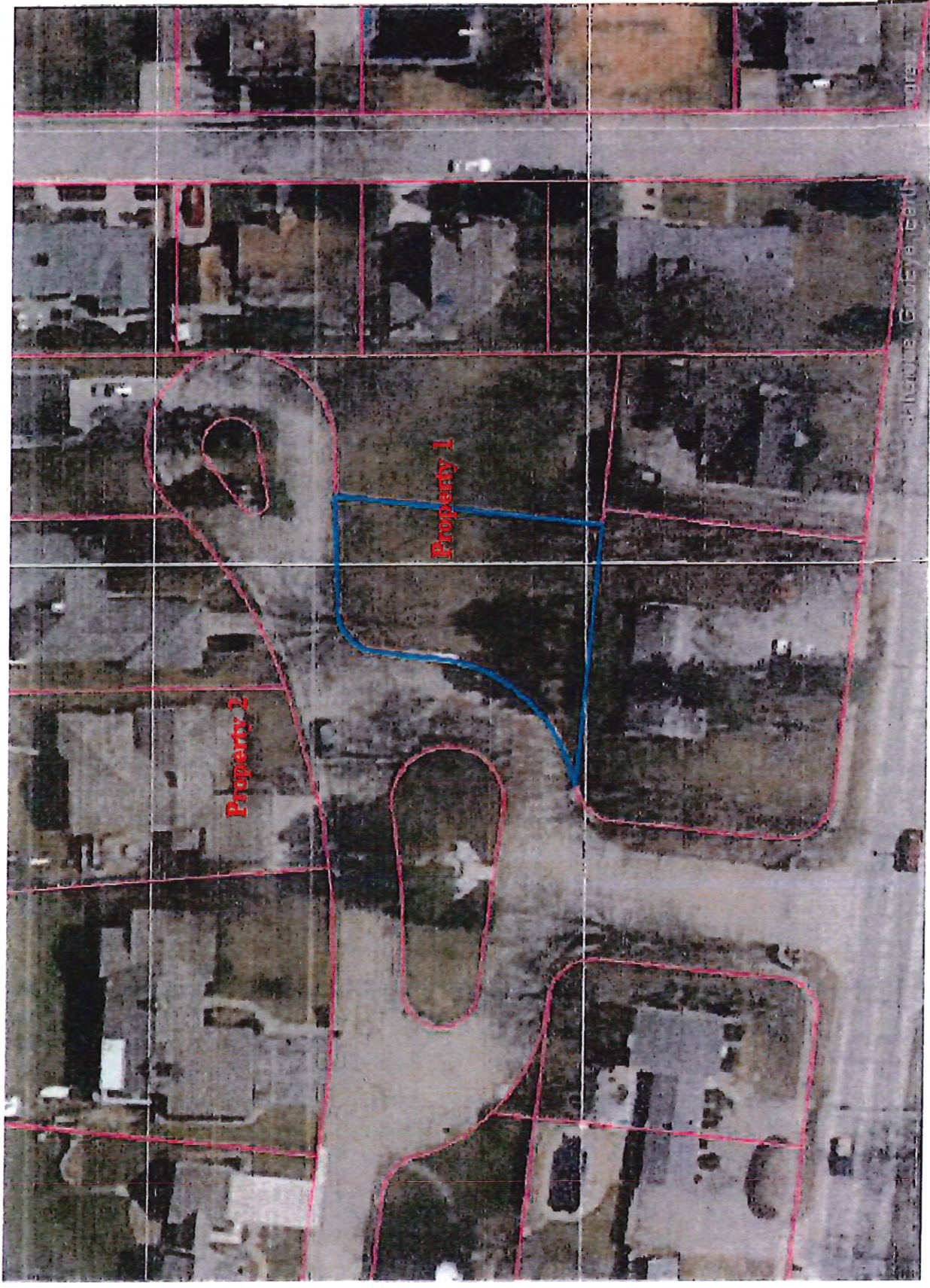




EXHIBIT J

Instructions: Use 8 1/2 x 11 inch paper for inserts
 Present 2 executed copies to:

SECRETARY OF STATE
 Room 155, State House
 Indianapolis, Indiana 46204

ANNUAL REPORTS MUST BE FILED WITH THIS OFFICE
 BY THE LAST DAY OF FEBRUARY OF EACH YEAR.

FILING FEE IS \$26.00

For tax exempt status, Not-For-Profit Corporations must qualify
 with both the Internal Revenue Service and the Indiana
 Department of Revenue.

RECORDING IS NO LONGER REQUIRED.

**ARTICLES OF INCORPORATION
 OF**

MELROSE MANOR PARK ASSOCIATION, INC.

(Complete name as will be shown in Article 1)

The undersigned incorporator or incorporators, desiring to form a corporation (hereinafter referred to as the "Corporation") pursuant to the provisions of the Indiana Not-For-Profit Corporation Act of 1971 (hereinafter referred to as the "Act"), execute the following Articles of Incorporation:

ARTICLE I Name

The name of the Corporation is (The name MUST include the word "Corporation" or "Incorporated," or one of the abbreviations thereof):
MELROSE MANOR PARK ASSOCIATION, INC.

ARTICLE II Purpose

The purposes for which the Corporation is formed are:

- (1) To maintain a tract of land known as the "Island" in the center of the street, and, the "Island" at the East end of the street, in Melrose Manor, an addition to the City of Elkhart, Indiana (hereinafter referred to as the "Property"); and,
- (2) To enjoy all the powers, rights and privileges from time to time conferr by the act, as amended.

ARTICLE III Period of Existence

The period during which the Corporation shall continue is:
Perpetual
 (The period will be perpetual unless otherwise specified)

ARTICLE IV Resident Agent and Principal Office

SECTION 1 Resident Agent. The name and address of the Corporation's Resident Agent for service of process are:

Robert C. Young

Name

10 Melrose Manor

Address (street or building and city)

Elkhart

Indiana

Zip Code

46516

SECTION 2 Principal Office. The post office address of the principal office of the Corporation is:

10 Melrose Manor, Elkhart

Indiana

Zip Code

46516

ARTICLE V Membership

A minimum of one (1) person shall have signed the membership list. (Directors or Trustees or Incorporators may be included in the membership.)

SECTION 1 Classes (if any):

There shall be but one class of membership, each membership limited to the fee simple title record owner of a lot in Melrose Manor, an addition to the City of Elkhart, Indiana.



Staff Report

Planning & Zoning

Petition: 24-UV-12

Petition Type: Use Variance

Date: September 12, 2024

Petitioner: Vashu Motels, Inc.

Request: 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.

Site Location: 2807 Cassopolis St.

Existing Zoning: B-3, Service Business District & M-1 Limited Manufacturing District

Size: +/- 1.04 Acres

Thoroughfares: Cassopolis St.

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

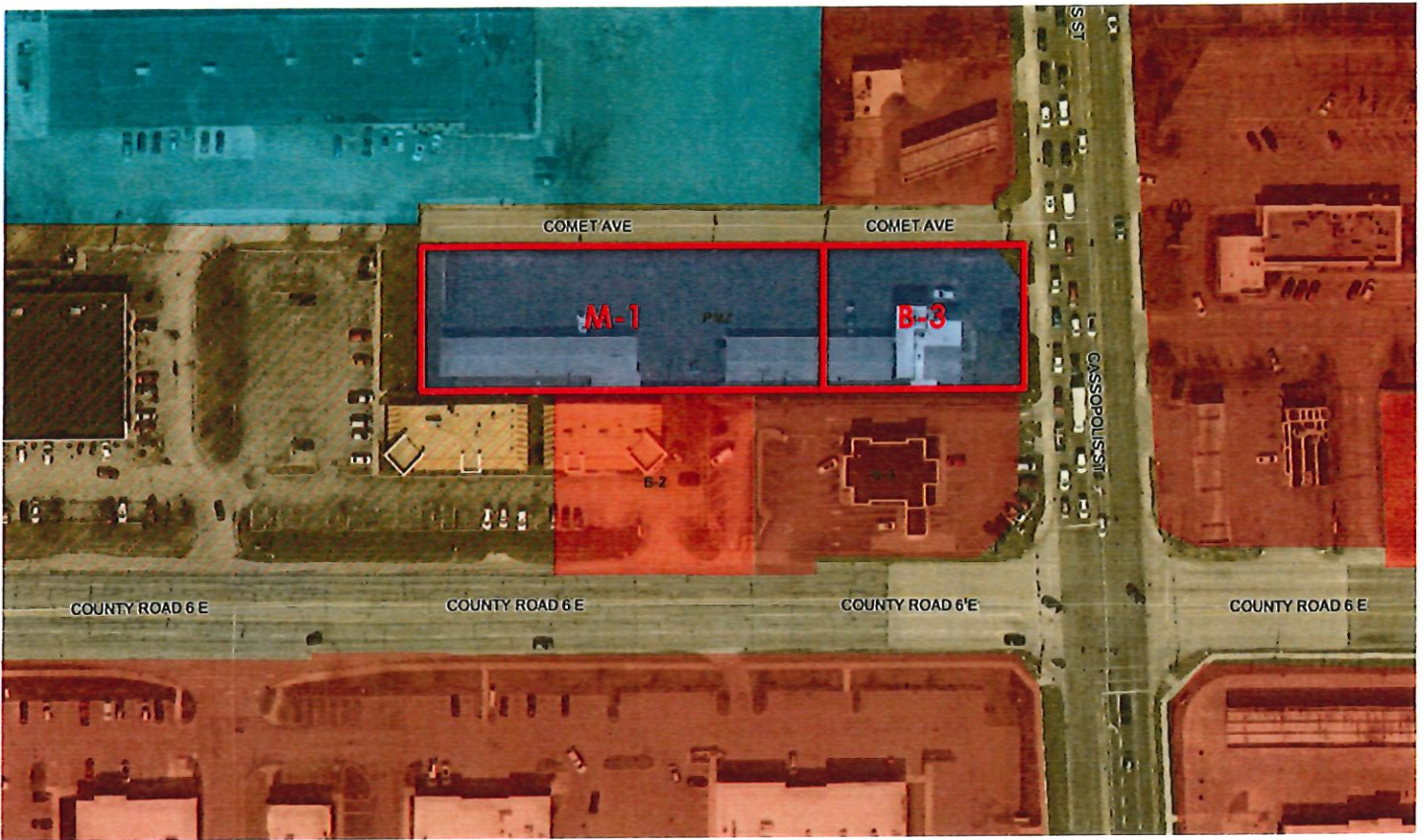
The property is located in an area of a mix of commercial and industrial uses located along the County Road 6 and Cassopolis St. (IN SR 19) corridors. Directly adjacent uses are a gas station and drive thru bank.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed as commercial uses. The Plan identifies this area as a key gateway and economic development corridor. These gateways are opportunities to reinforce a sense of welcome and the Elkhart community image.



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).

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.

Photos

PETITION #: 24-WV-12

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): Vashu Motels, Inc.

Mailing Address: 2807 Cassopolis Elkhart, IN 46514

Phone #: (574) 849-3434 Email: JKpat1227@gmail.com

Contact Person: Roger Franz – Net Lease Properties, LLC

Mailing Address: 1000 Forest Park Blvd., Suite 401 Fort Worth, TX 76110

Phone #: [REDACTED] Email: rf@netleaseproperties.com

Subject Property Address: 2807 Cassopolis Street

Zoning: B-3, Service Business District and M-1, Limited Manufacturing District

Present Use: Budget Inn Motel Proposed Use: Drive-Thru Coffee 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): Vashu Motels, Inc.

SIGNATURE(S): [Signature] (PRESIDENT) DATE: 7-31-24

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: [Signature] DATE: 8/2/24

DATE: July 26, 2024

TO: Board of Zoning Appeals

RE: Use Variance City of Elkhart, Indiana

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, Roger Franz with Net Lease Properties, am the owner under contract of the following described real estate located within the City of Elkhart, Osolo Township, Elkhart County, State of Indiana, to-wit:

Legal Description Attached

2807 Cassopolis Street Elkhart, IN 46514

2. The above-described real estate presently has a zoning classification of PMZ (Possible Multiple Zones) under the City of Elkhart's zoning ordinance. Per the Assistant Director of Planning and Zoning, the property is zoned B-3 Service Business District and M-1 Limited Manufacturing District.
3. Petitioner proposes to purchase the property that currently operates as a Budget Inn motel.
4. Petitioner desires to demolish the existing motel and construct a new drive-thru coffee shop. This use is not a permitted use in the M-1 Limited Manufacturing District.
5. The City of Elkhart's zoning ordinance requires a Use Variance for a drive-thru coffee shop to operate in the M-1 Zoning District.
6. The subject property is owned and operated as a single tract of land. However, it is divided into two zoning districts. Based on conversations with the Assistant Director of Planning and Zoning, the multiple zoning districts on the property are a historical issue that hasn't been an issue to date since the existing motel use has operated for a long period of time. Strict adherence to the Zoning Ordinance would severely and unfairly limit the property's redevelopment opportunity.
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, 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. The redevelopment of this property will add value to the surrounding area.
 3. The need for variance arises due to the multiple zoning districts within the property.
 4. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property in which the variance is sought by severely and unfairly limiting the property's redevelopment opportunity.
 5. The approval does not interfere substantially with the Comprehensive Plan based on the City's intention for commercial development in this location. The proposed use is consistent with the Comprehensive Plan and the existing developments currently surrounding the property.

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

Applicant: Net Lease Properties LLC

Name: Roger Franz

Address: 1000 Forest Park Blvd. Suite 401 Fort Worth, TX 76110

Phone Number where you can be reached  _____

Email: rf@netleaseproperties.com

**ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)
SCHEDULE A**

ISSUED BY
STEWART TITLE GUARANTY COMPANY

**EXHIBIT "A"
LEGAL DESCRIPTION**

A part of the Southeast Quarter (1/4) of Section Twenty (20), Township Thirty-eight (38) North, Range Five (5) East, more particularly described as follows:

Commencing on the West line of said Quarter Section at a point One Hundred Fifty-seven (157) feet North of a stone at the Southwest corner of said quarter section; thence Eastwardly, parallel with the South line of said quarter section, to a point that is Four Hundred Ninety-two (492) feet West of the centerline of the Cassopolis Road for the beginning point of this description; thence North parallel with the West line of said quarter section, One Hundred Five and Twenty-four Hundredths (105.24) feet to the South line of Comet Avenue; thence Eastwardly, parallel with the South line of said quarter section and along the South line of Comet Avenue, to the centerline of Cassopolis Road; thence Southwardly along the centerline of said Cassopolis Road, One Hundred Five and Thirty-nine Hundredths (105.39) feet; thence Westwardly parallel with the South line of said quarter section, Four Hundred Ninety-two (492) feet to the place of beginning. Subject to public highways.

EXCEPTING THEREFROM THE FOLLOWING: A part of the Southeast Quarter of Section 20, Township 38 North, Range 5 East, Elkhart County, Indiana, described as follows:

Commencing at the Southwest corner of said quarter section; thence North 0 degrees 07 minutes 14 seconds East 262.24 feet (distance deduced from Deed Record 251, Page 146) along the West line of said quarter section to the South boundary of Comet Avenue; thence South 89 degrees 27 minutes 46 seconds East 800.37 feet along the boundary of Comet Avenue to the point of beginning of this description, which point of beginning is on the West boundary of S.R. 19 (Cassopolis Road); thence South 2 degrees 30 minutes 46 seconds East 105.39 feet along the boundary of said S.R. 19 to the North line of $\frac{3}{4}$ acre tract of land shown on the plat of Lake Drive a subdivision in said quarter section recorded in Plat Book 3, Page 24, in the Office of the Recorder of said county; thence North 89 degrees 27 minutes 46 seconds West 20.24 feet along said North line; thence North 2 degrees 40 minutes 26 seconds West 85.32 feet; thence North 41 degrees 36 minutes 36 seconds West 27.05 feet to the South boundary of said Comet Avenue; thence South 89 degrees 27 minutes 46 seconds East 37.56 feet along the boundary of said Comet Avenue to the point of beginning.

This page is only a part of a 2021 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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File No. 01219-22732

ALTA Commitment for Title Insurance Schedule A (07-01-2021)

Page 2 of 2



CASSOPOLIS STREET

(ASPHALT PAVEMENT)

COMET AVE

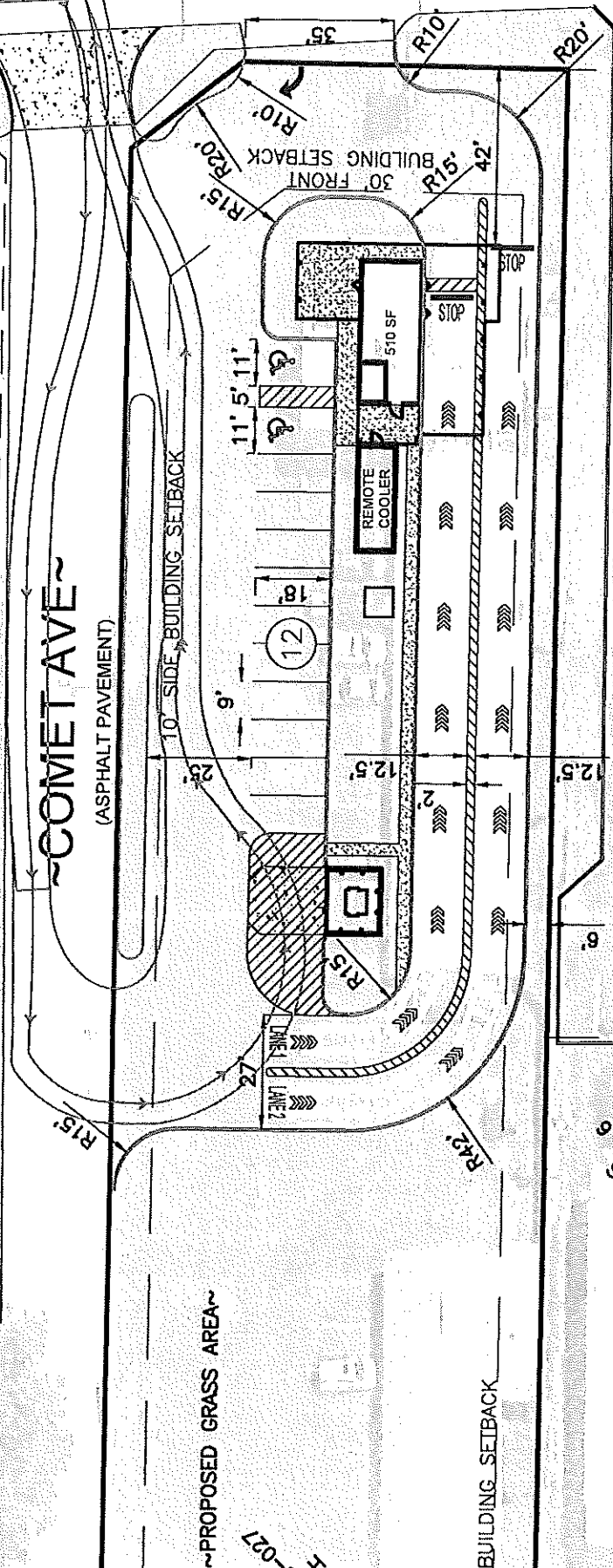
(ASPHALT PAVEMENT)

N/F FRIENDLY EX
2811 CASSOPOLIS
P.I.D. 02-20-453-024-0

N/F 8931 HOLDINGS L
300 COMET AVENUE
P.I.D. 02-20-453-018-027

N/F FIRST NATIONAL BANK C/O
KEYCORP MANAGEMENT CO
2801 CASSOPOLIS ST
P.I.D. 02-20-454-013-021

N/F CR6 PROPERTIES
290 F. COUNTY ROAD 6
P.I.D. 02-20-454-022-027



PROPOSED GRASS AREA

BUILDING SETBACK

SITE NOTES:

1. SITE IS ZONED B-3, SERVICE BUSINESS DISTRICT AND M-1, LIMITED MANUFACTURING DISTRICT
2. BOUNDARY INFORMATION IS DRAWN PER GIS MAP
3. DIMENSIONAL SETBACKS AS PER CITY OF ELKHART IN CODE.

510 S.F.

SPACE PER EMPLOYEE

6 SPACES

10 SPACES

AFFIDAVIT IN SUPPORT OF USE VARIANCE PETITION

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

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. Vashu Motels, Inc. is now and at all times relevant herein has been, the owner of record of the property located at 2807 Cassopolis Street, Elkhart, Indiana. I am the sole shareholder of Vashu Motels, Inc.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the ____ day of August, 2024.

Jay Patel
Printed: Jay Patel

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

JAY PATEL
Printed: Jay Patel

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Jay Patel, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 19 day of August, 2024.

My Commission Expires:

Allietha Saunders
Printed: Allietha Saunders

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

