

Agenda
GOSHEN BOARD OF ZONING APPEALS
Tuesday, January 28, 2025 4:00 P.M.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- I. Roll Call
- II. 2025 Board of Zoning Appeals Appointments
- III. Election of 2025 Officers
 - Chair
 - Vice Chair
 - Secretary
- IV. Approval of Minutes from 11/26/24
- V. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- VI. Postponements/Withdrawals – any person having business to come before the Board may request postponement or withdrawal at this time.
- VII. **Use & Developmental Variances**— public hearing items

25-01UV & 25-01DV – Maple Crest Country Club of Goshen, Inc. and Abonmarche Consultants request a use variance to allow 5’ side (south) and 35’ side (east) parking and driving aisle setbacks adjacent to a residential property and access from a residential street where golf courses are a conditional use requiring a minimum 50’ distance from any adjacent residential uses and zoning districts and access from a collector or arterial street, a developmental variance to allow a front parking and driving aisle setback of 5’ along Hackett Road where a minimum of 25’ is required, and to allow the variances to be valid for one year before a zoning clearance is issued for the expansion of the golf course parking lot. The subject property is generally located at 611 Hackett Road and is zoned Residential R-1 District.

25-02UV – Ira & Esther Diener (property owners) and Daryl J Borkholder (potential buyer) request a use variance to allow the grazing and pasturage of animals (2 horses) within a fenced area where such use is a conditional use in the Agricultural A-1 District. The subject property is generally located at 321 N 22nd Street and is zoned Residential R-2 District.

25-03UV –Matthew Miller (owner) and Ismail Saleh (agent) request a use variance to allow a department store where such uses are permitted in the Commercial B-2, B-3, and B-4 districts. The subject property is generally located at 711 W Lincoln Avenue and 104 Huron Street and zoned Commercial B-1 and Residential R-3 Districts.

25-02DV – Richard L Bender requests developmental variances to allow a front building setback along Berkey Avenue of 29’ where 30’ is required and a side (west) building setback of 7’ where 8’ is required for the addition of an approximately 989 SF garage and three-season room. The subject property is generally located at 1412 Berkey Avenue and is zoned Residential R-1 District.
- VIII. Audience Items
- IX. Staff/Board Items
- X. Adjournment

Minutes - Goshen Board of Zoning Appeals
Tuesday, November 26, 2024, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- I. The meeting was called to order with the following members present: Hesston Lauver, Tom Holtzinger, Matthew Fisher, James Loewen, and Lee Rohn. Also present were Assistant City Planner Rossa Deegan, Assistant City Attorney Don Shuler, and Youth Advisor Kimberly Cazabal Gonzalez.
- II. Approval of Minutes from 10/22/24: Lauver/Fisher 5-0
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Lauver 5-0
- IV. Postponements/Withdrawals – none
- V. Discussion of Agenda Order – Mr. Holtzinger explained there is a request to rearrange the agenda, to hear case 24-14UV & 24-34DV first on the agenda and to hear case 24-16UV second on the agenda. Assistant City Attorney Don Shuler will be present for case 24-14UV & 24-34DV only and 24-16UV is being moved because of a time conflict.

Action:

A motion was made and seconded, Fisher/Rohn, to rearrange the agenda as requested. The motion passed unanimously by a vote of 5-0.

VI. Use & Developmental Variances – public hearing items

24-14UV & 24-34DV – Colleen Caskey & David Weaver and Dale Klassen request a use variance to allow a second single family dwelling unit in a detached two-stall garage where only one primary structure is permitted, and developmental variances to allow a side (north) building setback of 1' where 8' is required and a side (north) parking/driving aisle setback of 3' where 5' is required for the construction of the garage and drive approach. The subject property is generally located at 1012 S 7th Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this R-1 zoned property is located on S 7th Street, with an existing garage at the rear of the property which fronts Cottage Avenue. The petitioners would like to demolish the existing detached garage and construct a larger building in its place. The new building would be 816 sf, would include a two-stall garage and bathroom on the first level, and a living area on the second level. This would be classified in the Goshen zoning ordinance as a single family home. A use variance is required because the R-1 zoning district only allows one single family home on a zoning lot and developmental variances are also required for encroachments into the setback for the structure and the driveway.

Mr. Deegan stated Staff recommends approval of the second single family home, but denial of the setback request. He acknowledged parking will be sufficient with four onsite parking spaces and pointed out the structure will be substantially smaller than the existing home. The petitioners point out the new building will retain the same setback as the existing structure; however, there is ample room to move the structure farther south and meet the setbacks required by the zoning ordinance. He also pointed out the north 6.6 ft of the property is a vacated alley which contains utility poles and Staff is not convinced that this area does not contain a utility easement. He pointed out that it's still unknown if water and sewer can be connected to this structure and those connections are required by the zoning ordinance. Staff recommends a commitment requiring the two building to remain part of one zoning lot and under one owner so they're not sold off with separate owners. No public inquiries were received regarding this request.

Petitioner Presentation:

Dale Klassen, 417 Gra Roy Dr, spoke on behalf of the petitioner. He stated the north setback would not change with this new structure and the only potential conflict would be with the existing utility pole near the garage. He went on to say it was replaced recently by NIPSCO and they didn't appear to have any trouble replacing it. He went on to say if the garage is required to move an additional 7' to the south, it would be nearly on top of a very nice ornamental tree and they would be adjacent to, or on top of, the NIPSCO gas line to the house.

Mr. Holtzinger asked if the garage could be moved part way.
Mr. Klassen proposed a compromise of an additional two feet.

Colleen Caskey, 1012 S 7th Street spoke to the request. She stated she resides on the property and the tree is a very large Cypress tree. She noted there is also a large maple tree nearby.

Mr. Fisher asked for clarification regarding the distance between the garage and north property line.
Mr. Klassen stated it would be 3' to the garage overhang and 4' to the garage foundation.

Audience Comments:

Jonathan Lehman, 924 S 7th Street, spoke in opposition to the request. He stated he feels this is a step backwards and wants this area to remain single family homes.

Mr. Holtzinger asked if an approval with commitments would change his opinion about this.
Mr. Lehman reiterated that he is not in favor of this request.

Petitioner Rebuttal:

Colleen Caskey remarked that this proposal does not include a kitchen. They also looked into adding on to the house, but this appeared to be the best option. The additional space would be used for storage and for any overnight guests.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Loewen/Fisher, to adopt the findings of the Board, amending condition #9 in the Staff Report, to allow the side (north) setback to be a minimum of 3'4" where 8' is required, and based on these findings, approve 24-14UV & 24-34DV with the 9 conditions and 2 commitments listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

Attorney Shuler left the meeting at 4:21pm; Attorney Kolbus joined the meeting at 4:21pm.

24-16UV – Goshen Community Schools & Warrick & Boyn request a use variance to amend variance 24-02UV & 24-11DV to allow a portion of required landscaping for an athletic facility to be installed on neighboring properties to the south via an easement and to allow occupancy of the facility prior to the installation of required landscaping. The subject property is generally located at 1730 Regent Street and is zoned Residential R-3 PUD District.

Staff Report

Mr. Deegan reminded Board members that in March of this year, they approved an athletic complex in for this property. He explained this project has begun and the petitioners hope to have the majority of it complete to allow spring sports in 2025. Today's request is to amend the previous variance to allow some of the required buffer landscaping to be placed on residential properties along the south property line. The petitioners would like to join the berm for the athletic complex with the berm for the Cherry Creek development to the south. The projects are both occurring nearly simultaneously and the petitioners would like to place landscaping in the center of the berm slightly off the school property and to allow that planting to occur after the athletic facility is occupied and in use in the spring. He went on to explain that Cherry Creek's portion of the berm installation will occur after the spring sports season has begun and it's anticipated that it will be completed later in the year. He referred to a landscape plan provided in Board members' packets, pointing out that this will not impact the landscaping along the east property line, noting it will be installed along the property line on the southwest portion of the property.

He explained the Planning Office has some concerns about this, including that the Planning Department often addresses dead or dying trees on new construction sites. He noted that with these trees being located on separate properties, he questioned how compliance issues would be addressed and enforced. He went on to say the petitioners have agreed to put an easement in place to address this concern and have worked with the Cherry Creek developers so they can maintain landscaping on property they do not own. They have also proposed to irrigate this portion of the landscaping.

Staff recommends approval with conditions and commitments and he discussed the following conditions and commitments from the Staff report:

(Conditions)

7. The recorded access easement for the shared berm shall be provided to the Planning Department during Technical Review and before occupancy of the athletic facility.
8. All required landscaping shall be installed no later than December 1, 2025; the required landscaping not located along the shared portion of the berm shall be installed before occupancy of the athletic facility.

(Commitments)

2. The berm as shown on "Site landscape plan – baseball/softball," dated 1/18/24, by Barton Coe Vilamaa/Commonwealth Engineers shall be extended to the north end of the parking lot along the west property line, between the sidewalk and the parking lot.
3. The owner of the athletic complex shall be responsible for maintaining all trees as shown on the approved landscape plan.
4. The sidewalk on the southside of the athletic facility parking lot shall be extended westward to the pedestrian/bike path on the west side of the property as depicted in the layout "1730 Regent – recommended sidewalk extension – 11/26/24".

He commented that the sidewalk mentioned in commitment #4 was not mentioned originally, but was brought up later in Tech Review. He referred Board members to a map in their packet which shows a sidewalk along the south parking lot pointing out there is currently a berm between the public pathway and the sidewalk. He explained the City would like to see those two pathways connected. He went on to say this facility was originally approved as part of the neighborhood and would be more accessible to the pedestrians and bicycles, pointing out it would not be accessible to vehicles. This would save pedestrians and bicycles nearly a quarter-mile trip to get inside the facility. He went on to explain that it would not allow pedestrians and bikers inside the fenced in portion of the facility, so it wouldn't give people access when the facility is closed down. He also noted vehicles would still remain unable to get in through the north gate. He stated this would be beneficial in terms of connectivity and bringing the neighborhood into the facility.

Mr. Deegan stated for the record there were no public inquiries or comments regarding this request.

Petitioner Presentation:

Christopher Pottratz, 861 Parkway Ave, Elkhart, spoke on behalf of the petitioner. He stated they have been working with Cherry Creek regarding the top soil issue and they realized that the two properties are both required to have berms with a valley in the middle, so they felt it made more sense to use the top soil and join the two mounds for one large berm. An added benefit would be that it creates more buffer and barrier between the two developments. Moving the landscaping to the top of the mound would place it on Cherry Creek's side of the property line. Because of the timing, that landscaping can't be installed until the fall of next year, but the baseball and softball fields should be ready for activity this spring.

He also commented the school has security concerns regarding the extension of the sidewalk, mainly that there would be after hours access to the parking lot. They want to know that access to the area is limited when there are no events taking place. He pointed out if a gate was installed, they could walk around it and if that's the case, they would need to place a fence all around the property line to secure it.

Mr. Fisher questioned what would stop a pedestrian or biker from accessing this area even if there's not sidewalk.

Mr. Pottratz agreed that someone would be able to access the property from there. He stated he feels the berm is a less deterrent, but hopes once the trees grow in, it will help keep people out. It will depend on where the trees are located and if it makes sense to add the fence. He went on to say that Cherry Creek's property is the only one impacted and Tonya Detweiler is here and supports this request.

Mr. Loewen commented that the landscape plan provided in the packets indicates that 36 of the trees are Serbian Spruce and he's concerned that this species is not native to this county and would like the petitioner to consider Eastern Red Cedar trees in this project.

Mr. Pottratz acknowledged he is not a tree expert, but he can present this comment to the school system for their input.

Regarding the easement, Mr. Rohn asked who is responsible for irrigation, maintenance, and caring for the new trees and vegetation.

Mr. Pottratz commented that the signed easement agreement is included in the packet, but explained the maintenance of the irrigation system, trees, etc., is the responsibility of the school system.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Lauver/Fisher, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-16UV with the 8 conditions and 4 commitments listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-33DV – SLM Management, LLC requests a developmental variance to allow an illuminated roof mounted sign 149 Sf in area where roof mounted signs are prohibited. The subject property is generally located at 119 W Clinton Street and is zoned Commercial B-2 HD.

Staff Report

Mr. Deegan explained this commercial B-2 property contains a pawn shop and is located in the historic district overlay, which regulates signs. The petitioner would like to add an approximately 149 SF roof mounted sign to the west side of the building. He explained roof mounted signs are prohibited in all zoning districts. He went on to say staff recommends an amended approval, explaining that the building has a mansard style roof, with the lowest plane being almost vertical; comparing it to a wall. For this reason a sign could be placed on the center of the lowest plane and the sign wouldn't project above the top of the roof. He did note that the proposed 149 SF is too large, pointing out the historic district allows wall signs a maximum of 75 SF and because staff compares this to a wall sign, it's reasonable to keep this sign no larger than a permitted wall sign would be.

No public comments were received by the Planning Office regarding this request.

Petitioner Presentation:

Dan Mackowiak, 3625 Courtland Drive, Oakford, IN, was present on behalf of the petitioner.

Mr. Holtzinger asked for clarification of the address, noting that the letter supplied to Board members from Mr. Mackowiak referenced the property along 2nd Street instead of 3rd Street.

Mr. Mackowiak acknowledged that the property is located along 3rd Street.

Mr. Fisher questioned the sign dimensions requested by the petitioner.

Mr. Deegan explained sign dimensions are computed using a simple rectangle area and not the area of each individual component of the sign.

Mr. Lauver asked how they will meet Staff's recommendation regarding the size of the sign.

Mr. Mackowiak stated they will adjust to meet the maximum allowed.

Mr. Holtzinger asked if the sign will be illuminated.

Mr. Mackowiak acknowledged that it will.

Audience Comments:

Felipe Merino, 214 N 3rd Street, spoke to the request. He questioned how the sign will be positioned and what type of lighting will be utilized.

Mr. Mackowiak responded that the sign will be at an angle and it is not LED. The sign will be back-lit and will not flash.

Mr. Deegan pointed out that the Commercial B-2 district permits illuminated signs, even if they're adjacent to residential properties.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Rohn/Loewen, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-33DV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-12UV – Goshen Community Schools and Goshen Interfaith Hospitality Network request a use variance to replace variances 22-01UV & 23-01UV to permanently allow group housing quarters for temporary emergency housing where group housing quarters is a conditional use in the Residential R-1S & R-3

Districts and a permitted use in the Commercial B-3 District, and to increase the maximum number of occupants from 29 to 48, including 43 residents and 5 staff. The subject property is generally located at 801 W Wilkinson Street and is zoned Residential R-2 District.

Staff Report

Mr. Deegan reminded Board members that in January, 2022, they approved a group housing quarters use in this former school. The use variance specifically approved temporary emergency housing and the approval limited occupants to a total of 29 which included staff members. The temporary approval also required this request to return for Board approval in three years. The petitioner is here today to ask for permanent approval of the variance and to increase the total number of occupants to 48. Staff recommends approval of the request with conditions and commitments. He reminded Board members that during the 2022 hearing, several neighbors voiced concerns regarding this use. He noted today's packets contain two letters of support from neighboring residents, and two more letters of support have been distributed prior to this meeting. Staff also received an email from another neighboring property owner supporting the request. He went on to say Staff has visited the site on numerous occasions and noted how quiet it was both inside and outside the building. He pointed out there is ample parking on the property and the majority of the occupants are children. Mr. Deegan noted there was one additional inquiry from Marty Coppens, 610 Chicago Ave who stated there are some LED lights that have recently been installed on the exterior of the building. He asked that they be adjusted downward on the property.

Petitioner Presentation:

Mindy Morehead, 801 W Wilkinson Street, spoke on behalf of the petitioner. She stated since obtaining the variance, they have served over 242 individuals in the shelter, with over 150 being children. She went on to say they have a 92% success rate and work hard on providing a safe, clean environment, and being good neighbors. She stated the lights were gifted to them by Moyer Electric and they can be easily adjusted downward.

Mr. Holtzinger asked if they have a waiting list.

Ms. Morehead stated they don't do a waiting list, but accept calls every day. She also noted they turn away nearly 300 people every month.

Alan Metcalf, Goshen Community Schools, also spoke to the petition. He stated a great number of the residents are students, and several students are picked up there each day.

Mr. Loewen asked how they plan to notify area residents about any quarterly meetings.

Ms. Morehead advised they intend to notify residents via a neighborhood Facebook page.

Audience Comments:

Felipe Merino, owner of 416 Westfield, spoke to the petition. He voiced his support for this project, noting that his tenants have not had any problems or concerns with this facility.

Andy Murray, Board member of First Light Mission, spoke to the petition. He stated the need is greater now than it was when the shelter was originally approved and asked that this request be approved. He went on to say he's been part of the neighborhood meetings and have heard multiple comments from neighboring residents supporting this shelter. He also noted that Ms. Morehead strives to be a good neighbor and has shown a willingness to continue being a good neighbor. She continues to make investments in the facility so it can be an upstanding part of the neighborhood.

Jim Dryer, Executive Director of Downtown Ministries, spoke to the petition. He stated he's a former board member of First Light Mission and stated that Mindy has made a great impact on the community and wants to confirm what Mindy has said about the need for housing. He agreed that more beds are needed.

Gayle Hendershot, Director of Social Services at Goshen Salvation Army also spoke in support of the request. She stated they have partnered with Goshen Interfaith and First Light Mission throughout the years and they've been excited to see the forward movement and confirmed that emergency housing and shelter is a real need in the community. She stated they work closely with Mindy and her staff and they're excited to see them offering additional services to the community.

Jeremy Stutsman, LaCasa, also spoke in support of the request. He stated that Mindy and her team have done a phenomenal job at this site and he fully supports this request.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Fisher/Holtzinger, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-12UV with the 6 conditions and 4 commitments listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-13UV – D & C Miller Holdings, LLC & Forensic Coffee Company, LLC request a use variance to allow two non-permanent food vendors to operate at separate times of day on the subject property where no more than one conditional use permit for a non-permanent food vendor is permitted for a particular zoning lot at any one time. The subject property is generally located at 1501 Elkhart Road and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan explained this property is located along a commercial corridor and contains an appliance store and an ice machine. There is also a food truck vendor with a conditional use permit issued by the Planning Office that operates here on nights and weekends. He went on to explain that food trucks are classified in the zoning ordinance as non-permanent food vendors and they're allowed to operate on properties zoned B-3 and B-4 when they meet a set of 15 conditions. One of the conditions is that only one permit will be issued for a zoning lot at a time. Permits are issued on an annual basis and only one permit is issued for a property each year. He also explained the property owner must authorize a vendor to operate on the property. A use variance is required because the petitioner is proposing to have two food vendors on the property.

Mr. Deegan pointed out that if the Board does not grant approval, the appliance store, ice machine, and one food vendor can continue to operate. Regardless, staff recommends approval, pointing out that there is ample room for a food vendor to operate and there won't be any conflict because they'll be operating at separate times. He pointed out that unlike most commercial properties along this corridor, this property also has a significant amount of street frontage.

The Planning Office was not contacted by the public regarding this request.

Petitioner Presentation:

Hope Stutzman, 18470 County Road 24, Goshen, spoke on behalf of the petitioner. She stated she would only be present on the property in the mornings and it's her understanding the current food truck is only onsite Friday and Saturday evenings.

Mr. Rohn asked what hours she intends to vend.

Ms. Stutzman responded that she would like to begin vending four days per week, from 6:30 am to noon, Monday through Friday.

Mr. Holtzinger asked if she has future plans to offer cooked or baked food.

Ms. Stutzman replied that she doesn't want to cook onsite, but would like to offer baked goods at some point.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

Mr. Deegan clarified for Board members if this request is approved, the variance would carry forward, allowing two food trucks to operate on the site and the property owner will decide who is allowed to vend.

Action:

A motion was made and seconded, Loewen/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-13UV with the 3 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-15UV – First Brethren Church of Goshen, Inc., Downtown Ministries, and Signtech Sign Services request a use variance to allow use of an existing church for a social services organization where business offices are a conditional use in the Commercial B-1 District and a permitted use in the B-2, B-3, B-4, and Industrial M-1 & M-2 Districts, and to allow a third non-illuminated freestanding sign 4' in height and 10 Sf in area where churches are a conditional use allowing a maximum of one freestanding sign. The subject property is generally located at 215 W Clinton Street and is zoned Residential R-3 and Commercial B-2 District.

Staff Report

Mr. Deegan explained the petitioners are a social services agency and would like to operate in the church building during non-church hours. A use variance is required because this is considered an office use, which is not permitted in the Residential R-3 district. Also proposed is the installation of a third free-standing sign approximately 4' in height and 10 SF in area. He went on to say that churches are only permitted one free-standing sign so this will also be part of the variance request. He pointed out that the social services use is existing, but the church was not aware it required a use variance until discussion arose regarding a new sign.

Staff recommends an amended approval, noting the office use is acceptable, and that ample parking is available. The request for a third free-standing sign should be rejected, pointing out that one of the existing free-standing signs is a changeable copy sign which could be utilized or a sign. A sign could be added to the door which would not require Planning review. He noted for the record that the Board of Works (BOW) denied a request to allow placement of a sign in the City right-of-way, so if the Board approves the sign, it will need to be placed on the church property and will need to meet setback requirements.

There were no inquiries from the public regarding this request.

Petitioner Presentation:

Todd Lehman, 1508 Bashor Road, Goshen, spoke on behalf of the petitioner. He stated following the BOW's denial for a sign in the public right-of-way, his client began discussing adding a sign to the building and is now focused on getting the ministry use approved.

Mr. Deegan pointed out a sign on the door would not need to be reviewed by the Planning Office, but because there is an existing sign on the building, a new wall sign would require a variance.

Audience Comments:

Austin Kaufman, pastor at First Brethren Church, spoke in support of the request. He stated they hope to continue their partnership with Downtown Ministries and weren't aware they needed approval for this use. He stated they want their church to be an asset to the community and would like the ability to use the church building throughout the week.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Lauver/Fisher, to adopt the Staff recommendation of an amended approval for 24-15UV, allowing use of an existing church for a social services organization and to deny a third non-illuminated freestanding sign, with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-35DV – The City of Goshen Department of Redevelopment, Mildred Orama, and Prominence Builders request developmental variances to allow development of a lot with an area of approximately 4,005 Sf where a minimum of 6,000 Sf is required and a width of approximately 30' where a minimum width of 50' is required at the established front lot line, a side (south) building setback of 5' where a minimum of 6' is required, a side (north) parking/driving aisle setback of 2' where 5' is required, and a ground floor area of approximately 440 Sf where a minimum of 720 Sf is required, for a new single family home. The subject property is generally located at 417 S 3rd Street and is zoned Residential R-3 District.

Staff Report

Mr. Deegan explained this is a vacant through lot, with frontage on S 3rd Street and also on River Race Drive. The lot previously contained a single family home and a detached garage. In 2017 those structures were demolished under the ownership of Goshen Redevelopment. Today's request is for a two-story, single-family home which will need developmental variances for the following:

- Lot size approximately 4,000 sf where 6,000 sf is required;
- Frontage of approximately 30' where 50' is required;
- Approximately 440 sf of living space on the 1st floor where a minimum of 720 sf of living space is required.
- The driveway to the garage will have a 2' side setback where 5' is required.

Staff recommends approval of the request, noting that this is another infill project with existing infrastructure and City amenities.

He pointed out that the north side setback will be 1' from the overhang to the property line, but no variance is required for this because the rest of the properties in this block have overhangs that come up to the property line and the zoning ordinance has a provision allowing you to meet the block average. Staff encouraged the petitioner to center the home on the lot, but because building codes require firewalls for homes within 5' of the property line, they have decided to place the home within 1' of the property line so they will only need to provide a firewall for one side of the home. The builder has commented that they will not encroach onto the property to the north during construction.

One general inquiry was received from the public regarding this request with no comments in favor or opposition.

Petitioner Presentation:

Tonya Detweiler, 1630 Timberline Drive, spoke on behalf of the petitioner. She stated this is a small lot which comes with many challenges, but she feels they have solutions. She explained the house is being moved farther north on the lot because fire rated walls cannot contain windows and the owner would like to have windows on the south side of the home. She went on to say the house will not have a basement, so they feel they can do this construction without impacting neighboring properties.

Audience Comments:

Roland Weaver, 502 River Race Drive also spoke to the petition. He stated he supports this request and feels it will be a nice addition to the neighborhood.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Rohn/Loewen, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-35DV with the 6 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

VII. Audience Items

None

VIII. Staff/Board Items

- *Draft 2025 BZA calendar*

Mr. Deegan noted the 2025 BZA calendar is included in today's packets, asking Board members to update their calendars. No action is required from Board members.

IX. Adjournment: 5:33 pm Fisher/Rohn

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Tom Holtzinger, Chair

Hesston Lauver, Secretary

LOCATION: 611 Hackett Road
CASE NUMBER: 25-01UV & 25-01DV

DATE: January 28, 2025
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Maple Crest Country Club of Goshen, Inc (owner); Abonmarche Consultants (agent)

REQUEST: The applicants request a use variance to allow 5' side (south) and 35' side (east) parking and driving aisle setbacks adjacent to a residential property and access from a residential street where golf courses are a conditional use requiring a minimum 50' distance from any adjacent residential uses and zoning districts and access from a collector or arterial street, a developmental variance to allow a front parking and driving aisle setback of 5' along Hackett Road where a minimum of 25' is required, and to allow the variances to be valid for one year before a zoning clearance is issued, for the expansion of the golf course parking lot

LOT SIZE: ±4.7 Acres; ±825' of frontage (±750' on Hackett Rod & ±75' on Zollinger Road); depth varies

APPLICABLE ZONING: Residential R-1

NOTICES SENT: 25

SPECIAL INFORMATION

PUBLIC UTILITIES: Connected to City sewer; not connected to City water

AREA DEVELOPMENT: Residential

NEIGHBORHOOD: No recognized neighborhood association

THOROUGHFARES: Hackett Road & Zollinger Road

TOPOGRAPHY: Level

VARIANCE OF USE STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 5200*, Conditional Use Requirements for Golf Courses (Quasi-Public)
Golf courses shall be permitted in the A-1 Agriculture District and R-1 & R-1S Residential Districts provided that they meet the following requirements:
 - A. Buildings, structures (excluding fences), and parking areas shall be located a minimum distance of 50 feet from any adjacent residential use or residential zoning district boundary line
 - B. Access to said use shall be directly from an arterial or collector street
- ◇ Goshen Zoning Ordinance, *Section 4140.3*, Area, Width, and Yard Regulations of the R-1 District
B. Front Yard. Front yards shall be measured from the front property line and the building line and shall be as follows:
 - 1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a country club and golf course located along Hackett Road in the northeast corner of the City. The property includes one tax parcel approximately 4.7 acres in area; the majority of the land occupied by

the golf course, some 128 acres, is not part of the subject parcel and is located in outside City limits. The property in question includes a club house with an approximate footprint of 13,570 SF and an asphalt parking lot with 119 parking spaces and three access points from Hackett Road. Zoning is R-1 and surrounding properties are predominantly single family homes.

The petitioners are proposing to make changes to the parking lot that includes the following:

- Remove and reconfigure the existing eastern portion of the parking area
- Add an additional parking area to the east side of the property fronting Zollinger Road on land that was added to the country club in 2023
- Increase the total number of parking spaces from 119 to 198

Golf courses are a conditional use in the R-1 District requiring a minimum 50' setback from all residential use and zoning district boundaries. With the proposed changes, the petitioners are requesting parking and driving aisle encroachments into the 50' buffer, including a 5' setback along the side (south) property line and a 35' setback along the side (east) property line. A developmental variance will also be required because the new parking areas will have a 5' front setback along Hackett Road where 25' is required.

Staff recommends approval of the request based on the following:

- The majority of the proposed changes to the parking lot will occur in an area where there is existing parking and driving areas.
- During events, overflow parking often occurs on unimproved surfaces, including the grass area north of the adjacent residential home. The proposed changes will eliminate overflow parking on grass, which is a zoning violation.
- The east and south sides of the new parking area will have a shrub border that blocks vehicle lights. As a condition, the plantings installed during construction should have a minimum mature height of 4'.
- The proposed parking setback along Hackett Road has a similar setback to the existing parking area to the west, so will not be out of character with the site.
- The parking spaces and driving aisles meet the minimum sizes required by the Zoning Ordinance. With that being the case, the configuration of the site, including the position of the club house, create the need for the setback encroachments.
- With the changes, one of the access drives from Hackett Road will be eliminated

FINDINGS OF FACT

Staff recommends **approval** of a use variance to allow 5' side (south) and 35' side (east) parking and driving aisle setbacks adjacent to a residential property and access from a residential street where golf courses are a conditional use requiring a minimum 50' distance from any adjacent residential uses and zoning districts and access from a collector or arterial street, a developmental variance to allow a front parking and driving aisle setback of 5' along Hackett Road where a minimum of 25' is required, and to allow the variances to be valid for one year before a zoning clearance is issued, for the expansion of the golf course parking lot, based on the following:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.** The proposed setback encroachments allow new and reconfigured parking spaces and driving aisles to meet minimum size standards required by the Zoning Ordinance. *The standard is confirmed.*
- 2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The majority of the proposed changes to the parking lot will occur in an area where there is existing parking and driving areas. The east and south sides of the new parking area will have a shrub border that blocks vehicle lights. The proposed parking setback along Hackett Road has a similar setback to the existing parking area to the west, so will not be out of character with the site. *The standard is confirmed.*
- 3. The need for the variance arises from a condition peculiar to the subject property.** The parking spaces and driving aisles meet the minimum sizes required by the Zoning Ordinance. With that being the case, the configuration of the site, including the position of the club house, create the need for the setback encroachments. *The standard is confirmed.*
- 4. Strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the subject property.** The proposed parking area will alleviate overflow parking that occurs on

unimproved surfaces such as grass, and when that occurs, the property is in violation of the Zoning Ordinance. Approval therefore allows the property increased compliance with the Zoning Ordinance. *The standard is confirmed.*

5. The approval does not interfere substantially with the Comprehensive Plan. The installation of shrub screening and new street trees with the proposed parking area supports the Comprehensive Plan's goal of "employ(ing) appropriate design elements to ensure that buildings and site layout are complimentary to the character of residential neighborhoods" for neighborhood commercial development (Land Use 7-5). *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within one (1) year of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. Approval by the Building and Fire Departments is required.
5. Technical Review is required.
6. All plantings used as parking area screening shall have a minimum mature height of 4'.



Looking east along Hackett Road



Looking west along Hackett Road



Looking north from Hackett Road at location of new parking area adjacent to home to the east



Looking east at location of recently acquired land where new parking area will be established



Looking south across existing parking area to be reconfigured



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611 Hackett Road

2023 Aerial
Printed January 9, 2025

Feet
0 50 100 200



1 inch = 200 feet

The City of Goshen
Department of

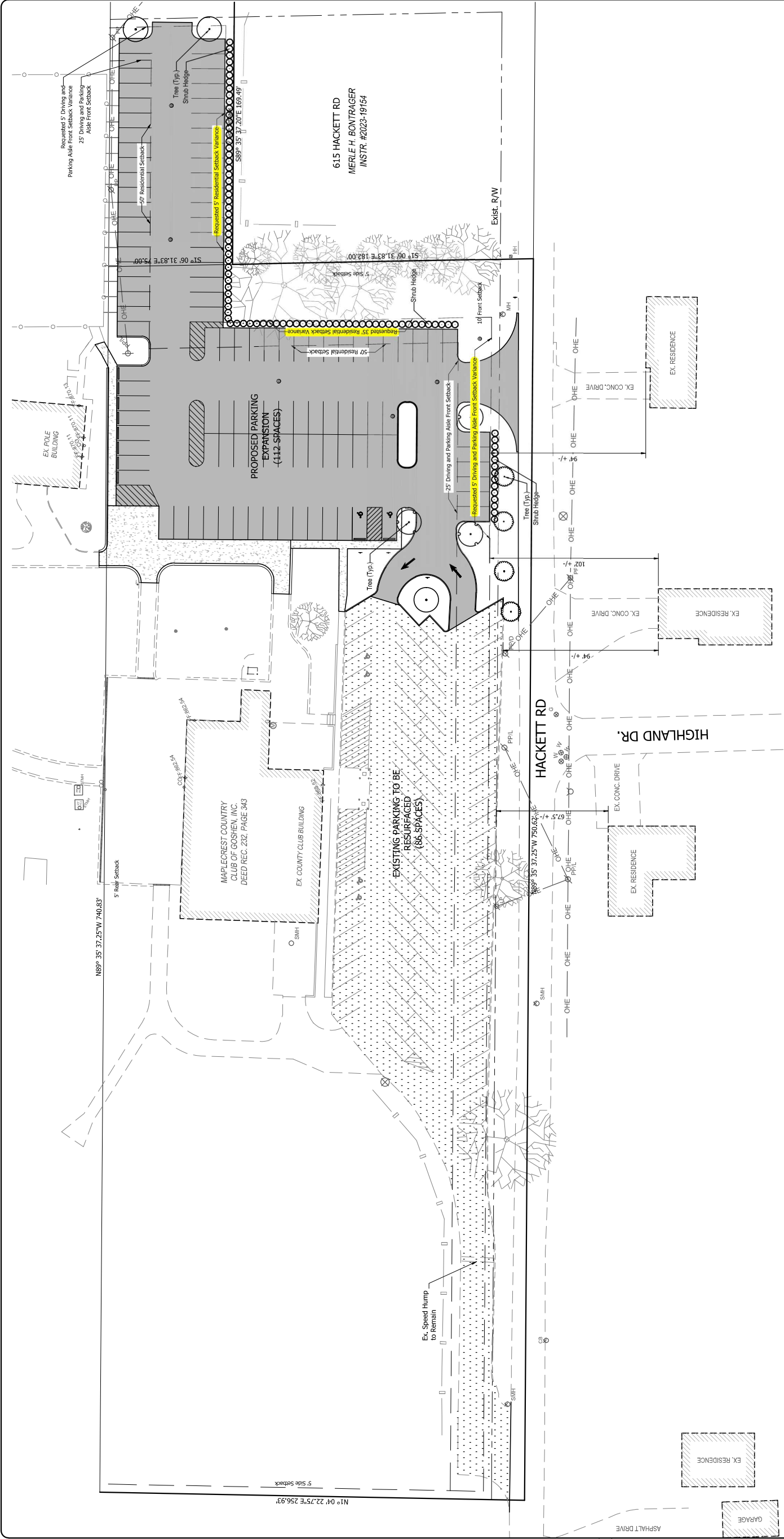
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

MAPLECREST COUNTRY CLUB
PARKING EXPANSION
611 HACKETT ROAD
GOSHEN, IN 46528

PRELIMINARY SITE
DEVELOPMENT PLAN

SHEET TITLE:	
DRAWN BY:	
DESIGNED BY:	BVG
PM REVIEW:	TRR
CMQC REVIEW:	BEW
DATE:	01/08/2025
SCALE:	

PRELIMINARY	
SIGNATURE:	
DATE:	
SCALE:	AS NOTED
ACI JOB #	24-0527
SHEET NO.	1.0



TABULATED SITE DATA

Parcel Size = 4.7± Acres		
Proposed Land Coverage	Area (Acres)	Percentage
Proposed Building	0.0	0.0%
Proposed Hard Surface	1.0	21.3%
Existing Building(s)	0.3	6.4%
Existing Hard Surface	1.0	21.3%
Open Space / Landscaping	2.4	51.0%
Total	4.7±	100%

PARKING CALCULATIONS

Parking Required:	1 Space per 2 Employees on Largest Shift	
	3 Spaces per Hole	
	(1 Space / 2 Employees) x 15 Employees	= 8
Total Spaces Required	(3 Spaces / Hole) x 18 Holes	= 54
		62 Spaces
Parking Provided:	Proposed 9 ft. x 20 ft. (Including 2 ADA Spaces)	= 112
	Existing Restriped Angled (Including 4 ADA Spaces)	= 86
	Total Spaces Provided	= 198

GENERAL NOTES

- Current Zoning: "R-1" Residential
- Existing Land Use: Private Golf Course
- Proposed Land Use: No Change
- No sanitary and water services are proposed.
- Owner is requesting to amend the existing use variance to add property for the new parking lot.
- Owner is requesting three (3) developmental variances: (1) for a 5-foot parking lot setback on the south property line adjacent to the residential use at 615 Hackett Road, (2) for a 35-foot parking lot setback on the east property line adjacent to the residential use at 615 Hackett Road, and (3) to allow for a 5-foot front yard parking setback along Hackett Road for the proposed new parking lot.
- Owner requests variance approvals to be valid for 1-year.
- All landscape and lighting shall be in accordance with the City of Goshen Zoning Ordinance unless the proper variances have been obtained.
- Coordinate with utility companies for relocation of any utilities prior to any construction activity.

LOCATION: 321 N 22nd Street
CASE NUMBER: 25-02UV

DATE: January 28, 2025
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Ira & Esther Diener (owners); Daryl J. Borkholder (agent)

REQUEST: The applicant requests a use variance to allow the grazing and pasturage of animals (2 horses) within a fenced area where such use is a conditional use in the Agricultural A-1 District

LOT SIZE: ±10.24 acres; no frontage; depth varies

APPLICABLE ZONING: Residential R-2

NOTICES SENT: 22

SPECIAL INFORMATION

PUBLIC UTILITIES: Not connected to City water or sewer

AREA DEVELOPMENT: Residential, industrial

NEIGHBORHOOD: East Goshen

THOROUGHFARES: 22nd Street (via an adjacent property)

TOPOGRAPHY: Property consists largely of rugged vegetation, wetland, and wooded areas

VARIANCE OF USE STANDARDS

- ◇ Goshen Zoning Ordinance, *Appendix E*, Table of Permitted Uses
Grazing and Pasturage is listed as a conditional use in the Agricultural A-1 District.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single family home on an approximately 10-acre tract in the East Goshen Neighborhood. Zoning is Residential R-2; surrounding residential properties are predominantly single family; an auto body shop zoned Industrial M-1 adjoins the subject property to the southwest. The property, which includes three tax parcels, consists largely of rugged vegetation, wetland, and wooded areas. It is bounded to the west by the Pumpkinvine multi-use trail, and is accessed via a neighboring property from N 22nd Street. The home on the property is two stories and has an approximate footprint of 1,082 SF.

The petitioners are proposing to use a large portion of the vacant interior of the property to keep up to two horses at pasture. They have provided a site layout showing a fenced in area where the horses will be located. The proposed grazing area is less than 30,000 SF and located over 200' from the closest neighboring home. The Zoning Ordinance allows the grazing and pasturage of animals as a conditional use in the Agricultural A-1 District only, so a use variance is required.

Staff recommends approval. Although the property is zoned R-2, its size and rugged terrain lend themselves well to a low-intensity use such as grazing and pasturage for two horses. The property is also located in an area of the City that has rural characteristics: nearby properties to the north and east are similarly large and appear to have small scale agricultural uses.

The conditional use requirements for grazing and pasturage include the stipulation that grazing occur a minimum of 500' from residential use and zoning. While the proposed fenced in area is less than half that minimum distance, the grazing area will be buffered by a drainage ditch and dense vegetation. To the west, the proposed grazing will not harm the multi-use public trail, where it will also be buffered by dense vegetation and forest.

The BZA has heard several similar requests:

- 511 S Greene – In November 1998, the BZA approved a use variance allowing up to 6 horses on an approximately 6-acre property zoned R-1; the approved grazing area had less than 500' to adjacent residential properties. In 2014, the BZA approved an additional variance to allow a horse on a parcel added to this property.
- 1138 N Indiana – In January 2017, the BZA approved a use variance to allow grazing of up to 3 horses on a residential property with a setback from the adjacent residential properties of approximately 10'

In the above approvals, the properties were significantly larger than typical R-1 lots. In the latter approval, the property was located in a semi-rural area. Those characteristics match the subject request.

FINDINGS OF FACT

Staff recommends **approval** of a use variance to allow the grazing and pasturage of animals (2 horses) within a fenced area where such use is a conditional use in the Agricultural A-1 District, based on the following:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.** The proposed grazing area is for two horses only and will be surrounded by a fence and a drainage ditch to the south. Grazing and pasturage of just two horses is a low-intensity use that is unlikely to be injurious to health, safety, and general welfare in an area of the City is semi-rural. *The standard is confirmed.*
- 2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The fenced in grazing area is separated from the closest home by over 200'; within that buffer area is rugged vegetation and a drainage ditch. Other nearby properties appear to have low-intensity agricultural uses and the area is semi-rural. *The standard is confirmed.*
- 3. The need for the variance arises from a condition peculiar to the subject property.** The subject property is approximately 10 acres in size—far larger than a typical residential lot. It is located in a semi-rural area, includes wooded and vegetated areas at its perimeter, and a large area suitable for grazing in its interior. *The standard is confirmed.*
- 4. Strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the subject property.** Given the drainage ditch and wet soils on the property, it is likely to be unsuitable for more intense residential development; low-intensity grazing is a suitable use. *The standard is confirmed.*
- 5. The approval does not interfere substantially with the Comprehensive Plan.** The proposed low-intensity agricultural use in semi-rural area of the City supports Goshen's Comprehensive Plan's goal to "ensure compatibility and smooth transitions between different land uses" (Land Use 2.1) *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required for the proposed fence and grazing area.



From 22nd Street, looking at entrance drive to subject property through an adjacent residential property



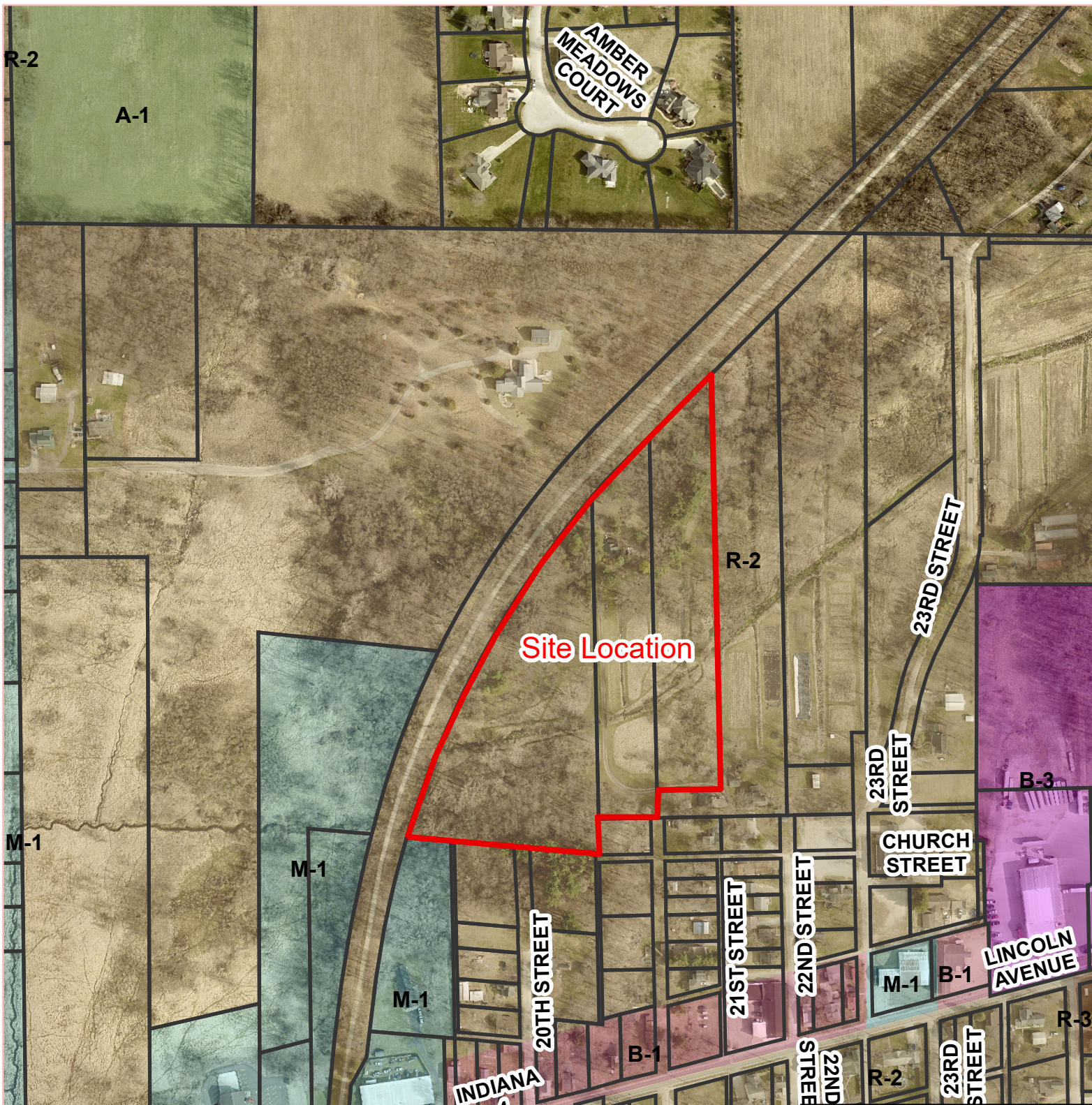
Looking north along private driveway; the proposed grazing area is along the right (east) side of this drive



Looking south at rugged terrain of the property



Looking southeast at proposed grazing area (private drive is to the right (west))



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321 N 22nd Street

2023 Aerial
Printed January 9, 2025

Feet
0 75 150 300

1 inch = 300 feet

The City of Goshen
Department of
Planning & Zoning

204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

321 N 22nd St

North

100'

1-inch = 100 ft

Pumkinvine Bik Trail

200'

800'

House

Garage

15x20 Barn

Store

4' High 29,375 sq ft

proposed fence

850'

150'

925'

Drainage ditch

275'

Closest House

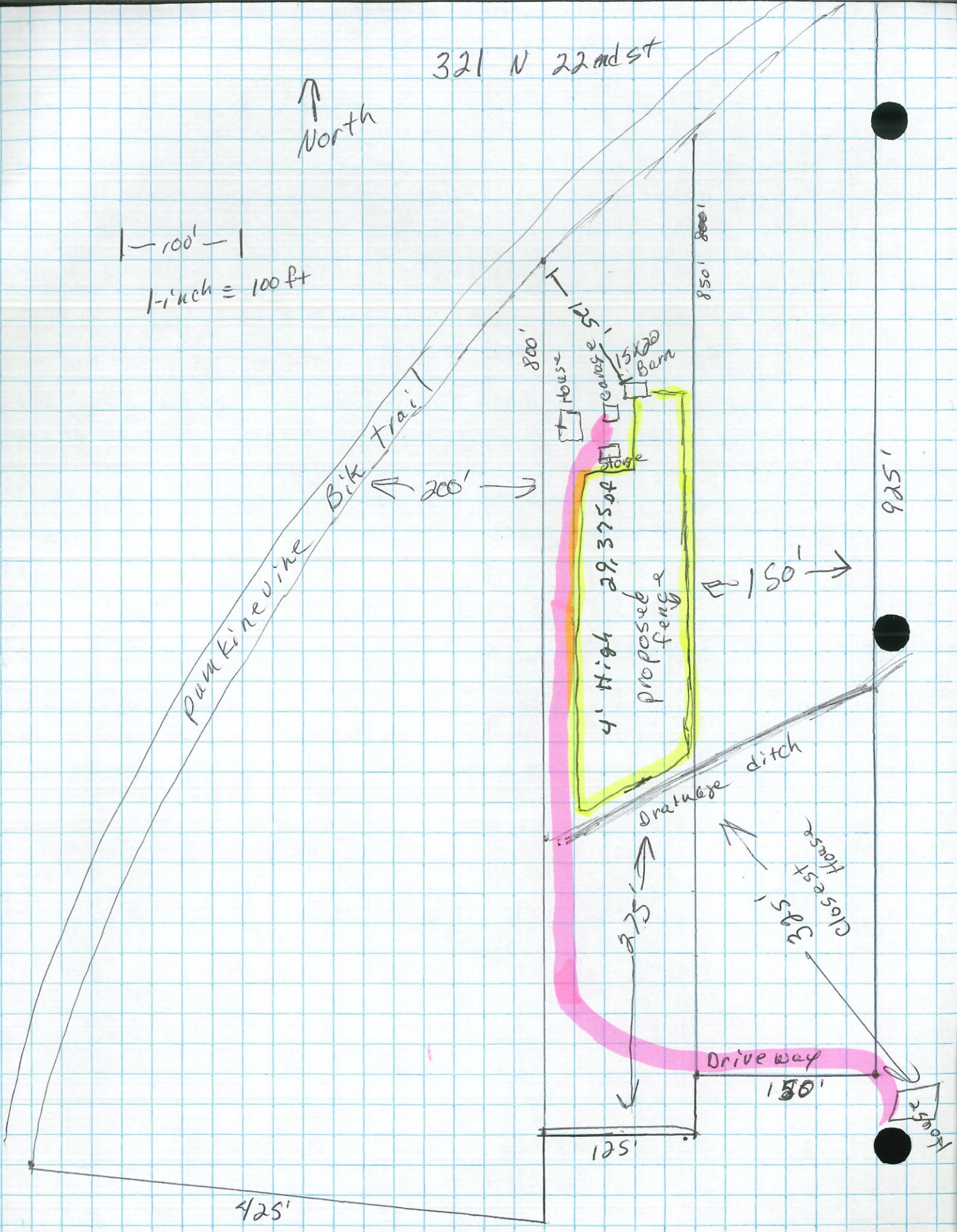
Driveway

150'

125'

425'

House



LOCATION: 711 W Lincoln Avenue & 104 Huron Street
CASE NUMBER: 25-03UV

DATE: January 28, 2025
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Matthew Miller (owner); Ismail Saleh (agent)

REQUEST: The applicants request a use variance to allow a department store where such uses are permitted in the Commercial B-2, B-3, and B-4 districts

LOT SIZE: ±1.1 acres; ±675' of frontage (±297' on Lincoln Avenue; ±211' on Denver Street; ±167' on Huron Street); depth varies

APPLICABLE ZONING: Commercial B-1 & Residential R-3

NOTICES SENT: 40

SPECIAL INFORMATION

PUBLIC UTILITIES: City water & sewer

AREA DEVELOPMENT: Commercial, residential

NEIGHBORHOOD: None

THOROUGHFARES: Lincoln Avenue, Huron Street, & Denver Street

TOPOGRAPHY: Entire property is located in Zone AE Floodway Fringe of the Regulatory Floodplain

VARIANCE OF USE STANDARDS

- ◇ Goshen Zoning Ordinance, *Appendix E, Table of Permitted Uses*
Department stores are listed as a permitted use in the Commercial B-2, B-3, and B-4 Districts

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is three tax parcels and approximately 1.1 acres on the north side of Lincoln Avenue and north of Linway Plaza. The eastern parcel is zoned Commercial B-1 (neighborhood commercial) and the two western parcels are zoned Residential R-3. The property is bounded by Denver Street and Huron Street to east and west and Lincoln Avenue to the south. The property is located in Zone AE Floodway Fringe of the regulatory floodplain.

A large one-story commercial building (711 W Lincoln Ave) approximately 26,800 SF in footprint area stretches across all three parcels and across both zoning districts, and a single-family home (104 Huron Street) with an approximately 1,348 SF footprint shares the same parcel as the northwest corner of the commercial building. Previous uses of the commercial building include a furniture store and auto dealership with inside sales (approved by variance 14-02UV). An automobile detail and dent repair business operated in the building until recently and was approved by variance 23-08UV.

The petitioners are now proposing to use the entire building for the sale of new and liquidated merchandise, classified in the Zoning Ordinance as a department store. Department stores are not permitted in the B-1 or the R-3 District, so a use variance is required. A floor layout submitted for the proposed department store shows sales occurring in the west half of the building and storage and unloading in the east half of the building.

Staff recommends approval of the request with the following restrictions:

- No outside storage
- Not outside display of merchandise
- No deliveries by semi-truck. Box truck delivery is acceptable

The subject property is located in a transition area between commercial uses to the south and east and a residential neighborhood to the north and west. At over 26,000 SF, the subject building is unlikely to be suitable for R-3 and B-1 uses. Any commercial use of the building needs to be sensitive to the adjacent residential neighborhood and the access points along residential streets (Denver Street and Huron Street). By limiting sales to within the building and ensuring that semi-trucks are not used for delivery, a department store will not be injurious to the general welfare and will not adversely impact adjacent residential properties.

There is adequate on site parking for a department store. Two parking areas—one at the main entrance on Lincoln Avenue and Huron Street and one behind the store along Denver Street—provide 37 spaces. Based on two employees and 11,125 SF of sales area, the Zoning Ordinance requires a minimum of 29 spaces, so requirements are satisfied.

As part of the application submittal, the petitioners worked with staff from the Building and Fire departments and an architect to identify building code issues. Contractor estimates have been obtained, and those updates to the building will be made following zoning clearance approval.

FINDINGS OF FACT

Staff recommends **approval with conditions and commitments** of a use variance to allow a department store where such uses are permitted in the Commercial B-2, B-3, and B-4 districts, based on the following:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.** As part of the change of use, the building will be brought up to date with building and fire code. *The standard is confirmed.*
- 2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** If approved with conditions and commitments, the proposed department store will operate without adversely impacting adjacent residential properties because all sales and storage will take place inside the building and no semi-trucks will access the site. *The standard is confirmed.*
- 3. The need for the variance arises from a condition peculiar to the subject property.** The subject property is located in two zoning districts (the R-3 and B-1 districts) and directly adjacent to the B-2 District, and the area does not have a homogenous form of development. The commercial building on the property has operated as a furniture store, auto dealership, and dent repair business. It has an open floor plan and bay doors, making it suitable for a department store with no outside sales. *The standard is confirmed.*
- 4. Strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the subject property.** The commercial building on the property has operated as a furniture store and auto dealership. It has an open floor plan and bay doors, making it suitable for a low-intensity department store use. The property faces limitations on the types of appropriate uses because of its location between residential and commercial areas and also because it is prone to flooding. *The standard is confirmed.*
- 5. The approval does not interfere substantially with the Comprehensive Plan.** Goshen's Comprehensive Plan seeks to "ensure compatibility and smooth transitions between different land uses" (Land Use 2.1). *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.

3. The BZA approval shall be effective when the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and when all conditions of approval have been met.
4. No zoning clearance form will be issued until the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and until all conditions of approval have been met.
5. An approved zoning clearance form is required.
6. Approval by the Building and Fire Departments is required.

If approved, the following Commitments shall apply:

1. If the variance is not implemented and expires, this Commitment automatically terminates as well, and the Zoning Administrator may execute and record a Termination of Commitment on behalf of the City of Goshen Board of Zoning Appeals.
2. Outside storage shall be prohibited.
3. Outside display of merchandise shall be prohibited.
4. Deliveries to the subject property shall be limited to vehicles no larger than box trucks; deliveries by semi-trucks shall be prohibited.



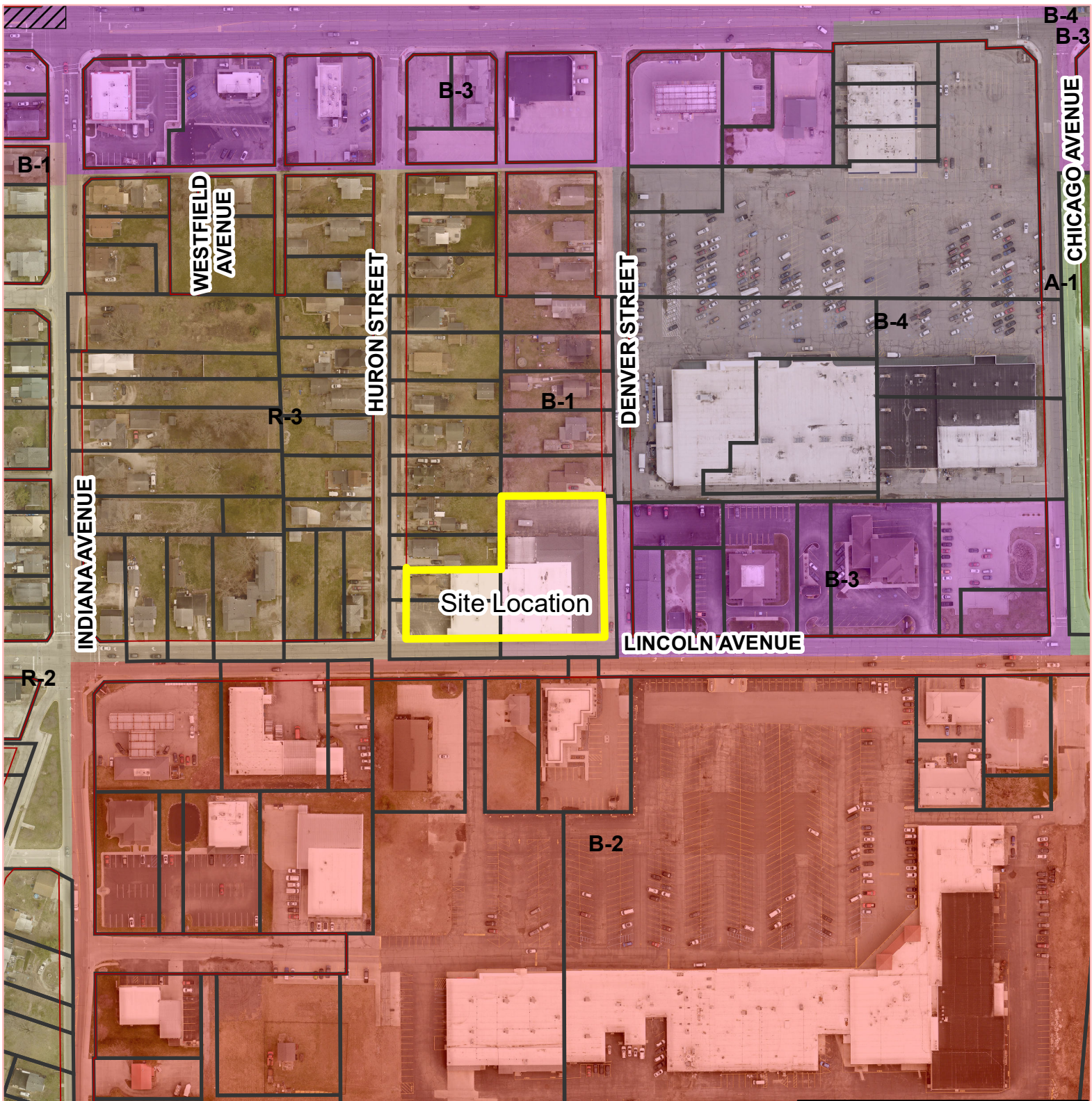
Looking northeast across Lincoln Avenue



Looking northwest across Lincoln Avenue



Looking west across Denver Street at rear parking lot



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711 W Lincoln & 104 Huron St

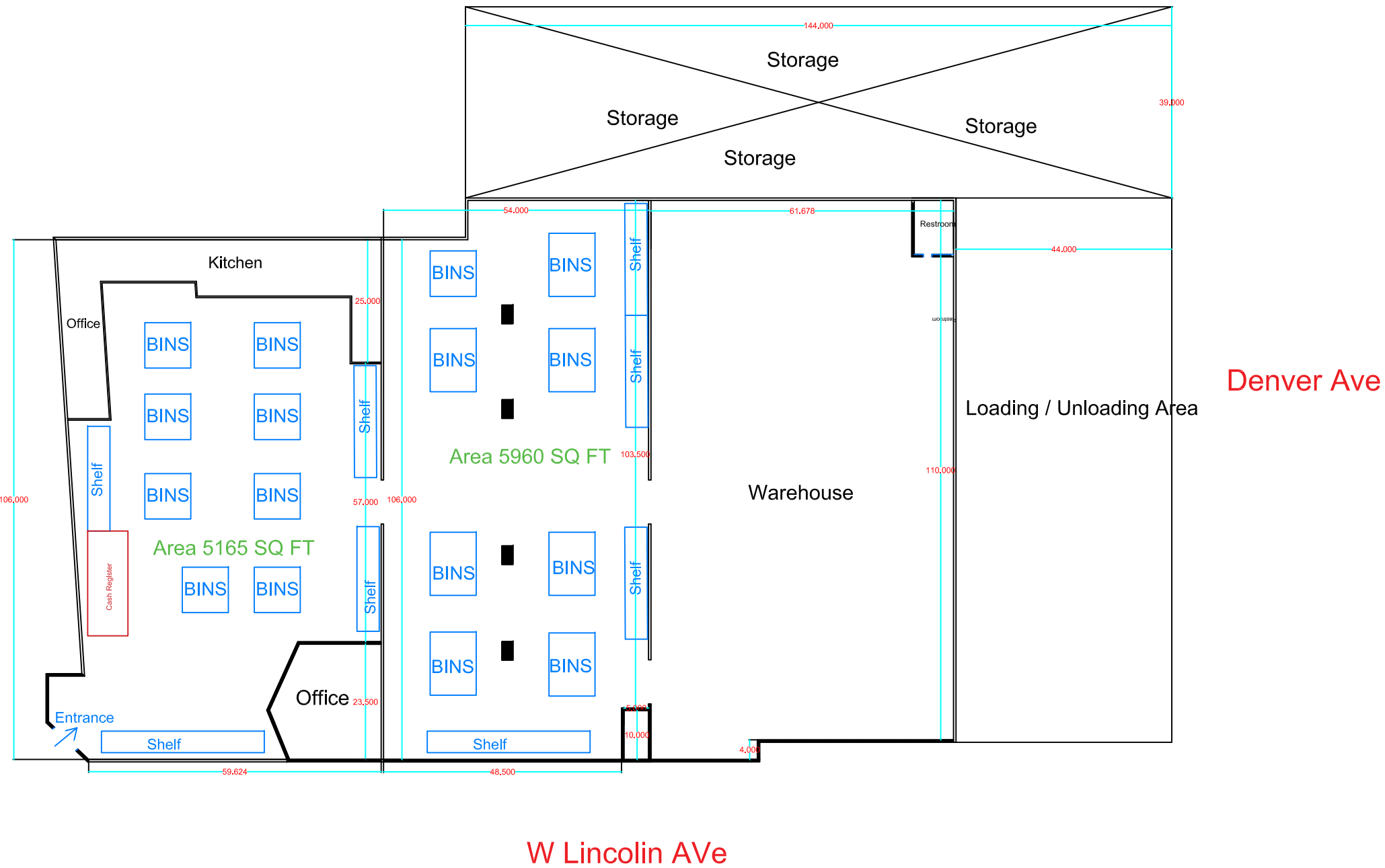
2023 Aerial
Printed January 9, 2025

Feet
0 50 100 200
|-----|-----|-----|-----|



1 inch = 200 feet

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



LOCATION: 1412 Berkey Avenue
CASE NUMBER: 25-02DV

DATE: January 28, 2025
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Richard L. Bender (owner)

REQUEST: The applicant requests developmental variances to allow a front building setback along Berkey Avenue of 29' where 30' is required and a side (west) building setback of 7' where 8' is required for the addition of an approximately 989 SF garage and three-season room

LOT SIZE: ±33,867 SF; ±517' of frontage (±77' on Berkey Avenue & 440' on Bainbridge Place); ±440' of depth

APPLICABLE ZONING: Residential R-1

NOTICES SENT: 28

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential

NEIGHBORHOOD: No recognized neighborhood association; between Larimer Greens and & West Goshen

THOROUGHFARES: Berkey Avenue; Bainbridge Place

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 4140.3*, Area, Width, and Yard Regulations of the R-1 District
 - B. Front Yard. Front yards shall be measured from the front property line and the building line and shall be as follows:
 - 2. On collector streets, the front yard shall be a minimum distance of 30 feet.
 - C. Side Yard. Each lot shall have two side yards measured from the building to the lot line and shall be as follows:
 - 2. Interior yards shall have two side yards; each side yard shall have a width of not less than eight feet.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single home located on the southwest corner of the intersection of Berkey Avenue and Bainbridge Place. Zoning is Residential R-1 and surrounding properties are predominantly single family homes. The subject property is long—approximately 440' in depth—with its rear (south) side adjoining the Black Squirrel golf course.

Improvements to the property include 1 ½ story home with an approximate footprint of 1,740 SF, a detached two stall garage, and an approximately 240 SF shed. An open parking area along the west side of the home is accessed by a stone driveway from Berkey Avenue, and the detached garage has a separate access drive from Bainbridge Place.

The petitioner is proposing to construct an approximately 989 SF addition to the west and north sides of the home. The addition will include a two-stall garage over the existing open parking area and a three-season room on the west side of the home. Developmental variances will be needed because the addition will have a side (west) building setback of 7' where a minimum of 8' is required and a front building setback along Berkey of 29' where 30' is required.

Staff recommends approval based on two important factors:

1. The addition will encroach a mere 1' into each of the proposed setbacks, which is negligible
2. The existing configuration of the property, with the home close to the north end, create the need for the variance. The proposed attached garage will be constructed in its most logical location—off Berkey Avenue and over an existing parking area—but there is inadequate space to install it without minor setback encroachments.

Given how minor the encroachments will be, it's unlikely the addition will upset the character of the neighborhood or have a detrimental impact on safety and the general welfare.

FINDINGS OF FACT

Staff recommends **approval** of developmental variances to allow a front building setback along Berkey Avenue of 29' where 30' is required and a side (west) building setback of 7' where 8' is required for the addition of an approximately 989 SF garage and three-season room, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed addition will encroach a mere 1' into each of the impacted setbacks, which is negligible. The addition will be built to building code. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The proposed addition will encroach a mere 1' into each of the impacted setbacks, which is negligible. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** The existing configuration of the property, with the home close to the north end, create the need for the variance. The proposed attached garage will be constructed in its most logical location—off Berkey Avenue and over an existing parking area—but there is inadequate space to install it without minor setback encroachments. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. A building permit is required.
5. A right of way permit approved by the Engineering Department is required for the replacement of the driveway with concrete.



From Berkey Avenue looking south along the west property line



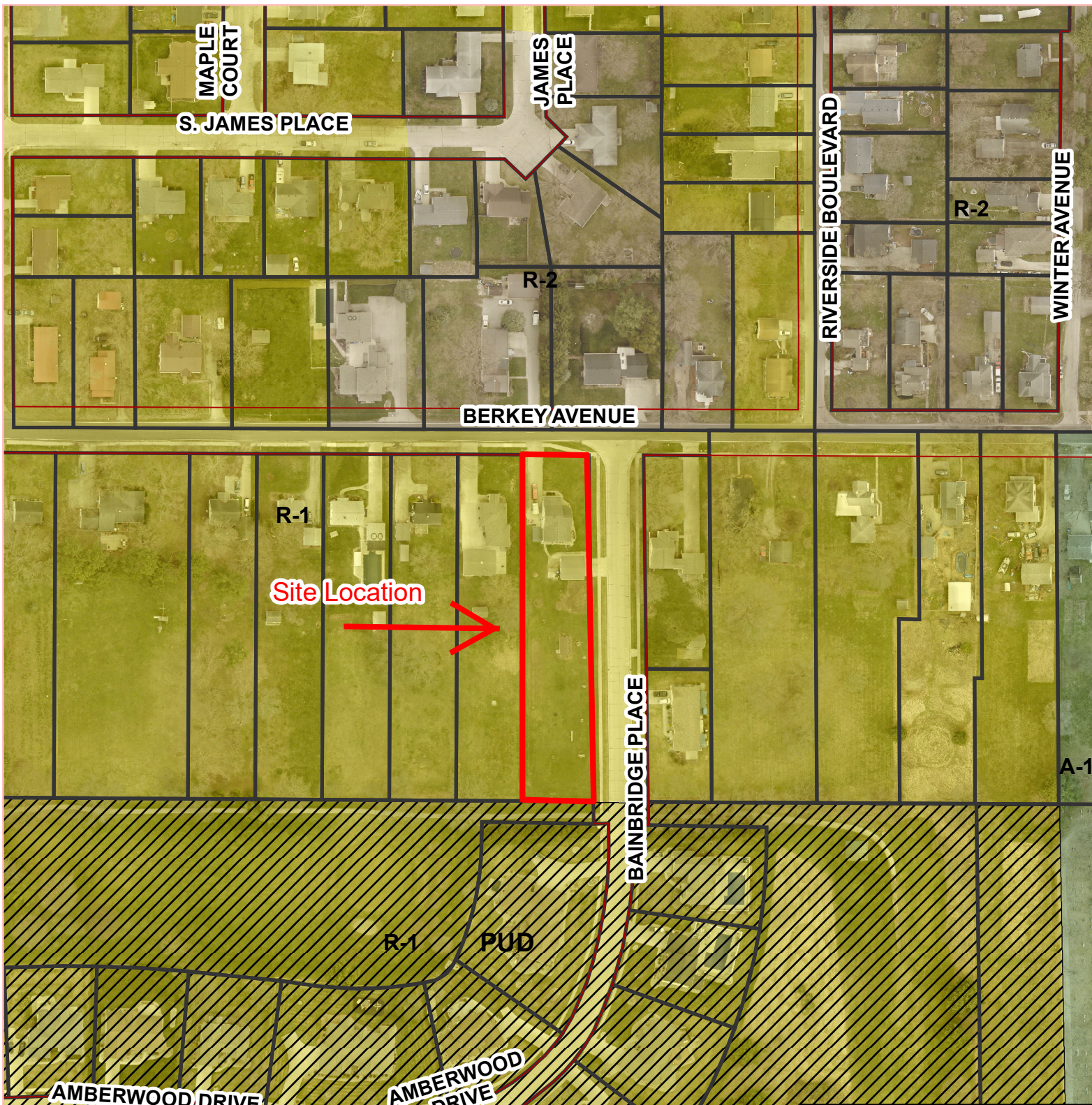
Looking southwest from the intersection of Berkey Avenue and Bainbridge Place



Looking west from Bainbridge Place



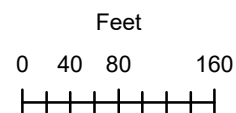
Looking northwest from Bainbridge Place



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1412 Berkey Ave

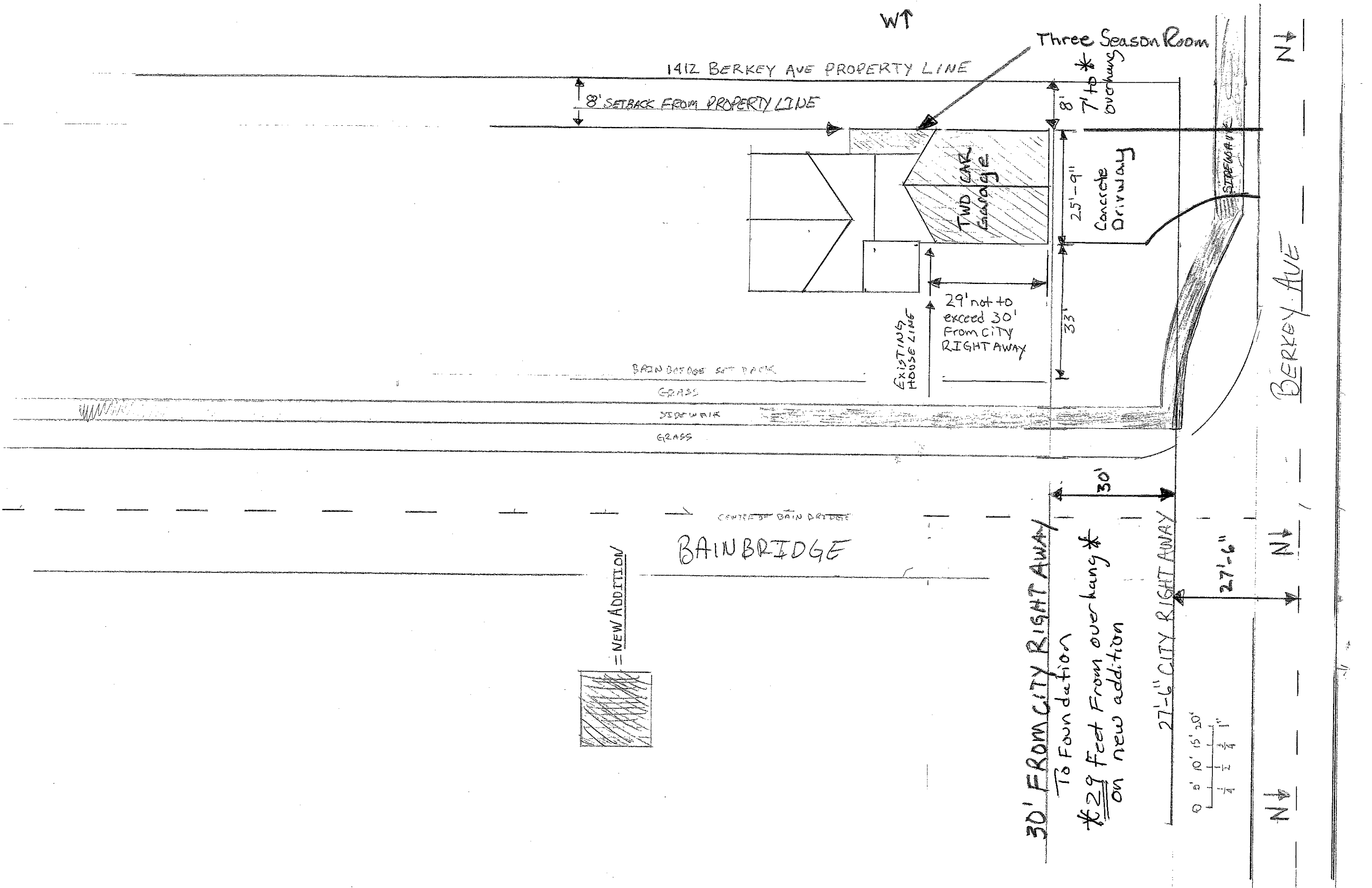
2023 Aerial
Printed January 9, 2025



1 inch = 160 feet

The City of Goshen
Department of
Planning & Zoning

204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



1412 BERKEY AVE PROPERTY LINE

8' SETBACK FROM PROPERTY LINE

Three Season Room

7' to *
overhang

TWO CAR
GARAGE

Concrete
Driveway

EXISTING
HOUSE LINE

29' not to
exceed 30'
FROM CITY
RIGHTAWAY

BAIN BRIDGE SET BACK

GRASS

SIDEWALK

GRASS

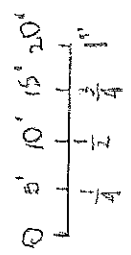
BAIN BRIDGE

= NEW ADDITION

30' FROM CITY RIGHTAWAY
To Foundation

* 29 feet From overhang *
on new addition

27'-6" CITY RIGHTAWAY



N ↑
N ↑
N ↑
BERKEY AVE

N ↑

$\frac{1}{8} = 1'$ SCALE

Berkey Ave

Will need a concrete drive Poured to the street

1412 Berkey Ave
Property Line

Two 9' Garage Doors Centered on North End

57'-6" total

8'

25'-9"

I will only have 7'
to overhang on
new addition

36" side walk
connected to driveway

W ←

1502 Berkey

sewer

51'-0"

36" Door at least 20" from east wall

Poured Concrete Steps

Front door

East Door

sewer

new sewer line

Foundation to start About 24" past East Door

Bainbridge

E →