Agenda GOSHEN BOARD OF ZONING APPEALS Tuesday, October 24, 2023, 4:00 P.M. Council Chambers, 111 E. Jefferson Street Goshen, Indiana

- I. Roll Call
- **II.** Approval of Minutes from 9/26/23
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- **IV.** Postponements/Withdrawals any person having business to come before the Board may request postponement or withdrawal at this time.

V. Developmental & Use Variances- public hearing items

23-25DV – Chase Alfrey requests developmental variances to allow a 13' front building setback along Harrison Street where 25' is required for an approximately 163 Sf deck and open parking in the front yard setback along Harrison Street where open parking is not permitted for the installation of an approximately 30' x 24' driveway and parking area. The subject property is generally located at 1021 W Lincoln Avenue and is zoned Residential R-2 District.

23-26DV – Donald L Beachy & Tami's Trendy Hair request developmental variances to allow a 12 SF banner sign, a 6 SF non-illuminated wall sign, a 1.25 SF wall-mounted illuminated sign, a 1 SF illuminated window sign, and a 1 SF illuminated changeable copy sign, where only ground signs not exceeding 8 SF in aggregate area and one non-illuminated flush-mounted wall sign no greater than 2 SF in area is permitted for a home occupation. The subject property is generally located at 1011 S Main Street and is zoned Residential R-1 District.

23-07UV – Central Block, LLC and Hannah Minix request a use variance to allow a tattoo parlor in the Commercial B-2 District where the use is conditional in the Commercial B-3 and Industrial M-1 districts. The subject property is generally located at 108 E Washington and zoned Commercial B-2 HD DD District.

23-27DV – PRIMECO, Inc. (Paul Pressler), Aby Mohamed of Aby Groups, and Woolpert request developmental variances to allow a 10' parking and driving aisle setback along Pike Street where 35' is required, a 3' parking and driving aisle setback along High Street where 25' is required, a 13' parking and driving aisle setback along Harrison Street where 25' is required, a 10' parking and driving aisle setback along the south property line adjacent to residential use and zoning where 20' is required, a dumpster enclosure 6' in height in the front yards along Pike Street and Harrison Street where fences and walls cannot exceed 4' in height, a privacy fence 6' in height where 4' is permitted in the front yards along Harrison Street and High Street, vehicle access points on Harrison Street and High Street where no access points from residential streets are permitted, and for the variance to be valid for one year, for the construction of a new restaurant. The subject property is generally located at 1102, 1106 & 1110 W Pike Street and is zoned Commercial B-3 District.

- VI. Audience Items
- VII. Staff/Board Items
- VIII. Adjournment

Minutes - Goshen Board of Zoning Appeals Tuesday, September 26, 2023, 4:00 p.m. Council Chambers, 111 E. Jefferson Street Goshen, Indiana

I. The meeting was called to order with the following members present: Bethany Campbell, Tom Holtzinger, Lee Rohn, and Michael Potuck. Also present were Assistant City Planner Rossa Deegan, and Assistant City Attorney James Kolbus. Absent: Hesston Lauver

II. Approval of Minutes from 8/22/23: Potuck/Rohn 4-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Potuck/Campbell 4-0

IV. Postponements/Withdrawals - None

V. Developmental Variances – public hearing items

23-22DV – Felipe Merino requests a developmental variance to allow a front building setback of 31' where 35' is required along Lincoln Avenue for the construction of an approximately 840 Sf deck. The subject property is generally located at 101 N 3rd Street and is zoned Commercial B-2 District.

Staff Report

Mr. Deegan provided background information for this property, noting that it's been a combination of residential and commercial uses over the years and is located in the B-2 central business district. The current use of the home is strictly residential. He went on to say the residential use is permitted in the B-2 district, provided it meets the requirements of the Residential R-1 District.

Today's request is to add an approximate 840 SF deck to the home. He referred to a photo in the staff report which shows where the deck would be placed on the property. Because it will be located approximately 31' where 35' is required from the Lincoln Avenue property line, a developmental variance will be required. He noted that a large portion of the home is already located in Lincoln Avenue setback, and Staff supports this request. He pointed out that the deck will not be visible from Lincoln Avenue and because of an existing fence, it won't be visible from 3rd Street either. He also noted that commercial uses in the B-2 District typically don't have a front building setback and commented that the deck is a reasonable residential use.

The Planning Office received no public inquiries regarding this request.

Petitioner Presentation:

Alan Caton, 55875 County Road 33, Middlebury, spoke on behalf of the petitioner. He stated he is familiar with Staff's recommendation and has nothing to add.

Audience Comments: There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion: None

Action:

A motion was made and seconded, Potuck/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-22DV with the 4 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

23-23DV – Eloisa Avila de Guerrero & Jose Socorro Guerrero and Estanislao Arriaga request developmental variances to allow a 0' front building setback where 25' is required along Purl Street and building coverage of 37% where a maximum of 35% is permitted for an approximately 190 Sf access ramp. The subject property is generally located at 420 E Purl Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this single family home is located on a very small lot, approximately 3,800 sf in area which is typical of corner lots in this neighborhood. This, and surrounding properties, are all zoned Residential R-1 District.

Today's request is for an accessibility ramp with a zero foot front setback along Purl Street where 25' is required. A variance is also required to allow building coverage of 36.1% where 35% coverage is permitted. He explained that Staff supports the request because this is the only suitable location on the property where the ramp can be located and noted that allowances for building coverage in this neighborhood are typical. He pointed out that the ramp will not harm the character of the neighborhood; in fact, it allows those with diverse needs to remain in the same neighborhood. He noted this is a critical element in creating a vibrant neighborhood, explaining that in fact, it adds to the use and value of adjacent properties.

There were no inquiries from the public regarding this request.

Petitioner Presentation:

Estanislao Arriaga, 420E Purl Street, spoke on behalf of the petitioner. He asked that the Board approve this handicap ramp as it's needed by the resident.

Audience Comments:

Christopher Charlwood, 514 S 8th Street also spoke to the petition. He stated he lives cattycorner from this property and if they were adding more living space or limiting visibility near this corner he would have concerns. Because this is only for a ramp, he has no concerns with the request.

The public hearing was closed.

Staff Discussion: None

Action:

A motion was made and seconded, Potuck/Campbell, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-23DV with the 4 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

23-24DV – Ancon Holdings, LLC and Jones Petrie Rafinski request developmental variances to allow a front building setback of 34' where 35' is required, a front parking and driving aisle setback of 22' where 35' is required, and a side (east) driving aisle setback of 0' where 5' is required for a shared access drive, and for the variance to be valid for one year, for a building renovation and parking lot reconfiguration for new offices in a former furniture store. The subject property is generally located at 2119 & 2121 W Wilden Avenue and is zoned Industrial M-1 District.

Staff Report

Mr. Deegan explained this former furniture store on Wilden Avenue is zoned Industrial M-1, surrounded by commercial and industrial uses. He explained that the owner of the adjoining property at 2119 W Wilden purchased this property with plans to renovate it for office use. The plan is to completely remodel the interior for office space, give the front façade a facelift, add an outdoor employee area to the front, and reconfigure the parking lot with a new drive access from the adjoining property to the east. Developmental variances are required for the following:

- To allow the southwest corner of the building to encroach into the 35' front setback, at a distance of 34'
- For two parking spaces encroaching into the front yard (22'), where 35' is required
- A 0' side setback for the new drive access

Mr. Deegan stated Staff supports this request, noting that the building encroachment into the setback will meet what's already there. While the parking lot will not meet the setback requirements, it will be substantially farther back than the existing. The GIS measurement shows approximately 3' from the property line and the side setback will encroach into what is already a shared driveway.

Mr. Deegan noted conditions of approval include that the property get connected to City utilities and that a written agreement or approval from the adjacent property owner allowing the access drive is obtained.

Petitioner Presentation:

Doug VonGunten, 58664 St Mary's Lane, Goshen, spoke on behalf of the petitioner. He stated he is familiar with the Staff recommendation and has nothing to add.

Mr. Rohn asked about the shared drive and asked if they lease the front building. Mr. VonGunten stated that they own the building to the north, but the building in front of it is up for sale. He stated they have an easement for the drive leading back to their warehouse so another easement agreement will be required for a second connection to that drive.

Audience Comments: There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion: None

Action:

A motion was made and seconded, Potuck/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-24DV with the 7 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

- VI. Audience Items None
- VII. Staff Board Items
- VIII. Adjournment: 4:13 pm Rohn/Potuck

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Tom Holtzinger, Chair

Lee Rohn, Secretary

GENERAL INFORMATION

APPLICANT: Chase Alfrey (owner)

- **REQUEST:** The applicant requests developmental variances to allow a 13' front building setback along Harrison Street where 25' is required for an approximately 163 Sf deck and open parking in the front yard setback along Harrison Street where open parking is not permitted for the installation of an approximately 30' x 24' driveway and parking area
- LOT SIZE: $\pm 6,336$ SF; $\pm 180'$ of frontage (48' on Lincoln Ave. & 132' on Harrison St)

APPLICABLE ZONING: Residential R-2

NOTICES SENT: 44

SPECIAL INFORMATION
PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential

NEIGHBORHOOD: West Goshen

THOROUGHFARES: Lincoln Avenue & Harrison Street

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- Goshen Zoning Ordinance, *Section 4160.3*, Yard Requirements in the R-2 District
 B.1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet.
- ◊ Goshen Zoning Ordinance, *Section 5110.3*, Parking Design Standards

A. Parking facilities may occupy any portion of a lot, provided that:

1. Open parking spaces may be located in any yard, except a front yard or the street side of a corner lot

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 at the intersection of Lincoln Avenue and Harrison Street, with frontage on both streets. Surrounding development is residential, with single family homes directly to the north east, and south across Lincoln Avenue, and multi-unit apartments to the west across Harrison Street. Improvements on the property include an approximately 768 SF single story home with a recently-added shed approximately 192 SF in area.

Additionally, two improvements were recently made to the property without the proper approval, and the petitioners are seeking to obtain those approvals now. They include:

• An approximately 24'x30' driveway and parking are located in the front yard setback along Harrison Street. The gravel surface received approval at the October 2, 2023 Board of Works, but approval of a developmental variance is needed because the parking area will allow open parking in the front yard

23-25DV

• An approximately 12'x18' deck addition on the north side of the home. The deck is located approximately 12' from the Harrison Street property line where a minimum of 25' is required.

In January 2021, the BZA granted approval of a developmental variance (21-01DV) to allow a 9' front setback for a 240' addition to the home on this property. Staff again recommends approval for the current variance requests with similar justification for the 2021 variance. The proposed property is a relatively small corner lot and with a relatively small home. Although there are two frontages, the Lincoln Avenue frontage functions as the true front of the home while Harrison Street functions more as a side yard. With that in mind, vehicles parked on the proposed driveway will be parked behind the home.

Reasonable development of the property is almost impossible without variances. Because the lot is only 48' in width and it has frontages on two streets, most types of development including parking areas and the additions to the primary structure will take place at least partially in the front yard. Small accessory structures, such as the recently installed shed, may be the only exception.

FINDINGS OF FACT

Staff recommends **approval** of developmental variances to allow a 13' front building setback along Harrison Street where 25' is required for an approximately 163 Sf deck and open parking in the front yard setback along Harrison Street where open parking is not permitted for the installation of an approximately 30' x 24' driveway and parking area, based on the following:

- 1. The approval will not be injurious to the public health, safety, morals and general welfare of the community. The parking area will reduce vehicle parking in the public right of way, and the deck will be located completely on private property. *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 front of the home faces the Lincoln Avenue frontage, while the proposed parking area and deck encroach in the Harrison Street front yard, which functions more as a side yard. The two properties to the east of the subject property front Lincoln Avenue and are similarly sized lots. Only one of them has driveway access from Lincoln, whereas the eastern-most has alleyway drive access; access from a side street or alley is preferable given the arterial nature of Lincoln Avenue. *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. Reasonable development of the property is almost impossible without variances. Because the lot is only 48' in width and it has frontages on two streets, most types of development including parking areas and additions to the primary structure will take place at least partially in the front yard. Small accessory structures, such as the recently installed shed, may be the only exception. *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 for the deck is required.
- 5. A right of way permit for the driveway is required.
- 6. The large two-axle trailer parked on the subject parking area shall be removed from the property within thirty (30) days.



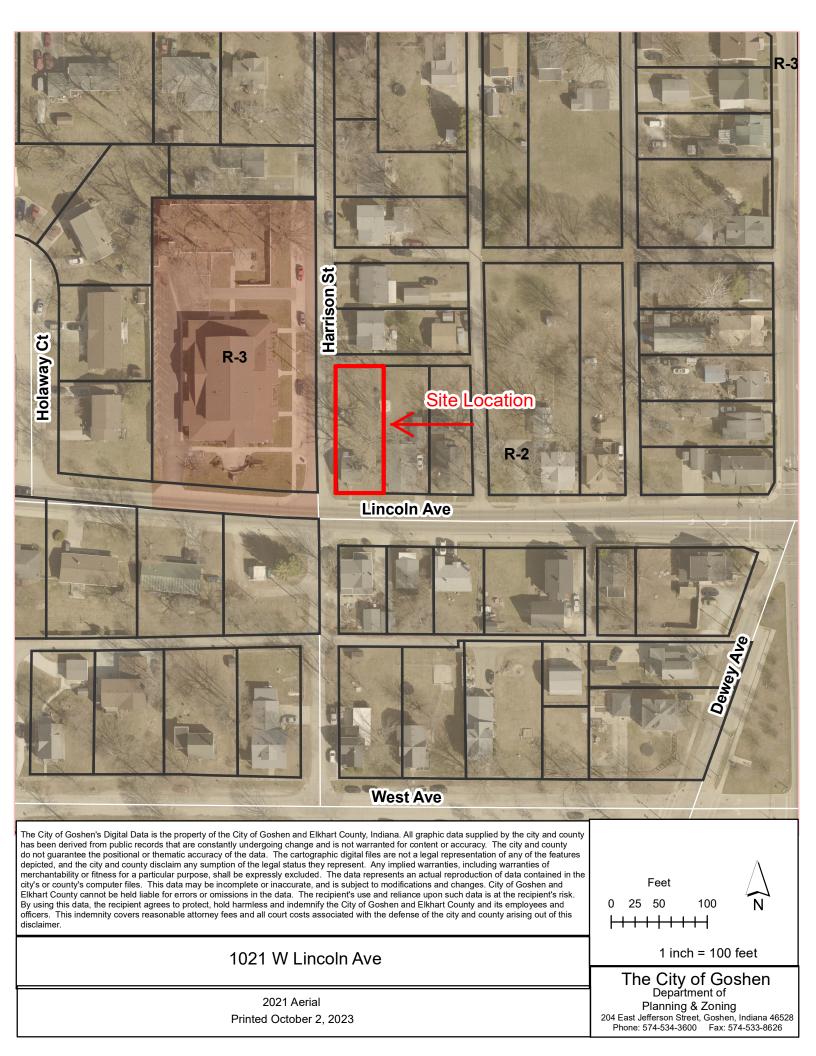
Looking north across Lincoln Avenue and along Harrison Street

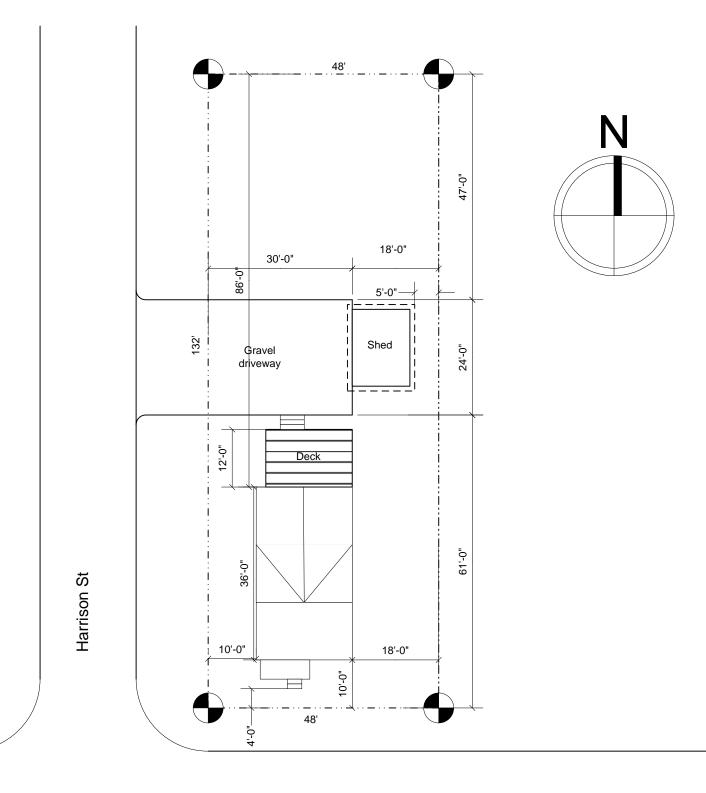


From Harrison Street looking north-northeast



Looking southeast





Lincoln Ave

Chase Alfrey Job location: 1021 W Lincoln Ave Goshen, IN 46526

GENERAL INFORMATION

APPLICANT: Donald L. Beachy (owner); Tami's Trendy Hair (agent)

- **REQUEST:** The applicants request developmental variances to allow a 12 SF banner sign, a 6 SF nonilluminated wall sign, a 1.25 SF wall-mounted illuminated sign, a 1 SF illuminated window sign, and a 1 SF illuminated changeable copy sign, where only ground signs not exceeding 8 SF in aggregate area and one non-illuminated flush-mounted wall sign no greater than 2 SF in area is permitted for a home occupation
- **LOT SIZE:** $\pm 8,250$ SF; $\pm 50'$ of frontage; $\pm 165'$ of depth
- APPLICABLE ZONING: Residential R-1

NOTICES SENT: 39

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Predominantly residential, limited commercial

NEIGHBORHOOD: No recognized neighborhood

THOROUGHFARES: Main Street

TOPOGRAPHY: Declines westward from Main Street

VARIANCE OF DEVELOPMENTAL STANDARDS

Goshen Zoning Ordinance, *Section 5100.3*, Permitted Signs by District
 A. Signs permitted in the A-1 Agricultural District and R-1, R-1S, R-2, and R-4 Residential Districts are as follows:

1. The maximum aggregate area for all signs on the zoning lot, regardless of sign type, shall be no greater than eight (8) square feet.

2. Only ground signs are permitted.

◊ Goshen Zoning Ordinance, Section 2110, Home Occupation definition There shall be no exterior display or storage, the exterior appearance of the dwelling unit or accessory structure shall not be altered or visible evidence given to indicate the presence of the home occupation, except for one non-illuminated flush mounted wall sign, no larger than two square feet in area.

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 the west side of Main Street, approximately half way between Plymouth Avenue and Parkside Elementary School. The property is completely surrounded by R-1 zoning and residential uses; a gas station is located a short distance to the north on the opposite side of Main Street. The home has an approximate footprint of 1,240 SF and a detached garage is approximately 882 SF in area.

23-26DV

In February of this year, the petitioners received approval to remodel a portion of the first floor of the home for use as a hair salon; approval was granted on the basis that the proposed hair salon was a home occupation. Home occupations are allowed by right on residential properties; their definition in the Zoning Ordinance begins with the following description:

"An occupation or profession conducted in a dwelling unit or accessory building to a dwelling unit located on the same lot, conducted exclusively by the occupants living in the dwelling unit, with the home occupation incidental and secondary to the residential use, not changing the residential character of the area."

With the property functioning primarily as a home and the salon secondary to the residential use, the salon was approved. In order to protect adjacent residential properties from the more intense appearance of commercial activity, the definition of home occupation goes on to limit the use with the following language:

"There shall be no exterior display or storage, the exterior appearance of the dwelling unit or accessory structure shall not be altered or visible evidence given to indicate the presence of the home occupation, except for one non-illuminated flush mounted wall sign, no larger than two square feet in area."

The petitioner would like to add signs to the property to identify the hair salon business. Because residential properties are limited to ground signs not exceeding 3' in height and 8 SF in total area, and because home occupations allow one additional non-illuminated wall sign not exceeding 2 SF in area, the proposed signs will need developmental variances. They include:

- An approximately 71"x2' (12 SF) banner sign hung between porch columns by rope
- An approximately 2'x3' (6 SF) non-illuminated wall sign flush mounted by the entrance to the salon
- An approximately 25"x7" (1.25 SF) illuminated sign (appears as a "barber pole" in packet)
- An approximately 8"x17" (1 SF) illuminated window sign
- An approximately 12"x9" (1 SF) illuminated changeable copy sign mounted in the window

Staff recommends denial of the request based on the following:

- The purpose of the sign limitations for residential properties and home occupations is to limit the negative impact of signs on the use and value of nearby residences. The five proposed signs, several of which direct illumination at the adjacent property to the north, will have a significant adverse impact on adjacent residential properties, which are zoned Residential R-1.
- Sign allowances for residential properties and home occupations are already adequate. The petitioner should seek alternative means of advertising the home occupation or pursue use of a property in a commercial district with greater sign allowances
- Subjecting nearby residences and the larger neighborhood to the adverse impacts of signs, including multiple illuminated signs, will be injurious to the general welfare.
- Signage in the area is limited to a long-standing gas station on the other side of the street and not directly adjacent to the subject property.

During a site visit for this report, numerous signs were displayed not included in the request. These included a sign in the door (stating "No Walk-Ins") and a sign on the porch floor. With denial, these signs need to be removed from display, and staff recommends removal within three days.

FINDINGS OF FACT

Staff recommends **denial** of the request for developmental variances to allow a 12 SF banner sign, a 6 SF nonilluminated wall sign, a 1.25 SF wall-mounted illuminated sign, a 1 SF illuminated window sign, and a 1 SF illuminated changeable copy sign, where only ground signs not exceeding 8 SF in aggregate area and one nonilluminated flush-mounted wall sign no greater than 2 SF in area is permitted for a home occupation, based on the following:

1. The approval will be injurious to the public health, safety, morals and general welfare of the community. Subjecting nearby residences and the larger neighborhood to the adverse impacts of signs, including multiple illuminated signs, will be injurious to the general welfare. *The standard is not confirmed*.

23-26DV

- 2. The use and value of the area adjacent to the subject property will be affected in a substantially adverse manner. The purpose of the sign limitations for residential properties and home occupations is to limit the negative impact of signs on the use and value of nearby residences. The proposed signs will have a significant adverse impact on adjacent residential properties, which are zoned Residential R-1, because they are numerous, include three illuminated signs, and differ greatly from what other residential properties are permitted. *The standard is not confirmed*.
- 3. Strict application to the terms of the Zoning Ordinance will not result in practical difficulties in the use of the subject property. Sign allowances for residential properties and home occupations are already adequate. The petitioner should seek alternative means advertising the business or use a property in a commercial district for the hair salon use. *The standard is not confirmed*.

With denial, no signs in excess of what is permitted for residential properties and home occupations shall be displayed on the property within three (3) days of this denial.



Looking southwest across Main Street



Looking south along Main Street



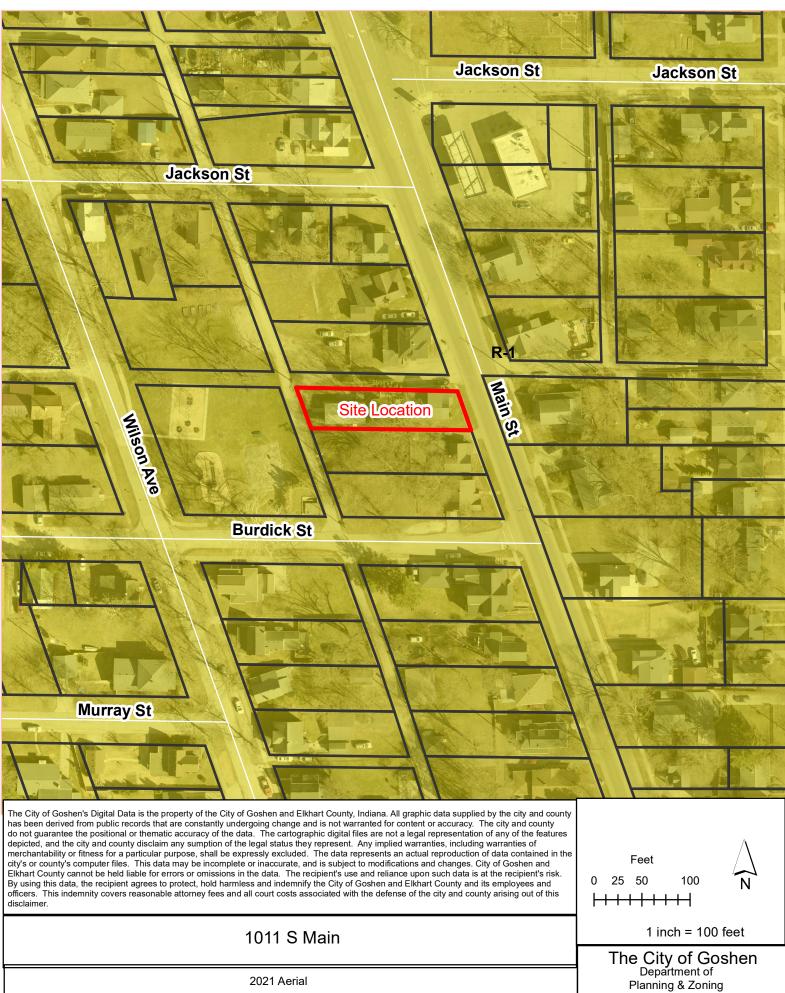
Looking north along Main Street



Looking south at proposed window location for 2 illuminated signs



Looking southwest



Printed October 5, 2023

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

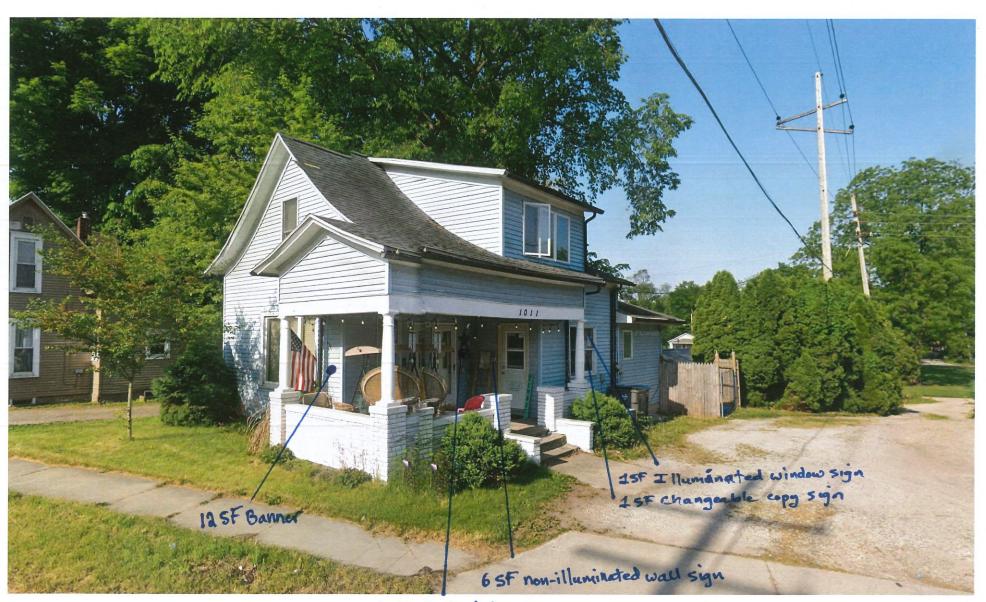
My name is Tamra A Beachy for my residence home salon called Tami's Trendy Hair at 1011 South Main St Goshen Indiana, I am new in this industry and wanting to build my clientele and I need my banner, signs and lights to help me do this! Since I have had my banner, signs and lights up I have gotten a few appointments already! I know I am appointments Only and will not break that rule! I haven't taken any walk-ins. I work at Ups part time in the early mornings and have been doing this job for 23 years now! I have retirement in two more years at 25 years of service. I went to Beauty School knowing I won't be old enough for Social Security so I wanted a job that would be esdier than loading two semi trailers at Ups. My salon is part time right now Tuesday and Thursday 12–6 Wednesday Friday and Saturday 12-5pm so I am not open a long time in the

evenings! My lights are shut off when I close the salon up in the evenings! I hope to go full time after I retire from Ups in September 2025. By then I hope to have my clientele built up to go full time! I also had a dream to live and open a salon on South Main St, that is why we bought this home to put a salon in my home and so I don't have to work for a corporation or pay Booth rental. My salon is a small business with the State of Indiana. I have an EIN number for my taxes! I have a Google Account and I am on Google Maps! So I am set up for a small business. I always wanted a salon at my home! I passed all of my inspections including the Indiana State Board of Cosmetology. I have a salon license now and I am ready to go forward. I have no windows in the front of my salon facing Main St. to put a lighted open sign. The only window I have is the window facing the alley but it is seen on South Main. My neighbors are not complaining they are wanting

haircuts. I have had Boho led lights on my front porch for 6 or more years and non of my neighbors complain about my lights! I really would appreciate you reconsider my request to help me build clientele and help my small business salon Tami's Trendy Hair at 1011 South Main St Goshen Indiana. Thank you for taking time to rethink this situation for me and my small business salon. I don't plan on adding anymore lights or signs!

Sincerely,

Tamra A Beachy Donald L Beachy



1.25 sf illuminated syn







0

2'x 3'= N65F

2

Tami's Trendy Hair

Hours of Operation

Day	Hours
Monday	Closed
Tuesday	12:00pm - 6:00
Wednesday	12:00pm - 5:00
Thursday	12:00pm - 6:00
Friday	12:00pm - 5:00
Saturday	12:00pm - 5:00
Sunday	Closed

Follow Tami's Trendy Hair on Facebook



12"×9"=~15F



GENERAL INFORMATION

APPLICANT: Central Block, L.L.C. (owner); Hannah Minix (agent)

- **REQUEST:** The applicants request a use variance to allow a tattoo parlor in the Commercial B-2 District where the use is conditional in the Commercial B-3 and Industrial M-1 districts
- **LOT SIZE:** \pm 7,710 SF; \pm 209' of frontage (\pm 44' on Main Street & \pm 165' on Washington Street); \pm 165' depth
- APPLICABLE ZONING: Commercial B-2 HD DD
- **NOTICES SENT:** 44

SPECIAL INFORMATION

PUBLIC UTILITIES: Water & Sewer

AREA DEVELOPMENT: Commercial, residential

NEIGHBORHOOD: Downtown

THOROUGHFARES: Main Street & Washington Street

TOPOGRAPHY: Level

VARIANCE OF USE STANDARDS

♦ Goshen Zoning Ordinance, *Appendix E*, Table of Permitted Uses Tattoo parlors are listed as a conditional use in the Commercial B-3 and Industrial M-1 districts

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The petitioner has provided a list of signatures of support for the proposed use that is included in this report.

ANALYSIS

The subject property is located in the Downtown, is zoned Commercial B-2, and is within in the Historic District and Downtown District overlays. It is part of a single tax parcel (20-11-09-415-001.000-015) that includes three buildings: a corner building on Main Street and Washington Street with the address 202 S Main Street; a two-unit building in the center of parcel with addresses 108 & 110 E Washington Street; and a building on the east end of the parcel sharing a common party wall with the middle building and having he addresses 114 & 114 ½ E Washington Street.

As part of the Downtown, it is surrounded predominantly by commercial uses such as shops and restaurants, but is also in close proximity to second floor residential apartments. The portion of the property in question—108 E Washington, is the western-most of two units on the ground floor of the middle building. Until recently, the unit was used as a beauty shop, and before that, a jewelry store.

The petitioner is now proposing to use the space as a tattoo parlor she describes as a private tattoo studio. The parlor will include a workstation, customer seating, art sales display, and a business office, and clients are intended to be appointment-based. Tattoo parlors are a conditional use in the Commercial B-3 and Industrial M-1 districts, so a use variance will be required.

In the B-2 and M-1 districts, tattoo parlors are permitted when they meet a set of conditions which include a minimum distance of 750' from churches, schools, day cares, parks, and playgrounds; separation from other uses;

23-07UV

non-adjacency to a residential use or zoning district; and no outside display. The BZA granted approval of a use variance in May 2017 to allow a tattoo parlor at 101 S 3rd Street, which is also located in the Commercial B-2 District. In that approval, the Board added four conditions and four commitment; among them was the stipulation that signs on the north side of the building could not be illuminated because there is a residential use across Lincoln Avenue to the north.

Denying the variance will not constitute an unnecessary hardship for use of the subject property. There are many other possible uses that are permitted in the B-2 District by right that can take place in the building. Nevertheless, staff recommends approval of the request based on the following:

- With one workstation in a relatively small building and no space on site for outside display, the tattoo parlor will not adversely impact other uses
- Very little will need to be done to convert the space from a beauty shop to a tattoo parlor. The petitioner has been made aware that adding a sink or plumbing will require Building Department approval and review by the Elkhart County Health Department; a sink may not even be needed
- While there are at least two churches on 5th Street that are approximately 500' from the proposed tattoo parlor, they are buffered from the proposed location by the density of the Downtown
- The property is completely surrounded by commercial zoning with the closest residential zoning district approximately 450' to the west along Washington Street. While there are nearby residential properties, such as second story apartments, the intensity of Downtown commercial uses has been normalized, and perhaps even desired, for the tenants of those residences.
- A one-chair tattoo parlor is similar in intensity to a one-chair beauty salon
- Tattooing as an art form is complimentary to the art culture of the Downtown, and approval of a new tattoo parlor will support the Comprehensive Plan's goal of making the Downtown "a hub for small business and entrepreneurship."

FINDINGS OF FACT

Staff recommends **approval** of a use variance to allow a tattoo parlor in the Commercial B-2 District where the use is conditional in the Commercial B-3 and Industrial M-1 districts, based on the following:

The approval will not be injurious to the public health, safety, morals, and general welfare of the community. A pre-inspection by the Building Department indicated that the space at 108 E Washington was appropriate for a tattoo parlor use with minimal changes to the building need. *The standard is confirmed*.
 The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner. A one-chair tattoo parlor is similar in intensity to a one-chair beauty salon, which was the previous use. The property is completely surrounded by commercial zoning with the closest residential zoning district approximately 450' to the west along Washington Street. While there are nearby residential properties, such as second story apartments, the intensity of Downtown commercial uses has been normalized, and perhaps even desired, for their tenants. While there are at least two churches on 5th Street that are approximately 500' from the proposed tattoo parlor, they are buffered from the proposed location by the density of the Downtown. *The standard is confirmed*.

3. The need for the variance arises from a condition peculiar to the subject property. Tattooing as an art form is complimentary to the art culture of the Downtown. In the Downtown, the availability of similarly small, discreet spaces for a one-station tattoo parlor are likely minimal. *The standard is confirmed*.

4. Strict application of the terms of the Zoning Ordinance will not constitute an unnecessary hardship if applied to the subject property. There are many other possible uses that are permitted in the B-2 District by right that can take place in the building. *The standard is not confirmed.*

5. The approval does not interfere substantially with the Comprehensive Plan. One of the goals of Goshen's Comprehensive Plan is to "position Downtown Goshen as a hub for small business and entrepreneurship" (Economic Development 3-4). Approval will help promote artistic entrepreneurship and support a small business.

23-07UV

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. Approval by the Building and Fire Departments is required.
- 5. Before the tattoo parlor opens to the public, an inspection prior by the Fire Department shall be required.
- 6. Installation of any plumbing, including one or more sinks, to the space occupied by the tattoo parlor shall require review by the Building and Engineering Departments.



Looking south across Washington Street

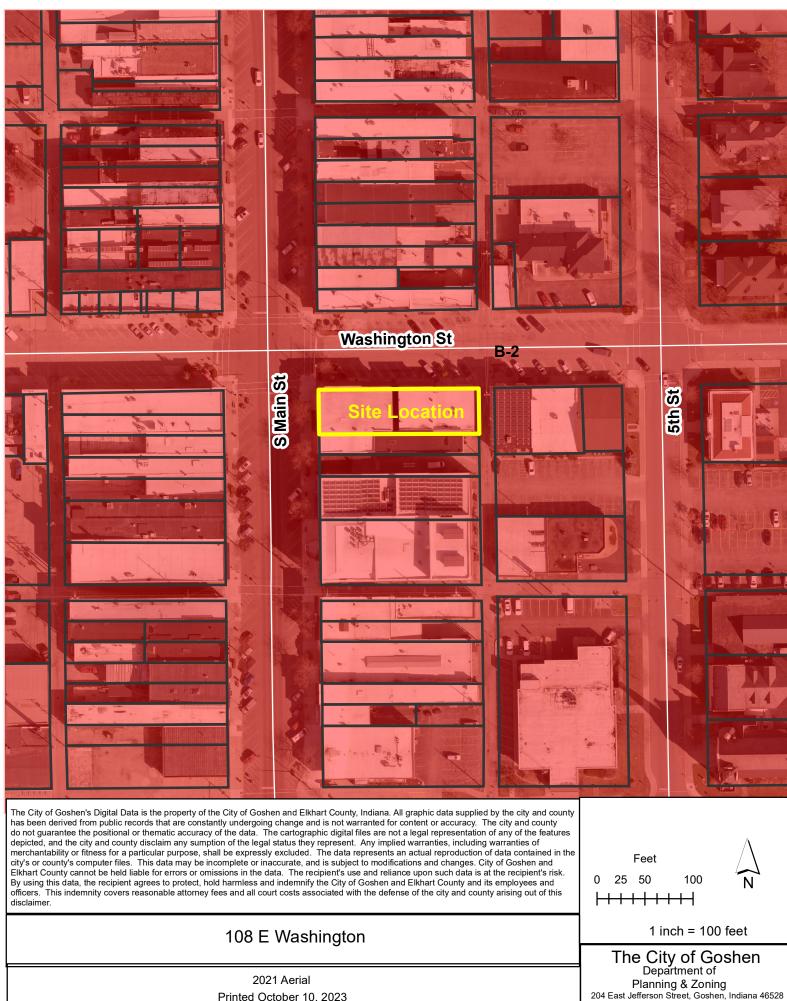


Looking west at 108 E Washington Street

23-07UV

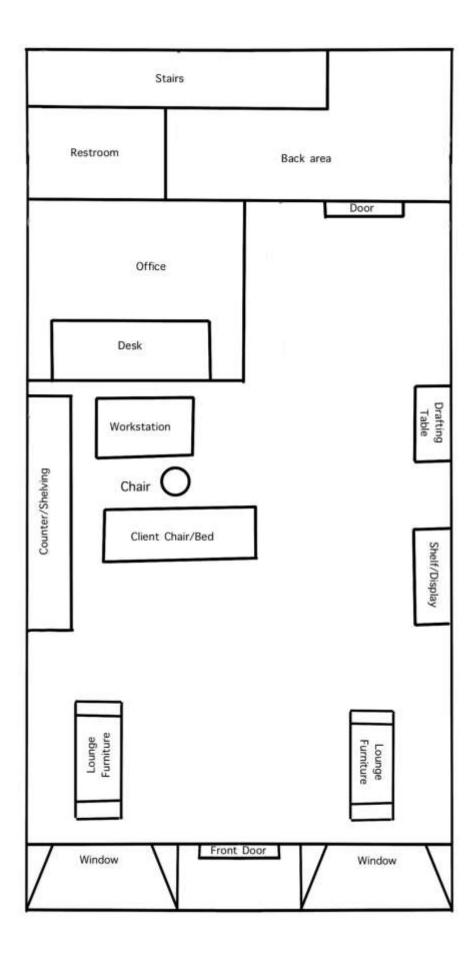


Looking east-southeast



Phone: 574-534-3600 Fax: 574-533-8626

Printed October 10, 2023



In Support of a Tattoo Studio in the B-2 District 108 E. Washington St. Goshen, IN 46526 Jasmine Wall - The Imagination Spot LASON SAMUEL 91.1 THE GLOBE Amelia Turnbull Yan Traversa Janition Music Garage Call ust. 1Bel - The Not Shoppa Ryun 2 mmerman - Juds pretzals Menghen Gering - Loishen Lokege Birch Barry - Ten Thousand Village Ennifer Wheel Lenny Frech Sonpy Gnome Schuldgings scapy grome that for scapy grome Evic Hochstotler - Crissy + Everett Schniffer Paulo Hernandez - cressy & Everett Swiffer Paulo Hernandez - cressy & Everett Jose Elizadde el: # CARIS GORCK Taylos Chalund I budusk Brock Richardon Brock Richardson Heighil Rick Pedro Del Fierro (Barecito Managere) Andrew gouer Harzon Alliance Technologbes Ularen Lederach Queer Gardens StSOU DEWITHIN una Jesun Andi Hursberger Authorite (Shedie Ake of Spides auner) Andi Hursberger (Welliness) Jonethan Savage / Brach Mener Sachary Dennis alex santana Cate mallet opiver The Coople TS Music. Honey Leving TG Music Woldruffs diels Droman - Rethel like haltste Planted Forow Alley Mary - Jules Barrigue bens + hish

GENERAL INFORMATION

APPLICANT: PRIMECO, Inc. (owner); Aby Mohamed of Aby Groups & Woolpert (agents)

- **REQUEST:** The applicants request developmental variances to allow a 10' parking and driving aisle setback along Pike Street where 35' is required, a 3' parking and driving aisle setback along High Street where 25' is required, a 13' parking and driving aisle setback along Harrison Street where 25' is required, a 10' parking and driving aisle setback along the south property line adjacent to residential use and zoning where 20' is required, a dumpster enclosure 6' in height in the front yards along Pike Street and Harrison Street where fences and walls cannot exceed 4' in height, a privacy fence 6' in height where 4' is permitted in the front yards along Harrison Street and High Street, vehicle access points on Harrison Street and High Street where no access points from residential streets are permitted, and for the variance to be valid for one year, for the construction of a new restaurant
- **LOT SIZE:** ± 0.93 acres; ± 547 ' of frontage (± 115 ' on Harrison Street; ± 260 ' on Pike Street; ± 172 ' on High Street); depth varies

APPLICABLE ZONING: Commercial B-3

NOTICES SENT: 28

SPECIAL INFORMATION PUBLIC UTILITIES: City water and sewer available

FUBLIC UTILITIES: City water and sewer available

AREA DEVELOPMENT: Commercial, residential

NEIGHBORHOOD: West Goshen

THOROUGHFARES: Pike Street, High Street, & Harrison Street

TOPOGRAPHY: Relatively level; declines gently southward from Pike Street

VARIANCE OF DEVELOPMENTAL STANDARDS

- Goshen Zoning Ordinance, *Article IV*, Establishment of Zoning Districts
 On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet
- Goshen Zoning Ordinance, Section 4210.3, Area, Width, and Yard Regulations of the B-3 District
 B. Front Yard. Front yards shall be measured from the front property line and the front lot line and shall be as follows:

2. On arterial streets, the front yard shall be a minimum distance of 35 feet

C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:

4. Side yards abutting a residential zoning district shall have a 20-foot side yard.

- Goshen Zoning Ordinance, Section 4210.12, Miscellaneous Regulations of the B-3 District
 A. All uses in this district must have all vehicle access points on a collector or arterial street. No access points will be allowed on a residential street.
- Goshen Zoning Ordinance, Section 5130, Fence Regulations
 B. Fences Permitted in Residential and Business Districts

1. Fences and walls not exceeding four feet in height shall be permitted in the front yard.

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 consists of four tax parcels and is slightly less than an acre in size. It is located on the northern boundary of the West Goshen neighborhood, with frontage along Pike Street/U.S. 33, Harrison Street, and High Street. Improvements include the following:

- <u>1102 W Pike Street (parcel no. 20-11-08-286-013.000-15)</u> is a single-family home with an approximate footprint of 2,170 SF
- <u>1106 W Pike Street (parcel no. 20-11-08-286-004.000-015)</u> is a single-family home with an approximate footprint of 784 SF
- <u>1110 W Pike Street (parcel no. 20-11-08-286-014.000-015)</u> is a former auto repair with an approximate footprint of 2,973 SF.
- <u>20-11-08-286-009.000-015</u> is a vacant lot save for an approximately 288 SF storage building

The property is zoned Commercial B-3. Commercial zoning and uses are to the north, east, and west, while residential zoning and uses are to the south. A vacated east-west alley crosses the property and includes NIPSCO and communications facilities.

The petitioners are proposing to redevelop the property for a new restaurant. Construction of an approximately 2,515 SF drive-through restaurant is planned and developmental variances are needed for the following:

- Driveway access from Harrison Street and High Street, where access points cannot be from residential streets
- A dumpster enclosure located 1.5' from the Harrison Street property line and 18' from the Pike Street property line. The enclosure will include wall and fence, and because they are located in the front yards of both streets, they cannot exceed 4' in height
- The driving aisle within the property is subject to the minimum front setbacks along Pike Street (35'), and Harrison and Hight Streets (25'), but is less than required along all frontages. Along the south property line adjacent to 212 N Harrison Street, the proposed driving aisle will have a proposed side (south) setback of 10.3' where a minimum of 20 SF adjacent to residential use and zoning is required.
- A fence 6' in height will be installed across the entire length of the south property line in addition to partial landscaping buffer. The fence will exceed the maximum allowed height of 4' in the front yards of Harrison Street and High Street

Staff recommends approval of the set of requests. In general, the property is inadequately sized for a drive through restaurant meeting current Zoning Ordinance requirements. More specifically, approval is warranted because:

- The property has frontage on three streets, which limits space for development to a far greater degree than for a similarly sized property with frontage on one street
- Drive-through restaurants are a common use in the B-3 District, and particularly along the Pike Street commercial corridor. Relaxing developmental requirements is appropriate to allow the use.
- The proposed driving aisle will provide ample room to allow safe maneuvering for vehicles, including those of patrons, waste management, delivery services, and emergency services.
- A fence 6' in height along the south property line will increase the buffer between the restaurant use and the residential use to the south. This is particularly important because vehicles exiting the wrap-around drive will face south, with their headlights pointing towards the residential property. Allowing the fence to be 6' in height in the front yards on Harrison and High Street is therefore advisable.
- The location of the proposed dumpster was arrived at after several attempts to place it elsewhere on the site. Because of the need to provide an onsite stormwater retention area and because overhead utility lines preclude garbage trucks from operating within the east-west easement, the location of the dumpster in the

front yards of Harrison Street and Pike Street as shown on the site plan is the least harmful of the proposed locations.

- Although the vehicle access points are from a residential street, the majority of vehicles entering the site will be coming from Pike Street, so they will not be passing residential properties as the enter and exit.
- Building setbacks will be met, the property will connect to City water and sewer, street trees will be planted along all three frontages, and all other developmental requirements not requested as part of the variance will be met.

The petitioners request to allow the variance for one year is reasonable considering the project will require review through Technical Review and by numerous entities, including the City of Goshen and INDOT.

FINDINGS OF FACT

Staff recommends **approval** of developmental variances to allow a 10' parking and driving aisle setback along Pike Street where 35' is required, a 3' parking and driving aisle setback along High Street where 25' is required, a 13' parking and driving aisle setback along Harrison Street where 25' is required, a 10' parking and driving aisle setback along the south property line adjacent to residential use and zoning where 20' is required, a dumpster enclosure 6' in height in the front yards along Pike Street and Harrison Street where fences and walls cannot exceed 4' in height, a privacy fence 6' in height where 4' is permitted in the front yards along Harrison Street and High Street, vehicle access points on Harrison Street and High Street where no access points from residential streets are permitted, and for the variance to be valid for one year, for the construction of a new restaurant, 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 driving aisle will provide ample room to allow safe maneuvering for vehicles, including those of patrons, waste management, delivery services, and emergency services. *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 drive-through restaurant is a common type of use and development along the Pike Street/U.S. 33 commercial corridor. Although the driving aisle will encroach in the minimum side (south) setback adjacent to residential use and zoning, a fence in addition to landscaping will provide buffer between the uses. *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. It would be difficult if not impossible to develop the property for a drive-through restaurant without encroaching in the front and side yards of the property, especially considering it has frontage on three streets. The provision of driving aisles capable of allowing safe vehicular movement throughout the property justifies the proposed setback encroachments. Additionally, the presence of a utility easement with overhead electrical wires limits the areas of the property where a dumpster enclosure can be located. *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 Engineering, Building, and Fire Departments shall be required.
- 5. Tech Review shall be required.
- 6. Connection to City water and sewer shall be required.
- 7. The quantity and general locations of the street trees, as well as the landscaping buffer along the south property line, as shown on the landscape plan dated 10/03/23 shall be incorporated into the final site plan.

- 8. At the time the subject property transfers ownership, all four tax parcels shall be combined into one. In the case that the Elkhart County Auditor's office determines that the combination cannot be made, such a condition shall not apply.
- 9. Review of the access drives by the Indiana Department of Transportation shall be required, with a permit or written authorization in place before the zoning clearance is issued.



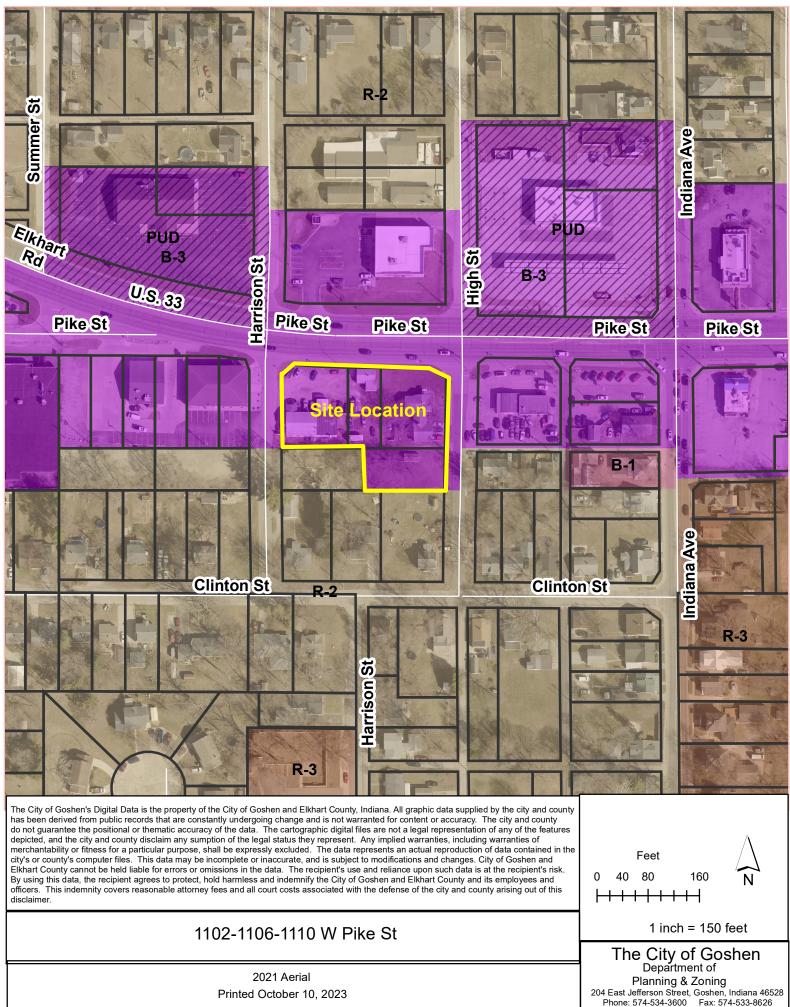
Looking southwest across Pike Street and High Street at 1102 & 1106 W Pike Street

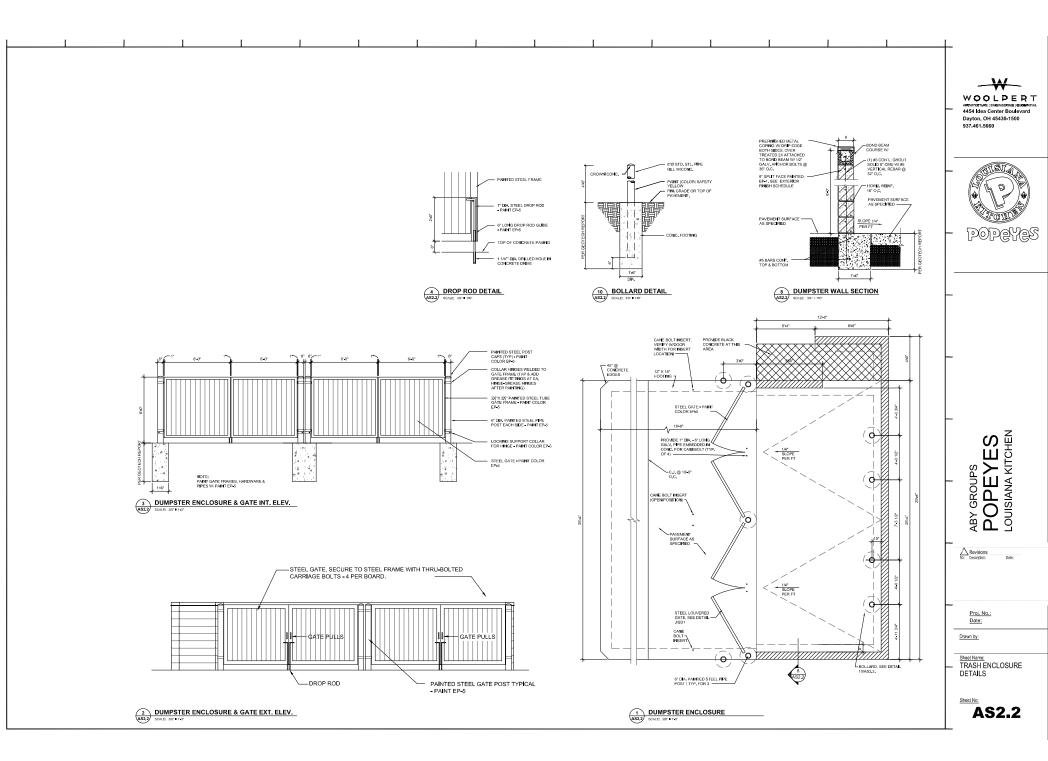


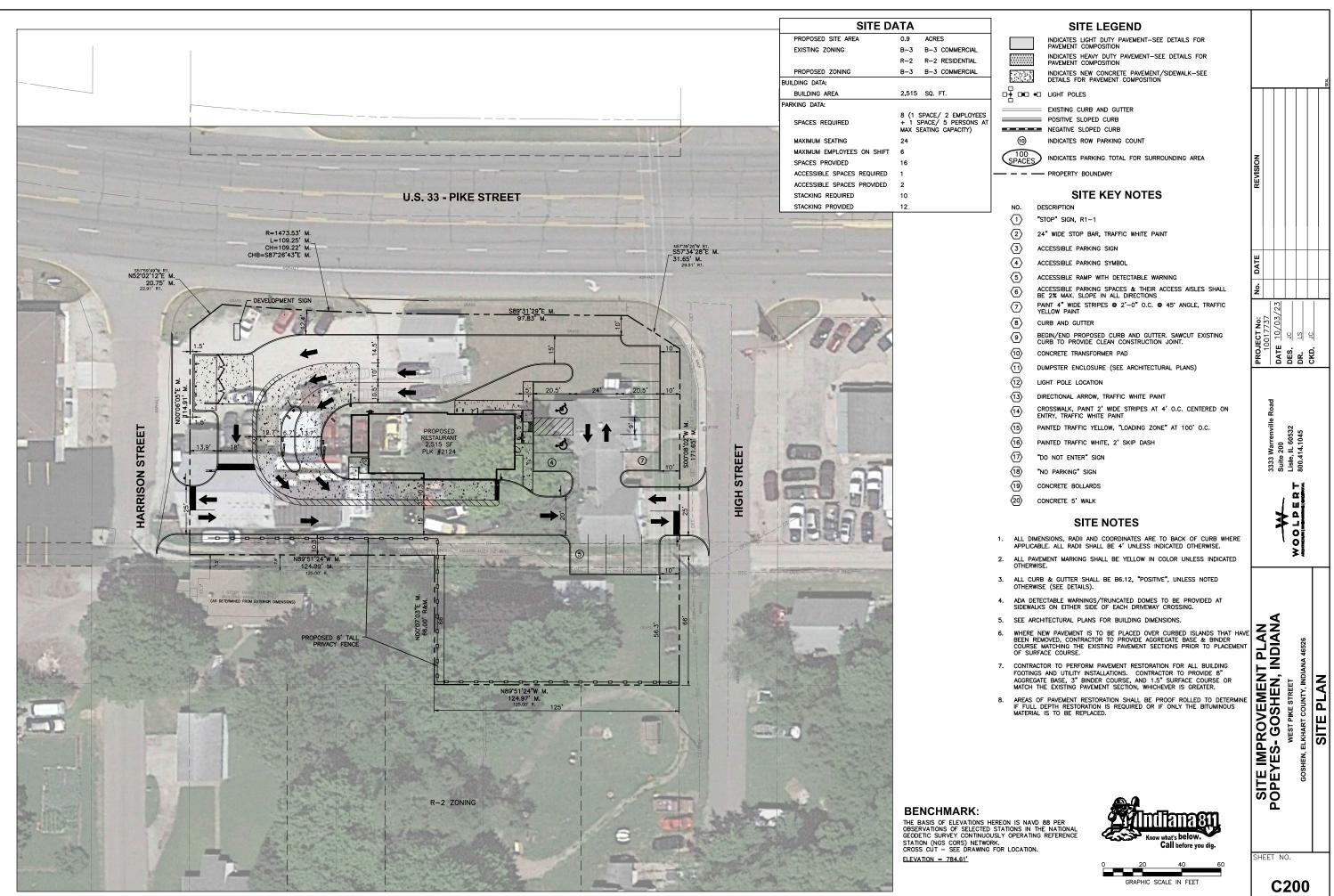
Looking southeast across Pike Street and Harrison Street at 1110 W Pike Street



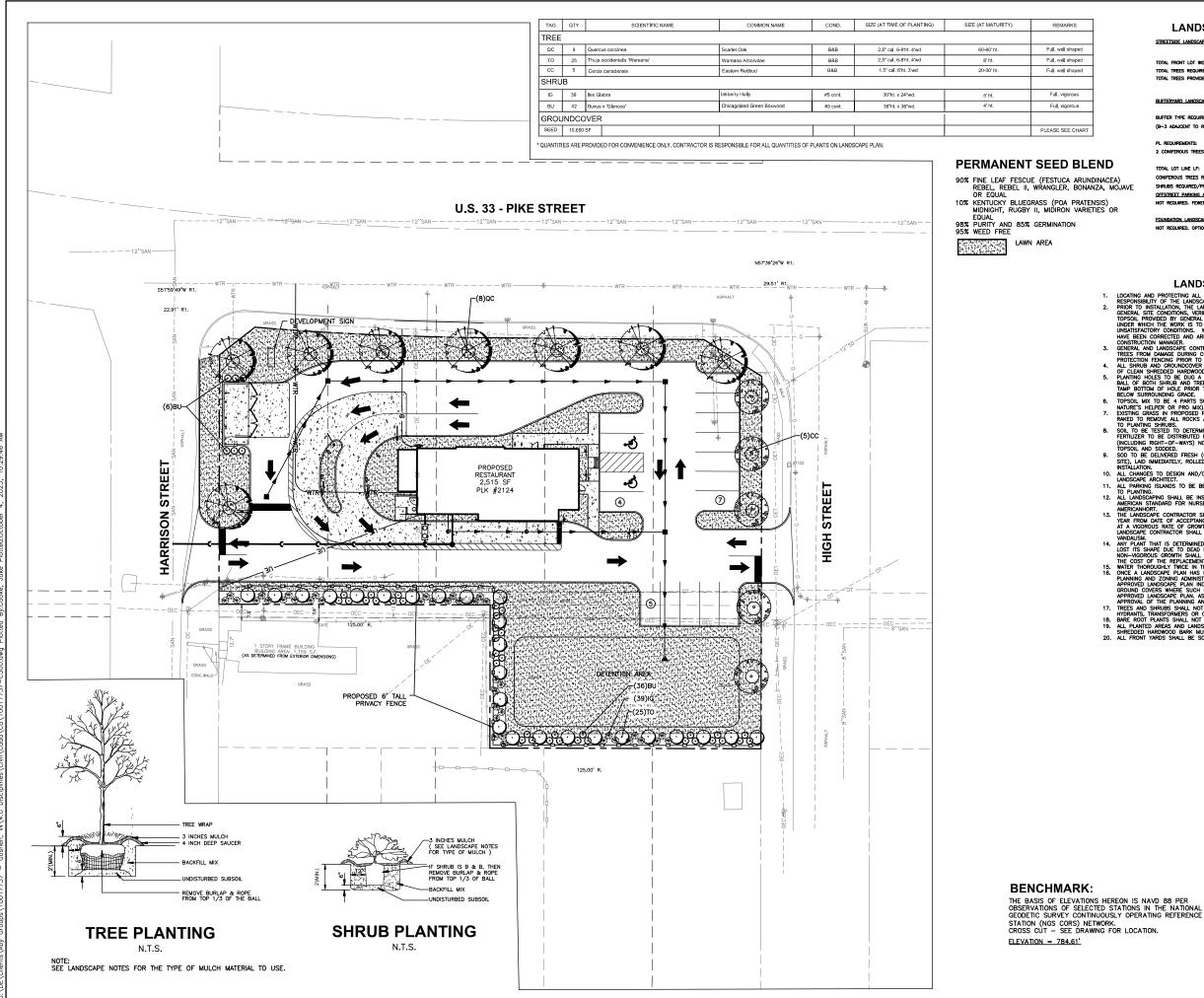
From High Street looking northwest







db db



LANDSCAPE REQUIREMENTS

TREETSIDE LANDSCAPING

DTAL FRONT LOT WIDTH (MINUS TOTAL TREES REQUIRED (40' O.C.): TOTAL TREES PROVIDED:

12.75 TREES 13 TREES

RUFFER TYPE REQUIRED. (B-3 ADAJCENT TO RESIDE

PL REQUIREMENTS

2 CONIFEROUS TREES PER 25 LF OF LOT LINE, 4 SHRUBS PER 25 LF OF LOT LINE,

)	TOTAL LOT LINE LF: 315 LF	
EA)	CONIFEROUS TREES REQUIRED/PROVIDED: 25/25	
MOJAVE	SHRUBS REQUIRED/PROVIDED: 50/81	
	OFFSTREET PARKING AREA LANDSCAPING	
DR	NOT REQUIRED. FEWER THAN 30 PARKING SPACES PROPOSED.	

FOUNDATION LANDSCAPING NOT REQUIRED. OPTIONAL.

LANDSCAPE NOTES

- LANDSCAPE NOTES LOCATING AND PROTECTING ALL UNDERGROUND UTLITIES, PRIOR TO DIGGING, IS RESPONSIBILITY OF THE LUNDSCAPE CONTRACTOR. PRIOR TO INFELLATION, THE LUNDSCAPE CONTRACTOR. PRIOR TO INFELLATION, THE LUNDSCAPE CONTRACTOR INFORMATION STATES AND AND ADDRESS AND ADDRESS AND ADDRESS UNDER WHICH THE WORK IS TO BE DONE. NOTIFY GENERAL CONTRACTOR AND APPROVE TOPSOL PROVIDED BY GENERAL CONTRACTOR AND DESERVE THE SITE CONTIGNIS UNDER WHICH THE WORK IS TO BE DONE. NOTIFY GENERAL CONTRACTOR OF ANY UNSATISFACTORY CONTINUOUS. WORK SHALL NOT PROCEED UNTIL SUCH CONDITIONS HAVE BEEN CORRECTED AND ARE ACCEPTABLE TO THE LANDSCAPE CONTRACTOR AND/OR CONSTRUCTION MANAGE DURING CONSTRUCTION. GENERAL CONTRACTOR TO INSTALL TREE FREED FROM DAMAGE DURING CONSTRUCTION. GENERAL CONTRACTOR TO INSTALL TREE ALL SHRUB AND CROUNDCOVER BEDS TO BE KULCHED WITH A MINIMUM OF 3 INCHES OF CLEAN SHREDDED HARD TREE, AMEND BACKFILL WITH TOPSOL MX. BACKFILL AND TAMP BOTTOM OF HOLE PRIOR TO FLANTING SO TOP OF ROOT BALL DOES NOT SIST SETLE BELOW SURFOLVIDING DAMAGE. TOPSOL MIX TO BE 4 PARTS SCREENED TOPSOL AND 1 PART ORGANIC MATERIAL (i.e. NUTURES HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (i.e. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. NUTURES) HELPER OR ROM MINICIPAL PRIOR TOPSOL AND 1 PART ORGANIC MATERIAL (I.E. 2.

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- INSTALLATION. ALL CHANGES TO DESIGN AND/OR PLANT SUBSTITUTIONS TO BE AUTHORIZED BY LANDSCAPE ARCHITECT. ALL PARKING ISLANDS TO BE BERMED UP 6"-10" WITH CLEAN FRIABLE TOPSOIL PRIOR TO PLANTING. ALL LANDSCAPING SHALL BE INSTALLED IN CONFORMANCE WITH ANSI 260.1 THE AMERICAN STANDARD FOR NURSERY STOCK, AND THE ACCEPTED STANDARDS OF AMERICANGT.
- AMERICAN STANDARD FOR NURSERY STOCK, AND THE ACCEPTED STANDARDS OF MERICANNOR: THE LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL PLANTS INSTALLED FOR ONE FULL YEAR FROM DATE OF ACCEPTANCE BY THE OWNER. ALL PLANTS SHALL BE ALIVE AND AT A VIGOROUS RATE OF GROWTH AT THE END OF THE GUARANTEE PERIOD. THE LANDSCAPE CONTRACTOR SHALL NOT BE RESPONSIBLE FOR ACTS OF GOD OR
- LNDSCAPE CONTRACTOR SHALL NOT BE RESPONSIBLE FOR ACTS OF GOD OR VANDAUSM.
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 ALL PLANTED AREAS AND LANDSCAPED ISLANDS SHALL RECEIVE A (4) INCH LAYER OF SIREDEDE HARDWOOD BARK MULCH.
 ALL FRONT YARDS SHALL BE SODDED AND INCLUDE AN IRRIGATION SYSTEM.





GRAPHIC SCALE IN FEET

SITE IMPROVEMENT PLAN No. Date Revision POPEYES- GOSHEN, INDIANA 333 Warrenville Road 10017737 No. Date Revision Mest Pike Street Goshen, ElkHart country, INDIANA Suite 200 Date 10/03/23 Date Revision Mest Pike Street Goshen, ElkHart country, INDIANA WoollPERT 800.414.1045 Dr. MG Dr. MG Dr. MG LANDSCAPE PLAN Revision CKD. JC Dr. MG Dr. MG Dr. MG			1			SEAL		
WOOLPERT 3333 Warrenville Road PROJECT No: 10017737 Suite 200 DATE 10/03/23 WOOLPERT B00.414.1045 DES. JC WOOLPERT 800.414.1045 DR. MG	REVISION							
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SITE IMPROVEMENT PLAN POPEYES- GOSHEN, INDIANA west pike street goshen, elkhart county, indiana 46526 LANDSCAPE PLAN								
1 I	SITE IMPROVEMENT PLAN	EYES- GOSHEN, INDIANA	WEST PIKE STREET	GOSHEN, ELKHART COUNTY, INDIANA 46526		LANDSCAPE PLAN		

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