

**AGENDA
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING - 4:00 P.M.
WEDNESDAY, NOVEMBER 18, 2015
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT**

A public comment period not to exceed thirty (30) minutes will be held during each Board and Commission meeting, as well as all regularly scheduled City Council meetings, Committee of the Whole meetings, meetings of committees and/or task forces (hereinafter "committees") created by the City Council, work sessions, and special meetings of the City Council. Nothing herein shall prohibit the combination of meetings, at which only one public comment period will be allowed.

Anyone desiring to address the Board, Commission, Committee or City Council, as applicable, must complete a public comment card at least five (5) minutes before the start time of the meeting. Public comment cards shall be made available at the location of the meeting by City staff at least 15 minutes prior to the start time of the meeting. The person must include their name, and any other desired contact information, although said person shall not be required to publicly state their address information. If more than five individuals desire to make a public comment, the order of speakers shall be by random draw. If an individual is not able to speak due to the time limitation and said individual still desires to address the individuals at a future meeting of the same type, said individual shall be entitled to speak first at the next meeting of the same type. (Ordinance No. 2015-46))

- 4. MINUTES:** Consideration, review and approval of Minutes from the October 21, 2015 meeting.
- 5. REGULAR AGENDA**
 - A. SP-04-15** Public hearing, consideration, review and approval of the petition submitted by Fred Wollrab and Carol Shepard for:
 - 1)** A Special Use for a two-family residence under the Municipal Code 44.6-8.D All for the property located at 1314 Fell Avenue. Zoned R-1C, High Density Single-Family Residence District. (Ward 4).
 - B. SP-05-15** Public hearing, consideration, review and approval of the petition submitted by Jonah Smith for:
 - 1)** A Special Use for an Antique Store under the Municipal Code 44.4-6 D.3. where a former legal nonconforming use may be replaced with a second nonconforming use provided the second use is less nonconforming or more compatible with the district.
All for the property located at 403-405 East Locust Street. Zoned R-3A, Medium Density Multiple-Family Residence District. (Ward 4).

- 6. OTHER BUSINESS**
- 7. NEW BUSINESS**
- 8. ADJOURNMENT**

**MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, OCTOBER, 2015, 4:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE ST., BLOOMINGTON, IL**

Members present: Chairman Ireland, Mr. Briggs, Mr. Kearney, Ms. Meek, Mr. Simeone, Mr. Bullington, Mr. Brown

Members absent: None

Also present: Mr. Tom Dabareiner, Community Development Director
Mr. George Boyle, Assistant Corporation Counsel
Ms. Courtney Kashima, MUSE Community Design

Mr. Dabareiner called the meeting to order at 4:01 p.m. and called the roll. A full quorum was present.

PUBLIC COMMENT: None

The Board reviewed the minutes from August 19, 2015 and accepted the minutes as printed.

Chairman Ireland explained the meeting procedures. Mr. Dabareiner stated all items were published.

REGULAR AGENDA:

Z-06-15 Public hearing, consideration, review and approval of the petition submitted by Monica Tominov and James Elkin to allow: The construction of a six-foot fence in the front yard where a four-foot tall fence is allowed. All for the property located at 1009 N. Western Avenue. Zoned R-1C, High Density Single-Family Residence District.

Monica Elkin and James Elkin, 1009 N. Western Avenue, were sworn in. Ms. Elkin noted their request for a six foot privacy fence in place of an existing 4-foot chain link fence is based on their shift work and taking the dogs outside late at night; she believes the new fence will reduce the barking by her dogs and prevent the opportunity for passers-by to pet the dogs; she believes the fence will add value to the property. Chairman Ireland explained that as a corner lot, 1009 Western has two front yards and subject to those requirements. Mr. Bullington asked if the existing fence is located too close to the street; Mr. Dabareiner stated that the location would not be allowed today and the location was likely approved in the past, so it is a lawful nonconforming location. Mr. Kearny inquired about the nearby bars; Ms. Elkin explained that patrons leave nearby bars and become a problem for the dogs, and a privacy fence would be a deterrent. Mr. Briggs sought clarification of the front yard. Ms. Elkin presented photos of the yard, fence and area which the members reviewed. Chairman Ireland sought clarification on where the front yard should begin. No one present wanted to speak in favor or against the petition.

Chairman Ireland requested the staff report. Mr. Dabareiner presented staff's case, showing the location map and aerial, in addition to photos taken by staff. Mr. Dabareiner highlighted several of the critical Findings of Facts, after which he recommended that the ZBA deny the requested fence variance. Mr. Briggs asked staff to clarify staff assertions over the impact of lining streets with tall privacy fences; Mr. Dabareiner noted that national studies have demonstrated the negative impact. Mr. Briggs asked to clarify the location of the back yard; Mr. Dabareiner explained where the backyard is located on a corner property and repeated information about this property having two front yards; Mr. Briggs concluded that the proposed six foot privacy fence should be setback farther than the existing four foot chain link fence. Mr. Briggs asked about where in the front yard a four-foot fence can be erected; Mr. Dabareiner noted his interpretation of the ordinance regarding the fence, where the fence can be four feet tall versus and where it could be six feet tall.

Mr. Simeone stated the compromise may be in relocating the six foot fence as proposed back in line with the primary structure. Chairman Ireland suggested the north wall of the residence provides the imaginary line where the fence could be extended. Ms. Meek believes the ZBA should consider that the request is mid-block and not near the corner.

Chairman Ireland asked the petitioners to return to the podium. Mr. Briggs suggested they move the fence back to be in-line with the primary structure. Mr. Elkin believed moving the fence six to eight feet would significantly impact the usability of the backyard by the dogs. Mr. Briggs stated that he believed the distance for moving the fence is not significant.

The motion was **denied** with three (3) voting in favor and four (4) against with the following votes being cast on roll call: Mr. Brown—No; Mr. Briggs—No; Mr. Simeone—No; Ms. Meek—Yes; Mr. Bullington—No; Mr. Kearney—Yes; Chairman Ireland—Yes. Chairman Ireland noted that while the request was denied the petitioner may choose to appeal it to the City Council.

Z-07-15 Public hearing, consideration, review and approval of the petition submitted by Maria T. Feger to allow:

1) A height variation to 26 feet for an accessory structure in a residential district where one story or 14-feet, whichever is less, is allowed.

2) A variation to allow the gross floor area of the accessory structure to exceed that of the principal structure, or 1,000 square feet, whichever is less.

All for the property located at 1422 Butchers Lane. Zoned R-1B, Medium Density Single-Family Residence District.

Maria Feger, 1426 Butchers Lane, was sworn in. Ms. Feger stated she purchased the property last year and would like to place a storage building on the property, which she indicated is more than 6.10 acres in area. The storage building would be 60 feet by 80 feet to pull in a recreation vehicle, cars, a mower, a skid loader and other equipment; the location is in the one flat area available to contain a building of that size. In support, she points to other large buildings in the neighborhood and she believes the proposed building will not be viewable from anyone's front yard. Ms. Feger provided photos of the property. She stated the ZBA should consider the size of the property in relation to the building proposed, which she believes is relatively small. Ms. Feger provided an aerial photograph of the property with the location of the proposed shed drawn where it would be placed. She called attention to the neighbor's larger shed, a larger commercial building northeast of the property, and sheds on properties to the south.

In response to Chairman Ireland's question, Ms. Feger responded that several properties are in the county and point out others that had been annexed into the City of Bloomington. Mr. Dabareiner pointed to the screen which showed clearly which areas were incorporated versus unincorporated in the neighborhood. Mr. Bullington asked if anyone lived in the house located on the property and Ms. Feger responded that she plans to have a relative live there. Mr. Brown asked if the petitioner planned on extending the driveway back to the shed and Ms. Feger indicated that she would like the driveway to be able to handle the RV, so other trucks should be able to use it too. She added the RV is currently offsite. Mr. Simeone clarified whether the existing sheds are not usable and if they and the house would be removed once the proposed shed is built; Ms. Feger concurred the sheds that would be removed, but not the house.

Dr. Frank Beaty, 11 Stetson Drive, was sworn in. Dr. Beaty pointed out that the proposed building is more than one-tenth of an acre in size in support of his conclusion that it is a huge building. He stated that he and others are opposed to the proposed height and area variations. Mr. Kearny clarified if Dr. Beaty represented other property owners and Dr. Beaty indicated which neighbors he was speaking for using the map. Mr. Simeone asked if the existing trees would block the view; Dr. Beaty responded the trees were not sufficient for that purpose. Mr. Briggs asked if they were evergreens; Dr. Beaty indicated they were deciduous.

Elaine Rinehimer, 1506 Sweetbriar, was sworn in. Ms. Rinehimer expressed concerns about traffic and whether the proposed building would turn into a commercial use.

Mr. Dabareiner presented the City staff report. He described the zoning surrounding the property and presented the aerial photo, along with photos of the surrounding properties and the views from the subject property. He noted the larger shed to the east is legal nonconforming and was annexed into the City; the property with the large building to the northeast is a commercial building and unincorporated. Mr. Dabareiner reviewed the variances requested and reviewed the Findings of Fact from staff's perspective for the height variance and the area variance. He indicated there were no physical characteristics of the property that required the building have more height and area; he indicated a smaller structure could be built; he indicated his feeling that it would be detrimental to the neighborhood. He recommended denial of the request. Mr. Simeone asked why this property was zoned R-1B; Mr. Dabareiner described the annexation process where properties enter as Agriculture and get rezoned, and he noted the consistency of the zoning with other adjacent properties.

Ms. Meek stated that the property was very large and it did not make sense to have it zoned medium density residential. Mr. Kearny asked if size of the lot could be taken into consideration and Mr. Dabareiner replied that the ZBA should if they think it is a defining characteristic. Mr. Briggs agreed that the property was large, but referred to the Findings of Fact related to granting a special privilege; he stated this may grant a special privilege for the subject property owner that others, such as those on Stetson Drive, could not take advantage of. Mr. Dabareiner added his concern about setting precedence and that this could open the door for a new regulation allowing larger sheds on larger properties. Mr. Briggs asked if the petitioner was informed that a smaller shed may be feasible and wondered what amount of storage they really needed to accommodate. Chairman Ireland added that the larger property with an R-1B zoning could be subdivided. Mr. Simeone noted that the neighbors are concerned with a shed but they could get a whole subdivision in the same area.

Mr. Kearny asked if other provisions in the code would protect against a business popping up there. Mr. Dabareiner affirmed that but noted that not everyone does the right thing and the City often hears after the fact when a problem appears.

Chairman Ireland invited the petition to the podium. Mr. Briggs repeated his question about why the shed need to be that big; Ms. Feger noted 3 or 4 personal cars, lawn mowers, the RV and other items. Ms. Feger noted that the location is 220 feet away from the neighbors' backyards and that they planned on adding pine trees to block the view. Mr. Kearny asked how close the proposed shed was to the existing residence, noting it appeared closer to neighboring properties than to the existing residence; Ms. Feger stated the intended distance was to keep it farther from the street and not able to be viewed from the front yards along Stetson Drive. She indicated a willingness to move the shed to a different location.

Chairman Ireland asked if the residence was gone, could a larger accessory structure be built? Mr. Dabareiner stated that the property may not have an accessory structure without a principle structure.

Mr. Simeone stated he was having difficulty with this proposal, repeating the property is quite large and unusually configured. He asked what the City wanted on the property. Mr. Bullington indicated that this is not a question before the ZBA, and that the question has to do with compliance with the rules within the zoning district as given; he felt there was little to support the variance and was also concerned with the precedent. Mr. Dabareiner stated they could seek a rezoning if they have a less dense use in mind or to a district that allows large buildings.

The motion was **denied** with one (1) voting in favor and six (6) against with the following votes being cast on roll call: Mr. Brown—No; Mr. Briggs—No; Mr. Simeone—No; Ms. Meek—Yes; Mr. Bullington—No; Mr. Kearney—No; Chairman Ireland—No.

Z-08-15 Public hearing, consideration, review and approval of the petition submitted by J.C. Homebuilders, Inc., to allow: A minimum lot variance for an 8,400 square foot lot where 10,000 square foot is required. All for the property located at 812 E. Chestnut Street. Zoned R-1C, High Density Single Family Residence District.

Chairman Ireland noted the special use request which is typically handled separately, so he assigned the special use case number as SP-03-15. It was determined the notice had been published for a special use, so the hearing could proceed on both the variance and the special use.

Mark Johnson, 115 W. Front Street, and Douglas Johnson, 3011 Geranium Drive, were sworn in. Mark Johnson introduced the case by clarifying the content of the neighborhood notices; he continued by describing the nonconforming lot size at 8,400 square feet and the narrow property width, as originally considered. Chairman Ireland noted that the second variance is not required. For the special use, Mr. Johnson noted that other properties in the neighborhood have been identified as multi-family and duplex, in addition to the predominant number of single-family residences in the area. He asserted there would be no additional impacts created compared with the neighborhood.

Mr. Briggs asked whether this proposal results in over-saturation of the neighborhood with duplexes; Douglas Johnson noted that at most 50% of the neighboring and nearby structures were duplex or multi-family and the new duplex would be compatible. Mark Johnson provided a brief history of the property and described the existing property, which is vacant except for a garage. He noted that having the accessory structure without a principle structure is not allowed and the proposal would bring it into compliance. Mr. Briggs repeated his question about over-saturation. Mr. Kearny asked if the petitioner had considered a single family house; Mark Johnson said they had considered single family but prefer to build a duplex, as Johnson family members would live in half and rent the other half to others to assist in covering mortgage and expenses.

There being no one else to speak in favor or against, Ms. Kashima provided the City staff report. She stated the variance need exists whether a single family or duplex residence is constructed and that the R-1C zoning district assumes duplexes will be part of the district provided special use approval is obtained. She showed an aerial photograph and the proposed elevation, which Ms. Kashima noted provided a design very compatible with single family residences. She reviewed the standards for approval of the special use and concluded the special use is warranted. Ms. Kashima also endorsed the variance because a variance is required no matter what is constructed there.

Chairman Ireland asked about parking. Ms. Kashima showed the aerial photograph and discussed the availability of parking. Chairman Ireland asked about excessive parking on the street and both Ms. Kashima and Mr. Dabareiner indicated they had visit the site at different times of the day and observed no unusually high amounts of parking on the street. Mr. Kearny asked about the parking requirements; Mr. Dabareiner responded that they required two spaces per unit, so a total of four parking spaces required.

Chairman Ireland asked the petitioner to clarify the parking use and proposed spaces. Douglas Johnson noted that four spaces are provided for the new duplex with room for another 4-5 spaces from the alley.

The motion was **approved** with seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Mr. Brown—Yes; Mr. Bullington—Yes; Mr. Simeone— Yes; Mr. Kearney—Yes; Mr. Briggs— Yes; Ms. Meek—Yes; Chairman Ireland—Yes.

SP-03-15 Public hearing, consideration, review and approval of the petition submitted by J.C. Homebuilders, Inc., to allow: A special use to allow a duplex, as required in R-1C. All for the property located at 812 E. Chestnut Street. Zoned R-1C, High Density Single Family Residence District.

Having discussed the case under the previous discussion, the motion was to **recommended** with seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Mr. Brown—Yes; Mr. Bullington—Yes; Mr. Simeone— Yes; Mr. Kearney—Yes; Mr. Briggs— Yes; Ms. Meek—Yes; Chairman Ireland—Yes.

Z-09-15 Public hearing, consideration, review and approval of the petition submitted by Gregory M. Shepard to allow: A fence height variance for a 4'10" steel fence where 4 feet is

allowed. All for the properties at 1700 E. Washington St., 1706 E. Washington St., 24 Country Club Pl., and 26 Country Club Pl. Zoned R-1A, Low Density Single Family Residence District.

William C. Wetzel, office address 115 W. Washington, Suite 400, attorney for the petitioner; Jim Ash, 1531 Bacon, Pekin, Illinois; and, Greg Shepherd, 15 Country Club Place, the petitioner, and were sworn in. Mr. Wetzel introduced the petitioner's request, a fence variance of 4'10" where four feet is the maximum allowed, noting its link to the historic past and Ewing Manor. He considers it a minor change, and he agrees with staff's report and affirmative recommendation.

Mr. Briggs clarified that the stone pillars are not subject to the request; Mr. Dabareiner agreed.

Fred Noyes, 106 S. Mercer, was sworn in. Mr. Noyes stated it was great to see the house and the prairie-style architecture, but he wanted to clarify the height of the fence. He believes the height should be five feet tall because of the clearance required at the base of the fence, based on his measurement of the Ewing Manor fence. Mr. Noyes noted concerns with the prior fence having been built, in some locations along the north side, atop a berm; he does not wish to see the fence built the same way. Mr. Noyes also noted the trees taken down accidentally should be replaced by the landscaper at the landscaper's cost.

Three being no further comments for or against, Ms. Kashima presented staff's case. She began her presentation showing the zoning map and aerial photograph of the property, along with site photographs. She reviewed staff's position on the Findings of Fact and concluded the historical character and design were unique and recommended in favor. Ms. Kashima concurred with the five foot request because the measurement begins at grade.

Mr. Kearny asked if the adding the statement that the proposed fence contributes to a consistent height helps meet the Findings of Fact #1. Ms. Kashima stated the height consistency statement could be placed in both #1 and #2, and believes it is more appropriate in #2. Mr. Kearny believes it is important to consider that the proposal is for an open fence, rather than a privacy fence, so he is comfortable with a five-foot fence. Mr. Dabareiner added that this variance is specifically for this open design, so using the height variation to erect a privacy fence would not be granted by this decision. Mr. Briggs suggested this condition be attached.

Mr. Wetzel explained the driving force is the historical link to the Ewing Manor fence design. He described the mistake over the tree removal on the east side, given the lack of sidewalk and the location of the existing fence. Mr. Ash noted that the fence could be five-foot tall measured from grade because the fence panel is 4'10" tall. Mr. Shepherd apologized for the trees that were cut down mistakenly and believes that the trees could not be replaced. Mr. Boyle noted that the tree question is not related to variance requested; he also suggested that the variance request should be amended to equal five feet. Mr. Boyle considered the additional two inches to be diminimus.

Mr. Noyes reiterated that he does not want this fence built atop a new berm. Chairman Ireland asked if a new berm will be built and Mr. Shepard responded in the negative.

Mr. Kearny motioned to amend the request 12 inches for a total height of five feet; seconded by Ms. Meeks. The motion was unanimously approved, by voice vote.

The motion was **approved**, as amended, with seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Mr. Brown—Yes; Mr. Bullington—Yes; Mr. Simeone—Yes; Mr. Kearney—Yes; Mr. Briggs— Yes; Ms. Meek—Yes; Chairman Ireland—Yes.

Z-10-15 Public hearing, consideration, review and approval of the petition submitted by Greenview Landscaping Company, to allow: A fence height variance for a 6-foot privacy fence where 4 feet is allowed. All for the property located at 1521 E. Olive Street. Zoned R-1C, High Density Single Family Residence District.

Tim Southey, 1207 E. Jefferson, the landscape architect for the petitioner; and, Lori Crutcher, 1521 E. Olive Street, the petitioner, were sworn in. Mr. Southey stated he was contacted about providing a landscape design in the Crutcher's backyard and incorporated a six-foot fence. He went on to describe the existing fence to which the petitioner intends to connect the six-foot fence. He indicated he believes he is improving the site lines and the fence will provide privacy and reduce noise for the petitioner. He added that the landscape plan includes removing some undesired vegetation close to the sidewalk and improving sight lines. He provided additional information about the full landscape plan.

Mr. Kearny asked what the extra two feet of fence would accomplish. Mr. Southey repeated the desire for privacy, reduced traffic noise and impacts from vehicles headlights; he indicated that the landscaping added color and buffering to the fence line. Mr. Kearny asked if other houses exist in the neighborhood with six foot fences; Ms. Crutcher said she believed yes and Mr. Southey identified some others in the community. Mr. Briggs noted the height variance granted for the brick wall for the house further south on Mercer Street. Ms. Crutcher indicated the house was about two blocks away.

Jeff and Sandra Thompson, 1513 E. Olive Street, were sworn in. Mr. Thompson explained they live next door to the Crutcher's and they find the plans pleasing and believe it improves sight lines. They support the plans and the variance.

There being no one else present in favor or opposed, Mr. Dabareiner presented the staff report. He showed the aerial photograph along with some on-site photographs. He reviewed the Findings of Fact, indicating staff's belief that there are no physical conditions that require a six foot fence and where a four foot fence is not feasible; that it would provide a benefit where others are required to abide by the ordinance; and that none of the Findings of Fact were met. Therefore, staff is opposed to granting the variance. Mr. Kearny asked about use and enjoyment of the backyard, and the possible increase in traffic along Mercer, and whether this information can be used by the ZBA; Mr. Dabareiner concurred it can be used. Mr. Kearny asked whether the brick fence referenced could be used; Mr. Dabareiner indicated that they can use it but with more caution because the ZBA probably found unique circumstances in that case. Mr. Bullington pointed out that the six foot brick fence others are referencing is flush with the house and does not extend out as it does in the current case; he stated this is a key difference. Chairman Ireland noted that the variance, as he recalled, was for an eight foot tall fence. Ms. Meek expressed concern that Mercer may develop with a line of six foot tall privacy fences. Mr. Kearny identified other major streets that may benefit from six foot tall privacy fences. Mr. Briggs stated the improvement to sight lines in this case is important and that moving the fence further back was a real impact on use of their backyard. Mr. Simeone asked why staff continued to be

concerned with sight lines; Mr. Dabareiner indicated that the foliage could cause a problem. Mr. Briggs stated he feels the petitioner did a good job angling the design to improve sight lines.

Mr. Bullington stated he does not see enough distinction between this case the earlier case presented which was denied; he agrees it looks nicer, but that is not a standard in the zoning ordinance. He raised a concern about setting precedent for any corner lot. Mr. Briggs stated this case is unique because it is on a busy roadway. Mr. Kearny stated that there are subtle differences with every case and they try to consider them case by case; he noted that the precedent concern probably does not start today and mentioned as an example the Spanish style house with the tall brick fence.

The motion was **approved** with four (4) voting in favor and three (3) against with the following votes being cast on roll call: Mr. Brown—No; Mr. Bullington—No; Mr. Simeone—Yes; Mr. Kearney—Yes; Mr. Briggs—Yes; Ms. Meek—No; Chairman Ireland—Yes.

F. Z-11-15 Public hearing, consideration, review and approval of the petition submitted by St. John's Evangelical Lutheran Church to allow:

1) A height variation to 21'6" for an accessory structure in a residential district where one story or 14-feet, whichever is less, is allowed.

2) A variation to allow the gross floor area of the accessory structure to exceed that of the principal structure, or 1,000 square feet, whichever is less.

All for the property located at 1617 E. Emerson Street. Zoned R-1B, Medium Density Single Family Residence District (Ward 4).

Sherry Buckellew, 1000 Asbury Farms, Normal, was sworn in representing the petitioner. Mr. Brown noted he is a member of the church and believes he should not vote; Chairman Ireland suggested Mr. Brown sit in the audience. Ms. Buckellew noted that after discussion with city staff they chose to reduce the size of the proposed shed; she noted the size of the principle structure exceeds 60,000 square feet and it would be located on an 11 acre property. She identified surrounding land uses, noting that the property adjacent to the west is another church. She provided letters of support from the two residences adjacent to the west. Bullington asked what would be stored in the shed; Ms. Buckallew listed a bus, a van, two lawn mowers and a trailer.

Chris Landstrom, 3311 Barrington Road, was sworn in. Mr. Landstrom stated he serves on the church council and he is in favor of the shed for storage of the vehicles and equipment; he stated the council considered many options but settled on this one. Mr. Briggs asked where the bus and van are stored now; Mr. Landstrom explained the church currently has a garage that would come down, but it currently stores some of the equipment, and the bus, van, and the trailer sit behind the garage. Mr. Briggs inquired as to how the bus is used; Ms. Buckellew noted several different uses for the bus, to which Mr. Briggs responded that the bus is different because it serves many people for different reasons, while the RV in the earlier case served only a private purpose.

Carol and David Johnson, 3 Jill Court, were sworn in. Mr. Johnson stated they are members of the church and live adjacent to where the proposed garage would be built; he indicated that they see nothing negative about the proposal and support the petition. Mrs. Johnson stated that church

representatives promised the new structure will not have any trash stored behind it as the existing garage does.

There being no one else to speak in favor or in opposition, Mr. Dabareiner provided the staff report. Mr. Dabareiner showed the aerial photograph; he noted the size of the principle structure and that the property was located at the intersection of two busy streets. Mr. Dabareiner noted the surrounding land uses and that the nearby commercial properties had much larger structures; he noted the significant berm in place between the shed's location and the street which would conceal the view. Mr. Landstrom noted a different location for the shed, instead of that shown by staff. Mr. Dabareiner stated that the property has limited locations that would accommodate the shed with detention just south of the proposed location and placement on the parking lot reducing parking supply. Mr. Dabareiner believes there are unique attributes to this location, as stated earlier; and, while it may be considered simply the petitioner's desire, staff believes there are more unique arguments in favor than against; and, given the use, the site constraints, access to the arterial street and commercial adjacent and near the property, staff considers the property unique enough to support a favorable recommendation.

Mr. Kearny reviewed the Findings of Facts and notes that the code lists the Findings of Fact conjunctively, not disjunctively; that this suggests all Finding need to be found in favor. He pointed out that staff found three in favor and two opposed, but recommended in favor. Mr. Dabareiner noted that this ordinance is written in a way that is firm in some ways and less so in other ways. In response to Mr. Kearny's question, Mr. Dabareiner stated he saw this case as a balancing act.

The motion was **approved** with six (6) voting in favor and zero (0) against, with Mr. Brown not voting, and with the following votes being cast on roll call: Mr. Bullington—Yes; Mr. Simeone—Yes; Mr. Kearney—Yes; Mr. Briggs—Yes; Ms. Meek—Yes; Chairman Ireland—Yes.

OTHER BUSINESS:

Chairman Ireland welcomed the new members to the ZBA. Mr. Bullington and Mr. Brown each provided background information about themselves. Mr. Kearny corrected Mr. Dabareiner regarding the code requirements in 44.4-5 for placement of a four-foot fence in the front yard. Mr. Briggs inquired as to the status of the Ekstam proposal; Mr. Dabareiner noted the case had not yet gone before Council and the petitioner has not submitted a revised plan. Mr. Briggs requested clarification on the off-street parking requirements for a duplex and whether parking could occur in the front yard; Chairman Ireland noted that the restriction applied to accessory parking spaces.

NEW BUSINESS:

Mr. Dabareiner distributed the 2016 ZBA meeting schedule.

ADJOURNMENT: 7:21 p.m.

Respectfully,

Tom Dabareiner AICP

CITY OF BLOOMINGTON
REPORT FOR THE BOARD OF ZONING APPEALS
NOVEMBER 18, 2015

SUBJECT:	TYPE:	SUBMITTED BY:
SP-04-15 1314 Fell Avenue	Special Use to allow a two-family dwelling	Courtney Kashima, AICP

REQUEST

The petitioner is seeking a special use to allow a two-family dwelling in the R-1C district.

NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

Owner and Applicant: Fred Wollrab and Carol Shepard

PROPERTY INFORMATION

Existing Zoning: R-1C, High Density Single-Family Residence District
Existing Land Use: Residential dwelling
Property Size: Approximately 22,216 square feet
PIN: 14-33-451-027

Surrounding Zoning and Land Uses

Zoning

North: R-1C, Single-Family Residence
South: R-1C, Single-Family Residence
East: R-1B, Single-Family Residence
West: R-1C, Single-Family Residence

Land Uses

North: Single-Family Residences
South: Single and Multi-Family Residences
East: Single-Family Residences
West: Single-Family Residences

Analysis

Submittals

This report is based on the following documents, which are on file with the Community Development Department:

1. Application for a Special Use
2. Aerial photographs
3. Site visit

PROJECT DESCRIPTION

The subject site is commonly known as 1314 Fell Avenue and is located at the northwest corner of its intersection with Phoenix Avenue. The site is improved with a residential dwelling and garage. A two-family dwelling in the R-1C district requires a special use but the district contemplates these uses and duplexes are found elsewhere in the district.

Analysis

The property and structure are significantly larger than neighboring single-family homes. This property has previously been used as a sorority house and rooming house (both legally nonconforming uses). The petitioner is not proposing exterior alterations to the structure but wishes to create two dwelling units. Both units are two-story, one with three bedrooms and one with four bedrooms. The plans received label each of the second floor bedrooms as "Apt BR[#]" however these are proposed to serve a single unit and shall not be rented separately.

The property consists of three lots, which could be turned into three single-family houses or perhaps even three duplexes, all with greater impacts on the neighborhood. A single duplex, as proposed, is the least impactful of those options.

Action by the Board of Zoning Appeals.

For each special use application the Board of Zoning Appeals shall report to the Council its findings of fact and recommendations, including the stipulations of additional conditions and guarantees, when they are deemed necessary for the protection of the public interest or to meet the standards as specified herein. No special use application shall be recommended by the Board of Zoning Appeals for approval unless such Board shall find:

1. **that the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, comfort or general welfare;** the R-1C district contemplates single-family and two-family dwelling units, both of which currently exist in the neighborhood and district.
2. **that the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;** the petitioner proposes to make use of the existing building and make interior alterations to create a two-family dwelling which will not substantially diminish or impair property values within the neighborhood.
3. **that the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district;** alterations to the exterior of the building are not anticipated. The conversion of this structure into a two-family dwelling will not impede future development or redevelopment.
4. **that adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided;** utilities and drainage currently exist and will be in compliance with city code.

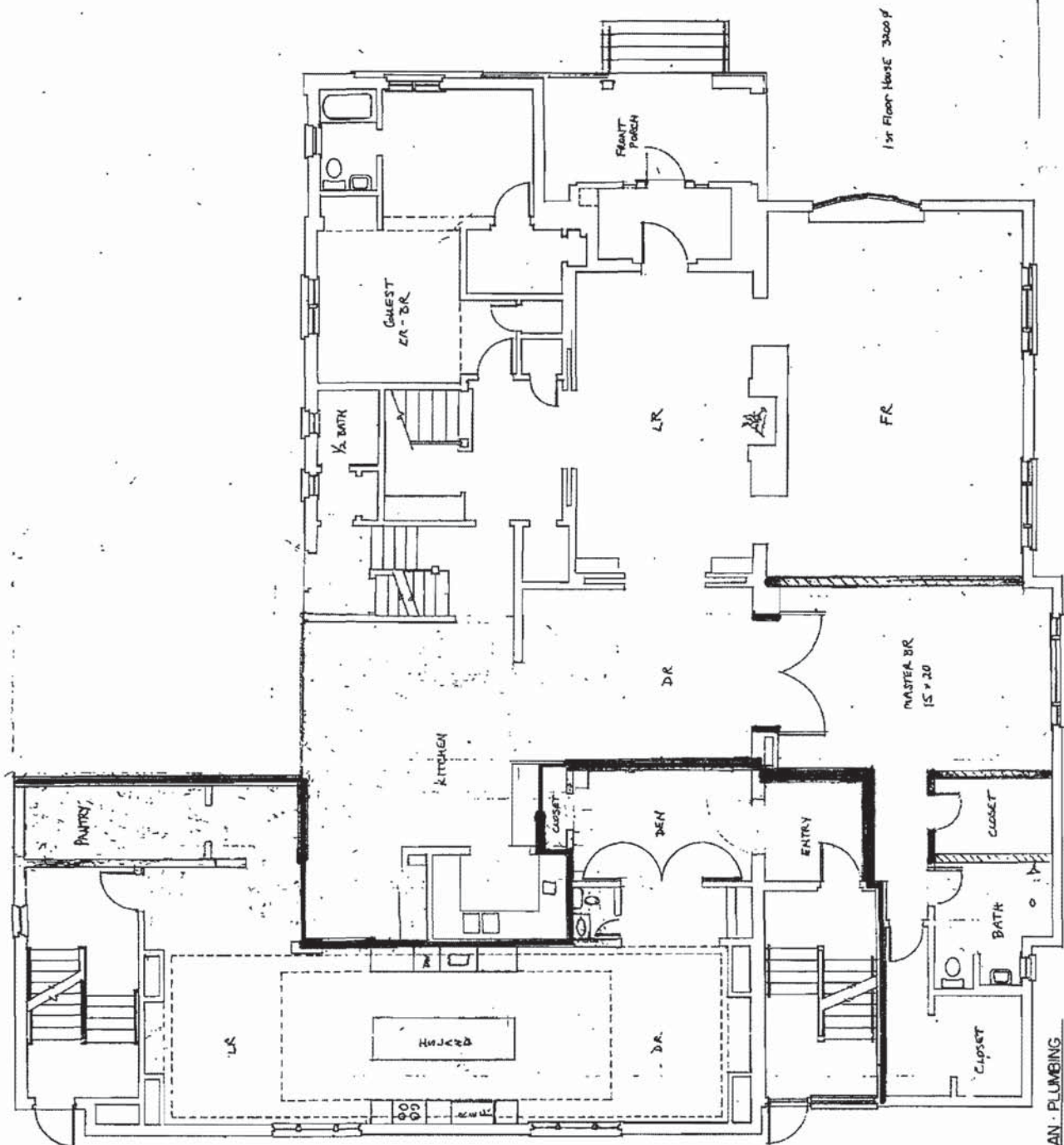
5. **that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;** the site currently has ingress and egress through an existing driveway.
6. **that the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by the Council pursuant to the recommendations of the Board of Zoning Appeals. (Ordinance No. 2006-137)** compliance with city codes will be adhered to.

STAFF RECOMMENDATION:

Staff finds that the petition has met the Zoning Ordinance's standards required to allow a special use. Staff recommends approval of the requested special use in Case SP-04-15, with the explicit condition of conformance with the zoning ordinance allowing a duplex and not allowing multi-family residences.

Respectfully submitted,

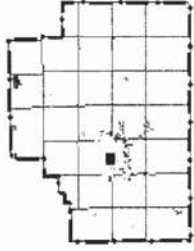
Courtney Kashima, AICP



1ST FLOOR PLAN - PLUMBING



Neighborhood Notice Area - 1314 Fell Ave



Legend

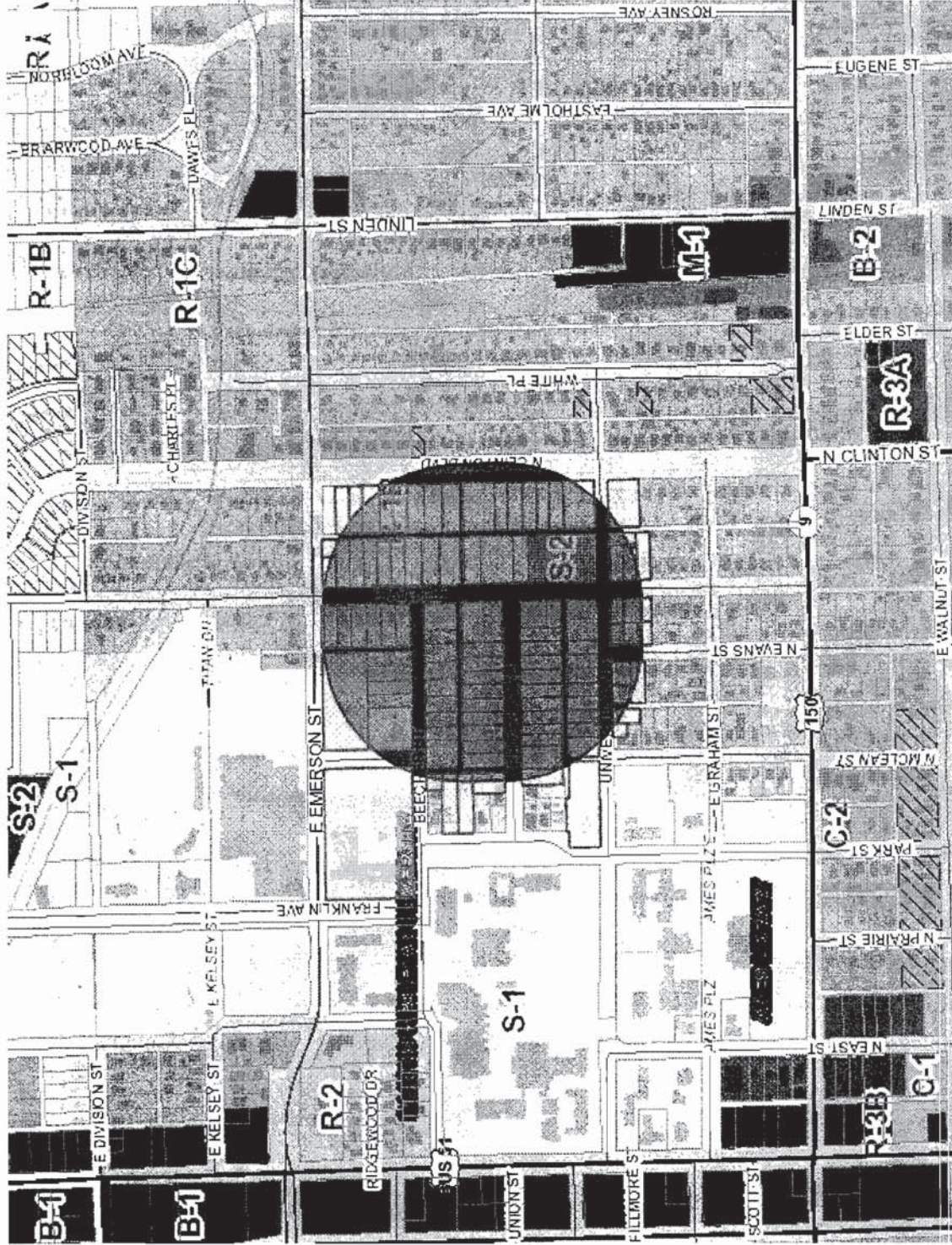
- Parcels
- Interstates
- US_Highways
- State_Highways
- County_Highways
- Minor_Arterial
- Major_Collector
- Minor_Collector
- Local_Road_Street
- Alleys
- Private_Streets
- Railroad
- Zoning_COUNTY

- A - Agricultural
- R-1 Single Family Residential
- R-2 Two-Family Residential
- M-1 Restricted Manufacturing
- M-2 General Manufacturing
- C - Commercial

- Zoning_TON_Overlay
- Parking Impact Zone
- S-3 Historic Districts
- South Uptown Overlay District

Zoning_TON

- A - Agriculture
- B-1 - Highway Business District
- B-2 - General Business District
- C-1 - Office District
- C-2 - Neighborhood Shopping Distr
- C-3 - Community / Regional Shoppi



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**CITY OF BLOOMINGTON
REPORT FOR THE BOARD OF ZONING APPEALS
NOVEMBER 18, 2015**

SUBJECT:	TYPE:	SUBMITTED BY:
SP-05-15 403-405 E. Locust Street	Special Use to allow an antique store	Courtney Kashima, AICP

REQUEST

The petitioner is seeking a special use to allow an antique store in an R-3A district.

NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

Owner and Applicant: Jonah Smith

PROPERTY INFORMATION

Existing Zoning: R-3A, Multiple-Family Residence District
Existing Land Use: Residential dwelling with vacant first floor commercial space
Property Size: 405 E. Locust (lot with structure) is approximately 4560 square feet; 403 E. Locust (parking lot) is approximately 9576 square feet
PIN: 21-04-253-004 and 21-04-253-015

Surrounding Zoning and Land Uses

Zoning

North: R-2, Mixed Residence District
South: R-2, Mixed Residence District
East: R-3A, Multiple-Family Residence District
West: R-3A, Multiple-Family Residence District

Land Uses

North: Single and Multi-Family Residences
South: Multi-Family Residence
East: Single-Family Residence
West: Multi-Family Residence

Analysis

Submittals

This report is based on the following documents, which are on file with the Community Development Department:

1. Application for a Special Use
2. Aerial photographs
3. Site visit

PROJECT DESCRIPTION

The subject site is commonly known as 403-405 E. Locust Street located between N. McLean Street and N. Evans Street and is comprised of two parcels that straddle an alley. The property at 405 E. Locust is improved with a two story structure—residential units above a commercial storefront; 403 E. Locust is a vacant lot that has been used as an accessory parking lot for the property.

Analysis

Per Section 44.6-30, an Antique Store is not an allowable use in the R-3A zoning district. The petitioner has filed a Special Use application under the provisions of 44.4-6(D)(3) which describes the continuance of an existing nonconforming use. This Section requires the Zoning Board of Appeals to find “that the proposed use is less nonconforming or more compatible to the district than the existing nonconforming use.” The first floor of the property is commercial in appearance and has been used for various retail and services uses over the last several decades. The most recent legal uses include a beauty shop, a tax preparation office and a counseling facility. The petitioner does not propose to make any structural alterations to the exterior of the property.

The burden is on the petitioner to establish “less nonconforming” or “more compatible.” For comparison purposes, staff researched parking ratios as a surrogate for measuring levels of impact. In Bloomington, the off-site parking ratio is the same for both beauty shops and antique stores, at 1 space per 250 square feet; therefore, one may assume the two uses are thought to have a similar impact. Identical ratios are found in Peoria and Urbana, with the same inference of similar impact. However, a quick look outside of Illinois produces different results: Chatham County, New York, requires beauty shops to have twice the parking of similarly sized antique stores; suggesting antique stores are seen as less impactful. This is by no means a scientific survey but provides a glimpse into the thinking of other communities.

Other steps may be taken to reduce impact, improve compatibility and make the use less nonconforming. For example, the ZBA may wish to limit operating hours and prohibit “flea market” style group sales events.

Action by the Board of Zoning Appeals.

For each special use application the Board of Zoning Appeals shall report to the Council its findings of fact and recommendations, including the stipulations of additional conditions and guarantees, when they are deemed necessary for the protection of the public interest or to meet the standards as specified herein. No special use application shall be recommended by the Board of Zoning Appeals for approval unless such Board shall find:

- 1. that the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, comfort or general welfare;** granting a special use will continue a legal nonconforming use and return the property to productive use.
- 2. that the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish**

and impair property values within the neighborhood; the property was formerly used for retail and has the appropriate facilities (including loading and parking) to allow a limited retail use such as an antiques store. Furthermore, a comparison of a handful of parking ratio requirements in other cities suggests similar or less impact from an antique store compared with a beauty shop.

3. **that the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district;** no alterations to the exterior of the building are proposed. This area has developed over time with both residential and commercial uses.
4. **that adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided;** utilities and drainage currently exist and will be in compliance with city code.
5. **that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;** the site currently has ingress and egress including a dedicated off-street parking lot and loading facilities.
6. **that the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by the Council pursuant to the recommendations of the Board of Zoning Appeals. (Ordinance No. 2006-137)** compliance with city codes will be adhered to.

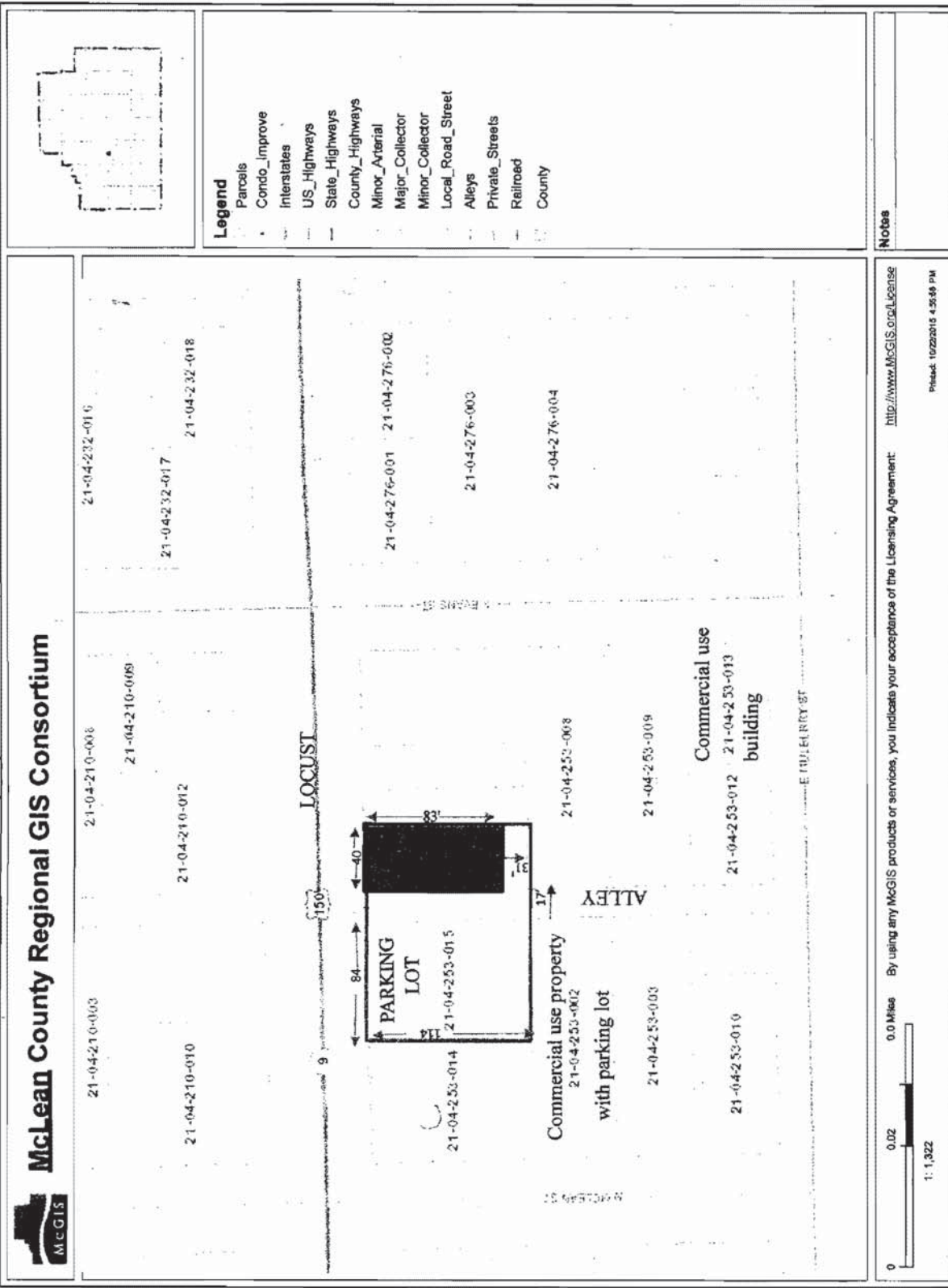
STAFF RECOMMENDATION:

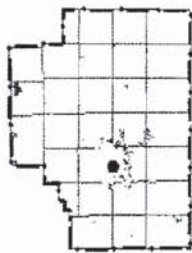
Staff finds that the petition has met the Zoning Ordinance's standards required to allow the continuation of a special use. Staff recommends approval of the requested special use in Case SP-05-15. The ZBA may wish to limit operating hours and prohibit "flea market" style group sales events. At the time a building permit is issued, the petitioner must demonstrate compliance with all relevant sections of 44.7: Off-Street Parking and Loading Regulations.

Respectfully submitted,

Courtney Kashima, AICP

SITE PLAN





Legend

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|-------------------|--|
| Parcels | |
| Interstates | |
| US_Highways | |
| State_Highways | |
| County_Highways | |
| Minor_Arterial | |
| Major_Collector | |
| Minor_Collector | |
| Local_Road_Street | |
| Alleys | |
| Private_Streets | |
| Railroad | |
| Zoning_COUNTY | |

- Zoning_TON_Overlay**
- Agricultural
 - R-1 Single Family Residential
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