

## STAFF REPORT

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-UV3-002  
**Address:** 5825 East 38<sup>th</sup> Street (approximate address)  
**Location:** Warren Township, Council District #13  
**Zoning:** C-3, C-1, D-4 (TOD)  
**Petitioner:** Down But Not Out Communications, Inc., by John Cross  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a boxing gym and instruction facility as a primary use (not permitted)

### **RECOMMENDATIONS**

Staff **recommends approval** of this request.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

##### EXISTING ZONING AND LAND USE

C-3/C-1/D-4 Compact Commercial

##### SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwellings)
South	D-4 / C-3	Residential (Single-family dwellings) /
East	C-3	Undeveloped
West	C-1	Church

**COMPREHENSIVE PLAN** The Comprehensive Plan recommends office commercial and community commercial development.

- ◇ The 0.89-acre site is developed with a commercial building and associated parking lot. The immediate area consists of predominately residential development with a church to the west and commercial uses further east.

#### **VARIANCE OF USE**

- ◇ The grant of the request would allow for a boxing gym and instruction facility as the primary use where it is not permitted.
- ◇ The use is categorized under Indoor Recreation and Entertainment, which is only permitted in C-4, C-5, C-7, MU-3, MU-4, and the Commercial Business Districts as a primary use

(Continued)

## **STAFF REPORT 2023-UV3-002 (Continued)**

- ◇ The subject site is split zoned between three zoning classifications which are C-3, C-1, and D-4. The use would be allowed as an accessory use in the C-1 and C-3 districts, but not in the D-4 district.
- ◇ Since the proposal would have the entire building and new addition dedicated for the boxing gym and instruction facility, it would be considered the primary use of the site and would not be permitted.
- ◇ The petitioner confirmed that the existing garage doors would remain closed during operation so that sound associated with the establishment shall not be audible outside of the building in which the activity is occurring, per the use-specific standard.
- ◇ Staff determined that the need for the variance arises from the inconsistent zoning of the site, which would prevent the use on site, which staff would have otherwise supported if zoned appropriately. However, to prevent more intense uses from locating at this site, staff is supportive of the use variance rather than a complete rezoning of the site.
- ◇ The Comprehensive Plan recommends office commercial development for the western half of the site and community commercial development for the eastern half. Both of these typologies allow for small-scale offices, retailing, and personal or professional services along primary arterial streets, which would include the gym and training facility.
- ◇ Staff is supportive of the proposed use since it would align with the Comprehensive Plan recommendation.
- ◇ Furthermore, the site falls within a ¼ mile of a proposed Purple Line Bus Rapid Transit Station that would promote a variety of uses for a dense mixed-use neighborhood center as envisioned by the Purple Line Transit-Oriented Development Strategic Plan (2021).

## **GENERAL INFORMATION**

THOROUGHFARE PLAN	38 <sup>th</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 76-foot existing right-of-way and a 88-foot proposed right-of-way.
SECONDARY DISTRICT	Transit Oriented Development Secondary Zoning District (TOD)
OVERLAY	This site is in a Transit-Oriented Development (TOD) overlay, specifically the Bus Rapid Transit Purple Line.
SITE PLAN	File-dated December 27, 2022.
ELEVATIONS	File-dated December 27, 2022.
FLOOR PLANS	File-dated December 27, 2022. (Continued)

## **STAFF REPORT 2023-UV3-002 (Continued)**

PLAN OF OPERATION File-dated December 27, 2022.

FINDINGS OF FACT File-dated December 27, 2022.

### **ZONING HISTORY – SITE**

#### EXISTING VIOLATIONS

None.

#### PREVIOUS CASES

None.

### **ZONING HISTORY – VICINITY**

**2012-CZN-828 / 2012-CVR-828; 5950 East 38<sup>th</sup> Street** (northeast of site), Rezoning of 0.54 acre from the C-4 District to the C-3 classification to provide for a convenience store / gasoline station and a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a trash container with a zero-foot front yard setback and in front of the established building line (20-foot transitional setback required, not permitted in front of the established building line), carryout food service within zero feet of a D-5 zoned protected district (100-foot separation required), and to legally establish a zero-foot front yard along 38th Street, a zero-foot north side yard, a zero-foot north front yard, and zero-foot west front yard (minimum 20-foot transitional front yard, minimum 20-foot transitional side yard, minimum 10-foot front yard required),

**2008-UV2-028; 5815 East 38<sup>th</sup> Street** (west of site), Variance of Use and Development Standards of the Commercial Zoning Ordinance to provide for the expansion of a school for children with dyslexia (not permitted, school originally permitted by petition 2002-UV1-019), with a 1,152-square foot mobile classroom structure, having fifteen off-street parking spaces, with a one-foot grass strip along 165 feet of the west property line and a paved playground area with a zero-foot setback along the remainder of the west property line (minimum twenty-foot west side transitional yard required) and a Variance of Use of the Dwelling Districts Zoning Ordinance to provide for a portion of a playground and an unenclosed dumpster for a school for children with dyslexia (not permitted), **granted.**

**2007-UV1-014; 5901 East 38<sup>th</sup> Street** (east of site), Variance of use and development standards of the Commercial Zoning Ordinance to provide for the sale of automobiles (not permitted), provide for a 4,000-square foot, 20 parking space, outdoor display area not adjacent to a building (maximum 200-square foot outdoor display area adjacent to a building required), legally establish a three-foot front landscape strip along East 38th Street (minimum ten-foot landscape strip required), legally establish a zero-foot west side transitional yard (minimum twenty-foot west side transitional yard required), **granted.**

**2004-UV3-001; 5811 East 38<sup>th</sup> Street** (west of site), Variance of Use of the Dwelling Districts Zoning Ordinance to provide for a 314-square foot embalming room addition, and a 198-square foot front porch addition to an existing funeral home, in D-4 (FF), **granted.**

(Continued)

## **STAFF REPORT 2023-UV3-002 (Continued)**

**2003-UV3-001; 5811 East 38<sup>th</sup> Street** (west of site), Variance of Use of the Dwelling Districts Zoning Ordinance to legally establish a funeral home, and to provide for a 1,405-square foot addition, and a 2,720-square foot garage for eight commercial vehicles, in D-4 (FF), **granted**.

**2002-UV1-019; 5815 East 38<sup>th</sup> Street** (west of site), Variance of Use of the Commercial Zoning Ordinance to provide for a school for children with dyslexia, in C-1, **granted**.

**2001-LNU-011; 5811 East 38<sup>th</sup> Street** (west of site), Certificate of Legal Non-Conforming Use for a funeral home in the D-4 district, **approved**.

**90-AP-117; 5950 East 38<sup>th</sup> Street** (northeast of site), Modification of commitments related to 84-Z-106 to provide for an alternate site plan, to provide landscaping along the site's frontages of East 38<sup>th</sup> Street and Arlington Avenue rather than a brick-capped wall, **approved**.

**87-UV1-58; 5825 East 38<sup>th</sup> Street** (east of site), Variance of use of the Commercial Zoning Ordinance and the Dwelling Districts Zoning Ordinance to provide for the construction and use of a three-unit residence, **granted**.

**81-UV2-90; 5825 East 38<sup>th</sup> Street** (east of site), Variance of use and development standards to permit automobile cleaning, restoration, etc., use in an abandoned service station, with maximum of 13 cars being serviced at one time, with not over two cars remaining on premises, with existing pole sign to remain, **granted**.

**80-UV3-1; 3802 North Arlington Avenue** (northeast of site), Variance of use and development standards to provide for sales and service of tires, batteries and accessories in an existing building, **granted**.

**69-V1-183; 3802 North Arlington Avenue** (northeast of site), Variance of use, setback and rear yard requirements to provide for a gasoline service station, **granted**.

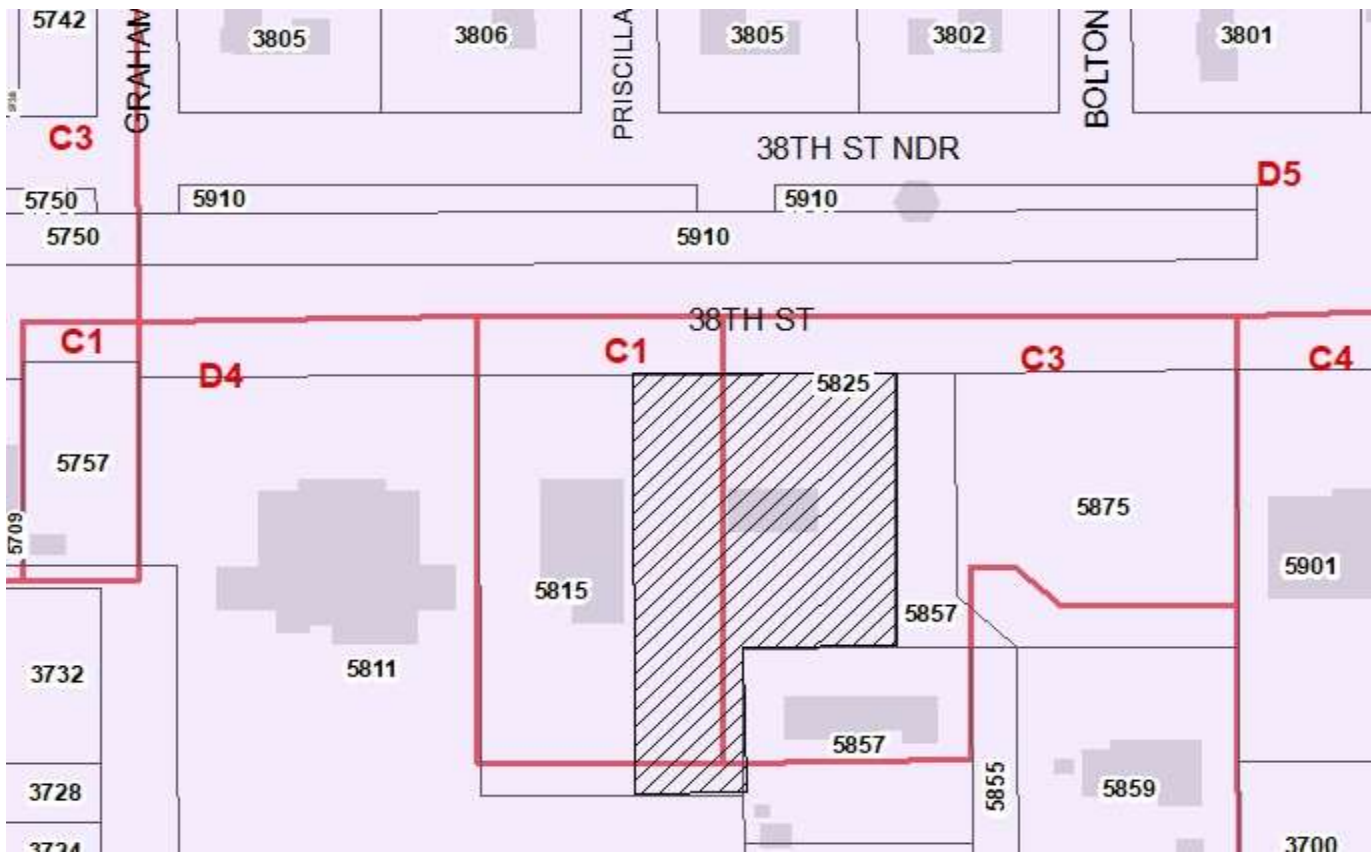
**62-V-512; 3790 North Arlington Avenue** (east of site), Requested permission to allow for retail sale of packaged liquor within existing business building, **granted**.

**62-V-185; 3790 North Arlington Avenue** (east of site), Variance of use to allow for an open air auto sales lot, **granted**.

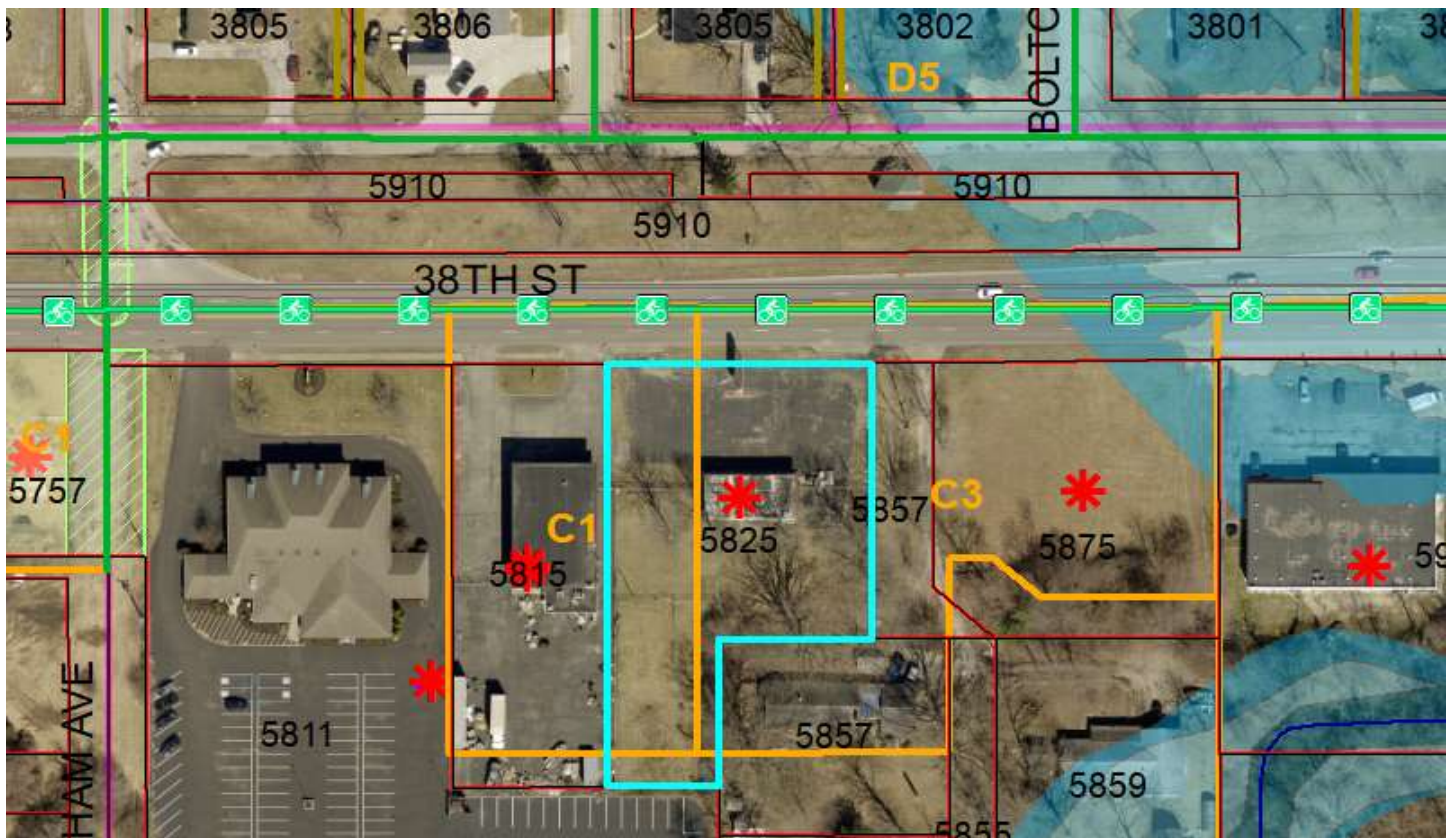
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## 2023-UV3-002; Location Map

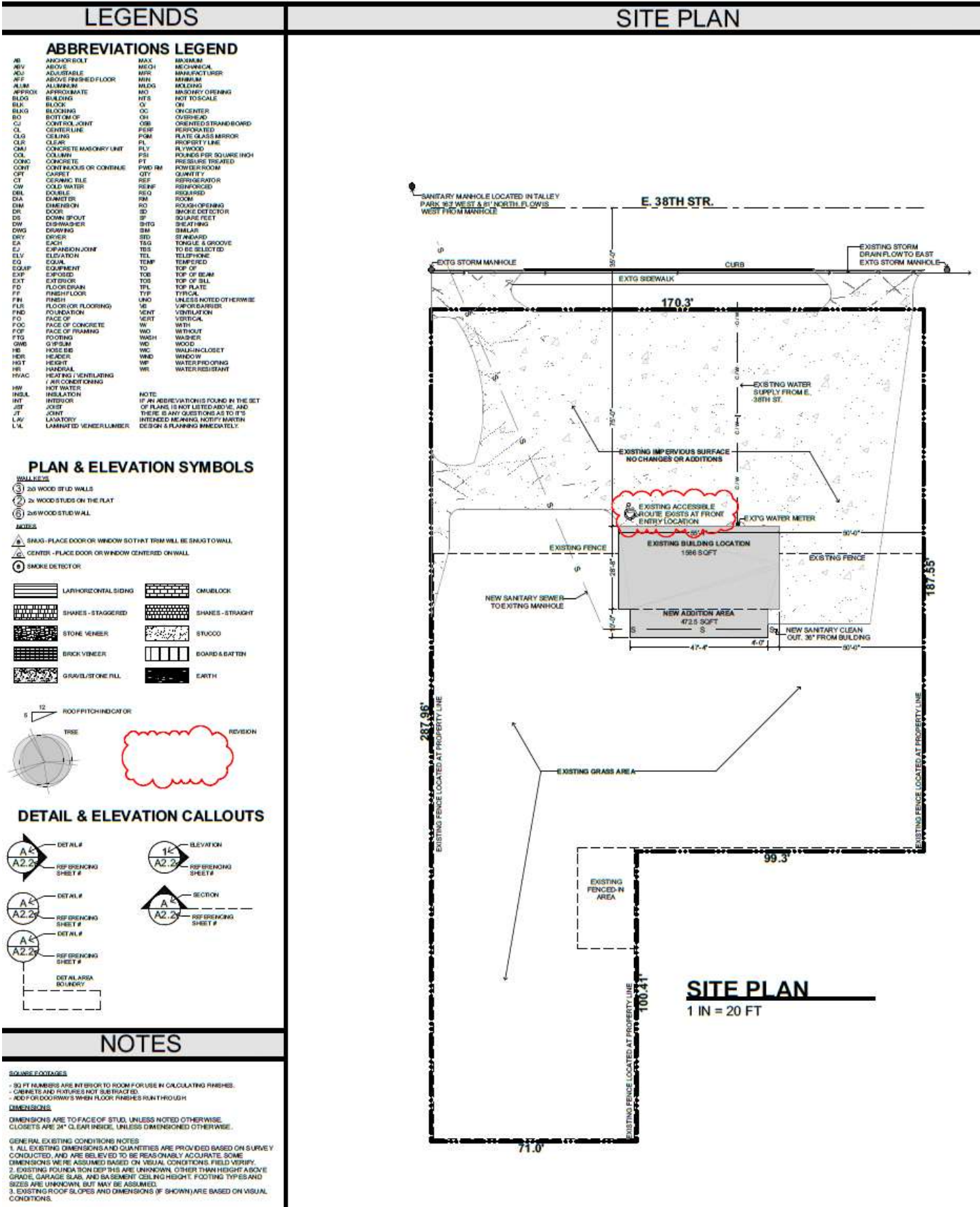


## 2023-UV3-002; Aerial Map





2023-UV3-002; Site Plan



NOTES

GENERAL NOTES

1. ALL EXISTING DIMENSIONS AND QUANTITIES ARE PROVIDED BASED ON SURVEY CONDUCTED, AND ARE BELIEVED TO BE REASONABLY ACCURATE. SOME DIMENSIONS MAY BE ASSUMED BASED ON VISUAL CONDITIONS. FIELD VERIFY.

2. EXISTING FOUNDATION DEPTHS ARE UNKNOWN, OTHER THAN HEIGHT ABOVE GRADE. GARAGE SLAB, AND BASEMENT CEILING HEIGHT. FOOTING TYPES AND SIZES ARE UNKNOWN, BUT MAY BE ASSUMED.

3. EXISTING ROOF SLOPES AND DIMENSIONS (IF SHOWN) ARE BASED ON VISUAL CONDITIONS.

SITE PLAN

1 IN = 20 FT

170.3'

187.55'

71.0'

99.3'

100.31'

287.96'

47.6'

6.0'

90.4'

30.0'

170.3'

187.55'

71.0'

99.3'

100.31'

287.96'

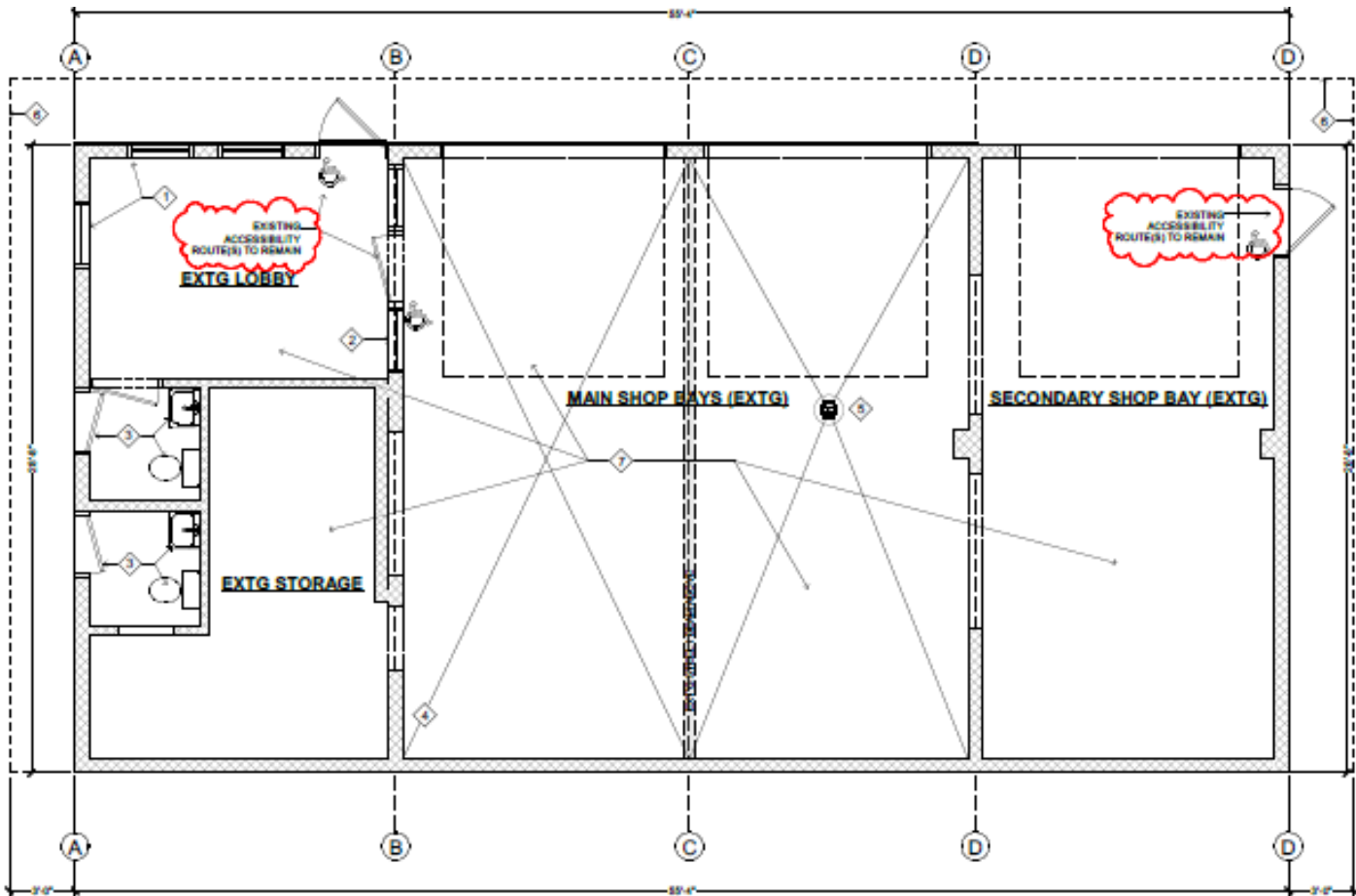
47.6'

6.0'

90.4'

30.0'

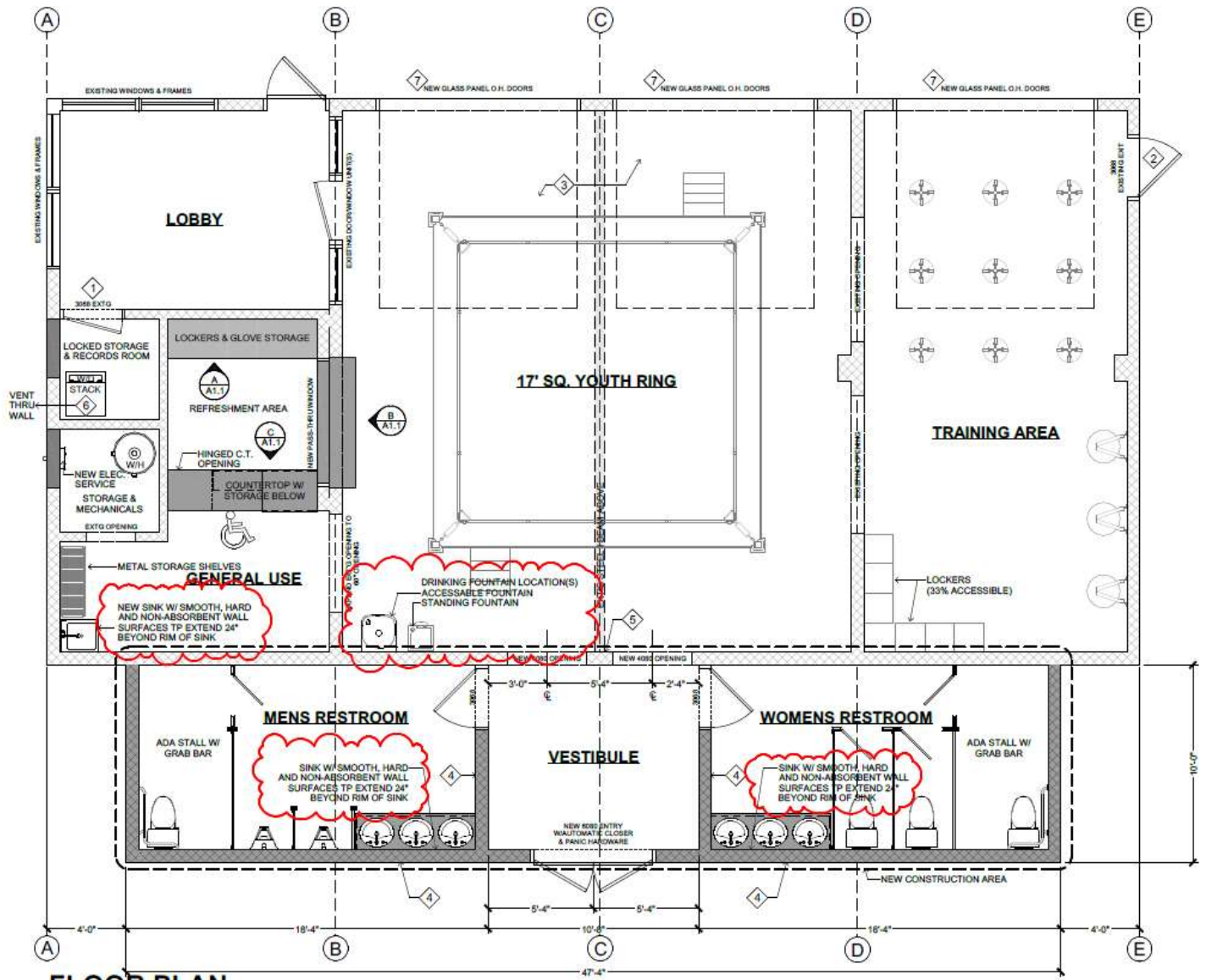
2023-UV3-002; Existing Floor Plan



**EXISTING FLOOR PLAN**

FLOOR AREA: 1586 SQ FT  
W/ REMOVAL/RECYCLE NOTES  
1/4 IN = 1 FT

## 2023-UV3-002; Proposed Floor Plan



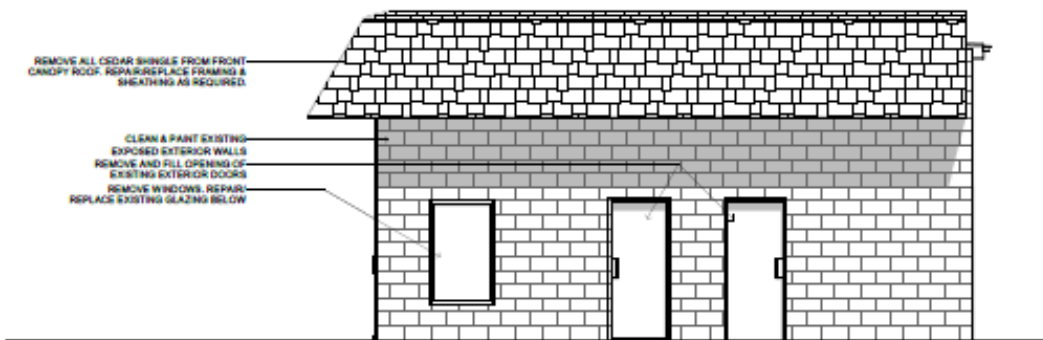
## FLOOR PLAN

FLOOR AREA: 2060 SQ FT

$$\frac{1}{4} \text{ IN} = 1 \text{ FT}$$

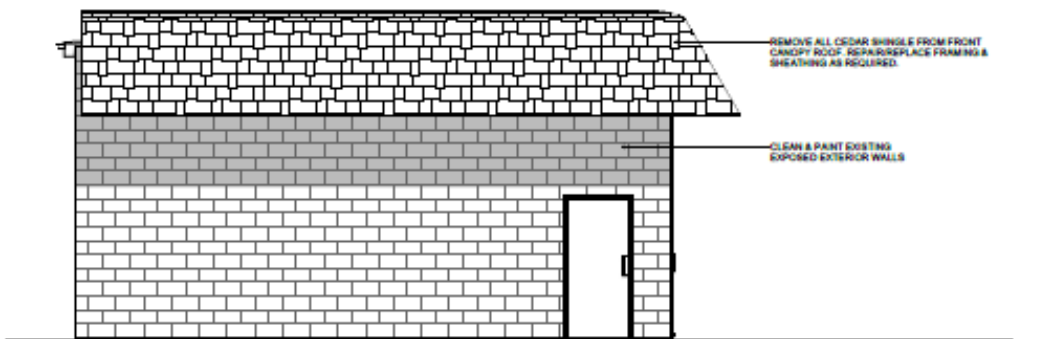


2023-UV3-002; Elevations



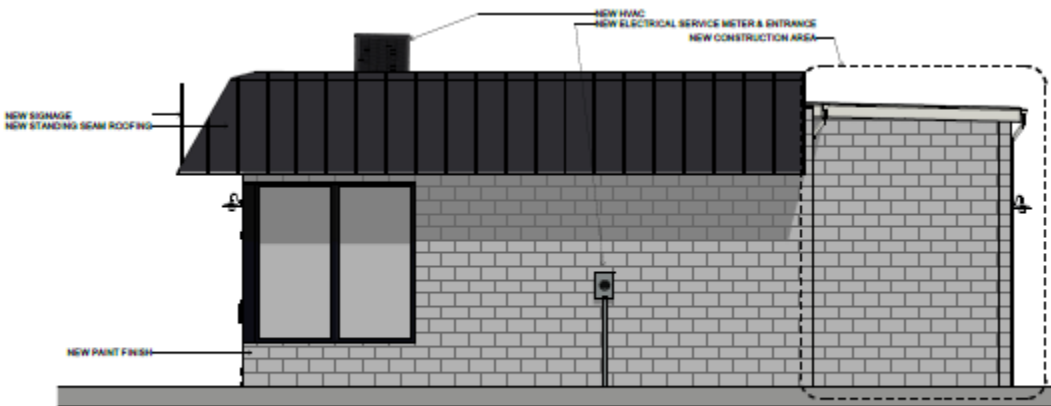
EXISTING WEST ELEVATION

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



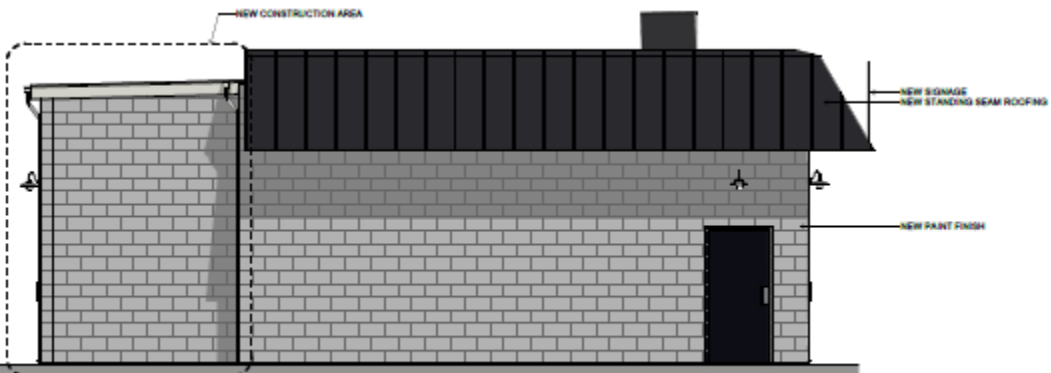
EXISTING EAST ELEVATION

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



WEST (LEFT) ELEVATION

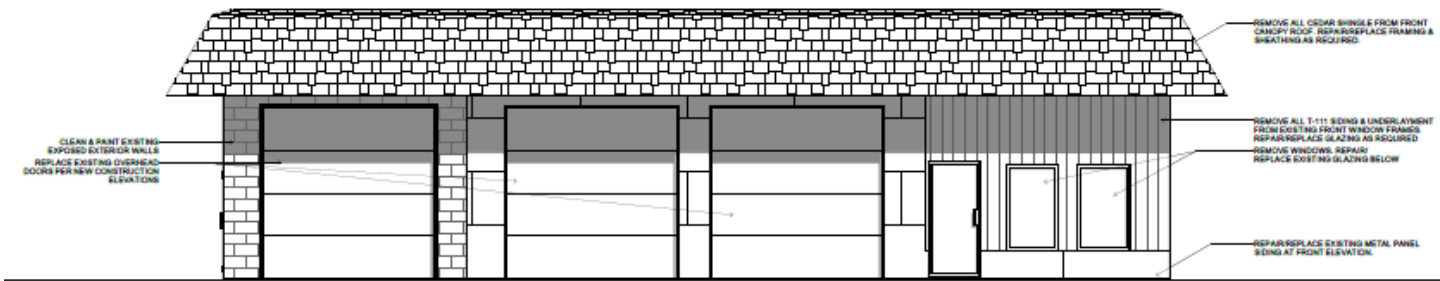
SCALE: 1/4"=1'-0"



EAST (RIGHT) ELEVATION

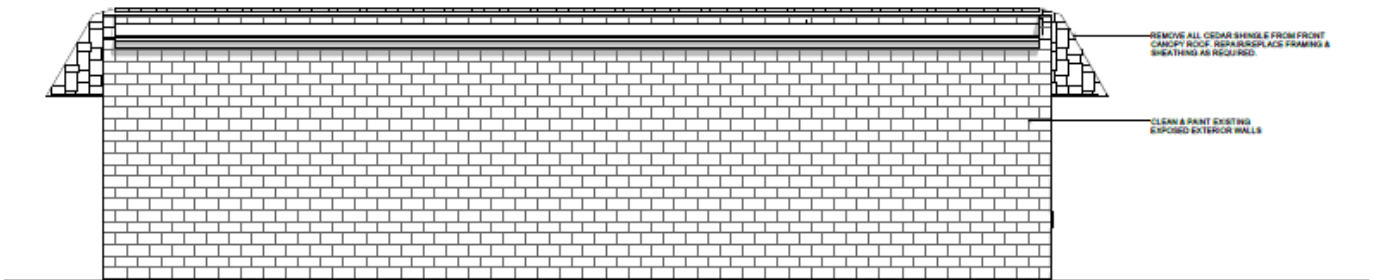
SCALE: 1/4"=1'-0"

2023-UV3-002; Elevations (Continued)



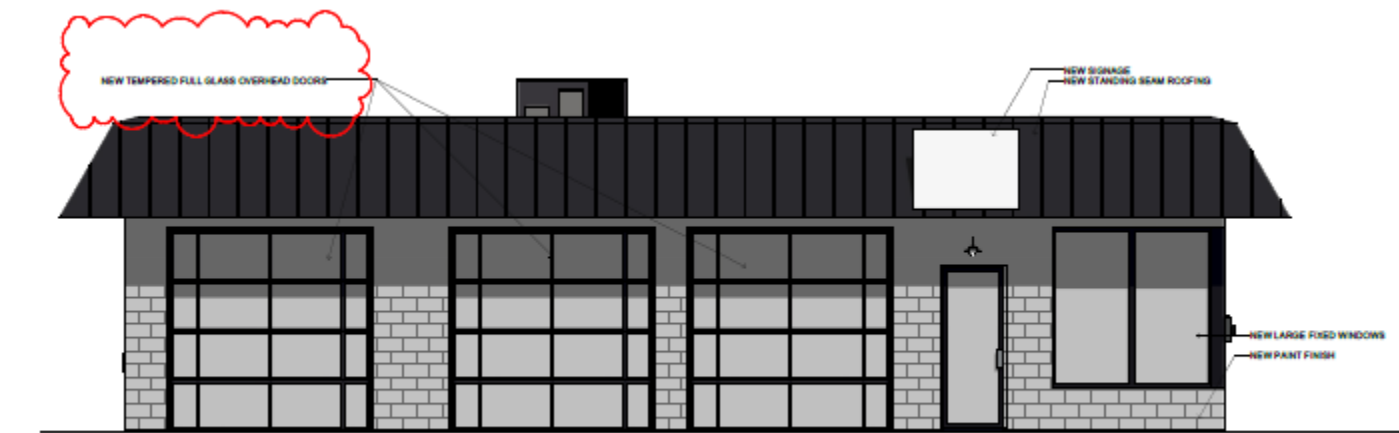
EXISTING NORTH ELEVATION

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



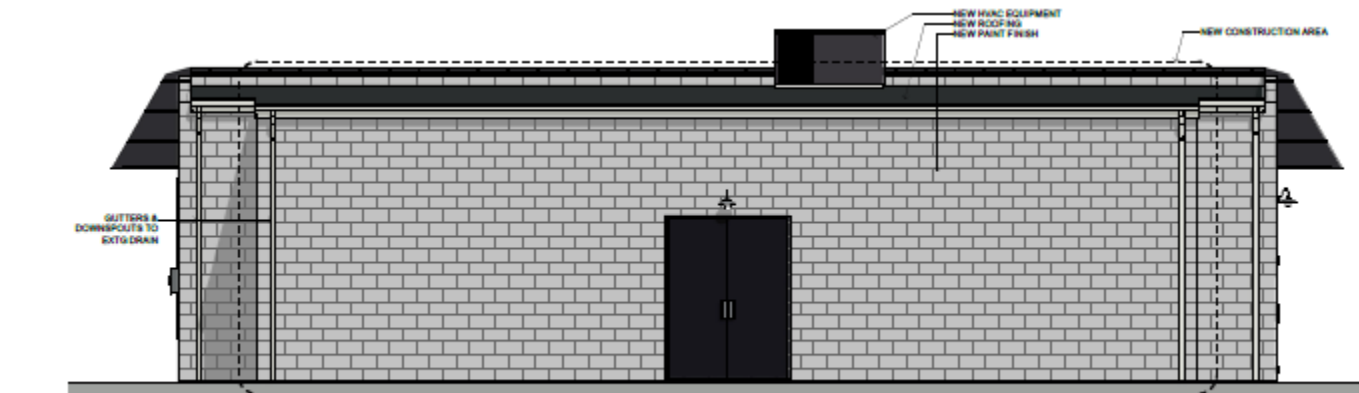
EXISTING SOUTH ELEVATION

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



NORTH (FRONT) ELEVATION

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



SOUTH (REAR) ELEVATION

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

# Plan of Operation

*DBNO Boxing Gym*

## OVERVIEW & PURPOSE

Our vision is to provide the community with a boxing facility to train and develop at-risk youth both physically and mentally through technical training, physical conditioning, and character training. The highlight of the vision is to form a competitive boxing team that will be ambassadors for The DBNO Character First Boxing Program.

## Workforce

1. Two employees and up to three volunteers, everyone works onsite and during class sessions.
2. Workers come to work by car or public transit and park in the parking lot in front of the building.
3. Will have an alarm security system.

## Clients

1. At-risk youth and adults.
2. 12 per class, with 3 group sessions a day.
3. Clients come by car or public transit and park in the parking lot in front of the building.

## Processes conducted on site

1. Will conduct physical boxing training along with teaching personal Character First skills.

## Materials

1. Heavy bags, speed bags, jump ropes, boxing gloves, headgear, hand wraps and a boxing ring.
2. No hazardous materials used.
3. For safety, head gear, hand wraps and mouth guards.

## Shipping & Receiving and Waste

Daily mail by mail truck's random frequency.

Everyday trash is put in trash containers and handled by employees. No hazardous waste and no recycling implemented.

**2023-UV3-002; Photographs**



Photo of the Subject Property: 5825 East 38th Street



Photo of the Subject Property: 5825 East 38th Street





Photo of the single-family dwelling south of the site.



Photo of the rear yard.





Photo of the church west of the site.



Photo of the single -family dwellings north of the site.