

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

January 9, 2025

Case Number: 2024-CZN-846 / 2024 CVR-846

Property Address: 1267 and 1271 South East Street

Location: Center Township, Council District #18

Petitioner: Southeast Neighborhood Development, Inc., by Joshua A. Peters

Current Zoning: D-P
Rezoning of 0.214 acre from the D-P district to the MU-2 district to provide for a mixed-use development.

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building encroaching into the clear-sight triangle of South East Street and Orange Street (not permitted), and six surface parking spaces (minimum 11 surface parking spaces required).

Current Land Use: Vacant land

Staff Recommendations: Approval of the rezoning and variances of development standards, subject to the commitments noted below:

Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued these petitions from the December 12, 2024 hearing, to the January 9, 2024 hearing, at the request of staff for additional time for the petitioner's representative to provide amended documents related to the clear sight triangle.

STAFF RECOMMENDATION

Approval, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site shall be developed in compliance with the site plan file-dated December 5, 2024. Any landscaping materials or structures within the depicted triangle shall be no taller than 30 inches and trees shall be pruned above eight feet from the ground.
2. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

This 0.214-acre site, zoned D-P is comprised of two vacant parcels. It is surrounded by a single-family dwelling to the north, zoned D-5; a two-family dwelling to the south, across Orange Street, zoned C-1; a single-family dwelling to the east, zoned D-5; and a single-family dwelling to the west, across South East Street, zoned, D-5.

This site was part of rezoning petition 2011-ZON-010 (2011-DP-001) consisting of five parcels to be developed with 14 dwelling units within seven structures. A mix of dwelling units was proposed, including single-family, two-family, and multi-family. The development was planned for two phases, with the first phase on the north end of the block and the second phase on the south end of the block. This site was part of the second phase. Phase One is complete, but Phase Two was never developed.

REZONING

The request would rezone the site to the MU-2 district. “The MU-2 District is intended to meet the daily needs for surrounding neighborhoods and include small social spaces that serve as neighborhood gathering places. The district includes primarily neighborhood-serving businesses and institutions, including a wide range of small-scale retail and service uses that typically do not draw customers from beyond the adjacent neighborhoods, and employment, institutional and residential uses that complement the compact, walkable development pattern. The MU-2 District is implemented as a small node or on busy corridors in the Traditional Neighborhood or City Neighborhood Typologies of the Land Use Pattern Book, or as a Village Mixed Use Typology. The typical size of a district is from 2 to 20 acres (1 to 4 blocks) but depends on the context and what integrates best into surrounding neighborhoods and complimentary zoning districts.”

The MU-2, MU-3, and MU-4 districts are intended to create compact, walkable places at a variety of scales and intensity, appropriate to their contexts. These districts advance their Livability Principles of this code, further the mixed-use intent of the Comp Plan and rely on a connected network of slow or multi-modal streets, and a fine grain of human-scale buildings that line and activate the streetscapes.

The Comprehensive Plan recommends village mixed-use typology for the site.

As proposed, this request would be consistent with the village mixed-use typology, as well as The Pattern Book guidelines.

Site Plan

The site plan, file-dated November 7, 2024, provides for an approximately 3,080-square foot two-story mixed-used building that would front on South East Street and Orange Street. The first floor would be commercial space, with two, three-bedroom dwellings on the second floor. A second two-story building to the east would provide for two three-bedroom dwellings connected with a single-family studio dwelling. Six parking spaces would be located along the abutting north / south alley to the east.

VARIANCE OF DEVELOPMENT STANDARDS

The request would provide for encroachment of the mixed-use building into the clear sight triangle of South East Street and Orange Street, which is not permitted.

The required clear sight triangle required in the Ordinance is larger than the clear sight triangle required by the Department of Public Works (DPW) standards. The petitioner's representative coordinated with DPW staff to resolve the encroachment while maintaining visibility at the South East Street and East Orange Street intersection.

An amended site plan, file-dated December 5, 2024, provided an acceptable site plan related to encroachment into the clear site triangle. Staff's support of this request is subject to compliance with this site plan. Any landscaping materials or structures within the depicted triangle shall be no taller than 30 inches or trees pruned above eight feet from the ground.

The request would also allow for a reduction of parking from the required 11 spaces to six off street parking spaces. Because of the existing bus stop at this location along South East Street, staff believes the reduction in parking would be acceptable, along with parking space available on East Orange Street.

Environmental Public Nuisances

The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or

4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

GENERAL INFORMATION

Existing Zoning	D-P	
Existing Land Use	Vacant land	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	D-5	Single-family dwelling
South:	C-1	Two-family dwelling
East:	D-5	Single-family dwelling
West:	D-5	Single-family dwelling
Thoroughfare Plan		
South East Street	Primary Arterial	Existing 36-foot right-of-way and proposed 56-foot right-of-way.
East Orange Street	Local Street	Existing 50-foot right-of-way and proposed 48-foot right-of-way.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	November 7, 2024	
Site Plan (Amended)	December 5, 2024	
Elevations	November 7, 2024	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	November 7, 2024	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

- *Conditions for All Land Use Types – Village Mixed-Use Typology*
 - All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
 - All development should include sidewalks along the street frontage.
 - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
 - Where possible, contributing historic buildings should be preserved or incorporated into new development.
- *Conditions for All Housing*
 - Should be within a one-quarter-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly-accessible recreational or cultural amenity that is available at no cost to the user.
 - Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.

- *Attached Housing (defined as duplexes, triplexes, quads, townhouses, row houses, stacked flats, and other, similar legally complete dwellings joined by common walls and typically with each unit on its own lot or part of a condominium).*
 - Recommended without additional conditions.
- *Small-Scale Offices, Retailing and Personal or Professional Services (defined as commercial uses with minimal outdoor operations, storage, or display on lots of less than 1.5 acres and a height of less than 35 feet).*
 - Mixed-Use structures are preferred.
 - Automotive uses (such as gas stations and auto repair) and uses with drive-through lanes are excluded.
 - Should not include outdoor display of merchandise.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

The Infill Housing Guidelines were updated and approved in May 2021, with a stated goal “to help preserve neighborhood pattern and character by providing guiding principles for new construction to coexist within the context of adjacent homes, blocks, and existing neighborhoods. These guidelines provide insight into basic design concepts that shape neighborhoods, including reasons why design elements are important, recommendations for best practices, and references to plans and ordinance regulations that reinforce the importance of these concepts.”

These guidelines apply to infill development in residential areas within the Compact Context Area and include the following features:

Site Configuration

- Front Setbacks
- Building Orientation
- Building Spacing
- Open Space
- Trees, Landscaping, and the Outdoors

Aesthetic Considerations

- Building Massing
- Building Height
- Building Elevations and Architectural Elements

Additional Topics

- Secondary Dwelling Units, Garages, and Accessory Structures
- Adapting to the Future

“As established neighborhoods experience new development, infill residential construction will provide housing options for new and existing residents. Increased population contributes positively to the local tax base, economic development, lively neighborhoods, and an interesting city. As infill construction occurs, it is important to guide development in a way that complements current neighborhoods. Each home in a neighborhood not only contributes to the existing context of adjoining houses and the block, but to the sense of place of the entire neighborhood.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW)
- Identify roadways for planned expansions or new terrain roadways
- Coordinate modal plans into a single linear network through its GIS database

ZONING HISTORY

2011-ZON-010 (2011-DP-001); 1239,1245,1265,1267 and 1271 South East Street, requested rezoning of 0.56 acre, from the C-1 District to the D-P classification to provide for fourteen multi-family residential uses at a density of 25 units per acre, **approved**.

VICINITY

2023-CZN-812 / 2023-CVR-812; 1257 South East Street (north of site), requested rezoning of 0.13 acre from the C-1 district to the D-5 district and variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide an 810-square foot secondary dwelling unit without an entrance visible from the public right-of-way, **approved and granted**.

2017-CZN-837; 1306 South East Street (west of site), requested rezoning of 0.8 acre from the C-3 district to the D-5 classification, **approved**.

2016-ZON-015; 1263 South East Street (south of site), requested rezoning of 0.11 acre, from the D-P District to the D-5 classification, **approved**.

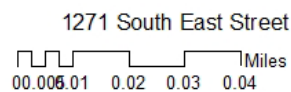
2015-UV3-033; 1324 South East Street (south of site), requested variances of development standards of the Commercial Zoning Ordinance and Sign regulations to provide for expansion of an existing commercial building for a restaurant, with outdoor seating, reduced parking, carryout without the required separation from a protected district, zero-foot setbacks for the outdoor seating and parking lot, maneuvering within the right-of-way, and a pick-up window awning extending into the right-of-way, **granted**.

2015-HOV-027; 601 Sanders Street (east of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a detached garage, with a zero-foot side yard setback and a reduction in the required open space, **granted**.

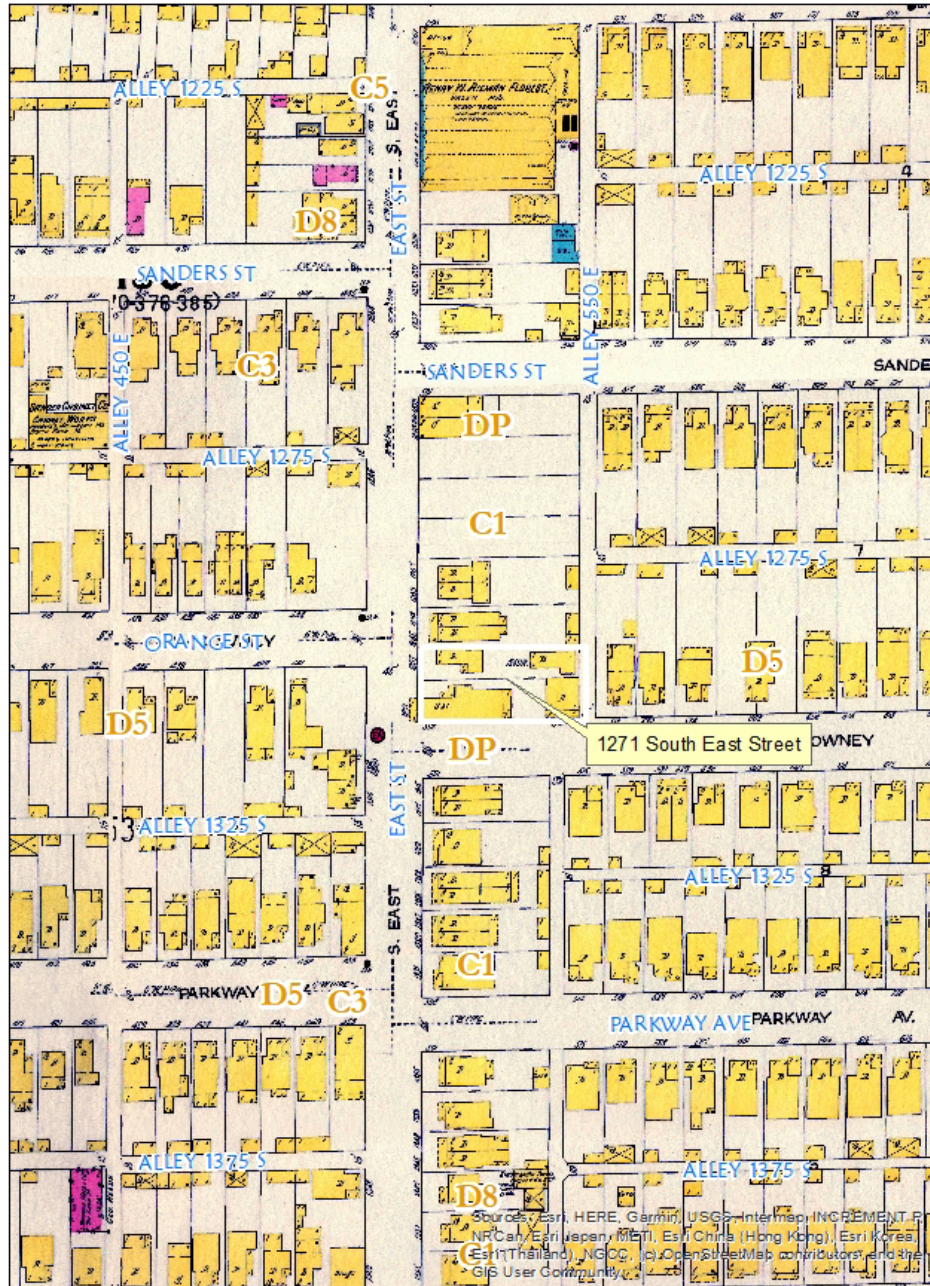
2009-UV2-034; 1319 South East Street (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the conversion of a non-conforming single-family dwelling into a two-unit dwelling and to provide for an entrance landing with reduced side setback, **withdrawn**.

2003-LNU-001; 1270 South East Street (south of site), requested legal nonconforming use status to establish a tavern in a C-1 District, **granted**.

87-UV3-85; 613 Sanders Street (east of site), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a garage for a two-family dwelling, with reduced side yard setback, **granted**.

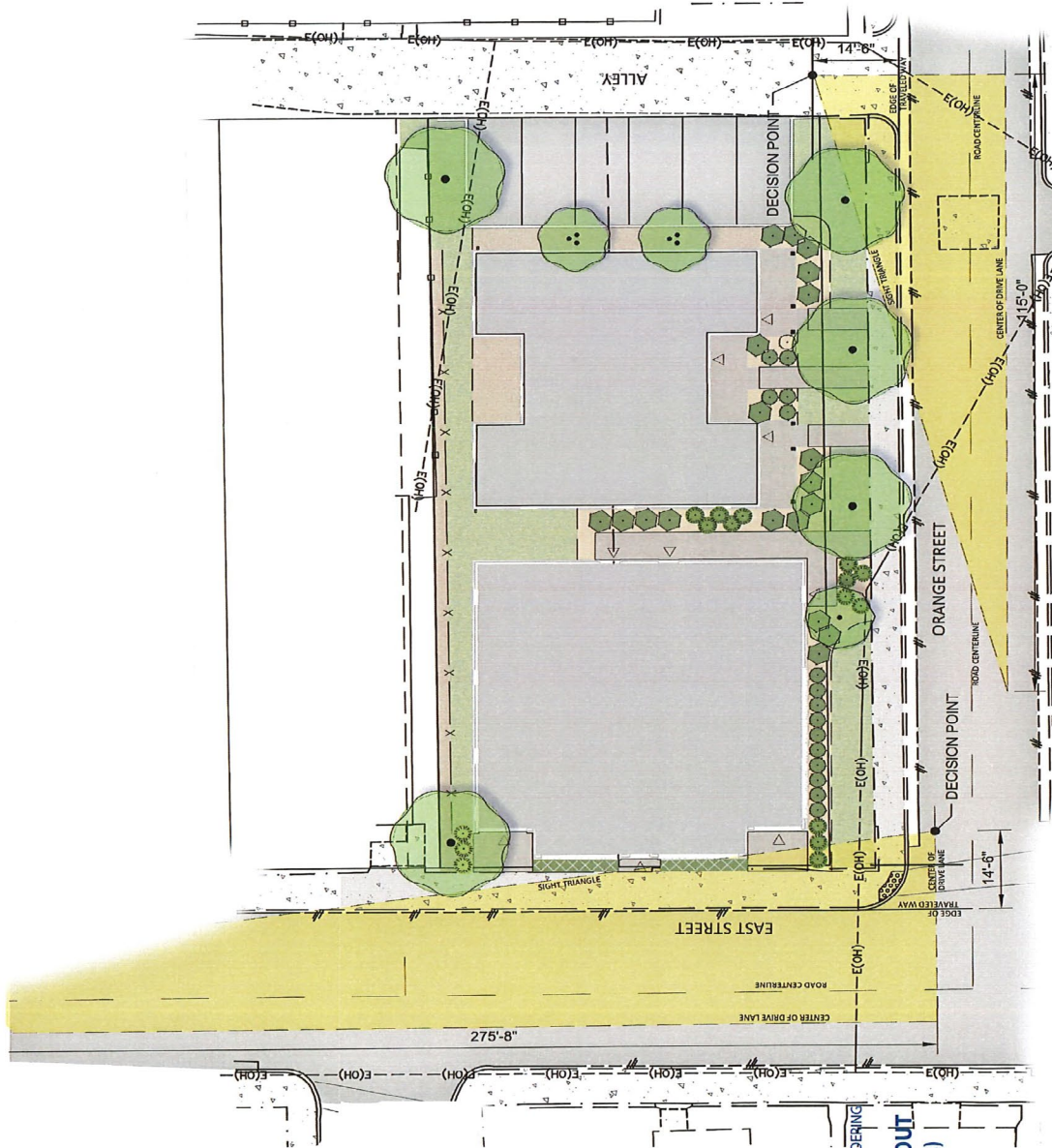


1915 Sanborn Map



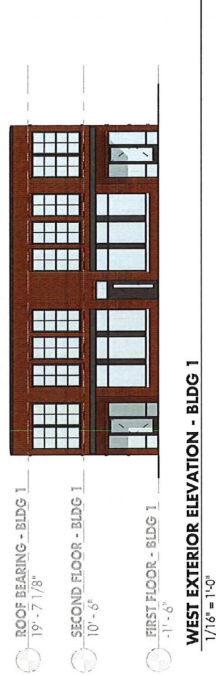
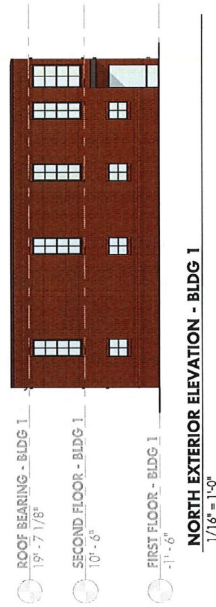
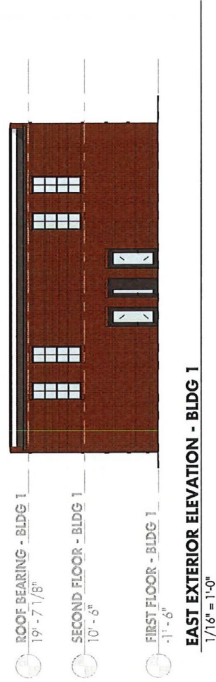
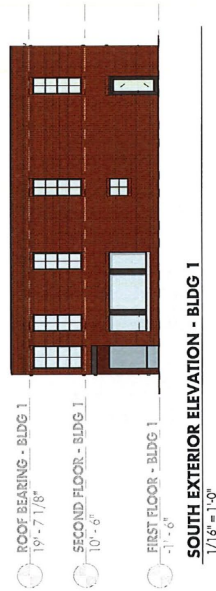
1271 South East Street
 00.00 0.01 0.02 0.03 0.04 Miles

Site Plan - December 5, 2024



JQOL
 QUALITY OF LIFE™

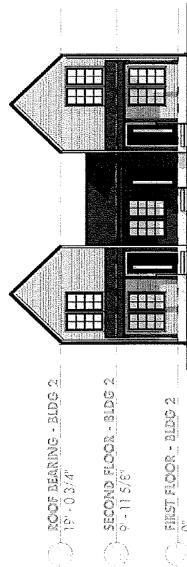
EAST ST & ORANGE ST
 CONCEPTUAL LANDSCAPE RENDERING
 W/ SITE TRIANGLES
SITE TRIANGLE LAYOUT
 (AASHTO Standards)
 12.05.2024



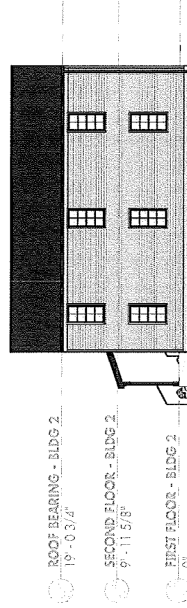
EAST ST & ORANGE ST
 CONCEPTUAL DESIGN

EXTERIOR ELEVATIONS - BLDG 1
 09/13/2022

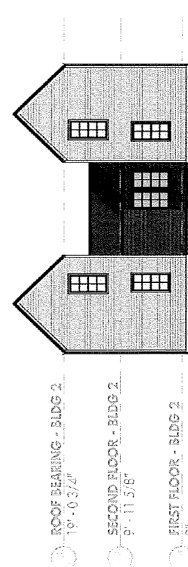

 BLACKLINE



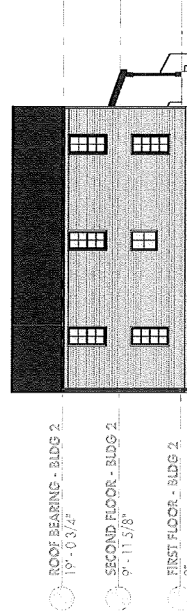
SOUTH EXTERIOR ELEVATION - BLDG 2
 1/16" = 1'-0"



EAST EXTERIOR ELEVATION - BLDG 2
 1/16" = 1'-0"



NORTH EXTERIOR ELEVATION - BLDG 2
 1/16" = 1'-0"



WEST EXTERIOR ELEVATION - BLDG 2
 1/16" = 1'-0"

EAST ST & ORANGE ST
 CONCEPTUAL DESIGN

EXTERIOR ELEVATIONS - BLDG 2
 09/15/2022

BLACKLINE



BLACKLINE

EAST ST & ORANGE ST
CONCEPTUAL DESIGN

PERSPECTIVE VIEW
09/15/2022





Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division I _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

On Sight Triangle: Speed limit on 1200 Block of East Street is 30 miles per hour and proposed structure will minimally impact sight triangle as compared to other existing structures on East Street, with existing street parking to the South on East Street representing a more significant impact on traffic safety than proposed structure.

On Parking Requirement: Street parking exists on Orange Street and most houses in the area have alley access to garages for resident parking. Also, existing bus stop directly in front of the site will alleviate the need for the full amount of parking spaces required by ordinance. Petitioner will be creating affordable housing in an area zoned for density and on-street parking alternatives will not be injurious to a community already utilizing on-street parking.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

Areas adjacent to the property currently utilize on-street parking, are located in an area close to public transportation, and are in an area where the City of Indianapolis desires to create Compact Context Area residential density. Proposed new development would bring new commercial activity and residents to the area.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

Table 744-402-1 requires a minimum of 1 off-street parking space per Residential dwelling unit. A calculation of the commercial square footage utilizing the "shared parking factor" requires a total of 11 spaces for the development, with one being ADA compliant. Street parking (which can sometimes satisfy off-street parking requirements in ordinance) exists on Orange Street, but the spaces are located on the opposite side of the road, so ordinance does not allow for counting those spaces. Furthermore, most residents in the area have alley access to garages for parking. SEND is requesting variances to allow the sight triangle intrusion and 6 on-site parking spaces total, one being ADA (allowing 5 fewer parking spaces than required by ordinance). Strict application of the sight triangle ordinance would preclude any development of significant density. Furthermore, achieving residential density often precludes off-street parking options and this site is located in close proximity to public transportation.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 _____



View looking north along South East Street



View looking south along South East Street



View looking east long East Orange Street



View looking northwest across the intersection of South East Street and East Orange Street



View of site looking northeast across East Orange Street



View of site looking west from north / south alley to the east



View of site looking west from north / south alley to the east