

## STAFF REPORT

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

**Case Number:** 2023-UV1-013  
**Address:** 5320 West Vermont Street (approximate address)  
**Location:** Wayne Township, Council District #15  
**Zoning:** C-4  
**Petitioner:** Josh Investment Inc., by Pat Rooney  
**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 42-unit multi-family dwelling project (not permitted) with a 17-foot east transitional yard and 16-foot south transitional yard (20-foot transitional yards required), 29 parking spaces (31 required for multi-family), and deficient landscaping and lighting elements (landscaping and photometric standards required).

### ADDENDUM FOR August 1, 2023

This petition was continued from the July 6, 2023 hearing to the August 1, 2023 hearing at the request of the petitioner.

Staff continues to **strongly recommend denial** of the request.

### RECOMMENDATIONS

Staff **strongly recommends denial** of this request.

### SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

#### LAND USE

##### EXISTING ZONING AND LAND USE

C-4	Metro	Undeveloped
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##### SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwellings)
South	D-3	Residential (Single-family dwellings)
East	SU-1	Religious Use
West	C-4	Offices

COMPREHENSIVE PLAN	The Comprehensive Plan recommends office commercial development.
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(Continued)

## **STAFF REPORT 2023-UV1-013 (Continued)**

- ◇ The 3.62-acre subject site is an undeveloped lot with an outdoor advertising sign on site.
- ◇ The site is surrounded by single-family dwellings to the south, zoned D-3, religious uses to the east, zoned SU-1, single-family dwellings to the north, zoned D-5, and offices to the west, zoned C-4.

### **VARIANCE OF USE**

- ◇ The grant of the request would allow a multi-family development to be immediately adjacent to a proposed gas station and convenience store.
- ◇ The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.
- ◇ The Comprehensive Plan recommends Office Commercial typology. "The Office Commercial typology provides for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses. Office commercial development can range from a small freestanding office to a major employment center. This typology is intended to facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons."
- ◇ The Comprehensive Plan consists of two components that include the Pattern Book 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.
- ◇ The Office Commercial recommendation does not include residential uses in the list of approved or supportive uses. Furthermore, the C-4 district does not allow residential uses by right other than emergency shelters, which are meant to be temporary solutions for those seeking assistance. This proves that the intent is to discourage residential development within this typology and zoning district.
- ◇ In instances where residential uses are developed on appropriately zoned dwelling districts, they are entitled to protections from such intense uses with the requirements for transitional yards that provide a high degree of heavily landscaped buffering to protect residents from issues with noise and light pollution. That would not be the case with this development since the request would integrate two opposing uses with shared access drives, parking lot, and lighting.
- ◇ The site would also not provide for residential amenities such as a club house, pool, outdoor recreation, walking trails, barbeque pits, or the like that would normally be provided for this type of residential development.

(Continued)

## **STAFF REPORT 2023-UV1-013 (Continued)**

- ◇ Furthermore, Staff determined the development to be inappropriately designed creating a pedestrian safety concern because no safety measures would be taken to prevent pedestrian and vehicular incidences if customers from the commercial uses choose to cut through the shared parking area to circumvent a red light at the intersection.
- ◇ A multi-family development would be wholly inappropriate in such proximity to a proposed gas station and convenience store due to the nature of the use (noise, trash, lighting), with primarily outdoor operations 24 hours per day, 365 days per year. Providing a multi-family development at this location would be a disservice to future residents, since a 24-hour gas station and convenience store would have a negative impact on their quality of life.
- ◇ The Findings of Fact note that the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because “it would result in the subject property being used for a gas station only which is not the highest and best use of the subject property especially since the subject property is approximately 3.52 acres”. However, the C-4 district allows for a variety of other uses such as other commercial uses, health care facilities, community, cultural and educational facilities. It is unlikely that all appropriate uses have been exhausted. Instead, it would be the petitioner who would be restricting the development of the large site with the proposal.
- ◇ In staff’s opinion, the grant of the request would substantially interfere with the Comprehensive Plan because residential uses would not be recommended for office commercial development.
- ◇ If approved against staff’s recommendation, Indy Parks requests a commitment for the installation of required landscaping (trees) be installed in the right-of-way of Vermont Street and Lynhurst Drive at approved locations by City Forrester with maintenance funding to Keep Indianapolis Beautiful (KIB) for the trees for no less than three years after installation. Trees shall be maintained and replaced if needed by the petitioner throughout the three-year period.

## **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The grant of the request would permit the development of the site to have deficient transitional yards, parking, landscaping, and lighting.
- ◇ The C-4 district in the Metro Context area requires 20-foot front transitional yards. As proposed, the site would have a 17-foot east transitional yard and a 16-foot south transitional yard.
- ◇ With this being all new construction, there is no reason why the 20-foot transitional yards could not be met to protect the religious and residential uses to the east and south from the more intense commercial use proposed.

(Continued)

## **STAFF REPORT 2023-UV1-013 (Continued)**

- ◇ The parking calculations of the site included office space, fueling station/convenience store, and laundromat, but failed to include the parking requirements for the multi-family dwellings. Based on the three-story 42-unit complex, 31 parking spaces would be required for the multi-family dwellings. The site provides a total of 83 parking spaces, which leaves 54 for the commercial uses with a remainder of 29 spaces for the residents. There would be approximately two parking spaces missing, which staff finds could be proposed on site or the petitioner could use the parking reductions of the Ordinance to address the deficiency and note it on their parking calculations. An additional three bike spaces would be required unless the petitioner wishes to amend the request for an additional variance.
- ◇ The photometric plan provided did not extend to the entirety of the site as required by Table 744-604-1 for the entrances, walkways, and right-of-way. Additionally, the required light level standards were not met in the plan that was provided.
- ◇ Based on the landscape information provided, the required landscaping would not be met since the calculations of the required trees or plantings were not rounded up to the next whole number per Sec. 740-306.A. Staff was unable to confirm if the Green Factor would be met since a Green Factor calculation sheet was not provided.
- ◇ Ultimately, staff determined that the development standards could be met with the reconfiguration of the proposed development and strongly recommends that the request be denied.

## **GENERAL INFORMATION**

THOROUGHFARE PLAN	Vermont Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 70-foot existing right-of-way and a 50-foot proposed right-of-way.
THOROUGHFARE PLAN	Lynhurst Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 98-foot existing right-of-way and a 112-foot proposed right-of-way.
OVERLAY	This site is located within an environmentally sensitive overlay, specifically the Forest Woodlands Alliance
FLOODPLAIN	The northern portion of this site is in the 500-year unregulated floodplain of Mill Run.
SITE PLAN	File-dated June 1, 2023.
LANDSCAPE PLAN	File-dated June 1, 2023.
ELEVATIONS	File-dated March 8, 2023.
PHOTOMETRIC PLAN	File-dated June 1, 2023.
FINDINGS OF FACT	File-dated March 8, 2023.

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## **STAFF REPORT 2023-UV1-013 (Continued)**

### **ZONING HISTORY – SITE**

EXISTING VIOLATIONS: None.

#### **PREVIOUS CASES**

**2001-DV2-024; 5348 West Vermont** (subject site), Variance of development standards of the Sign Regulations to provide for a 40-foot tall, combined advertising sign / commercial pole sign located 76 feet from a protected district (minimum 100-foot separation required) for a proposed integrated center, with the advertising portion being 195-square feet and the commercial portion being 210-square feet, **denied**.

**81-Z-44; 5320 West Vermont** (subject site), Rezoning of 10.0 acres, being in the C-4 and D-6II Districts to the C-4 classification, to provide for commercial development, **approved**.

### **ZONING HISTORY – VICINITY**

**2020-UV1-013; 359 North Lynhurst Drive**(southeast), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for automobile sales and repair (not permitted), with zero-foot front transitional yards and a 10-foot south side transitional yard (20-foot front and side transitional yards required), **withdrawn**.

**2017-SE1-006; 5136 West Vermont Street** (east), Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for accessory religious uses to an existing religious use, including offices and meeting rooms, **granted**.

**2017-UV2-004; 645 North Lynhurst Drive** (northeast), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for truck parking (not permitted), with a six-foot transitional setback and an office building with a 15-foot transitional setback (20-foot transitional setback required) and with a six-foot tall fence in the front yard (not permitted), **dismissed**.

**2015-DV1-072; 528 Shingle Oak Court** (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a sunroom addition, with an eleven-foot setback, encroaching nine feet into a 20-foot-wide drainage and utility and sewer easement, **granted**.

**2006-DV1-032; 340 and 342 North Lynhurst Drive** (south of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish an eight-foot-tall wooden privacy fence in the front yard along Vermont Street and in the west and south side yards, with portions of the fence rising to a height of nine feet along North Lynhurst Drive, **granted**.

**92-Z-93; 603 North Lynhurst Drive** (northeast of site), Rezoning of 2.1 acres being in the I-2-U district, to the C-3 Classification to provide for a retail center, **approved**.

**86-UV1-95; 350 North Fuller Drive** (southeast), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an addition to an existing church, **granted**.

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**STAFF REPORT 2023-UV1-013 (Continued)**

**85-Z-27; 705 North Lynhurst Drive** (northeast of site), Rezoning of 14.45 acres, being in the A-2 district, to the I-2-U classification, to provide for light industrial uses, **approved.**

**85-Z-212; 602 North Lynhurst Drive** (north of site), Rezoning of 93.8 acres from the SU-16, D-6II, D-7 and D-9 Districts to the D-5 Classification to provide for residential use by platting, **approved.**

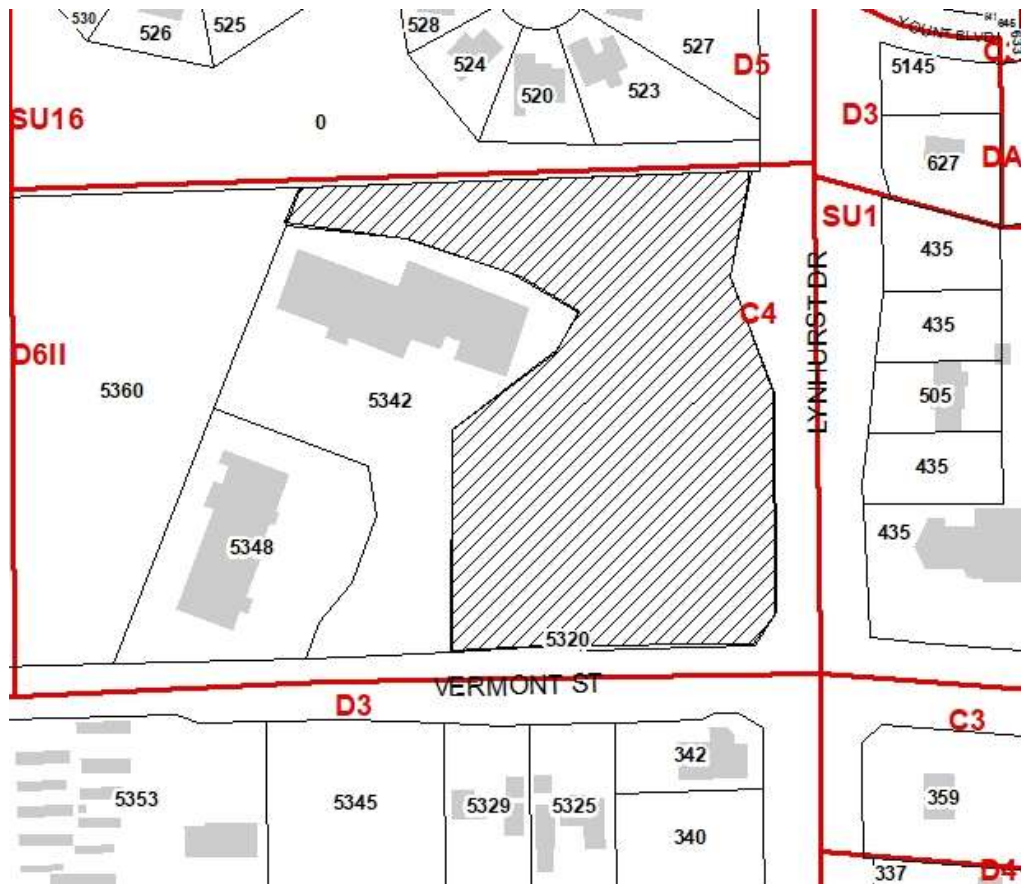
**82-Z-97; 702 North Lynhurst Drive** (north of site), Rezoning of 45.2 acres, being in the D-6II and D-7 District, to the SU-16 Classification to provide for commercial recreation and an amusement park, **approved.**

**72-Z-97; 5520 West Vermont Street** (west of site), Rezoning of 40.50 acres, being in the A-2 District, to the D-6il classification, to provide for an apartment complex, **approved.**

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## 2023-UV1-013; Location Map



## 2023-UV1-013; Aerial Map

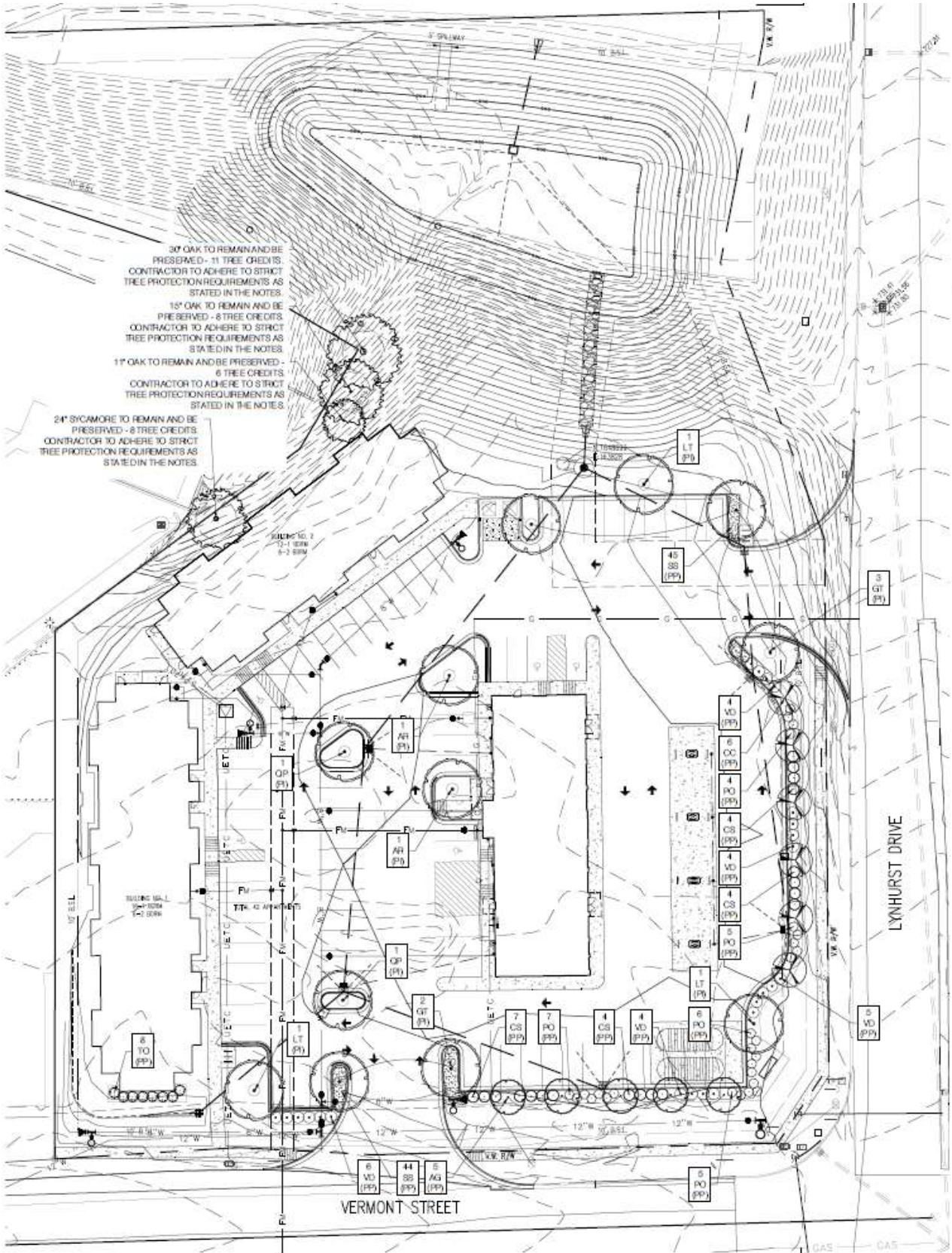




**LEGEND**

- 1. 2' Contained Concrete Wall & Core
- 2. 2' Contained Concrete Wall with Slab
- 3. Concrete Wall & Slab
- 4. Concrete Slab
- 5. Hard-up Slab
- 6. Concrete Slab
- 7. Concrete Slab
- 8. 4" Concrete Slab
- 9. 6" Concrete Slab
- 10. 8" Concrete Slab
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- 225. 438" Concrete Slab
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## REQUIREMENTS

(PI)	PARKING LOT INTERIOR REQUIREMENTS
	9% OF UNCOVERED VEHICLE AREA 1 TREE PER 180 SF. = 4300 SF = 24 TREES REQUIRED 12 TREES PROVIDED + 12 TREE CREDITS USED
(PP)	PARKING LOT STREET FRONTAGE PERIMETER
	1 ORNA. TREE PER 20 LF + 3 SHRUBS PER 25 LF IN 6' BED 15 ORNA. + 37 SHRUBS ON EAST SIDE 17 ORNA. + 41 SHRUBS ON SOUTH SIDE 32 ORNA. + 78 SHRUBS REQUIRED 11 ORNA. + 21 TREE CREDITS + 78 SHRUBS PROVIDED
(FY)	FRONT YARD LANDSCAPE
	20% OF FRONT YARD FRONTAGE LENGTH IN NATIVE PERENNIAL AND SHRUB PLANTINGS 1,067 SF EAST + 1,103 SF SOUTH = 2,170 SF PLANTING 1,067 SF EAST + 1,103 SF SOUTH = 2,170 SF PLANTING



This architectural drawing shows the elevation of a multi-story building facade. The structure features a series of windows and doors across three main levels. Annotations include dates like '4/12' and '4/10', and various alphanumeric codes such as '04 36 13', '07 42 23', '07 46 00 2'-0"', '07 49 300 6'-0"', '07 72 28', '07 20 30', '07 71 23', '06 33 113', '06 52 13', '06 26 510', '06 30 113', '06 09 800', '06 52 13', '06 26 900', '07 48 460', '04 72 00', '07 71 23', '04 52 23', '06 41 13', '04 21 134', '06 19 60', '23 30 004', '06 16 13', '07 48 460', '07 71 23', '06 33 113', '06 52 13', '06 26 510', '06 30 113', '06 09 800', '06 52 13', '06 26 900', '07 48 460', '04 72 00', '07 71 23', '04 52 23', '06 41 13', '04 21 134', '06 19 60', '23 30 004'. The drawing is a technical representation of the building's exterior design.

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BLD 1  
ARCHITECTURAL  
EAST (FRONT)  
**ELEVATION**  
1/8" = 1' 0"

**FRONT ELEVATION**  
(1)

**PLAN VIEW**  
(1)

**WALL SECTION**  
(1)

**CONCRETE ROLLER DETAIL**  
(1)

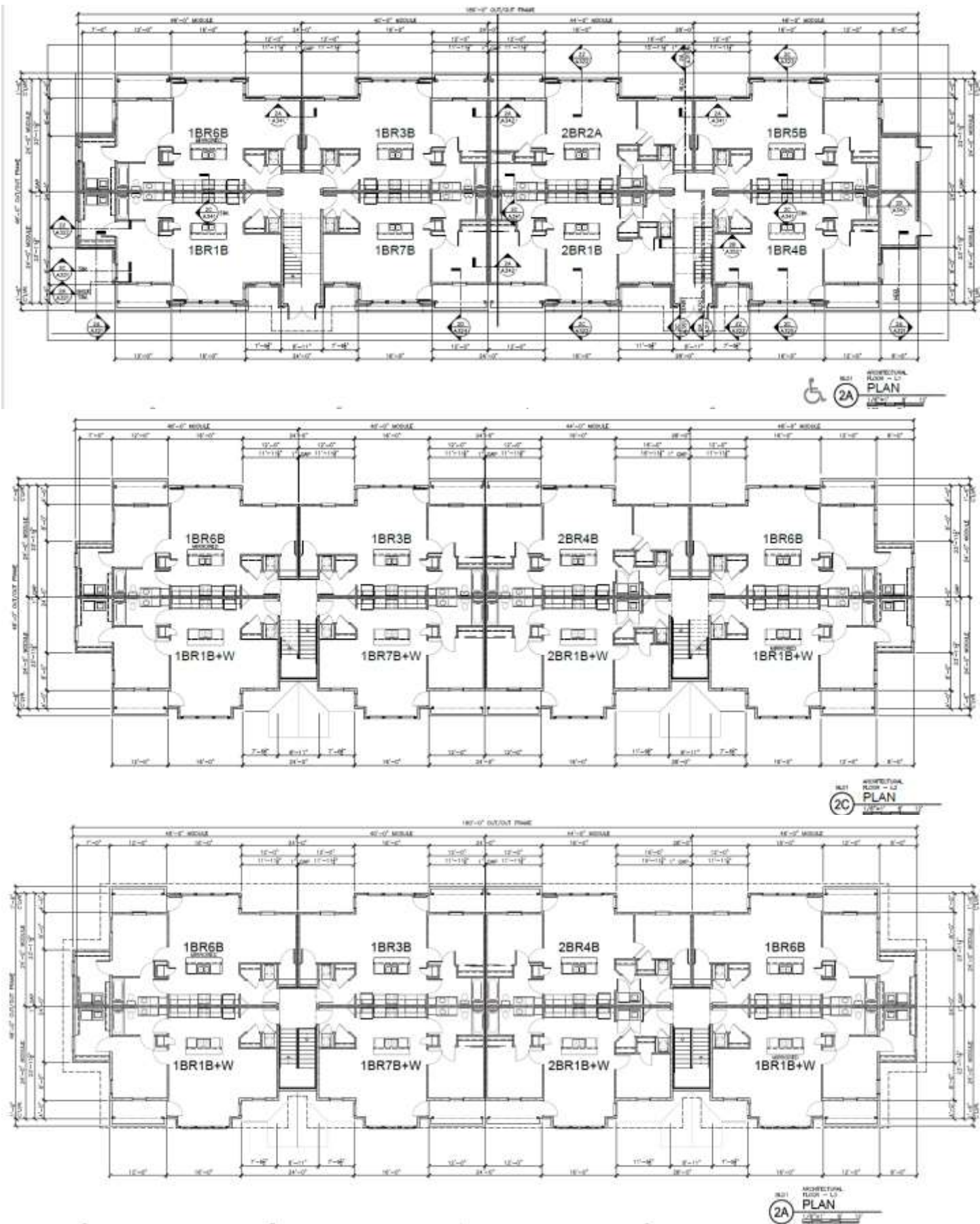
**SIDE ELEVATION**  
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**DUMPSTER ENCLOSURE DETAILS**  
(1)

NOTE: DUMPSTER MASONRY TO MATCH PROPOSED BUILDINGS. SEE ARCHITECTURAL PLANS.

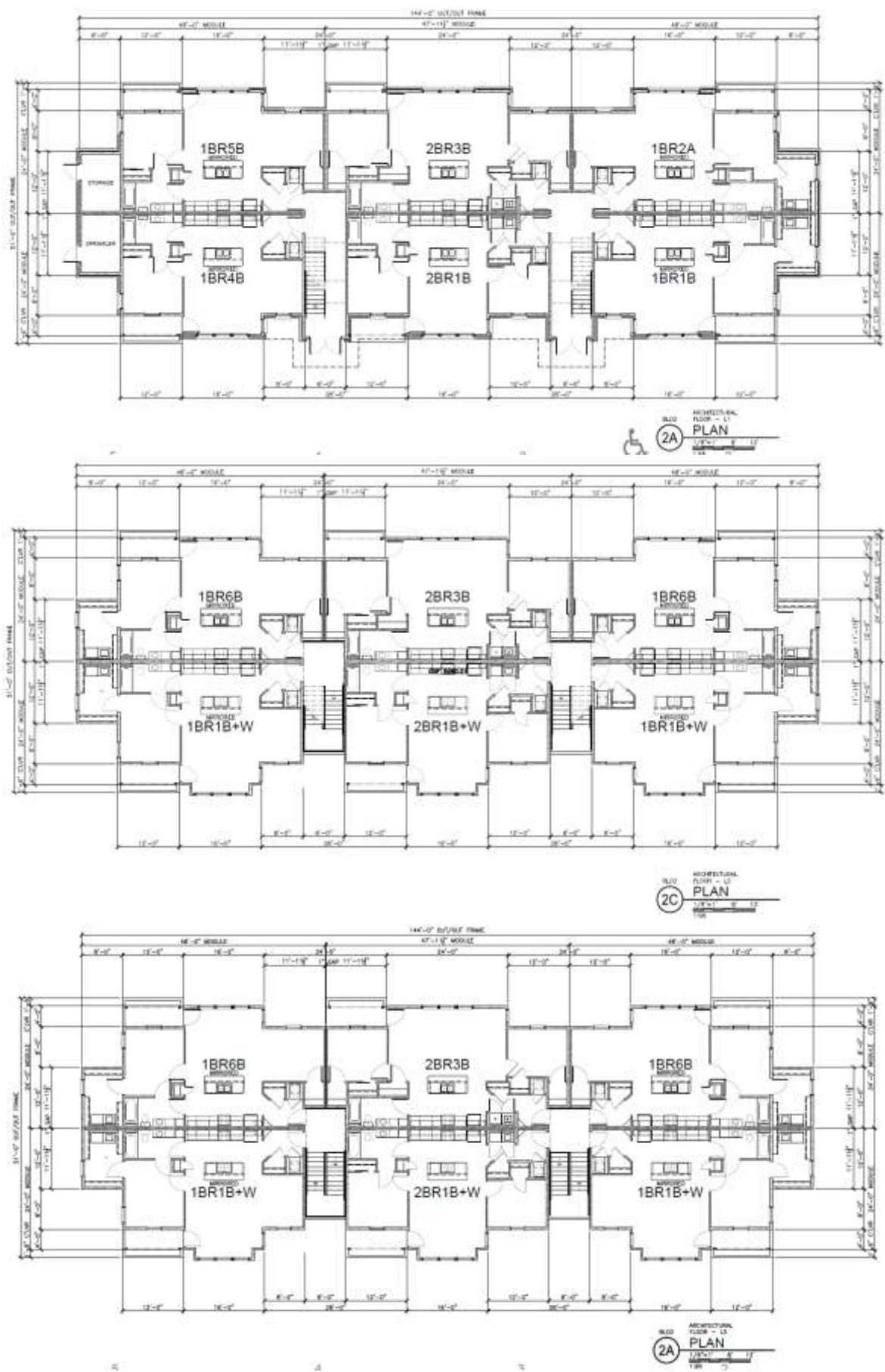
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2023-UV1-013; Floor Plans-Building 1

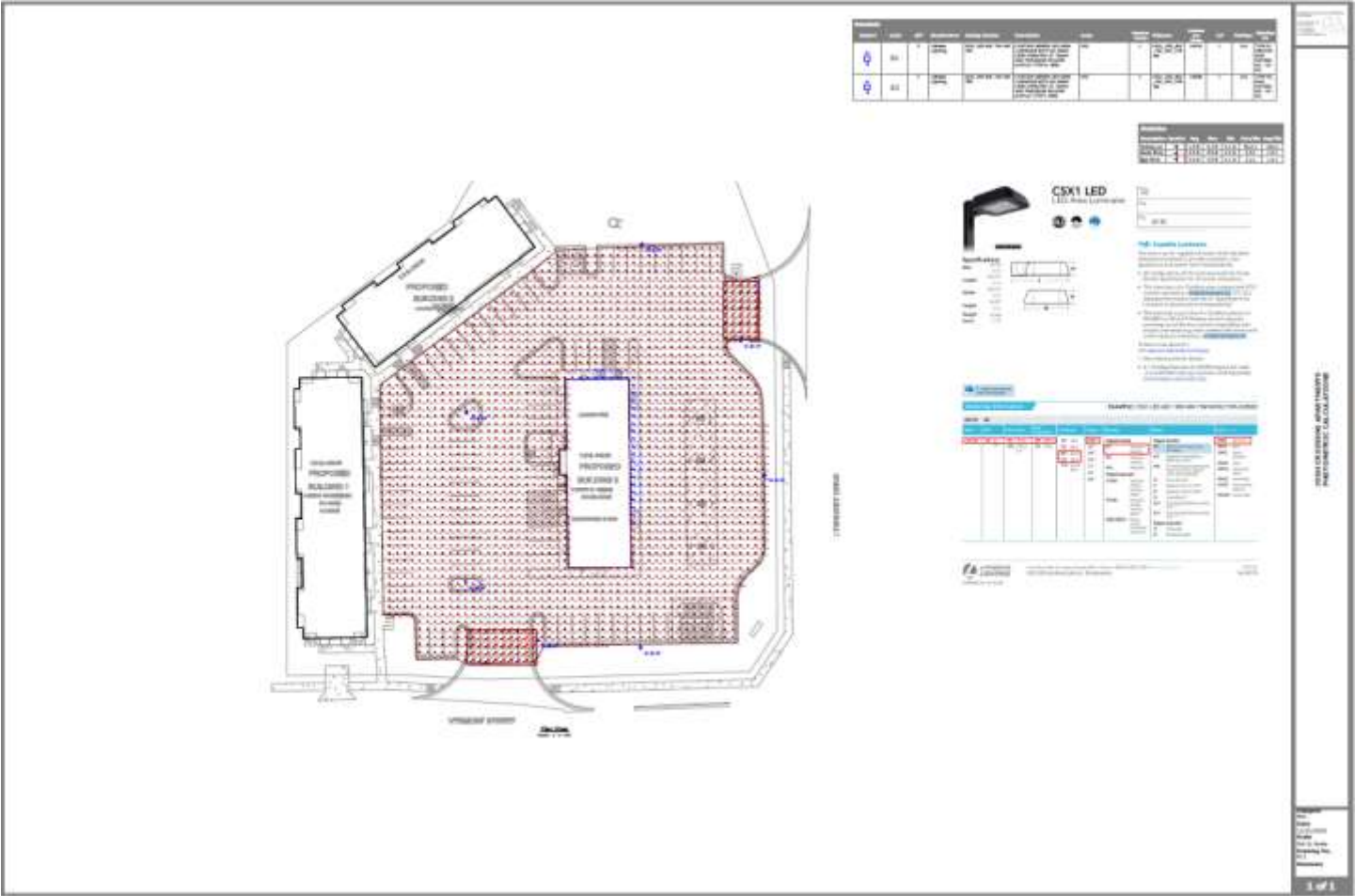




2023-UV1-013; Floor Plans-Building 2



2023-UV1-013; Photometric Plan





**2023-UV1-013; Photographs**



Photo of the Subject Property: 5320 West Vermont Street (



Photo of the southern property boundary of the subject site looking northwest.





Photo of the eastern property boundary looking west on the site.



Photo of the eastern property boundary looking northwest on the site.



Photo of the northern property boundary that would abut the single-family dwellings to the north.





Photo of the offices west of the subject site.



Photo of the western property boundary that will abut the offices to the west of the site.





Photo of the western property boundary of the subject site looking east.



Photo of the parking lot of the offices west of the site.





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



Photo of the commercial property southeast of the site.





Photo of a single-family dwelling east of the site.



Photo of the single-family dwelling associated with the church east of the site.



Photo of the church east of the site.