

## STAFF REPORT

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

**Case Number:** 2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 (Amended)  
**Address:** 1806 South East Street (*Approximate Address*)  
**Location:** Center Township, Council District #16  
**Petitioner:** 1800 BLOK, LLC, by Paul J. Lambie  
**Requests:** Rezoning of 0.11 acre from the C-3 District to the MU-2 district to provide for a mixed-use development.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a two-unit row house with a first story elevated two feet above street level (four foot elevation required), with patios encroaching seven feet into the right-of-way on Iowa Street (not permitted), with lot areas of 690 square feet (minimum 1,200 square feet required), with a five-foot rear-yard setback (fifteen feet required), a zero-foot west side-yard setback for proposed Lot Three (five feet required), with a parking and service area located within a transitional yard (ten-foot transitional yard required), and to provide for a mixed-use building with deficient landscaping/street trees (20% planting beds required in a front yard, one ornamental street tree per every 20 feet of frontage required), and encroaching into the clear sight triangle of East Street and Iowa Street.

Approval of a Subdivision Plat to be known as Blok's Replat of Lot 98 in Kappes & Franks Subdivision, dividing 0.11 acre into three lots.

A timely automatic continuance was submitted by a remonstrator continuing this matter from the **December 15, 2022 hearing** to the **January 12, 2023 hearing**.

This petition was granted a continuance for cause from the **October 13, 2022 hearing** to the **December 15, 2022 hearing** to provide for an amendment.

### **RECOMMENDATIONS**

Staff recommends **approval of the rezoning** petition.

Staff **recommends approval of the variance** petitions with a commitment that approval and issuance of an Improvement Location Permit is subject to the site plan file-dated November 28, 2022.

Staff recommends that the Hearing Examiner **approve** and find that the plat, file-dated December 19, 2022, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. Subject to the Standards and Specifications of the Department of Public Works, Sanitation Section.

(Continued)

## **2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 STAFF REPORT (Continued)**

2. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
4. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat, prior to recording.
5. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
6. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
7. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
8. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
9. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted, prior to recording the final plat.
10. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance are met, prior to the recording of the final plat

## **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

### **LAND USE**

- ◇ The subject site is zoned C-3 and is undeveloped. It is a corner lot at the intersection of South East Street and Iowa Street within the Bates-Hendrix Neighborhood.
- ◇ This petition would rezone this property to the MU-2 district to permit a mixed-use development including a commercial space and two attached townhomes. A plat would subdivide the property into three lots with a common area in the rear so that each unit may have separate ownership, with a shared service area for ADA parking and waste collection.

### **REZONING**

- ◇ This petition would rezone this site from the C-3 district to the MU-2 district to permit a commercial tenant space and two townhomes in a single structure.
- ◇ The comprehensive plan recommends Traditional Neighborhood uses, which would support a mix of housing types and small-scale commercial uses. Typology standards suggest locating townhomes at intersections near neighborhood-serving retail. This portion of east street contains a mix of residential and commercial uses. The comprehensive plan suggests that commercial uses are preferred as part of a mixed-use building, located at intersections, and limited to an aggregate of one acre. The proposed rezoning and development are consistent with the land use plan recommendations and their conditions. Therefore, staff is recommending approval of the rezoning.

(Continued)

## **2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 STAFF REPORT (Continued)**

### **VARIANCE**

- ◇ This request would provide for a two-unit row house with a first story elevated two feet above street level (four-foot elevation required), with patios encroaching seven feet into the right-of-way on Iowa Street (not permitted), with lot areas of 690 square feet (minimum 1,200 square feet required), with a five-foot rear-yard setback (fifteen feet required), a zero-foot west side-yard setback for proposed Lot Three (five feet required).
- ◇ Staff would note that several of these variances are related to the request to plat the residential uses as townhomes. The intent of this development is to provide for owner-occupied residential units as part of a mixed-use development. Similarly, a condominium agreement or multi-family apartments would not require a minimum lot area or minimum elevation. Setbacks would be subject to the MU-2 district standards instead of the residential housing types in Table 742.103.03. If approved, these lots would not be permitted to be developed as single-family detached housing. Therefore, staff is recommending approval of these variances as they are similar in use and character to the condominium or multi-family uses that would not require variances.
- ◇ The townhomes proposed on Lots Two and Three are requesting a reduced lot area, and a reduced rear setback of five feet where fifteen feet is required. The townhomes proposed are attached to a commercial building with a five-foot south side setback, which is the same southern property boundary. The rear setback of the townhomes would align with the commercial building, which complies with the ordinance. Each townhome would be 20 feet wide, as required by ordinance, but their depth would align with the north and south building exterior elevations of the commercial building, resulting in a lot area of 690 square feet. Staff would also note that this standard would only apply because these lots are being platted as townhomes. The setback would be compliant for multi-family or condominiums, which are a similar use. Staff is not opposed to a reduced rear setback where it would align with the side setback of an attached commercial building. Staff is not opposed to reduced lot areas where the use would function similarly to condominiums, which do not have a minimum lot area.
- ◇ Lot Three would have a zero-foot west side setback where five feet is required. This zero-foot setback shares a property line with the proposed common area at the rear of the site. The common area would function similarly to a side setback by providing an undeveloped area between the building exterior and the boundaries of the site. Staff would also note that the need for the variance is due to platting as townhomes. If this development was a multi-family or condominiums and commercial mixed-use building, the plat would not be necessary, and the building would comply with development standards; therefore, staff is not opposed to the zero-foot side setback.
- ◇ This request would provide for townhomes with a two-foot first story elevation from grade where four feet is required. Where mixed use districts have first-floor residential, the minimum elevation required is two feet. The building may be within five feet of the sidewalk if an additional six inches in elevation is required for every foot that the façade is closer to the street than ten feet. The proposed development would be six feet from the sidewalk instead of ten feet, which would require an increase of two feet in elevation (four feet of encroachment). Given the small floor area of the development and the character of the neighborhood, staff would not be opposed to only the minimum two-foot first story elevation.

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## **2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 STAFF REPORT (Continued)**

- ◇ This request would provide for the townhomes to have patios encroaching seven feet into the right-of-way of Iowa Street. The proposed patios are uncovered as shown on the elevations below. Iowa Street is improved with a two-way street, parking on the south frontage, and sidewalks on both sides of the street. The undeveloped right-of-way adjacent to the site contains underground utilities and a fire hydrant. Although located in the right-of-way, the proposed patios are unlikely to negatively impact the site. If approved, an encroachment license must be obtained from the Department of Business and Neighborhood Services, and would place any liability for the patios on the property owner. Therefore, staff is not opposed to the encroachment.
- ◇ This request would provide for a parking and service area located within a transitional yard (ten-foot transitional yard required). The common area contains one van-accessible ADA parking space, which would maneuver directly in the alley to the west. The dumpster enclosure would also be accessed directly from the alley to the west. The common area has a lot width of 22.08 feet. Staff thinks that the layout proposed is the most practical for the needs of the site and is therefore not opposed to the encroachment into the transitional yard.
- ◇ Staff would note that the site would only require two parking spaces for the townhomes as commercial properties less than 5,000 square feet are not required to provide off-street parking. Existing on-street parking may be utilized to meet parking minimums within the compact context area, so two on-street spaces on Iowa Street meet this requirement. The applicant has provided one off-street accessible parking space to address neighborhood concerns.
- ◇ This request would provide for a mixed-use building with deficient landscaping/street trees (20% planting beds required in a front yard, one ornamental street tree per every 20 feet of frontage required). The small lot size would not provide adequate room for frontage landscaping; however, the site plan includes planter boxes, shrubs, and some ornamental trees as an alternative to the required minimums. Given the constraints of the site, staff is not opposed to reduced landscaping. The landscape plan must comply with the site plan file-dated November 28, 2022 for issuance of an Improvement Location Permit. Flora permits are required for any plants in the right-of-way.
- ◇ This request would provide for a building encroaching into the clear sight triangle of East Street and Iowa Street. The propose building would have a ten-foot front setback from East Street and a zero-foot setback from Iowa Street. The corner of the building is slightly set back to offset the encroachment into the clear sight triangle. Staff would note that this intersection has a stop sign, and that on-street parking exists on both sides of East Street. Staff would argue that the existing on-street parking limits traffic visibility more than the proposed building's encroachment, so traffic would not be significantly impacted. Staff would also note that many existing buildings in the vicinity also encroach into clear sight triangles. Therefore, staff is not opposed to the encroachment.
- ◇ Staff would note that all outdoor seating must obtain sidewalk café licenses from the Department of Business and Neighborhood Services.
- ◇ Staff recommends approval of all variances requested with a commitment that the development must comply with the site plan file-dated November 28, 2022.

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## **2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 STAFF REPORT (Continued)**

### **PLAT**

- ◇ The plat would subdivide the subject site into three lots and a common area.
- ◇ Lot One would be 2,573 square feet and would provide for a commercial tenant space, anticipated for use by a restaurant. This lot would front on the corner of East Street and Iowa Street with the primary entrance facing East Street.
- ◇ Lots Two and Three would each contain 690 square feet and would provide for two townhomes. These lots would front on Iowa Street with the primary entrances facing north. Approval of lots two and three are subject to approval of the variances for 2022-CVR-855.
- ◇ The rear common area would contain 762 square feet.

### **TRAFFIC / STREETS**

- ◇ The subject site has frontages on two existing streets: East Street and Iowa Street. No new streets are proposed as part of this petition.
- ◇ The common area at the rear of the property would be accessed by the alley to the west. The common area also has frontage on Iowa Street.

### **SIDEWALKS**

- ◇ Sidewalks are existing on East Street and Iowa Street.

### **GENERAL INFORMATION**

#### **EXISTING ZONING, CONTEXT AREA, AND LAND USE**

C-3	Compact	Undeveloped
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#### **SURROUNDING ZONING AND LAND USE**

North	C-3	Mixed-use
South	C-3	Residential
East	C-3	Residential
West	D-5	Residential

#### **COMPREHENSIVE LAND USE PLAN THOROUGHFARE PLAN**

##### **Traditional Neighborhood**

East Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 50-foot existing and a 56-foot proposed right-of-way.

Iowa Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing and proposed right-of-way.

#### **FINDINGS OF FACT**

File-dated June 23, 2022

#### **SITE PLAN**

File-dated June 23, 2022

#### **SITE PLAN (AMENDED)**

File-dated October 18, 2022

(Continued)

**2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 STAFF REPORT (Continued)**

SURVEY	File-dated October 18, 2022
SURVEY (AMENDED)	File-dated December 19, 2022
COMMITMENTS	File-dated November 9, 2022

**ZONING HISTORY – SITE**

None

**ZONING HISTORY – VICINITY**

**2021-HOV-040, 1821 South East Street**, variance to provide an 720-square-foot addition to a single-family dwelling and 441-square-foot detached garage with a 3.67 south side transitional yard and a five-foot rear transitional yard, **approved**.

**2017-ZON-016, 1816 South East Street and various addresses**, rezoning from the C-3 district to the D-5 district, **approved**.

**2002-UV3-007, 1801 South East Street**, variance to legally establish a cabinet shop within a 2,721 square foot commercial building located six feet from the right-of-way of East Street and two feet from the right-of-way of Iowa Street, and a parking and maneuvering area located two feet from Iowa Street and seven feet from a protected district without required landscaping and screening, **approved**.

**97-UV2-84, 421 East Iowa Street**, variance to legally establish the conversion of a single-family dwelling to a two-family dwelling, with a lot area of 4,416 square feet, a lot width of 32 feet, and a main floor area for a one-story building of 687 square feet and 622 square feet per unit, **approved**.

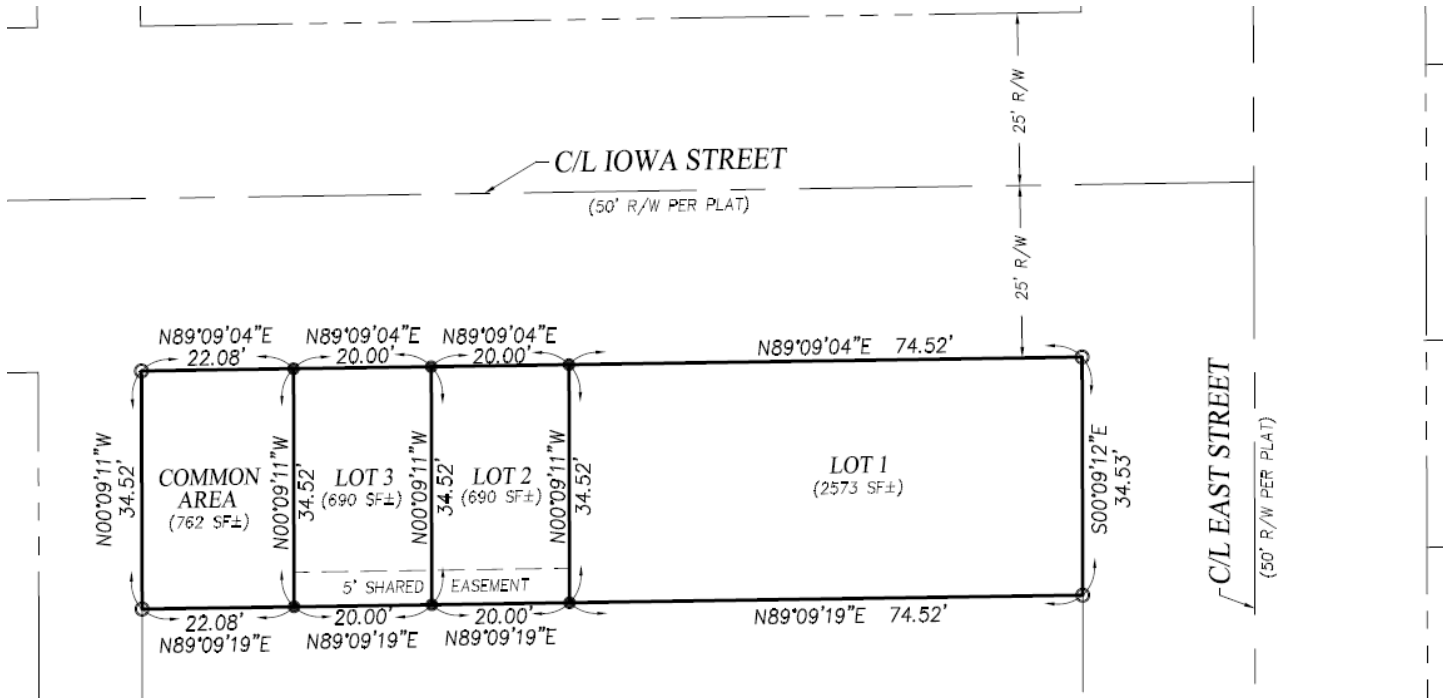
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**2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 Area Map**

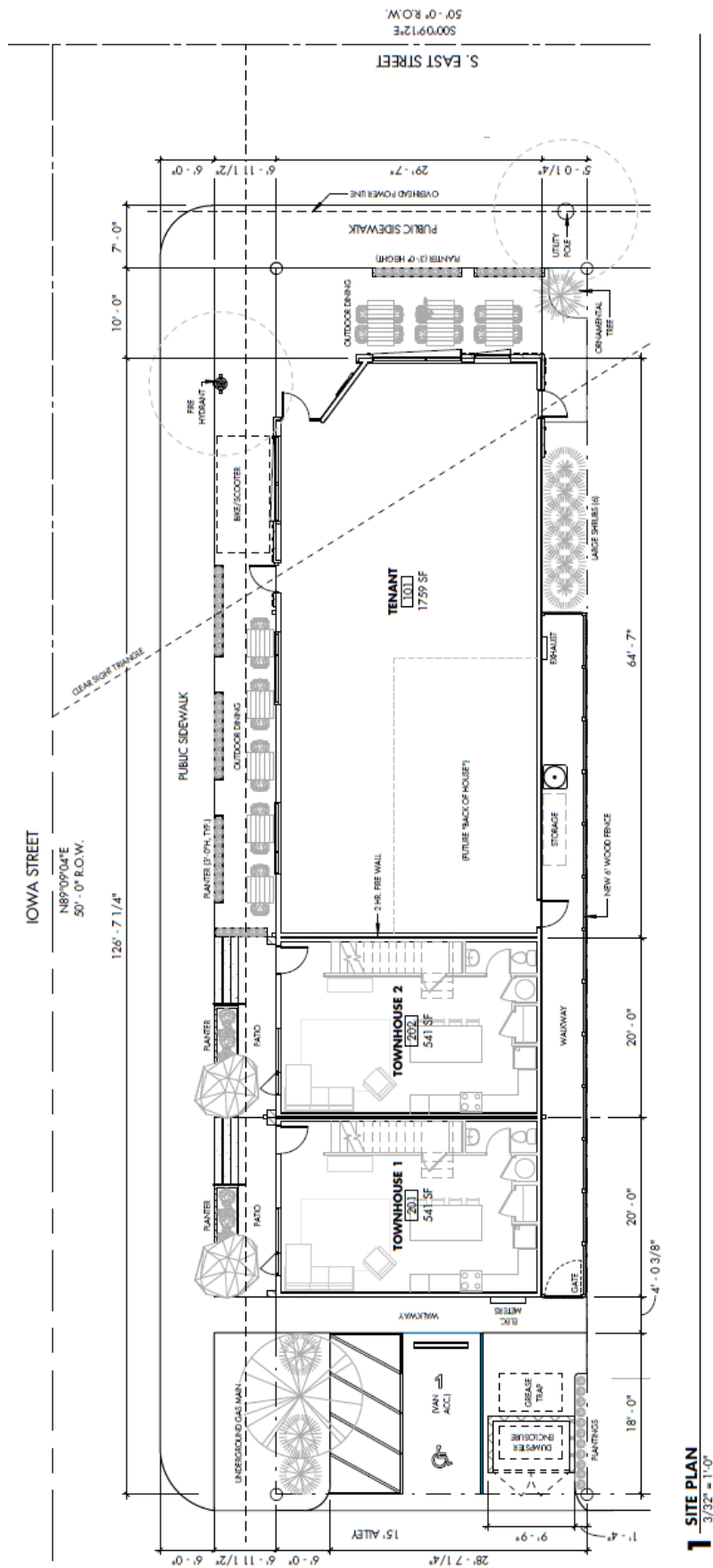


## Plat Detail



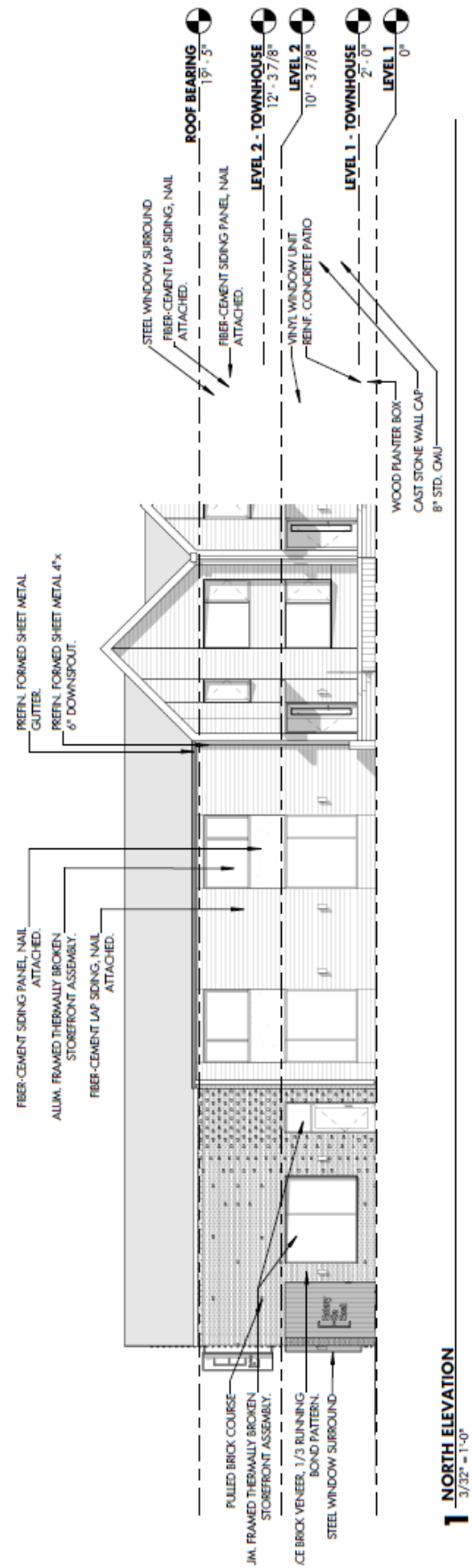
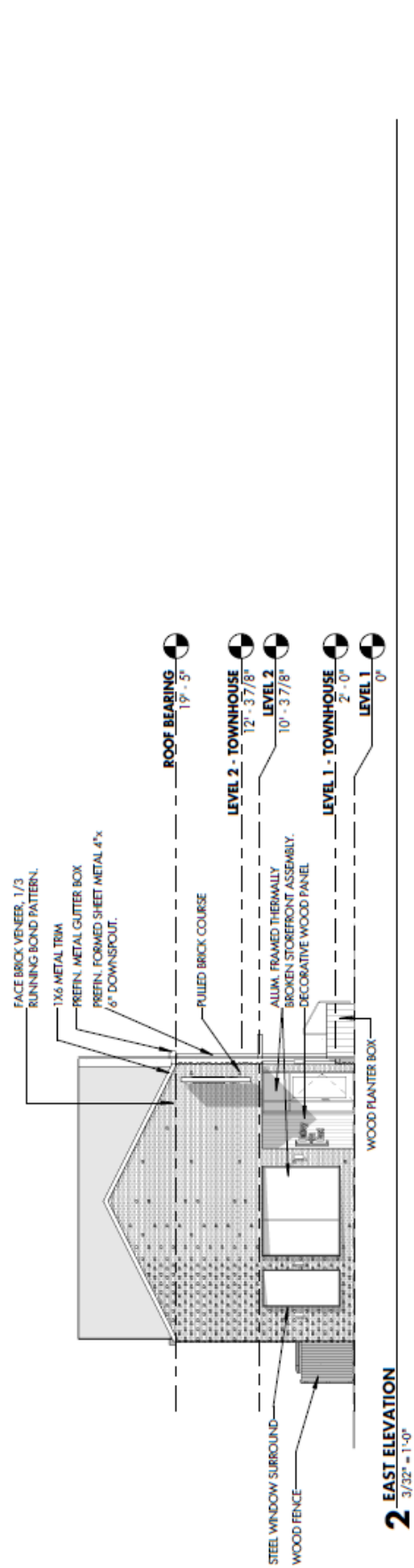


2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 Site Plan



**EAST STREET INFILL**  
1806 S. EAST STREET, INDIANAPOLIS, IN 46225  
**SITE PLAN - CONCEPTUAL DESIGN**  
11/28/2022





Petition Number

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division   
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:  
the proposed development would be consistent with the development pattern of the neighborhood where shorter setbacks resulting in obstructions of the clear sight triangle are common, but do not compromise safety because the smaller narrower streets result in slower traffic which doesn't necessitate large clear sight triangles.

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:  
the proposed development would be consistne with the development pattern of the neighborhood where shorter setbacks resulting in obstructions of the clear sight triangle areas are common.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:  
meeting the full clear sight triangle requirements would render the site nearly undevelopable and what limited development would be permitted would be wholly inconsistent with the development pattern of the neighborhood.



**2022-CZN-855 / 2022-CVR-855 / 2022-CPL-855 Photographs**



Subject site viewed from alley, facing north



Subject site viewed from alley, facing east





Subject site viewed from East Street, facing south



Subject site viewed from the intersection of East Street and Iowa Street, facing west





Intersection of East Street and Iowa Street, north and east of site



View of intersection of East Street and Iowa Street from a vehicle, looking south