



City of Bonner Springs

KANSAS

Tuesday, September 19, 2023

200 East Third Street, Bonner Springs, KS 66012

Board of Zoning Appeals

The meeting is open to the public.

BOARD OF ZONING APPEALS MEETING - 6:00 PM

CALL TO ORDER - ROLL CALL

CONSENT AGENDA

1. Approval of minutes from the August 15, 2023 BZA meeting

- | | |
|----------------|--|
| Action | Approve, Amend or Deny the minutes as presented. |
| Recommendation | Staff recommends approval of the minutes as presented. |

Documents:

1. BZA Minutes 8.15.23 draft

UNFINISHED BUSINESS

1. PUBLIC HEARING – VARIANCE REQUESTS – BZA-02-23 – Consider A request for variances from the allowed regulations within the C-1; Central Business Zoning District – The applicant is requesting variances to the allowed maximum height, the required minimum parking and the required first floor use as commercial space for 112-120 Oak Street.

- | | |
|----------------|--|
| Action | Approve, Amend or Deny the requested variance. |
| Recommendation | Staff recommends the Board of Zoning Appeals approve the requested variance with staff stipulations. |

Documents:

1. STAFF REPORT - BZA-02-23 - 120 Oak - Multiple Variances 9.14.23

NEW BUSINESS

1. None at this time

- | |
|----------------|
| Action |
| Recommendation |
| Documents: |

Memorandum

Date: September 19, 2023
To: Mayor and City Council
From: Mark Lee

Subject: Approval of minutes from the August 15, 2023 BZA meeting

Recommendation: Staff recommends approval of the minutes as presented.

Action: Approve, Amend or Deny the minutes as presented.

Background: Minutes are attached

Discussion: NA

Financial Impact: NA

MINUTES – 8.15.23 – DRAFT
BONNER SPRINGS BOARD OF ZONING APPEALS MEETING
Tuesday, August 15, 2023 – Regular Meeting – 6:00 p.m.

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1. Meeting **CALLED TO ORDER** by Chair Mesmer at 6:00 p.m.

ROLL CALL

Board of Zoning Appeals Members Present: Lloyd Mesmer -Chair; Sherri Neff; Larry Clark - Vice-chair; Nick Perica, Paul Zeps
Absent – None
Quorum Established
Staff Present: Mark Lee, Community Development Director

2. **CONSENT AGENDA**

Item #2 – Approval of Minutes of August 15, 2023 Board of Zoning Appeals meeting

Chair Mesmer introduced the Consent Agenda Item #2. Board members were awarded time to comment or ask questions.

Board Member Clark noted that Chair Mesmer’s name had been inadvertently replaced with Chair Gebauer of the Planning Commission. Staff mad the appropriate correction within the approved minutes.

Motion to **APPROVE** the Consent Agenda was made by Vice-Chair Clark and seconded by Board member Neff.

Chair Mesmer called for a vote.

AYE – Mesmer, Neff, Clark, Perica, Zeps

NAY – None

MOTION PASSED 5 – 0

UNFINISHED BUSINESS

None

NEW BUSINESS

4. PUBLIC HEARING - BZA-03-23 Variance request – - Consider a request for variance from the required front yard setback along Elmwood Avenue, addressed as 518 N. Nettleton Avenue.

Chair Mesmer called for a motion to OPEN the Public Hearing – Vice-Chair Clark mad a motion to **OPEN**, Board Member Perica **SECONDED**. Public Hearing was opened at 6:04pm.

Chair Mesmer introduced Item #4 and asked for staff’s report.

Staff introduced the item, explained the location of the project, and the background behind the request. Staff explained that this variance was being requested due to the failure to remove or vacate the existing right of way for the formerly platted Elmwood Avenue. Staff had worked with the applicant and surrounding homeowners to have the right of way vacated but that failed due to one homeowner not wanting to sign off on the vacation.

Chair Mesmer asked if there were any individuals that would like to speak in favor of the request. The applicant, Mr. Guy Tiner spoke to the Board. He spoke of the legally platted right of way and how that would interfere with the construction of a new home due to the front yard requirements.

Staff stated that technically the parcel would be considered a corner lot as it has two road frontages although one would more than likely never be constructed as it crosses a very deep and large ravine and provides no access to any future development. Being considered a corner lot would require the setback be the same along Nettleton Avenue as it would be along Elmwood Avenue – twenty-five feet from the right of way line; reducing the buildable width of the parcel to twenty-seven and one-half feet (27' 6").

Chair Mesmer asked if anyone chose to speak against the request; there were none.

Chair Mesmer asked if any of the Board Members had any questions of the applicant or staff. Board member Zeps asked if there were any utilities located within the area and how they may be affected. Staff stated that this in fact is platted road right of way and that it was initially intended to extend to 138th Street if constructed as originally proposed in 1906. Staff further stated there is currently a stormwater inlet along Nettleton and the piping for said system does extend down Elmwood but would not be affected by granting the variance. Staff also stated that the effective right of way will not be changed or altered in any manner and that the requested variance would allow for the setback along Elmwood to be reduced to a standard side yard setback of seven and one-half (7' 6") feet.

Chair Mesmer asked if there were any other questions of staff or the applicant, being none Chair Mesmer called for a motion to close the Public Hearing. Vice-chair Clark made a MOTION to **close** the hearing, Board Member Zeps **SECONDED**. Public Hearing was closed at 6:09pm.

Chair Mesmer asked if there was any further discussion amongst the Board members, being none Chair Mesmer called for a motion. Board Member Zeps made a motion to **APPROVE** the variance as written by staff; Vice-chair Clark **SECONDED**.

The variance shall be for the yard side (north) fronting along Elmwood Avenue and shall be reduced to seven and one-half (7' 6") feet as if it were an interior side yard.

With that, Chair Mesmer called for a roll call vote.

AYE – Perica, Neff, Clark, Zeps, Mesmer

NAY –

MOTION PASSED 5 - 0

5. PUBLIC HEARING – VARIANCE REQUESTS – BZA-02-23 – Consider A request for variances from the allowed regulations within the C-1; Central Business Zoning District – The applicant is requesting variances to the allowed maximum height, the required minimum parking and the required first floor use as commercial space for 112-120 Oak Street.

Staff stated that the applicants had reached out and requested that this item be tabled in order for them to provide further information and rebut staff's recommendations.

With publication of the hearing notice, the hearing was required to be opened and then tabled immediately following. Vice-chair Clark made a motion to **OPEN** the Public Hearing, Board Member Perica **SECONDED**, the Public Hearing was opened at 6:12pm.

Board Member Zeps made a motion to **TABLE** the hearing with Vice-chair Clark **SECONDDING**.

With this action Chair Mesmer adjourned the meeting at 6:18pm

Memorandum

Date: September 19, 2023
To: Mayor and City Council
From: Mark Lee

Subject: PUBLIC HEARING – VARIANCE REQUESTS – BZA-02-23 – Consider A request for variances from the allowed regulations within the C-1; Central Business Zoning District – The applicant is requesting variances to the allowed maximum height, the required minimum parking and the required first floor use as commercial space for 112-120 Oak Street.

Recommendation: Staff recommends the Board of Zoning Appeals approve the requested variance with staff stipulations.

Action: Approve, Amend or Deny the requested variance.

Background: The applicant is requesting multiple variances to the Zoning Ordinance. These variance requests are to coincide with the redevelopment of 112-120 Oak, the site of the old Thriftway grocery store, and previous businesses that were located at the site over the years.

Recently the Governing Body voted to condemn the building, the owners have since had it demolished and have proposed redevelopment of the site. The proposed redevelopment is a 100-unit, four-story apartment building.

In May 2022 the Governing Body passed a Memorandum of Understanding, a resolution in support of the applicants' request for a Moderate-Income Housing Program application through the State of Kansas, and assisted in preparing and applying for a Reinvestment Housing Incentive District (RHID).

The anticipated investment in the development totals \$17,000,000, and will be funded through the MIH program, developer equity, and private lender financing to the developer. The developer also hopes to be granted a Reinvestment Housing Incentive District (RHID, formerly Rural Housing Incentive District). The MIH application lists the RHID as another funding source. However, any RHID would need to be applied for separately from this program and would be required to follow the RHID process of approval. The City would be the project applicant for the MIH program, but no monetary match is required for the City beyond staff time.

Each variance request will be addressed separately within Staff's report to the Board. The variance requests being brought forward for consideration this evening are as follows:

1. **Request #1:** A variance on the height and story requirements within the C-1; Central Business District. The request is to allow for four (4) stories vs. the three (3) stories allowed.
1. **Request #2:** A variance from the required parking regulations within the C-1 Zoning District. Required two (2) spaces per dwelling unit; request is for one (1) space per dwelling unit.
1. **Request #3:** A variance from the requirement of the C-1, Central Business District that allows for second story apartments only; the request is to allow for 10 +/--apartment units to be located along the ground floor fronting Oak Street and Front Street with limited commercial useage.

Each variance request shall be addressed individually.

Discussion: Staff report is included within the packet.

Financial Impact: NA

City of Bonner Springs
Board of Zoning Appeals
Agenda Item Cover Sheet

Agenda Item No. 3

BZA-02-23

Topic: Consider a request for variances from the allowed regulations within the C-1; Central Business Zoning District – The applicant is requesting variances to the allowed maximum height, the required minimum parking and the required first floor use as commercial space at 120 Oak Street.

Narrative: The applicant is requesting multiple variances to the Zoning Ordinance, these variance requests are to coincide with the redevelopment of 112-120 Oak, the site of the old Thriftway grocery store, and previous businesses that were located at the site over the years.

Recently the Governing Body voted to condemn the building, the owners have since had it demolished and have proposed redevelopment of the site. The proposed redevelopment is a 100-unit, four story apartment building.

In May 2022 the Governing Body passed a Memorandum of Understanding, a resolution in support of the applicants request for a Moderate-Income Housing Program application through the State of Kansas, and assisted in preparing and applying for a Reinvestment Housing Incentive District (RHID).

The anticipated investment in the development totals \$17,000,000, and will be funded through the MIH program, developer equity, and private lender financing to the developer. The developer also hopes to be granted a Reinvestment Housing Incentive District (RHID, formerly Rural Housing Incentive District). The MIH application lists the RHID as another funding source. However, any RHID would need to be applied for separately from this program and would be required to follow the RHID process of approval. The City would be the project applicant for the MIH program, but no monetary match is required for the City beyond staff time.

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1. **Request #1:** A variance on the height and story requirements within the C-1; Central Business District. The request is to allow for four (4) stories vs. the three (3) stories allowed.
2. **Request #2:** A variance from the required parking regulations within the C-1 Zoning District. Required two (2) spaces per dwelling unit; request is for one (1) space per dwelling unit.
3. **Request #3:** A variance from the requirement of the C-1, Central Business District that allows for second story apartments only; the request is to allow for 10 +/-apartment units to be located along the ground floor fronting Oak Street and Front Street with limited commercial usage.

Each variance request shall be addressed individually.

Presented by: Mark Lee – Community Development Director

Staff Recommendation: Staff recommendations are located at the end of Staff's report

Attachments:

Staff Report (9pgs)

Aerial image (included in report)

Council Memorandum regarding Moderate Income Housing Program (2pgs)

Site Renderings (2pgs)

Ground level images from Elm Street (11pgs)

STAFF REPORT

Meeting Date: August 15, 2023

Report Date: July 26, 2023 through August 8, 2023

Subject: Consider a request for variances from the allowed regulations within the C-1; Central Business Zoning District – The applicant is requesting variances to the allowed (1) maximum height, (2) the required minimum parking and (3) the required first floor use as commercial space

File Number: BZA-02-23

GENERAL INFORMATION

Applicant: Chad Schimke
Address: PO Box 440
Bonner Springs, KS 66012

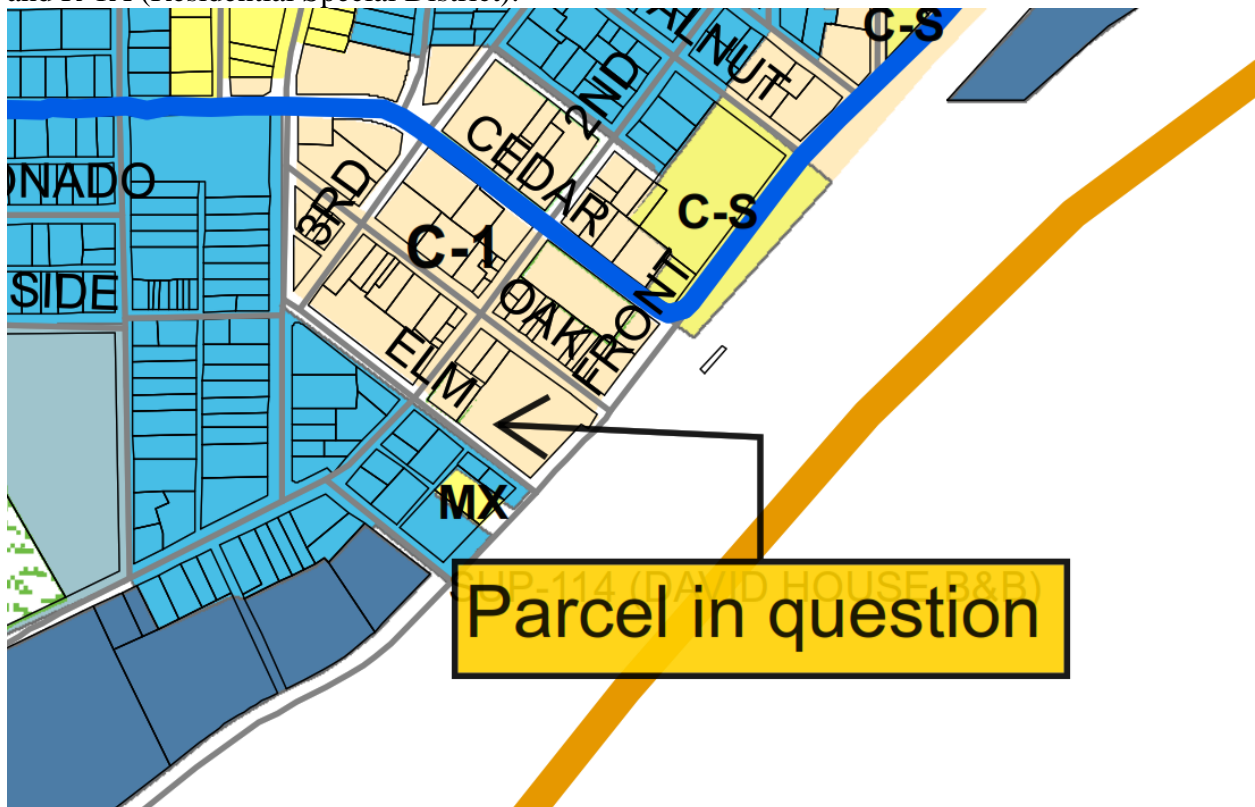
STAFF ANALYSIS

Site Characteristics

Location: 112-120 Oak Street (Corner of Oak and Front Streets)
Area of Property: 83,776 square feet; 1.923 acres
Zoning: C-1; Central Business District
Future Land Use Map: Commercial

Adjacent Property:

Two major zoning categories encompass the parcel in question, C-1 (Central Business District) and R-1A (Residential Special District).





Narrative/Background

The applicant is requesting multiple variances to the Zoning Ordinance, these variance requests are to coincide with the redevelopment of 112-120 Oak, the site of the old Thriftway grocery store, and other businesses that were located at the site over the years.

Recently the Governing Body voted to condemn the building, the owners have since had it demolished and have proposed redevelopment of the site. The proposed redevelopment is a 100-unit, four story apartment building with limited commercial space on the ground floor.

In May 2022 the Governing Body passed a Memorandum of Understanding, a resolution in support of the applicants request for a Moderate-Income Housing Program application through the State of Kansas, and assisted in preparing and applying for a Reinvestment Housing Incentive District (RHID).

The anticipated investment in the development totals \$17,000,000, and will be funded through the MIH program, developer equity, and private lender financing to the developer. The developer also hopes to be granted a Reinvestment Housing Incentive District (RHID, formerly Rural Housing Incentive District) at the State level. The MIH application lists the RHID as another funding source. However, any RHID would need to be applied for separately from this program and would be required to follow the RHID process of approval. The City would be the project applicant for the MIH program, but no monetary match is required for the City beyond staff time.

Each variance request will be addressed separately within Staff's report to the Board. The variance requests being brought forward for consideration this evening are as follows:

1. **Request #1:** A variance on the height and story requirements within the C-1; Central Business District. The request is to allow for four (4) stories vs. the three (3) stories allowed.
2. **Request #2:** A variance from the required parking regulations within the C-1 Zoning District. Required two (2) spaces per dwelling unit; request is for less than one (.97) space per dwelling unit.
3. **Request #3:** A variance from the requirement of the C-1, Central Business District that allows for second story apartment only; the request is to allow for 10 +/-apartment units to be located along the ground floor fronting Oak Street and Front Street.

Conformance with the Zoning Ordinance

Article XXVI states: *When deemed necessary by the Board of Zoning Appeals, the Board may authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, and provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variances shall not permit any use not permitted by the zoning regulations in such district. (Revised, Ordinance No. 1630)*

The questions listed below are required by K.S.A. 12-759; this Statute goes on to state: A request for a variance may be granted in such case, upon a finding by the board that all of the following conditions have been met.

The questions below, in bold type, are required by State Statute when hearing variance requests; the applicant's responses are below them in italics, with any Staff comments following.

Request #1: A variance on the height and story requirements within the C-1; Central Business District. The request is to allow for four (4) stories vs. the three (3) stories allowed.

1(1). That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant.

We are requesting a four-story variance for our proposed apartment building at 120 Oak St. We can only make the pro forma work with a minimum number of 100 units. In order to do this, we will need to be four story.

The C-1 (Central Business District) zoning allows for a maximum height of three (3) stories or forty-five (45) feet. By literal definition the variance does not arise from any unique condition not ordinarily found within the same zoning district. The request is created by actions of the property owner. With that said though staff realizes that most modern multi-family residences are a minimum of three stories, with some well exceeding that. With Oak Street traversing a hill from northwest to southeast and the proposed building being at the bottom of said hill, the addition of a fourth story would not appear to overpower the downtown skyline. For the most part, due to the lay of the land, the building would appear as though it was two-story from the majority of vantage points looking towards the south east. Only from Oak, Front and the intersection at Elm and Front would the building be notic four stories.

2(1). The granting of the variance request will or will not adversely affect the rights of the adjacent property owners or residents.

I can only foresee increased property values and something much more desirable for the surrounding homes to look at. I can't possibly see any way possible this would create any adverse effects.

While the downtown businesses and surrounding area would see a significant increase in patronage; homes in the 100 block of Elm Street would see the most significant impact. With the increase in height, "views" from these homes would be significantly impacted. With this said though, staff understands that the "views" these homes had in the past was of a dilapidated structure and the roof of said structure. The construction of these units would provide a much more improved scenery than previously allowed. For the majority of the homes on Elm Street the structure would appear as though it was two (2) stories. From the intersection of Elm and 2nd Streets there is an elevation change of six (6') feet, before dropping twenty-three (23') down to Front Street. See included Google Street View images.

3(1). That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

If the zoning appeal is denied in any of the three areas above, we will not be able to make this project work. The numbers simply won't work and the project will not support itself.

Staff finds that an unnecessary hardship may occur if the regulations are upheld as written. The applicant has done their due diligence in vetting the site and understanding what they will need in order to make the project feasible from the developers' end. The applicant was required to demolish the dilapidated structure that was on-site and has made a significant investment in the property to perform said demolition and proposed redevelopment of the site.

4(1). That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare or the harmonious development of the city.

All of the above listed should improve and the quality of life, general welfare, convenience would surely increase with the walkability and increased commerce to the city.

Granting the variance will not directly affect the health, safety, morals or general welfare of the public in any adverse way currently. The requested increase in height will only partially block any "views" that the neighboring property owners would or did have. Creating a more vibrant downtown with the addition of potentially 150 +/- residents, should in fact increase the general welfare and harmonious development of city. The addition of residents should increase the need for businesses within the area as well as provide a large boost for existing businesses within downtown.

5(1). That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.

The general intent of the ordinance would not be compromised in any way nor the spirit in which it was created. We are simply asking for slight deviation to accommodate the needed number of units (100) and slightly fewer parking spots to accommodate the size lot we have available to work with. The benefits will far outweigh the variances requested.

Granting the variance would not be opposed to the general spirit and intent of the Zoning Ordinance. The goal of zoning regulations is to structure municipalities efficiently, zoning regulations determine which types of properties can coexist in different areas of the city. Providing a walkable community within downtown would be a means of providing efficient development.

Request #2: A variance from the required parking regulations within the C-1 Zoning District. Required two (2) spaces per dwelling unit; request is for one (1) space per dwelling unit.

1(2). That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant.

The requested increase in height allows for more units, this creates a need of variance for the required number of parking stalls per city mandate. Many other cities, Olathe, Shawnee, Lenexa all have 4 and 5 story apartments. Downtown Olathe just allowed Milhaus to build a five-story apartment building just blocks from their new courthouse. Olathe required NO parking and offered their public parking garage as an option for their residents to use because they saw the benefit of density and commerce. We are not asking for “no” parking we are simply asking to allow us to have the maximum number of stalls that we can fit as an acceptable allowance. We currently have 97 stalls available on the property without needing any street or public parking use. There are two public lots available within a block of our property as well as ample street parking if needed for the residents

The current parking regulations as set forth in the Zoning Ordinance require two (2) spaces per dwelling unit for a required total of 200 spaces, including accessible spaces. The applicant is requesting .97 per dwelling for a total of 97 on-site spaces. During ongoing conversations with the developers and city staff, discussions began to revolve around downtown parking in general. Article XXIII – Off Street Parking and Loading Regulations; Section 7 of the Zoning Ordinance would allow for off-site parking and the utilization of city owned parking lot(s) for overflow parking from the apartment building as it does for businesses and residents within downtown currently. The revised site plan lends itself to a connection point made through Kelly Murphy Park to a stairway as well as wayfinding signage for residents.

SECTION 7: OFF-SITE PARKING: For any new use, structure or building which, because of the site or location of the parcel, the required amount of off-street parking spaces cannot be provided on such parcel, part or all of such required off-street parking may be provided on other property of the same or less restrictive zoning classification provided all parking spaces on the other property are located within five hundred feet of the parcel on which the new use, structure or building is located. In all cases, such parking spaces located on other property shall conform to the City Ordinances and use regulations of the zoning district in which such other property is located. Such other property shall be subject to appropriate deed or easement restrictions approved by the City and recorded in the office of the Register of Deeds of the County in which such other property is located, binding such other property and the owners and assigns thereof to maintain a specified area of such other property exclusively for the use as parking spaces for the said new use, structure, or building throughout the existence of such new use, structure, or building in which such parking spaces are necessary or until an equal area or number of such parking spaces are provided elsewhere. (Revised, Ordinance No. 1561)

Through some form of Memorandum of Understanding and possible easement or deed restrictions, the city is willing to allow for off-site parking in the lot located southwest of Oak Street.

2(2). The granting of the variance request will or will not adversely affect the rights of the adjacent property owners or residents.

I can only foresee increased property values and something much more desirable for the surrounding homes to look at. I can't possibly see any way possible this would create any adverse effects.

The increase in traffic and limited parking would adversely affect all existing residents within the general area and potentially businesses within downtown if not adequately provided. It would though on the other hand provide a huge economic boost to downtown businesses with foot traffic alone.

3(2). That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

If the zoning appeal is denied in any of the three areas above, we will not be able to make this project work. The numbers simply won't work and the project will not support itself.

Staff finds that an unnecessary hardship may occur if the regulations are upheld as written. The applicant has done their due diligence in vetting the site and knowing what they will need in order to make the project feasible from the developer end. The applicant was made to demolish the dilapidated structure that was on-site and has made a significant investment in the property to perform said demolition. Requiring the two (2) spaces per dwelling unit as written within the Zoning Ordinance would render the project futile as parking could not be met.

4(2). That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare or the harmonious development of the city.

All of the above listed should improve and the quality of life, general welfare, convenience would surely increase with the walkability and increased commerce to the city.

The requested variance for parking could potentially impact the convenience and safety of the surrounding public, with Elm Street allowing parking on either side of the street, the residents within the 100 block of Elm may be forced to park away from the homes, or have individuals blocking driveways, etc. While this can still happen today, the chances are less likely to happen with the amount of current traffic. With the additional off-street parking being provided by the city this issue is hopefully null and void at this time.

5(2). That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.

The general intent of the ordinance would not be compromised in any way nor the spirit in which it was created. We are simply asking for slight deviation to accommodate the needed number of units (100) and slightly fewer parking spots to accommodate the size lot we have available to work with. The benefits will far outweigh the variances requested.

Granting the variance for a reduction in parking would be opposed to the intent of the Zoning Ordinance. While our parking regulations may be out of date with current trends, the requested reduction in parking would create an issue that more than likely would only increase over time and conflict with current businesses and events. Staff has looked at surrounding communities and came to the conclusion that allowing 1 space per unit for studio and one-bedroom units and 1.5 spaces per two-bedroom plus spaces for visitor's is fairly common throughout the metro. This would mean the proposed reduction would allow for 124 total spaces versus the required 200, with 97 of those spaces being located on-site, leaving 27 spaces to be accounted for in the city owned parking lot.

Request #3: A variance from the requirement of the C-1, Central Business District that allows for second story apartment only; the request is to allow for 10 +/-apartment units to be located along the ground floor fronting Oak Street and Front Street.

1(3). That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant.

We can only make the pro forma work with a minimum number of 100 units. In order to do this, we will need to be four story with limited commercial on the ground floor. Staff added the underlined portion, it was not included in the application but in discussions, this is what was expressed by the developer.

The C-1 (Central Business District) zoning regulations state permitted uses shall be for the retailing of goods and services, public and semipublic uses, and second story apartments are permitted. The majority of buildings located within the C-1 district have apartments located on the upper stories above commercial spaces; those that do not contain retail or are vacant. The request does not arise from a condition unique to the property other than from a cost-effective development stand-point. Staff does though realize that a large influx of moderate-income residents will only provide a much welcome boost to the existing downtown businesses, it will more than likely create the need for more businesses as well, potentially spurring more development along Front Street and possibly Oak.

2(3). The granting of the variance request will or will not adversely affect the rights of the adjacent property owners or residents.

I can only foresee increased property values and something much more desirable for the surrounding homes to look at. I can't possibly see any way possible this would create any adverse effects.

Granting the variance for limited commercial space would not affect the rights of adjacent property owners. It would limit the potential for commercial growth within the proposed site though. On the opposite end, it would be a beneficial boost to our existing downtown commercial district.

3(3). That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

If the zoning appeal is denied in any of the three areas above, we will not be able to make this project work. The numbers simply won't work and the project will not support itself.

Staff finds that an unnecessary hardship may occur if the regulations are upheld as written. The applicant has done their due diligence in vetting the site and knowing what they will need in order to make the project feasible from the developer end. The applicant was made to demolish the dilapidated structure that was on-site and has made a significant investment in the property to perform said demolition. Staff understands that the commercial business industry fluctuates more drastically than the residential market and in order to make their project work they must include more residential than commercial.

4(3). That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare or the harmonious development of the city.

All of the above listed should improve and the quality of life, general welfare, convenience would surely increase with the walkability and increased commerce to the city.

The requested variance for limited commercial space will not adversely affect the public in any of the manners listed. The building, as shown, would be a gateway to downtown and present itself in a tasteful manner that would complement the older buildings currently located within downtown. It would, more than likely increase the prosperity of most businesses currently located within downtown as well as provide conveniences to those residents living within the units.

5(3). That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.

The general intent of the ordinance would not be compromised in any way nor the spirit in which it was created. We are simply asking for slight deviation to accommodate the needed number of units (100) and slightly fewer parking spots to accommodate the size lot we have available to work with. The benefits will far outweigh the variances requested.

Granting the variance for a reduction in commercial space would be opposed to the intent of the Zoning Ordinance; this zoning district is meant to provide a zone which is suitable for retail shopping and offices typically located within a central business district. In order to create and maintain a thriving downtown area, density is required along with uses to support those residents within close proximity of it. Injecting a large residential population within downtown will only further the existing vibrancy of downtown as well as increase its potential, a reduction in commercial space should be allowed along Front Street, staff feels as though small incubator spaces or other small commercial fronts should be utilized along Oak Street.

Conformance with the Future Land Use Plan:

The Future Land Use Plan identifies this area as “Commercial”. The Future Land Use Plan does not mention nor pertain to variance requests. The majority of immediate area is indicated as developing in both, a residential and commercial manner.

Traffic Impact:

The proposed variance requests, will have an impact on traffic, these concerns have been expressed by our Public Works Director as well as our City Engineer. The majority of vehicular traffic is shown as accessing parking from Oak Street – 80 stalls are proposed to be constructed behind the building all accessing Oak Street.

Drainage Impact:

The proposed variance request, whether approved or denied, will have no impact on drainage. The site has been developed for years and includes an asphalt parking lot currently, the impervious surface will not be increased.

STAFF RECOMMENDATIONS

- Staff recommends the variance **Request #1**, be approved; with the surrounding residents being at a higher grade than the lower floors of the proposed building it would appear as though it was a two-story structure from most vantage points; until you were directly in front of the structure on Oak or Front Streets.
- Staff recommends the variance **Request #2**, be approved with the stipulation that a minimum of 97 spaces be provided on-site while allowing for an additional minimum of 27 spaces be provided in a city owned parking lot. This reduction equates to 1 space per studio and 1.5 spaces per two-bedroom unit; plus an additional 10% for visitor parking.

- Staff recommends the variance **Request #3**, be approved with the stipulation that the Oak Street frontage be constructed to resemble commercial frontage while allowing for limited general public uses. The frontage along Front Street shall be allowed to remain residential. The applicant is proposing limited commercial space along Oak Street, the majority of which is for the residents of the proposed building, staff feels that the influx of a large number of residents in the area will greatly improve the vibrancy of our existing downtown and provide a huge injection of financial prosperity for the existing businesses but potentially creates the need for more business space, this should be taken into account and possibly planned for future expansion of commercial space along Oak Street.

BOARD OPTIONS

- 1. Approve the variance request(s), with or without conditions/changes.**
- 2. Deny the variance request(s)**
- 3. Continue the Public Hearing to another date, date, time, and/or place**

Memorandum

Date: May 22, 2023
To: Mayor and City Council
From: Amber Vogan

Subject: Memorandum of Understanding and Resolution for Moderate Income Housing Program Application

Recommendation: The Assistant City Manager recommends approval.

Action: Make a motion to authorize the City to enter into a memorandum of understanding with Katfish Inc. and approve a resolution to submit an application for the Kansas Housing Resources Corporation Moderate Income Housing Program

Background: The property at 112 and 120 Oak Street (former Thriftway and Dollar General) is currently under demolition. In the past, the City has partnered with several owners of this property to apply for various Commercial Development Block Grant (CDBG) programs for renovations, and a previous Moderate Income Housing Grant application.

The previous Moderate-Income Housing (MIH) Program Grant application was not approved by the Kansas Housing Resources Corporation due to lack of funding. The current application round has much more funding available and only 4 of the 76 units being designated for the program. This application will have at least half of the 90-100 units designated for the program, and this round has much more funding available.

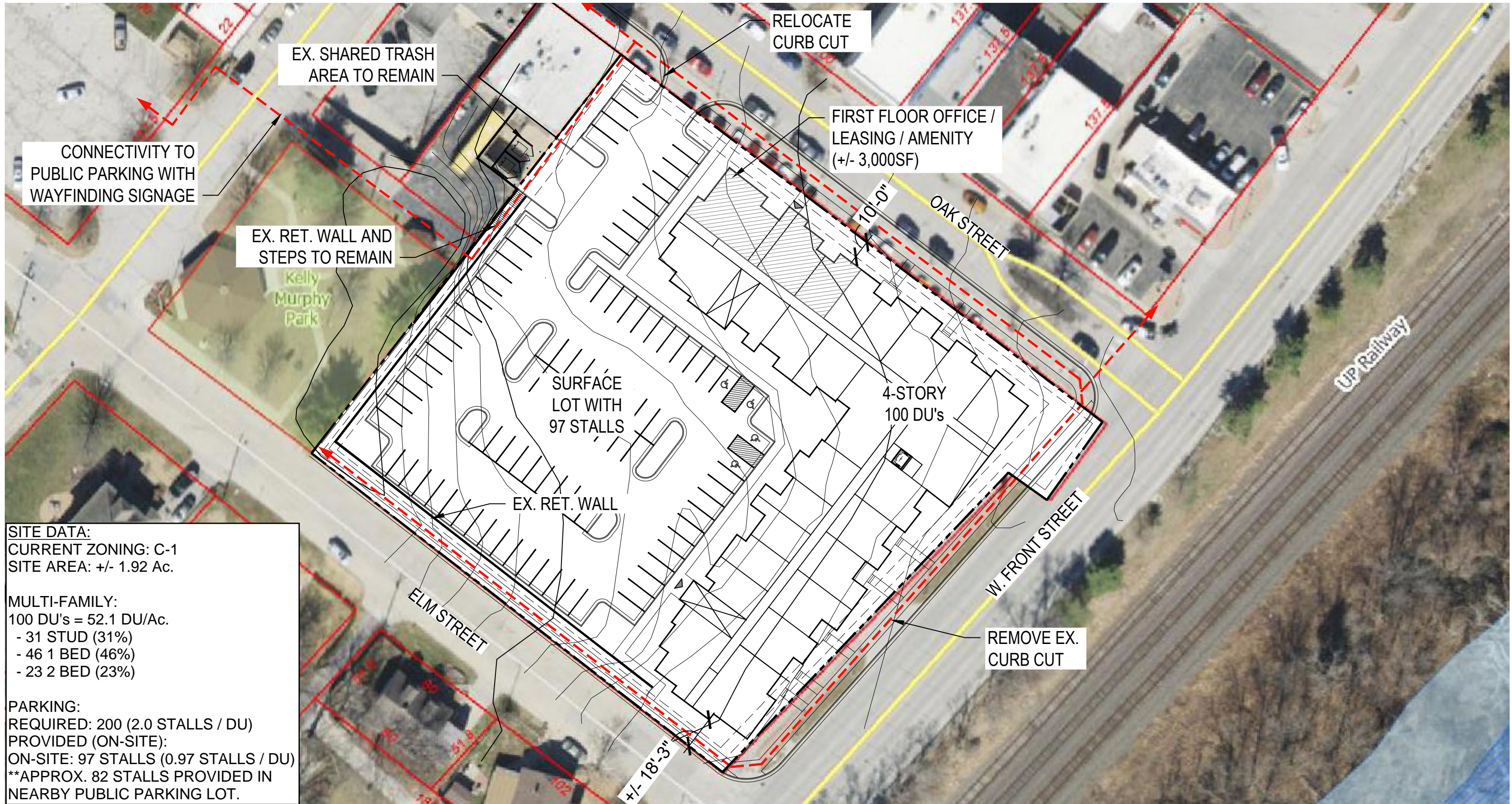
Discussion: The City was recently approached by the current owners with a development proposal for a project following the demolition of the building. The project proposal includes 90-100 apartments with co-working space, leasing offices, and similar uses on the street-level along with some of the apartments.

The MIH program serves the needs of moderate-income households that don't qualify for federal housing assistance. The MIH program grants and/or loans are awarded to cities and counties to develop multi-family rental units in communities with populations fewer than 60,000 people. At this time, the developer would like to apply for the MIH program to request funding of \$1-2 million.

The income ranges for the MIH program are included in the agenda packet. According to the 2020 Census and the City's 2022 Housing Needs Analysis, factoring a household size of one to three, over 50 percent of households in the City of Bonner Springs would qualify under this program. By 2030, we can expect this number to grow closer to 60 percent. Common careers with salaries in ranges qualifying for the MIH program can include teachers, police officers, firefighters, nurses and other healthcare workers, trades, manufacturing, and many, many more.

An approved resolution is required from the governing body approving participation in and application for the program. Staff also recommends approval of a memorandum of understanding (MOU) between the City and the developer. This MOU outlines the responsibilities of the developer should the City apply for MIH funding on their behalf.

Financial Impact: The anticipated investment in the development totals \$17,000,000, and will be funded through the MIH program, developer equity, and private lender financing to the developer. The developer also hopes to be granted a Reinvestment Housing Incentive District (RHID, formerly Rural Housing Incentive District). The MIH application lists the RHID as another funding source. However, any RHID would need to be applied for separately from this program and would be required to follow the RHID process of approval. The City would be the project applicant for the MIH program, but no monetary match is required for the City beyond staff time.



SITE DATA:
 CURRENT ZONING: C-1
 SITE AREA: +/- 1.92 Ac.

MULTI-FAMILY:
 100 DU's = 52.1 DU/Ac.
 - 31 STUD (31%)
 - 46 1 BED (46%)
 - 23 2 BED (23%)

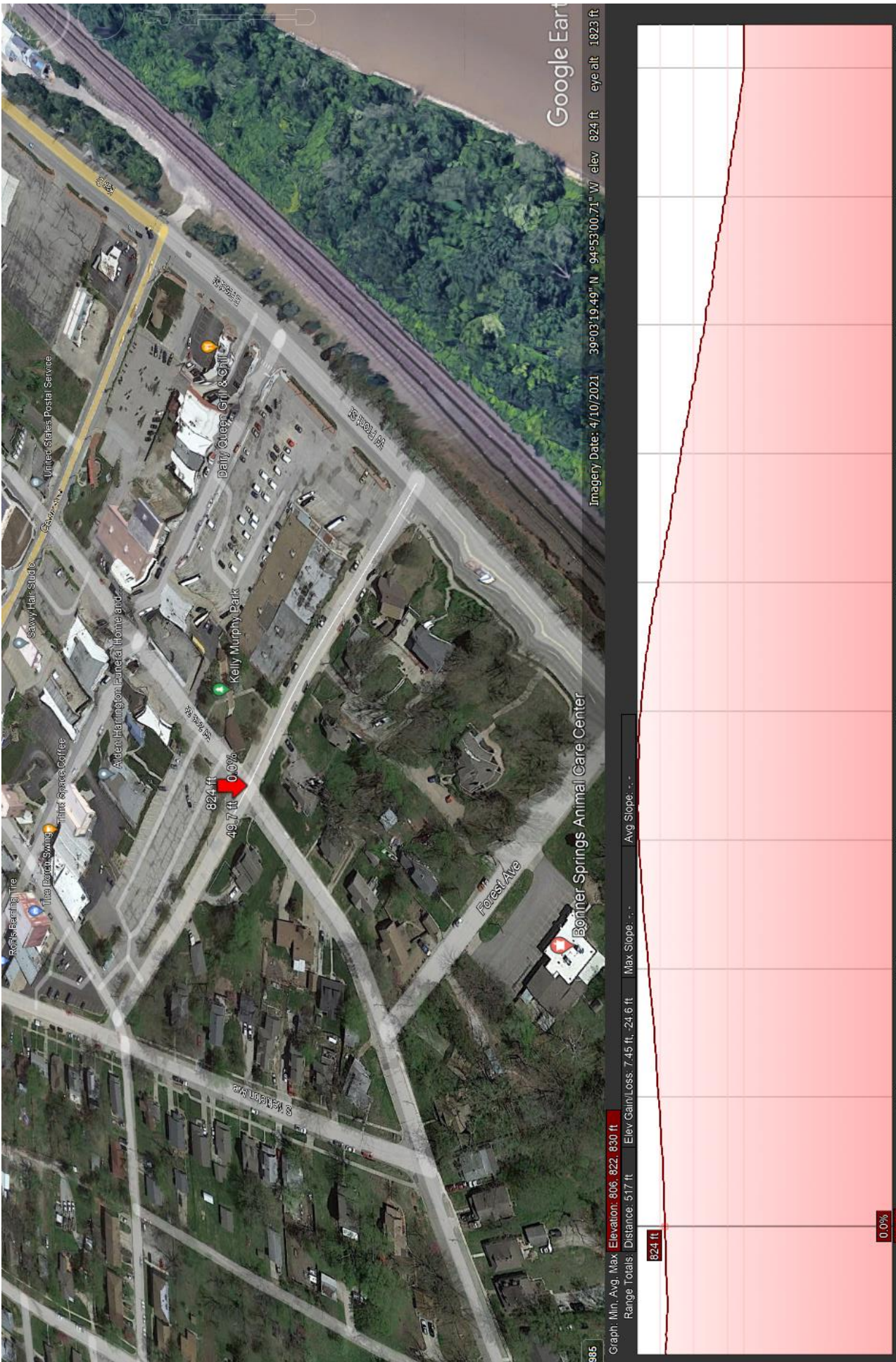
PARKING:
 REQUIRED: 200 (2.0 STALLS / DU)
 PROVIDED (ON-SITE):
 ON-SITE: 97 STALLS (0.97 STALLS / DU)
 **APPROX. 82 STALLS PROVIDED IN NEARBY PUBLIC PARKING LOT.

**PRELIMINARY
 SITE PLAN TEST FIT D**

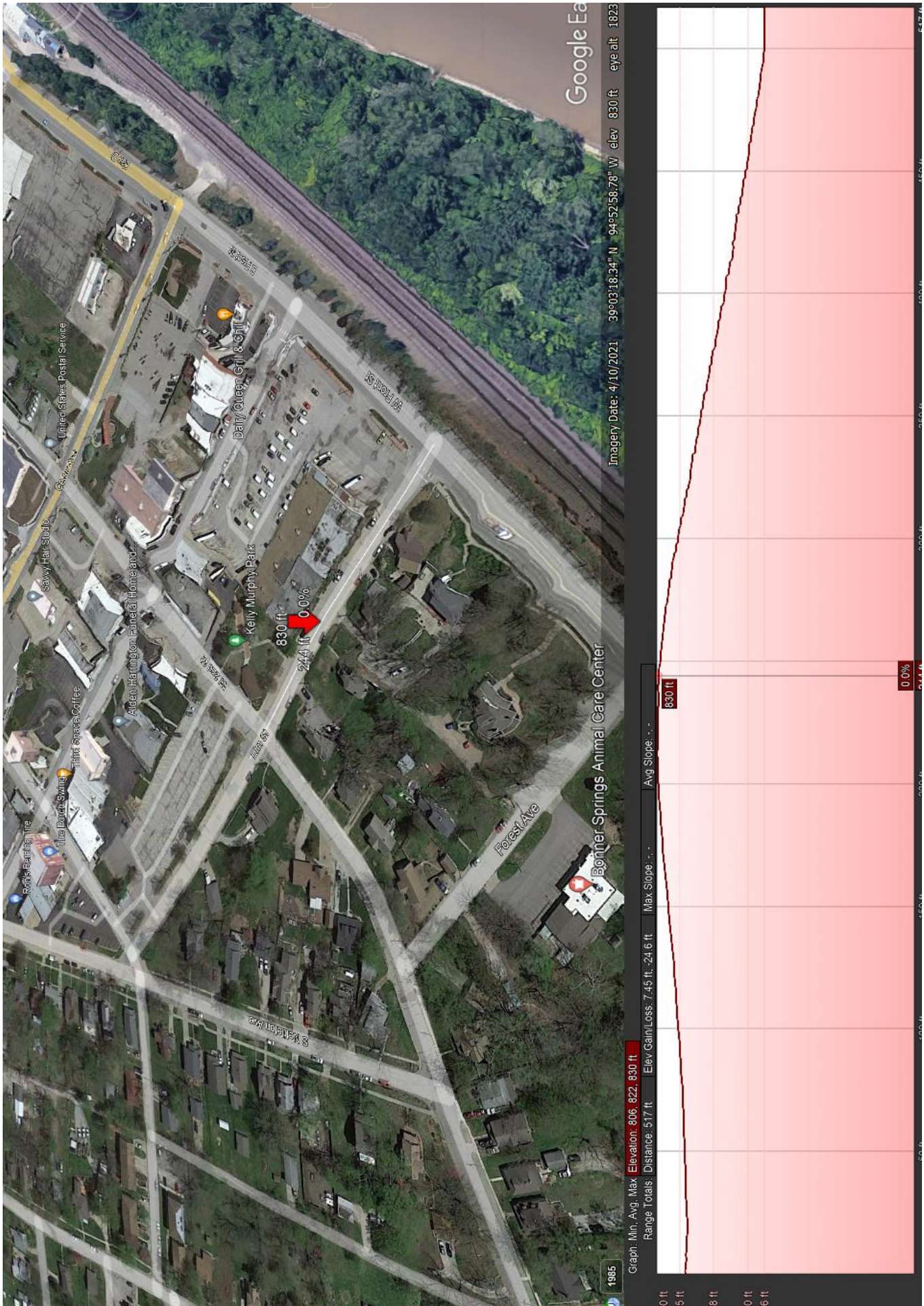
1" = 50'-0"





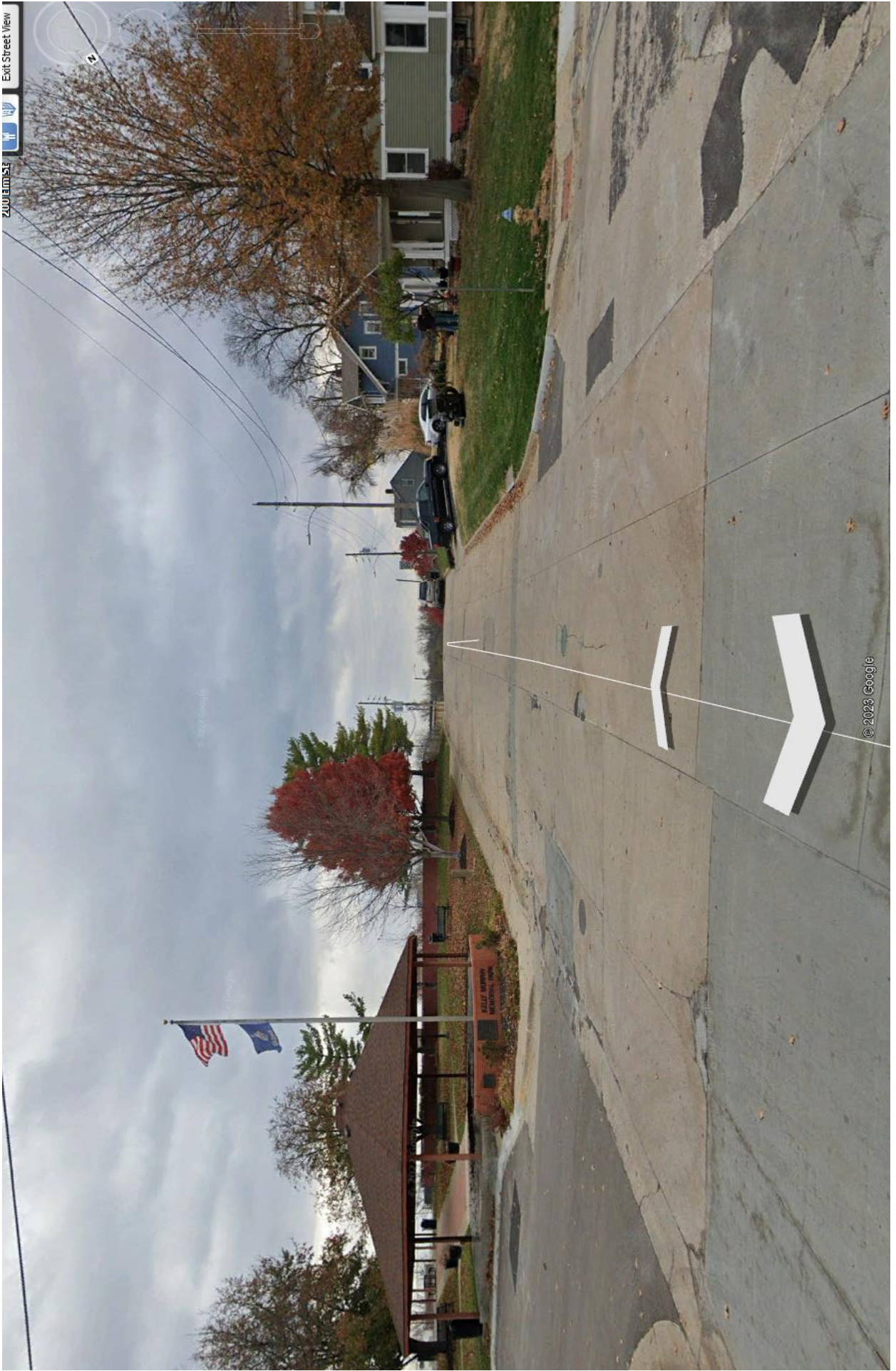


The Google image above and the following two indicate the elevation changes within the 100 block of Elm Street. At 2nd Street and Elm the elevation is 824' above sea level.



This image indicates the elevation within close proximity of 126 Elm, it is shown as 830' (6' higher than 2nd and Elm)

With the following images staff has attempted to indicate the elevation change at each home located facing Elm along with previous vantage point of the property these homes had prior to the demolition of the old Thriftway.



Intersection of 2nd St. and Elm St.



132 Elm St
Exit Street View

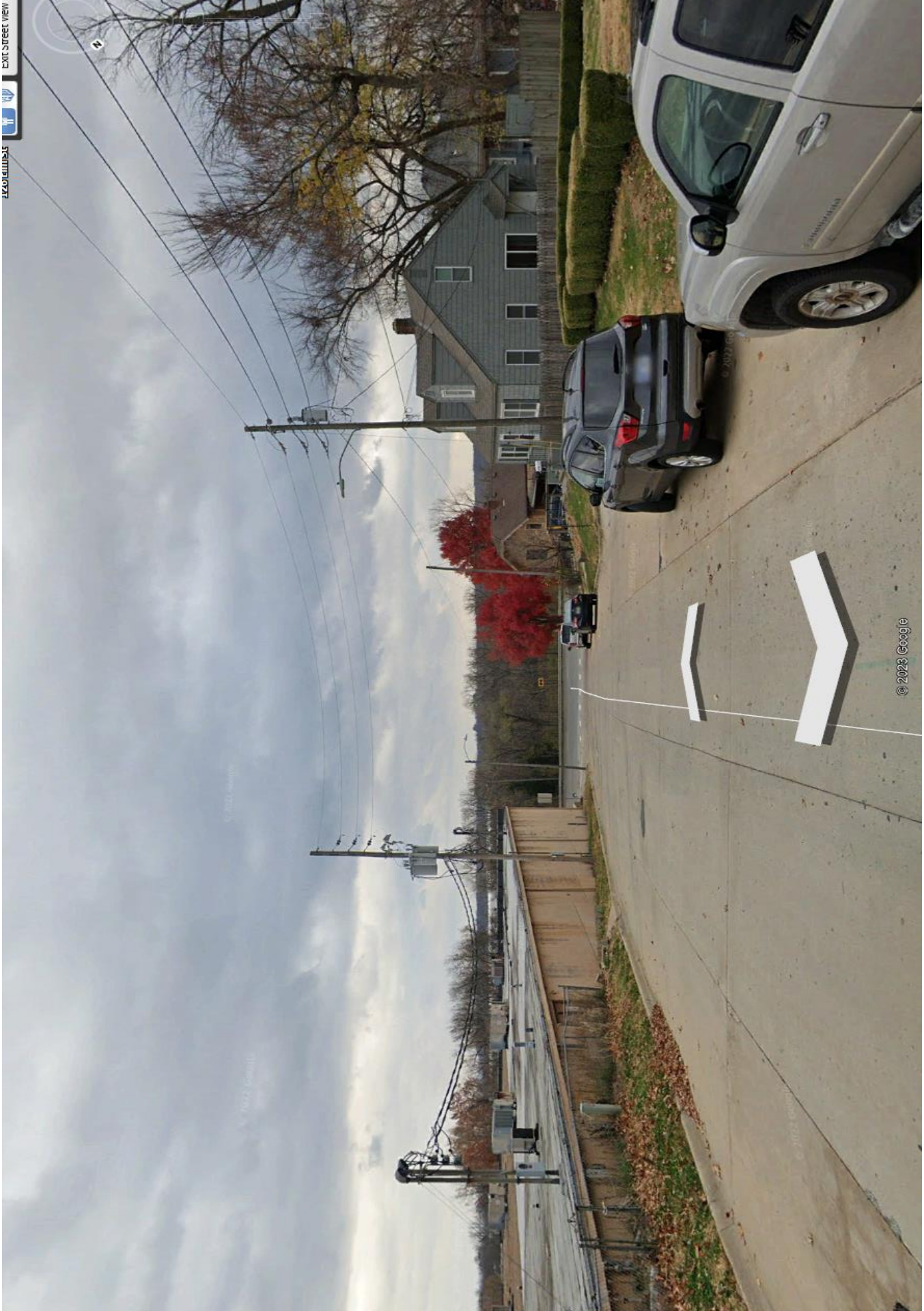
© 2023 Google

132 Elm Street



© 2023 Google

132 Elm Street view



126 Elm Street



126 Elm previous view, this would look at the upper two floors of the complex



118 Elm Street



Previous view from 118 Elm Street, this address may see the majority of the second through fourth floors, there is a proposed retaining wall indicated on the renderings, staff is unsure of the height of said wall.



This is the view at Front St and Elm, this would be the point where all four floors become completely visible. The home located at 201 W. Front St. faces Front St and would be the least impacted from a visual perspective.

Memorandum

Date: September 19, 2023
To: Mayor and City Council
From:

Subject: None at this time

Recommendation:

Action:

Background:

Discussion:

Financial Impact: