



Board of Zoning Appeals Board of Zoning Appeals Division I (September 2nd, 2025) Meeting Agenda

Meeting Details

Notice is hereby given that the Metropolitan Board of Zoning Appeals will hold public hearings on:

Date: Tuesday, September 02, 2025 **Time:** 1:00 PM

Location: Public Assembly Room, 2nd Floor, City-County Building, 200 E. Washington Street

Business:

Adoption of Meeting Minutes

Special Requests

2025-DV1-039 (Amended) | 8600 and 8710 North College Avenue

Washington Township, Council District #2, zoned SU-1 (TOD)

First Baptist Church of Indianapolis, by Brent Bennett

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of two monument signs and a pylon sign, bringing the total number of freestanding signs to five (maximum of two per frontage), with the pylon sign being located within 400 feet of a protected district (600-foot separation required) and the monument signs possessing heights of 7-foot tall and 5.5-foot tall (maximum height of five feet permitted).

****Automatic Continuance filed by a registered neighborhood organization**

PETITIONS REQUESTING TO BE CONTINUED:

1. 2025-UV1-014 | 6805 Rockville Road

Wayne Township, Council District #16, zoned D-2

Margarito Mendoza Galindo, by Tasha Roberts

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for outdoor and indoor storage of lawn care equipment, machinery and materials (not permitted) and the installation of a six-foot tall fence and electric gate within the front yard of Eleanor Street (maximum 42-inch fence height permitted).

****The petitioner is requesting a continuance to the October 7, 2025 hearing of Division I, in order to provide sufficient notice**

2. 2025-UV1-015 | 488 South Rochester Avenue

Wayne Township, Council District #17, zoned D-5 (TOD)

Kandy Salazar & Leon Medina, by Kandy Salazar

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an entire garage and proposed addition to a secondary dwelling with a three-foot rear yard setback, 16.75-foot tall building height and without the property owner living on-site (secondary dwelling required to be connected to an accessory building and the owner must live on-site, five-foot rear yard setback required, accessory buildings cannot be taller than the primary building).

****Staff is requesting a continuance to the October 7, 2025 hearing of Division I, in order to allow for an amendment to the request, with notice**

3. 2025-DV1-040 | 3725 West 21st Street

Wayne Township, Council District #11, zoned D-5 (W-5)
Maria Del Rocio Cortez-Garcia, by Josh Smith

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition resulting in a five-foot rear yard setback and to legally establish an existing detached garage within the front yard of Rochester Avenue (20-foot rear yard setback required, accessory buildings within front yards not permitted).

****Staff is requesting a continuance to the October 7, 2025 hearing of Division I in order for the request to be amended, with notice**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

4. 2025-DV1-032 | 7986 North College Avenue, Town of Williams Creek

Washington Township, Council District #2, zoned D-S (TOD)
Brian Maire and Lauren Riley, by Mark and Kim Crouch

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a garage addition with a two-foot south side yard setback (15 feet required), resulting in an open space of 81 percent (85 percent required) and encroachment into an easement (encroachment of easements not permitted).

5. 2025-DV1-035 (Amended) | 0 Canal (Northwest Quadrant of intersection of College Avenue and Westfield Boulevard)

Washington Township, Council District #7, zoned MU-2 (TOD) (FF)
City of Indianapolis, Department of Public Utilities, Board of Directors for Utilities Trustee, Public Charitable Trust for Water System, by Mark Demerly

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a 30-foot tall steel sculpture on top of a 2.5-foot tall concrete base with a zero-foot front yard setback and within the clear sight triangle of the intersection of College Avenue and Westfield Boulevard, and encroaching within the right-of-way of Westfield Boulevard (encroachments not permitted).

6. 2025-UV1-009 | 5330 West Morris Street

Wayne Township, Council District #17, zoned C-3 (TOD)
Adriano Montas, by Arnoldo Gonzalez Vasquez

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an Automobile, Motorcycle, and Light Vehicle Service or Repair facility, with outdoor storage of vehicles awaiting repair (not permitted), with eight parking spaces and zero bicycle parking spaces provided.

7. 2025-UV1-013 | 11150 Maze Road

Franklin Township, Council District #25, zoned D-A
Michael & Nicole Cole, by Ray Basile

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 350-gallon gasoline above ground storage tank and a 550-gallon diesel fuel above ground storage tank (not permitted), in addition to uses permitted by the grant of 2023-UV1-025.

PETITIONS FOR PUBLIC HEARING (New Petitions):

8. 2025-DV1-038 | 954 North Traub Avenue

Center Township, Council District #12, zoned D-5 (W-1)
Curtis Smith, by Vince Braun

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 24-foot tall detached garage, taller than the primary building (not permitted).

9. 2025-UV1-016 | 9743 Indian Creek Road South

Franklin Township, Council District #25, zoned D-A
David & Margaret Sisk, by David A. Retherford

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a lawnmower repair business with accessory outdoor storage and operations (not permitted), accessory structures with a two-foot western side yard setback and a two-foot rear yard setback (15-foot side and rear yard setbacks required), and a rear deck resulting in an open space of 82.5% (minimum 85% required), and one portable sign with an area of 6 square feet (not permitted), per filed plan of operation.

10. 2025-UV1-017 | 7323 East Hanna Avenue

Franklin Township, Council District #20, zoned D-A
Hanna Haunted Acres Inc., by David A. Retherford

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a seasonal indoor and outdoor commercial recreational use, including the sale of alcoholic beverages, subject to the filed plan of operation (not permitted).

Additional Business:

**The addresses of the proposals listed above are approximate and should be confirmed with the Division of Planning. Copies of the proposals are available for examination prior to the hearing by emailing planneroncall@indy.gov. Written objections to a proposal are encouraged to be filed via email at planneroncall@indy.gov, before the hearing and such objections will be considered. At the hearing, all interested persons will be given an opportunity to be heard in reference to the matters contained in said proposals. The hearing may be continued from time to time as may be found necessary. For accommodations needed by persons with disabilities planning to attend this public hearing, please call the Office of Disability Affairs at (317) 327-7093, at least 48 hours prior to the meeting. - Department of Metropolitan Development - Current Planning Division.

This meeting can be viewed live at <https://www.indy.gov/activity/channel-16-live-web-stream>. The recording of this meeting will also be archived (along with recordings of other City/County entities) at <https://www.indy.gov/activity/watch-previously-recorded-programs>.

Member	Appointed By	Term
Peter Nelson, Chair	Mayor's Office	January 1, 2025 – December 21, 2025
David Duncan, Secretary	Mayor's Office	January 1, 2025 – December 21, 2025
Jennifer Whitt	City-County Council	January 1, 2025 – December 21, 2025
Andrew Katona	Metropolitan Development Commissions	January 1, 2025 – December 21, 2025
VACANT	City-County Council	N/A

BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-DV1-039 (Amended)

Property Address: 8600 and 8710 North College Avenue (approximate addresses)

Location: Washington Township, Council District #2

Petitioner: First Baptist Church of Indianapolis, by Brent Bennett

Current Zoning: SU-1 (TOD)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of two monument signs and a pylon sign, bringing the total number of freestanding signs to five (maximum of two per frontage), with the pylon sign being located within 400 feet of a protected district (600-foot separation required) and the monument signs possessing heights of 7-foot tall and 5.5-foot tall (maximum height of five feet permitted).

Current Land Use: Special Use - Religious

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

A timely automatic continuance request was filed by a registered neighborhood organization to have this petition continued from the September 2nd hearing to the October 7th hearing of Division I.



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BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-UV1-014
Address: 6805 Rockville Road (approximate address)
Location: Wayne Township, Council District #16
Zoning: D-2
Petitioner: Margarito Mendoza Galindo, by Tasha Roberts
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for outdoor and indoor storage of lawn care equipment, machinery, and materials (not permitted) and the installation of a six-foot tall fence and electric gate within the front yard of Eleanor Street (maximum 42-inch fence height permitted).

Current Land Use: Single Family Dwelling

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

The petitioner will be requesting that this petition be **continued to the October 7, 2025**, hearing, to provide for sufficient legal notice. Staff has no objection to this request.



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BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-UV1-015
Address: 488 South Rochester Avenue (approximate address)
Location: Wayne Township, Council District #17
Zoning: D-5 (TOD)
Petitioner: Kandy Salazar & Leonor Medina, by Kandy Salazar
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an entire garage and proposed addition to a secondary dwelling with a three-foot rear yard setback, 16.75-foot tall building height and without the property owner living on-site (secondary dwelling required to be connected to an accessory building and the owner must live on-site, five-foot rear yard setback required, accessory buildings cannot be taller than the primary building).

Current Land Use: Single Family Dwelling

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

Staff requesting that this petition be **continued to the October 7, 2025**, hearing, to allow time for the petitioner to provide an updated site plan, to amend the request, and provide new notice if required.



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BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-DV1-040
Address: 3725 West 21st Street (approximate address)
Location: Wayne Township, Council District #11
Zoning: D-5
Petitioner: Maria Del Rocio Cortez-Garcia, by Josh Smith
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition resulting in a five-foot rear yard setback and to legally establish an existing detached garage within the front yard of Rochester Avenue (20-foot rear yard setback required, accessory buildings within front yards not permitted).

Current Land Use: Single Family Dwelling

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

Staff is requesting that this petition be **continued to the October 7, 2025**, hearing, to allow time to amend the request, and provide new notice, as a result of an updated site plan.



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BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-DV1-032

Property Address: 7986 North College Avenue (*approximate address*), Town of Williams Creek

Location: Washington Township, Council District #2

Petitioner: Brian Marie and Lauren Riley, by Mark and Kim Crouch

Current Zoning: D-S (TOD)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a garage addition with a two-foot south side yard setback (15 feet required), resulting in an open space of 81 percent (85 percent required) and encroachment into an easement (encroachment of easements not permitted).

Current Land Use: Residential

Staff Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

9/2/25: The petitioner's representative made a for-cause continuance request at the August 5th hearing date to allow time for additional discussion with a neighborhood group.

8/5/25: A timely automatic continuance request was filed by a registered neighborhood organization to continue this petition from the July 1st hearing date.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 7986 North College Avenue is currently improved with a single-family home that is largely screened from public view, a half-moon drive that creates two (2) vehicles access points from College Avenue, and an existing two-car garage on the southern portion of the property. Surrounding land uses are also residential, and the site is located within the included town of Williams Creek. This lot and surrounding properties were platted in 1925.
- The permit application ILP25-00431 was made in February to allow for an addition to the existing residence. After demolition of the existing two-car attached garage was completed, the building's footprint would be expanded and a two-story addition incorporating a new two-car attached



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garage would be constructed per the site plan and elevation below within the Exhibits. This work would require issuance of both the ILP and a wrecking permit.

- For this work to be legally allowed, a Variance of Development Standards would need to be granted for the following reasons: (a) the resulting side setback would be 2 feet from the southern property line and the existing non-conforming setback would be extended by over 50%; (b) the resulting open space at the site would be 81% and the minimum for the D-S zoning district is 85%; and (c) the building addition would partially encroach into the existing southern-yard easement. Staff would also note that residential building code would require fire-rating of the southern walls and would place limits on the placement of windows within two feet of the southern property line.
- The property is zoned D-S to allow for suburban areas of extreme topography, conducive to estate development, or desirable to permit only low-density development. Generous front yards with trees along roadways are typical for the district. It also falls within the Transit-Oriented Development Secondary District due to its proximity to the proposed College and 91st station of the Red Line. Finally, the Marion County Land Use Plan Pattern Book assigns it the Rural or Estate Neighborhood typology and places it within an Environmentally Sensitive overlay, which indicates that development should minimize impact on the natural environment and should preserve or add at least 30% of the entire parcel as tree canopy or naturalized area.
- During the review process, staff indicated to the petitioner that since the proposed development would involve construction inside of a platted easement, a vacation petition to allow for encroachment would be a more appropriate zoning remedy than a variance since neither variances nor consent of encroachment agreements would offer protection to license-holders against damages to what they build there. Although staff could not compel an application for any zoning petition to be made, a vacation petition would require notification of relevant agencies that utilize easements, and a zoning variance (a) might not offer recourse if access to the easement were needed in the future and (b) would not guarantee issuance of an encroachment license from DBNS. The applicant chose to proceed with this variance.
- Findings of Fact provided by the applicant indicate that the proposed addition would be consistent with development on surrounding properties and that the existing lot is undersized. The applicant is correct that the D-S zoning district currently requires a minimum lot size of 43560 square feet (1 acre) and the subject lot is only 18204 square feet (0.42 acres). However, despite the existence of some practical difficulty from the size of the existing lot, staff does not feel that this should justify relief from any and all ordinance standards and would note that (a) the proposed setback of 2 feet would be only 13% of the 15-foot setback required by the district and (b) the existing northern setback of 30 feet might allow for some room for expansion within Ordinance constraints.
- To conclude, staff does not feel that adequate site-specific practical difficulty has been established since the need for a variance is self-imposed from the applicant's desire to expand the existing property, which could either continue to operate as a legal non-conformity without the need for petition relief or expand into the northern yard without additional easement encroachment or setback violation. Additionally, despite the issuance of an encroachment consent from AES



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Indiana on June 24th, staff still feels that legalization of a building addition via a vacation of a platted easement petition would be more appropriate and legally binding than having it approved via variance. Staff recommends denial of the requested variances.

GENERAL INFORMATION

Existing Zoning	D-S (TOD)	
Existing Land Use	Residential	
Comprehensive Plan	Rural or Estate Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-S	North: Residential
South:	D-S	South: Residential
East:	D-2	East: Residential
West:	D-S	West: Residential
Thoroughfare Plan		
North College Avenue	Primary Arterial	90-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	06/02/2025	
Site Plan (Amended)	06/11/2025	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	05/15/2025	
Findings of Fact (Amended)	06/11/2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Red Line Transit-Oriented Development Strategic Plan

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Rural or Estate Neighborhood living typology to allow for both rural or agricultural and historic, urban areas with



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estate-style homes on large lots. Development should work with existing topography as possible, and detached housing should preserve open space on deep and narrow lots with deep setbacks.

- The property is also within an environmentally sensitive area overlay intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. Development should minimize impact on the natural environment and should preserve or add at least 30% of the entire parcel as tree canopy or naturalized area.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Given the site's proximity to the proposed College & 91st station, the Red Line Transit-Oriented Development Strategic Plan recommends this site to the Walkable Neighborhood typology to allow for walkable areas that are primarily residential but may have a commercial node of one to two city blocks. This typology contemplates building heights of 2-4 stories and discourages off-street parking (should be limited to garages).

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



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ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2025DV2005 ; 8063 Broadway Street (northwest of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the addition of a covered porch and detached garage, resulting in an open space of 76 percent (85 percent required), a ten-foot north side yard setback and an aggregate setback of 23.33 feet (15-foot minimum side yard, 35-foot aggregate side yard setback required), **approved**.

2010HOV044 ; 710 Forest Boulevard (southeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a storage barn with a 10-foot front setback from Forest Boulevard and a pool/deck with a 24-foot front setback from Forest Boulevard, both being within the established front yard of Forest Boulevard and with the storage barn being within the established front yard of North College Avenue (25-foot front setback from Forest Boulevard, 40-foot front setback from College Avenue, accessory structures not permitted in front of the established building line), with the dwelling having a 3.7-foot north side setback and a brick patio with a zero-foot north side setback (minimum seven-foot north side setback required), **approved**.

2009DV1028 ; 641 E 80th Street (west of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for an addition to a single-family dwelling with a 7.5-foot west side setback (minimum fifteen-foot side setback required), **approved**.

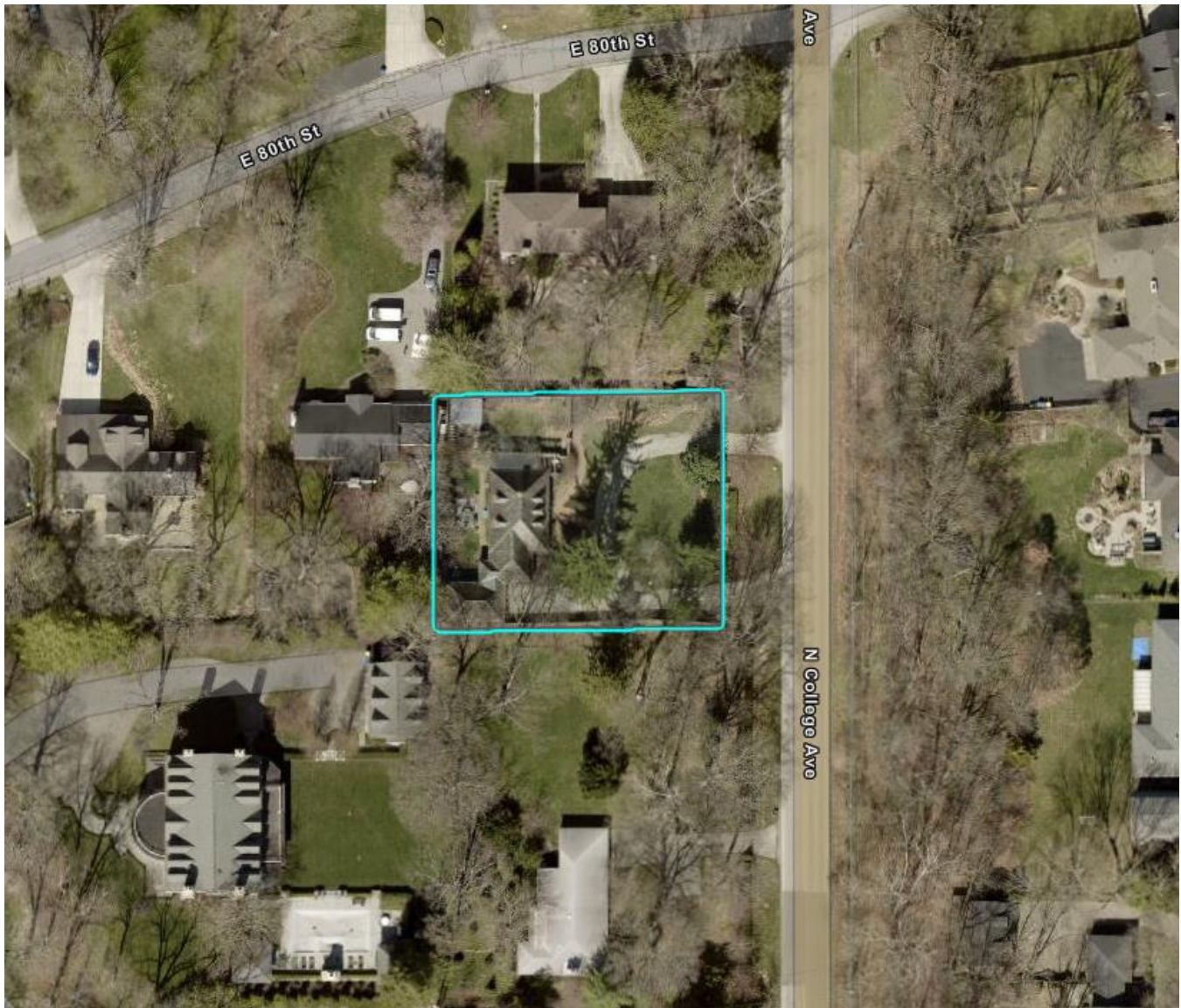
2005DV1062 ; 8028 Morningside Drive (west of site), provide for the construction of an addition to an existing single-family dwelling with an 8.7-foot west side yard setback (minimum fifteen-foot side yard setback required), resulting in a 24.4-foot aggregate side yard setback (minimum 35-foot aggregate side yard setback required), and to legally establish a storage shed with a 0.6-foot rear yard setback (minimum five-foot rear yard setback for accessory buildings required) in D-S, **approved**.

2005DV3043 ; 636 E 80th Street (northwest of site), provide a building reconstruction and expansion along an existing non-conforming 7.5-ft. east side yard setback in D-S (min. 15-ft. side setback req.), and legally establish a 28-ft. aggregate side setback and a 21.5-ft. rear setback (min. 35-ft. aggregate side yard; min. 25-ft. rear yard req.), **approved**.

2000VAR827 ; 8008 Morningside Drive (northwest of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 3,380 square-foot single-family dwelling on a lot containing 80% of open space, **approved**.

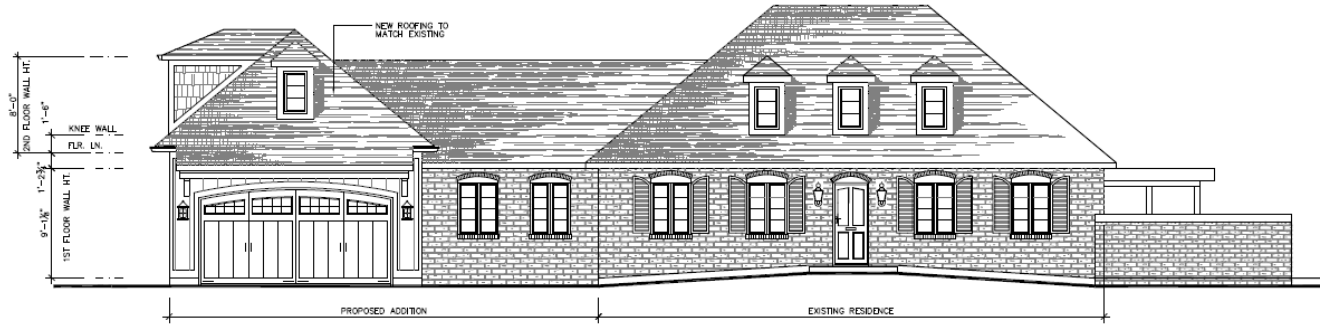
EXHIBITS

2025DV1032 ; Aerial Map



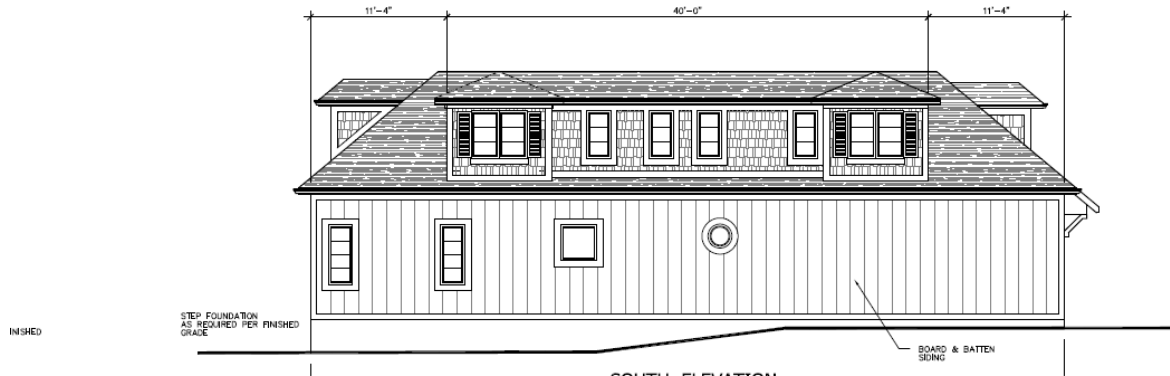


2025DV1032 ; Elevations (submitted with ILP25-00431)



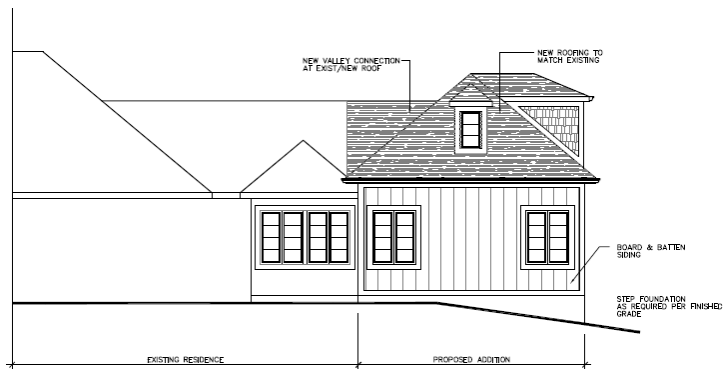
EAST ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
SCALE: 1/4"=1'-0" (24x36 PRINTS)



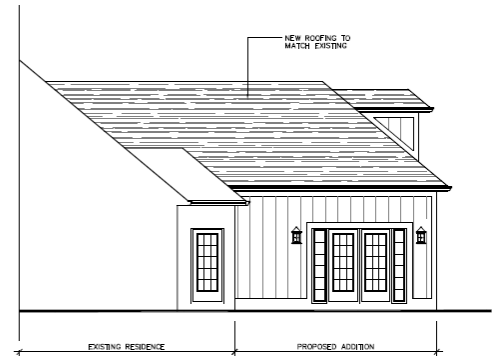
SOUTH ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
SCALE: 1/4"=1'-0" (24x36 PRINTS)



WEST ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
SCALE: 1/4"=1'-0" (24x36 PRINTS)



NORTH ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
SCALE: 1/4"=1'-0" (24x36 PRINTS)



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2025DV1032 ; Findings of Fact

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

the grant will legalize the footprint of the existing residence and allow for the construction of proposed attached garage and addition for private residential use.

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 residence is existing and proposed attached garage and addition will be consistent with development in the area and adjacent area.

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

lot is smaller than zoning minimum requirements and existing residence is within the AES easement resulting in a need for easement encroachment approval, a reduction of open space requirement & side setback to allow for the construction of proposed attached garage and addition. Without variance approval, proposed attached garage and addition will not be built.

2025DV1032 ; Easement Location (yellow dashes)





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2025DV1032 ; AES Consent to Encroachment

MARION COUNTY

MAP 237--

WASHINGTON TOWNSHIP

CONSENT TO ENCROACHMENT

THIS INDENTURE WITNESSETH:

WHEREAS, Indianapolis Power & Light Company d/b/a AES Indiana (hereinafter referred to as the "Company"), has an interest in the following described real estate located in Marion County, Indiana, to-wit:

Lot 12 in Williams Creek Estates, Meridian Hills, an addition to the City of Indianapolis,
Now in the town of Williams Creek, as per Instrument Number A202200038798 in the
Office of the Recorder of Marion County, Indiana

Parcel #8024473
State ID # 49-03-23-122-107.000-817

Commonly known as:
7986 North College Avenue, Indianapolis, IN, 46240

because of the existence of a platted Utility Strip (hereinafter referred to as "easement") adjoining
the east side of said Lot 12, and

WHEREAS, a room addition to be built upon said real estate and extending into and encroaching
upon said easement, as shown on the drawing attached hereto, made a part hereof and marked
"Exhibit A" (hereinafter referred to as the "encroachment"), and

WHEREAS, the encroachment does not interfere with the operation of the Company insofar as
such operations involve the use of said easement;

NOW, THEREFORE, in consideration of the premises and other valuable consideration, receipt of
which is hereby acknowledged, the Company, by and through its duly authorized officials, does
hereby grant unto Brian J. Maire and Lauren Riley, husband and wife, the present owners of record
of said real estate per Warranty Deed recorded as Instrument Number A202200038798, in the
Office of the Recorder of Marion County, Indiana, their successors and assigns, its consent to the
encroachment; provided, that the encroachment shall be limited to that as described above and on
Exhibit A, attached hereto and made a part hereof, except that repairs and maintenance may be
performed so long as the height and area thereof within said easement is not increased or otherwise
extended; that such limitation shall be construed also as a condition upon which this grant is made
and accepted, for breach of which the Company may recover damages and, without prejudice
thereto, may compel by injunction or otherwise the removal of all or any part of the
encroachment.

The owners of said real estate, by acceptance of this instrument hereby agree for themselves, their
successors and assigns, to indemnify and save harmless the Company, its successors and assigns,
from and against any and all damages and loss that may result to the facilities and equipment or
any property owned or used by the Company upon said easement, and from and against any and all
legal and other expenses, claims, costs, losses, suits and judgment for damages or injuries resulting
to persons or property by reason of the encroachment.

This instrument shall not be construed as a release or waiver of any rights of the Company in the
aforesaid easement other than the right to object to the encroachment as proposed to be built and
described.

IN WITNESS WHEREOF, Indianapolis Power & Light Company d/b/a AES Indiana, has caused
this indenture to be executed by its duly authorized officials this 24th day of
June, 2025.

Indianapolis Power & Light Company,
d/b/a AES Indiana

Blane E. Boyd
Manager, T&D Real Estate

2025DV1032 ; Photographs



Photo 1: Subject Site Viewed from West (July 2023)

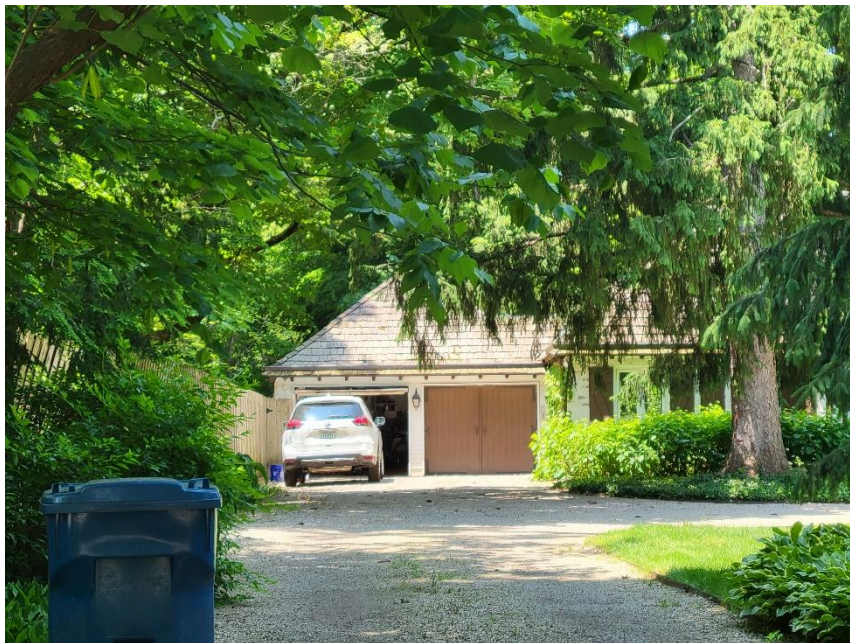


Photo 2: Existing Attached Garage

2025DV1032 ; Photographs (continued)



Photo 3: Existing Residence Viewed from Southern Vehicle Access Point



Photo 4: Easement Area Viewed from West (July 2023)

2025DV1032 ; Photographs (continued)



Photo 5: Adjacent Property to North (viewed from west)



Photo 6: Adjacent Property to South (viewed from west)



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BOARD OF ZONING APPEALS DIVISION I

September 02, 2025

Case Number: 2025-DV1-035 (Amended)

Property Address: 0 Canal (northwest quadrant of intersection of College Avenue and Westfield Boulevard)

Location: Washington Township, Council District #7

Petitioner: City of Indianapolis, Department of Public Utilities, Board of Directors for Utilities Trustee, Public Charitable Trust for Water System, by Mark Demerly

Current Zoning: MU-2 (TOD) (FF)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a 30-foot tall steel sculpture on top of a 2.5-foot tall concrete base with a zero-foot front yard setback and within the clear sight triangle of the intersection of College Avenue and Westfield Boulevard, and encroaching within the right-of-way of Westfield Boulevard (encroachments not permitted).

Current Land Use: Public Right-of-Way

Staff Recommendations: Staff recommends **approval** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

A timely automatic continuance was filed by a registered neighborhood organization in advance of the August 5th hearing date of Division I, continuing the petition to the September 2nd hearing date.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- The subject site for this petition is at the northwest corner of the intersection of College Avenue and Westfield Boulevard within the Broad Ripple neighborhood. It would be directly to the south of the Central Canal and exists along the existing greenway within public right-of-way (the closest addressed parcel is 6280 N College to the south). Surrounding land uses are commercial in nature, and the site is located within a Transit-Oriented Development Secondary District for its proximity to the Red Line as well as within the floodway fringe given its proximity to the canal. The subject site contains a changeable copy sign in the approximate location of the proposed improvement, and staff was unable to locate evidence of a permit or variance to allow for placement of that previous sign within public right-of-way.



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- Approval of this variance would allow for installation of a 30-foot steel sculpture with low-level LED lighting at the northwest corner of this intersection (the public art would be placed on a concrete base 2.5 feet from grade for a total height of 32.5 feet). The sculpture, titled Gavin-Divergence, was designed by Hoosier artist Jason Myers in conjunction with the Birge Family Foundation, the Indy Art Center, and others. Installation of the sculpture would result in the removal of the changeable copy sign and relocation of the light pole at this intersection. Plans do not indicate an impact on the existing tree or traffic signal box to the west of the proposed location.
- Since the proposed sculpture would be placed within public right-of-way, several City approvals would be required in addition to this zoning variance: an easement agreement would need to be provided from the utility holder (Citizens Water), approval from the Department of Public Works would be required through their 'Art in the Public Right-of-Way' policy, and an Encroachment License from the Department of Business and Neighborhood Services would also be needed prior to installation. At the time of publication, **(a)** the easement agreement has been provided; **(b)** DPW consent through the new policy has been granted; and **(c)** encroachment approval would be contingent upon approval of this petition.
- In addition to approval for placement within ROW, a Variance of Development Standards would be required since the sculpture would encroach into the required clear-sight triangle created by the intersection of College and Westfield (120 feet from the centerline of each street; see Exhibits). The sculpture height of 32.5 feet would not be subject to Ordinance height requirements but would comply with the 35-foot standard applicable for primary structures in MU-2 zoning.
- The area where the sculpture would be placed is zoned MU-2 (Mixed Use Two) to allow for businesses and institutions that meet the daily needs for surrounding neighborhoods, such as small-scale retail/service uses, small social spaces, and other employment, institutional, and residential uses that complement the compact and walkable development pattern. Similarly, the TOD Plan recognizes the Broad Ripple station as belonging to the District Center typology to allow for walkable areas that serve as cultural and commercial hubs, with typical building heights of between three (3) and 10 stories. The site is also within the floodway fringe.
- In 2012, the Envision Broad Ripple neighborhood plan was formally adopted by the City of Indianapolis. The Envision plan recommends the site for Linear Park and Bodies of Water uses (given the canal and greenway) and identifies it as being within both a Critical Area (Broad Ripple Village) and along a Main Street intersection where *minimum* building heights of 25 feet are contemplated. Additionally, the plan broadly discusses improving the image of the village via placement of public art at gateway areas and specifically cites the Indianapolis Art Center as a partner in maintaining "village character" reflective of a demographic that "seeks trendy... art".
- Findings of Fact provided by the applicant indicate that the proposed clear-sight triangle encroachment would not be as severe as the sightline encroachment from the parking facility to the south, and that the proposed location would comply with a clear-sight triangle based on a 100-foot distance along the centerlines instead of the 120-foot measurement taken for arterials. Based on available aerial photography and surveys, it appears that the latter argument is accurate.



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- Staff does not feel that approval of variances to allow for the proposed sculpture would have a substantial negative impact on public safety. The curve of Westfield Boulevard to the southwest would create additional visibility of the intersection beyond the clear-sight triangle required by Ordinance, and the sculpture's location also would not encroach into the narrower clear-sight triangular area utilized by DPW and other traffic engineers. The sculpture is designed in a manner that wouldn't easily allow for pedestrians to climb it (the lower section is comprised of two steel I-beams with no horizontals), would be placed outside of areas that would impact nearby underground utilities, and would have no negative impact on nearby sidewalks. Additionally, structural analysis details provided by the applicant and stamped by an engineer licensed by the State of Indiana indicate that installation of the sculpture would be structurally secure, would not prevent the adjacent retaining wall from holding the wind load of 115 miles per hour, and that appropriate grounding would be employed so the structure would not act as a lightning rod.
- The Department of Public Works recently created a Policy for Art in the Public Right-of-Way to allow for a systematic process by which potential new instances of public art could be evaluated by relevant city agencies to promote public art that promotes creativity and a sense of place while also ensuring limited effects on pedestrians, transportation, or stormwater management. DPW (in conjunction with DBNS) has reviewed design, installation, and maintenance plans provided by the applicant and confirmed that the proposed sculpture conforms to one or more City messages (meaning the sculpture would not advance hate speech, condone violence, include commercial messages, etc.) and would not have negative impacts on public security, visibility, nearby City assets, environmental resources, or utilities.
- Staff's analysis was primarily focused on aspects related to public safety and to the two (2) variances requested (clear-sight triangle encroachment and placement within right-of-way) and did not primarily focus upon questions of aesthetics. The recommendation provided here would be consistent with the recommendation given to any statue in a similar location and with similar dimensions. Given the compliance of the sculpture with both DPW policy on artwork within ROW as well as the comprehensive plan, staff recommends approval of the variances to allow for placement within ROW as well as minor encroachment into the clear-sight triangle.

GENERAL INFORMATION

Existing Zoning	MU-2 (TOD) (FF)	
Existing Land Use	Public right-of-way	
Comprehensive Plan	Linear Park / Bodies of Water	
Surrounding Context	Zoning	Surrounding Context
North:	D-7	North: Canal/Commercial
South:	MU-2	South: Commercial
East:	C-4	East: Commercial
West:	D-7 / MU-2	West: Canal
Thoroughfare Plan		
College Avenue	Primary Arterial	50-foot existing right-of-way and 78-foot proposed right-of-way

Westfield Boulevard	Secondary Arterial	40-foot existing right-of-way and 56-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	Yes	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	05/05/2025	
Site Plan (Amended)	N/A	
Elevations	06/25/2025	
Elevations (Amended)	N/A	
Landscape Plan	06/19/2025	
Findings of Fact	05/05/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Red Line Transit-Oriented Development Strategic Plan
- Envision Broad Ripple (2012)

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan (etc.) below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Red Line Transit-Oriented Development Strategic Plan recommends this site to the District Center land use typology to allow for walkable areas of multiple city blocks, serving as cultural and commercial hubs for multiple neighborhoods with a mix of office, retail, entertainment, and residential uses. Buildings at station should be between 3 and 10 stories in height.
- Although painted artwork is encouraged to break up spans of blank walls, the plan does not offer specific guidance on placement of sculptures or other three-dimensional public art.

Neighborhood / Area Specific Plan

- The Envision Broad Ripple Plan (2012) recommends this area for Linear Park and Bodies of Water uses given its location along the Central Canal and greenway connector. It is also located within what the plan designates as Critical Area 2 (Broad Ripple Village) to allow for development as a pedestrian-



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oriented mixed-use village promoting population density and vital streetscapes. The sculpture would be at the intersection of the Main Street Corridor and College Avenue Corridor where minimum heights of 25 feet are contemplated.

- The Plan seeks to improve the image of the Village by, among other methods, improving gateways that are consistent with and speak to the “village character” through placement of public art in coordination with the Indianapolis Art Center. It also describes Broad Ripple as an area that caters to a demographic that “seeks trendy restaurants, art and late-night entertainment”.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



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ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2023DV1057 ; 6230 N College Avenue (south of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a mixed-use building with a building height of up to 68-foot tall, with extensions up to 82.5-foot tall for an elevator shaft and stairwell, **approved**.

2021CVR804A ; 6230 N College Avenue (south of site), Variance of development standards to provide for a commercial building with a 0-foot front yard setback (5 feet required) and proposed 61.67 of building height (maximum 35-foot building height required), **approved**.

2014DV1024 ; 6286 N College Avenue (south of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a 22-seat, restaurant sidewalk café in the right-of-way (not permitted) of College Avenue, with a wrought iron fence, umbrellas and portable propane heaters, **approved**.

2012DV2006 ; 6280 N College Avenue (south of site), Variance of development standards of the Flood Control Districts Zoning Ordinance to provide for a retail and garage building, with its lowest floor elevation at 719.2 feet, without structural floodproofing (flood protection grade of 723.00 feet, two feet above the base flood elevation or structural flood proofing for nonresidential buildings required), **denied**.

2011DV2021 ; 6280 N College Avenue (south of site), Variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a building with a zero-foot setback (30 and 45 feet from the centerline, respectively) from Westfield Boulevard and College Avenue (70-foot setback from the centerline required): (a) with 8.75 by 18-foot parking spaces or 157.5 square feet (minimum nine-foot width and 180 square feet required); (b) with zero loading spaces (one loading space required); (c) with a drive-through bank with six stacking spaces (one stacking space after and six stacking spaces before the final component required); and (d) without a bypass aisle to access parking spaces (no bypass lane provided), **approved**.

2006DV3002 ; 506 W 26th Street (east of site), VARIANCE OF DEVELOPMENT STANDARDS of the Sign Regulations to provide for the construction of a four-foot tall, 18.25 square foot ground sign (not permitted), **approved**.

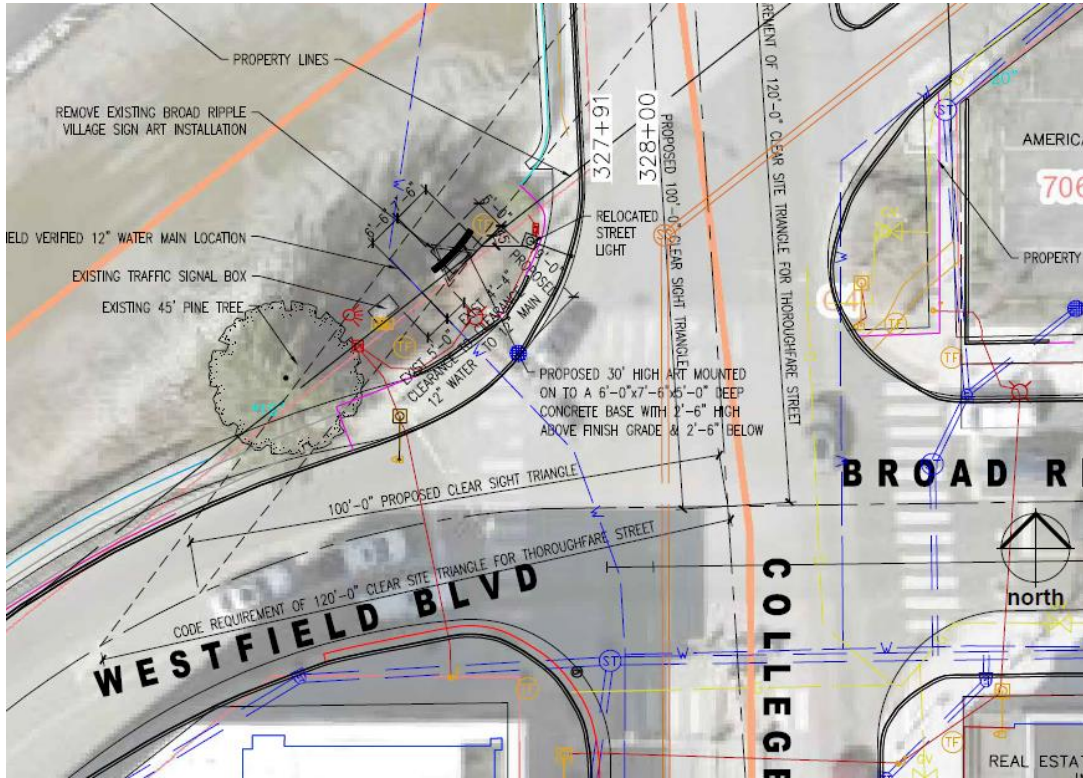
2004DV1031 ; 6290 N College Avenue (north of site), Variance of development standards of the Sign Regulations to provide for a 24-foot tall, 101.89-square foot pylon sign with a 37.73-square foot electronic variable message component, **denied**.

EXHIBITS

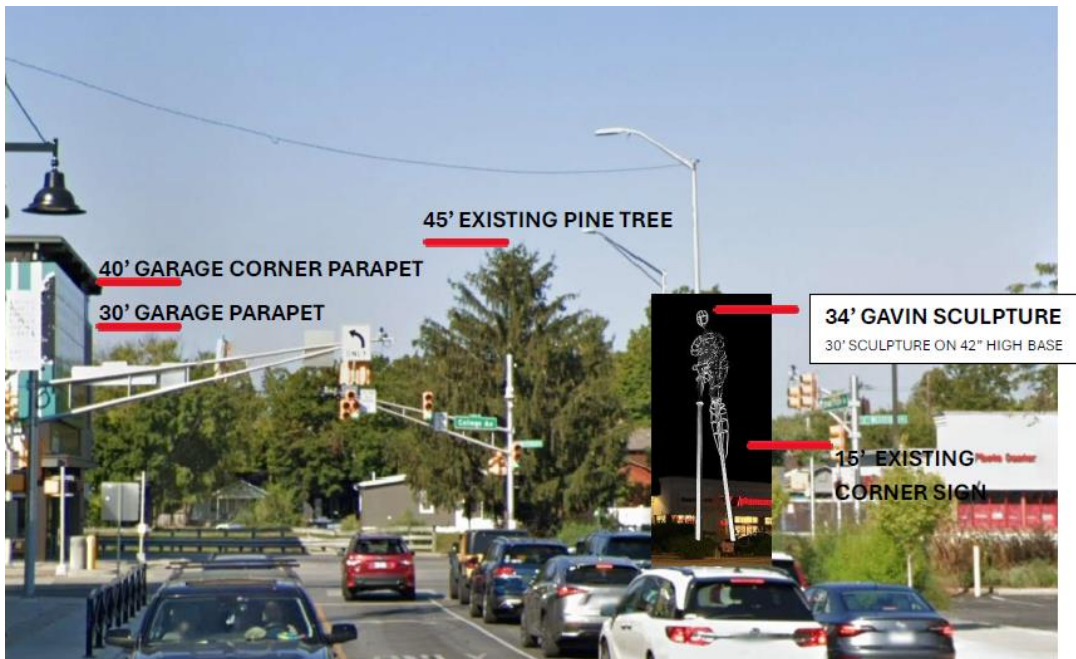
2025DV1035 ; Aerial Map



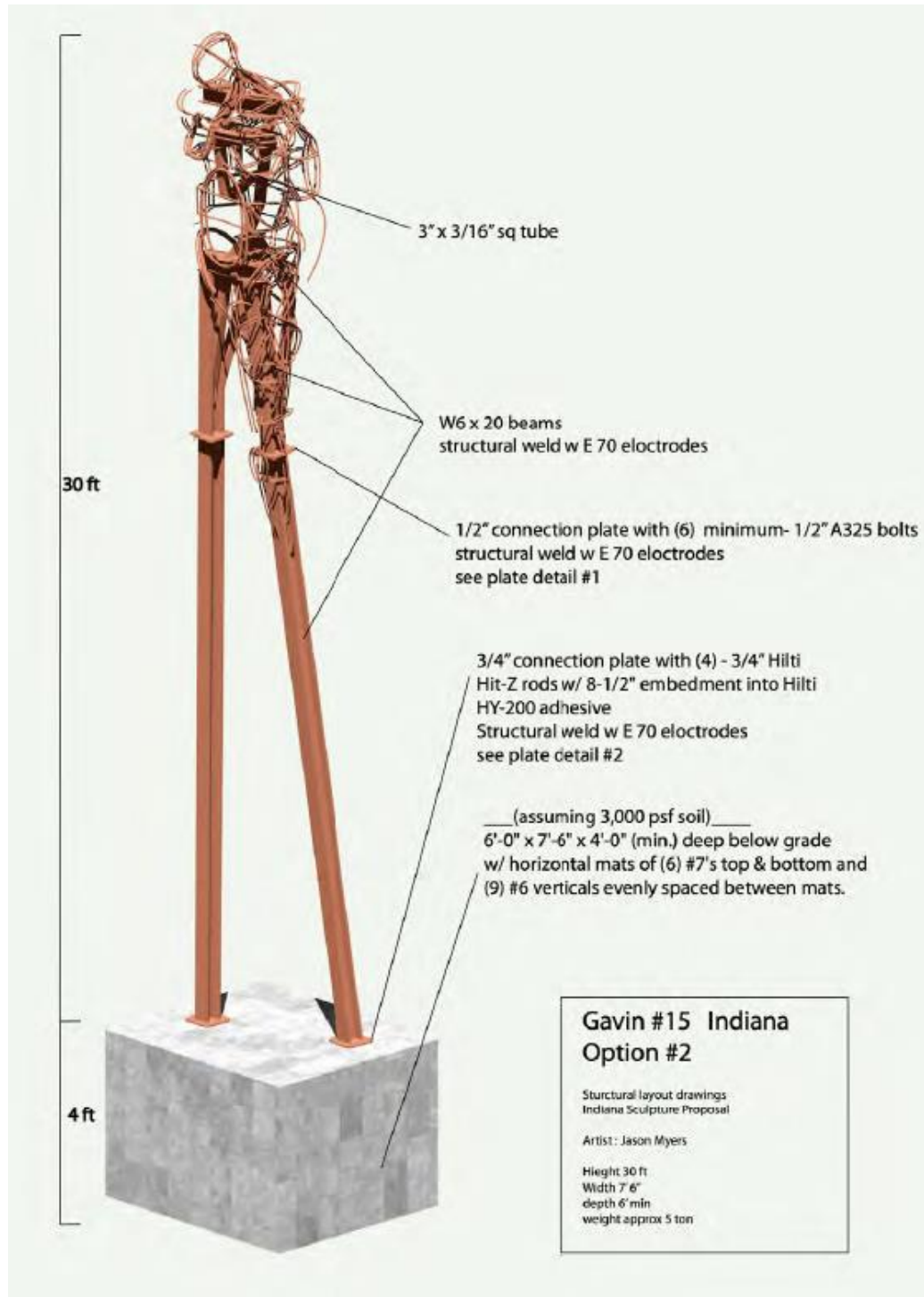
2025DV1035 ; Site Plan



2025DV1035 ; Rendering



2025DV1035 ; Sculpture Elevation



Note: Proposed base height will be 2.5 feet from grade (base partially underground)

2025DV1035 ; Findings of Fact

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

The existing clear site triangle condition is less than what is being requested for the proposed sculpture.

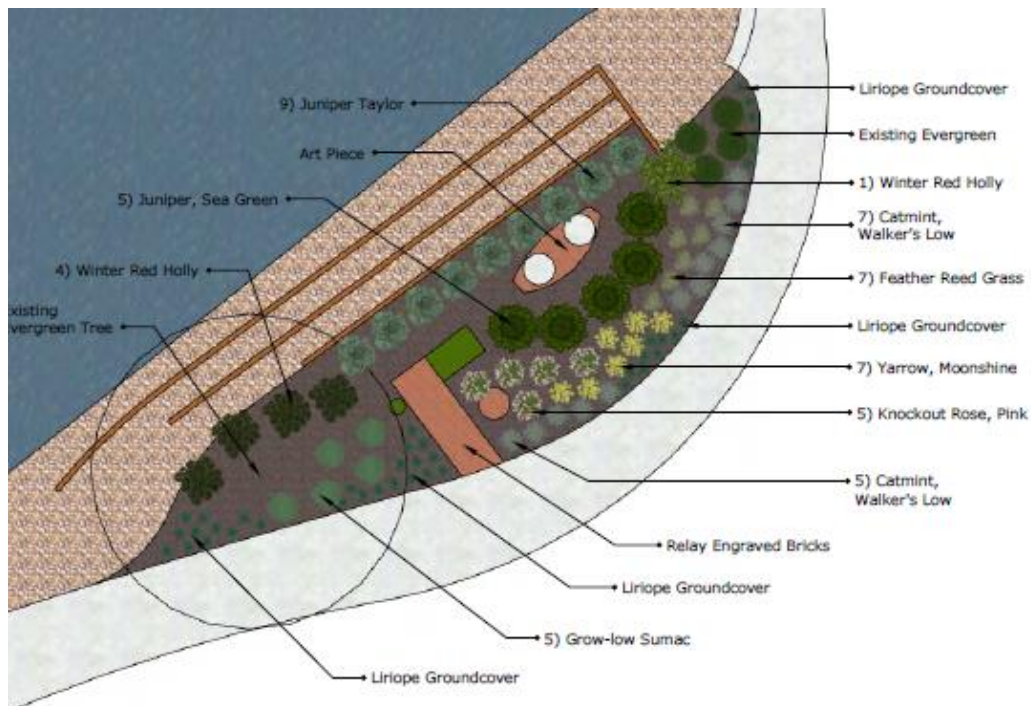
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The existing clear site triangle condition is less than what is being requested for the proposed sculpture. This property is in the public right of way and the land to the north is the Central Canal. The property to the south is with in the clear sight of triangle requirement and this request will have no effect on that property or the other surrounding properties.

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

The existing clear site triangle condition is less than what is being requested for the proposed sculpture. There is not enough room on the site to move the sculpture to the required 120' clear sight triangle.

2025DV1035 ; Proposed Landscaping



2025DV1035 ; Photographs



Photo 1: Existing Sign and Lightpole from East



Photo 2: Existing Sign and Lightpole from West

2025DV1035 ; Photographs



Photo 3: Proposed Sculpture Location from Northeast of Intersection



Photo 4: Proposed Sculpture Location from South of Intersection (TOD Station)

2025DV1035 ; Photographs



Photo 5: Proposed Location from College Ave to North



Photo 6: Proposed Location from Westfield Blvd to West

2025DV1035 ; Photographs



Photo 7: Adjacent Property and Canal to North

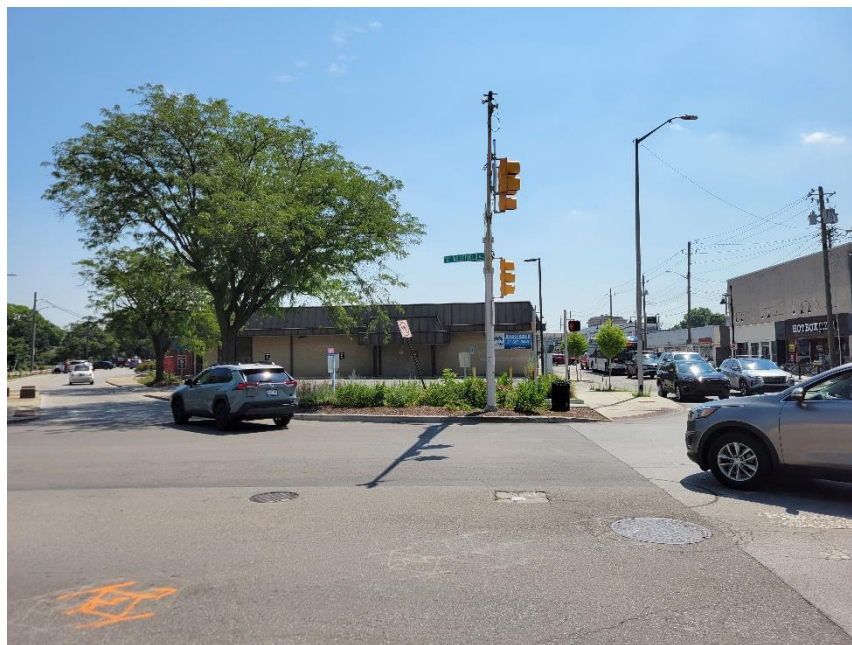


Photo 8: Adjacent Property to East

2025DV1035 ; Photographs



Photo 9: Adjacent Property to Southeast

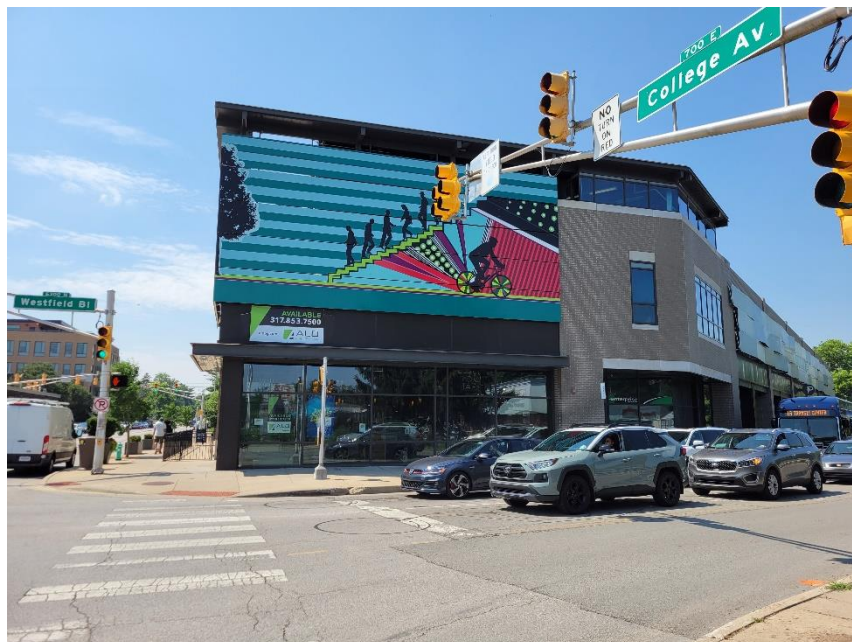


Photo 10: Adjacent Property to South



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BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-UV1-009

Property Address: 5330 West Morris Street (approximate address)

Location: Wayne Township, Council District #17

Petitioner: Adriano Montas, by Arnoldo Gonzalez Vasquez

Current Zoning: C-3 (TOD)

Request: Variance of Use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an Automobile, Motorcycle, and Light Vehicle Service or Repair facility, with outdoor storage of vehicles awaiting repair (not permitted), with eight parking spaces and zero bicycle parking spaces provided.

Current Land Use: Residential

Staff Recommendations: Staff recommends denial of this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- The petitioner automatically continued this petition from the July 1, 2025 hearing to the August 5, 2025 hearing date.
- The petition was continued to the September 2, 2025 hearing due to insufficient notice.

STAFF RECOMMENDATION

- Staff **recommends denial** of this petition

PETITION OVERVIEW

- This petition would allow for the operation of an Automobile, Motorcycle, and Light Vehicle Service or Repair facility, with outdoor storage of vehicles awaiting repair (not permitted), with eight (8) parking spaces and zero bicycle parking spaces provided.
- The subject site is zoned C-3 (TOD) and is improved with a single-family residence and accessory garage structure. The site's residential improvements were legally-established via variance (2023UV1022).
- The automobile, motorcycle, and light vehicle service or repair use is classified as a C-4 use, as a natural element of these types of operations is the generation of automobile traffic to the site and vehicular storage on the site. Additionally, the request to have outdoor storage of vehicles awaiting



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repair is not permitted in C-3 districts, due to the increase of intensity and large amount of space that is typically required for that type of use. With the subject site being historically and currently residential in nature, and smaller than typical C-4 lots, Staff believes that the request and proposed plan of operation to be far too intense for the site. Likewise, Staff finds the proposed uses to be wholly incompatible with the legally established residential uses. The incompatibility of these uses is further exemplified by the fact that Automobile, Motorcycle, and Light Vehicle Service or Repair is not a permitted use in any residential district and, conversely, no residential uses are permitted in any of the zoning districts that do permit Automobile, Motorcycle, and Light Vehicle Service or Repair.

- Further, with this site being mid-block along West Morris Street, which is largely residential at this location, Staff does not believe this to be an appropriate location for the proposed uses given the surrounding context. Likewise, Staff does not find the proposal to be in line with the Comprehensive Plan recommendation of Community Commercial. The Land Use Plan Pattern Book indicates that examples of uses within Community Commercial are small-scale shops, professional and business services, grocery stores, drug stores, restaurants, personal services, and public gathering spaces. Lastly, Staff sees this proposal as further infiltration of heavy commercial uses south of Washington Street into primarily residential areas. Staff believes that the proposal would put further pressure on adjacent residential properties to the east and south. Finally, Staff does not believe there to be any practical difficulty for needing the requested variances, as this site has been used in a compliant manner in the past, and believes that the site can continue to operate in a manner permitted by the Zoning Ordinance without the grant of variances. Therefore, Staff is opposed to the request and represents denial of the petition.

GENERAL INFORMATION

Existing Zoning	C-3	
Existing Land Use	Residential/Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	SU-9	North: Government Grounds
South:	D-5	South: Single-Family Residential
East:	C-3	East: Single-Family Residential
West:	SU-9	West: Government Grounds
Thoroughfare Plan		
West Morris Street	Primary Arterial	56 feet right-of-way proposed and 56 feet right-of-way existing
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes, Transit-Oriented Development	



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Wellfield Protection Area	No
Site Plan	1/9/25
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	1/9/25
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Community Commercial working typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not applicable to the request

Neighborhood / Area Specific Plan

- Not Applicable to the Site

Infill Housing Guidelines

- Not Applicable to the Site

Indy Moves

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

- Not Applicable to the Site



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ZONING HISTORY

ZONING HISTORY – SITE

2023UV1022, Variance of Use of the Consolidated Zoning and Subdivision Ordinance to allow for primary and accessory single-family uses and structures, including the construction of a detached garage, **approved**.

ZONING HISTORY – VICINITY

83-Z-131; 5401 and 5405 W Washington Street (north of site), requests Rezoning of 2 acres being in a C-5 district to the SU-9 classification to provide for a fire station and Township governmental offices, **approved**.

84-Z-199; 1149 South Lynhurst Drive (east of site), requests Rezoning of 0.99 acres, being in the D-3 district, to the C-3 classification to provide for the removal of existing improvements and the construction of a service station and convenience food market, **approved**.

84-UV2-84; 1130 South Lynhurst Drive (east of site), Variance of Use of the Commercial Zoning Ordinance to provide for the erection of a 26 x 40 foot garage to be used for storage of supplies and equipment for an existing automobile repair service, **approved**.

91-V3-98; 1229 South Biltmore Avenue (south of site), Variance of Development Standards of the Dwelling District Zoning Ordinance to permit the construction of an attached garage with a zero foot side yard setback and a six foot aggregate setback (4 foot side yard setback and a 10 foot aggregate required), **approved**.

92-V2-93; 5331 West Washington Street (north of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish an existing pole sign with a front setback of 6 feet from the right-of-way line of Washington Street (15 foot setback required) and a clear distance of 6 feet from the bottom edge of the sign to the grade (9 feet required), **approved**.

97-Z-60; 1205 South Lynhurst Drive (east of site), requests a Rezoning of the adjacent one-third of an acre D3 property to the C4 District to allow for the redevelopment of the site with a new Speedway convenience store, **approved**.

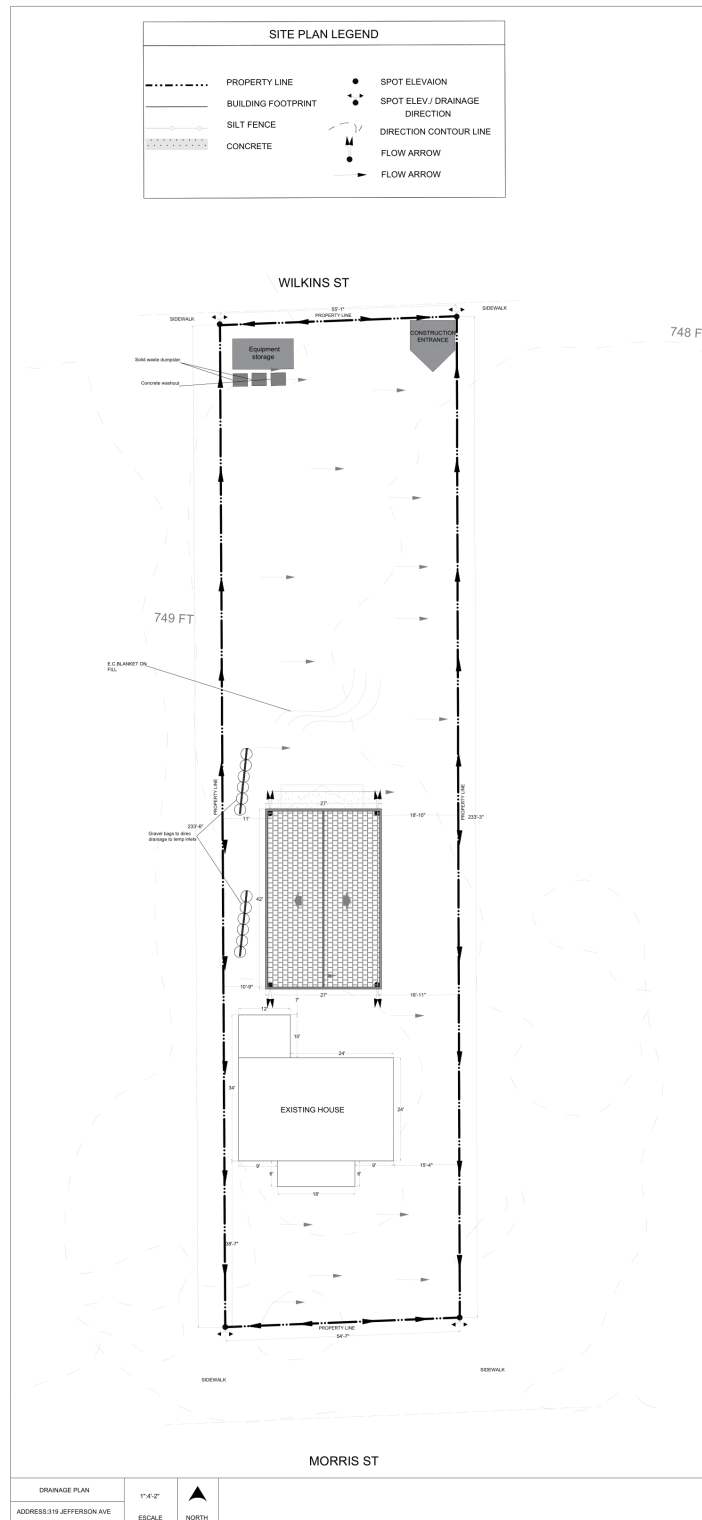
2005SE1004; 5515 West Morris Street (west of site), Special exception of the Dwelling Districts Zoning Ordinance to provide for a 1,144-square foot manufactured home, **approved**.

2011ZON086; 5334 and 5336 West Morris Street (west of site), Rezoning of 0.90 acres, from the C-3 District, to the SU-9 classification to provide for a parking lot for the Wayne Township government center, **approved**.

EXHIBITS



Aerial Photo



Site plan, file-dated 1/9/25



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5330 W Morris Street Type of Commercial Activity and Plan of Operation.

Operations Plan for Zoning Variance Request: Residential to Commercial Use

Business Description:

The vehicle and truck accessory workshop is dedicated to the sale and installation of new and luxury automotive accessories, including rims and tires. Currently, we operate a fully equipped workshop where all vehicle accessory installations are carried out professionally. There are also plans to expand operations to include mechanical and bodywork services in the near future.

Current Services:

- Sale and installation of luxury rims and tires for vehicles and trucks.
- Installation of new automotive accessories (such as trim kits, spoilers, sound systems, among others).
- Basic preventive maintenance related to the installed accessories.

Future Services:

- Workshop expansion to offer mechanical services.
- Implementation of vehicle bodywork services.

Facility Description:

The workshop currently has 8 parking spaces, which are sufficient for current operations given the nature of services and expected customer volume. Accessory installations are carried out on-site, and the facilities are designed to ensure an efficient and safe workflow.

Facilities Overview:

- Workshop size: [Insert square meters].
- Parking: 8 customer parking spaces available.
- Current number of employees: 2 (with projected hires as the business grows).
- Equipment: Specialized tools for accessory installation, tire diagnostics, alignment and balancing systems, among others.

Future Expansion Plans:

- Expansion of the workshop to incorporate general mechanical services.
- Addition of a vehicle bodywork and paint area.
- Increase in staffing as services expand, including mechanics, bodywork technicians, and administrative personnel.

Impact of Zoning Change:

We are requesting a zoning change from residential to commercial to permit the operation of this automotive accessory workshop and the future expansion into mechanical and bodywork



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services. The business will comply with all local regulations regarding noise, safety, and traffic, in accordance with zoning and commercial activity standards.

Considerations:

- The workshop will operate during standard business hours to minimize inconvenience to neighbors.
- The level of traffic generated will be moderate, as most customers are expected to arrive in personal vehicles.
- No substantial changes will be made to the existing structures, preserving the residential area's aesthetic.

Safety and Sustainability Plan:

1. **Site Safety:**
 - The workshop will be equipped with a security camera system to ensure the safety of employees and customers.
 - Proper signage will be installed to support traffic safety within the premises.
2. **Waste Management:**
 - An appropriate waste disposal system will be implemented for used tires, oils, and other chemical products.
 - All waste will be managed in accordance with local environmental regulations.
3. **Noise and Vibrations:**
 - All workshop activities will be conducted to minimize noise and vibrations in compliance with local noise restrictions.
4. **Accessibility:**
 - The workshop will provide adequate access for both vehicles and individuals with reduced mobility, in full compliance with accessibility regulations.

Growth Projections:

The business plans for gradual expansion, starting with automotive accessories and luxury tire sales, progressing toward a full-service mechanical and bodywork facility. It is anticipated that the zoning change will allow for greater customer outreach and local job creation.

1-Year Projections:

- Increase to 5 employees.
- Expansion of basic mechanical services.
- Growth in customer base and accessory sales volume.

3-Year Projections:

- Full development of mechanical and bodywork services.
- Greater business presence in the local community.
- Hiring of additional staff to support business expansion.



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Conclusion:

We kindly request your consideration in approving the zoning change from residential to commercial use, enabling the growth and development of this business, which will contribute valuable to the local community and provide specialized services in the automotive industry.

We remain at your disposal for any questions or additional requirements during the evaluation process.

Sincerely,



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Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

Zoning Compatibility: The proposed commercial use is consistent with the surrounding zoning regulations, ensuring it aligns with the area's planned development.

Increased Tax Revenue: The change will likely result in increased property tax revenues, which can be reinvested into public services and infrastructure.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE

Harmonious Integration: The proposed commercial use aligns with existing businesses or mixed-use developments in the area, ensuring a seamless transition from residential to commercial.

Economic Vitality: The presence of a well-maintained commercial property can stimulate local economic activity, making the area more attractive to potential buyers or investors.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

Converting the property to commercial use would be consistent with the existing character of the area, which is already oriented towards retail and service activities.

Optimal Land Use: Utilizing the property for commercial purposes leverages its location within a commercially designated area, promoting efficient and appropriate land use.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The inability to convert the property to commercial use diminishes its market value and economic viability, especially when the surrounding area is thriving commercially.

Maintaining the property as residential in a commercial zone represents an underutilization of the land, leading to financial losses for the owner and missed opportunities for community development.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The comprehensive plan likely emphasizes economic growth. Granting the variance aligns with this objective by facilitating new business opportunities, increasing local employment, and contributing to the area's economic vitality.

By allowing commercial use, the property can offer essential services or retail options, improving residents' access to goods and services, which is often a component of a comprehensive plan's objectives.

DECISION

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

Adopted this _____ day of _____, 20 ____



Subject site looking north from West Morris Street



Looking south from the alley



Looking south with the adjacent parking lot to the west



Looking north with the adjacent residence to the east



Looking south with the garage structure in the background



Rear gate from the alley



Looking north



Looking west down the alley



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BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-UV1-013
Address: 11150 Maze Road (approximate address)
Location: Franklin Township, Council District #25
Zoning: D-A
Petitioner: Michael & Nicole Cole, by Ray Basile
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 350-gallon gasoline above ground storage tank and a 550-gallon diesel fuel above ground storage tank (not permitted), in addition to uses permitted by the grant of 2023-UV1-025.

Current Land Use: Single-Family Dwelling

Staff Recommendation: Staff recommends Denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was automatically continued at the request of a Registered Neighborhood Organization, from the August 6, 2025, hearing, to the September 2, 2025, hearing.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ A previous Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for operation of a construction contractor, including the on-site storage of 11 commercial vehicles associated with the use (not permitted), was granted for the subject site on November 14, 2023.

VARIANCE OF USE

- ◇ The proposed use would be permitted in the C-7, High Intensity Commercial Zoning District. The C-7 district is designed to provide for specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and the outdoor parking and maintenance of trucks or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares where the gradual and reasonable transition from lesser commercial uses exist. Due to the intensity of the uses, the location of this district adjacent to Protected Districts should be avoided.

- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings. Because no agricultural enterprise exists on the subject site, development of the site would be considered a large estate or rural single-family dwelling. The inclusion of two (2) above ground gasoline and diesel fuel storage tanks would be an intensification of the previously granted variance, and not compatible with the development of large estate or rural single-family dwellings.
- ◇ Given the increase in intensity between the existing zoning and the proposed use, by including the a 350-gallon gasoline above ground storage tank and a 550-gallon diesel fuel above ground storage tank, in an area that is not served by the Citizens water utility, and where drinking water is primarily obtained from on-site underground wells, approval of this request would over-intensify the site, increase the risk of a fuel spill into drink water sources, and negatively impact surrounding property owners.
- ◇ The request would also facilitate the intrusion of additional heavy commercial uses into an established residential rural neighborhood, in a manner violating the development norms and residential aesthetics of the street, and squarely deviating from the recommendations of the Comprehensive Plan.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-A and could be used by any number of uses permitted, by right, in the D-A zoning classification. Any practical difficulty is self-imposed by the desire to use the site for two (2) large above ground fuel storage tanks.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the comprehensive plan and zoning ordinance without the need for above ground fuel storage tank variances. Therefore, the Comprehensive Plan recommendation should not be disregarded, nor of the clearly residential nature of the surrounding area. For these reasons, staff recommends its denial.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Rural or Estate Neighborhood uses	
Surrounding Context	Zoning	Surrounding Context
North:	D-A	Agricultural uses
South:	D-A	Single Family Dwelling
East:	D-A	Single Family Dwelling / Agricultural uses
West:	D-A	Single Family Dwelling
Thoroughfare Plan		
Maze Road	Secondary Arterial	30-foot existing right-of-way and 80-foot proposed right-of-way

Context Area	Metro area
Floodway / Floodway Fringe	No
Overlay	N/A
Wellfield Protection Area	N/A
Site Plan	June 5, 2025
Landscape Plan	N/A
Findings of Fact	June 5, 2025

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Rural or Estate Neighborhood uses for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book defines the Rural or Estate Neighborhood typology for the site, which applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

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

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



Department of Metropolitan Development
Division of Planning
Current Planning

ZONING HISTORY

2023-UV1-025; 11150 Maze Road (subject site), requested a Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for operation of a construction contractor, including the on-site storage of 11 commercial vehicles associated with the use, **granted**.

2023-DV1-029; 8349-8401 Acton Road (west of site) requested a Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of detached garage with a four-foot south side yard setback, **granted**.

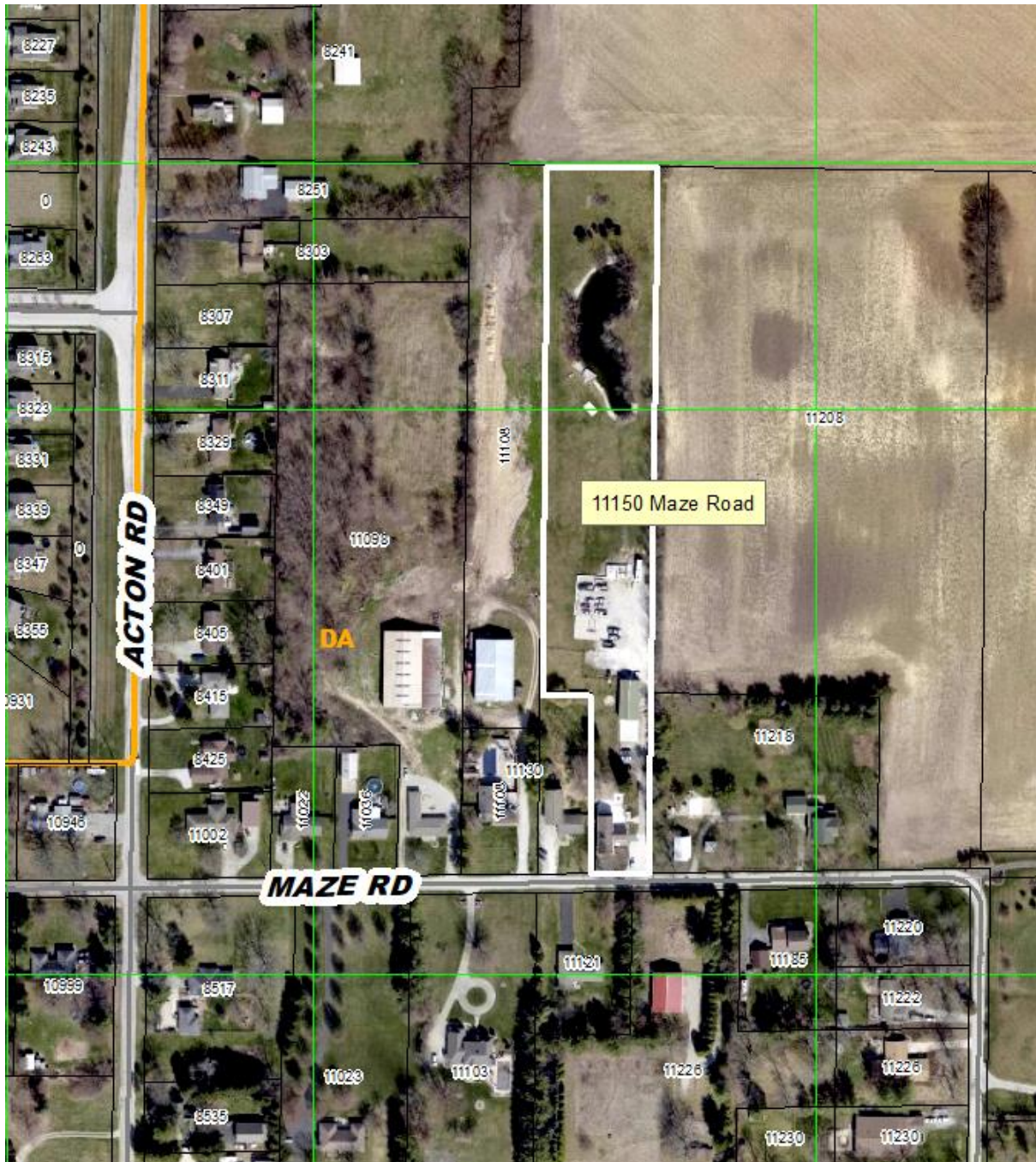
2012-DV2-025; 11185 Maze Road (south of site), requested a Variance of Development Standards to provide for accessory use area of 3,419 square feet or 162.3% of the total floor area of the dwelling, **granted**.

2009-DV1-021; 11224 and 11338 Maze Road (south of site), requested a Variance of Development Standards to provide for Tract "A" to be divided into no more than three residential lots, with reduced street frontage and lot width and Tract "B" to be divided into two lots, with reduced lot width, **granted**.

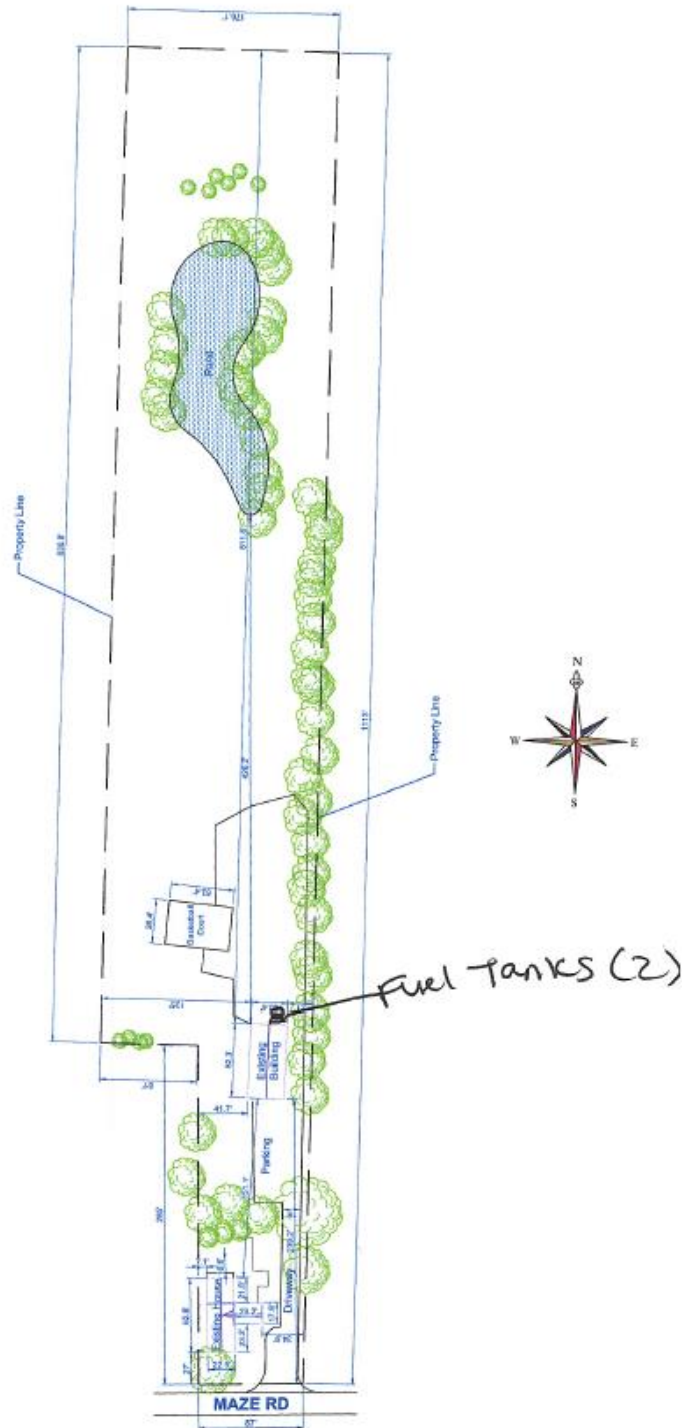
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EXHIBITS

Location Map



Site Plan



Findings of Fact

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, DIVISION ____
OF MARION COUNTY, INDIANA**

**FINDINGS OF FACT FOR PETITION FOR
VARIANCE OF USE AT 11150 MAZE ROAD**

1. **General Welfare:** The grant will not be injurious to the public health, safety, morals and general welfare of the community. The use of above-ground storage tanks on DA-zoned properties for agricultural purposes is permitted by the Indianapolis zoning ordinance and is widespread across Marion County. While the use of the same tanks for limited commercial, rather than agricultural, purposes on a DA-zoned property requires a use variance, the presence and use of the tanks for such commercial purposes imposes no greater threat to public health or safety than the otherwise permitted presence and use of the tanks for agricultural purposes.

Moreover, the tanks are both double-walled to prevent leaks or spills and utilize automatic shut-off fuel dispensers similar to those present at gas stations to ensure no drippage or leakage during the fueling process.

As such, there is nothing about the proposed continued use of the two fuel tanks that would negatively impact upon the public health, safety, morals or general welfare.

2. **Use, Value and Compatibility:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the fuel tanks are set back from Maze Road and will not produce noise, light or environmental pollution. There will be no change in the current low levels of traffic due to the presence of these privately-used fuel tanks.

As set forth in the prior approved Variance Petition, there will be no customers on site and only 5-10 employees will continue dropping off and picking up their personal vehicles with the commercial vehicles and trailers remaining on-site in the evening/weekend. The fuel tanks will be located with the parked vehicles and trailers well behind the neighboring residences and are not visible from the street. Consequently, approval of the variance is both compatible with the existing uses in the area and will have minimal impact on the surrounding properties.

Findings of Fact (cont'd)

3. **Need:** The need for the variance arises from some condition peculiar to the property involved because of its location and its historical use. The property is located in a prime, centrally-located area that allows for the efficient parking and fueling of the commercial vehicles and trailers during their off-site operations. The site has been used for this limited commercial parking and for the fuel tanks for years without complaint and without expansion during that time. This request for a variance only came about because the

petitioner was unaware of the requirement for a variance until notified following a random inspection and notification by the City.

4. **Hardship:** The strict application of the terms of the zoning ordinance constitutes an unusual and unnecessary hardship if applied to the property for which the variance is sought because, as set forth above, the proposed and existing use of the two fuel tanks would have minimal impact upon the surrounding properties. These types and sizes of tanks are identical to the many other such tanks located on other DA-zoned properties in Indianapolis but used for agricultural purposes. Moreover, where the property has been used for the same or similar use for four years without negative impact on neighboring properties, rigid adherence to the zoning ordinance and prohibition of the variance of use for the fuel tanks would certainly cause an unnecessary hardship.
5. **Comprehensive Plan:** The grant does not interfere substantially with the comprehensive plan (Rural or Estate Neighborhood) because the proposed use of the fuel tanks will not in any manner change the current use or intensity of use on the property, which is not inconsistent with or disruptive of the residential designation of this area. Moreover, the number and size of the fuel tanks are not dissimilar to those used by operating farms in Indianapolis. Consequently, the approval of this petition will not interfere with the current comprehensive plan.

Photographs



Subject site, to the rear of single-family dwelling, looking north.



Subject site, to the rear of the single-family dwelling, commercial vehicle storage area, looking north.



Subject site, existing fuel tanks, looking west (picture provided by petitioner).



Subject site, existing fuel tanks, looking south (picture provided by petitioner).



BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-DV1-038
Address: 954 North Traub Avenue (approximate address)
Location: Center Township, Council District #12
Zoning: D-5
Petitioner: Curtis Smith, by Vince Braun
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 672-square foot detached garage, being larger than the 660-square foot primary building (accessory structures are not permitted to be larger than the primary building).

Current Land Use: Single Family Dwelling

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first scheduled hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for the construction of a 672-square foot detached garage, being larger than the primary dwelling.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to accessory buildings, are intended to ensure the dwelling remains the primary use of the property. Limiting the size of accessory structures preserves open space and regulates the building mass impact to surrounding property owners.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the individual's needs. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. The proposed garage would consist of new construction that could be designed to meet the terms of the Ordinance.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a hardship, nor does the site possess a practical difficulty, since the site is zoned D-5 and could be used as permitted, by right, in the D-5 zoning classification. Any practical difficulty is self-imposed by the desire to use the site for the construction of a garage, being larger than the primary dwelling.

- ◇ The subject site is similar in size to other nearby properties, that are able to follow the comprehensive plan and zoning ordinance without the need for the requested variances. For these reasons, staff does recommend denial.

GENERAL INFORMATION

Existing Zoning	D-5		
Existing Land Use	Single Family Dwellings		
Comprehensive Plan	5-8 residential units per acre.		
Overlay	No		
Surrounding Context		Zoning	Surrounding Context
	North:	C-3	Undeveloped
	South:	D-5	Undeveloped side yard
	East:	D-5	Single-family dwelling
	West:	D-5	Single-family dwelling
Thoroughfare Plan			
	Traub Avenue	Local Street	48-foot existing and proposed right-of-way.
Context Area	Compact		
Floodway / Floodway Fringe	N/A		
Wellfield Protection Area	No		
Elevations	N/A		
Commitments	N/A		
Landscape Plan	N/A		
Plan of Operations	N/A		
Site Plan	June 5, 2025		
Findings of Fact	June 5, 2025		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends 5-8 residential units per acre.

Pattern Book / Land Use Plan

- Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Recommends 5-8 residential units per acre.



Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.

ZONING HISTORY

2016-UV2-011; 958 North Belmont Avenue (west of site), requested a Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance, to provide for a real estate office, with commercial business signs, **denied**.

2007-UV1-002; 954 North Traub Avenue (subject site), requested a Variance of Use of the Dwelling Districts Zoning Ordinance to provide for a beauty salon and a candy store in an existing dwelling, and a Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 6-foot tall fence in the required front yard, **granted**.

2007-ZON-044; 961 North Sheffield Avenue (west of site), requested the Rezoning of 0.13 acre, from the C-3 District, to the D-5 classification to provide for the construction of a single-family dwelling, **granted**.

2005-DV2-052; 937 North Sheffield Avenue (southwest of site), requested a Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a 1,092-square foot single-family dwelling, with a 16.25-foot front yard setback, with a zero-foot north side yard setback and a 3.92-foot south side yard setback, and to provide for the construction of an 84-square foot addition extending 18.08 feet along the existing nonconforming zero-foot north side yard setback, **granted**.

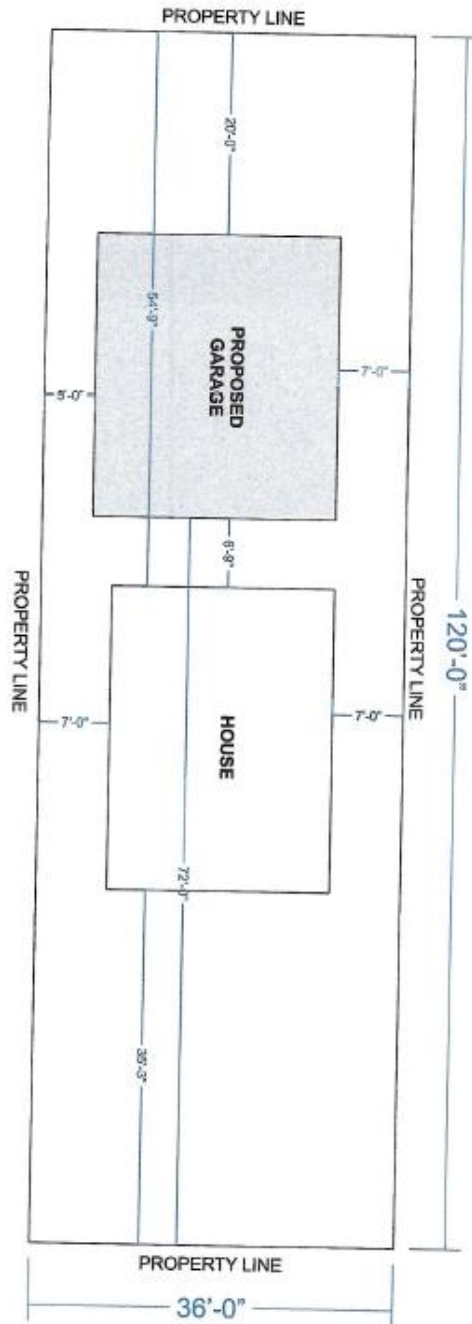
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EXHIBITS

Location Map



Site Plans





Department of Metropolitan Development
Division of Planning
Current Planning

Findings of Fact

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:

It is a basic build of a garage structure according to the codes and safety rules and regulations of the State of Indiana and the International Building Code.

It will be located in an area of the owner's property that is well maintained and serviced.

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 garage is being built and constructed of the highest quality by a reputable company, Coach House Garages, and it's respected subcontractors using only the highest quality products that have shown to only increase property values presently and in the past.

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

It limits the storage of the homeowners personal property in such a way that the width restriction prohibits the use of property in a way that neither effects the municipal codes nor the neighbor's line of sight in a negative manner. The width of the building provides only the best use of the property for the home owner while in no way negatively effects the community or neighbors. The current code states that the building cannot exceed the width of the existing residential structure. However the width of the existing structure is less than twenty four inches smaller than the new structure.

Photographs



Subject site single family dwelling, looking west



Subject site rear of dwelling, proposed garage location, looking east



Adjacent single family dwelling with complaint garge, looking west.



Adjacent single family dwelling with complaint garge, looking northwest.



Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-UV1-016

Property Address: 9743 Indian Creek Road South (*approximate address*)

Location: Franklin Township, Council District #25

Petitioner: David & Margaret Sisk, by David A. Retherford

Current Zoning: D-A

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a lawnmower repair business with accessory outdoor storage and operations (not permitted), accessory structures with a two-foot western side yard setback and a two-foot rear yard setback (15-foot side and rear yard setbacks required), and a rear deck resulting in an open space of 82.5% (minimum 85% required), and one portable sign with an area of 6 square feet (not permitted), per filed plan of operation.

Current Land Use: Residential

Staff

Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 9743 Indian Creek Road South is a residential property that is currently improved with a single-family residence and four (4) accessory structures within the rear yard. Adjacent land uses are residential to the north, west, and south and undeveloped to the east. The four (4) accessory structures range in size from 80 to 192 square feet, and a chain-link fence exists along the southern portion of the site (no buffering exists along the western property line). A wooden deck is also partially constructed along the southern portion of the existing residence.
- The accessory structures, placed in the 1990s, are below the square-footage threshold for requiring Improvement Location Permits or permanent foundations but would still be required to comply with Ordinance standards for height, setbacks, and overall open space at the property.



Department of Metropolitan Development
Division of Planning
Current Planning

- VIO25-003756 was opened in April 2025 because of an anonymous complaint filed with the Mayor's Action Center. That violation cited the property for various zoning non-conformities, including the operation of a lawnmower repair business with accessory outdoor storage within the D-A zoning district: the outdoor storage in question included lawnmowers and related equipment, vehicle parts (including tires and batteries), an unlicensed trailer, and miscellaneous items such as tarps and plywood. Additionally, the violation mentioned both the partial construction of a deck without the required permits and placement of portable signage (full text within Exhibits).
- Approval of this variance would allow for **(a)** the continued operation of a lawnmower repair business with outdoor storage and operations per the filed Plan of Operation; **(b)** legally establishing the accessory structures at the site with setbacks two (2) feet away from property lines to the west and south (15-foot separation required); **(c)** construction of the deck which, in conjunction with the other primary and accessory structures, would result in an open space of 82.5% (85% required); and **(d)** placement of a portable sign advertising the business.
- The subject site is zoned D-A to allow for a variety of agricultural uses as well as for large estate development of single-family dwellings. The Pattern Book recommends it to the Suburban Neighborhood living typology to allow for predominantly single-family housing supported by a variety of neighborhood-serving businesses, institutions, and amenities. The Plan recommendation is for a greater residential density than the Rural or Estate Neighborhood typology, and no residential zones or typologies contemplate the placement of contractor uses or accessory outdoor storage related to contractor uses (a heavy commercial or industrial use).
- The Plan of Operation filed by the petitioner indicates that their business would be limited to the owner-occupant and would operate from late February to late October with hours from 8 AM to 6:30 PM. Operation of the business would include sharpening, minor welding, and repair of engines both within the accessory buildings as well as within outdoor areas surrounding those buildings near adjacent properties to the west and south (see site plan within Exhibits). Any drop-off and pickup of mowers or equipment would utilize the residential driveway, and that mower engines would be left running at idle "except for short periods of time as necessary".
- Regulations on the placement of heavy commercial primary uses and outdoor accessory uses (and signage advertising those uses) exist to ensure that residential areas remain distinct from areas contemplated for more intense development and to limit negative externalities of noise, dust, odor, etc. on adjacent properties. The continued operation of this use would result in a continuation of those negative externalities with limited buffering and setbacks that have already resulted in three (3) separate complaints about this property. Staff would also note that no undue hardship exists that would preclude this property from alternate use (residential), and that site-specific practical difficulty hasn't been identified for the variances of development standards.
- Although the substandard size of the D-A lot (0.36-acre when 3 acres are required) might limit the size of a new residence or addition, staff would note that the current reduction in setbacks that is being requested and the open space variance are only needed based on the desire for an accessory deck and four (4) separate buildings associated with the heavy commercial use.



Department of Metropolitan Development
Division of Planning
Current Planning

- The proposed contractor use involving outdoor repairs and lawnmower noise and odors would be very near adjacent residences with minimal buffering. Practical enforcement of the noise restrictions within the Plan of Operation would also be difficult, and staff would note that the previous placement of structures without permanent foundations within required setbacks would be a self-imposed difficulty. Staff recommends denial of the proposed variances.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	D-A	North: Residential
South:	D-A	South: Residential
East:	D-A	East: Undeveloped
West:	D-A	West: Residential
Thoroughfare Plan		
Indian Creek Rd S	Primary Collector	40-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	06/27/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	06/27/2025	
Findings of Fact (Amended)	08/25/2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommend this site to the Suburban Neighborhood living typology to allow for predominantly single-family housing supported by a variety of neighborhood-serving businesses, institutions, and amenities. Heavy commercial uses such as a contractor and outdoor displays and operations are not contemplated for the typology.

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

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



Department of Metropolitan Development
Division of Planning
Current Planning

ZONING HISTORY

ZONING HISTORY – SITE

N/A

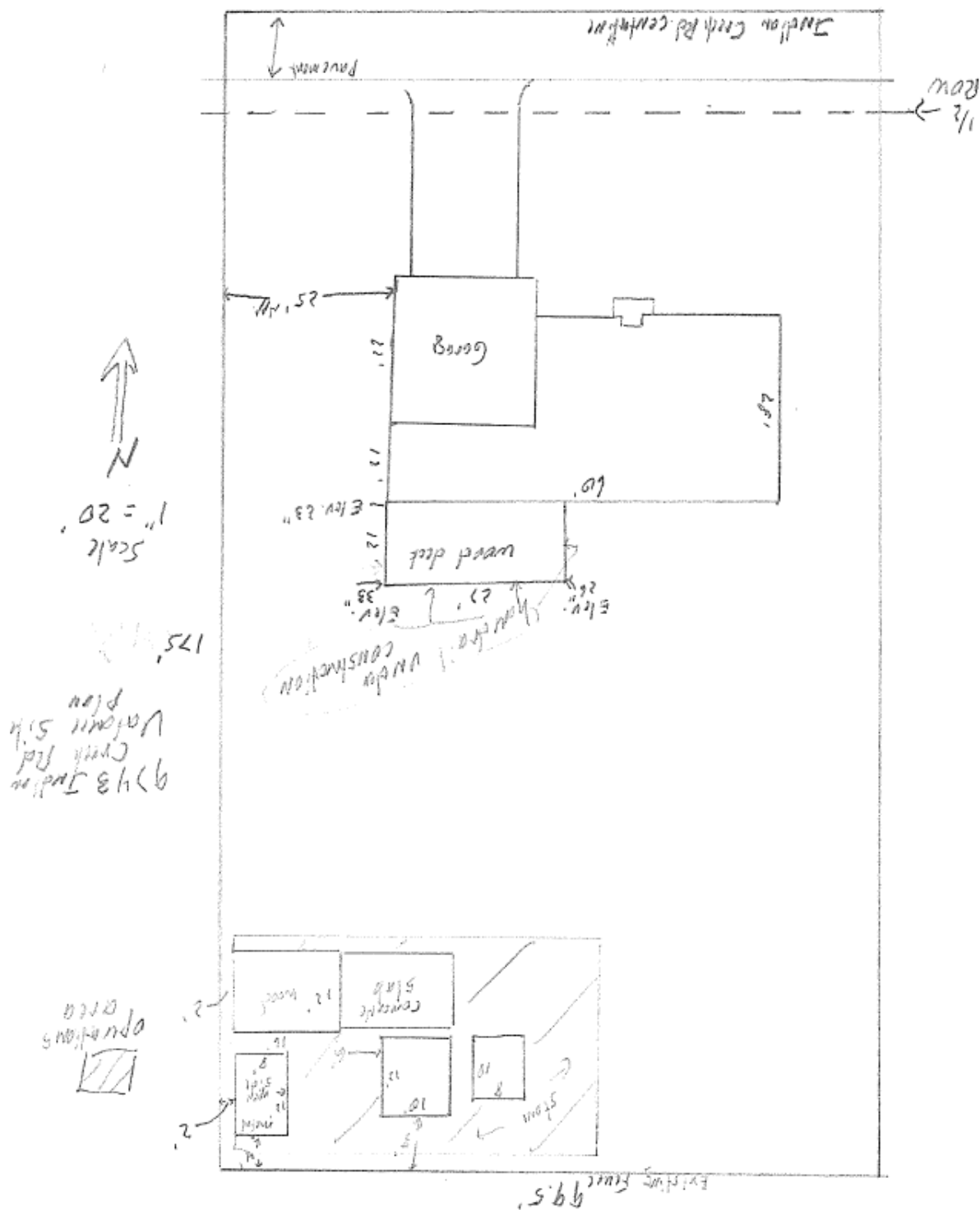
ZONING HISTORY – VICINITY

2021HOV012 ; 9755 Indian Creek Road S (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling and attached garage with a 30-foot front setback, 19-foot and 20-foot side setbacks, a 43-foot rear setback and 69% open space (35-foot front setback, 35-foot side setback, 75-foot aggregate side setback, 75-foot rear setback and 85% open space required), **approved**.

EXHIBITS

2025UV1016 ; Aerial Map







Department of Metropolitan Development
Division of Planning
Current Planning

2025UV1016 ; Notice of Violation (VIO25-003756)

Section 740 -1005.A.1. Civil Zoning Violation

Specific Violation: The location, erection, or maintenance of any sign not specifically permitted by the Zoning Ordinance; (744-903.G.5. - Portable signs are prohibited).

Section 740 -1005.A.2. Civil Zoning Violation

Specific Violation: The failure to obtain an Improvement Location Permit when one is required by the terms and provisions of the Zoning Ordinance; (740-801.A.2. - Failure to obtain an Improvement Location Permit (ILP) for a deck exceeding 18 inches in height).

Section 740 -1005.A.3. Civil Zoning Violation

Specific Violation: The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use; (Tarps, plywood, and other miscellaneous items throughout the property).

Section 740 -1005.A.4. Civil Zoning Violation

Specific Violation: The outdoor storage of inoperable vehicles in any zoning district, the provisions of which do not specifically permit such a use; (Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, that cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate, or flat tires; or that is otherwise partially dismantled or mechanically inoperable...unlicensed trailer).

Section 740 -1005.A.4. Civil Zoning Violation

Specific Violation: The outdoor storage of vehicle parts in any zoning district, the provisions of which do not specifically permit such a use; (Vehicle tires, battery, and other miscellaneous vehicle parts throughout the property).

Section 740 -1005.A.5. Civil Zoning Violation

Specific Violation: The parking or storage of a commercial vehicle in any zoning district, when the provisions of which do not specifically permit such a use; (Trailer, open or enclosed, holding landscaping or construction equipment...lawnmower and lawncare equipment).

Section 740 -1005.A.7. Civil Zoning Violation

Specific Violation: The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Lawnmower repair is not a permitted use in a D-A zoning district).

Section 740 -1005.A.7. Civil Zoning Violation

Specific Violation: The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Outdoor storage and operations is not a permitted accessory use in a D-A zoning district...lawnmowers, lumber, plastic piping, hand dollies, etc.).



**Department of Metropolitan Development
Division of Planning
Current Planning**

2025UV1016 ; Plan of Operation

1). Operation: Petitioner will operate a small seasonal lawn mower repair business, including sharpening, minor welding, and small engine repair and associated uses on the subject property.

2). Details of Operation:

A. The four existing accessory buildings (without foundations) located behind the Petitioner's residence (the "buildings") and also the outdoor concreted, stone covered, or grass covered areas generally abutting those buildings comprise the "Operations Area" shown on the Site Plan. The Operations Area is the only area on the site in which the authorized uses may be performed.

B. The storage of mowers, equipment, the Petitioner's lightweight single axle trailer, tools, parts, and associated material shall be permitted only within the Operations Area.

C. The drop-off and pickup of the mowers/blades/projects worked on will generally occur using the existing driveway in front of the residence. This drop-off and pick-up activity, and transferring the items to and from the driveway and the Operations Area are the only significant activities related to the work authorized by this use variance that are allowed to occur outside of the Operations Area.

D. For clarity, the office related work associated with the permitted uses shall occur in the Petitioner's residence, on the site; and that activity shall not be considered a significant activity.

3). Limits on Days and Hours of Operation: The uses authorized by this variance are a seasonal business, generally commencing when it starts warming up in late February or early March, and slowing down through the Fall until the mowing season generally ends around late October. On the days the work is done, it shall not start any earlier than 8:00 AM and shall not continue any later than 6:30 PM.

4). Owner to Reside On-Site: The business will be owned and managed solely by the Petitioner David Sisk, and in any case the variance of use shall expire at the time David Sisk no longer resides in the residence on the subject property.

5). Sign: During the season in which the business operates, the Petitioner shall be permitted to install a yard sign (not larger than 2' X 3' in the front yard, advertising the services offered and the contact phone number.

6). Limit on Employees: The Petitioner David Sick is the only employee permitted to work for the business authorized hereby.

7). Limit on Growth: The Operations Area shown on the Site Plan shall not be enlarged, and while the existing buildings may be maintained, moved, or even replaced, the total square footage of buildings within the Operations Area shall not be increased.

8). Noise: To reduce the possibility that noise related to the operation of the business could negatively impact the abutting property owners:

i. No equipment being repaired in the business shall be left with the motor running continuously outside for more than a 10 minute long period of time.

ii. Motors being tested outside shall generally have the motor running at idle except for short periods of time as necessary.

9). Trash: No trash generated from the operation of the business shall be allowed to accumulate outside of the residence or the buildings within the Operations Area.



**Department of Metropolitan Development
Division of Planning
Current Planning**

2025UV1016 ; Findings of Fact (Use)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: The business has operated from this site for approximately 15 years without creating any such injury, and permitting the property to continue to be used by the owner who also resides on the site, with the restrictions on the business operations as set forth in the Plan of Operation, presents no reasonable risk of any such injury.

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: Several potentially impacted neighbors have signed a Petition in Support of the requested variances stating that they are aware of what is being requested, and that in their opinion the approval of the variances will not create such substantial adverse impact on their property or any others in the area. The property to the South is approximately 45 acres containing an existing power station which is owned by AES. The variance is also temporary. It expires when the Petitioner either moves away or is unable to operate the small business by himself; and he is already past retirement age. The Plan of Operation limits the operations significantly, and the business has already operated at this same site under basically the same rules for over 15 years without creating any such impact. The presence of the petitioner's home directly in front of the area in which the business operates makes it unlikely that the Petitioner would operate the business in a manner that would negatively impact his own property.

3. The need for the variance arises from some condition peculiar to the property involved and the condition is not due to the general condition of the neighborhood because: The subject property is easily large enough to accommodate a seasonal part time business on a small scale such as this one. This type of setup with existing small buildings and a confined space in the backyard is unique in that it allows a low enough overhead to allow these types of services to be provided at a reasonable price. As shown by the support from the community, the need is significant for someone with the Petitioner's knowledge and experience to provide these types of repairs and sharpening; and since the Allied Appliance business in Wanamaker went out of business two years ago the Petitioner is likely the last option available on the far southeast side of Indianapolis.

4. The strict application of the terms of the zoning ordinance constitutes an unusual and unnecessary hardship if applied to the property for which the variance is sought because: The site is large enough to easily and safely support this type of seasonal small business as an accessory use without negatively impacting others, but rezoning it to a commercial classification would not make good planning; both because the primary use remains residential, and adding such a small area of commercial to accommodate the small Operations Area in play here would be spot zoning. Approving the variance permits a small, seasonal temporary use for the Petitioner only. Without a variance the Petitioner would have to stop providing services which supplement his retirement but which also provide a unique and valuable benefit to the citizens in Franklin Township who need the services he provides.

5. The grant does not interfere substantially with the Comprehensive Plan because: The is comp planned for Suburban neighborhood, but the undeveloped property to the East and South is proposed for large lot farm type uses or utility expansion. As limited by the Plan of Operation this short term, seasonal temporary variance is not likely to impact the manner in which the existing large lot homes to the North and West, or the undeveloped areas to the South and East are used or developed.



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2025UV1016 : Findings of Fact (Setbacks, Open Space & Signage)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Permitting the existing buildings to remain as they have been placed over 15 years present no reasonable likelihood of such and injury, and during the 15 years they have been in these locations not such injury has yet occurred.

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 two abutting neighbors who could be impacted by these buildings remaining in their current location have signed a Petition in Support of the requested variances stating that they are aware of what is being requested, and that in their opinion the approval of the variances will not create such substantial adverse impact on their property or any others in the area. The accessory building on the property to the South is similarly close to the property line without causing any such impact.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The four buildings all packed closely together in this corner of the subject property, plus the related abutting concrete pad and stone covered areas, plus the various associated decorative landscape beds, have all existed at their current locations for at least 15 years without causing problems for anyone. These buildings and the area surrounding them are mostly full of personal items and some parts, tools and equipment related to the small business which the associated use variance addresses. If the two buildings in question have to be moved to comply with the applicable side and rear yard setbacks, the entire associated area which has been created by the Petitioner over a forty year period would have to be rebuilt. In addition, all of the items in the buildings would have to be removed and then placed back in the buildings. The combined burden imposed upon the Petitioner if the ordinance is strictly enforced is not justified by the resulting benefit to the abutting properties or the community at large.

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: A minor reduction in the open space on this site in order to permit the Petitioner to complete the partially completed deck on the back side of the home presents no reasonable likelihood of such injury.

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 only two abutting neighbors who could possibly be impacted by the completion of the deck have signed a Petition in Support of the requested variance stating that they are aware of what is being requested, and that in their opinion the approval will not create such substantial adverse impact on their property or any others in the area. The completion of the deck is more likely to improve property values than reduce them.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The open space ratio for D-A zoned parcels was created based on a 3 acre minimum lot. As a legally established non-conforming lot that only contains .48 acres, a practical difficulty is created if the same ratio is used. Without a variance, the Petitioner would be unable to complete the same proposed deck which would easily be in compliance with the ratio if the lot was even close to the 3 acre lot size assumed by the ordinance.

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Permitting the petitioner to seasonally display the proposed small sign describing the services offered by the seasonal business approved via the companion use variance, which said sign is similar in all dimensions to a typical real estate For Sale sign, presents no reasonable likelihood of such injury.

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 only two abutting neighbors who could possibly be impacted by the display of the sign have signed a Petition in Support of the requested variances stating that they are aware of what is being requested, and that in their opinion the approval will not create such substantial adverse impact on their property or any others in 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: The ordinance permits temporary yard signage at the same size and location as what the Petitioner is proposing, but letting the public know that "mower repair, sharpening and minor welding" are offered by the Petitioner's seasonal small business approved via the companion use variance is not a purpose for which the existing ordinance permits yard signs on D-A zoned property. Therefore, without a variance the Petitioner would not be able to display the informational sign needed during the periods when his seasonal business is operating, as described in the approved Plan of Operation.

2025UV1016 ; Photographs



Photo 1: Subject Site Viewed from North (July 2024)



Photo 2: Adjacent Property + Subject Site Viewed from Southwest on Hickory Road (May 2025)

2025UV1016 ; Photographs (continued)



Photo 3: Existing Signage at Subject Site (April 2025)



Photo 4: Rear Yard Structures + Work Area (April 2025)

2025UV1016 ; Photographs (continued)



Photo 5: Outdoor Mowers + Proposed Deck (April 2025)



Photo 6: Additional Outdoor Equipment (April 2025)

BOARD OF ZONING APPEALS DIVISION I

September 2, 2025

Case Number: 2025-UV1-017

Property Address: 7323 East Hanna Avenue (approximate address)

Location: Franklin Township, Council District #20

Petitioner: Hanna Haunted Acres Inc., by David A. Retherford

Current Zoning: D-A

Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a seasonal indoor and outdoor commercial recreational use, including the sale of alcoholic beverages, subject to the filed plan of operation (not permitted).

Current Land Use: Commercial / Residential

Staff Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 7323 East Hanna Avenue is a residential property that is approximately 78 acres in size and is improved both with a permanent single-family residence as well as various structures, improvements and temporary parking facilities associated with a seasonal indoor and outdoor “haunted” attraction. The indoor and outdoor recreational uses were permitted by the zoning petition 2009-UV2-017, which also allowed gravel parking and a freestanding sign for the use and was subject to the plan of operation and numerous commitments. The site is intersected by the Big Run Creek and is bordered by either undeveloped land or residential subdivisions on all sides.
- Approval of this petition would allow for an expansion of the current seasonal indoor and outdoor recreational use, both in terms of the frequency of the operation and the number of associated structures and outdoor operation areas. Previous variances for the sign and gravel parking would still be applicable, and the previous commitments and operation plan would be substantially amended and replaced by the version shown within the Exhibits of this report.

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- Staff has identified the below as the primary areas of change or deviation between the existing commitments and the plan of operation and the new version proposed by the applicant:
 - An expansion of the allowable days of operation throughout the year to both start earlier and end later during peak periods of activity in the fall as well as to allow for operation around other holidays (Christmas, Valentine's Day, and "Halfway to Halloween") and for potential haunted attraction conventions at unspecified points in time.
 - Under the 2009 commitments, there would be up to **55 days** during which the outdoor use could be active (based on the 2025 calendar), and 50 of those days would fall in between September 1st and November 7th.
 - Under the proposed commitments, there would be up to **108 days** during which the outdoor use could be active (based on 2025 and 2026 calendars), and 61 of those days would be fall in between September 1st and November 7th (the "in-season" range established by the initial approval). This would not be inclusive of the proposed escape room, which could operate on a year-round basis.
 - There would also be an expansion of the numbers of days on which the site could operate until either 1 AM, 2 AM, or 3 AM in the morning: additional details are within Commitment #13 as provided by the applicant.
 - The addition of a trail area to the west of the current operating area marked as "Farm Festival Pumpkin Light Show Christmas Lights" on the site plan.
 - Addition of an outdoor venue/stage area within the existing primary operations area, facing away from residences to the east.
 - Potential placement of an escape room structure with a maximum size of 10,000 square feet that would maintain internal operations throughout the year.
 - Explicit confirmation that the sale of alcohol on-site would be permitted (previous documents had solely referenced "snack and beverage sales and service").
- The site plan provided by the applicant indicates that vehicle parking would be provided by a gravel lot as well as two (2) large areas of grass between the primary operations area and the property's frontage along Hanna Avenue. The primary operations area is currently improved with two (2) large pole barns that house internal attractions as well as several smaller buildings and trailers that appear to be utilized for the sale of tickets, merchandise, refreshment, etc. The property also contains a corn field and woods areas to the southeast that are part of the recreational use. The site plan also shows an approximate location for the stage and three (3) potential locations for the proposed escape room attraction.
- In addition to the recreational uses, the site also operates as a farm that produces hay to the north of the primary operations area, corn and beans to areas west of the legal ditch (as well as the corn maze), and potential for lumber from the forest area to the southeast of the site. A single-family residence also exists at the site, to the west of the primary operations area.
- The website associated with the current user (accessed August 22, 2025) indicates the sale of alcoholic beverages at two bars ("Hanna's Booz" and "Hanna's Spirits"). Although it is the applicant's contention that grant of the 2009 variance allowed for alcohol sales, it appears that such sales have not been conducted in the past due to difficulty in obtaining the required permits

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from the Indiana Alcohol and Tobacco Commission. Approval of this variance would not provide any exemption from State requirements for the sale of alcohol, and the use would also be subject to all applicable noise ordinances or enforceable curfews for unaccompanied minors. Additionally, this variance would not allow for placement of any structures within the required Stream Protection Corridor (one of the potential locations of the “future shop” appears to encroach into the 100-foot boundary) or exempt the proposed stage from any State-level reviews.

- This property is currently zoned D-A to allow for a variety of agricultural uses in addition to large estate development of single-family dwellings. The Comprehensive Plan recommends it to the Suburban Neighborhood living typology to allow for predominantly single-family supported by a variety of neighborhood-serving businesses. Large-scale places of assembly (such as commercial recreational uses) are contemplated for this typology in scenarios where the use is located along arterial streets, contain pedestrian infrastructure if located near residences, near public transit when possible, and developed in harmony with surrounding neighborhoods with screened parking and service areas.
- Many of the protections and limitations on the use instituted by the 2009 Plan of Operation and commitments would remain largely unaltered. Such stipulations include:
 - A maximum of 10 permanent buildings associated with the use, with a maximum aggregate area of 75 thousand square feet between them.
 - Limitations on bonfires within 300 feet of the eastern property line.
 - Requirements for monitoring of noise along the eastern property line, and installation of additional sound absorbing material should the allowed decibel levels be exceeded.
 - Buffering requirements and landscaping preservation for areas near the eastern property line adjacent to the residential subdivision (see Commitments 14-17).
 - Administrative Approval of development plans for new structures at the site.
- Staff expressed preliminary concerns to the applicant about the introduction of alcohol sales into a use that appears to be predominantly targeted at teenagers or young adults that might not be of age to drink. Per information provided by the petitioner, alcohol **sales** would be limited to designated areas within the primary operations area (with IDs checked and State guidelines followed) but that there wouldn't be specified areas for alcohol **consumption**. Staff feels that without similar precautions in place limiting areas on the site where drinks could be consumed, the risk of underage drinking and related negative externalities of noise or driving while impaired would be increased by the introduction of such sales.
- However, the primary reason for the staff's recommendation of denial would be that the proposed expansion of both the hours of operation and frequency of both indoor and outdoor operations outside of the primary autumn season would expand the scope of the recreation use to a point where the “haunted” attraction would dominate the site both in terms of public perception and of any revenues generated. Given that the use is well-established at the site, and to avoid the need for additional variances of use whenever operational changes are contemplated, staff feels that this petition would be more appropriately filed as rezoning petition to the SU-16 zoning district (special use for indoor and outdoor recreation).

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- The SU-16 zoning **(a)** would be a better match for the proposed intensity of the land use; **(b)** could allow for existing residential, agricultural, and parking improvements to remain; **(c)** would still require administrative approval of new development; **(d)** could incorporate limiting commitments similar to the proposed Use Variance; and **(e)** and would allow for alcohol sales by-right (within other applicable State or commitment guidelines). Although staff could not guarantee a recommendation of approval for a rezoning to the SU-16 zoning district, it would be supportive of a transfer of fees already filed toward this use variance for such a refiling.
- Staff would also contend that there no undue hardship has been identified that would prevent the site from operating within compliance of either the ordinance (residential and agricultural functions) or within the parameters established by the 2009 Use Variance. For this reason, staff feels that this petition would be more properly filed as a rezoning and recommends denial.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Commercial / Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-3	North: Residential (in development)
South:	D-A	South: Residential / Undeveloped
East:	D-A / D-P	East: Residential
West:	D-A / D-3	West: Residential / Undeveloped
Thoroughfare Plan		
Hanna Avenue	Primary Collector	55-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	07/01/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	07/01/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Enter all comprehensive plans applicable to this proposal.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Suburban Neighborhood typology to allow for predominantly single-family supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural corridors and features should be treated as focal points for development.
- Large-scale places of assembly should be located along arterial streets, contain pedestrian infrastructure if located near residences, near public transit when possible, and developed in harmony with surrounding neighborhoods with screened parking and service areas.

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

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

2009UV2017 ; Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for indoor and outdoor commercial recreation uses (not permitted), a gravel access drive, parking and maneuvering areas (not permitted). Variance of development standards of the Sign Regulations to legally establish a nine-foot tall, 32-square foot sign with a five-foot front setback from the existing right-of-way of Hanna Avenue (freestanding sign not permitted, minimum fifteen-foot front setback required), **approved**.

ZONING HISTORY – VICINITY

2022CZN830 ; 7320 E Hanna Avenue (north of site), Rezoning of five acres from the D-A district to the D-3 district, **approved**.

2021ZON075 ; 7320 E Hanna Avenue (north of site), Rezoning of 73.85 acres from the D-A and SU-43 districts to the D-4 district, **approved**.

2014DV3014 ; 3939 Fisher Road (northeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for: (a) a 14-foot tall (accessory buildings cannot be taller than the primary dwelling), 1,440-square foot pole barn; (b) with a 10-foot north side setback (minimum 15-foot side setback required); (c) creating 1,440 square feet of accessory building area or 116% of the main floor area of the primary dwelling and 2,040 square feet of accessory use area or 164% of the total floor area of the primary dwelling (maximum 933 square feet or 75% of the main floor area of the primary dwelling permitted, maximum 1,243 square feet or 99.9% of the total floor area of the primary dwelling permitted), **approved**.

2007ZON029 ; 4211 Five Points Road (west of site), Rezoning of 49.56 acres from the D-A district to the D-3 district, **approved**.

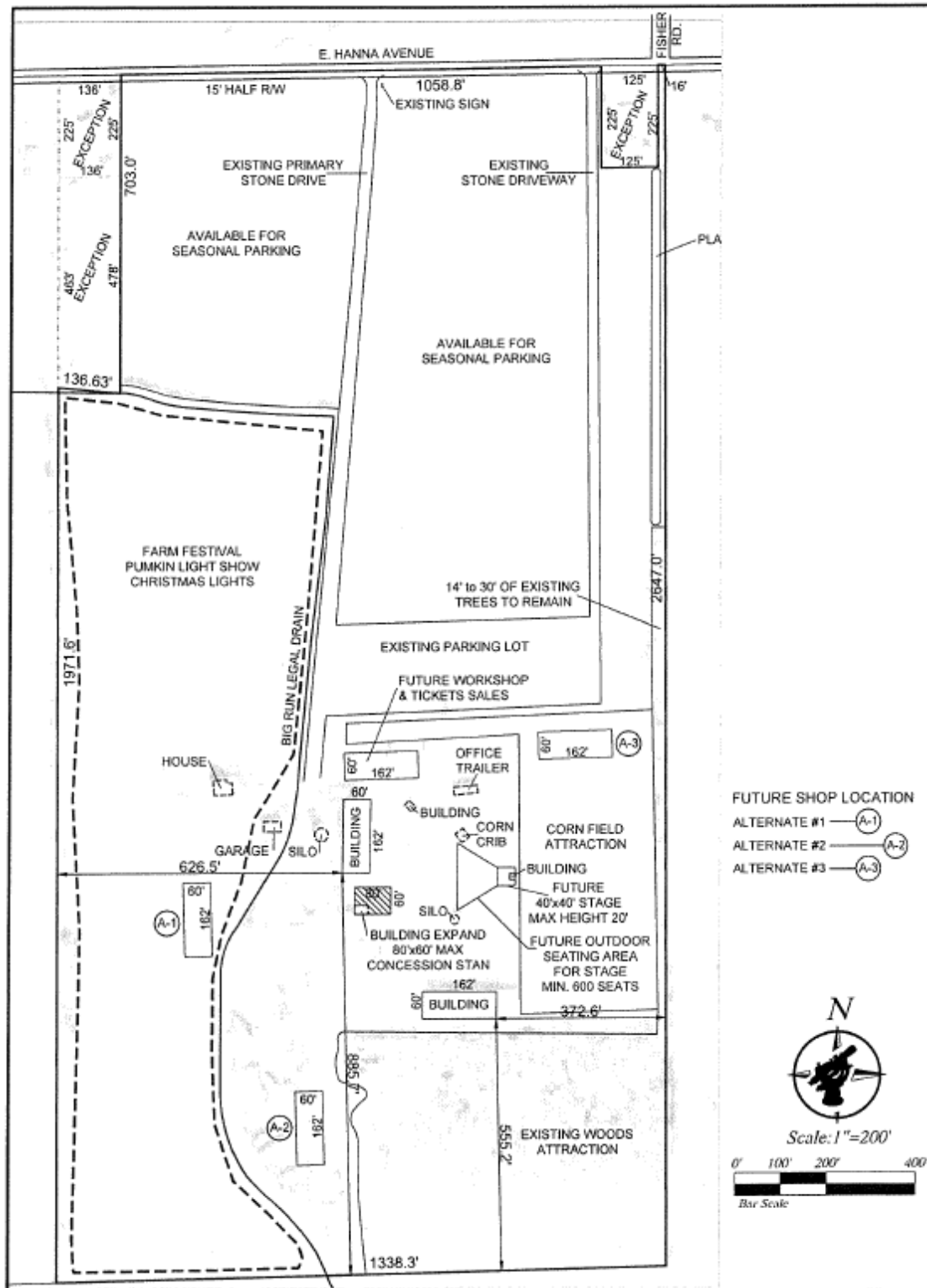
2004ZON803 ; 7913 E Hanna Avenue (east of site), rezoning of 231.80 acres, being in the D-A (FF) (FW) and D-2 (FF) (FW) Districts, to the D-P (FF) (FW) classification to provide for a single-family and two-family residential development, with a maximum density of 2.50 units per acre, **approved**.

EXHIBITS

2025DV1005 ; Aerial Map



2025UV1017 : Site Plan



2025UV1017 : Findings of Fact

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: The approval of the continued operation and refocusing of this seasonal outdoor recreational business as proposed presents no reasonable risk of injury to the health, morals or general welfare of the community, as it has operated in this same fashion for several decades without any such injury.
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 property to the South is undeveloped farm property and an active railroad track. The former and existing agricultural parcels to the North, East and West have mostly been rezoned for development as residential subdivisions. The subdivision to the East was protected by the Commitments negotiated in 2009 which are being retained. The subdivision under development across Hanna Avenue to the North is well protected by the commitments pushing all the related operational areas to the South portion of the property. Existing buffering and the low intensity of the operations proposed west of the Weise ditch adequately protect the likely future subdivision on the property to the West. At the time of each of the rezonings occurred on the likely future development to the West and development under way to the North, commitments were negotiated and recorded which require that the Plat Covenants for each of those proposed subdivisions must contain a provision clearly notifying all residents that the Hanna Haunted Hayride business was in operation prior to said rezoning, and that the residents shall not oppose the reasonable growth thereof. As a result, these homes were built with prior knowledge of this existing business. The home abutting the Northeast corner of the subject property has been purchased by the Petitioner since the 2009 variance was approved, and the remainder of the homes on lots around the area have existed for decades while this use has been conducted on the site, without substantial impact to the use or value of said parcels.
3. The need for the variance arises from some condition peculiar to the property involved and the condition is not due to the general condition of the neighborhood because: The subject property is uniquely suited to the types of existing and proposed outdoor recreational uses due to the fact that it is still a substantial open area which contains a significant wooded area perfect for the outdoor "Haunted Hayride" attraction that is the cornerstone of the operation. The open and agricultural appearance of the site can likely be preserved for several more years if these seasonal uses are allowed to continue, and the preservation of this site while development takes place over time around it is preferable to leaving its development for housing as the only viable option.
4. The strict application of the terms of the zoning ordinance constitutes an unusual and unnecessary hardship if applied to the property for which the variance is sought because: The recreational uses proposed by the Petitioner could not be conducted under the existing D-A zoning. The uses are only interim uses until the property is eventually developed as housing, and the buildings and related improvements will be easy to remove at that time. While much of what the Petitioner proposes is not inconsistent in intensity or the activity to what typically occurs on a vegetable farming operation or other D-A approved use, it is likely that the seasonal recreational uses requested herein would actually be classified as C-5 and/or C-4 uses under the existing commercial zoning ordinance. Requiring the rezoning of the site to such a heavy commercial classification to legally permit the continued use of this site as a unique community attraction would be considered spot zoning at best.
5. The grant does not interfere substantially with the Comprehensive Plan because: The Comprehensive Plan proposes Suburban Neighborhood. The substantial wooded area and the legal ditch stream corridor are further designated as sensitive environmental areas and marked for future parks or trails. The approval of the updated Plan of Operation for this interim seasonal use increases the likelihood that the woods and this stream corridor will be preserved until the site is eventually ready for redevelopment, and the types of improvements related to these recreational uses have already been approved in 2009 as not being significant enough to hinder the likelihood of the eventual rezoning and development of the site in compliance with the Plan.

2025UV1017 ; Plan of Operation (1 of 2; changes from 2009 Plan notated)

1). **Operation:** Petitioner proposes to continue to operate and expand a seasonal recreational indoor and outdoor “haunted” attraction on the site, which is shared with the long time farming operations on the site and the office/residential use of the home and outbuildings.

2). **Details of Operation:**

A. The existing wooded area in the Southeast corner of the site (as shown on the Site Plan) and the abutting areas North and West of the woods contain multiple existing improvements related to the operation of a seasonal “haunted hayride” attraction. Customers pass through and experience that attraction. The existing uses would continue, and the use could be expanded or intensified within this area. The operations within the woods shall be restricted to an area which is at least thirty (30) feet West of the East property line.

B. A seasonal “Corn Maze” and similar entanglement attractions with various associated “haunted” elements would continue to be operated on the site. This attraction is currently located as shown on the Site Plan, but since its location is based primarily on crops which are planted new every year, it may be moved around on the site year to year. The location of this portion of the operation shall be restricted to an area which is at least 750 feet South of the centerline of Hanna Avenue, is at least 30 feet West of the East property line, and is East of the Wiese ditch which dissects the site.

C. A seasonal attraction containing a variety of “haunted” elements would continue to be operated in the primary operations area. The location of the primary operations area (not to include the accessory operations described in 2A, 2B, 2D and 2E), shall be restricted to an area which is at least 1400 feet South of the centerline of Hanna Avenue, at least 80 feet North of the South line of the property, at least 100 feet away from the East line of the property, and East of the Wiese ditch. The primary operations area shall include various indoor and outdoor operations or attractions, including but not limited to larger individual or grouped recreational attractions, and also related uses such as the staging of customers awaiting entry to the various attractions, ticket sales, ~~snack-and-beverage-service,~~ accessory uses, and also various smaller “haunted” attractions which typically connect between the larger “attractions” and the like. The primary operations area shall also include certain “haunted” attractions which are contained within modular buildings/trailers, a stage and associated seating, temporary buildings/tents or the like, and/or permanent buildings as illustrated on the approved Site Plan.

D. A seasonal “pumpkin trail” attraction for customers to walk through, including real and prop pumpkins, related carnival rides, and also the sale of pumpkins may be operated in the area which is West and south of the Weise ditch, as illustrated on the approved Site Plan.

E. A seasonal “Christmas light trail” attraction for customers to walk through, including related carnival rides, may be operated in the area which is West and South of the Weise ditch, as illustrated on the approved Site Plan.

2025UV1017 ; Plan of Operation (2 of 2; changes from 2009 Plan notated)

F. Within the primary operations area, a space not to exceed 10,000 square feet may be operated year round as an indoor escape room type of attraction.

G. Within each of the areas in which an attraction is being operated, the uses permitted shall include snack and beverage sales and service (which shall include alcohol if approved via permit from the Alcohol Beverage Commission).

H. The parking areas associated with the seasonal recreational business authorized by this variance shall be located North of the primary operations area, East (or Northeast, as applicable) of the Wiese ditch, at least 50 feet South of the centerline of Hanna Avenue, and at least 30 feet from the East line of the property.

3). Limits on Days and Hours of Operation: See Variance Conditions:

4). Noise: See Variance Conditions:

5). Signage:

A. Temporary directional signage on site shall be used during the primary periods of operation as reasonably necessary to direct vehicular and pedestrian traffic on the site.

B. ~~The only permanent signage related to the seasonal recreational business uses~~ authorized by this variance shall be the existing sign authorized by the existing development standards ~~variance portion of the petition~~ (or a replacement which does not exceed the size and/or height of the existing sign)

6). Workforce: The operation is managed primarily by the owners of the Petitioner. The employees are hired during the short period of operations, and typically are teenagers or young adults living in the area. The employees shall park in the seasonal parking areas used by customers.

7). Customers: Customers are from a wide range of ages and backgrounds. Most live in central Indiana, but many repeat customers travel from out of state to attend.

8). Waste: The only waste generated is minor trash left by the customers. It is collected in trash cans which are emptied into dumpsters on site which when full are picked up by contractors hired by Petitioner.

9). Seasonal Area Surfacing. The areas used for customer and employee parking, maneuvering areas and internal access drives associated with the uses authorized by this variance are not required to be surfaced with paving, stone or gravel pursuant to the existing development standards variance.

2025UV1017 ; Plan of Operation (1 of 6; changes from 2009 Commitments notated)

1. No more than ten (10) separate permanent buildings containing indoor “haunted” attractions (“haunts”) shall be constructed within the Primary Operations Area (as defined in the Plan of Operation); after June 8, 2009, and the total square footage of all of the combined buildings containing the indoor “haunts” and the possible “escape room” attractions built after June 8, 2009 shall not exceed 75,000 square feet.
2. ~~No more than three (3) new~~The total square footage of accessory buildings (for uses such as office, equipment storage, ticket sales, a shop, and the design, fabrication, maintenance, repair, etc of the various attractions) shall be or similar) built after the date of the grant of this variance. These newJune 8, 2009 shall not not exceed 36,000 sq. ft; and all such accessory buildings shall only be constructed within the Primary Operations Area, and the total of new accessory buildings shall not exceed 18,000 sq. ft.,
3. The buildings, trailers and related structures, temporary or permanent, which ~~exist~~existed on the site as of June 8, 2009,the date of approval of this variance shall continue to be permitted for use as a mixture of uses related to the Haunted operations, the farm, and the residential uses on the site; and this variance shall not be interpreted to prevent or limit the construction of future buildings and/or the continued use of the site; which are still used primarily for agricultural and residential uses otherwise permitted by the existing zoning.
4. No bonfires shall be located within 300 feet of the East property line.
- ~~5. Parking shall be prohibited within 150 feet of the West line of the property addressed as 7425 E. Hanna Avenue, and also within 200 feet of the South line of said 7425 E. Hanna Avenue property.~~
5. The approved Site Plan shows the approximate location of a proposed new outdoor entertainment venue/stage within the Primary Operations Area, which is to be considered a permitted accessory use. The associated stage shall not exceed 40’ in width or 40’ in depth, nor shall it exceed 22’ in height. In addition, the venue shall face primarily to the West, and the use of same shall direct any all amplified sound primarily to the West. In addition, the final location of same shall not be any further East than shown on the Site Plan.
6. Any permanent or temporary trailers/buildings used in the seasonal recreational business authorized by this variance shall be located only within the Primary Operations Area, and no closer than 125 feet away from the East property line of the site.
7. Any permanent or temporary trailers/buildings used in the seasonal recreational business authorized by this variance which are located within 300 feet of the East property line of the site shall be installed and utilized so that with the exception of

2025UV1017 ; Plan of Operation (2 of 6; changes from 2009 Commitments notated)

possible emergency exits, no exit or entry used by customers of the attraction shall be located on the East facing wall of said building.

8. Any tents, trailers, or similar temporary buildings used in the seasonal recreational business authorized by this variance and which are located within 250 feet of the East property line of the site during the set-up period and/or the period of operations, will be removed or relocated to an area which is at least 250 feet away from the East line within thirty (30) days after the end of each operating season.

9. If the business activities conducted within any permanent buildings or temporary trailers/buildings located within 200 feet of the East property line produce sound(s) which exceed 62 decibels for any more than 2 minutes in any one hour time period, as measured at any point approximately 5 feet above the ground which is also located along the portion of the East property line of the site which is within the Primary Operations Area and which is North of the primary wooded area, then before the following season's operations commence, said building shall be improved via the installation of sound absorbing materials along its interior East wall.

10. ~~The playing of music (defined as live or recorded songs, and not to include With the exception of the soundtracks or similar recorded sounds utilized used in the various haunted attractions, the haunted hayride, corn maze, etc.) during and as a part of the operation of the business, either indoors or outdoors, the playing of live or recorded music/songs~~ shall not produce sound which exceeds 62 decibels for any more than 2 minutes in any one hour time period, as measured at any point approximately 5 feet above the ground which is located along the portion of the East property line of the site which is within the Primary Operations Area and which is also North of the primary wooded area.

11. For purposes of interpreting and enforcing Conditions 9 and 10 hereinabove, the meter used to measure the sound level of the music at the time this variance was approved (and the 62 decibel figure was approved) was a Radio Shack meter identified as CAT #33-20-55. Upon request, the Petitioner shall purchase another such meter, of the same make and model, for use by Mr. Michael Eagen, who resides at 4350 Viva Lane, Indianapolis, IN – 46239 (or his replacement as selected or approved by the Chessington Grove Homeowners Association) (hereinafter "Mr. Eagen"), to assist in the monitoring the sound levels restricted by Conditions 9 and 10. If the make and model of the meter used by the owner is changed at any time, a comparison test of the new meter with the original meter shall be done utilizing recorded music similar to the measuring process utilized to establish this level initially. If a 62 decibel reading for such music on the original meter at the East property line results in a different level on the new meter, the new comparable decibel level limit shall be set forth in a written instrument signed by Petitioner and provided to Mr. Eagen, and this limit shall be deemed modified thereby for purposes of both Conditions 9 and 10 without need for formal process, other notice or hearing. Upon request at that same time, a new meter of the same make and model of the new meter to be used by the Petitioner shall be provided by the Petitioner to Mr. Eagen. Prior to each operational year commencing, Petitioner shall provide Mr. Eagen contact

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telephone numbers for at least two primary employees of the business, for use during the hours of operation by anyone concerned about possible violations of Conditions 9 or 10.

12. The foregoing Conditions 9, 10, and ~~all~~ 11 shall not be deemed to supersede or otherwise ~~impede~~ impede the enforcement the Marion County Noise Control Ordinance, codified as Section 391-302 of the Marion County Code.

13. ~~The following limits on hours and days of operation shall apply to the business attractions authorized by this variance shall be subject to the following limitations on the annual days and hours of operations:~~

A. ~~With the exception of the special event exception contained Unless otherwise specified in subsection C of this Condition, the seasonal recreational business authorized by this variance will Commitment, the haunted attractions (and the "pumpkin trail" shall not commence operations prior to September 1st August 15th, and will shall not operate any later than November 7th the Sunday of the weekend following Thanksgiving.~~

B. ~~Between September 1st and September 30th, the business August 15th and the first Sunday in October, and also between the last Sunday in October (or Halloween day if later) and Thanksgiving Day, the haunted attractions and the pumpkin trail shall only be permitted to operate on Friday nights; and Saturday nights; and until 1:00 AM of the following morning, and on a maximum of two other nights in each week until 11:00 PM.~~

C. ~~After the first Sunday in October, and until the last Sunday in October (or Halloween Day if later), the haunted attractions and pumpkin trail shall be permitted to operate on any night, with the attractions closing at midnight on all days except Friday and Saturday, on which operations may operate until as later as 2:00 AM of the following day. In addition, during the primary operations period only, on no more than four (4) the attractions may stay open as late as 3:00 AM of the following day.~~

D. ~~The haunted attractions shall also be permitted to operate during the following special event time periods~~

(i) "Krampus" or similar: ~~Between Thanksgiving and Christmas, only on Friday, Saturday and Sunday evenings, ceasing operations no later than 1:00 AM of the following morning on Friday or Saturday nights and 11:00 PM on Sunday night.~~

(ii) "Haunted Valentine" or similar: ~~Only on the Friday, Saturday and Sunday nights on the weekends before and after Valentine's Day; ceasing operations no later than 1:00 AM of the following morning on Friday or Saturday nights and 11:00 PM on Sunday night.~~

(iii) "Halfway to Halloween" or similar: ~~Only on one other night per each week—three day weekend between April 15 and May 31; ceasing operations no later than 1:00 AM of the following morning on midnight on Friday or Saturday nights and 11:00 PM on Sunday night.~~

~~C. The business may be operated for one "special event" outside of the calendar limitations set forth in subsection A of this Condition No. 12, and during such "special event" the business hours shall be as set forth in this section C. In the case of such a "special event", the business may be operated outside of the calendar limitations in subsection A for no more than one seven (7) day time~~

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period each year; and during such "special event" the business shall be operated on no more than five (5) days out of said seven (7) day time period. During this "special event", all attractions shall cease operations no later than midnight if open. (iv) A "Special Event" or similar, typically due to a special request to host an event related to a convention in Indianapolis or a gathering of operators of similar haunted recreation attractions, in which case the attractions could be operated on no more than 5 days out of the specific seven day Special Event period; with all operations ceasing not later than 11:00 PM on a Sunday, Monday, Tuesday, Wednesday, or Thursday; and no later than 1:00 AM of the following day if operated on a Friday or Saturday.

——— D. If operated on a Sunday, Monday, Tuesday, Wednesday, or Thursday which is also more than 15 days prior to the last Friday or Saturday (whichever is later) upon which the business is operated in that year, then all the attractions shall cease operations no later than 11:00 PM.

——— E. If operated on a Sunday, Monday, Tuesday, Wednesday, or Thursday which is within 15 days of the last Friday or Saturday (whichever is later) upon which the business is operated in that year, then all the attractions shall cease operations no later than midnight, with the exception that on no more than three (3) of these operating days the attractions may stay open as late as 1:00 AM of the following day.

——— F. If operated on any Friday or Saturday night which is not one of the last four Fridays or the last four Saturdays on which the business is operated that year, all the attractions shall cease operations no later than 1:00 AM of the following day.

——— G. For the Friday and/or Saturday nights which are one of the last four Fridays and/or the last four Saturdays on which the business is operated that year, all the attractions shall cease operations no later than 2:00 AM of the following day, with the exception that on no more than four (4) of said days the attractions may stay open as late as 3:00 AM of the following day.

——— H. E. The Christmas Light trail shall only operate between Thanksgiving day and Christmas Day; between only from ½ hour before sunset to 10:30 PM.

——— F. The escape room attraction shall cease operations not later than midnight.

——— G. Ticket sales shall open no earlier than 2 hours prior to sunset, and ticket sales shall close on the earlier of the following: (i) one hour prior to the deadline to close for that night; or (ii) 1:00 AM of the following day.

14. The existing healthy trees and undergrowth located within thirty (30) feet of the portion of the East property line which abuts the heavily wooded portion of the site located in the Southeast corner, shall not be removed or materially damaged by the Petitioner. In addition, the existing trees within ten (10) feet of the portion of the East property line which is North of the heavily wooded area and along the East side of the area which is actually utilized as the Primary Operations Area, shall not be removed or materially damaged by the Petitioner. Any existing healthy trees of a non-nuisance species which are located within the two preservation areas identified herein, and which are larger than 6 inches caliper (as measured 6 feet off the ground) which are removed or materially damaged by the Petitioner shall be replaced by the Petitioner within 1 year of such incident with two (2) trees of a non-nuisance species. This requirement shall be deemed waived if the removal of the subject trees is authorized by the Administrator as a

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part of an approved landscape plan. If replacement is required, the trees shall be replaced within the same tree preservation area unless otherwise approved by the Administrator.

15. If the North boundary of the Primary Operations Area extends further North than the north edge of the existing trees along its East side (those being preserved pursuant to Condition 14), then ~~starting no earlier than the 2010 operating season, the~~ Petitioner shall install screening within 20 feet of the open portion of said East line of the Primary Operations Area, utilizing one of the following alternatives:

- A. Petitioner shall plant and maintain a natural crop screen, using a seed variety which would typically result in a plant screen at least five (5) feet in height and ten (10) feet in width throughout the period of business operations. For example, the Petitioner could plant 6 rows of corn, sorghum or the like along said border, and then harvest it after the operations ceased for the season.
- B. Petitioner shall plant row of evergreen trees along said open portion, with such trees being at least 5 feet tall at the time of planting, and spaced not more than 25' apart. The Petitioner shall maintain said trees, and shall replace any which die at least annually.
- C. Petitioner shall install an earthen mound not less than 5 feet in height along at least the portions of the East side of the Primary Operations Area which do not contain screening trees within the ten (10) feet of the East property line.

16. If any portion of the parking areas are located within 100 feet of the East property line, then in such case ~~if there are also any residential homes completed on the first row of lots within the proposed subdivision immediately to the East of said parking areas, the~~ Petitioner shall install screening ~~between each said lot containing a completed residencee and said parking area, the~~ Petitioner shall install screening east of said parking areas utilizing one of the following alternatives:

- A. Petitioner shall plant and maintain a natural crop screen, using a seed variety which would typically result in a plant screen at least three (3) feet in height and ten (10) feet in width throughout the period of business operations. For example, the Petitioner could plant 6 rows of soybeans, corn, sorghum or the like along said border and then harvest it after the operating season was over.
- B. Petitioner shall plant a row of evergreen trees along each such area, with such trees being at least three (3) feet tall at the time of planting, and spaced not more than 25' apart. The Petitioner shall maintain said trees, and shall replace any which die at least annually.
- C. Petitioner shall plant a row of shrubs or grasses along each such area, with such plantings being at least three (3) feet tall at the time of planting, and spaced so as cover at least 75% of the open area along said common border. The Petitioner shall maintain said plantings, and shall replace any which die at least annually.
- D. Petitioner shall install an earthen mound not less than 3 feet in height along the applicable portions of the East line of the parking area.

17. The improvements necessary to operate the existing haunted hayride already exist within the wooded area located in the Southeast corner of the site. However, ~~a tree~~

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Photo 1: Seasonal Parking Areas Viewed From Access Drive Looking East



Photo 2: Seasonal Parking Areas Viewed From Access Drive Looking West

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Photo 3: Adjacent Property to Northeast of Site



Photo 4: Existing Residence Viewed from East (June 2019)

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Photo 5: Gravel Parking Area Viewed From Northwest



Photo 6: Existing Buffering To East of Gravel Parking Area

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Photo 7: Northern Seasonal Parking Areas Viewed From Gravel Parking Area



Photo 8: Proposed Pumpkin + Christmas Light Show Trail Area Viewed From East

2025UV1017 ; Photographs (continued)



Photo 9: Existing Corn Maze Area Viewed From Gravel Parking Area



Photo 10: Existing Pole Barn Building Viewed From Northwest

2025UV1017 ; Photographs (continued)



Photo 11: Operations Area Viewed From Northwest



Photo 12: Operations Area Viewed From West

2025UV1017 ; Photographs (continued)



Photo 13: Proposed Stage Location Viewed From West



Photo 14: Existing Pole Barn Furthest South At Subject Site