



Board of Zoning Appeals Board of Zoning Appeals Division III (February 18th, 2025) Meeting Agenda

Meeting Details

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

Date: Tuesday, February 18, 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

PETITIONS REQUESTING TO BE CONTINUED:

- 1. 2024-DV3-037 | 1625 Shelby Street**
Center Township, Council District #18, zoned C-3 (TOD)
Jugaad LLC, by David Retherford

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a convenience store with a front building line width ratio of 10.64 (80 percent required) and deficient transparency along Shelby Street (40 percent required), and with deficient landscaping.

****Staff to request a continuance, on behalf of the petitioner, to the March 18, 2024 hearing of Division III**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

- 2. 2025-UV3-003 | 1044 St. Patrick Street**
Center Township, Council District #18, zoned C-4 (TOD)
Murphy Arts Center LLC, by Misha Rabinowitch

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an outdoor entertainment venue, for one year, subject to the filed plan of operation (not permitted) with reductions in required parking (16 spaces required) and temporary placement of both unscreened service areas in a front yard and improvements with a 0-foot front yard setback (screening of service areas and 10-foot setback required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

- 3. 2024-DV1-037 (Amended) | 2402 East 38th Street**
Washington Township, Council District #8, zoned C-5 (TOD)
Popeyes Louisiana Kitchen Inc., by Gilligan Company

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a drive-thru accessory use within 600 feet of a Transit Station (not permitted) and an additional drive-thru lane within the front yard of Keystone Avenue (not permitted).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

4. 2024-UV3-016 | 425 & 435 South Gibson Avenue

Warren Township, Council District #20, zoned D-2
Oscar Garcia Cruz, by Steven A. Brown

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the storage and occupancy of more than two recreational vehicles for more than 15 days per year (maximum of two recreational vehicles may be parked outside per lot, may not be occupied for more than 15 days) within gravel parking areas (hardscaping required) and the location of a six-foot tall privacy fence within the front yard of Gibson Avenue and encroaching within the clear sight triangle of the driveway (limited to 3.5-foot tall, encroachment of clear sight triangles not permitted).

5. 2024-UV3-017 (Amended) | 8949 East Washington Street

Warren Township, Council District #20, zoned C-5 / D-2 (TOD)
Integrity Electric & Machine LLC, by David E. Dearing

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of seven shipping containers within the southern side yard (not permitted) without landscape screening (required for outdoor storage and operations) and with a fence exceeding 10 feet in height (not permitted).

6. 2025-DV3-002 | 6116 Breamore Road

Lawrence Township, Council District #3, zoned D-2
Matthew Schneider, by Drew Farrington

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yards and clear sight triangles of the intersection of Breamore Road and 62nd Place (maximum height of 3.5 feet permitted, encroachment of clear sight triangle prohibited).

7. 2025-UV3-001 | 385 South Franklin Road

Franklin Township, Council District #20, zoned D-2
We Care Tree Service LLC, by Tim J. Brown

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a tree and vegetation removal contractor with the outdoor storage of commercial vehicles and equipment (not permitted) and the storage of a recreational vehicle in a non-permitted location.

8. 2025-UV3-002 | 10453 East 10th Street

Warren Township, Council District #20, zoned D-1 / D-7 (FF)
Ghassan Rajabi

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an open air 10-car vehicle sales operation (not permitted) with a gravel parking lot (hard surface required).

9. 2025-DV3-001 | 8420 US 31

Perry Township, Council District #23, zoned C-5 (FW)
Skillman Realty LLC, by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a pylon sign, being the third freestanding sign along US 31 (maximum two freestanding signs permitted).

PETITIONS FOR PUBLIC HEARING (New Petitions):

10. 2025-DV3-003 | 1553 Harlan Street

Center Township, Council District #19, zoned D-5
Margarita Velazquez Garcia, by Arnoldo Gonzalez Vazquez

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached covered porch with a zero-foot north side yard setback (five-feet required).

11. 2025-DV3-004 | 5930 East 82nd Street

Lawrence Township, Council District #4, zoned C-4
GMX Real Estate Group LLC, by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with two stacking spaces within the front yard of East 82nd Street (not permitted), 21 parking spaces (maximum nine permitted) and a monument sign being the ninth freestanding sign along East 82nd Street (maximum two permitted) and within 185 feet of a freestanding sign to the west and 104 feet to the west (minimum 300 feet of separation required).

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.



BOARD OF ZONING APPEALS DIVISION III **February 18, 2025**

Case Number: 2024DV3037 (Amended)

Property Address: 1625 Shelby Street (*approximate address*)

Location: Center Township, Council District #18

Petitioner: Jugaad LLC, by David Retherford

Current Zoning: C-3 (TOD)

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a convenience store with a front building line width ratio of 10.64 (80 percent required) and deficient transparency along Shelby Street (40 percent required), and with deficient landscaping.

Current Land Use: Vacant Commercial

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

2/18/25: This petition received an indecisive 1-2 vote at the January 21st hearing of Division III and was therefore automatically continued to the February 18th hearing date. The petitioner is not available to provide testimony on this date, and staff will request a continuance to the March 18th date on their behalf.

1/21/25: This petition was continued from the December 17th, 2024 hearing date by petitioner request to allow for additional discussion with staff and relevant neighborhood stakeholders. In the intervening period, updated plans were provided that incorporated the following amendments: (a) closure of the southernmost curb cut and addition of new curb island along Shelby, (b) an alternate location for placement of a new sign that would comply with current standards, (c) placement of a new window on the western elevation, and (d) addition of small landscaped areas along Pleasant Run and at the southwest corner of the property. These new plans and updated Findings of Fact documents have been added to the report, which otherwise was written to reflect the initial site plan submitted. Staff is appreciative of the changes made because of these discussions, but core objections related to how little the proposed layout comports with relevant Transit-Oriented Development standards remain. Therefore, staff continues to recommend **denial** of the petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 1625 Shelby Street is a triangular lot which has historically contained a fueling station use that was initially constructed between 1972 and 1978. The property contained two fuel canopies, three accessory structures, a pole sign, and four existing curb cuts. In late 2023 or early 2024, the fueling station use ceased operations and the accessory buildings were demolished without issuance of a wrecking permit (which resulted in the violation case VIO24-001821 being opened); fuel pumps and two canopies remain at the site. Surrounding land uses and improvements include the I-65 interstate to the east, the Pleasant Run Creek and greenway to the south, a fueling station and retail uses to the southwest, and a thrift store use to the northwest. The site is located near the Fountain Square neighborhood to the north.
- A Red Line BRT bus stop exists at the intersection of Shelby Street and Pleasant Run Parkway SDR to the south of the property, and there is approximately 485 feet separating the edge of the transit station from the edge of this parcel. Given this proximity, TOD restrictions on uses and development standards would apply. The addition of any new or relocated fuel pumps beyond the three currently existing underneath the remaining canopies would require a variance of use for legal operation. However, since (a) the pumps and canopies predate ordinance rules disallowing fueling station uses within C-3 zoning and the TOD overlay, and (b) the zoning ordinance allows for five years of vacancy before a nonconforming use would be considered discontinued (740-603), no use variance would be required for the addition of a new convenience store structure.
- However, the proposed convenience store shown on submitted plans would require multiple variances of development standards related to the TOD overlay guidelines introduced in 2021 to allow for pedestrian-friendly development along activated streetscapes. Required variances relate to: (a) the width of the building as a ratio of the width of the Shelby frontage (80% required and only 10.64% proposed), (b) the percentage of transparent materials comprising the western building façade closest to the Shelby frontage (40% required and 0% proposed), (c) the required setback for parking areas from the Pleasant Run frontage (25 feet required and 17 feet proposed), and (d) deficient landscaping at the site (both width of landscape strip along Shelby and required screening of parking areas from rights-of-way per 744-702.D.3.d of the Ordinance).
- Review of the Improvement Location Permit application for this project was initially conducted earlier this year and noted similar dimensional standards issues. That reviewer also noted issues with light-level standards exceeding maximum allowable limits. Lighting details were not provided for DMD review, and any outstanding issues related to lighting would need to be addressed separately should the petition be approved. Additionally, the number of curb cuts and driveway widths at the site would not meet current standards and, regardless of approved land use, staff would be generally supportive of efforts to close off some of those access points.
- This property is zoned C-3 (Neighborhood Commercial District) to allow for the development of an extensive range of retail sales and personal/professional services with accessibility for all modes of travel being provided and maintained. This zoning district previously allowed for the



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placement of fueling stations by-right but this is no longer a permitted use. The Pattern Book recommends this site to the Village Mixed-Use typology to allow for neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. Development in this typology should be compact and walkable with parking at the rear of buildings, entrances and large windows facing streetways, and with pedestrian-scale amenities such as landscaping contributing to the walkable environment. Mixed-use structures are preferred, and automotive uses (such as gas stations and auto repair) are not a contemplated land use. Similarly, the Red Line TOD Plan envisions mixed-use commercial nodes placed near BRT stops and discourages both automotive uses and parking within surface lots near stations.

- Findings of Fact submitted by the applicant indicate that the primary hardships preventing them from full ordinance compliance are the unusual parcel shape and the existing fuel canopies limiting options for placement of buildings on the site. Staff would note that the legally non-conforming pumps and canopies are not required to be placed at the site, and that their existence would not constitute a site-specific practical difficulty. Additionally, their removal could facilitate development of a convenience store that conforms much more closely with TOD requirements for building placement/width and parking similar to the recent pedestrian-oriented development to the northwest of the site (see Photo 6 within Exhibits).
- In addition to the close proximity between this site and the Pleasant Run Red Line stop, staff would note that this property sits between the Pleasant Run Greenway to the south and the Fountain Square station to the north (which has direct access to the Cultural Trail and a Pacers Bikeshare kiosk) and is bordered by a protected bike lane to the west. Given the high visibility of this area and proximity to several multi-modal travel options, staff contends that development and land uses should maximize the potential offered by the TOD overlay by meeting ordinance and Plan guidance as closely as possible. The proposed use of a convenience store is not incongruous with this vision, but the proposed building layout offers zero pedestrian activation along the Shelby frontage through a building width that is around one-eighth of ordinance requirements and a building façade with no windows or architectural features.
- Since the presence of multiple fueling canopies is neither required by the property's primary and secondary zonings nor a prerequisite for the successful operation of a convenience store, staff does not feel that their existence constitutes a site-specific practical difficulty. Their presence (and related fueling station use) would not be permitted by current ordinance standards and constitutes a direct impediment to development of the property in a manner compliant with ordinance and Plan guidance that envisions a vibrant and pedestrian-friendly streetscape. Removal of one or more of the canopies could allow for placement of a building that comprises a much larger portion of the Shelby frontage with additional windows and pedestrian features (and fewer extraneous curb cuts). Additionally, it could allow for reconfiguration of the proposed parking area further from property lines and for the installation of the required landscaping strip along Shelby. Staff feels that even accounting for the irregular lot shape, the proposed layout deviates substantially from both compliance and intent of relevant guidelines and recommends denial of the variances.



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GENERAL INFORMATION

Existing Zoning	C-3 (TOD)		
Existing Land Use	Vacant Commercial		
Comprehensive Plan	Village Mixed-Use		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-3	North: Interstate
	South:	PK-1	South: Pleasant Run Creek
	East:	C-3	East: Interstate
	West:	C-3 / I-3	West: Commercial
Thoroughfare Plan			
Shelby Street	Primary Arterial	62-foot existing right-of-way and 56-foot proposed right-of-way	
Pleasant Run Pkwy NDR	Primary Collector	90-foot existing right-of-way and 56-foot proposed right-of-way	
Context Area	Compact		
Floodway / Floodway Fringe	No		
Overlay	Yes		
Wellfield Protection Area	No		
Site Plan	11/21/2024		
Site Plan (Amended)	01/10/2025		
Elevations	11/21/2024		
Elevations (Amended)	12/23/2024		
Landscape Plan	11/21/2024		
Findings of Fact	11/21/2024		
Findings of Fact (Amended)	01/10/2025		



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 Village Mixed-Use typology to allow for neighborhood gathering places (either in historically small neighborhood centers or newly created ones) with a wide range of small businesses, housing types, and public facilities. Development in this typology should be compact and walkable with parking at the rear of buildings, entrances and large windows facing streetways, and with pedestrian-scale amenities such as landscaping contributing to the walkable environment. Mixed-use structures are preferred, and automotive uses (such as gas stations and auto repair) are not a contemplated land use.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Red Line Transit-Oriented Development Strategic Plan recommends this site to the Walkable Neighborhood TOD typology given its proximity to the Pleasant Run Red Line stop. The desired land-use mix for these areas is primary residential but with a commercial node of mixed-use development near transit stops. Off-street parking within surface lots and “car-only uses” are discouraged.

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

N/A

ZONING HISTORY – VICINITY

2018ZON129 ; 1618 Shelby Street (west of site), Rezoning of 0.55 acre from the I-3 district to the C-3 classification, **approved**.

2001VAR830 ; 1638 Shelby Street (southwest of site), variance of development standards of the Commercial Zoning Ordinance to legally establish eleven off-street parking spaces, for the storage of trucks and trailers, located within the side transitional yard (off-street parking not permitted within the side transitional yard), **approved**.

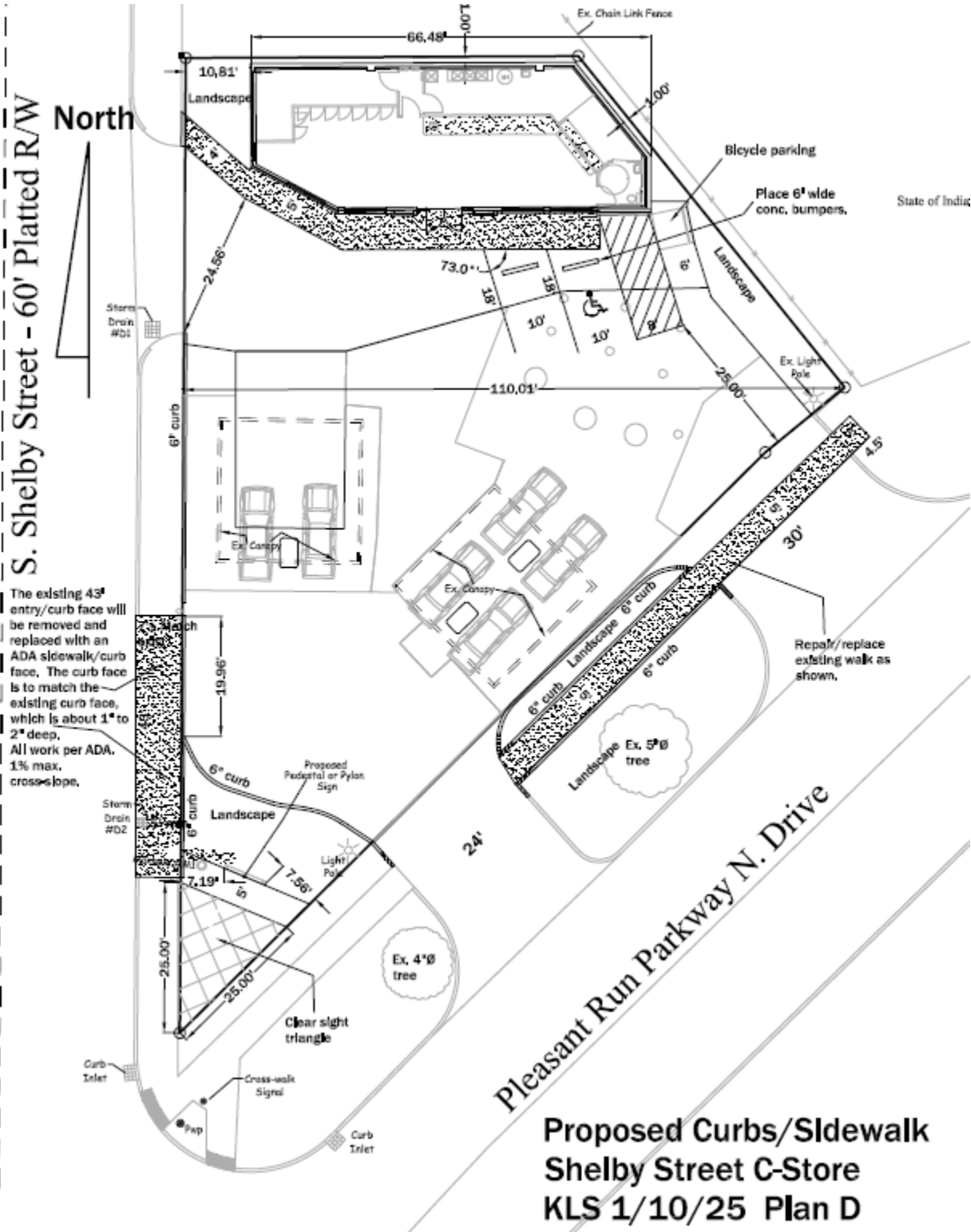
2001ZON830 SW ; 1638 Shelby Street (southwest of site), rezoning of 0.566 acres from the I-3-U district to the C-3 classification, **approved**.

EXHIBITS

2024DV3037 ; Aerial Map



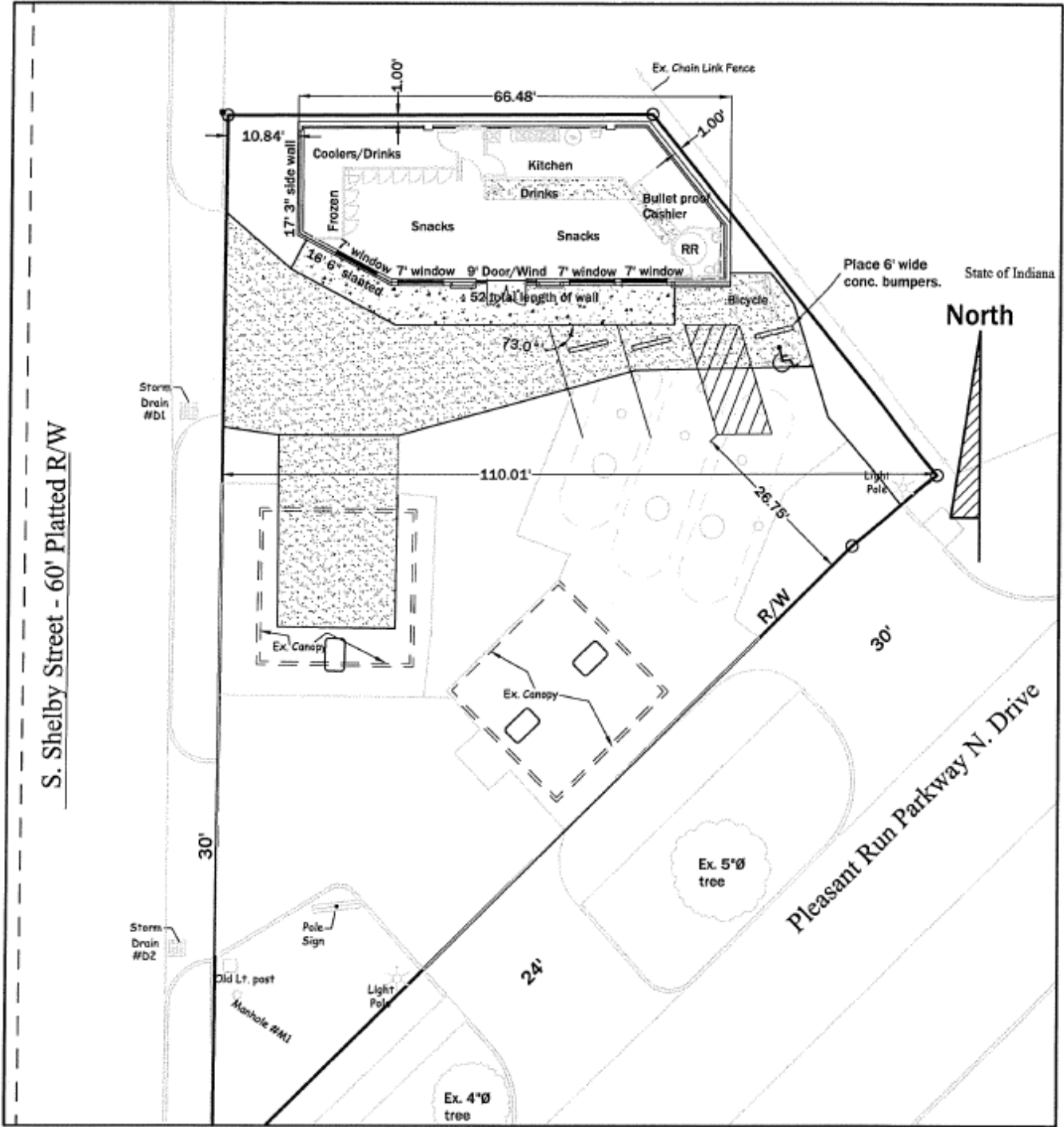
2024DV3037 ; Site Plan (amended 01/10/25 submittal)



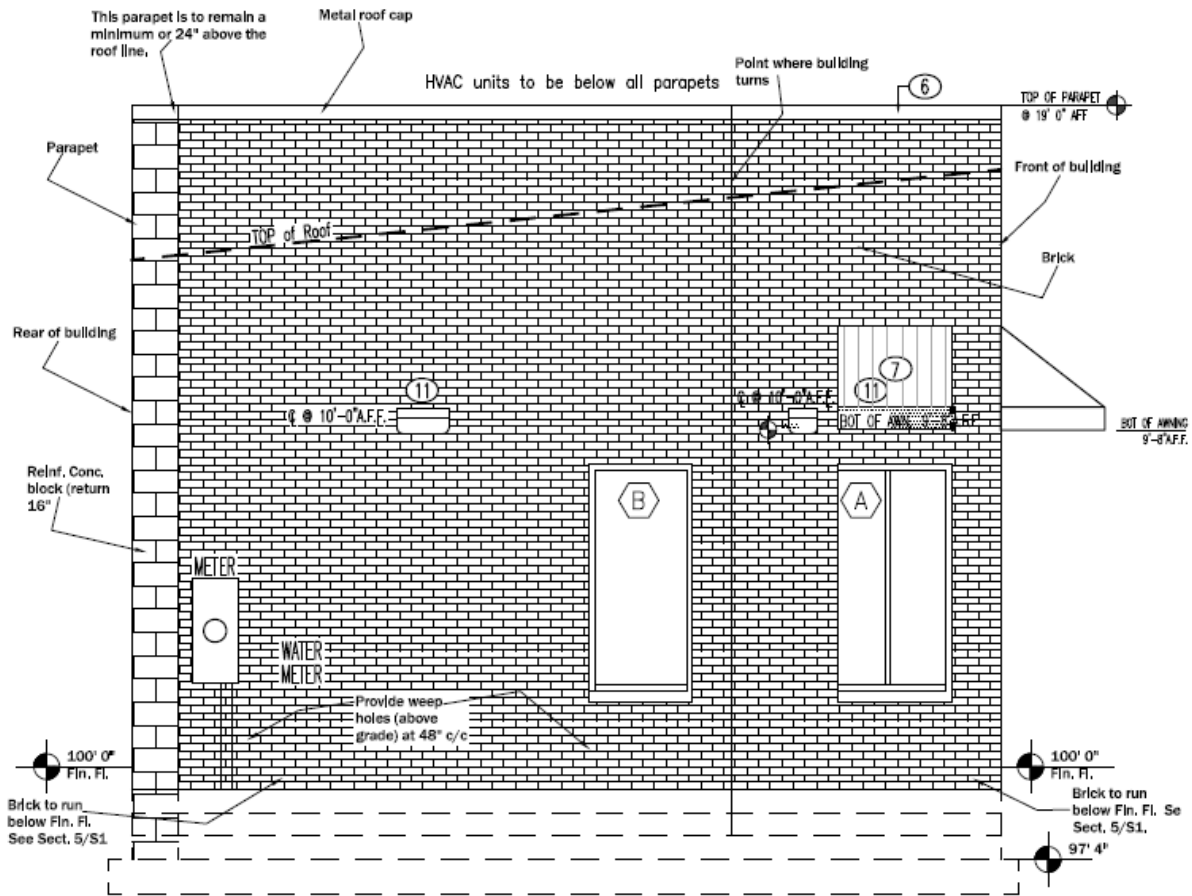
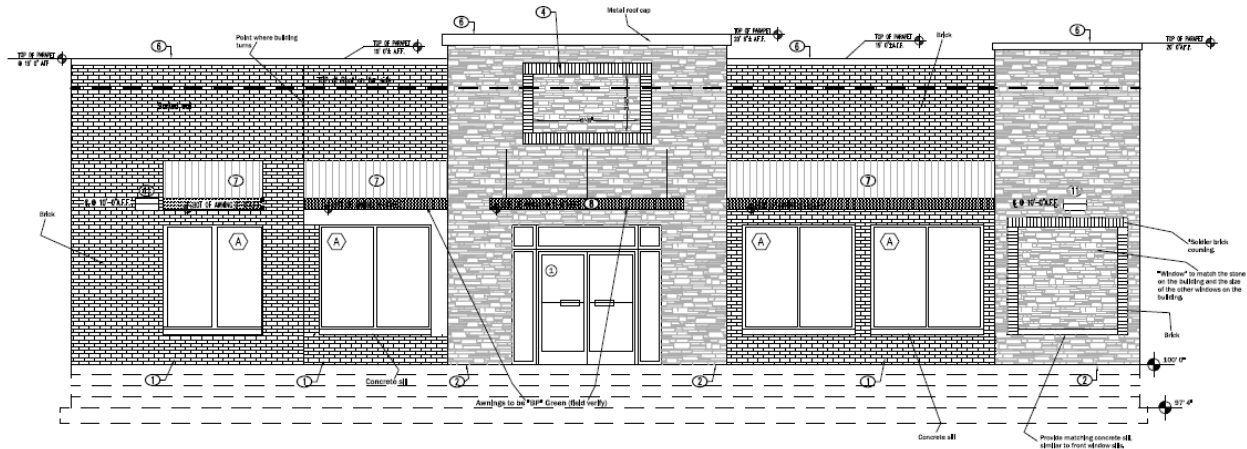
The existing 4.5' entry/curb face will be removed and replaced with an ADA sidewalk/curb face. The curb face is to match the existing curb face, which is about 1" to 2" deep. All work per ADA. 1% max. cross-slope.

**Proposed Curbs/Sidewalk
 Shelby Street C-Store
 KLS 1/10/25 Plan D**

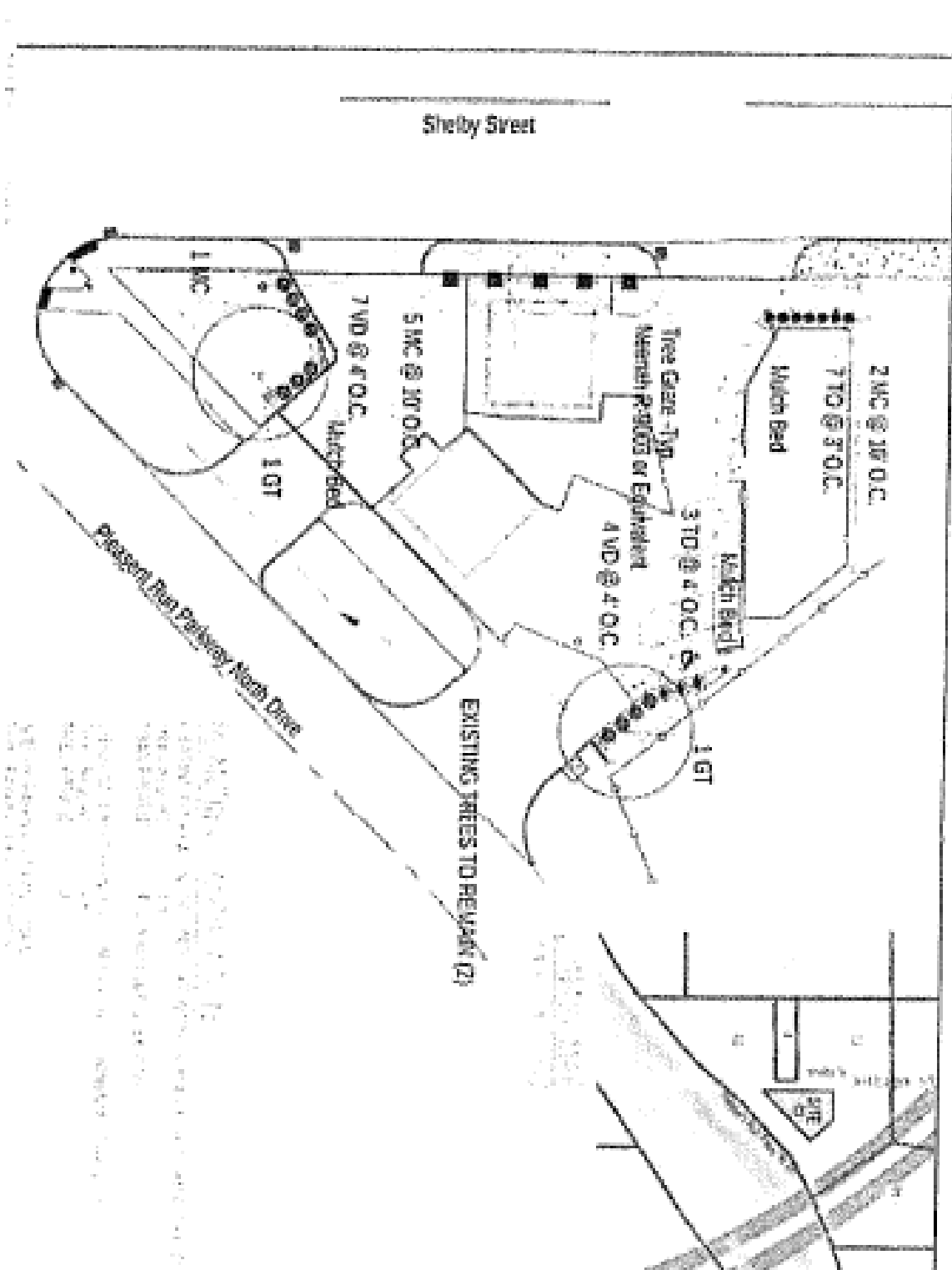
2024DV3037 ; Site Plan (initial 11/21/24 submittal)



2024DV3037 ; Elevations (South and West/Southwest)



2024DV3037 ; Landscape Plan (preliminary)





2024DV3037 ; Findings of Fact (Transparency)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Approving the exterior design of the building with the 17' foot long west facing wall only containing 17.5% transparency instead of the required 40% is not likely to create such injury. This wall does not contain a public entrance. The desired visibility into the building is provided in a reasonable fashion by the 3' X 5" window in the south portion of that wall, which allows direct view of the cash register location. In addition, the true front facing wall of the building contains 58% transparency, and the angled wall between the front wall and the west wall contains 42% transparency. In addition, if the three walls were measured as one no variance would be required as the overall transparency would exceed 40%. To resolve any potential security concerns the cash register location is also located within a transparent bullet proof enclosure for safety.

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 subject property has been developed and utilized continually as a gasoline service station with a small associated store and public restrooms for at least four decades, and while the gas station use is integral to the success of the convenience store operation, the gas station is legally permitted and established and is not being expanded. The site sits at the intersection of Shelby Street and the sharply angled Pleasant Run North Drive, so it is a very small triangular parcel. The two rear yards of the site abut I-65 to the North and northeast. Across Pleasant Run to the East and Southeast is the heavily wooded Greenways corridor and then South drive, before any residential lots even exist. Across Shelby Street to the West are three properties. Two are zoned C-3. The north parcel contains a commercial building owned by the Archdioces, and the south parcel contains Nelson's Marathon gas station. The middle parcel appears to contain a residential rental. Installing a new attractive masonry building with canopies, and adding a new landscaping area directly west of the west facing wall with the 17.5 % transparency, when combined with the elimination of the former public restrooms that had created a well-known homeless population immediately to the North which is blamed for a history of vandalism and police calls, is actually likely to positively impact the use or value of the adjacent properties if the request is approved.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: Although Shelby Street is the front yard of the site per the ordinance, the front of this building actually faces the intersection, so the 17' long west wall is a side wall. This wall does not contain a public entrance, and the only area inside the store where the full height coolers can practically be located is along this same west wall. Since the original petition was filed, the Petitioner has added a window in this west wall which eliminates three of the originally designed coolers, and there is no practical way to replace any additional coolers if the full 40% is required for this wall.



2024DV3037 ; Findings of Fact (Landscaping)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Permitting the landscaping required along the approximately 20' of the frontage along Shelby Street which abuts the short term parking space used when refueling at the single pump station along that frontage, does not present any risk of such injury in this case where the Petitioner is adding significant landscaping to the site at each end of the Shelby Street frontage per the Site Plan; and it also willing to close the existing southernmost entrance onto Shelby Street, and to solve a long-time existing risk by installing a new curb separating the pedestrian traffic on the existing sidewalk along Shelby Street from the internal vehicular traffic on the site.

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 site sits at the intersection of Shelby Street and the sharply angled Pleasant Run North Drive, so it is a very small triangular parcel. The two rear yards of the site abut I-65 to the North and northeast. Across Pleasant Run to the East and Southeast is the heavily wooded Greenways corridor and then South drive, before any residential lots exist. Across Shelby Street to the West are three properties. Two are zoned C-3. The north parcel contains a commercial building owned by the Archdioces, and the south parcel contains Nelson's Marathon gas station. The middle parcel appears to contain a residential rental. The subject property has been utilized in the past as a gasoline service station with a very small associated C-store and also public restrooms, for at least four decades. If the variance is approved, the legally permitted gas station use would be refreshed and modernized, a new and attractive C-store built, and the entire site landscaped along with several significant improvements to the safety and appearance of the site. Permitting these upgrades to be made by approving this variance is preferable to denying it based on the minor variance being requested which abuts only the side of one parking space, as opposed to the front or back of said space.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: This is a very small site, triangular in shape. In addition to parking space adjacent to the pump for a vehicle that is being refueled, a traffic lane to pass the parked vehicle is required for public safety and emergency access. This access is especially important on the Shelby Street side due to the impact of the agreement by the Petitioner to close the southernmost entrance onto Shelby Street. The proposed new curb will be installed on the existing right of way line, which is also the east edge of the existing sidewalk. This presents a practical difficulty in that there is no room between the right of way line/existing sidewalk and the access around this fuel island for the typical landscape island along this short length of frontage. The legally existing pump and fuel island cannot practically be relocated due to the other improvements on the site, and it is not required to be removed. A site specific practical difficulty exists here; and the solution proposed by the Petitioner to landscape at the intersection and west of the building as shown on Site Plan, and also to add additional landscaping within the new island/areas along Pleasant is a satisfactory solution in this unique situation.



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2024DV3037 ; Findings of Fact (Building Width)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Locating the proposed new building as far off the intersection as possible, and also aligning it so the attractive front of the building actually faces the intersection as proposed by the Petitioner, is a better option than waiting for an unknown future owner who would possibly be willing to remove the existing pumps, tanks and gas station improvements and completely redevelop the site with a small office building facing Shelby Street that would most likely still require multiple variances due to the small size and shape of the subject site. The Petitioner's proposal includes locating the building and the associated parking and related pedestrian store activity as far from the intersection as possible, which is likely safer than a location closer to the intersection, or even with the back of the building exposed to Pleasant Run. The Petitioner is willing to close the existing southernmost entrance onto Shelby Street, which would not be required by a different proposed use that did not require a rezoning. The Petitioner is also willing to solve a long-time existing risk by installing a new curb separating the pedestrian traffic on the existing sidewalk along Shelby Street from the internal vehicular traffic on the site. The Petitioner is willing and ready to invest hundreds of thousands of dollars in the proposed redevelopment of this decayed site, one which has a history under prior owners of being a haven for homeless people and associated crime. For all these reasons it is likely that the approval of this request would benefit public safety, morals and general welfare more than denying it and then waiting on an unknown future user and their plans.

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 site sits at the intersection of Shelby Street and the sharply angled Pleasant Run North Drive, so it is a very small triangular parcel. The two rear yards of the site about I-65 to the North and northeast. Across Pleasant Run to the East and Southeast is the heavily wooded Greenways corridor and then South drive, before any residential lots exist. Across Shelby Street to the West are three properties. Two are zoned C-3. The north parcel contains a commercial building owned by the Archdioces, and the south parcel contains Nelson's Marathon gas station. The middle parcel appears to contain a residential rental. The subject property has been utilized in the past as a gasoline service station with a very small associated C-store and also public restrooms, for at least four decades. If the variance is approved, the legally permitted gas station use would be refreshed and modernized, a new and attractive C-store built, and the entire site landscaped along with several significant improvements to the safety and appearance of the site. Denying this request based on the proposed orientation of the building likely just results in it staying vacant and an eyesore for the foreseeable future, and the current opportunity to actually have a positive impact on the adjacent properties and this area would be lost.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: Even though it is a sharp cornered lot, the ordinance requires a new building to face Shelby Street, and also for the width of that building to cover at least 60% of the length of that frontage. The site is not likely large enough to accommodate a flatiron style building with the associated parking and accesses, setbacks, landscaping, etc. Any typical rectangular building would likely require similar variances to be granted due to the practical difficulty that complying with the TCO ordinance presents on this particular site. By orienting the building towards the intersection, thereby providing views of the front of the building from the intersection also from both of the abutting streets, the Petitioner presents a reasonable solution to the practical difficulty this site presents. This proposal is likely to get this vacant site cleaned up and back on the tax rolls soon, and it makes practical sense here to approve the building as oriented as it actually does cover more than the required 60% of the lot width if that measurement is simply taken at the most practical location on this triangular site, which is across the back portion of the lot and immediately in front of the proposed building. It is also likely that the costs and delays which would result from any effort to remove the existing tanks, pumps and lines in compliance with the regulations of IDEM and the EPA are a significant practical difficulty which was not self-imposed, which would make it difficult at best to justify changing the use to anything different than a remodel of the existing gas station use on this unique site.

2024DV3037 ; Photographs



Photo 1: Subject Site from Southwest



Photo 2: Subject Site from Pleasant Run Pkwy NDR

2024DV3037 ; Photographs (continued)



Photo 3: Subject Site from Shelby Street



Photo 4: Subject Site from West (taken August 2023)

2024DV3037 ; Photographs (continued)



Photo 5: Adjacent Property to the Southwest



Photo 6: Adjacent Property & Bike Plane to the Northwest (September 2024)

2024DV3037 ; Photographs (continued)



Photo 7: Existing Curb Cuts along Shelby Street



Photo 8: Existing Curb Cuts along Pleasant Run Pkwy NDR



BOARD OF ZONING APPEALS DIVISION III **February 18, 2025**

Case Number: 2025UV3003
Property Address: 1044 St. Patrick Street (*approximate address*)
Location: Center Township, Enter Council District
Petitioner: Murphy Arts Center, LLC, by Misha Rabinowitch
Current Zoning: C-4 (TOD)

Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an outdoor entertainment venue, for one year, subject to the filed plan of operation (not permitted) with reductions in required parking (16 spaces required) and temporary placement of both unscreened service areas in a front yard and improvements with a 0-foot front yard setback (screening of service areas and 10-foot setback required).

Current Land Use: Commercial
Staff Recommendations: Staff recommends **approval** of these variances subject to the operation plan filed February 12, 2025.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of these variances subject to the operation plan filed February 12, 2025.

PETITION OVERVIEW

- 1044 St. Patrick Street is currently improved with the Hi-Fi Annex, an outdoor concert viewing area comprised of a temporary stage, viewing deck, and several anchored shipping containers that allow for food/drink and merchandise sales, restroom facilities, ticket sales, and buffering from surrounding properties. The Annex was opened because of the COVID-19 pandemic as an outdoor alternative for live music that minimized risk of infection and has remained in operation during warmer months in conjunction with indoor concerts hosted at the Hi-Fi (located within the G.C Murphy Building at 1043 Virginia Avenue to the northeast) that occur year-round. If this variance is approved, the 2025 concert season is scheduled to be the last for the outdoor component of the Hi-Fi Annex; beginning in 2026, additional indoor shows will be hosted within the G.C. Murphy Building at the former Granada Theater to the north of the current outdoor venue.



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- Surrounding land uses include a church and St. Patrick Street to the west, commercial and nonprofit offices to the south, and a commercial multi-tenant building to the north and east accessed from Virginia Avenue and containing uses such as restaurants, bars, and an art studio. In addition to the primary C-4 zoning, this property is within the Transit-Oriented Development secondary zoning district given its proximity to IndyGo's BRT Red Line.
- The property falls just outside of the boundaries of the Fountain Square Historic District, and since the two-story deck isn't attached to the building within the IHPC district, no Certificate of Appropriateness or other IHPC approvals would be required. Currently the site is also not located within the Regional Center, although an update to RC boundaries will potentially place it there.
- Although temporary structural permits and the temporary structures license LDL-002663 appear to have been issued for placement of structures at this site with expirations in October of 2021, it does not appear that any zoning permits or petitions have been filed with the City of Indianapolis in relation to the outdoor concert venue. It also does not appear that any special event permits (which would typically require tear-down of the stage between concerts) were issued or temporary allowances under the Dine Out Indy program were granted in relation to the use. It does appear that the applicant has received construction releases and approvals from the Indiana Department of Homeland Security in relation to the placement of the shipping container structures.
- In 2024, a two-story viewing deck ("The Vista") was constructed on the site and was cited both for the lack of an Improvement Location Permit to allow its construction (per VIO24-004571) and its encroachment into the northern alley (per VIO24-008015). During the review process for that ILP, it was noted that the use of Outdoor Recreation and Entertainment, General is not permitted within C-4 zoning (C-5, C-7 and CBS-2 only) and that a use variance would be required for operation. It does not appear that the operator had been informed at any previous point during the previous operation of this venue that their use was not permitted within C-4 zoning (this is somewhat understandable given their genesis during the height of the COVID-19 pandemic).
- Approval of this variance petition would allow for the outdoor entertainment venue to continue for the 2025 season (per the filed plan of operation) but would not grant an extended approval for outdoor entertainment at the site for the 2026 season and beyond. Additionally, variances of development standards would be required to allow for the site to operate without required on-site vehicle parking spaces (16 spaces required based on site size and applicable reductions) and with storage containers and partially screened dumpsters placed within the front yard of the property (western St. Patrick frontage).
- Site photography and the site plan provided for ILP review indicate that multiple shipping containers, the Vista deck, and other improvements have been placed within public alleyways to the north and east of the subject site. Approval of either an encroachment license or a long-term right-of-way permit from the Department of Business and Neighborhood Services would be required to allow for those structures to remain within right-of-way (regardless of the disposition of this petition). Although staff would not be supportive of the long-term blocking of these alleyways absent a vacation petition, the operation plan indicates that all temporary structures



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associated with this use (encroaching or otherwise) would be removed by December 2025, and it does not appear that co-tenants within the Murphy Arts building have been substantially inconvenienced by receiving shipments from the unobstructed portion of the alley to the southeast of the subject site. Staff would also note that the placement of any bicycle parking or crowd barricades within the St. Patrick right-of-way would similarly require issuance of encroachment approvals from BNS.

- The subject site is zoned C-4 to allow for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. The Comprehensive Plan recommends it to the Village Mixed-Use typology to allow for a variety of people-centric uses in a dense, walkable environment. Additionally, the proximity to the Fountain Square Red Line stop means that this site would be recommended to the District Center TOD typology, which allows for a mix of office, retail, entertainment, and residential uses and discourages uncovered off-street parking spaces. Although this site would likely not be appropriate for the majority of uses only allowed C-5 zoning or up, relevant comprehensive plans appear to be supportive of the proposed entertainment use that would serve to generate significant foot traffic and pedestrian engagement.
- The plan of operation filed by the applicant indicates that the business would include 30 full-time and 45 part-time employees during the Annex season of operation (a mixture of marketing or management and event-specific staff), and that there would be 22 dedicated parking spaces in an adjacent lot on the southern portion of Prospect Street to accommodate staff and other tour buses or production vehicles (see Photo 7 within Exhibits). Guests would arrive between 5 PM and 7 PM and events would end promptly at 10 PM, and the maximum capacity of the venue would be 950 guests. The outdoor concert season ends on October 31st, and all improvements would be removed by November 31st, 2025. Per staff request, the applicant added language to the operation plan explicitly listing the date of termination and limiting tour buses/other concert vehicles to the auxiliary southern parking area as well as detailing future plans for screening of the dumpsters within the western yard. The full operation plan can be found within Exhibits.
- Findings of Fact provided by the applicant indicate that the outdoor use would be well-buffered by surrounding buildings that create a “courtyard” setting requiring minor setback variances and that the property’s dense urban setting within an existing entertainment district matches the recommendations of the Village Mixed-Use typology and should allow for reductions in required parking. Staff agrees that the proposed use matches the goals of relevant comprehensive plans and would note that there appears to have been minimal noise complaints filed related to the unpermitted use during its previous years of operation (likely due to natural buffering provided by buildings on each side of the venue).
- Staff also notes that this site is near both a public parking lot at 1100 Woodlawn, a frequently serviced BRT station, and available bicycle parking along Virginia Avenue and Woodlawn Avenue. This context, in conjunction with the applicant’s provision of 22 employee parking spaces in the southern parking area would make the requested *temporary* reduction in required parking palatable.



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- Staff support for this petition is narrowly related to the details of the specific use, specific neighboring context, and specific circumstances of how the unpermitted use began during the confusion of the COVID-19 pandemic. Although staff is typically reticent to retroactively allow unpermitted uses to avoid circumstances of “asking forgiveness not permission”, the temporary nature of this use as well as the effort undertaken by the owner to remain compliant with all requirements of which they were made aware is relevant context. Subject to the details and limitations outlined within the plan of operation, staff recommends support of this petition with the caveat that future outdoor entertainment use variances in this location (either temporary or permanent) would likely not be supportable.

GENERAL INFORMATION

Existing Zoning	C-4 (TOD)	
Existing Land Use	Commercial	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	Zoning	Surrounding Context
North:	C-4	North: Commercial
South:	C-4	South: Commercial
East:	C-4	East: Commercial
West:	SU-1	West: Religious Use
Thoroughfare Plan		
St. Patrick Street	Local Street	60-foot existing right-of-way and 48-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	01/16/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	01/16/2025	
Findings of Fact (Amended)	02/10/2025	

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 Village Mixed-Use typology to allow for the creation of neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing town centers as well as to promote new neighborhood centers. This typology is compact and walkable with business that serve adjacent neighborhoods and parking at the rear of buildings. Public spaces in this typology are small and intimate, such as pocket parks or sidewalk cafés.
- This property is also located within the Transit-Oriented Development overlay intended for areas within walking distance of a rapid transit station. Pedestrian connectivity and a higher density than the surrounding area are encouraged.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Given its proximity to the Fountain Square stop of the Red Line, this plan recommends the site to the District Center TOD typology to allow for walkable areas of multiple city blocks serving as cultural and commercial hubs for multiple neighborhoods. A mix of office, retail, entertainment, and residential uses are contemplated with higher densities desired close to the BRT lines. Off-street parking is discouraged and should be limited to garages visually separate from the street.

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

N/A

ZONING HISTORY – VICINITY

2023VHP001 ; 1122 Shelby Street (southeast of site), Variance of Use to allow for a single residential unit in C4, which is not permitted, **approved**.

2022DV2017 ; 928 Woodlawn Avenue (northwest of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling and detached accessory structure with a four-foot front yard setback (minimum ten feet required), and within the clear-sight triangles Woodlawn Avenue and adjacent alleys (not permitted), **approved**.

2017VHP021, 1031 Virginia Avenue (north of site), use variance for carry out alcohol/liquor sales within 100 feet of a protected district, **approved**.

2017DV3009 ; 928 Woodlawn Avenue (northwest of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a two-unit dwelling, with two-foot side setbacks and a 12.5-foot front setback (four-foot side setbacks and 18-foot front setback required), and with an open space of 40% (55% required), **approved**.

2016VHP044 ; 1025 Virginia Avenue (north of site), variance of development standards to allow tattoo parlor within 1000 ft of a protected district, **approved**.

2016VHP029 ; 1031 Virginia Avenue (north of site), Variance of Development Standards of the C5 Zoning Ordinance to allow less onsite parking than required, **approved**.

2015DV1071 ; 1053 St. Patrick Street (south of site), Variance of development standards of the Commercial Zoning Ordinance to legally establish an office building with a deck, ramp, patio and trash container having zero-foot front setbacks from Prospect Street (25 feet from the centerline) and St. Patrick Street (70-foot setback from the centerline of Prospect Street and 20-foot front transitional setback required), with said trash container being in front of the established building line of the primary dwelling (not permitted) and with zero on-site parking spaces (three parking spaces required), **approved**.

2015VHP031 ; 1110 Shelby Street (southeast of site), use variance to allow an outdoor storage container, **approved**.

2013UV1031 ; 1020 E Morris Street (south of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for an accessory dwelling unit on the upper floor of a detached garage, with deficient floor area and a 16-foot rear setback (two dwellings not permitted, minimum main floor area of 660 square feet and 900 sq. ft. total, 20-foot rear setback required), **approved**.

2010VHP019 ; 1110 Shelby Street (southeast of site), variance of development standards of the C-4 zoning ordinance to: (1) reduce required off-street parking from 145 to 36 spaces; and (2) reduce the front yard setback to 0 feet (15 feet required), **approved**.

EXHIBITS

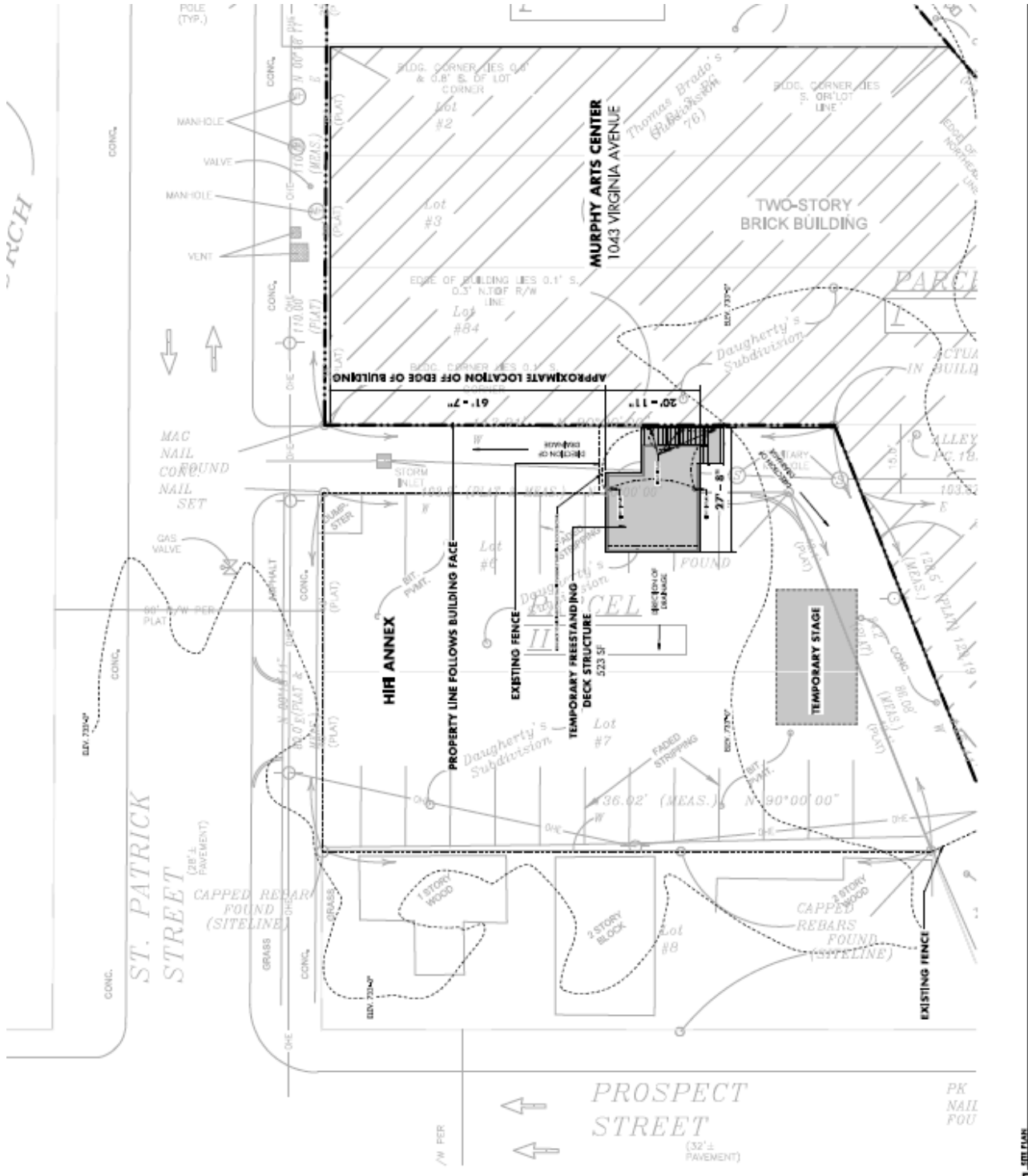
2025UV3003 ; Aerial Map



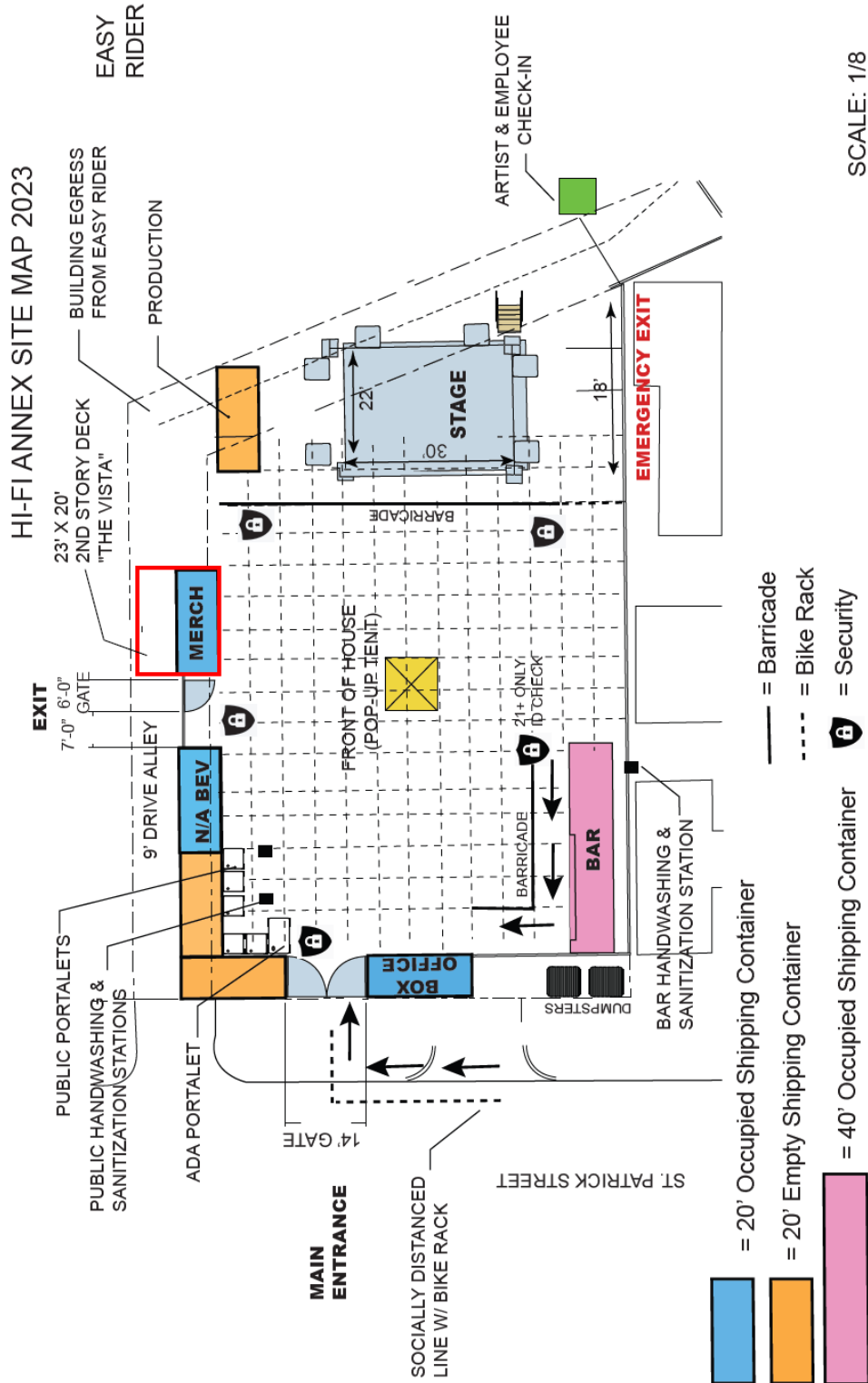


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2025UV3003 ; Site Plan (Variance Submittal)



2025UV3003 ; Site Plan (ILP24-02511 Submittal)



2025UV3003 ; Plan of Operation (pg. 1 of 4)



Plan of Operation for HI-FI Annex: Zoning Variance Application

Overview

The HI-FI Annex is an outdoor music venue that has operated safely and successfully for four years, hosting live performances by national, regional, and local touring artists. Named #23 on Pollstar's Top 100 Music Venues in the World in 2022, the Annex has brought significant visibility to Indianapolis and its vibrant Fountain Square neighborhood. Additionally the venue has provided countless positive experiences for live music fans of all ages by focusing on concerts and a family friendly atmosphere. This document outlines operational details, sound mitigation efforts, community contributions, and plans for our final outdoor season as part of our zoning variance request.

- The outdoor venue has been operational for 4 years. Through routine filings for the final season the space was flagged for a potential zoning issue.
- The venue has already been granted a variance from the Department of Homeland Security through November 2025 for extended stage and container placement within the venue.
- Video showcasing the venue and a live show experience - [Watch Video](#)

Historical and Future Context

The HI-FI Annex was created during the COVID-19 pandemic to sustain our business and keep staff employed during a critical period for the live music industry. Over four years, the venue has proven a valuable community and cultural asset. As we prepare to transition to a new indoor venue within the Murphy Arts Center in 2025, this zoning variance will enable us to complete the final outdoor season successfully.

- A permanent indoor location for the HI-FI Annex has been secured within the Murphy Arts Center, with construction beginning in February 2025. The venue will relocate indoors for the 2026 season.
- Media coverage, press releases, and community-focused messaging are available on our dedicated [HI-FI Annex webpage](#).

Workforce

- **Staffing Levels:**
 - Regular Operations: 25 full-time and 20 part-time employees across HI-FI and HI-FI Annex.
 - HI-FI Annex Season (April 1 – October 31): staff increases to 30 full-time and 45 part-time employees.
- **Work Schedules:**
 - Half of the staff work standard business hours (e.g., programming, marketing, management).



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2025UV3003 ; Plan of Operation (pg. 2 of 4)

- The other half are event-specific, working evenings during shows, typically hosted Thursday through Sunday.
- **Parking for Staff:**
 - 22 dedicated parking spaces in an adjacent lot accommodate staff, tour buses, and production vehicles.
 - Many staff members live in the neighborhood and walk, bike, or carpool.

Clients & Customers

- **Demographics:**
 - Audiences vary based on the artist, with ages ranging from 18 to 54.
 - Approximately 50% of attendees are local, 25% from elsewhere in Indiana, and 25% from out of state.
- **Attendance:**
 - Audiences vary based on the artist, with ages ranging from 18 to 54.
 - Venue capacity: 950.
 - Average attendance: 600 guests per event.
- **Event Timing:**
 - Shows typically run from 6:00 PM to 10:00 PM, in compliance with the Marion County Noise Ordinance.
 - Guests arrive between 5:00 PM and 7:00 PM and leave promptly by 10:00 PM.

Parking and Transportation

- **Customer Parking:**
 - Ample free street parking and paid parking options are available in the neighborhood.
 - Agreements with nearby businesses provide additional parking spaces.
 - Many guests use ride-share services (Uber, Lyft), public transportation, or walk to the venue, minimizing parking demand.
 - The transition to indoor location in 2026 will free up the existing parking lot, reclaiming 40 parking spaces.
- **Proactive Measures:**
 - Responsibility messaging is shared with guests to discourage drinking and driving, further reducing parking-related challenges.
 - All tour buses and other concert related vehicles shall be parking in the ~~auxiliary~~ auxiliary parking lot located at 1003 Prospect Street.

Processes Conducted On-Site

- **Activities:**
 - Live music performances, food service, and community engagement events.

2025UV3003 ; Plan of Operation (pg. 3 of 4)

- Artist arrivals typically occur at 12:00 PM, with setup and soundchecks completed by 4:00 PM.
- Events end by 10:00 PM, with load-out completed by 11:30 PM.
- **Safety & Security:**
 - Managed by an in-house security team that ensures a safe environment for over 80,000 guests annually.
 - Security protocols include ID verification, metal detection wands, and restricted item policies communicated to guests prior to arrival.
 - Emergency Action Plans account for inclement weather, with detailed evacuation and safety protocols.

Sound Mitigation

- **Adherence to Noise Ordinances:**
 - All outdoor events end at 10:00 PM in compliance with Marion County Noise Ordinance.
 - Maintaining appropriate db levels with checks throughout the shows
- **Sound Engineering:**
 - Use of a state-of-the-art line array PA system for optimal sound containment within the venue.
 - Surrounding structures, including the Murphy Arts Center and nearby walls, naturally buffer sound.
 - The PA system is directed to minimize sound impact on nearby residences.
- **Community Feedback:**
 - Many neighbors express appreciation for the music and enjoy it from their homes or the parking lot across the street.

Community Contributions

- **Charitable Donations:**
 - HI-FI and HI-FI Annex actively support several local charities, including:
 - SEND - Southeast Neighborhood Development (Lady Spray Fountain Fund)
 - Southeast Community Services
 - Fletcher Place Food Pantry
 - Indy Reads, Indy Humane, Parks Alliance of Indianapolis and various other neighborhood-focused organizations
- **Hosting Charitable Events:**
 - The venues host high-profile events for local charities, such as:
 - Limitless Ability benefit concerts promoting all-inclusive events accessible to all
 - Tonic Ball (benefiting Second Helpings)
 - Mozel Sanders Charity Fundraiser



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2025UV3003 ; Plan of Operation (pg. 4 of 4)

- Rock For Riley, Visit Indy, Girls Rock Indy, Habita Sartorial and other community-driven events
- **Local Economic Impact**
 - Hi-Fi Annex events significantly boost business for nearby retailers, restaurants, and hospitality providers on show days.
 - Significant source of state and local tax dollars.

Materials Used

- **Equipment:**
 - Professional-grade line array sound systems, stage lighting, and production gear.
 - Connex steel shipping containers
- **Safety:**
 - No hazardous materials are used during operations.

Waste Management

- **Waste Handling:**
 - Waste and recycling are managed by licensed providers.
 - No hazardous waste is generated.
 - For the 2025 concert season, dumpsters along St. Patrick St. shall be enclosed with fencing as currently exists. Upon termination of the requested variance, ordinance required dumpster enclosure shall be provided.

Regulatory Compliance

- **Agency Collaboration:**
 - Active compliance with state and local agencies, including Bureau of Neighborhood Services, Fountain Fletcher Merchants Association, Department of Homeland Security, Board of Health, and the Alcohol Tobacco and Fire Commission.
- **Zoning Context:**
 - The current zoning variance request aligns with our ongoing commitment to responsible operations and is a proactive measure to finalize our final outdoor season at the Annex.

Temporary Variance

The term of this variance is limited to accommodate the 2025 summer concert season. All improvements related to the Hi-Fi Annex, including shipping containers, shall be removed by November 31, 2025. No further extensions of the variance will be requested.



2025UV3003 ; 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 proposed outdoor entertainment area is shielded by adjacent buildings; is tightly regulated in terms of safety, security, hours of operation, and noise; and brings much needed tourism and economic development to the area.

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

The proposed outdoor entertainment area is shielded by adjacent buildings; is tightly regulated in terms of safety, security, hours of operation, and noise; and brings much needed tourism and economic development to the area.

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

The property is located in a dense urban setting where outdoor entertainment space is extremely limited and due to the courtyard condition created by the existing historic buildings.

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 configuration of the property, including the courtyard condition created by the existing historic buildings, makes the property conducive to the outdoor entertainment use (a C-5 use), even though the property is zoned C-4.

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

The proposed outdoor entertainment use is consistent with the Comprehensive Plan recommendation of Village Mixed Use in this urban setting.



2025UV3003 ; Findings of Fact (Parking)

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

The variance is temporary and appropriate on this urban setting located along the Cultural Trail where many area visitors walk or bike to the location. Also, parking is available on an adjacent lot through an exclusive parking agreement.

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 variance is temporary and appropriate on this urban setting located along the Cultural Trail where many area visitors walk or bike to the location. Also, parking is available on an adjacent lot through an exclusive parking agreement.

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

The property is located in a dense urban setting along the Cultural Trail, which, in combination, even with standard transit oriented development discounts from the parking requirements, makes compliance with existing ordinance parking requirements impractical.

2025UV3003 ; Findings of Fact (Setbacks/Service Areas)

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

The encroachments into the front yard are minor in that they do not impede pedestrian travel in any way. Also, such improvements are temporary and serve to screen adjacent properties from onsite activities.

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 encroachments into the front yard are minor in that they do not impede pedestrian travel in any way. Also, such improvements are temporary and serve to screen adjacent properties from onsite activities.

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

The manner in which the existing historic buildings are configured, establishing a natural courtyard setting for the temporary outdoor venue, creates unnecessary restriction on productive use of the property without a minor deviation from the ordinance's front yard requirements.

2025UV3003 ; Photographs



Photo 1: Subject Site Viewed from West (St. Patrick)



Photo 2: Stage Area Viewed from West

2025UV3003 ; Photographs (continued)



Photo 3: Shipping Containers, Deck and Alley Viewed from Northwest



Photo 4: Dumpsters at Southwest Section of Site

2025UV3003 ; Photographs (continued)



Photo 5: Bicycle Parking Area & St. Patrick Right-Of-Way



Photo 6: Subject Site Viewed from Southeast (Prospect)

2025UV3003 ; Photographs (continued)



Photo 7: Parking Area South of Subject Site & Prospect Street



Photo 8: Adjacent Property to South of Subject Site

2025UV3003 ; Photographs (continued)



Photo 9: Adjacent Property to Southwest



Photo 10: Adjacent Property to South

2025UV3003 ; Photographs (continued)



Photo 11: Murphy Arts Building/Hi-Fi Indoor Entrance East of Site (Virginia)



Photo 12: Future Annex Location/Former Granada Theater North of Site

2025UV3003 ; Photographs (continued)

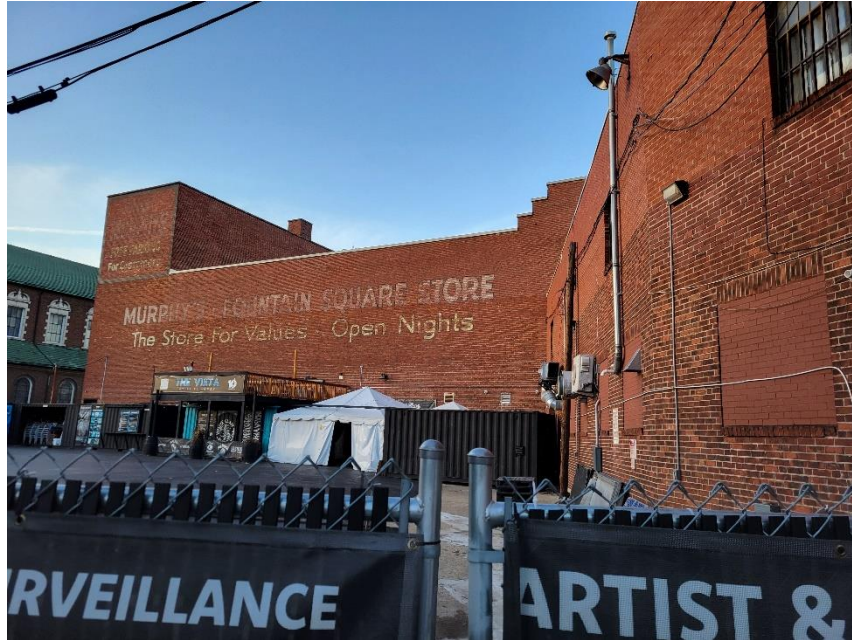


Photo 13: Improvements Encroaching Into Alley Viewed from Southeast



Photo 14: Space Between Property and Adjacent Buildings to South



BOARD OF ZONING APPEALS DIVISION I

February 18, 2025

Case Number: 2024-DV1-037 (Amended)
Address: 2402 East 38th Street (approximate address)
Location: Washington Township, Council District #8
Zoning: C-5 (TOD) (W-5)
Petitioner: Popeyes Louisiana Kitchen Inc., by Gilligan Company
Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a drive-thru accessory use within 600 feet of a Transit Station (not permitted), and an additional drive-thru lane within the front yard of Keystone Avenue (not permitted).

Current Land Use: Commercial Restaurant

Staff Recommendation: Staff recommends Denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was heard on November 7, 2024, and had an indecisive vote of 2-1 from the Board. Therefore, it was continued to the December 3, 2024, hearing.

At the November 7 hearing, the request for the deficient primary entry transparencies along the east and west facades was withdrawn, after it was determined the existing transparencies were legally non-conforming and would not be altered or changed.

This petition was continued with notice from the December 3, 2024, hearing, to the January 7, 2025, hearing, to provide for an additional variance request.

This petition was continued for cause at the request of the petitioner, to the February 4, 2025, hearing.

This petition was continued and transferred to the February 18, 2025, hearing of Board III due to a lack of quorum.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

Drive-thru accessory use within 600 feet of a Transit Station (not permitted),

- ◇ The subject site consists of an existing fast-food restaurant. This portion of East 38th Street is a segment along the Purple Line bus rapid transit system. Therefore, the property is also located within the Transit Oriented Development Overlay district, which is more restrictive on automotive uses. The surrounding neighborhood consists of previously developed commercial uses.



- ◇ The Transit Oriented Development Secondary District is established on all lots, wholly or partially, within 1,000 feet from the centerline of a Bus Rapid Transit (BRT) Line. The intent of the Transit Oriented Development (TOD) Secondary District is to coordinate more compact, walkable, and urban development patterns with public investment in the transit system. These development patterns ensure that walking and biking are viable options for short trips and transit is a priority for longer trips. Development patterns and site designs that prioritize automobile travel undermine these public and private investments. This district follows the policies and principles of the comprehensive plan, the transit-oriented development strategic plans, and the Livability Principles in this code, and has the following specific design objectives:
 - Place a wide range of housing types within walking distance of commercial centers and transit stops or stations, and at a critical mass that supports these places.
 - Create connections through many different modes of transportation between neighborhoods and places for commercial services and employment.
 - Provide a concentration of many different and small-scale uses with a fine-grained pattern that integrates and transitions well with the neighborhoods they support.
 - Ensure human-scale design that prioritizes relationships of sites and buildings to the streetscapes.

Drive-thru Lane within the front yard.

- ◇ The site currently contains a commercial eating establishment with an existing drive-thru lane. The menu board and beginning of the service unit is located within the side yard to the north, while the rest of the drive-thru lane and pick-up windows constituting the end of the service unit are along the western side of the building in the front yard of North Keystone Avenue. The current building was constructed in 2015 under a previous version of the ordinance and is considered legally non-conforming, requiring any expansion of the building or site features to be subject to the current version of the zoning ordinance.
- ◇ In 2024, permit applications were made to allow for an interior and exterior remodeling of the property. These plans included a partial addition to the drive-thru lane (see site plan below). This reconfiguration of the site would require the full drive-thru lane to comply with current ordinance standards for stacking spaces within front yards, and for the primary entry transparencies to be compliant as well.
- ◇ Current ordinance standards prohibit stacking spaces within front yards along rights-of-way greater than 30 feet wide, and would require exclusive bypass aisles, as well as the compliance with the screening requirements per 743-306.I.3. The grant of this variance request would allow for an additional drive-thru lane and legalize the non-conforming existing drive-thru lane within the front yard of Keystone Avenue and expand it further.
- ◇ Limitations on the placement of stacking spaces within front yards exist to reduce congestion and vehicular conflict with patrons of the restaurant and pedestrians as well as to allow for attractive, pedestrian-oriented storefronts facing rights-of-way (screening requirements also contribute to these goals).



- ◇ As this site lies within the Transit Oriented Development (TOD) Overlay for the Bus Rapid Transit (BRT) Purple Line, proposed uses, and the redevelopment of existing uses as for this property, should be oriented towards supporting the Overlay district design and establishing greater walkability in the district. The proposed request for the additional drive-thru lane within the front yard of Keystone Avenue would expand a non-compliant auto-centric use that is non-contributing in the Overlay which would be counterproductive to the intent of establishing greater walkability and connectivity in the area, therefore Staff does recommend denial of this request.

WELLFIELD PROTECTION DISTRICTS

- ◇ There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. Certain land uses within these districts, which are identified in Section 735-801 of the Wellfield Protection Ordinance require the filing and approval of a development plan on behalf of the Metropolitan Development Commission by the technically qualified person in the Department of Metropolitan Development.
- ◇ A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.
- ◇ The subject site is located in a W-5 protection area. Pursuant to the Wellfield Protection Ordinance, a development plan may be required when application is made for an Improvement Location Permit (ILP). Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

GENERAL INFORMATION

Existing Zoning	C-5		
Existing Land Use	Commercial Restaurant		
Comprehensive Plan	Community Commercial uses		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-5	Commercial Restaurant
	South:	C-4	Commercial Retail
	East:	C-5	Commercial Retail
	West:	C-5	Commercial Restaurant
Thoroughfare Plan			
East 38 th Street	Primary Arterial	110-foot existing and proposed right-of-way	
North Keystone Avenue	Primary Arterial	122-foot existing and proposed right-of-way	
Context Area	Compact area		
Floodway / Floodway Fringe	No		
Overlay	Purple Line Transit-Oriented Development		
Wellfield Protection Area	5-year		
Site Plan	August 19, 2024		
Window Elevations	September 13, 2024		
Landscape Plan	N/A		
Findings of Fact	August 27, 2024		



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Community Commercial uses for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Community Commercial typology that provides for low intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject is within 1000 feet of the existing Purple Line and is designated with the Walkable Neighborhood typology by the comprehensive plan. This typology allows for a mix of uses near transit stations with stabilized residential uses beyond.

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

2014-DV1-015; 3817 N. Keystone Avenue (subject site); Requesting a Variance of development standards of the Commercial Zoning Ordinance to provide for a three-foot front yard along Keystone Avenue, **granted.**

2011-DV1-012, 3817 North Keystone Avenue (subject site); Requesting a variance of development standards of the Commercial Zoning Ordinance and the sign Regulations to legally establish a zero-foot front setback for parking and maneuvering area, without landscaping, and a free-standing sign, **granted.**



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2007-ZON-066, 2302 East 38th Street (west of site); Requesting rezoning of 0.22 acre, from the D-5 (W-1) District to the C-5 (W-1) classification to provide for general commercial uses, **approved**.

2006-DV2-054; 2335 East 38th Street (southwest of site); Requesting a Variance of Development Standards of the Sign Regulations to provide for the construction of a 30-foot tall, 100-square foot pole sign with a zero-foot setback from the intersection of 38th Street and Keystone Avenue, in C-4, **granted**.

2002-ZON-830; 2244-2248 East 38th Street (west of site); Requesting a rezoning of 0.95 acre, being in the D-5 District, to the C-4 classification to provide for an automobile detailing facility, **withdrawn**.

98-Z-227 / 98-CV-25; 2231-2235 East 38th Street (west of site); Requested a rezoning of 0.14 acre, being in the D-5 District, to the C-3 classification to provide for neighborhood commercial uses and a parking lot with a zero-foot west transitional yard, **approved**.

96-HOV-13; 3845 North Keystone Avenue (north of site); Requesting a Variance of Development Standards of the Commercial Zoning Ordinance and Sign Regulations to provide for the placement of a canopy for an existing gasoline station with a 7.5-foot front yard setback along Keystone Avenue, and a 50-foot wide canopy, in C-5, **granted**.

95-Z-209 / 95-CV-34, 2401 East 38th Street; Requesting rezoning of 0.46 acre from the D-5 District to the C-4 classification; and a variance of development standards of the Commercial Zoning Ordinance to provide for the construction of an automobile parts and accessories sales business with a reduced side transitional yard setback, **approved**.

95-Z-191; 3850 North Keystone Avenue (north of site), Requesting a rezoning of 0.4 acre, being in the D-5 District, to the C-5 classification, to provide for automobile sales, **approved**.

94-Z-208; 2368 East 38th Street (west of site); Requesting a rezoning of 0.63 acre, being in the D-5 and C-5 Districts, to the C-5 classification, to provide for a restaurant, **approved**.

84-UV1-87, 2425 East 38th Street (east of site); Requesting a variance of use and development standards of the Commercial Zoning Ordinance to provide for a carry-out restaurant with a drive-through window with 100 feet of a dwelling district, without the required rear transitional yard, **granted**.

RU

EXHIBITS

Location Map Subject Site



Site Plan





Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division 1 _____
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

*This project is an interior and exterior remodel of the existing Popeye's Restaurant with no foreseen adverse effect on the surrounding parcels or general welfare of the community.
Converting the drive-thru from a single lane to a double lane drive-thru will still be in compliance of required stacking spaces per 744-406-1 and other drive-thru and C-5 zoning related ordinances.*

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

The parcels adjacent to the existing Popeye's Restaurant are also in the C-5 zoning district and sufficient screening to municipal code exists along the Keystone Ave frontage in question.

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

the existing site's stacking lane is, by current ordinance, a non-conforming use, so any remodel/reconstruction of the site would be reevaluated and must conform unless a variance is approved.

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

*Growing demand and queue in the existing single drive-thru and order station can create traffic buildup and limit access.
The additional order station placement proposed is the most feasible means of resolving this to keep up with demand and the proposed limits how much additional stacking is considered along the Keystone Ave frontage.*

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

no change in use since original construction and no change in comprehensive plan to conflict with proposed work.

Photographs



Subject site, west façade, looking northeast.



Subject site, south façade, looking north.



Subject site, east façade, looking northwest.



Subject site, proposed second drive thru location, looking west.



Subject site drive thru stacking spaces in front yard of North Keystone Avenue, looking southeast.



Adjacent Purple line transit stop, to the south



Adjacent commercial restaurant to the west.



Adjacent commercial restaurant to the north.



BOARD OF ZONING APPEALS DIVISION III

February 18, 2025

Case Number: 2024-UV3-016
Property Address: 425 & 435 South Gibson Avenue (*approximate address*)
Location: Warren Township, Council District #20
Petitioner: Oscar Garcia Cruz, by Steven A. Brown
Current Zoning: D-2

Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the storage and occupancy of more than two recreational vehicles for more than 15 days per year (maximum of two recreational vehicles may be parked outside per lot, may not be occupied for more than 15 days) within gravel parking areas (hardscaping required) and the location of a six-foot tall privacy fence within the front yard of Gibson Avenue and encroaching within the clear sight triangle of the driveway (limited to 3.5-foot tall, encroachment of clear sight triangles not permitted).

Current Land Use: Residential / Undeveloped
Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

1/21/24: A timely automatic continuance request was filed by a registered neighborhood organization to have this petition moved to the February 18th hearing a date. A full staff report will be made available in advance of that hearing date.

11/19/24: The petitioner is planning to request a continuance for this petition from the November 19th hearing date to the January 21st, 2025, hearing date to allow for time for sufficient notice to be sent and given that the owner will be out of the county for the December Division III hearing date. Staff is supportive of this request but would likely not be supportive of additional continuance requests beyond January. A full staff report will be made available in advance of the January hearing date.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- The subject site is comprised of two (2) separate parcels under shared ownership: the northern lot (425) is undeveloped except for a gravel parking area and the southern lot (435) contains a



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single-family home and a recently constructed rear accessory shed along with gravel parking. The property is surrounded by other single-family residential uses on all sides. It does not appear that a driveway permit was obtained for the gravel drive recently added to the northern parcel.

- VIO24-006064 was opened earlier this year at the property in relation to the use of gravel parking areas for multiple recreational vehicles on the property, and partial construction of a front-yard fence with 6 feet in height and encroaching into the required clear-sight triangle.
- Grant of this variance would seek to allow for the parking of six total RVs on the property (three vehicles per lot). Although the plan of operation indicated that the vehicles would strictly be for the personal use of the petitioner, staff has concerns that these vehicles might be utilized for full-time residential occupancies or rentals beyond the scope of this variance. Approval would solely allow for the parking of the RVs and not for any additional commercial or residential uses.
- The submitted site plan appears to show placement of the fence with a front-yard setback of approximately 20 feet. Based on aerial and site photography (see Exhibits) this does not appear to be accurate, and the portions of the fence currently constructed roughly correspond with the front property line. This, coupled with the driveways on the property, is why the request for clear-sight triangle encroachment was added to the request language.
- This property is zoned D-2 (Dwelling District Two) for use within suburban areas with ample yards, trees and passive open spaces at a typical density of 1.9 units per gross acre. Similarly, the Comprehensive Plan recommends it for estate-style homes on large lots within rural or agricultural areas that prioritize natural features such as rolling hills, high-quality woodlands, and wetlands. Finally, Infill Housing Guidelines indicate that in front yards, fences should be ornamental in style and that privacy fences should not be installed within front-yard contexts.
- Documentation provided along with the application did not identify any site-specific practical difficulties requiring deviation from ordinance standards (the placement of disallowed vehicles, gravel paving and driveway, non-compliant fences, etc. would be considered a self-imposed hardship). The petitioner did not provide clear information on how the RVs would be utilized (beyond that they were for 'personal to the petitioner' and would enter/exit the site around once a month). Staff also noted what appears to be several additional commercial vehicles and mounds of some sort of material from aerial photography.
- Ordinance restrictions on the height of front-yard fences within residential areas exist to allow for vibrant and pedestrian-friendly streetscapes and to reduce any visual impairment by motorists of pedestrians. Both this fence and any other fence within a residential context would not be allowed with the proposed height of six (6) feet within the front yard based on both ordinance and Infill Housing Guidelines, and this fence would also compromise the required clear-sight area which would negatively impact the safety and sightline both of vehicles on this property as well as the northern neighbor (see Photo 5 in Exhibits). Given this context and the lack of practical difficulty, staff recommends denial of the variance request for a fence exceeding height requirements.



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- The Zoning Ordinance also places limits on gravel parking to avoid negative externalities of dust or mud and broadly prohibits the parking of heavy vehicles in residential areas to ensure harmonious development with uses of differing intensity separated. Placement of multiple large vehicles would not be contextually appropriate within D-2 zoning or the Rural and Estate Neighborhood typology and could place strain on both the local road if RVs are frequently entering or exiting as well as any septic tank that might exist on-site. Given this context and the lack of practical difficulty, staff recommends denial of the variance request for parking of six recreational vehicles on a gravel parking area.

GENERAL INFORMATION

Existing Zoning	D-2		
Existing Land Use	Residential / Undeveloped		
Comprehensive Plan	Rural or Estate Neighborhood		
Surrounding Context	Zoning	Surrounding Context	
	North:	D-2	North: Residential
	South:	D-2	South: Residential
	East:	D-2	East: Residential
	West:	D-2	West: Residential
Thoroughfare Plan			
Gibson Avenue	Local Street	50-foot existing right-of-way and 50-foot proposed right-of-way	
Context Area	Metro		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	10/28/2024		
Site Plan (Amended)	N/A		
Elevations	N/A		
Elevations (Amended)	N/A		
Landscape Plan	N/A		
Findings of Fact	08/21/2024		
Findings of Fact (Amended)	N/A		



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines

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 estate-style homes on large lots within rural or agricultural areas. This typology prioritizes natural features such as rolling hills, high-quality woodlands, and wetlands. Density should be less than one dwelling unit per acre unless housing is clustered to preserve open space or existing topography.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- The Infill Housing Guidelines indicate that in front yards, fences should be ornamental in style and that privacy fences should not be installed within front-yard contexts.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2000DV1037 ; 8361 Beechwood Avenue (east of site), variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish 1,844 square feet of accessory use area or 154 percent of the total floor area of the primary dwelling (maximum 99 percent of the total floor area of the primary dwelling permitted), and to provide for the construction of a 1,200-square foot pole barn, creating 1,360 square feet of accessory building area or 113 percent of the main floor area of the primary dwelling (maximum 900 square feet or 75 percent of the main floor area of the primary dwelling permitted), and 3,044 square feet of accessory use area or 253 percent of the total floor area of the primary dwelling (maximum 99 percent of the total floor area of the primary dwelling permitted), **approved.**

99-V1-131 ; 465 South Gibson Avenue (south of site), variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 1,042 square foot addition to an existing single-family dwelling with a front setback of 16 feet from the right-of-way of Gibson Avenue (minimum 25 feet required), and a front yard setback of 17 feet along the right-of-way of Rawles Avenue (minimum 30 feet required), **approved.**

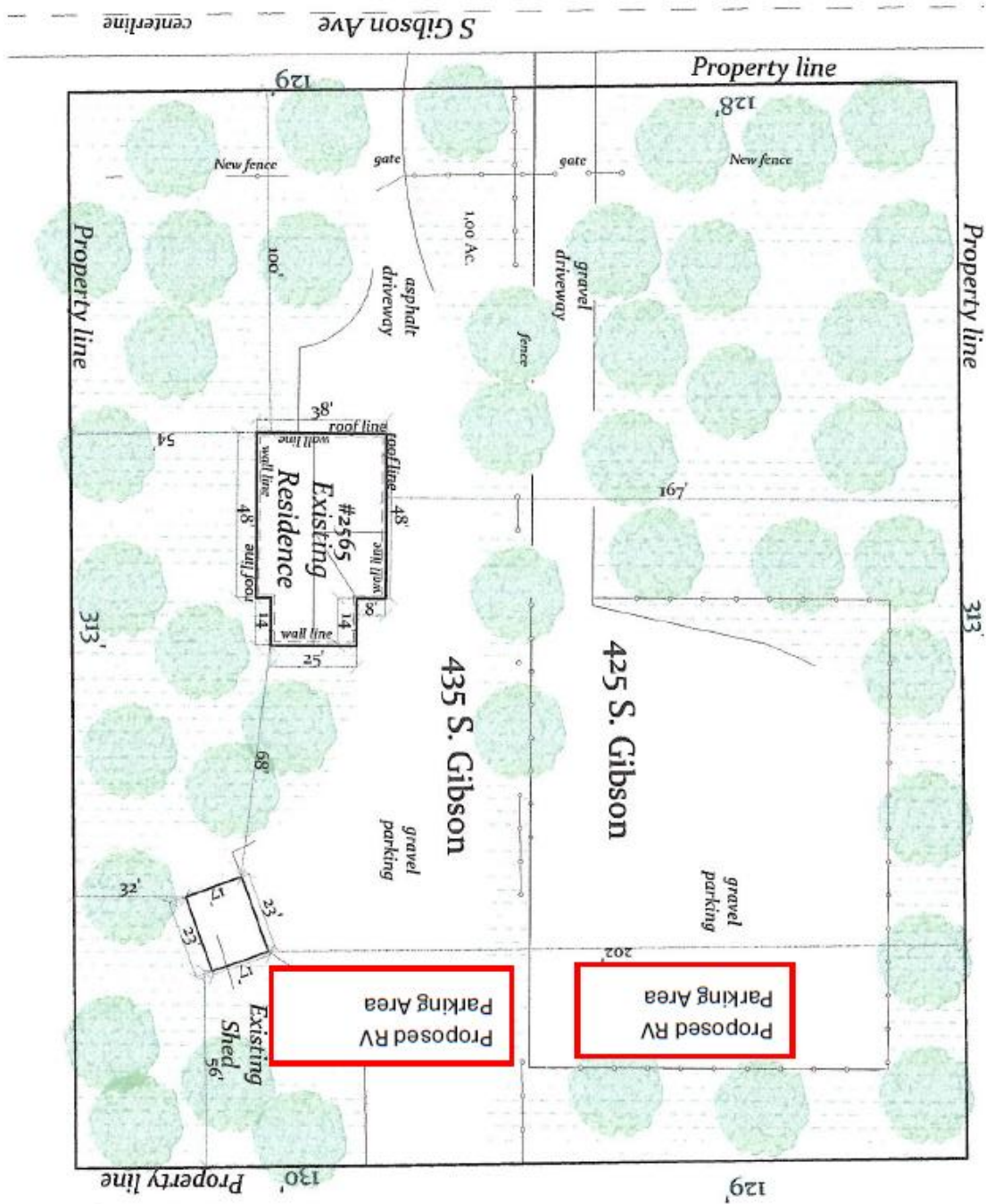
EXHIBITS

2024UV3016 ; Aerial Map





2024UV3016 ; Site Plan



(Note: the location of the fence shown on this site plan does not appear to be accurate: aerial and site photography indicate the fence is around 0 feet from the front property line instead of around 20 feet)



2024UV3016 ; Findings of Fact

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

The Parcels are within an established residential where many other parcels either have 6' fences. Additionally, the Parcel are large parcels that can accommodate the parking of upwards of ten recreational vehicles without overcrowding the Parcels. While the Parcels can accommodate upwards of ten recreational vehicles, the Petitioner only desires to have the ability to park four recreational vehicles on each parcel. Because of the large parcels within the neighborhood, the modifications requested within the Petition will not affect any surrounding parcels.

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

Adding a 6' high fence along the front of the parcels will only increase the curb appeal and increase the property value. Additionally, the fence and proposed use will match the surrounding parcels.

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

The Petitioner recently purchases the property and desires to add privacy fencing and utilize the large parcel to its entirety. The parcel's large footprint allows for ample parking of recreational vehicles to which the Petitioner wishes to utilize.

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

Without the variance, the Petitioner will be unable to provide adequate privacy to his property. Additionally, Petitioner will be unable to store his recreational vehicles even though the parcels can accommodate such parking without interfering with the use or the parcels or neighboring parcels.

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

The comprehensive plan allows for residential use to which the Petitioner continues to use the parcels for. The Petition adds to the comprehensive plan by allowing a residential privacy fence with gate. Further, the parking of recreational vehicles helps the Petitioner to use the parcels as storage of personal property, again adding to the use of a residential property.

2024UV3016 ; Plan of Operation

The Petitioner desires to park three (3) recreational vehicles on each of his two adjacent parcels, for a total of six (6) possible recreational vehicles. The recreational vehicles will consist of drivable recreational camping vehicles and pull behind camping trailers. The Petitioner does not plan on allow others to park recreational vehicles on the parcels.

The Petitioner plans to have the ability to park the three (3) recreational vehicles on each parcel in the back of each parcel and as depicted below. Because the recreational vehicles are personal to the Petitioner, there will be no separate facilities or employees required for the recreational vehicle parking.



2024UV3016 ; Notice of Violation (VIO24-006064)

RE: 435 S GIBSON AVE

Dear CRUZ, OSCAR D GARCIA:

A recent inspection of the above referenced property indicated violation(s) of the Revised Code of Indianapolis and Marion County as follows:

Section 740 -1004.A.2. Stop Work Order

Specific Violation: FENCES IN THE REQUIRED FRONT YARD SHALL NOT EXCEED 42 INCHES IN HEIGHT...6 FT. FENCE IN THE REQUIRED FRONT YARD.

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-2 district; (740-304. - No obstructions shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5ft. and 8ft. above grade level of the adjoining right-of-way within a Clear Sight Triangular Area...privacy fence

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-2 district; (743-306.AA.2. - No more than 2 recreational vehicles shall be permitted to be parked outside in a D-2 zoning district).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-2 district; (743-306.AA.3. - Parked recreational vehicles shall not be occupied or used for living, sleeping, or housekeeping purposes for more than one instance, not to exceed 15 days per calendar year).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-2 district; (744-404.D.6.a. - Parking areas in front yards shall be paved with bricks, concrete, asphalt, permeable pavers or pavement, or a gravel surface with a distinct edge boundary to retain the gravel; the parking of vehicles on grass in the front yard is prohibited).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-2 district; (744-510.C.3. - Fence post height exceeding 1ft. above the permitted height of the fence).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-2 district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence).

2024UV3016 ; Photographs



Photo 1: Subject Site (425) from West



Photo 2: Subject Site (435) from West

2024UV3016 ; Photographs (continued)



Photo 3: Commercial Vehicles on Subject Site (435, July 2024)



Photo 4: Front Yard of Subject Site (435)

2024UV3016 ; Photographs (continued)



Photo 5: Adjacent Property to North



Photo 6: Adjacent Property to West (June 2024)



Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION III

February 18, 2025

Case Number:	2024-UV3-017 (Amended)
Property Address:	8949 East Washington Street (<i>approximate address</i>)
Location:	Warren Township, Council District #20
Petitioner:	Integrity Electric & Machine LLC, by David E. Dearing
Current Zoning:	C-5 / D-2 (TOD)
Request:	Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of seven shipping containers within the southern side yard (not permitted) without landscape screening (required for outdoor storage and operations) and with a fence exceeding 10 feet in height (not permitted).
Current Land Use:	Commercial
Staff Recommendations:	Staff recommends denial of the variances.
Staff Reviewer:	Michael Weigel, Senior Planner

PETITION HISTORY

1/21/25: Due to the presence of only three Board members at the January 21st hearing, the petitioner requested a one-month continuance to avoid the likelihood of an inconclusive vote.

12/17/24: The petitioner requested a continuance to the January 21st hearing date to allow for additional time to discuss the petition with a registered neighborhood organization.

11/19/24: A timely automatic continuance request was filed by a registered neighborhood organization to continue this petition from the November 19th hearing date to the December 17th hearing date. A full staff report will be made available in advance of the December hearing, and the petition was amended with new notice sent by the applicant.

STAFF RECOMMENDATION

Staff recommends **denial** of the variances.

PETITION OVERVIEW

- 8949 East Washington Street is currently improved with a multitenant commercial building and sits to the southwest of the intersection of Washington Street and Post Road. In addition to the electrical supply store that is requesting this variance, other tenant uses appear to include retail sales and hair and body care salons. Adjacent land uses include a gas station and automotive



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parts store to the north, a smaller multitenant commercial center to the northeast, seasonal fireworks sales to the west, residences to the east, an industrial equipment supplier to the southwest, and an automotive repair use to the south. The property is predominantly zoned C-5 (a small sliver of the western portion of the site that doesn't contain the existing or proposed uses is zoned D-2), and the site's proximity to a proposed Blue Line BRT stop at the Washington and Post intersection means that this property is also located within the Transit Oriented Development secondary zoning layer.

- This business purchases used electronic supplies (breakers, disconnects, transformers, etc.) wholesale for purchase by other business or members of the public. Almost all public purchases are made in small increments of only 1-2 units purchased at a time. Since there is a public-facing sales component on-site and the bulk purchasing/wholesaling is limited to the initial purchase, staff would classify this as a retail sales use allowed within C-5 zoning and not as a wholesaler disallowed by the zoning district.
- VIO24-001297 was opened earlier this year at the property and cited various zoning non-conformities at the site, including but not limited to the placement of inoperable vehicles and commercial trailers, outdoor storage beyond vehicles awaiting repair, and portable storage units placed for more than 30 days (see Exhibits for full list of violations). The notice of violation additionally mentioned the operation of a truck repair use at the property due to the large number of vehicles parked to the east of the building near the Post Road frontage (this would be disallowed given the size of the lot and its proximity to the proposed BRT stop). The applicant initially indicated that while the inoperable vehicles and for-sale trucks were in the process of being removed from the property, the current owner planned to continue renting this parking area to the neighboring business to the south to allow them to place "only completed customer vehicles awaiting pickup" on the subject property. However, they later indicated that no vehicles associated with the southern land use would be placed on-site, and approval of this variance would not allow for placement of any vehicles associated with an automobile repair use.
- The original variance request was narrowly focused on allowing for the continued placement of seven shipping containers and two trailers within the southern side yard of the property. The containers would not encroach into required setback areas or exceed 25% of the gross area of the primary building but would be considered by the Zoning Ordinance to be both outdoor storage (limited within C-5 zoning strictly to cars awaiting repair) and portable storage (limited to 30 consecutive days). Staff confirmed with the petitioner that the trailers parked on-site would be used for the loading and unloading of electronic equipment and would not be utilized for full-time outdoor storage of goods. This is why the trailers are not mentioned within the variance text, and approval of this variance would not allow for full-time placement of any vehicles or trailers associated with outdoor/portable storage.
- Additionally, 744-508.C of the Ordinance requires outdoor storage areas near protected districts to be screened by a fence between 6 feet and 10 feet in height and to have transitional yard landscaping installed around the perimeter. The applicant has indicated placement of a "chain link fence with privacy slats" that would be installed in between shipping containers on the site



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(not forming any sort of perimeter around the outdoor storage area) and that required buffer landscaping would also not be added; this would not meet regulations and would also require a variance to be allowed. Additionally, site photography and elevations show the installation of a freestanding overhead garage door placed between two of the shipping containers that would constitute placement of a fence over 10 feet in height (see Exhibits and Photograph 5). The rendering did not provide a scale but appears to show the overhead door would have a height of around 20 feet; this height would require grant of a variance to be legalized as well.

- The property is primarily zoned C-5 (General Commercial District) to allow for retail sales and service functions along heavy commercial thoroughfares whose operations are typically characterized by sales and repair of automobiles or the outdoor display and sales of merchandise in areas isolated from protected districts. However, the Comprehensive Plan recommends it for Community Commercial uses for which outdoor storage and display is discouraged when adjacent to residential typologies. The Blue Line TOD Strategic Plan indicates that development should be pedestrian-oriented with limits on automotive uses and placement of parking.
- The operation plan originally submitted by the applicant didn't provide comprehensive information on what would be stored within the shipping containers. Subsequent emails and an updated plan of operation sent to staff indicated that they would contain propane, pallets, plywood for shipping and shelving needs, and both wooden and plastic shipping crates. Although seven storage containers are mentioned in the variance request and shown on the site plan, the operation plan only mentions six (the seventh would presumably contain similar materials) and the site plan detail provided shows eight (the applicant has indicated removal of the eighth, smaller shipping container should the variance be granted, and approval of this variance would solely allow for placement of seven containers). Trailers would also be parked on-site and stored either in the gaps between shipping containers or the gaps between the containers and the building.
- Findings of fact and written testimony submitted by the applicant indicate that the use would be in an isolated position with limited visibility at the rear of the property, options for indoor storage of pallets are limited for insurance reasons, and a denial would hamper the petitioner's ability to use the property as a departure point for shipments. Staff would contend that the storage area would be easily viewable from the Post Road frontage (especially if the vehicles associated with the southern vehicle repair use are removed), and it is unclear why seven full-size shipping containers would be needed for portable storage of shipping materials when indoor storage options appear to exist. Staff would note that the current tenant space only comprises around 6% of the total building area, storage of wooden materials in outdoor containers could also introduce fire risks, and options for internal storage within the existing building or permanent building additions could be feasible to meet storage needs. It is also unclear to staff what safety or security advantages would be offered by the 20-foot fence that would not also be offered by a 10-foot one.
- No practical difficulty was identified that would justify placement of seven separate storage containers permanently on this site with inadequate buffering installed around the perimeter fence. Regulations on portable and outdoor storage are enshrined within the ordinance to prevent these storage units (which are classified as being closer to commercial vehicles than buildings)



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on a permanent basis for aesthetic and structural reasons as well as to allow for those buildings to be included within the city’s tax base. Staff also doesn’t note any practical difficulty that would prevent the placement of compliant perimeter fencing and landscape buffering.

- Additionally, staff feels that a risk of placement of additional outdoor storage or (operable or inoperable) cars and trucks for sale or repair in the future would exist given the previous agreement and scope and intensity of repair uses to the south. This risk would likely be compounded if approval of a variance to allow for placement of portable outdoor storage units were granted. Given the future transformative potential granted by proximity to the future BRT Line, staff also hopes to ensure that nearby development matches the TOD vision of walkable mixed-used communities with slow traffic speeds and well-connected sidewalks that serve activated streetscapes with limited front-yard parking. An allowance for outdoor storage that isn’t fully screened and would be easily visible from the Post Road frontage does not meet this vision. For these reasons, staff recommends denial of the request for permanent placement of portable outdoor storage within the southern yard.

GENERAL INFORMATION

Existing Zoning	C-5 / D-2 (TOD)	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-5	North: Commercial
South:	C-5 / C-7	South: Commercial
East:	D-5	East: Residential
West:	C-7	West: Commercial
Thoroughfare Plan		
Washington Street	Primary Arterial	128-foot existing right-of-way and 104-foot proposed right-of-way
Post Road	Primary Arterial	112-foot existing right-of-way and 112-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	10/07/2024	
Site Plan (Amended)	N/A	
Elevations	11/20/2024	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	10/07/2024	
Findings of Fact (Amended)	12/05/2024	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Community Commercial typology for low-intensity commercial/office uses that serve nearby neighborhoods. Examples include small-scale shops, drug stores, grocery stores, restaurants, public gathering spaces, and personal, professional, and business services.
- Outdoor display of merchandise is not recommended near residential areas, and development should be supportive of pedestrian activity (e.g. compact, connected to a pedestrian system, no more than one third of the frontage used for parking) when near TOD lines.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Blue Line Transit Oriented Development Strategic Plan identifies this site as being within the Community Center typology given its proximity to the proposed Washington/Post TOD stop. This typology is designed for walkable commercial centers with a range of commercial uses. Contemplated land uses would be a mix of retail, entertainment, office and residential development, and surface parking should be consolidated and placed behind buildings to allow pedestrian-oriented streets.

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

94-HOV-31, variance of development standards of the Sign Regulations Zoning Ordinance to provide for the relocation and replacement of an existing advertising sign adjacent to a protected district (minimum 250 feet from a protected district required), being 620 feet from a second advertising sign and 630 feet from a third advertising sign (minimum 1000 feet between advertising signs oriented toward the same street required), **approved**.

ZONING HISTORY – VICINITY

2002UV3031 ; 40 N Post Road (north of site), variance of use of the Commercial Zoning Ordinance to provide for the retail sale of automotive parts (not permitted), **approved**.

2000UV3051 ; 140 N Post Road (north of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for sales and display of automobiles (not permitted), vehicle display area located within the required front yard (display area not permitted within the required front yard), the construction of a 2,448 square foot, four bay, service garage (maximum three service bays permitted), with a five-foot rear transitional yard (minimum 20-foot rear transitional yard required), 12 off-street parking spaces (19 off-street parking spaces required), two off-street parking spaces located within the required front yard (off-street parking not permitted within the required front yard), and six off-street parking spaces and maneuvering area located within the rear transitional yard (parking and maneuvering area not permitted within the rear transitional yard), **approved**.

98-UV1-73 ; 9009 E Washington Street (west of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for the sale of portable storage buildings (not permitted) with: (a) outdoor operations and outdoor display areas (not permitted); and (b) to eliminate landscape requirements in the required transitional yard, with existing pavement and treatment remaining, and to allow storage buildings to serve as the required screen, **approved**.

96-UV2-101 ; 140 N Post Road (north of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for the operation of a used automobile sales and preparation facility (not permitted) with outdoor display of automobiles (not permitted), **approved**.

EXHIBITS

2024UV3017 ; Aerial Map

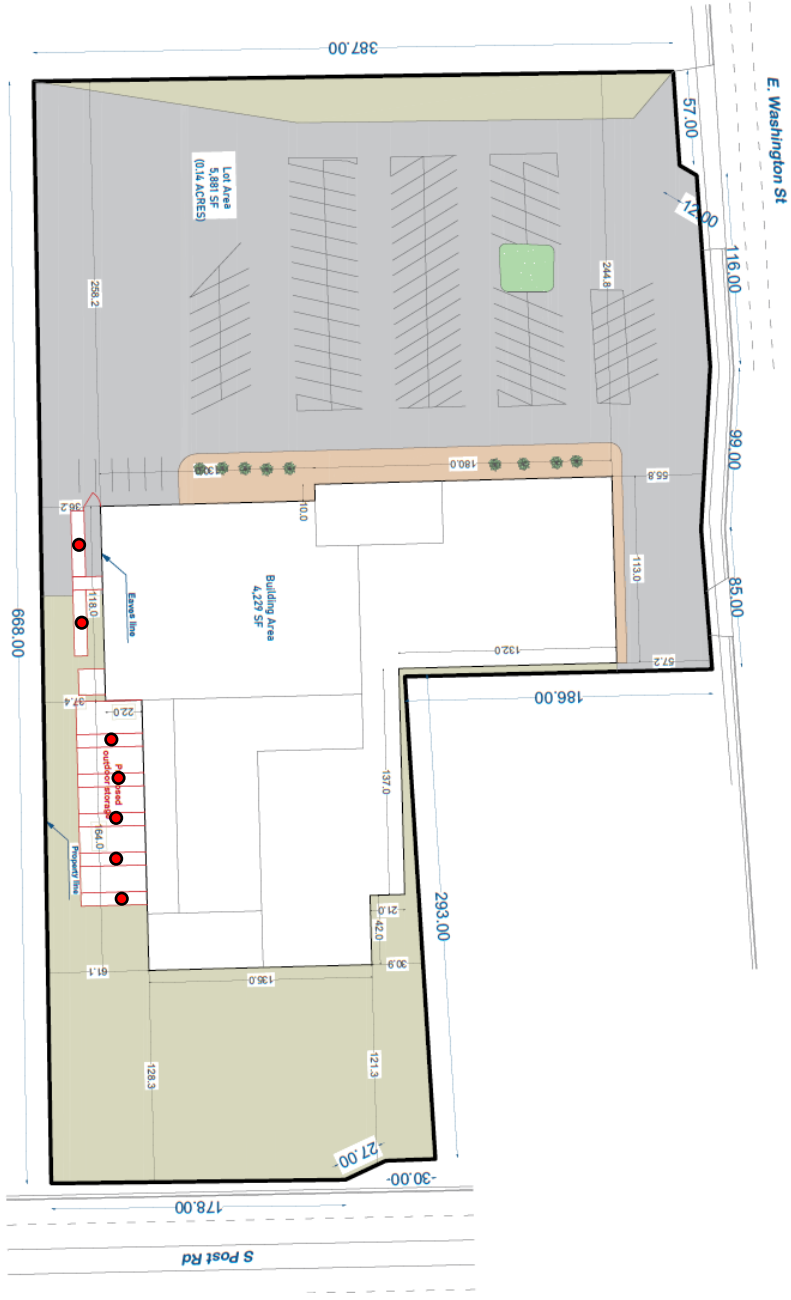




Department of Metropolitan Development
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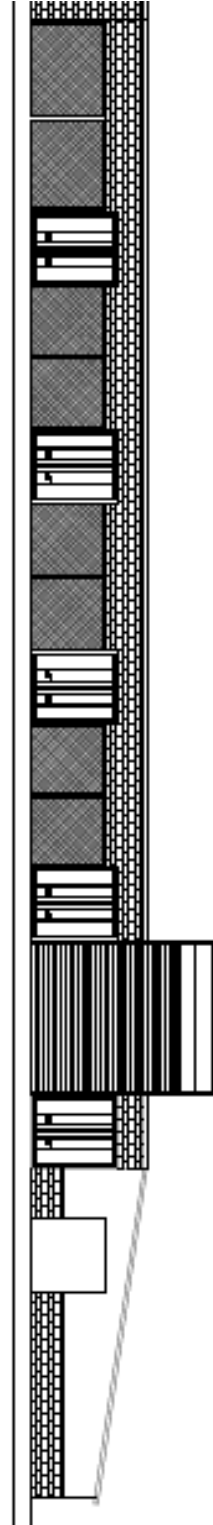
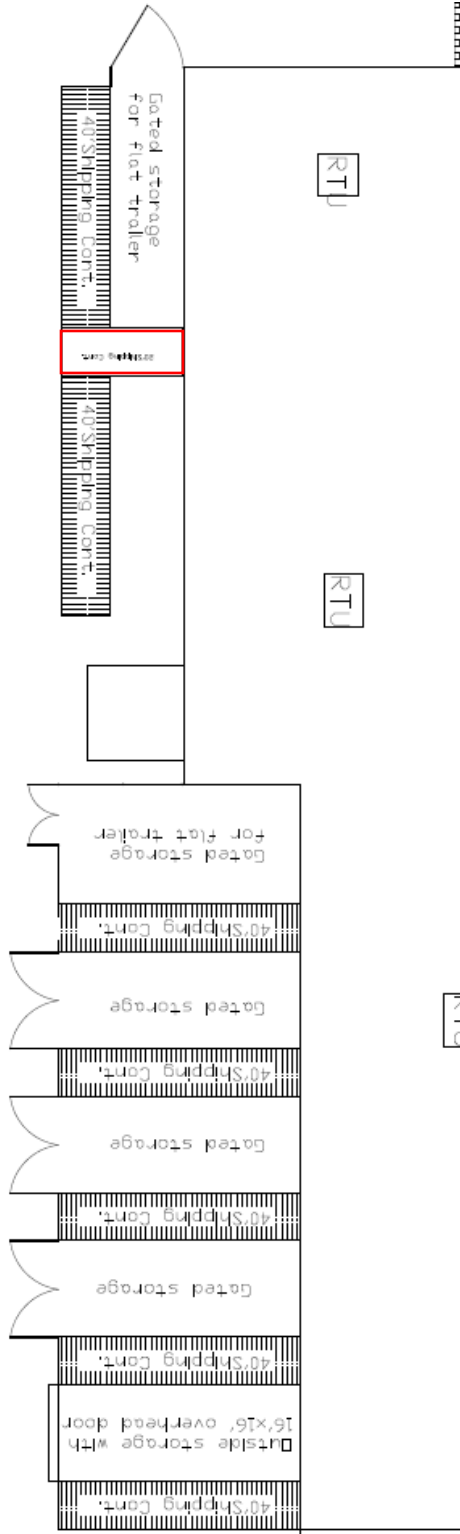
2024UV3017 ; Site Plan

(Note: seven red dots added by staff onto the long thin rectangles shown on rendering: these rectangles indicate proposed placement of seven shipping containers that differ from current site context)



2024UV3017 ; Site Detail + Southern Elevation (Partial)

(Note: grant of this variance would only allow for placement of seven shipping containers. The applicant has indicated that the eighth, smaller container shown on these plans outlined in red would be removed)





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2024UV3017 ; Operation Plan

The business is located at 8949 E. Washington St. Its operating hours are 8:00 a.m. to 4:30 p.m. Monday through Friday. Integrity has eight full-time employees and two subcontractors who work in the building; they park within a 92 space lot on the west side of the building. Handicapped spaces are marked in blue. In addition, parking is provided for up to 24 customers on the north and northeast side of the building.. Integrity has three audio surveillance systems inside and outside the building as well as a night-time security officer.

Integrity keeps six shipping containers outside, behind the building.

Container No. 1 contains propane used for the fork truck. The propane is kept in the container rather than a cage to prevent theft. The business is located in a high crime area with many homeless people on the street.

Container No. 2 contains pallets used for shipping. Use of the container keeps the pallets dry and avoids the risk of fire from indoor storage.

Containers Nos. 3 and 4 hold plywood for shipping and shelving needs. Container No. 5 holds wooden shipping crates. Use of the containers avoids the risk of fire from the indoor storage of these materials.

Container No. 6 holds large plastic shipping crates. Because of their size, these cannot be stored in the building without impacting warehouse flow.



2024UV3017 ; 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 grant will merel allow the Petitioner to store shipping containers and trailers at the rear of th propety and thus has no capacity to affect the public health, safety, morals, or general welfare of the communit.

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

the storage area is in an isolated position at the rear of the property, behind Petitioner's building.

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

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

it would significantly hamper Petitioner's ability to use the property as a departure point for the many shipments

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

the storage area will be located behind the building and will have little if any visibility

2024UV3017 ; Findings of Fact (Development Standards)

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

the 10-foot gate will merely allow Petitioner a means of entry/exit at the rear of its property and has no capacity to affect the public health, safety, morals, or general welfare of the community.

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 gate will be located in an isolated position, behind the Petitioner's building, with little visibility from the neighborhood

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

the property is located in a high crime area and strict application of the zoning ordinance would prevent Petitioner from adequately protecting its property with a tall gate.



2024UV3017 ; Notice of Violation (VIO24-001297)

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; (Boxes, bottles, 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...multiple vehicles).

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, with a cargo holder exceeding 12ft. in length...multiple trailers).

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; (Vehicle, regardless of weight, used or designed to be used as a semi-trailer, flatbed truck, step van, box truck).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (743-306.Y.1- The storage of portable storage units is limited to 30 days....shipping container).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (744-404.A.6.e – Parking lots used for access or maneuverability shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (744-404.D.7.a. - The parking spaces lack 4 inch durable painted lines, curbs or signage).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (744-508.B.1.a. - Failure to enclose dumpster with a solid wall at least the height of the service area on 3 sides with the 4th side having a solid gate).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (Table 743-306-2: - Only outdoor storage of inoperable vehicles awaiting repair is permitted in a C-5 zoning district).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; 743-305.G.1. - (All servicing, motor repair, or body repair shall be conducted within an enclosed building).

2024UV3017 ; Photographs



Photo 1: Subject Site from West (northern portion)



Photo 2: Subject Site from West (southern portion)

2024UV3017 ; Photographs (continued)



Photo 3: Storage Containers from West



Photo 4: Storage Containers from East (Post Road)

2024UV3017 ; Photographs (continued)



Photo 5: Overhead Garage Door along Southern Elevation (submitted by applicant)



Photo 6: Subject Site from East

2024UV3017 ; Photographs (continued)



Photo 7: Adjacent Property to South (eastern portion)



Photo 8: Adjacent Property to South (western portion)

2024UV3017 ; Photographs (continued)



Photo 9: Adjacent Property to West



Photo 10: Adjacent Property to East

2024UV3017 ; Photographs (continued)



Photo 11: Adjacent Property to North



Photo 12: Adjacent Property to Northeast



BOARD OF ZONING APPEALS DIVISION III

February 18, 2025

Case Number: 2025-DV3-002

Property Address: 6116 Breamore Road (approximate address)

Location: Lawrence Township, Council District #3

Petitioner: Matthew Schneider, by Drew Farrington

Current Zoning: D-2

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yards and clear sight triangles of the intersection of Breamore Road and 62nd Place (maximum height of 3.5 feet permitted, encroachment of clear sight triangle prohibited).

Current Land Use: Single-family residential

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

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 18, 2025

- This petition was continued from January 21, 2025 hearing to the February 18, 2025 hearing to allow for changes to be made to the submitted site plan, without additional notice.

STAFF RECOMMENDATION

- Staff **recommends denial** of this petition.

PETITION OVERVIEW

- This petition would provide for the location of a six-foot tall fence within the front yards of the subject site along Breamore Road and 62nd Place (maximum height of 3.5 feet permitted). The site plan was revised to reflect the relocation of the proposed fence outside of the clear sight triangle of Breamore Road and 62nd Place, which means that portion of the request is to be removed from the petition.
- Fence height in the front yards of residentially zoned properties is limited to 3.5 feet in height to maintain residential characteristics and to preserve open space and visibility. Staff finds that privacy fences of 6 feet or more in height represent a deviation of residential aesthetics and instead are characteristic of heavy commercial or industrial properties. Staff would also note that the subject site is located on a hill (see contour map) with portions of the property sitting as much as 10 feet above



**Department of Metropolitan Development
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the nearest public right-of-way, meaning that a 6-foot fence in the front yard would look and feel much taller than that amount from street-level.

- Additionally, Staff believes recommending approval of 6-foot privacy fences in front yards of residential properties to be an undesired precedent for the City’s neighborhoods. Further, Staff would note that the Ordinance does not contemplate an exception to this standard for residential properties that contain more than one front lot line/front yard (corner lots). Therefore, Staff does not find there to be any practical difficulty related to the property that results in the petitioner needing the requested variance and, for these reasons recommends denial of the request.

GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Single-family residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Single-family residential
	South:	South: Single-family residential
	East:	East: Single-family residential
	West:	West: Single-family residential
Thoroughfare Plan		
Breamore Road	Local Street	50 feet of right-of-way existing and 50 feet proposed.
East 62 nd Place	Local Street	50 feet of right-of-way existing and 50 feet proposed
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	11/21/24	
Site Plan (Amended)	1/17/25	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	11/21/24	
Findings of Fact (Amended)	N/A	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Suburban Neighborhood living typology for this site.

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

- With regards to fencing, the Infill Housing Guidelines recommends:
 - Build thoughtful fences
 - Do not build privacy fences in the front yards

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

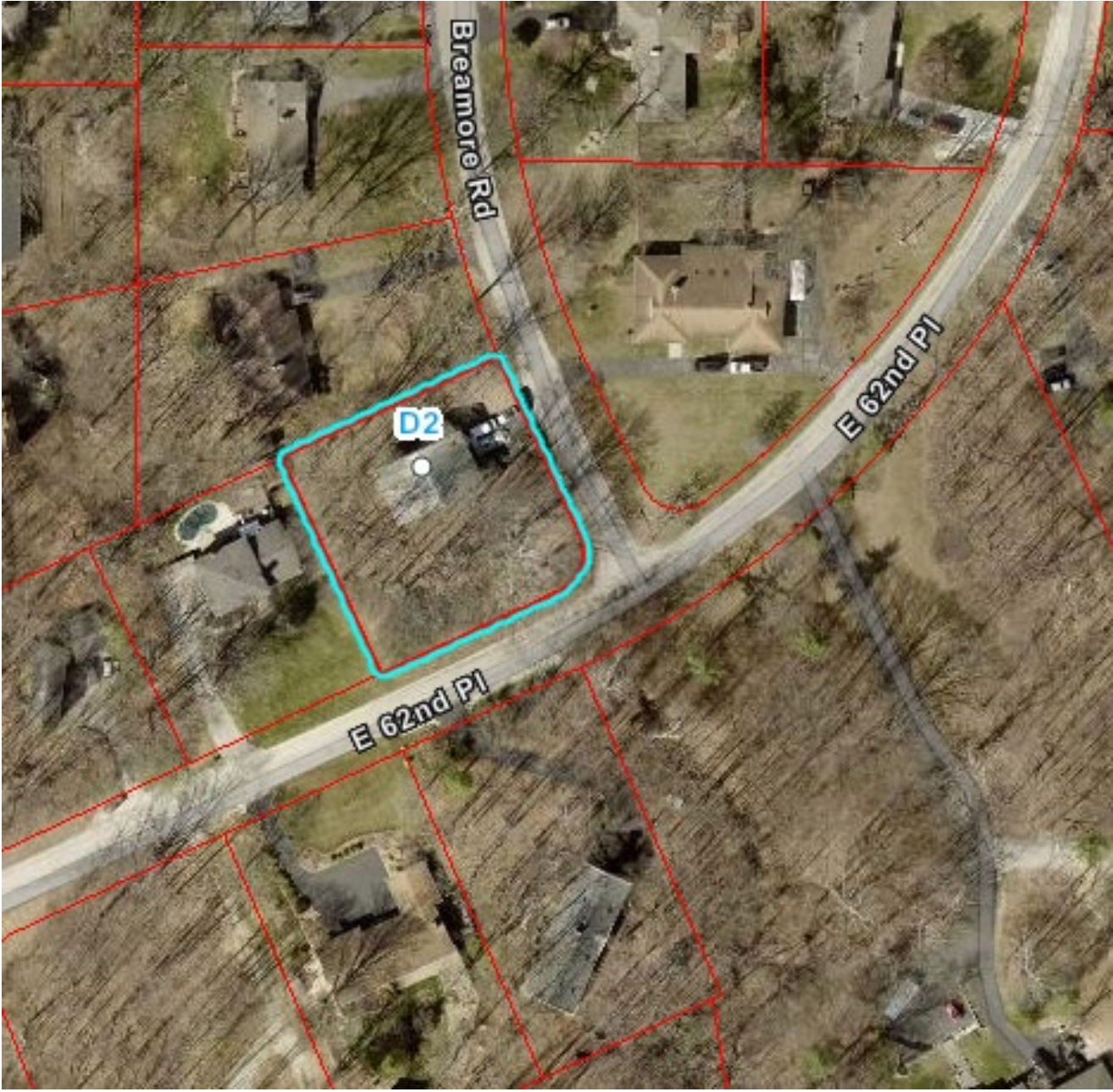
ZONING HISTORY – SITE

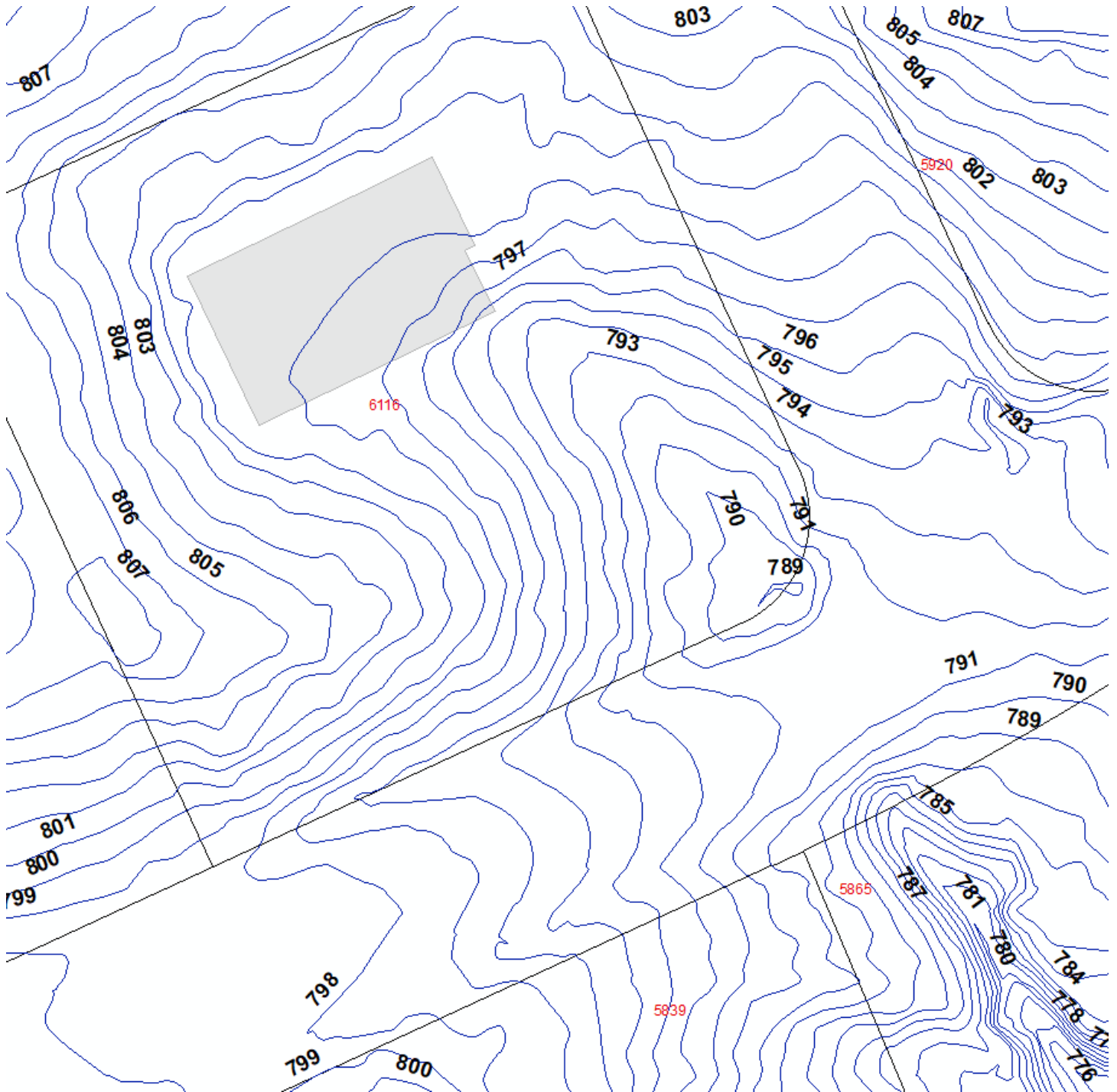
N/A

ZONING HISTORY – VICINITY

2012DV2037; 5534 Fall Creek Road (south of site); Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 5.83-foot tall, 33.64-square foot (maximum height of four feet), externally illuminated freestanding sign at 5534 Fall Creek Road, with an approximate 8.5-foot setback from the front property line (15-foot setback required) and a 10.67-foot tall, 17 square foot (maximum height of four feet), externally illuminated freestanding sign, with an approximate 2.5-foot setback from the front property line (15-foot setback required), **approved.**

EXHIBITS





Contour map detailing elevation change on site

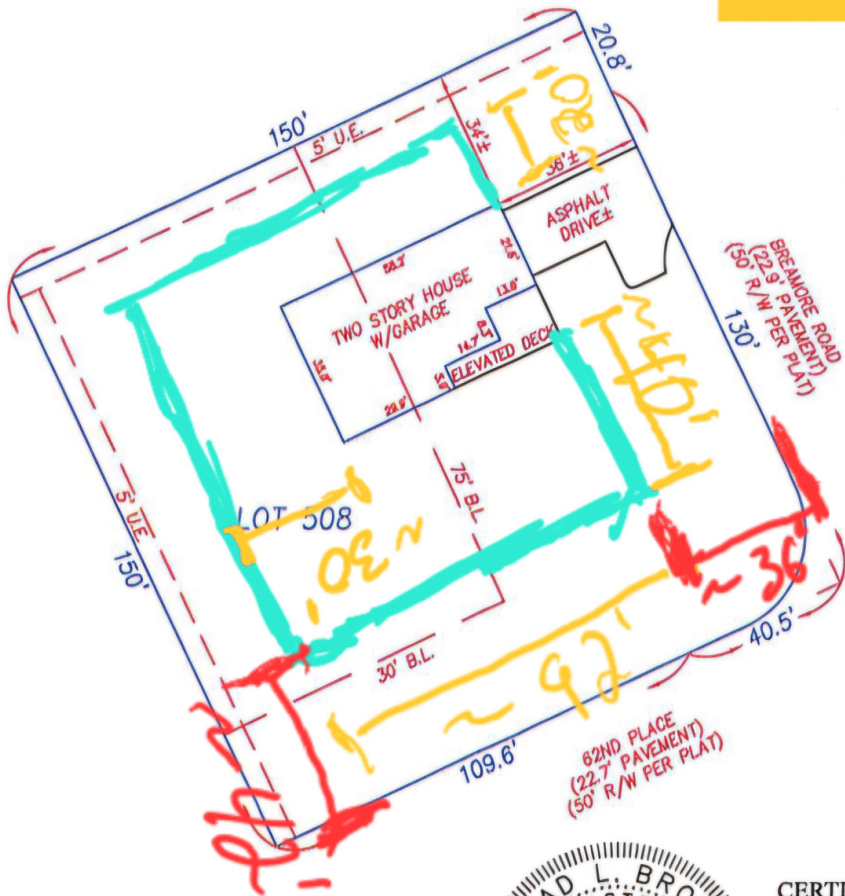
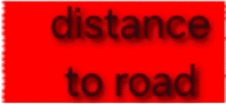
SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT. Unless otherwise noted there is no visible evidence of possession lines found.

LEGEND

B.L.	BUILDING LINE
U.E.	UTILITY EASEMENT
R/W	RIGHT-OF-WAY

NOTE: DUE TO THE LACK OF QUALIFIED MONUMENTATION FOUND, THE ACCURACY OF THIS REPORT IS LIMITED TO 3'±.
NOTE: IMPROVEMENTS 39'± PAST BUILDING LINE.



Hahn Surveying Group, Inc.
Land Surveyors
8925 N. Meridian Street, Suite 120
Indianapolis, IN 46260
PHONE: (317) 846-0840 / (317) 846-4119
EMAIL: orders@hahnsurveying.com
www.hahnsurveying.com



CERTIFIED: 01/08/2024

Chad L. Brown
Chad L. Brown
Registered Land Surveyor,
Indiana #21100002
Drawn By: JAR
Job No.: S24-21377
Sheet 2 of 2



Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The spirit of Municipal Code 744-510 is maintained through the issuance of this variance because, while the subject property is a corner lot, and the maximum fence height for front yards is 3.5 feet, there is already a tree line greater than 6 feet which would largely hide the fence from street view. Property owner plans to maintain the tree line and, in some locations, update the tree line with additional trees. For reference, The view of the side yard alongside E 62nd Place is attached as Exhibit A. The view of the front yard alongside Breamore Road is attached as Exhibit B. The Western Property line can be seen in Exhibit C. The Northern Property line can be seen in Exhibit D. As shown within, a six foot fence placed behind the tree line will not substantially change the view from curb from how it appears currently.

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 placement of a 6 foot privacy fence behind the tree line will not affect any nearby property owners. Indeed, the fence will be the same height as the rear and side yards and will make the property appear more consistent overall. Further, the fence will be fully behind the existing tree line. Property Owner has had discussions with his neighbors to the West, North, and across the street to the East, and no neighbor takes issue with the proposed fence.

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

Strict application would result in the erection of a 3.5 foot fence on two sides of the property, even though the sides of the property parallel to E 62nd Place and Breamore Road are almost entirely blocked from street view as shown in Exhibit A and B. While the property is a corner lot, the yard along E 62nd Place is better characterized as a side-yard, and the provisions of 744-510 with respect to side-yards should apply. Further, the tree lines along the property line are already at a greater height than the 6 foot privacy fence proposed by Property Owner.

DECISION

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

Adopted this _____ day of _____, 20 ____















BOARD OF ZONING APPEALS DIVISION III **January 21st, 2025**

Case Number: 2025-UV3-001

Property Address: 385 South Franklin Road (Approximate Address)

Location: Warren Township, Council District #20

Petitioner: We Care Tree Service LLC, by Tim J. Brown

Current Zoning: D-2

Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a tree and vegetation removal contractor with the outdoor storage of commercial vehicles and equipment (not permitted) and the storage of a recreational vehicle in a non-permitted location.

Current Land Use: Residential

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

Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

This is the first public hearing for this variance petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this variance petition.

PETITION OVERVIEW

- This variance is requesting three items: 1) to allow for the operation of a tree and vegetation removal contractor within a D-2 zoning district, 2) to allow the outdoor storage of commercial vehicles and equipment, and 3) to allow the outdoor storage of a recreational vehicle.
- This property is within a D-2 zoning district, in a location where the land use plan suggests a Suburban Neighborhood.
- The We Care Tree Service LLC will be opened Monday through Saturday from 7 am to 6 pm. No tree services will occur on the property, but instead be a parking location for eight to ten (8-10) business vehicles, around six (6) pieces of equipment (stone grinders, woodchipper, skid steers, etc.), and the owner’s personal recreational vehicle. There is 3 to 7 staff members with one office manager. The office manager will stay on the property during hours of operation while the other employees will be dispatched to the various work locations.



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- There are no plans to extend the existing structures or make any changes to the current state of the property. The petitioners are already operating business on this location.
- At this site there is industrial uses to the north and west but residential uses to the east and south.
- A D-2 zoning district within the Indianapolis Marion County Zoning Ordinance is intended for use in suburban areas, which permits single family detached dwellings, two family dwellings, group homes, greenways, park or playgrounds, gardens, wireless communications facilities, and other accessory uses including home occupation. Commercial primary uses are not allowed in D-2 zoning districts unless a variance is granted.
- Staff recommends **denial** of this variance petition because this is an intense use in a residential area. It's true that there are industrial uses close by, but in this location the business is next door to the residential homes and using Beechwood Avenue as one of its point of access. The site and structure have been used as a residence previously, so Staff finds no practical difficulty in the use of the property. Staff would note that home occupation businesses – small home offices – are permitted as an accessory use in D-2; however, the introduction of employees, commercial vehicles and outdoor storage elevate the current use to a commercial use.

GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	I-2	North: Light Industrial
South:	D-2	South: Suburban Neighborhood
East:	D-2	East: Suburban Neighborhood
West:	D-A	West: Light Industrial
Thoroughfare Plan		
Franklin Road	Primary Arterial	33 feet of right of way existing and 90 feet proposed.
Beechwood Avenue	Local Street	29 feet of right of way existing and 50 feet proposed.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	Yes	
Site Plan	1/2/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/2/2025	



**Findings of Fact
(Amended)**

N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Suburban Neighborhood typology is predominantly made up of single family housing, but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park. (pg 17)
- The Light Industrial typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic. (pg 21)

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Blue Line Transit Oriented Development Strategic Plan (pg 132-133)
 - Existing Conditions of Franklin Road and Washington Street
 - To the west is an interstate interchange allowing access to I-465.
 - Immediately around the station is primarily suburban oriented large footprint retail and warehousing with large amount of surface parking.
 - To the northeast is a residential area with a grid pattern.
 - Land Use and Property Control
 - The north side of the Washington Street corridor has small commercial lots with low density residential beyond.
 - The south side of Washington Street corridor has large commercial lots with industrial beyond.
 - The south side of the corridor has multiple large commercial properties.



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

- N/A

ZONING HISTORY - SURROUNDING AREA

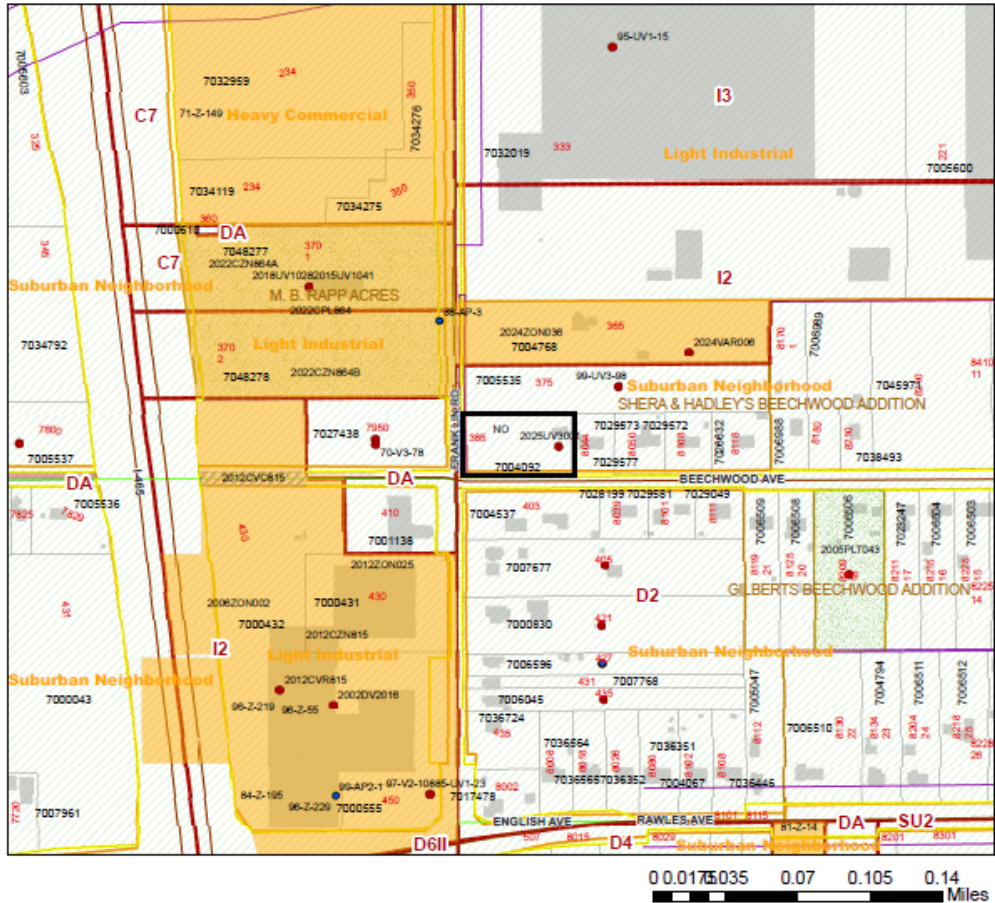
- 2000-DV1-037: 8631 Beechwood Avenue
 - 1200 sqft pole barn
 - AP
- 2000-DV2-021: 8201 Rawles Avenue
 - Pylon/EVMS sign
 - AP
- 2000-SE1-003: 404 Peach Tree Lane
 - Manufactured home
 - AP
- 2002-DV1-031: 802 South Franklin Road
 - 33-foot-tall pylon/ 170 feet from PR district/EVMS.
 - D
- 2002-DV2-016: 403 South Franklin Road
 - Front setback, transitional yards
 - AP
- 2002-DV2-034: 8401 Rawles Avenue
 - 16 sqft pylon sign zero feet from right of way, 27 feet from PRT district.
 - AP
- 2005-PLT-045: 8730 Beechwood Avenue
 - A replat of Lots 51-54 in Hartman Dale Addition combining four lots into two.
 - AP
- 2006-DV1-016: 404 Peach Tree Lane
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 2-story, 20-foot tall, 1,008 square foot garage (maximum 16-foot height permitted) and to legally establish a single-family dwelling with a 15-foot north front yard setback (minimum 25-foot front yard setback required).
 - AP
- 2009-DV1-049: 230 South Fenton Avenue
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 4.833-foot-tall fence in the required front yard (maximum 42-inch fence height permitted in the front yard).
 - Approved
- 2012-CVR-815: 415 South Franklin Road
 - Variance of Development Standards of the Industrial Zoning Ordinance to provide for a 31-foot-tall building addition (maximum 22-foot tall building height permitted), with a 45-foot front building setback and a zero-foot parking and access drive setback (minimum

100-foot setback required), with 45,000 square-feet of outdoor truck/trailer storage (maximum 41,058 square feet or 25% of the total gross floor area of enclosed buildings permitted).

- Approved
- 2012-CZN-815: 416 South Franklin Road
 - Rezoning of 12.41 acres from the I-2-S and D-A Districts to the I-2-S classification to provide for industrial uses.
 - Approved
- 2012-ZON-025: 416 South Franklin Road
 - Rezoning of 3.9 acres, from the D-A District, to the I-2-S classification.
 - Approved
- 2015-UV1-041: 370 South Franklin Road
 - Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 5,000-square foot maintenance storage building (not permitted) for an adjacent boat sales business, with paved off-street parking and gravel storage areas (not permitted), per plans filed.
 - Approved
- 2017-DV1-048: 549 South Franklin Road
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a 1,600 square foot pole barn (pole barn cannot be larger than the 1,238-square foot primary building).
 - Approved
- 2018-UV1-028: 370 South Franklin Road
 - Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of a maintenance / storage building for an adjacent boat sales business (not permitted) with a 28-foot south side setback (30-foot side setback required).
 - Approved
- 2019-DV1-017: 335 South Fenton Avenue
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 22-foot tall, detached garage taller (not permitted) than the primary dwelling.
 - Approved
- 2019-ZON-039: 549 South Franklin Road
 - Rezoning of 2.5 acres from the D-A district to the SU-1 classification.
 - Approved
- 2020-DV3-012: 375 South Franklin Road
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for additions to an existing single-family dwelling and garage with a 0.5-foot north side setback (seven-foot side setback required).
 - Approved
- 2022-CPL-864: 370 South Franklin Road
 - Approval of a Subdivision Plat to be known as M.B. Rapp Acres, dividing 6.82 acres into two lots.

- Approved
- 2022-CZN-864A: 370 South Franklin Road
 - Rezoning of 3.543 acres from the D-A district to the C-7 district.
 - Approved
- 2022-CZN-864B: 370 South Franklin Road
 - Rezoning of 3.45 acres from the D-A district to the I-2 district.
 - Approved
- 2024-CPL-839: 7747 Mountain Stream Way
 - Approval of a Subdivision Plat, to be known as Fisher Creek Condominiums, dividing 0.49-acre into three lots.
 - Approved
- 2024-CZN-839: 7747 Mountain Stream Way
 - Rezoning of 0.49-acre from the D-6II district to the D-5II district to provide for a single-family development.
 - Scheduled
- 2024-UV3-016: 435 South Gibson Avenue
 - Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the storage and occupancy of more than two recreational vehicles for more than 15 days per year (maximum of two recreational vehicles may be parked outside per lot, may not be occupied for more than 15 days) within gravel parking areas (hardscaping required) and the location of a six-foot tall privacy fence within the front yard of Gibson Avenue and encroaching within the clear sight triangle of the driveway (limited to 3.5-foot tall, encroachment of clear sight triangles not permitted).
 - Scheduled
- 2024-ZON-036: 365 South Franklin Road
 - Rezoning of three acres from the D-2 district to the I-2 district to provide for light industrial uses including indoor storage of boats, trailers, and other recreational vehicles within a proposed 11,760-square foot storage building.
 - Approved
- 2024-VAR-006: 365 South Franklin Road
 - Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a caretaker or on-site employee within the existing single-family dwelling and a 15-foot south transitional yard for the storage building (50-foot south transitional yard required).
 - Approved

EXHIBITS



Legend

- ZoningApprovals
- ZoningLncu
- ZoningVariances
- Rezoning
- ZoningVacations
- ZoningPlats
- CCGIS.ThoroughfarePlan
- CCGIS.EASEMENT
- CCGIS.RIGHTOFWAY
- CCGIS.STREETS
- Built/Platted
- OPER_STATUS
- REMOVED
- VACATED
- VACATED/BUILT
- VACATED/LOCATOR
- CCGIS.DMDLandUsePlanBase
- CCGIS.lhpc
- CCGIS.ZONING
- PARCELSTATEPIN
- PARCELS
- PLATTEDSUBDIVISION
- CCGIS.Buildings



Exhibit 1:Area map of the surrounding area around 385 S Franklin Rd.



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division III
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

The proposed use is limited to parking area, which will not generate significant traffic, loud noises, pollution, or nuisances.
Vehicles will be moved out during business operations hours and returned to the Property at the end of business day.
Owner erected a privacy fence that resulted in a self-contained area that poses no aesthetic issues and assists with safety and security.
Additionally, Owner is willing to move back the existing fence in compliance with clear sight triangular area requirements.

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

No industrial or commercial operations will be conducted on the property; thus, the use of the property to park vehicles should not impact the values or the comprehensive plan of the adjacent area in any substantially adverse manner.
Zoning near the Subject Property is of residential, commercial, or quasi commercial use.
Petitioner's Variance of Use will not create more activity than that generated by the existing surrounding properties.

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

The Subject Property's location facilitates access to and from major thoroughfares.
This is of great benefit to Petitioner/Owner's business, because it allows for enhanced efficiency of its operation related to time savings and route planning. To a small business with small profit margins, these are of the utmost viability importance.

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

Petitioner/Owner's business is a small business with limited financial resources. It must have the ability to park its vehicles in a designated area. Requiring this business to forgo the use of its Property in the manner requested will negatively impact its chances to operate; thus, its very survival. This in turn will cause hardship to employees who depend on its business to earn their livelihood, and to the City's tax revenue from the business.

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

There will be no significant changes of traffic or noise by use of the Subject Property as a parking location; therefore, it does not substantially or materially interfere with the comprehensive plan.

Exhibit 2: Findings of Fact submitted by the petitioner.

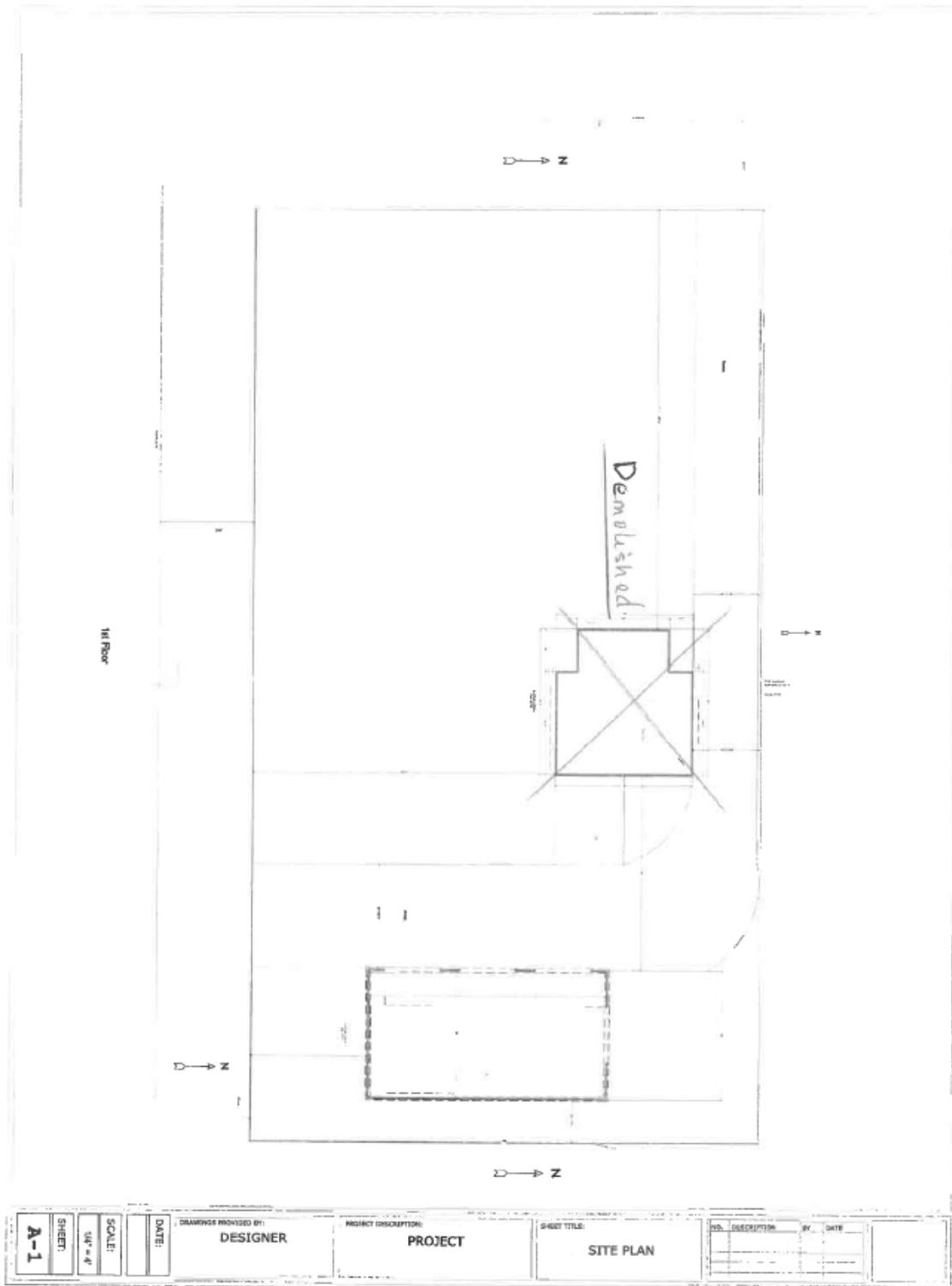


Exhibit 3: Submitted site plan.



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Division of Planning
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**VARIANCE OF USE PETITION:
PLAN OF OPERATION**

PETITIONER: We Care Tree Service, LLC
SUBJECT PROPERTY: 385 S. Franklin Rd, Indianapolis, IN 46219

We Care Tree Service, LLC ("Petitioner") is a small locally owned business that operates tree cutting services. Petitioner operates Monday through Saturday from 7am to 6pm. Petitioner employs between 3 to 7 people, subject to seasonal needs.

Petitioner will not conduct any industrial activities as it conducts its tree trimming operations at on-site locations as contracted with its customers. The Property's use will be limited to parking eight to ten (8-10) business vehicles and about six pieces of small equipment, such as stone grinders, wood chipper, and skid steers, primarily outside hours of business operation. Also, Owner will park a recreational vehicle, which is only sporadically used. No hazardous material or explosives will be stored at the Property.

Periods of peak activity should not exceed three (3) hours per day at the start and end of the business day when vehicles are dispatched to their working locations. From the Property, Petitioner will station its office manager, who is responsible for administrative duties. Similar to operations of a home office, the activities will not generate any sort of nuisance factors, such as unreasonable noises, light or pollution.

Exhibit 4: Plan of operation for We Care Tree Services, LLC.



Exhibit 5: The We Care Tree Services, LLC office on the property.



Exhibit 6: Vehicles parked on the property.



Exhibit 7: Open/green space on the subject property.



Exhibit 8: The entrance to the property off of Beechwood Avenue.



Exhibit 9: Looking east down Beechwood Avenue.



Exhibit 10: Looking west down Beechwood Avenue towards Franklin Road.



Exhibit 11: The industrial business across Franklin Road from the subject property.



Exhibit 12: Residential homes across Beechwood Avenue from the subject property.



Exhibit 13: The residential home behind (to the west) of the subject property.



Exhibit 14: Fence on one of the fronts of the subject property looking at Franklin Road.



BOARD OF ZONING APPEALS DIVISION III

February 18, 2025

Case Number: 2025-UV3-002

Property Address: 10453 East 10th Street (approximate address)

Location: Warren Township, Council District #20

Petitioner: Ghassan Rajabi

Current Zoning: D-1 / D-7 (FF)

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an open air 10-car vehicle sales operation (not permitted) with a gravel parking lot (hard surface required).

Current Land Use: Commercial

Staff Recommendations: Staff recommends denial of this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 18TH, 2025

- This petition was automatically continued by a registered neighborhood organization from the January 21, 2025 hearing to the February 18, 2025 hearing.

STAFF RECOMMENDATION

- Staff recommends **denial** of this petition

PETITION OVERVIEW

- This petition would provide for the operation of an open air 10-car vehicle sales operation (not permitted) with a gravel parking lot (hard surface required).
- The subject site is zoned D-1, except for a small sliver of the southern portion of the lot which is zoned D-7. The surrounding uses include multi-family residential to the east and south, agricultural and cemetery uses to the north, and to the west there is an undeveloped lot, Grassy Creek, as well as regional-commercial uses (Washington Square Mall).
- The site received variance approval (2008UV3022) to legally establish an automobile and repair shop in the existing garage, subject to commitments to remove an existing semi-trailer and to pave at least 20 feet of the driveway leading to 10th Street. Automobile repair is classified as a C-4 use and is generally considered less intense of a use than automobile sales due to a vast majority of operations



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occurring inside a permanent structure. Conversely, a fundamental feature of automobile sales is the storing and displaying of vehicles outside on the premises.

- Staff believes the request for a C-5 use at this location to be wholly inappropriate for numerous reasons. First, the Comprehensive Plan recommendation for this site is the site is Suburban Neighborhood, and the proposed use represents a further deviation from this recommendation. Second, the site is zoned for low-density residential and Staff does not find there to be any reason for needing the requested variance due to difficulties related to the site itself. Further, the surrounding land uses are wholly incompatible with an automobile sales operation; surrounding land uses are far less intense and there are no C-5 uses present in the immediate area. Additionally, and perhaps most concerning to Staff, requests such as these have a high likelihood of future expansion either by the current owner, or any future owners that may wish to expand operations.
- With regards to Variance of Development Standards for the gravel parking lot, Staff is not in favor of said variance due to the fact that gravel lots and driveways tend to add unnecessary damage to public streets, and are generally aesthetically unsightly compared to properly paved lots. Further Staff sees no practical difficulty or legitimate reason for needing said variance and believes that the petitioner should meet the applicable standards and provide proper pavement.
- To summarize, Staff finds the proposed use to be completely out of character for the area and inappropriate for the site due the zoning, the Comprehensive Plan, and the surrounding land uses. Staff has significant fears about future expansion of the C-5 use if this variance is approved. Lastly, Staff finds zero practical difficulty or reason for needing variances from the requirements set forth by the Ordinance, and does not find the submitted Findings of Fact meet the burden of proof for the request. For these reasons, Staff recommends denial of the petition in its entirety.

GENERAL INFORMATION

Existing Zoning	D-1 / D-7 (FF)	
Existing Land Use	Commercial	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-A	North: Agricultural Uses
South:	D-7	South: Multi-family residential
East:	C-4	East: Commercial
West:	C-4	West: Commercial
Thoroughfare Plan		
East 10 th Street	Secondary Arterial	64 -105 feet of right-of-way existing and 90 feet proposed
Context Area	Metro	
Floodway / Floodway Fringe	Yes, 100-year	
Overlay	No	



Wellfield Protection Area	No
Site Plan	11/22/24
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	11/22/24
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 Suburban Neighborhood living typology for this site.

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

2008UV3022, VARIANCE OF USE AND DEVELOPMENT STANDARDS of the Dwelling Districts Zoning Ordinance and the Sign Regulations to legally establish an automobile and motorcycle repair shop (not permitted), to legally establish the temporary use of a semi trailer as an office related to the automobile and motorcycle repair shop (not permitted) and to legally establish a 5.5-foot tall, 27.5-square foot freestanding sign located ten feet from the existing right-of-way of 10th Street (15-foot setback required), **approved**.

2008ZON067, requests a rezoning of 8.9304 acres, being in the D-1 (FF) and C-4 districts, to the C-4 (FF) classification to provide for community-regional commercial uses, **withdrawn**.

ZONING HISTORY – VICINITY

74-Z-203; 10555 East 10th Street (including easternmost portion of subject site and abutting sites to east and south), rezoning of 41 acres from D-1 to C-4 to provide for community-regional commercial development, **granted**.

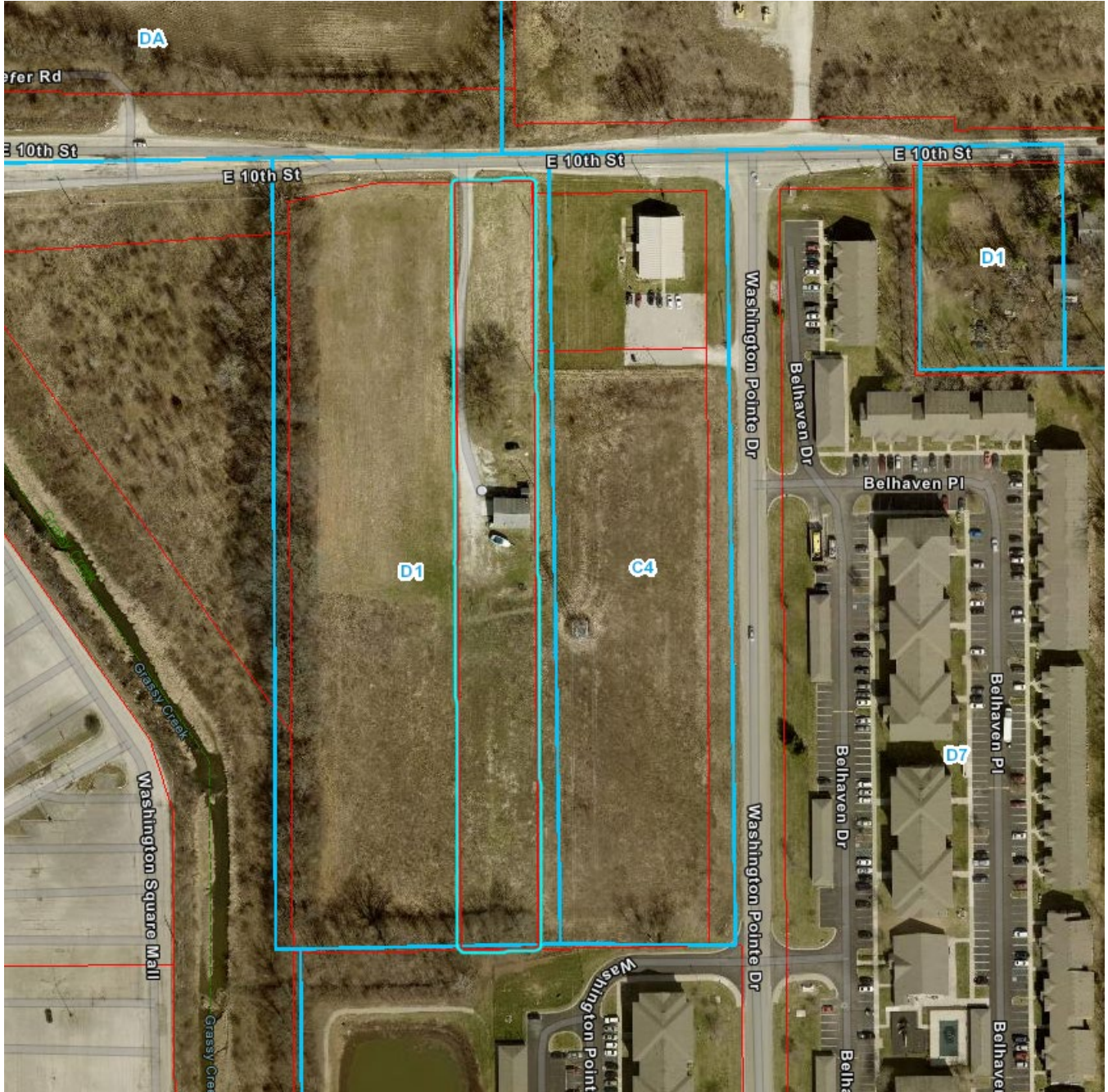
2004ZON062; 10601 East 10th Street (east and south of site), rezoning of 16.59 acres from C-4 (FF), D-1, and SU-10, to D-7 to provide for multi-family residential development, **granted**.

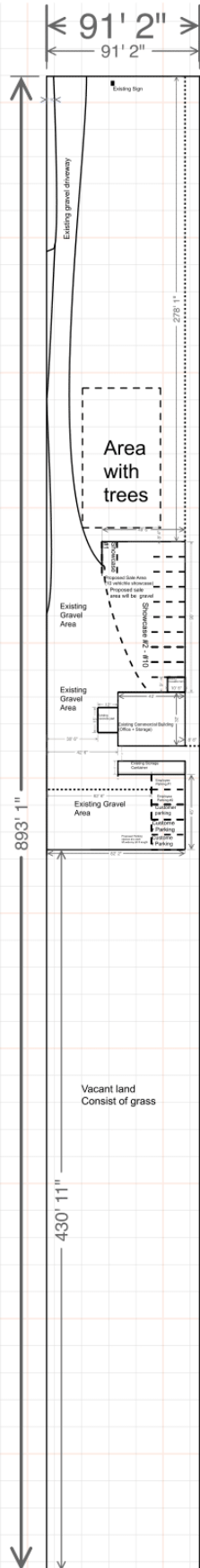
2000ZON044; 601 Washington Point Drive (east of site), rezoning of 11.48 acres from C-4 to C-2 to provide for commercial and multi-family residential development, **withdrawn**.

94-Z-143; 10602 East 10th Street (northeast of site), rezoning of 91.9 acres from D-2 and D-3 to SU-10 to provide a cemetery, mausoleum and related uses, **approved**.

68-Z-212; 10202 East Washington Street (west of site); rezoning of 136 acres to B-2 (now C0=-4) to provide for community-regional commercial development (Washington Square Mall), **approved**.


EXHIBITS





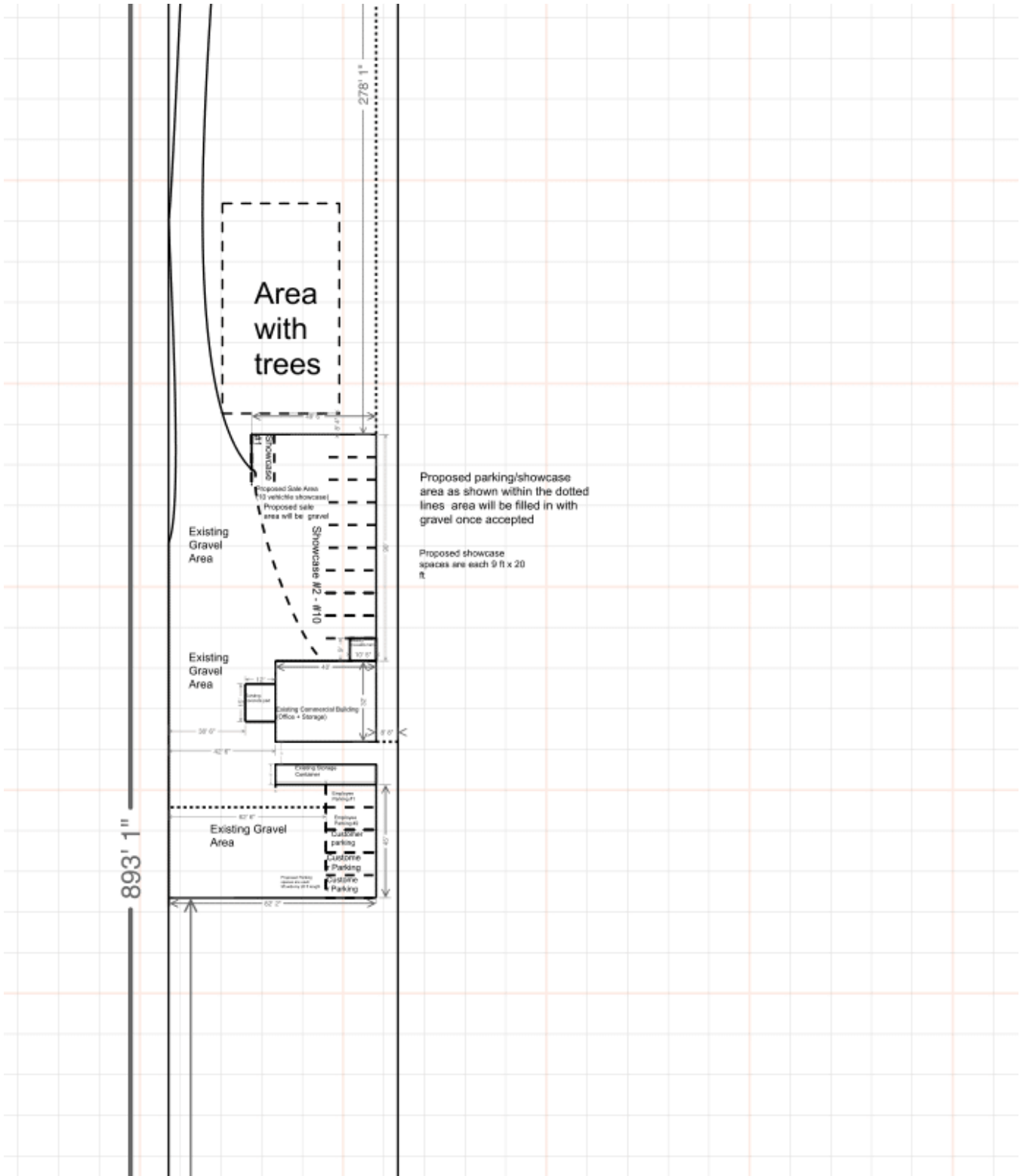
■ = 3' x 3'

10465 E 10th St.
 Parcel II 1.855 Acres
 Proposed Variance of use
 C5 dealership zoning



Proposed parking/showcase area as shown within the dotted lines. Area will be filled in with gravel once accepted

Proposed showcase spaces are each 9'11" x 20' ft





Department of Metropolitan Development
Division of Planning
Current Planning

Property: 10465 E 10th St. Indianapolis, Indiana 46239

Plan of Operation for Vehicle Dealership

1. Business Overview

- **Business Type:** Vehicle Dealership
- **Ownership:** The business will be owner-operated with no employees initially.
- **Primary Service:** Advertising and selling vehicles to customers.

2. Workforce

- **Owner-Operated:** No additional employees will be present at this time.
- **Work Hours:** The business will operate from **9 AM to 5 PM**, Monday to Friday.
- **Owner Responsibilities:** Managing daily operations, customer interactions, sales, and receiving deliveries during business hours.

3. Clients & Customers

- **Customer Base:** The primary customers are individuals shopping for vehicles.
- **Customer Access:** Customers are able to visit the property to view and purchase vehicles.
- **Parking:** Designated parking areas are available for customers on the dealership lot.

4. Safety & Security

- **Surveillance:** 24/7 security surveillance will be implemented to protect assets, customers, and personnel.
 - **Cameras:** Strategically placed security cameras will monitor key areas of the lot.
 - **Alarm Systems:** An alarm system will be active at all times to safeguard the property.
- **Security Focus:** Emphasis is placed on ensuring the safety of vehicles, customers, and the business premises.

5. Processes Conducted On-Site

- **Core Activity:** The dealership will focus on advertising, displaying, and selling vehicles.
- **Hours of Operation:** All business transactions, including receiving and selling vehicles, will be conducted within the regular business hours of 9 AM to 5 PM.
- **On-Site Work:** Operations will include customer interactions, sales transactions, and any vehicle preparations or maintenance required.

6. Shipping & Receiving

- **Receiving Deliveries:** Vehicle deliveries and other shipments will only take place during business hours (9 AM to 5 PM).



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- **Logistics:** Vehicles will be delivered via car carriers or similar means and will be unloaded and inspected during business hours.

7. Waste Management

- **Waste Types:** Any waste generated from normal business operations (e.g., packaging or materials from vehicle shipments) will be disposed of properly.
- **Hazardous Waste:** No hazardous waste is expected to be generated at this time.

This plan of operation outlines the key aspects of how the dealership will run, ensuring sa



Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division III
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

The petitioner will ensure that proposed dealership will comply with all public health and safety laws and regulations.
The proposed dealership and property would instead have a positive impact on the community providing sales and services to keep safe cars on the road.

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

The operation of the dealership will be presented in a professional manner keeping a aesthetic and clean look, to keep the area in high value.
The petitioner will ensure the dealership is conducted in a mindful way of our adjacent neighbors will not be disrupted or affected negatively in any way.
For example keeping landscape properly cut and visually aesthetically pleasing, as well as keeping disruptions to a minimum.

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

The current zoning restrictions do not allow for dealership sales, this creates a situatuon where a variation of use is needed in order to bring the property to its full potential.

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

it would prevent the petitioner from utilizing the property in a manner that aligns with its potential use.
The current zoning imposes restrictions that significantly limit the economic potential of the property, making it difficult for the petitioner to operate a viable business without the requested variance.

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

The proposed dealership is consistent with the broader goals of community development as outlined in the plan.
The petitioners intended use of the property supports local economic growth and enhances the availability of essential services, all while adhering to the principles and guidelines set forth in the comprehensive plan.

DECISION

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

Adopted this _____ day of _____, 20 ____













BOARD OF ZONING APPEALS DIVISION III

February 18, 2025

Case Number: 2025-DV3-001
Address: 8420 US 31 (approximate address)
Location: Perry Township, Council District #23
Zoning: C-5 (FW)
Petitioner: Skillman Realty LLC, by Joseph D. Calderon
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a pylon sign, being the third freestanding sign along US 31 (maximum two freestanding signs permitted).

Current Land Use: Automotive Dealership Integrated Center

Staff Recommendation: Staff recommends Denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was continued by the petitioner from the January 21, 2025, hearing to the February 18, 2025, hearing, due to the lack of a full Board.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ This 7.14-acre site is part of a larger 14.84-acre integrated center improved with two automobile dealerships, having different ownership names, but having the governing person and registered agent. The integrated center has frontage along US 31 and Stop 12 Road, and vehicular access from both streets.
- ◇ The purpose of the Sign Regulations is to eliminate potential hazards to motorists and pedestrians and encourage well-designed signs that are compatible with the surroundings, while eliminating excessive and confusing sign displays. Proliferation of signs causes those signs that are permitted and legal to become less effective and reduces their value. Additionally, the Sign Regulations preserve and improve the appearance of the City as a place in which to live and work.



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- ◇ The Sign Regulations allow one sign for any commercial development with less than 300 feet of public street frontage. For sites with at least 600 feet of frontage, two freestanding signs are permitted. Sites with at least 900 feet of frontage may utilize three freestanding signs. A 300-foot of separation is also required between signs.
- ◇ This site has a 796-foot frontage and is developed with two automobile sales dealerships. Therefore, one or two signs are permitted along the US 31 frontage and would adequately identify the site and comply with the provisions of the Sign Regulations. This requirement is designed to mitigate the proliferation of freestanding signs and the visual conflicts and negative aesthetics associated with multiple signs in close proximity to one another.
- ◇ This request would provide for the relocation of an existing third sign along this site's 796 feet of frontage along US 31. The denial of this request would not create a practical difficulty in the use of the property, as two signs would be allowed to be placed on the site by Ordinance.
- ◇ The US 31 corridor is heavily developed with retail commercial uses. As the area developed more recently than other commercial corridors in the county, the majority of these commercial developments have been in the form of integrated retail centers, rather than single site uses. This development pattern has limited the proliferation of free-standing signage in the corridor.
- ◇ Sign permits have been issued to provide for many different iterations of free-standing signage at this site and integrated center. While the accompanying documents in the permit files are difficult to read, it is staff's opinion that several of these permits should not have been issued without statements or conditions requiring the removal of previously permitted signage.
- ◇ In 2010, a variance to allow for an existing third sign at this location was denied, yet the sign remained. Aerial photos indicate the sign arrived on site sometime between 1990 and 1995, which would not allow for it to be considered legally non-conforming as the Ordinance requires for it to have been on site since 1969. The sign ordinance at that time would have required the 300-foot separation from the existing sign approximately 80 feet to the south, although there is no variance on record for that lack of separation. Therefore, the basis for approving the sign cannot be because it is a legal non-conforming use. Staff has based its recommendation on the current Ordinance requirements.



- ◇ Staff also determined that the existing signage on the site does not conform with the drawings and applications filed with prior permits. For example, the southernmost sign on the site is located near the intersection and contains an electric variable message component (EVMS) less than 125 feet from a signalized intersection and less than 600 feet from a protected district. The sign permit for that sign indicated it would be placed at the US 31 entrance to the site, approximately 400 feet to the north of the actual sign location, with another sign to be located at this site. No granted variance could be found for the EVMS sign’s proximity to the signalized intersection or the protected district to the south. The approval of this variance would not address these non-conformities.
- ◇ The practical difficulty noted in the findings of fact for the requested third freestanding sign is that the dealership would be out of compliance with the franchise requirement for signs. Therefore, the variance request if granted, is to allow for the dealership to be out of compliance with the Zoning Ordinance, instead of out of compliance with the franchise requirement, which is a private contractual agreement, and could also be easily remedied by the relocation of the southernmost sign to the Stop 12 Road frontage.

GENERAL INFORMATION

Existing Zoning	C-5		
Existing Land Use	Automobile Dealership		
Comprehensive Plan	Heavy Commercial uses		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-5	Car Wash / Automobile Dealerships
	South:	D-P/SU-1	Multi-Family dwellings / Religious Use
	East:	C-5	Automobile Dealerships
	West:	C-5	Automobile repair / bodywork
Thoroughfare Plan			
	US 31 South	Primary Arterial	153-foot existing and proposed right-of-way.
	East Stop 12 Road	Local Street	55-foot existing and proposed right-of-way
Context Area	Metro area		
Floodway / Floodway Fringe	Yes		
Overlay	N/A		
Wellfield Protection Area	No		
Site Plan	November 4, 2024		
Sign Elevations	November 4, 2024		
Landscape Plan	N/A		
Findings of Fact	November 4, 2024		



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Heavy Commercial uses for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Heavy Commercial typology which provides for consumer oriented general commercial, and office uses that tend to exhibit characteristics that are not compatible with less intensive land uses. They are often dominated by exterior operations, sales, and display of goods. Examples include vehicle sales and commercial lumber yards.

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

2024-UV3-003A; 8540 US 31 (south of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish an existing pole sign (not permitted), and include a 37.28-square-foot digital display component (prohibited), **granted**.

2024-UV3-003B; 8540 US 31 (south of site), requested a variance of use to legally establish an existing pole and monument sign, **withdrawn**.

2019-DV1-026; 8320 US 31 South (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an electronic variable message sign within 250 feet of the nearest protected district, **granted, subject to commitments**.



2014-DV3-017; 8455 US 31 South (southeast of site), requested a variance of development standards of the Sign Regulations to provide for a 30-foot tall, 100-square foot freestanding sign, being approximately 200 feet from a freestanding sign to the north and being the fifth sign within an integrated center, along the approximately 1,300-foot frontage of US 31 South and to legally establish an approximately five-foot tall, 11-square foot directional sign, interior to the site, facing US 31 South, **granted**.

2014-DV2-004A; 8202 US 31 South (north of site), requested a variance of development standards of the Sign Regulations to provide for two additional non-illuminated freestanding signs, for a total of three signs along the frontage of Shelby Street; with a 6.33-foot tall, 42-square foot freestanding sign and a five-foot tall, 18-square foot freestanding sign being located approximately 100 feet and 190 feet south of the existing freestanding sign; with the 6.33-foot tall, 42-square foot freestanding sign encroaching approximately 18 feet into the existing right-of-way of Shelby Street; and with the five-foot tall 18-square foot freestanding sign encroaching approximately two feet into the right-of-way of Shelby Street, **denied**.

2014-DV2-004B; 8202 US 31 South (north of site), requested a variance of development standards of the Sign Regulations to provide for an approximately four-foot tall, 18-square foot non-illuminated directional entrance sign, **granted**.

2012-DV2-005; 8202 US 31 South (north of site), requested a variance of development standards of the Sign Regulations to provide for an approximately 72-square foot electronic variable message wall sign on the north façade of a building within an integrated center and within 175 feet of a protected district, **granted**.

2010-DV1-017; 8420 US 31 (subject site); requested a variance of development standards of the Sign Regulations to provide for a 25-foot tall, 93-square foot freestanding sign within 76 feet of an existing sign, being the third sign along an approximately 705-foot frontage, **denied**.

2010-DV1-017; 8420 US 31 South (subject site), requested a variance of development standards of the Sign Regulations to provide for a 25-foot tall, 93-square foot freestanding sign within 76 feet of an existing sign, being the third sign along an approximately 705-foot frontage, **denied**.

2008-DV1-051; 8215 US 31 South (north of site), requested a variance of development standards of the Sign Regulations, to provide for 5.833-foot tall, nine-square foot freestanding sign with a five-foot front setback from US 31 South, **granted**.

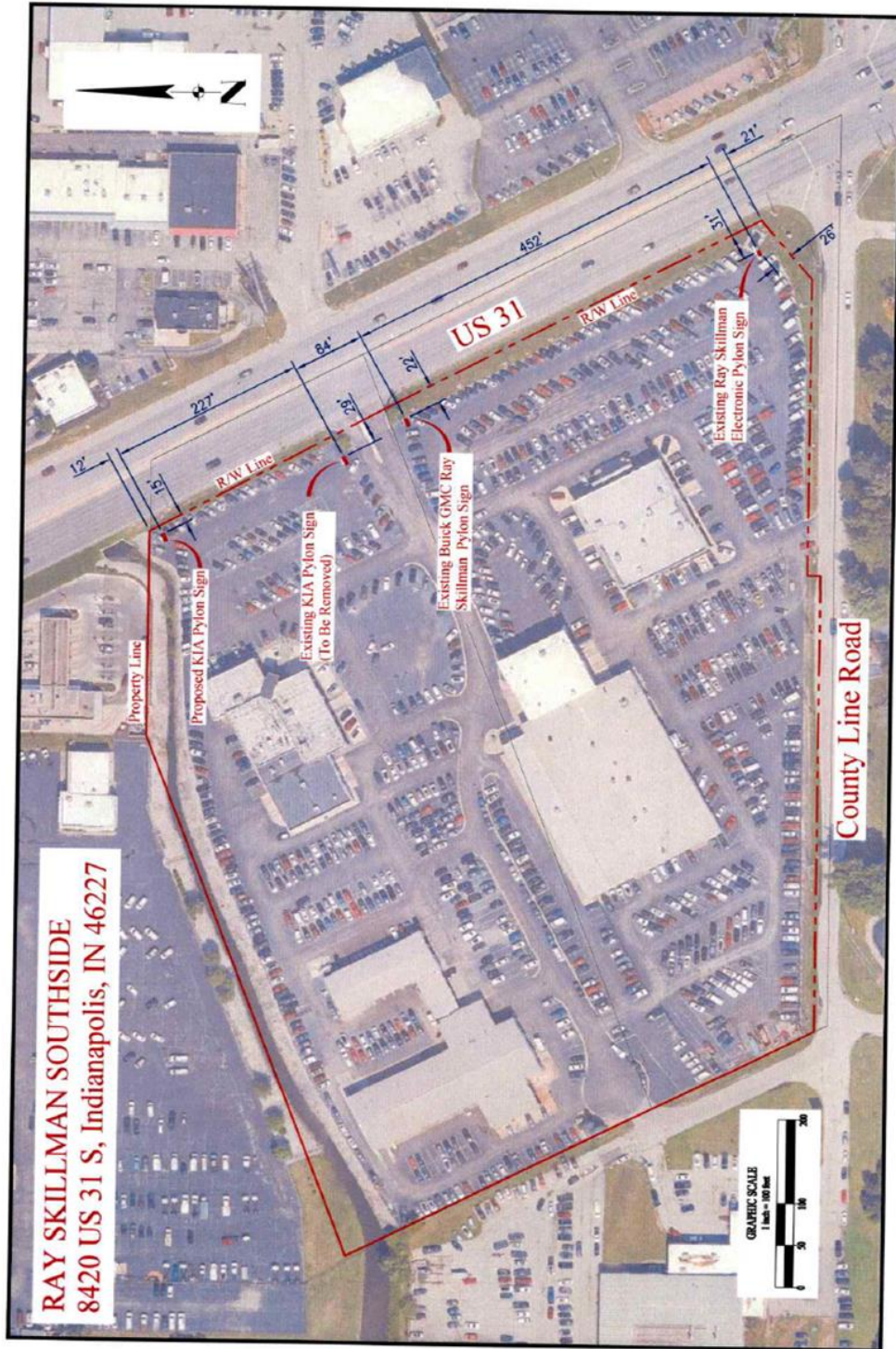
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EXHIBITS

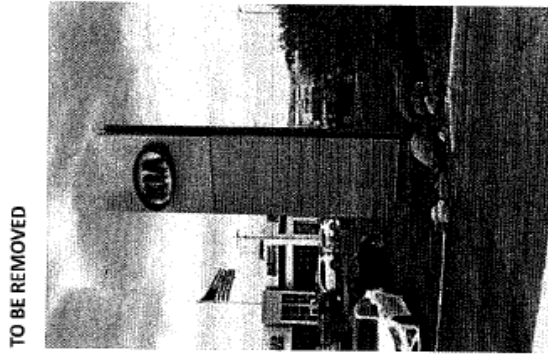
Location Map Subject Site



Site Plan



Sign Elevation

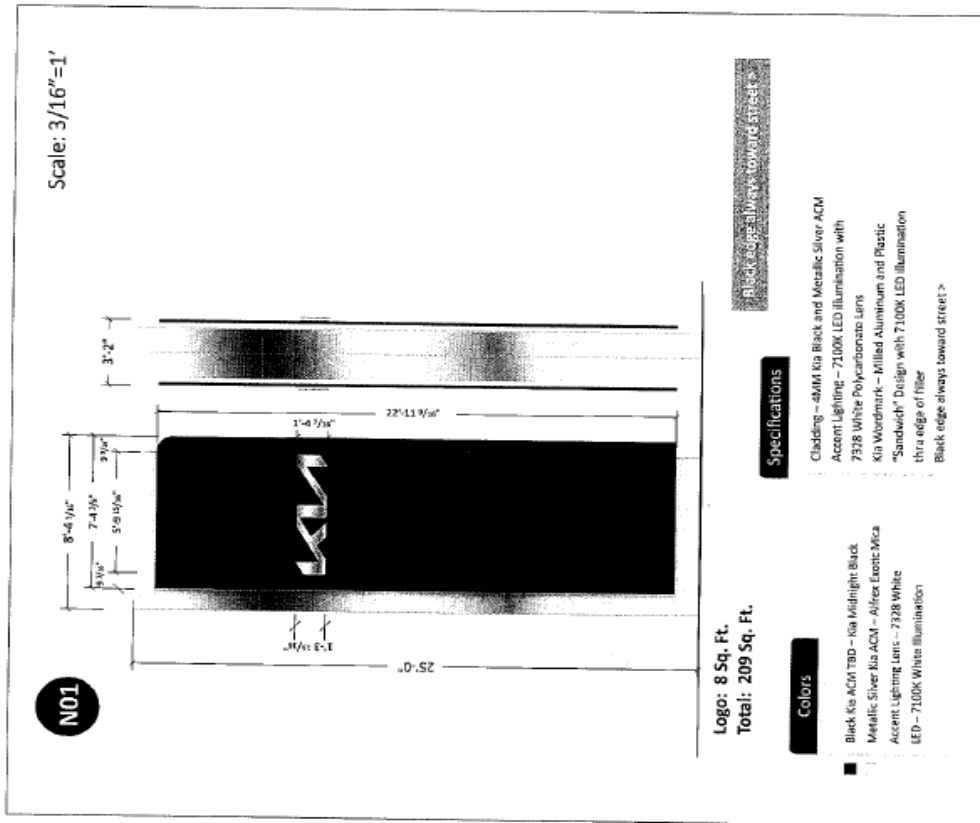


TO BE REMOVED

NOTE: Pattison ID to remove & scrap KIA emblems only.
Dealer to remove & scrap existing non-program pylon.

NOTE: Will not reuse existing foundation, a new foundation will be required. Dealer to provide electrical prior to installation.

KIA NEW LOGO MONOLITH KUSPS25





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:

the sign will properly identify the dealership on the Subject Property without interfering with vehicular or pedestrian traffic.

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 adjoining properties are commercial properties with freestanding signs identifying their respective businesses.

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

there are two separate parcels with almost 800 feet of frontage and to deny the variance would put the dealership on the Subject Property out of compliance with its franchise requirement for signs.

Photographs



Subject site frontage showing all three existing signs, looking northwest.



Subject site frontage showing the KIA sign to be relocated further north, looking west.



Subject site frontage showing existing pole sign with EVMS component, not specific to any franchise brand.



Subject site integrated center frontage on Stop 12 Road without any signage.



Adjacent commercial use signage to the north.



Adjacent commercial use signage to the east, looking north.

BOARD OF ZONING APPEALS DIVISION III **February 18, 2025**

Case Number: 2025-DV3-003
Address: 1553 Harlan Street (approximate address)
Location: Center Township, Council District #19
Zoning: D-5
Petitioner: Margarita Velazquez Garcia, by Arnoldo Gonzalez Vazquez
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached covered porch with a zero-foot north side yard setback (five-feet required).

Current Land Use: Single-family dwelling

Staff Recommendation: Staff recommends denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The development standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks, are intended to provide for adequate separation and ventilation between structures and use areas as well as provide for a continuous pattern of development through the block.
- ◇ The request would provide for an attached covered porch with a zero-foot north side yard setback, where a five-foot setback is required.
- ◇ During the Staff site visit, it was observed that the attached porch was being used as a carport for personal vehicles, allowing the vehicles to park within the side yard setback. In addition, Staff observed two (2) commercial food truck vehicles parked on site to the rear of the dwelling, as indicated in Staff photos #6 and #7. Aerial photos indicate the same or similar sized commercial vehicles parked on site in 2019, 2020, 2021, 2022, 2023, and 2024.



- ◇ The storage or parking of commercial food truck vehicles is not permitted in residential or dwelling districts, including the subject site zoned D-5. Therefore, they should be removed from the site as they are non-compliant with zoning. By removing the commercial vehicles from the site, the personal vehicles that were observed parking in the side setback, under the covered porch / carport, would have sufficient room to park to the rear of the dwelling, thereby optimizing the use of the available space without compromising safety or functionality, or negatively impacting adjoining property owners.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this variance. The subject site has no natural or manmade physical obstacles that would prohibit compliance with the required setback as the proposed covered porch could be relocated to the rear of the dwelling to meet the required setback. Any practical difficulty related to the requested reduced setback would be self-imposed by the need to have additional parking area for non-compliant commercial vehicles.
- ◇ The request of the reduced setback for the purpose of increasing usable area of the property would be a self-imposed hardship and would negatively impact adjacent property owners. Adjacent properties have demonstrated their ability to be compliant with the Zoning Ordinance and meet the required side setbacks.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Recommends Traditional Neighborhood uses	
Surrounding Context	Zoning	Surrounding Context
	North:	Single-family dwelling
	South:	Single-Family dwelling
	East:	Single-Family dwelling
	West:	Single-Family dwelling
Thoroughfare Plan		
Harlan Street	Local Street	50-foot existing and proposed right-of-way.
Context Area	Compact area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	N/A	
Site Plan	December 27, 2024	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	December 27, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Traditional Neighborhood uses for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology that includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

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.

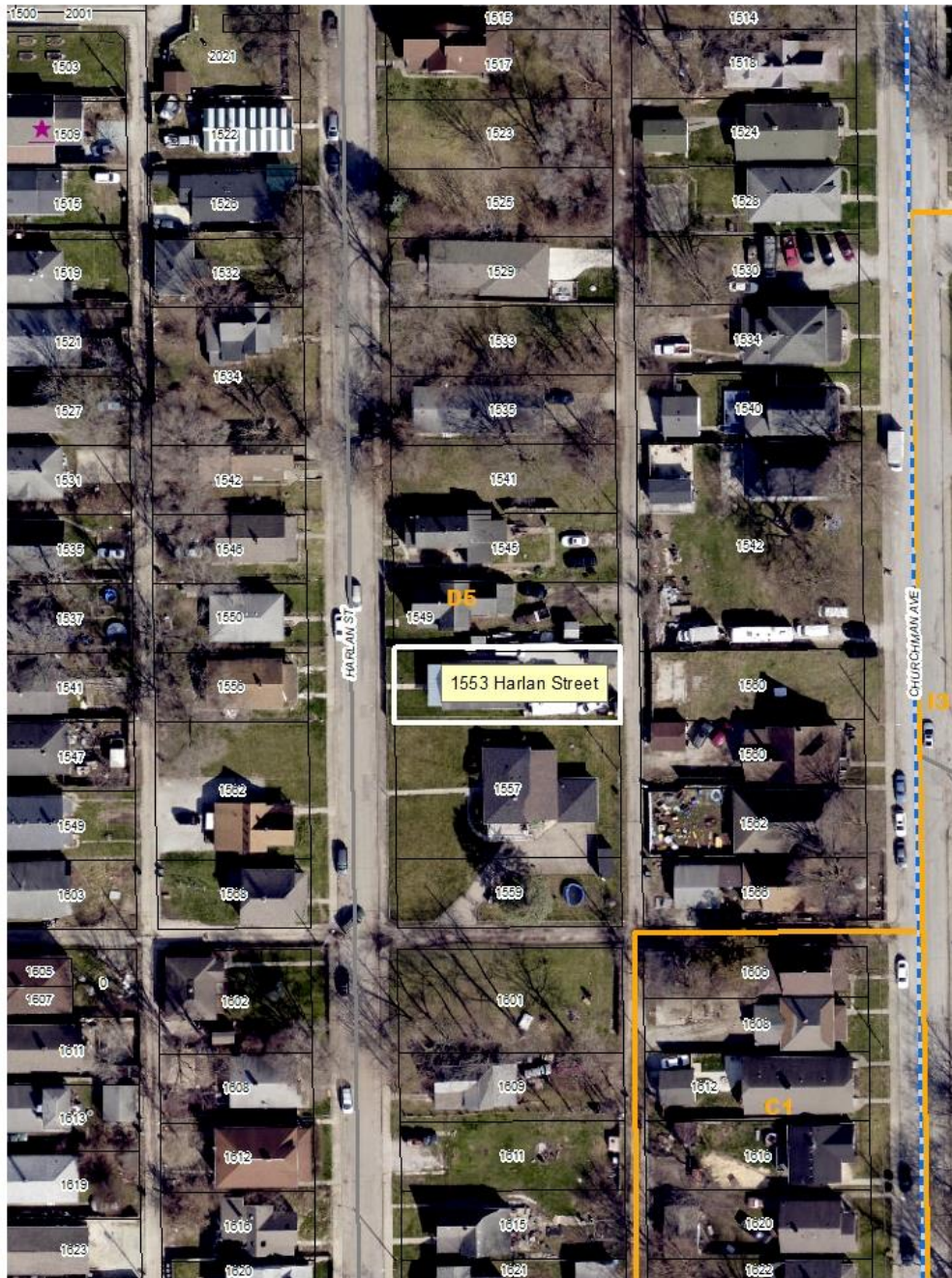
ZONING HISTORY

None.

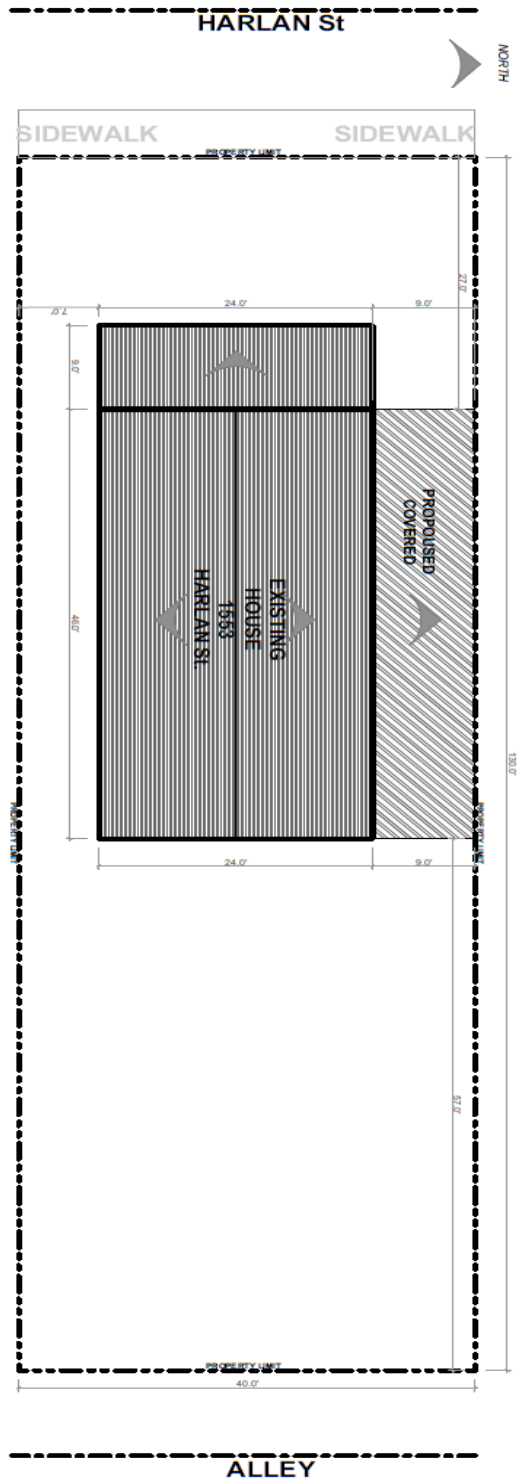
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EXHIBITS

Location Map



Site Plan





Findings of Fact

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

The proposed porch ensures there is still adequate space for emergency access, fire protection and other safety measures.
The change should not significantly detract from the overall appearance or character of the neighborhood.
The modification should not interfere with utility lines, drainage systems, or other critical 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

The porch built should maintain or enhance the aesthetic quality of the surrounding area.
The setback change should not infringe upon the privacy of neighboring properties.
The modification should not impede access to adjacent properties or hinder the ability of neighboring landowners to enjoy and utilize their properties effectively.

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

Adjusting setback requirements enables more efficient use of land and contribute to economic growth and revitalization efforts in the community.
A setback change optimizes the use of the available space without compromising safety or functionality

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

Granting the setback variance ensures equitable treatment and allow the property owner to achieve development outcomes consistent with prevailing standards and practices in the community.
Setback requirements imposes financial burdens on property owners by reducing the usable area of the property and limiting potential development opportunities.
This negatively impacts property values and investment returns, leading to economic hardship for the property owner.

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

The construction of a porch promotes sustainable development, enhancing livability, and fostering economic growth.
This setback involve a minor deviation from standard regulations and does not undermine the broader principles or vision outlined in the comprehensive plan.

Photographs



Photo 1- Subject property looking east.



Photo 2- Subject property attached covered porch with zero-foot north side yard setback, looking east.



Photo 3- Subject property attached covered porch with zero-foot north side yard setback, looking west.



Photo 4- Subject property attached covered porch with personal vehicle parking, looking west.



Photo 5- Two (2) commercial food trucks parked behind dwelling on subject site, looking west.



Photo 6- Two (2) commercial food trucks parked behind dwelling on subject site, looking west.



Photo 7- Adjacent property to the north with zoning compliant setbacks, looking east.



Photo 8- Adjacent property to the north with zoning compliant setbacks, looking east.



BOARD OF ZONING APPEALS DIVISION III

February 18th, 2025

Case Number: 2025-DV3-004
Property Address: 5930 East 82nd Street (Approximate Address)
Location: Lawrence Township, Council District #4
Petitioner: GMX Real Estate Group LLC, by Joseph D. Calderon
Current Zoning: C-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with two stacking spaces within the front yard of East 82nd Street (not permitted), 21 parking spaces (maximum nine permitted) and a monument sign being the ninth freestanding sign along East 82nd Street (maximum two permitted) and within 185 feet of a freestanding sign to the west and 104 feet to the east (minimum 300 feet of separation required).

Current Land Use: Commercial

Staff

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

Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

This is the first public hearing for this variance petition.

STAFF RECOMMENDATION

Staff recommends denial of this variance petition.

PETITION OVERVIEW

- This variance petition is requesting five items: 1) For two staking spaces within the front yard of East 82nd Street, 2) For the property to have 21 parking spaces, 3) For a monument sign to be the ninth freestanding sign along East 82nd Street, 4) For the monument sign to be within 185 feet to the west of another freestanding sign and 5) For the monument sign to be within 104 feet to the east of another freestanding sign.
- This property is 1.046 acres in a C-4 zoning district.
- There are plans to construct a Dutch Bros coffee shop on this property.
- This parcel was once conjoined with the parcel to the east (Krispy Kreme's current location), but in 2020, it was split into two parcels through a plat petition.

- In 2021, the owners of the two parcels established a reciprocal easement agreement, stating that the northern portion of the subject site's property would be non-curbed parking and shared with the Krispy Kreme located to the east.
- Stacking spaces permits customers to receive services or obtain goods in or on a motor vehicle. For a one-service unit eating establishment or food preparation location, such as Dutch Bro's, in a metro context area, two spaces are required to be at the exit of the service unit.
- These stacking spaces are not permitted in the front yard along the right-of-way, which exceeds 30 feet in width. East 82nd Street is roughly 145 feet in width.
- The proposed development on the subject site has 21 parking spaces: two (2) stacking spaces in the south, nine (9) spaces beside the service unit (including two ADA-compliant spaces), and ten (10) in the north area of the property.
- For a food preparation establishment, the maximum number of parking spaces is determined by calculating one (1) space per 100 sqft of the total floor area square footage. The proposed Dutch Bro's building is planned to be 950 sqft in size, meaning that with the current ordinance standards, the property can have a maximum of nine (9) off-street parking spaces.
- We are aware that ten (10) of these spaces are to be shared with the adjacent property, two (2) are for the stacking spaces, and two (2) for ADA compliance. However, this still leaves seven spaces that are not permitted nor required to have on the property. These spaces are unnecessary because Dutch Bro's is primarily a drive-thru business, and the shared parking area to the north will provide parking locations for those who do take advantage of the outdoor seating area.
- Employees could be the primary purpose of these seven (7) spaces, but it must be kept in mind that this property shares a space with a mall with a large amount of parking and/or the ten (10) that are planned to be shared with Krispy Kreme can be used since the business already has a large amount of parking on their property due to their larger size.
- If this variance is approved, the Dutch Bro's monument sign will be the ninth (9th) freestanding sign along East 82nd Street. This is an unnecessary distraction for drivers going in both directions, as signs could easily be condensed into one or added to the Castleton Square signage to represent all surrounding businesses.
- Once complete, the Dutch Bros will also have wall signs to show drivers the location of the business. With its frontage towards East 82nd and the area's nature, people can still identify its location quickly without another monument sign.
- The ordinance requires a minimum of 300 feet of separation between freestanding signs. The proposed location for the Dutch Bro's monument sign has a Longhorn Steakhouse pylon sign 185 feet to the west, and the Krispy Kreme monument sign 104 feet to the east.
- The Dutch Bro's sign can either be condensed with one of the adjacent signs of businesses like Krispy Kreme, which will share the parking space or moved to the Castleton Square signage. Doing so would decrease the amount of crowding for signage that is already existing in this area.
- Staff recommends **denial** of this variance petition. This area is small and has multiple commercial businesses competing for drivers' attention. Dutch Bro's will be a great addition to this area, but adding more parking and signage would be unnecessary when other options could provide both the wanted needs of this business and decrease the unneeded distraction of cluttering drivers' views.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Vacant	
Comprehensive Plan	Regional Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Regional Commercial
	South:	South: Community Commercial
	East:	East: Regional Commercial
	West:	West: Regional Commercial
Thoroughfare Plan		
82 nd Street	Primary Arterial	145 feet of right-of-way existing and 134 feet proposed.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	Yes	
Site Plan	1/23/2025	
Site Plan (Amended)	N/A	
Elevations	1/23/2025	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/23/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Regional Commercial typology provides for general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers (pg 20).

Red Line / Blue Line / Purple Line TOD Strategic Plan



Department of Metropolitan Development
Division of Planning
Current Planning

- 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

- 2020-PLT-103: 6022 East 82nd Street
 - Approval of a Subdivision Plat to be known as 6022 East 82nd Street Subdivision, dividing 1.759 acres into two lots.
 - Approved
- 2021-DV3-025: 6022 East 82nd Street
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall, 71-square foot monument sign within 289 feet of an existing sign to the west and 172 feet of an existing sign to the east, being the eighth sign along the 82nd Street frontage (300-foot separation required, maximum sign area of 300 square feet per site and maximum two freestanding signs permitted).
 - Approved

ZONING HISTORY – SURROUNDING AREA

- 2000-UV3-057: 6070 East 82nd Street
 - Auto glass replacement shop.
 - AP
- 2001-DV1-040: 6161 East 82nd Street
 - 58.5 sqft advertising sign.
 - D
- 2001-ZON-031: 6081 East 82nd Street
 - 122.13 acres from C-2, C-7 & I2S to CS office-commercial industrial business park with an emphasis on office, light warehousing and related commercial uses.
 - WD
- 2003-ZON-099: 5920 Castleway W Drive
 - To be used for adult/secondary educational purposes only.
 - AP
- 2005-DV2-053: 6110 East 82nd Street
 - Provide for a forty-foot tall, 153.75-square foot pole sign located 196.1 feet from an existing freestanding sign within an integrated center (minimum 300-foot separation required between freestanding signs in an integrated center) in C-4.
 - AP
- 2007-DV3-030: 6020 East 82nd Street
 - Variance of Development Standards of the Sign Regulations provide for the construction of a 56.75-foot tall, 635.82-square foot pole sign (maximum 40-foot height permitted), with a 368 square foot electronic variable message sign component or 57.8 percent of the total sign area (maximum 254-square feet or 40 percent of the total sign area permitted), being within fifteen feet of a signalized traffic intersection (minimum 125-foot separation required).
 - AP

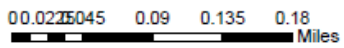
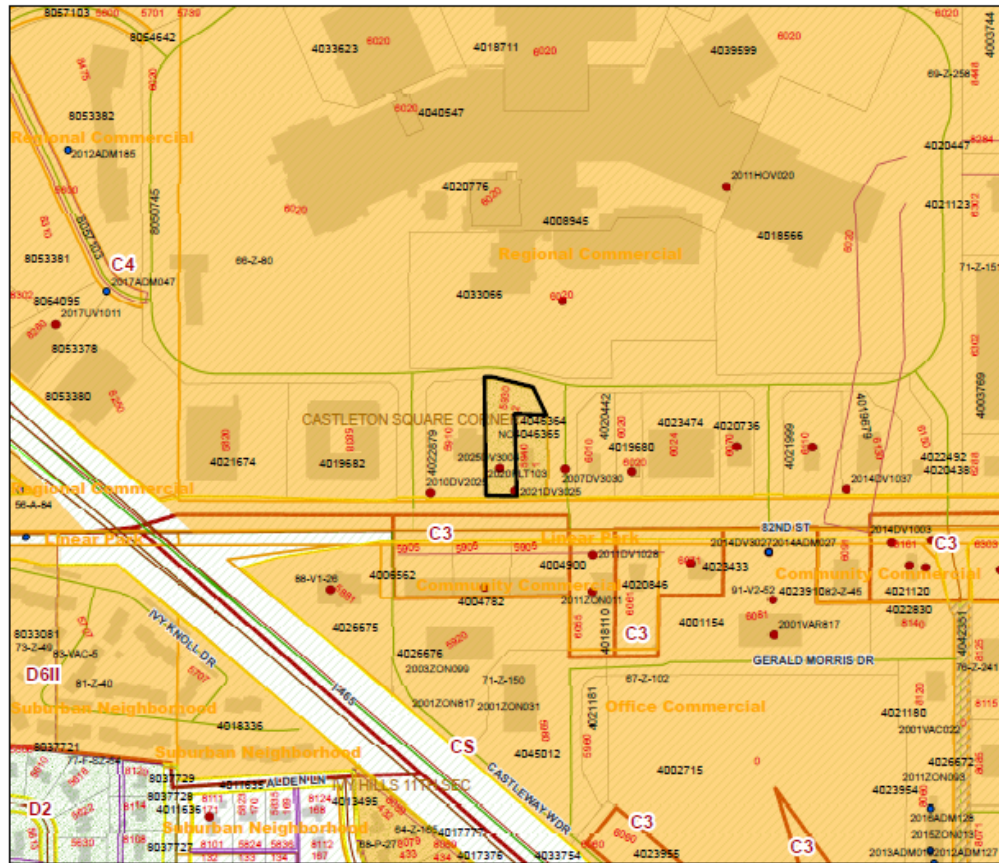
- 2007-DV3-054: 6020 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 34-foot tall, 228.67-square foot pole sign with an approximately 740-foot front setback from East 82nd Street, resulting in a total sign area of 1,558.67 square feet within an integrated center (maximum 900-square feet permitted).
 - AP
- 2008-HOV-004: 6055 East 82nd Street
 - Outdoor seating variance.
 - WD
- 2010-DV2-025: 5910 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 22-foot tall, 148.5-square foot free-standing sign, with a 11.5-foot setback from 82nd Street (15-foot front setback required) and an 11.17-foot setback from Castleway Drive
 - Approved
- 2011-DV1-028: 6055 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a freestanding sign 133 feet from a freestanding sign (600 feet of separation required).
 - Approved
- 2011-ZON-011: 6055 East 82nd Street
 - Rezoning of 1.52 acres, from the C-3 District, to the C-4 classification to provide for commercial uses.
 - Approved
- 2011-ZON-093: 8060 Knue Road
 - Rezoning of 4.19 acres, from the C-S District, to the C-S classification, with a modification of Commitment Two of 2001-ZON-817 (Instrument # 2001-0152908) to provide for hospital uses, including acute care services.
 - Approved
- 2012-HOV-020: 595 East 82nd Street
 - Variance of Development Standards of the Commercial Zoning Ordinance to provide for a 486-square foot outdoor seating area (not permitted).
 - Approved
- 2014-DV1-003: 6161 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a six-foot tall (ground signs can not exceed four feet in height, minimum clearance of nine feet required), off-site business park advertising sign located in the right-of-way of 86th Street (signs not permitted within the right-of-way, 10-foot setback from proposed right-of-way required), approximately 215 feet from an existing advertising sign to the west (1,000 feet radial separation required).
 - Approved
- 2014-DV1-037: 6130 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 40-foot tall, 150-square foot pylon sign within approximately 195 feet of an existing freestanding sign to the west (minimum 300 feet of separation required), with an 11.25-foot front setback (minimum 15-foot setback required).



Department of Metropolitan Development
Division of Planning
Current Planning

- Approved
- 2014-DV2-046: 6161 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 25-foot tall, approximately 150-square foot freestanding sign, exceeding the maximum integrated center sign area, being the ninth sign along this approximately 2300-foot frontage, within 105 feet of an existing freestanding sign (maximum 900 square feet of sign area permitted, maximum seven signs permitted, minimum 300 feet of separation).
 - Approved
- 2014-DV3-027: 6081 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for two signs within two feet of each other (300 feet of separation required).
 - Approved
- 2022-DV3-048: 6303 East 82nd Street
 - (Amended) Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster within the front yard of Knue Road (not permitted).
 - Approved
- 2024-DV3-002: 6161 East 82nd Street
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).
 - Approved

EXHIBITS



Legend

- ZoningApprovals
- ZoningLncu
- ZoningVariances
- Recoloring
- Zoning/Vacations
- ZoningPlats
- CCGIS.ThoroughfarePlan
- CCGIS.EASEMENT
- CCGIS.RIGHTOFWAY
- CCGIS.STREETS
- Built/Platted
- OPER_STATUS
- REMOVED
- VACATED
- VACATED/BUILT
- VACATED/LOCATOR
- CCGIS.DMDLandUsePlanBase
- CCGIS.lhpc
- CCGIS.ZONING
- PARCELSTATEPIN
- PARCELS
- PLATTEDSUBDIVISION
- CCGIS.Buildings



Exhibit 1: Area map of surrounding context around 5930 East 82nd Street.



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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

the two stacking spaces at the end of the pick up window would meet applicable front setbacks and will rarely be used, and the proposed sign meets the required front setback and will not be located in any clear sight triangle.

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:

neither the two stacking spaces in front of the building, nor the proposed sign will interfere with access or visibility to or from any adjacent property.

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

the shape of the property being narrow but deep, dictates the drive through stacking, resulting in the spaces located of the pick up window being located in the front yard. The monument sign proposed is one sign on an independently owned lot and has one user.

Exhibit 2: The submitted Findings of Fact.

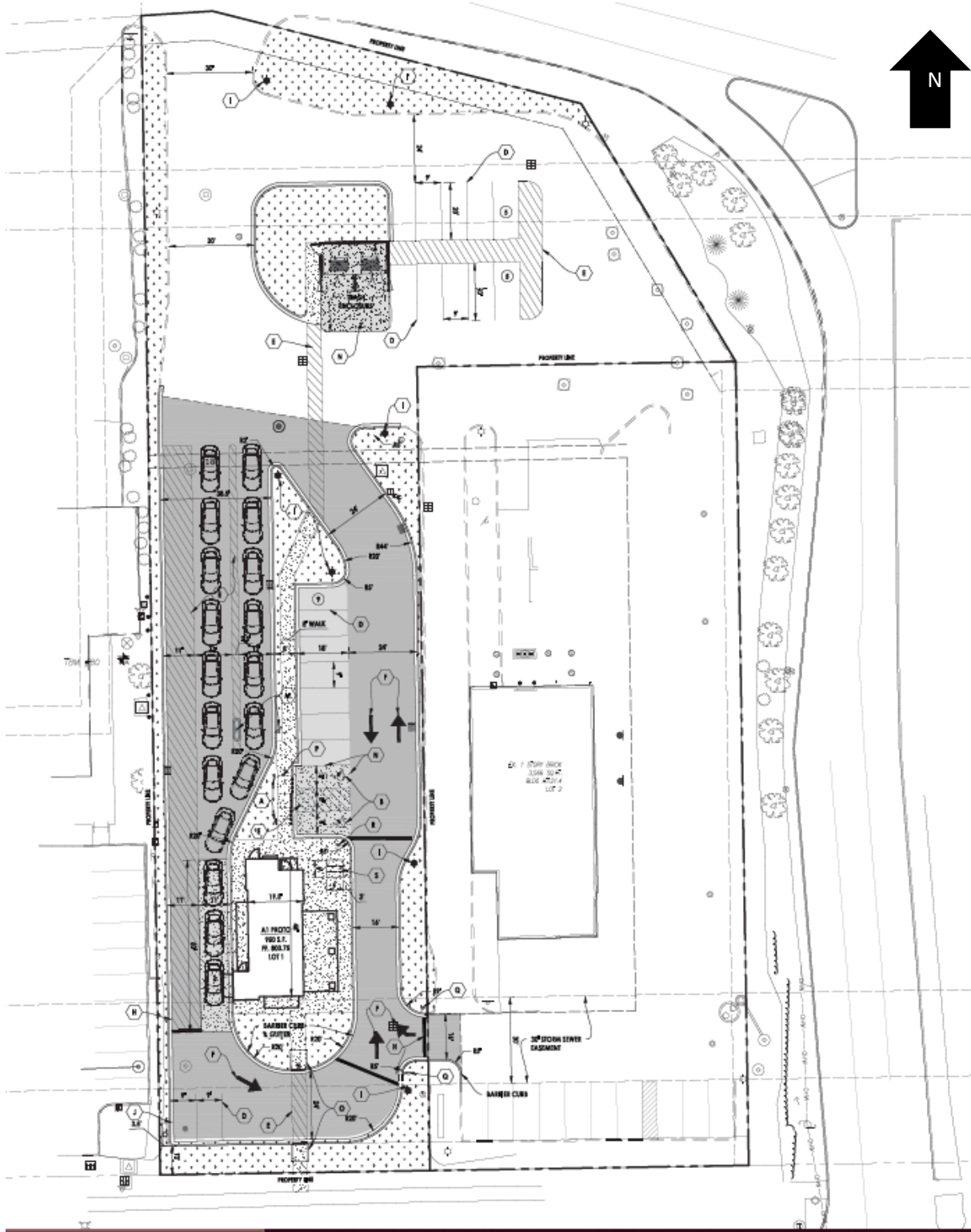


Exhibit 3: Proposed site plan.

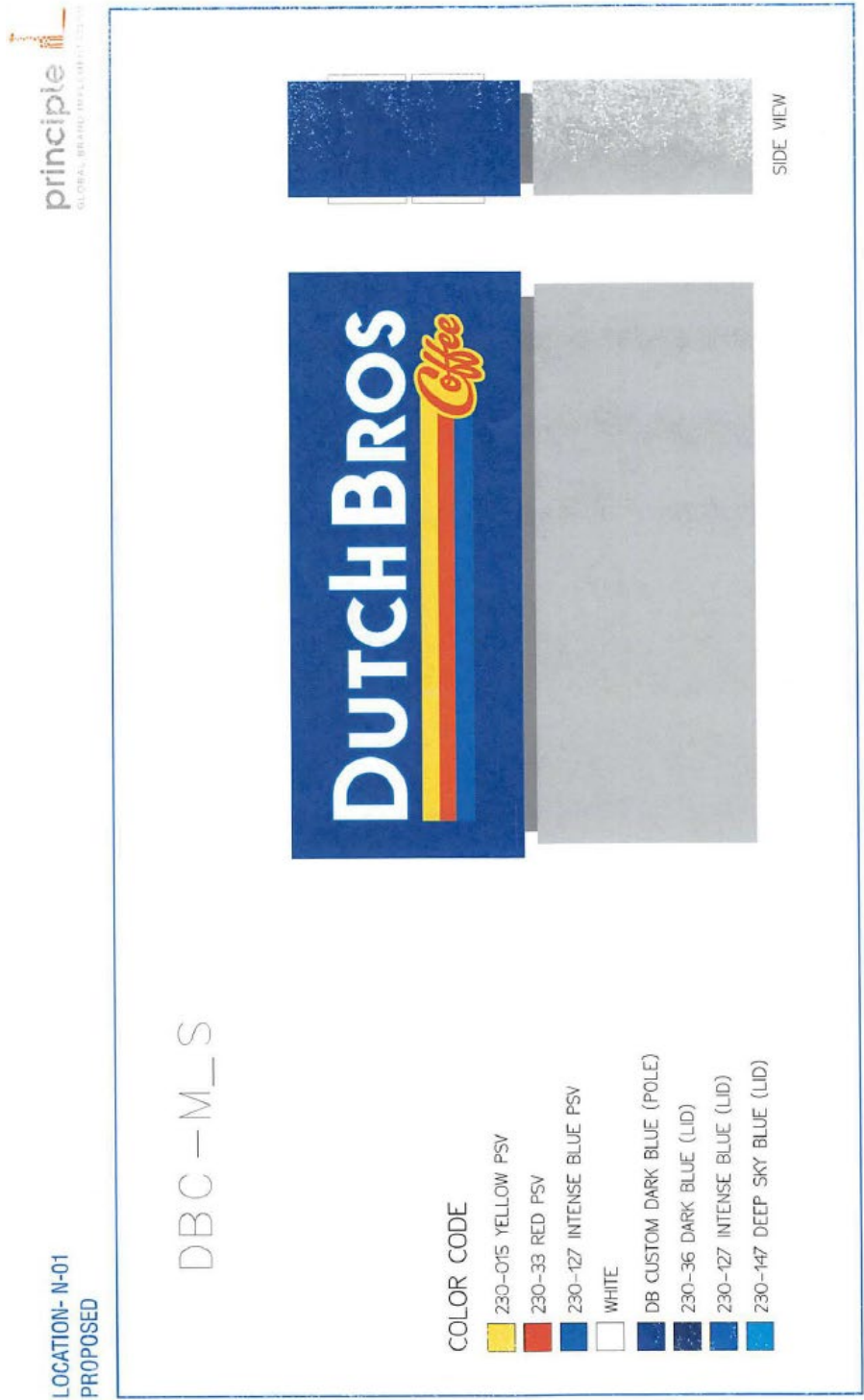
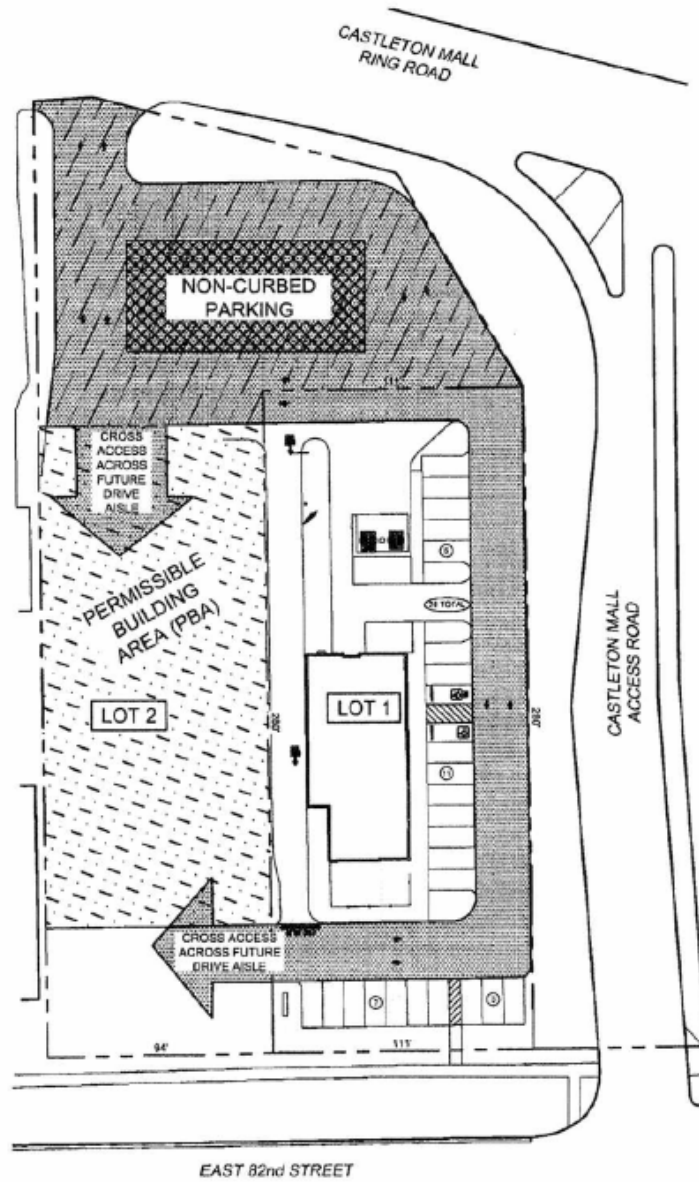


Exhibit 4: Proposed sign.



-  CROSS ACCESS
-  PERMISSIBLE BUILDING AREA
-  PROTECTED TRUCK DELIVERY AREA
-  NON-CURBED PARKING, PER MUNICIPAL APPROVAL

Exhibit 5: Reciprocal Easement Agreement map between the subject property and the Krispy Kreme next door.



Exhibit 6: Proposed site for the Dutch Bros looking north.



Exhibit 7: Proposed site for the Dutch Bros looking south.

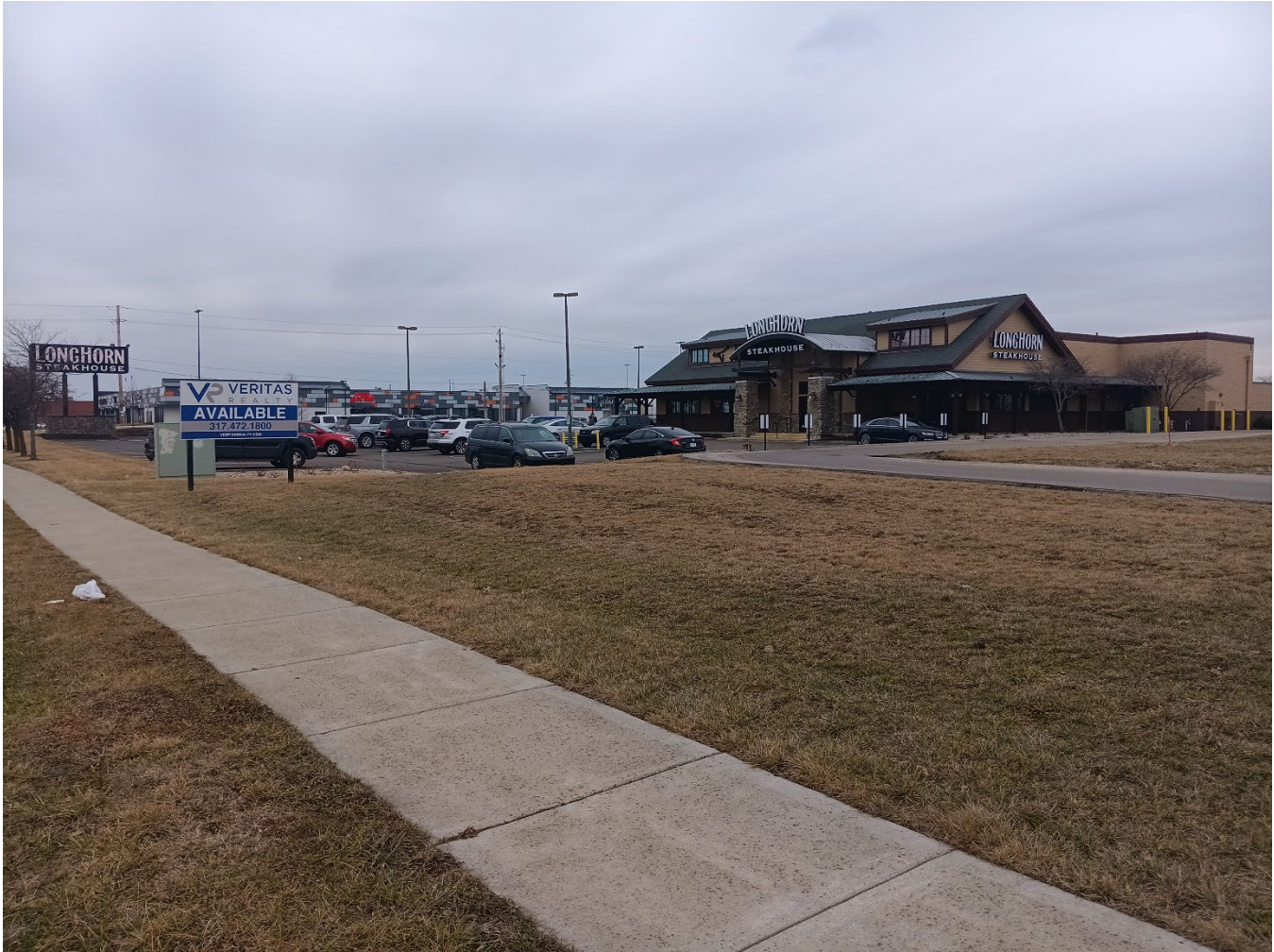


Exhibit 8: Longhorn Steakhouse to the west of the subject property (sign is 185 feet from the proposed Dutch Bro's sign location).



Exhibit 9: Krispy Kreme and Castleton square sign to the east of the subject property (Krispy Kreme sign is 104 feet from the proposed Dutch Bro's sign location).



Exhibit 10: The shared non-curbed parking area looking east.



Exhibit 11: The shared non-curbed parking area looking north.



Exhibit 12: Looking east down East 82nd Street.



Exhibit 13: Looking west down East 82nd Street.



Exhibit 14: Looking across East 82nd Street.



Exhibit 15: Castleton Square behind the subject site.